

OFFICE OF THE CITY ATTORNEY

AN ORDINANCE OF THE CITY OF JACKSON, MISSISSIPPI, PROHIBITING CERTAIN ACTIVITIES NEAR HEALTH CARE FACILITIES.

WHEREAS, the City Council of the City of Jackson, Mississippi (the "City") seeks to promote and protect the health, safety and welfare of the citizens of the City of Jackson, Mississippi, and its visitors; and

WHEREAS, pursuant to Section 21-17-5 of the Mississippi Code of 1972, as amended, the "Home Rule" statute provides that municipal governing authorities have the power to adopt any orders, resolutions and ordinances with respect to such municipal affairs which are not inconsistent with the United States Constitution, Federal law, the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and

WHEREAS, municipalities are given the general authority to enact regulations to ensure the "preservation of good order and peace of the municipality and to prevent injury to, destruction of, or interference with public or private property pursuant to Section 17-17-15 of the Mississippi Code of 1972, Annotated, as amended; and

WHEREAS, municipalities also have the authority to enact regulations pertaining to the use of city streets, sidewalks and parks pursuant to Section 21-37-3 of the Mississippi Code of 1972, Annotated, as amended; and

WHEREAS, a large number of hospitals, clinics, and other health care facilities are located in the City which provide medical services not only to the citizens of Jackson, but to a vast number of Mississippians and visitors from outside the State; and

WHEREAS, the City seeks to protect, preserve and promote the health, safety, and welfare for the citizens of the City of Jackson, all Mississippians, and other visitors to the State, through the provision of unobstructed access to, and quiet environs within, health care facilities for the purpose of obtaining medical counseling and treatment for residents and visitors to the City; and

WHEREAS, persons who are attempting to enter hospitals, clinics, and other health care facilities, for any purpose, are often in particularly vulnerable physical and emotional conditions; in addition, unwanted and/or emotional confrontations may adversely affect a patient's medical care; and

WHEREAS, the Jackson Police Department has been consistently called upon to mediate the disputes between medical providers, those seeking medical counseling and treatment and those who would counsel against their actions so as to (i) avoid violent confrontations which would lead to criminal charges and (ii) enforce existing City ordinances which regulate use of public sidewalks and other conduct; such services require a dedicated and indefinite appropriation of policing services, which is being provided to the neglect of the law enforcement needs of the precinct(s) in which the medical facilities exist. The City seeks a more efficient and wider deployment of its services which will help also reduce the risk of violence and provide unobstructed access to health

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care facilities by setting clear guidelines for activity in the immediate vicinity of the entrances to health care facilities; and

WHEREAS, the City recognizes that the exercise of a person's right to protest or counsel against certain medical procedures is a First Amendment activity that must be balanced against another person's right to obtain medical counseling and treatment in an unobstructed manner and that is free from increased health risks such as those associated with shouting or other amplified sound; and

WHEREAS, in consideration of all of the above-mentioned facts and circumstances that have been brought to the City's attention, it is in the best interest of the City, its citizenry, and all those seeking or providing medical services that the ordinance below be adopted.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Jackson, Mississippi, adopts the following ordinance:

SECTION 1. The Jackson Code of Ordinances is hereby amended to include the following new Article which shall be codified in Chapter 86 as Article XI (Sections 86-401 thru 86-409), and read as follows:

Sec. 86-401. - Purpose.

This article is enacted to protect, preserve and promote the health, safety, and welfare for the citizens of the City of Jackson through the provision of unobstructed access to, and quiet environs within, Health Care Facilities for the purpose of obtaining medical counseling and treatment for residents and visitors to the City. The City Council recognizes that the exercise of a person's right to protest or counsel against certain medical procedures is a First Amendment activity that must be balanced against another person's right to obtain medical counseling and treatment in an unobstructed manner and that is free from increased health risks such as those associated with shouting or other amplified sound. The Jackson Police Department has been consistently called upon to mediate the disputes between medical providers, those seeking medical counseling and treatment, and those who would counsel against their actions so as to (i) avoid violent confrontations which would lead to criminal charges and (ii) enforce existing City ordinances which regulate use of public sidewalks and other conduct; such services require a dedicated and indefinite appropriation of policing services, which is being provided to the neglect of the law enforcement needs of the precinct(s) in which these facilities exist. The City seeks a more efficient and wider deployment of its services which will also help reduce the risk of violence and provide unobstructed access to Health Care Facilities by setting clear guidelines for activity in the immediate vicinity of the entrances to Health Care Facilities. It is the intent of this article to establish guidelines that will ensure that patients have unimpeded access to medical services that may be conducted in a calm environment while ensuring that the First Amendment rights of those seeking to communicate their message are not impaired. Having found less restrictive alternatives to be ineffective or impractical, the City finds that limited buffer and bubble zones and limitations on amplified sound

