

1 [Police, Administrative Codes - Protecting Access to Reproductive Health Facilities]

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3 **Ordinance amending the Police Code to extend the zone in which shouting and using**
 4 **amplified sound is prohibited outside a reproductive health care facility from 50 feet**
 5 **from the property line to 100 feet from the facility entrance or driveway, extend the**
 6 **zone in which following or harassing a person is prohibited from 25 feet from the**
 7 **facility entrance to 100 feet from the facility entrance, and specify that approaching**
 8 **within eight feet of a person inside the 100-foot perimeter of the facility entrance while**
 9 **impersonating a facility worker with the effect of intimidating the person is unlawful**
 10 **harassment; and amending the Administrative Code to direct that Police Department**
 11 **officers be trained annually on enforcement of local and state laws protecting access**
 12 **to reproductive health care facilities, and that the Police Department meet with**
 13 **representatives of a reproductive health care facility every two years, on request, to**
 14 **develop a plan to prevent and respond to incidents that interfere with access to the**
 15 **facility, the facility's operations, and/or the lawful exercise of First Amendment rights**
 16 **by the public.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 20 **Board amendment additions** are in double-underlined Arial font.
 21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 22 **Asterisks (* * * *)** indicate the omission of unchanged Code
 23 subsections or parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:

25

1 Section 1. Article 43 of the Police Code is hereby amended by revising Sections 4301,
2 4302, 4303, 4304, and 4306, adding a new Section 4307, and renumbering existing Section
3 4307 as new Section 4308, to read as follows:
4

5 **SEC. 4301. FINDINGS.**

6 (a) Every person in the City and County of San Francisco ("City") has a
7 fundamental right to privacy protected not only by the United States Constitution, but also
8 explicitly guaranteed in Article I, Section 1 of the California Constitution. This right to privacy
9 includes the right to access all legal health care services, including reproductive health care
10 services.

11 (b) Maintaining access to reproductive health care services is a matter of critical
12 importance not only to individuals, but also to the health, safety, and welfare of all residents of
13 the City. Efforts to harass, obstruct, or otherwise interfere with individuals seeking
14 reproductive health care services may deter, delay, and even prevent individuals from
15 obtaining necessary reproductive health care services. These efforts, which often include
16 forcing patients to run a gauntlet of demonstrators near the entrances, exits, and driveways of
17 reproductive health care facilities, or to confront intimidating demonstrators stationed at or
18 near those entrances, exits, and driveways, also disrupt the ability of staff at reproductive
19 health care facilities to devote their full efforts to providing health care services and divert
20 valuable facility resources away from patients. Pedestrians, including patients and employees
21 seeking to receive or provide health care, are often blocked or slowed on sidewalks adjacent
22 to reproductive health care facilities by numerous signs lined up in the public right of way, and
23 patients in facility waiting rooms are subjected to loud music and shouting directed inside the
24 facility by demonstrators outside the door. These factors, including difficulty entering and
25 exiting the facility as well as loud noise once inside the facility, can lead to increased patient

1 stress that may affect the efficacy and complication rate of the medical care sought within.
2 Actions that result in such obstruction, delay, and deterrence of patients, and diversion of
3 reproductive health care facilities' staff and resources, undermine the City's interest in
4 maintaining the public health, safety, and welfare, and in preserving its residents'
5 constitutional right to privacy.

