

ORDINANCE NO. NS-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING CHAPTER 10, ARTICLE 1, SECTION 10-110 AND ADDING SECTIONS 10-111 AND 10-112 OF THE SANTA ANA MUNICIPAL CODE TO ESTABLISH DISTANCE REQUIREMENTS FOR TARGETED RESIDENTIAL PICKETING

WHEREAS, the City of Santa Ana, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, demonstrators and protestors have a right, protected by the First Amendment of the United States Constitution to express their views and to convey their message to both a general audience and a particularly targeted audience; and

WHEREAS, persons and/or groups have a right to engage in picketing on public streets and sidewalks within residential areas; and

WHEREAS, recently, an increasing number of picketers in the City of Santa Ana and surrounding areas have targeted specific residences (and, at times, on private property of the targeted residence), expressing their views at the targeted residence and captive audience therein; and

WHEREAS, the City acknowledges that the act of picketing at, near, on or about a particular residence whose occupants do not welcome such activity is an invasion of residential privacy for its occupants and if picketers are positioned at, near, on or about a targeted residence, it becomes impossible for the occupants to access or leave their homes without having to confront picketers; and

WHEREAS, the City acknowledges that the act of picketing at, near, on or about a particular residence whose occupants do not welcome such activity instills feelings of captivity, fear and intimidation to the target occupants; and

WHEREAS, in developing this ordinance, the City has been mindful of legal principles relating to the regulations of targeted residential picketing and considered decisions in *Carey v. Brown* (1980) 447 US 455, the United States Supreme Court confirmed that the government’s protection of the “well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society” and that preserving “the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value.”; and *Frisby v. Schultz* (1988) 487 US 474, the United States Supreme Court concluded that “There simply is no right to force speech into the home of an unwilling listener” and that the “devastating effect of targeted picketing on the quiet enjoyment of the home is

beyond doubt”; and *City of San Jose v. Superior Court of Santa Clara County* (1995) 21 Cal.App.4th 330, the Court of Appeal for the 6th District, upheld an ordinance of the City of San Jose prohibited targeted residential picketing within three hundred feet (300’) of the targeted residential dwelling; and

WHEREAS, establishing a distance which must be maintained between residential dwellings and demonstrators targeting those dwellings will serve both these ends and the distance restriction for targeted picketing proposed within this Ordinance preserves ample alternative channels of communication for protestors and demonstrators to disseminate their message(s) and/or idea(s); and

WHEREAS, this Ordinance establishes a clear and precise buffer zone between picketers and a targeted residences so as to preserve Santa Ana residents’ right to privacy and prevent siege upon target residents while providing a space for picketing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are true, correct and each incorporated herein by reference and adopted as findings by the Santa Ana City Council (“City Council”).

SECTION 2. Chapter 10, Article 1, Section 10-110 of the Santa Ana Municipal Code shall be hereby amended and restated to read as follows: (new language is underlined and deleted language is stricken):

~~Sec. 10-110. - Picketing of private residences.~~

~~(a)It is unlawful for any person to engage in picketing before of about the residence or dwelling of any individual, where such picketing is focused on that particular residence or dwelling.(b)In enacting this section, the city council finds and determines as follows:(1)The protection of the well-being, tranquility and privacy of the home is a significant government interest.(2)Picketers who focus upon a particular residence or dwelling generally do not seek to disseminate a message to the general public but to intrude upon the targeted resident and to do so in an especially offensive way.(3)Such picketers inherently and offensively intrude on residential privacy.(4)The purpose of this section is to protect and preserve the home through assurance that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy.~~

Sec. 10-110. - Targeted Residential Picketing.

(a) Definitions

For purposes of this Chapter, the following definitions shall apply.

- (1) The term “residential dwelling” means any permanent building situated in the City of Santa Ana that is being used by its occupants solely for non-transient residential purposes.

- (2) The term “targeted picketing” means picketing activity that is directed at a particular residential dwelling or one or more occupants of a particular residential dwelling, and that occurs at a particular location and/or which proceeds on a definite course or route in front of or around that particular residential dwelling.

Section 3. Chapter 10, Article 1, Sections 10-111 and 10-112 of the Santa Ana Municipal Code shall be hereby added as follows:

Sec. 10-111.- Distance Restrictions for Targeted Residential Picketing

- (a) No person shall engage in picketing activity that is targeted at and is within three hundred feet (300’) of the residential dwelling that is the subject of the targeted picketing.
- (b) For purposes of this Section, the distance shall be measured from the outer walls of the residential structure. An attached garage shall be considered part of the residential structure.
- (c) This section shall not be interpreted to preclude picketing or general marching in or through a residential area that is not targeted at a particular residential dwelling.

Sec. 10-112.- Penalties.

- A. Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 and/or shall be sentenced to imprisonment in the county jail for a period not to exceed six months. Each and every day such a violation exists shall constitute a separate and distinct violation of those sections.
- B. The remedies provided by this section are in addition to any other legal or equitable remedies.

SECTION 4. California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project.

SECTION 5. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

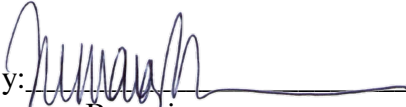
SECTION 7. Publication. The City Clerk shall attest to the passage and adoption of this Ordinance, causing it to be published as required by law, and it shall become effective thirty (30) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Santa Ana, State of California, on _____, 2024 by the following vote:

ADOPTED this _____ day of _____, 2024.

Valerie Amezcua
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: 
Tamara Bogosian
Senior Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, JENNIFER HALL, City Clerk, do hereby attest to and certify that the attached Ordinance No. NS-XXXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2024 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Dated: _____

City Clerk
City of Santa Ana