

## **ORDINANCE NO. 16-0010**

### **AN ORDINANCE OF THE CITY OF MANHATTAN BEACH ADDING CHAPTER 4.142 TO TITLE 4 OF THE MANHATTAN BEACH MUNICIPAL CODE TO PROHIBIT TARGETED RESIDENTIAL PICKETING**

#### **RECITALS**

The Manhattan Beach City Council hereby finds:

- (1) Protecting the well-being, tranquility, and privacy of the home is a significant government interest;
- (2) One benefit of the privacy enjoyed by citizens within their residences is the ability to avoid unwanted speech;
- (3) Picketers who target a particular residence generally do not seek to disseminate a message to the general public, but seek to harass the targeted resident, intruding upon residential privacy;
- (4) A “buffer zone” creates a minimum zone of protection for residents from unwanted harassment and intimidation, but does not prevent picketers from disseminating their message to the general public or to local residents;
- (5) This ordinance has been narrowly drawn so that persons have ample alternative avenues in Manhattan Beach to picket throughout the City, including commercial zones, the City’s Downtown, residential zones, and along the Strand (the walk path adjacent to the beach that borders the entire western boundary of the City) provided such picketing is not targeted at a specific residential dwelling;
- (6) This ordinance does not and shall not be interpreted to prohibit picketing in any residential area that is not targeted at a particular occupant of a residential dwelling;
- (7) It is the intent of the City Council to protect what the courts have called the “captive audience” inside the targeted homes without stifling speech that is protected by the First Amendment; and
- (8) The prohibitions and buffer zones proposed by the ordinance leave open ample alternative avenues for communicating messages and ideas by those who wish to picket or protest in the City.

NOW THEREFORE, THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS:

Section 1. Title 4 (Public Welfare, Morals and Conduct) is hereby amended to add a new Chapter 4.142 (Targeted Residential Picketing) as follows:

**“Chapter 4.142**

**TARGETED RESIDENTIAL PICKETING**

**4.142.010 Definitions**

**4.142.020 Targeted Residential Picketing Prohibited**

**4.142.010 Definitions**

“The following words and phrases, when used in the context of this chapter, shall have the following meanings:

**RESIDENTIAL DWELLING:** Any permanent building being used by its occupants for residential uses.

**TARGETED PICKETING:** Picketing activity that is targeted at a particular residential dwelling and proceeds on a course or route in front of or around that particular residential dwelling.

**4.142.020: Targeted Residential Picketing Prohibited**

A. It shall be unlawful for any person to engage in targeted picketing within 150 feet of a residential dwelling or within 75 feet of the lot on which the targeted residential dwelling is located, whichever is greater.

B. The distance described as “within 150 feet of a residential dwelling” shall be measured from the outer walls of the residential structure. An attached garage shall be considered part of the residential structure.

C. The distance described as “within 75 feet of a lot on which the targeted residential dwelling is located” shall be measured from the lot’s perimeter property lines.

D. Nothing in this Section shall be construed to permit entry onto private property without the resident’s consent.”

Section 2. Public Nuisance. Any violation of this Ordinance is hereby declared to be a public nuisance. Any use or condition caused, or permitted to exist, in violation of any provision of this Ordinance shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or by any other remedy available to the City.

Section 3. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment for a period not to exceed six months, or by both such fine and

imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance.

Section 4. Civil Penalties. In addition to any other enforcement permitted by this Ordinance, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Ordinance. In any civil action brought pursuant to this Ordinance, a court of competent jurisdiction may award attorneys' fees and costs to the prevailing party.

Section 5. CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the prohibitions established hereby, may have a significant effect on the environment, because the Ordinance will only impose greater limitations on activities in the City, and will thereby serve to eliminate potentially significant adverse environmental impacts. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. A Notice of Exemption will be prepared.

Section 6. Severability. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 7. Certification. The City Clerk shall certify as to the adoption of this Ordinance.

ADOPTED by the Manhattan Beach City Council on \_\_\_\_\_, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

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TONY D'ERRICO  
Mayor

ATTEST:

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LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

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QUINN M. BARROW  
City Attorney