6 (c) Standing on equal footing with the right to access health care services, including
7 reproductive health care services, are the free speech and assembly rights of those who
8 would gather and speak on matters of public concern. Under this Article 43, in Ordinances 226-
9 93 and 214-03, the Board of Supervisors previously attempted to balance these rights by
10 prohibiting harassment, within 100 feet of an exterior wall of a health care facility, of
11 individuals entering, exiting, or seeking services at a health care facility, with harassment
12 defined as "knowingly approach[ing] another person within eight feet of such person, unless
13 such other person consents, for the purpose of passing a leaflet or handbill to, displaying a
14 sign to, or engaging in oral protest, education, or counseling with such other person." ~~After that~~
15 ~~prohibition proved ineffective, the~~ The Article was then amended in Ordinance 88-13 to create a
16 "buffer zone" that prohibited individuals from remaining within 25 feet of a reproductive health
17 care facility, with certain exceptions. The "buffer zone" was helpful in preventing harassment,
18 delay, and deterrence of patients seeking vital health care services, and in particular
19 reproductive health care services, and adequately prevented distraction and diversion of
20 health care providers from their core mission of providing services in a safe and supportive
21 environment. But in the wake of the United States Supreme Court decision in McCullen v.
22 Coakley, 573 U.S. 464 (2014), 573 U.S. the validity of such buffer zones ~~has been~~ was called
23 into question. In light of the McCullen decision, with the enactment of Ordinance No. 230-14
24 this Article was again amended to balance the right to speak and engage in sidewalk
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1 counseling near reproductive health care clinics with the right to access constitutionally
2 protected health care without fear of physical harm, harassment, or delay.

3 (d) In Dobbs v. Jackson Women’s Health Organization, 597 U.S. 215 (2022), the United
4 States Supreme Court overruled Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood of
5 Southeastern Pa. v. Casey, 505 U.S. 833 (1992), and held that the Constitution of the United States
6 does not confer a right to abortion. Following that decision, President Biden issued an Executive
7 Order on Protecting Access to Reproductive Healthcare Services, emphasizing the need to ensure the
8 safety of patients and healthcare providers and to protect the security of facilities providing
9 reproductive health care services.

10 (e) The federal Freedom of Access to Clinic Entrances Act of 1994 (the “FACE Act”), and
11 the California Freedom of Access to Clinic and Church Entrances Act (the “California FACE Act”),
12 both prohibit the use of force, threats of force, or physical obstruction to prevent a patient or health
13 care provider from accessing a reproductive health care facility. California's Assembly Bill No. 1356
14 (2022) amended the California FACE Act to further strengthen protections for reproductive health
15 service providers and patients, adding a prohibition on videotaping, photographing, or recording
16 patients or providers within 100 feet of the facility or disclosing or distributing those images; and
17 updating and expanding online privacy laws and peace officer training requirements relative to
18 offenses aimed at blocking access to reproductive health facilities and care.

19 (f) The 2022 National Clinic Violence Survey revealed that 38% of clinics reported an
20 increase in harassment and violence at their facilities following the Dobbs decision. Specific forms of
21 violence and intimidation have surged, with 16.2% of clinics reporting blockades at entrances
22 compared to 9.1% in 2018, and 69% experiencing daily or weekly disruptive protests. This means that
23 these facilities, their staffs, and their patient communities have been increasingly subjected to
24 harassment and intimidation as they seek or provide essential health care.

1 _____ (g) *Planned Parenthood Northern California (“Planned Parenthood NC”) is a nonprofit*
2 *organization providing reproductive health care services across its health centers in San Francisco and*
3 *throughout Northern California, as part of a nationwide network of Planned Parenthood affiliates. The*
4 *San Francisco Health Center, Planned Parenthood NC’s primary location, offers comprehensive*
5 *sexual and reproductive health care, including contraception, cancer screenings, pregnancy testing*
6 *and counseling, testing and treatment for sexually transmitted infections (STIs), HIV prevention*
7 *medications (PEP and PrEP), HPV vaccinations, vasectomies, infertility services, and abortion care.*