outside Health Care Facilities established by this article will ensure that patients' rights to safely receive medical services are protected while ensuring that the First Amendment rights of those who seek to communicate their message to their intended audience are not impaired.

Sec. 86-402. - Definitions.

"Health Care Facility" as used in this article includes but is not limited to hospitals, physicians' offices, walk-in medical centers, medical diagnostic centers, surgical centers, and facilities which are licensed, certified or otherwise authorized to perform medical procedures in this state and to provide health services. It shall not include residential homes, convalescent homes or other facilities that provide long term residency.

Sec. 86-403. - Eight-Foot Personal Bubble Zone.

No person shall knowingly approach another person within eight (8) feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education or counseling with such other person in the public way or sidewalk area within a radius of one hundred (100) feet from any entrance to the property of a Health Care Facility.

Sec. 86-404. - Fifteen-Foot Buffer Zone.

No person or persons shall knowingly congregate, patrol, picket or demonstrate in a zone extending fifteen (15) feet from any entrance to the property of a Health Care Facility.

Sec. 86-405. - Limitations on Sound.

No person shall shout or, by any means, produce any amplified sound, including but not limited to a loudspeaker, drum, radio, phonograph, stereo set, tape or CD player, television, sound amplifier, or other electronic audio instrument or device that produces or reproduces amplified sound on any public street or sidewalk or from private property within one hundred (100) feet of the property line of a Health Care Facility, provided that the public streets or sidewalks adjacent to such facilities shall be clearly marked by conspicuous signs identifying those areas. Any Health Care Facility that identifies the facility as being located in a quiet zone in accordance with this article shall be subject to the same limitations on amplified sound described herein.

It shall be the duty of said Health Care Facilities or owners of such establishments to erect and maintain signs in some conspicuous place on every street, avenue or alley in the vicinity of every Health Care Facility, public or private, indicating that the same is a "quiet zone." The signs which must meet and conform to the City's sign code shall be placed on such streets, avenues or alleys upon which a Health Care Facility is situated

and shall read in a manner similar to, but not restricted to, the following: "Hospital — Quiet Zone" or "Health Care Facility — Quiet Zone."

Sec. 86-406. – Effective Hours.

The provisions of this article shall only take effect during the Health Care Facility's business hours and if the area contained within the zone described is clearly marked and posted.

Sec. 86-407. - Exemptions.

This article shall not apply to:

- (1) law enforcement, ambulance, firefighting, construction, utilities, public works, and other municipal agents acting within the scope of their employment, or
- (2) authorized security personnel employees or agents of the Health Care Facility engaged in assisting patients and other persons to enter or exit the premises.

Sec. 86-408. - Enforcement.

Nothing in this article shall prevent City of Jackson police officers from obtaining voluntary compliance by way of warning, notice, or education.

Sec. 86-409. - Penalties.

Any violation of any of the provisions of this article shall be a misdemeanor and shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than 90 days, or both.

SECTION 2. That all provisions of the ordinances of the City of Jackson in conflict with the provisions of this ordinance be, and the same are hereby, repealed; and, all other provisions of the ordinances of the City of Jackson not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. This ordinance shall become effective thirty (30) days after passage and publication.

Lumumba, Howard

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This AN ORDINANCE OF THE CITY OF JACKSON, MISSISSIPPI,
PROHIBITING CERTAIN ACTIVITES NEAR HEALTH CARE FACILITIES is
legally sufficient for placement in NOVUS Agenda.



Timothy Howard, City Attorney

Date

9/12/17