

ORDINANCE NO. 2007-010

Adopted by the Sacramento City Council

February 13, 2007

AMENDING SACRAMENTO CITY CODE SECTION 9.16.140 RELATING TO TRESPASS ON PRIVATE PROPERTY OR BUSINESS PREMISES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1

Section 9.16.140 of Title 9 of the Sacramento City Code is repealed and re-enacted to read as follows:

9.16.140 Trespass on Private Property or Business Premises Prohibited

A. Definitions

The following words and phrases shall have the following meanings when used in this section:

1. "Owner" means the actual owner of the property, a lessee, or other person in charge of the private property or business premises.
2. "Agent" means any person or organization expressly authorized by the Owner of the private property or business premises to serve the Notice of Trespass.
 - a. "Person" as used in this subsection shall include:
 - i. a proprietary private security officer as defined in California Business and Professions Code section 7574.1
 - ii. a security guard, security officer or street patrolperson as defined in California Business and Professions Code section 7582.1.
 - b. "Organization" as used in this subsection shall include a private patrol operator as defined in California Business and Professions Code section 7582.1.
3. "Notice of Trespass" means a pre-printed document in triplicate form which contains:
 - a. A description and address of the private property or business premises;
 - b. The date on which the Notice of Trespass was given;

- c. The name of the Owner or Agent serving the Notice of Trespass;
- d. The name and date of birth of the person being given the Notice of Trespass;
- e. The text of Sacramento City Code section 9.16.140(B)(1);
- f. A Declaration of Proof of Service which states where, when, and upon whom the Notice of Trespass was served. This Declaration of Proof of Service shall be signed by the Owner or Agent serving the Notice of Trespass.

B. Violation

1. It shall be unlawful for any person to enter or remain upon any private property or business premises after having been notified by the Owner or Agent to keep off or keep away therefrom. Such notification shall be provided by service of a Notice of Trespass on such person.
2. A violation of this section is a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment.

C. Exceptions

Subdivision (B) shall not apply in any of the following instances:

1. Where the Owner or Agent rescinds a Notice of Trespass by the giving of written permission to enter or remain upon the private property or business premises. Such permission shall void the existing Notice of Trespass, and should the Owner or Agent want to exclude the person at a later time, that person shall be re-noticed pursuant to subdivision (B).
2. Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of sex, race, color, religion, creed, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.
3. Where its application results in or is coupled with an act prohibited by Section 365 of the California Penal Code or any other provision of law relating to duties of innkeepers and common carriers.
4. Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful labor activities.
5. Where its application would result in an interference with or inhibition of any other exercise of a constitutionally protected right of

freedom of speech including, but not limited to, peaceful expressions of political or religious opinions not involving offensive personal conduct.

6. Where the person who is upon another's private property or business premises is there under claim of legal right. This exception is applicable, but not limited to, the following types of situations involving disputes where the participants have available to them practical and effective civil remedies:

- a). marital and post-marital disputes;
- b). child custody or visitation disputes;
- c). disputes regarding title to or rights in real property;
- d). landlord-tenant disputes;
- e). disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute;
- f). employer-employee disputes;
- g). business-type disputes such as those between partners;
- h). debtor-creditor disputes;
- i). instances wherein the person claims rights to be present pursuant to order, decree or process of a court.

Adopted by the City of Sacramento City Council on February 13, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

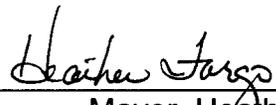
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor, Heather Fargo

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