8 _____ (h) *During Fiscal Year 2023-2024, Planned Parenthood NC served 9,573 individual*
9 *patients at its San Francisco Health Center (“Center”), providing 45,996 STI diagnostic tests*
10 *(including for chlamydia, genital warts, gonorrhea, hepatitis C, hepatitis B, herpes, syphilis, and*
11 *trichomoniasis), 17,330 in-house laboratory tests, 7,533 HIV care services such as tests and*
12 *PrEP/PEP, and 5,716 pregnancy tests and counseling sessions. The Center also facilitated 4,609*
13 *contraception visits, 2,577 emergency contraception visits, and 2,823 infection care visits for*
14 *conditions like urinary tract infections, bacterial vaginosis, and tinea cruris, along with 2,193 cervical*
15 *cancer screenings and treatments. The Center provided 1,625 gender-affirming hormone therapy visits,*
16 *1,291 abortions (both medication and procedural), and 925 other reproductive healthcare services,*
17 *including support for infertility, fibroid and endometriosis management, sexual dysfunction, pregnancy*
18 *complications, and miscarriage management. It conducted 833 intrauterine device (IUD) and*
19 *contraceptive implant insertions, 606 breast exams, 403 well-person visits, 141 behavioral health*
20 *services, 61 vasectomies, 10 menopause management visits, and 6 Monkeypox Virus (MPXV) tests and*
21 *vaccinations.*

22 _____ (i) *Since the Dobbs decision, the San Francisco Health Center has faced heightened*
23 *targeting by organizations that oppose abortion and organize protests outside reproductive health care*
24 *facilities. One action involving a plan for 40 days of protests outside reproductive health care facilities*
25 *began on September 23, 2024, and as of October 22, 2024, when the ordinance in Board File No.*

1 241040 was introduced, had led to an increase in the frequency and intensity of protest activities at the
2 Center. During campaigns such as this one, the number of calls to the San Francisco Police
3 Department (SFPD) generally surge by two to three times compared to non-campaign periods. This
4 escalation in protests has fostered an environment of fear and intimidation at the Center, posing a
5 serious threat to the safety of patients and healthcare providers, and highlighting the urgent need for
6 stronger protective measures at this and similar facilities in San Francisco.

7 (j) During the period from April 1, 2023, to March 15, 2024, Planned Parenthood Northern
8 California reported a total of 87 security incidents at the San Francisco Health Center. Of these, at
9 least four incidents involved protesters using amplified sound equipment, such as microphones, outside
10 the current boundary. The sound from these devices was audible inside the facility, causing significant
11 disruption to patients and healthcare providers in the waiting areas, examination rooms, and
12 procedure rooms. There were also 24 documented incidents from this period in which protesters
13 refused to stand behind the designated security line, creating a challenging environment for law
14 enforcement to enforce restrictions and protect public safety.

15 (k) Employees at the San Francisco Health Center have documented incidents where
16 protesters followed clinic patients to their ride-share pickups or personal vehicles, which were parked
17 outside the current boundary line but within 100 feet of the facility entrance. These actions created an
18 intimidating and threatening atmosphere for patients, increasing their anxiety and fear.

19 (l) Protesters at the San Francisco Health Center have on multiple occasions impersonated
20 Center staff and official Center volunteers, including by wearing the pink or blue vests that are worn by
21 Center staff and official volunteers, in order to get close to patients as they walk between their cars and
22 the Center's entrance. These protesters have then taken advantage of the proximity to patients to
23 distribute false and misleading information about the medications and services provided by the Center,
24 and false and misleading information about alternative treatments, and to intimidate and taunt patients.

1 (m) The boundary distances mandated in this Article 43 as of October 2024, and the
2 differences between those boundaries and the 100-foot boundary referenced in the California FACE
3 Act, made it more difficult for law enforcement to track, mark, and enforce the applicable boundaries.
4 As of October 2024, Article 43 prohibited following or harassing any person within 25 feet of the
5 entrance of a reproductive health care facility, and prohibited shouting or using amplified sound within
6 50 feet of the property line of a property housing a reproductive health care facility. The California
7 FACE Act prohibits the intentional videotaping, filming, photographing, or recording of a reproductive
8 health services patient, provider, or assistant, without consent and with the intent to and effect of
9 intimidating the person, within 100 feet of a facility’s entrance. The confusion and uncertainty these
10 different distances caused for law enforcement and the public reduced the effectiveness of the
11 protective measures then in existence. By standardizing the buffer and quiet zones to 100 feet, the
12 ordinance in Board File No. 241040 amending Article 43 increases clarity for protesters and clinic
13 patients alike, while more effectively addressing the harassment and disruptive noise documented at
14 San Francisco facilities, and still protecting the rights of members of the public to protest and engage
15 in other activities outside the facilities.

