

ORDINANCE NO. C-_____

An ordinance clarifying the application of the City’s noise disturbance ordinances and provide a private right of action to address noise disturbances; amending section 10.07.060, and enacting a new section 10.08D.145 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 10.07.060 of the Spokane Municipal Code is amended to read as follows:

Section 10.07.060 Interference with Health Care Facilities or Providers

A. Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this ~~(chapter)~~ section.

1. “Aggrieved” means:

- a. A person, physically present at the health care facility when the prohibited actions occur, whose access is or is about to be obstructed or impeded;
- b. A person, physically present at the health care facility when the prohibited actions occur, whose care is or is about to be disrupted;
- c. The health care facility, its employees, or agents;
- d. The owner of the health care facility or the building or property upon which the health care facility is located.

2. “Building” means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed.

~~((1-))~~3. “Health care facility” means a facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider’s office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

~~((2-))~~4. “Health care provider” has the same meaning as defined in RCW 7.70.020 (1) and (2), and also means an officer, director, employee, or agent of a health care facility who sues or testifies regarding matters within the scope of his or her employment.

5. “Health service” means any medical, surgical, laboratory, testing or counseling service relating to the human body.
6. “Physical obstruction” means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous.
3. ~~(“Aggrieved” means:~~
 - a. ~~A person, physically present at the health care facility when the prohibited actions occur, whose access is or is about to be obstructed or impeded;~~
 - b. ~~A person, physically present at the health care facility when the prohibited actions occur, whose care is or is about to be disrupted;~~
 - c. ~~The health care facility, its employees, or agents;~~
 - d. ~~The owner of the health care facility or the building or property upon which the health care facility is located.)~~

B. Prohibition.

It is unlawful for a person except as otherwise protected by state or federal law, alone or in concert with others, to ~~((willfully))~~ intentionally or recklessly interfere with access to or from a health care facility ~~((or willfully or))~~, to intentionally or recklessly disrupt the normal functioning of such facility, or to intentionally interfere with, or attempt to interfere with, any other person’s exercise of rights secured by the United States Constitution or laws or of rights secured by the Constitution or laws of the state of Washington including, without limitation, RCW 9.02.100, by:

1. Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;
2. ~~((Making noise that unreasonably disturbs the peace within the facility))~~ After having been ordered by a law enforcement officer to cease, intentionally making noise that can be heard within a building housing a health care facility and which is intended to cause, or actually causes either:
 - a. Jeopardy to the health of persons receiving health services within the building; or
 - b. interference with the safe and effective delivery of health services within the building.
3. Trespassing on the facility or the common areas of the real property upon which the facility is located.
4. Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or

5. Threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose.

C. A first violation of SMC 10.07.060(C) is a class 1 civil infraction. A second violation of SMC 10.07.060(C) within one calendar year of the first violation is a gross misdemeanor~~((A person convicted of violating this section shall be punished))~~punishable as follows.

1. For a first ~~((offense))~~conviction, a fine of not less than ~~((two hundred fifty))~~five hundred (\$500) dollars and a jail term of not less than twenty-four ~~((24))~~(24) consecutive hours;
2. For a second ~~((offense))~~conviction, a fine of not less than ~~((five hundred))~~seven hundred (\$700) dollars and a jail term of not less than seven ~~((7))~~(7) consecutive days; and
3. For a third or subsequent ~~((offense))~~conviction, a fine of not less than one thousand dollars ~~((1,000))~~(\$1,000) and a jail term of not less than thirty ~~((30))~~(30) consecutive days.

D. Nothing in this section shall prohibit either lawful picketing or other publicity for the purpose of providing the public with information.

E. Protection of Health Care Patients and Providers.

A court having jurisdiction over a criminal proceeding under this section shall take all steps reasonably necessary to safeguard the individual privacy and prevent harassment of a health care patient or health care provider who is a party or witness in a proceeding, including granting protective orders and orders in limine.

F. Private right of action. Each person or class of persons aggrieved by a violation of this section by any other person may bring an action against the person(s) violating this section in the Spokane County Superior Court. Upon prevailing, such aggrieved person may be awarded reasonable attorneys' fees and costs, and such other legal and equitable relief as appropriate to remedy the violation including, without limitation, the payment of compensatory damages and injunctive relief.

G. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date