16 (n) These heightened protections are essential to better safeguard the ability of patients and
17 healthcare providers to access and provide reproductive health services without fear of harassment or
18 violence. The increased buffer zone and expanded harassment provisions will ensure these facilities
19 remain secure environments where healthcare is delivered without interference, while ensuring that
20 members of the public may continue to freely exercise their First Amendment rights.

21 (o) The Board of Supervisors hereby finds that Article 43 is necessary to promote the
22 full exercise of the right to privacy by patients seeking vital reproductive health care services
23 and is also necessary to maintain public health, safety, and welfare within the City. The Board
24 of Supervisors further finds that this Article strikes a lawful and appropriate accommodation
25 between the right to privacy and to access reproductive health care services and the needs of

1 public health, safety, and welfare, on the one hand, and the rights of free speech and
2 assembly, on the other.

3 (p) Article 43 applies only to reproductive health care facilities, not health care facilities
4 generally. In addition, Article 43 does not apply to licensed hospitals or to reproductive health
5 care facilities owned or operated by licensed hospitals. This scope ensures the Article is
6 narrowly tailored to address the significant governmental interests it serves, and leaves other
7 health care facilities and locations available for speech. Individuals attempting to access
8 reproductive health care facilities to obtain reproductive health care services have been
9 subjected to harassing or intimidating activity from extremely close proximity, tending to
10 hamper, delay or deter their access to those facilities and services and thus subverting their
11 legal rights to seek and obtain legal health care services. The Board finds that reproductive
12 health care facilities that are not part of a licensed hospital, and not owned or operated by a
13 licensed hospital, are more vulnerable to such subversion of their patients' rights on account
14 of the layout and design of their facilities and parking areas as well as their staff resources
15 and deployment. Further, reproductive health care facilities not affiliated with hospitals
16 commonly possess fewer resources for providing adequate security and safety to individuals
17 seeking access to reproductive health care services. Thus, Article 43 provides narrowly
18 tailored, content-neutral restrictions where they are most necessary to further the significant
19 government interests the Article serves.

20 (q) The Board finds that the modest scope of the prohibition on following and
21 harassing individuals, impeding access, and making excessive noise in close proximity to
22 reproductive health care facilities is necessary to ensure that patients may gain safe and
23 unimpeded access to reproductive health care services, while allowing speakers to effectively
24 communicate their messages to their intended audience. This prohibition applies equally to
25 all, regardless of the content of their speech.

1 (r) The Board further finds that intimidating behavior, including excessively loud
2 demonstration activity, as well as following and harassing patients, staff, and other individuals
3 around the entrances, exits, and driveways of reproductive health care facilities can impede
4 pedestrian and vehicle traffic and create safety hazards on the sidewalks and roadways, and
5 that the limitations this Article 43 imposes on aggressive and intimidating behavior will help
6 promote safe and effective pedestrian and vehicle traffic flow around reproductive health care
7 facilities.

8 (s) The Board further finds that loud, harassing, and intimidating activities –
9 independent of the content of those activities – conducted around the entrances, exits, and
10 driveways of reproductive health care facilities can adversely affect the physical and
11 emotional health and well-being of patients seeking services at a reproductive health care
12 facility. Noise control is particularly important around medical facilities during surgery and
13 recovery periods. As has been noted by the Supreme Court, noise produced by protesters
14 that can be heard within a clinic, may cause stress in the patients; this includes loud,
15 disruptive noise heard during patient intake, surgical procedures, and while recuperating in
16 the recovery rooms. The Board finds that this Article 43 will provide a protective space for
17 patients and thereby help avoid those adverse health consequences.

18 (t) The Board finds that this Article imposes content-neutral time, place, and manner
19 restrictions on speech and assembly, which are narrowly tailored to serve significant
20 government interests and leave ample alternative channels of communication.

21 (u) This Article is not intended to create any limited, designated, or general public fora.
22 Rather it is intended to protect those who seek access to reproductive health care from
23 conduct that violates their rights.

24
25 **SEC. 4302. DEFINITIONS.**

1 For purposes of this Article 43:

2 * * * *

3 "Harass" means to engage in a course of conduct directed at a specific person or
4 persons that alarms, seriously distresses, torments, or terrorizes the person. Harassment
5 does not include, among other things, quiet, consensual conversation conducted from a
6 stationary position. Harassment includes, but is not limited to:

7 (a) Approaching within eight feet of a person if that person indicates ~~he or she does~~ they
8 do not want to be approached, except as necessary to enter or exit the reproductive health
9 care facility;

10 (b) Approaching within eight feet of a person while impersonating a reproductive health care
11 facility worker or volunteer registered with the facility, including by wearing clothing intended to
12 resemble that of a reproductive health care facility worker or volunteer, or by verbally identifying
13 oneself as a reproductive health care facility worker or volunteer, with the effect of intimidating the
14 person;

15 (~~b~~c) Following a person if that conduct is intended or is likely to cause a reasonable
16 person to fear bodily harm to oneself or to another, or damage to or loss of property;

17 (~~e~~d) Shouting at a person within ~~25~~100 feet of the entrance of a reproductive health
18 care facility;

19 (~~e~~e) Intentionally touching or causing physical contact with a person without that
20 person's consent;

21 (~~e~~f) Intentionally blocking or interfering with the safe or free passage of a pedestrian or
22 vehicle by any means, including, but not limited to (1) intentionally causing a pedestrian to
23 take evasive action to avoid physical contact and/or (2) placing signs on the sidewalk such
24 that the flow of pedestrian traffic is restricted-; provided, however, that this subpart (f) does ~~This~~
25

1 ~~subsection (e) shall~~ not prohibit individuals from holding or wearing signs while using the
2 sidewalk; or

3 (fg) Using violent or threatening gestures toward a person.

4 * * * *

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6 **SEC. 4303. INTERFERENCE WITH ACCESS TO REPRODUCTIVE HEALTH CARE**
7 **FACILITIES PROHIBITED.**

8 (a) **Prohibition.** It shall be unlawful to:

9 (1) Follow or harass any person within 25100 feet of the entrance of a
10 reproductive health care facility; provided, however, that subsection (a)(1) shall not apply
11 unless marking and notice of the boundary zone have been provided as follows: The 25100-
12 foot boundary is measured and marked by the Department of Public Works ("DPW") and a
13 notice prepared by DPW is posted conspicuously near the 25100-foot boundary. A
14 reproductive health care facility that wants its 25100-foot boundary marked and a notice
15 posted shall submit a written request to DPW. DPW shall measure and mark the 25100-foot
16 boundary within 14 days of the request;

17 (2) Impede access to the door of a reproductive health care facility; or

18 (3) Shout, or cause to be produced any amplified sound beyond the volume of
19 a conversational speaking voice, including use of a loudspeaker, bullhorn, or electronic audio
20 instrument or device that produces or reproduces amplified sound, on any public street or
21 sidewalk within 50100 feet of the ~~property line of a property housing a~~ entrance of a reproductive
22 health care facility; provided, however, that this subsection (a)(3) shall not apply to the
23 following:

24 (A) Vehicles in compliance with or exempted from California Vehicle
25 Code section 27007;

1 (B) Use of a car horn or other warning device as permitted by California
2 Vehicle Code sections 27000 to 27006; and

3 (C) Law enforcement or public safety officials acting in the scope of their
4 employment, to the extent necessary to attend to public health/safety issues.

5 * * * *

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7 **SEC. 4304. ENFORCEMENT.**

8 * * * *

9 (c) **Dispersal Order.** A law enforcement official may order the immediate dispersal of a
10 gathering that continues to violate Section 4303 after a verbal warning. A dispersal order
11 issued pursuant to this subsection (c) shall include the following statements: (1) the gathering
12 has substantially impeded access to or departure from the reproductive health care facility; (2)
13 each member of the gathering shall, under the penalty of arrest and prosecution, immediately
14 disperse and cease to stand or be located within at least ~~25~~100 feet of an entrance or a
15 driveway to the reproductive health care facility; and (3) the order shall remain in place for
16 eight hours or until the close of business of the reproductive health facility, whichever is
17 earlier. This subsection (c) shall apply during the business hours of a reproductive health care
18 facility and up to one hour before and after the posted business hours.

19 * * * *

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21 **SEC. 4306. ARTICLE ACCOMMODATES COMPETING RIGHTS.**

22 (a) In adopting this Article ~~43~~, the Board of Supervisors recognizes both the
23 fundamental constitutional right to assemble peaceably and to demonstrate on matters of
24 public concern, as well as the right to seek and obtain health care. This ~~legislation~~Article

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1 promotes the full exercise of these rights and strikes an appropriate accommodation between
2 them.

3 (b) It is not the intention of the Board of Supervisors to interfere with the right to
4 protest, including the right to protest conditions of employment. Rather it is the intention of the
5 Board of Supervisors to impose reasonable time, place, and manner restrictions on all
6 protests, to protect the right to seek and obtain health care. ~~This Article does not prohibit conduct
7 by a party to a labor dispute in furtherance of labor or management objectives in that dispute.~~

8

9 **SEC. 4307. NO CONFLICT WITH STATE OR FEDERAL LAW.**

10 Nothing in this ordinance shall be interpreted or applied so as to create any requirement,
11 power, or duty in conflict with any federal or state law.

12

13 **SEC. 43074308. SEVERABILITY.**

14 If any part or provision of this Article 43, or the application thereof to any person or
15 circumstance, is held invalid, the remainder of this Article, including the application of such
16 part or provision to other persons or circumstances, shall not be affected thereby and shall
17 continue in full force and effect. To this end, the provisions of this Article are severable.

18

19 Section 2. The Administrative Code is hereby amended by adding Chapter 96J,
20 consisting of Section 96J.1, to read as follows:

21

CHAPTER 96J:

22

PROTECTING ACCESS TO REPRODUCTIVE HEALTH CARE FACILITIES

23

24 **SEC. 96J.1. POLICE DEPARTMENT TRAINING AND SAFETY PLANS FOR REPRODUCTIVE**
25 **HEALTH CARE FACILITIES.**

1 (a) **Training.** The Police Department shall train all sworn officers employed by the Police
2 Department at least annually regarding enforcement of Article 43 of the Police Code, “Access to
3 Reproductive Health Care Facilities,” and the California Freedom of Access to Church and Clinic
4 Entrances (“California FACE”) Act, Penal Code Section 423 et seq.

5 (b) **Reproductive Health Care Facility Safety Planning.** In response to a request from a
6 reproductive health care facility, as that term is defined in Section 4302 of the Police Code, the Chief of
7 Police shall, at least once every two years, assign the District Station Captain for the facility’s district,
8 or the Captain’s designee, to meet with one or more representatives of the facility to review the record
9 of incidents at or near the facility in the past 1-2 years that have interfered with patients’ or health care
10 providers’ ability to access the facility, otherwise interfered with the facility’s operations, and/or
11 interfered with the public’s right to exercise their First Amendment rights,, and develop a plan for
12 preventing and responding to any such incidents in the future.

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor’s veto of the ordinance.

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1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Sarah Crowley
11 SARAH CROWLEY
12 Deputy City Attorney

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