

ORDINANCE NO. 2021-____

AN ORDINANCE PERTAINING TO PICKETING ON PUBLIC PROPERTY BEFORE, AROUND, OR ABOUT A DWELLING UNIT IN ORANGE COUNTY, FLORIDA; CREATING ARTICLE X OF CHAPTER 21 OF THE ORANGE COUNTY CODE; ESTABLISHING A TITLE; PROVIDING FOR AUTHORITY, FINDINGS, PURPOSE AND INTENT; PROVIDING FOR SCOPE; CREATING DEFINITIONS; PROHIBITING CERTAIN RESIDENTIAL PICKETING; PROVIDING FOR PENALTIES AND LEGAL AND EQUITABLE RELIEF; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Adoption of “Orange County Residential Picketing Ordinance.” The “Orange County Residential Picketing Ordinance” is hereby adopted to read as follows, and shall be codified at Section 21-381 through Section 21-390 of Article X of Chapter 21 of the Orange County Code:

ARTICLE X. PROHIBITION AGAINST RESIDENTIAL PICKETING

Sec. 21-381. Title.

This ordinance shall be known and may be cited as the “Orange County Residential Picketing Ordinance,” or the “Residential Picketing Ordinance.”

Sec. 21-382. Authority; findings; purpose and intent.

(a) *Authority.* This ordinance is promulgated by the Board of County Commissioners pursuant to the home rule powers of Orange County.

42 (b) *Findings.* The Board finds that it should continue to
facilitate the free exercise of the constitutional rights of free speech
44 and expression and peaceful assembly on certain public property,
while also protecting the well-being, tranquility, and privacy of the
46 home. The Board also finds that picketing activities that are focused
upon the well-being, tranquility, and privacy of the resident or
48 residents of the home. The Board further finds that, in accordance
with the holding of the United States Supreme Court in *Carey v.*
50 *Brown*, 447 U.S. 455 (1980) “the State’s interest in protecting the
well-being, tranquility, and privacy of the home is certainly of the
52 highest order in a free society.” *Id.* at 471. Therefore, the Board finds
that the assurance of the preservation and protection of residential
54 privacy and tranquility is necessary for residents of the
unincorporated area of Orange County to feel free and safe in their
56 homes from picketing activity that targets them or that is directed at
them, and is essential to the harmony, peace and tranquility of
58 persons residing in dwelling units in the unincorporated area. The
Board also finds that the importance of peace and tranquility in one's
60 own home is of compelling significance, and is of crucial importance
in the unincorporated area; and the Board intends to protect that
62 essential interest through the adoption of this ordinance, as allowed
by law. See *Frisby v. Schultz*, 487 U.S. 474 (1988) and *Cary v.*
64 *Brown*.

66 (c) *Purpose and intent.* The purpose of this ordinance is to
protect the well-being, tranquility, and privacy of residents of
68 dwelling units in the unincorporated area by prohibiting certain
picketing activities, and it is the intent of the Board that this
70 ordinance be construed liberally in favor of protecting the public
health and safety, and the well-being, tranquility, and privacy of the
72 residents of the unincorporated area. This ordinance is intended to be
a content-neutral time, place, and manner regulation of certain
74 picketing activities in public forums. The object of this ordinance is
not directed at communicative activity, but at all activity constituting
76 picketing, as defined herein, in a public forum on or about a dwelling
unit. Furthermore, the provisions of this ordinance are intended to
78 supplement and be interpreted to be consistent with the Orange
County Code of Ordinances and other provisions of law that protect
80 the public order and safety, including, but not limited to, those
provisions of law pertaining to public assemblies and prohibiting
82 obstruction or interference with passage on a public right-of-way,
sidewalk or street, and those laws that prohibit trespass, assault,
84 battery, destruction of property or other injury to person or property.

86
88
90
92
94
96
98
100
102
104
106
108
110
112
114
116
118
120
122
124
126
128

Sec. 21-383. Scope.

This ordinance shall be applicable only within the unincorporated area of Orange County, Florida.

Sec. 21-384. Definitions.

For purposes of this ordinance, the following terms and words have the following definitions:

Buffer area means any public property, including any public right-of-way, road, street, sidewalk, or park, located within an area that extends 150 linear feet in any direction measured from the property line of a dwelling unit that is the target of a picket or picketing.

Dwelling unit means a building or portion thereof that is designed for residential occupancy, and includes single-family homes, zero lot line residences, townhomes or connected homes, duplexes, and other single- and multi-family dwelling units located in a district zoned for residential occupancy. Where a single-family residence has been grandfathered into or is otherwise lawfully permitted as a single-family residence in another zoning district, including a planned development, and is used for single-family residential purposes, that single-family residence shall be included in this definition.

Picket or picketing means any assembly of one or more persons, who, through conduct, speech, or other form of expression, target the resident or residents of a dwelling unit with criticism, objection, complaint, ridicule, or other protest, and where such assembly stands, walks, sits, loiters, congregates or mills before, around, or about the dwelling unit in which the person or persons who is the target or subject of that criticism, objection, complaint, ridicule or other protest, resides or is perceived to reside. An assembly of one or more persons may be considered to be picketing despite the fact that the message being communicated by the assembly is intended to be heard or seen by persons in addition to the resident or residents inside the dwelling unit.

Sec. 21-385. Prohibited picketing.

It shall be unlawful for any person to engage in a picket or picketing, as defined by this ordinance, within a buffer area, as

130 defined by this ordinance.

132 **Section 21-386. Alternative means.**

134 Nothing in this ordinance prohibits, or may be construed as
136 prohibiting, a person or persons from engaging in picketing activity
138 that is not defined by and prohibited by this ordinance, and that is
140 not prohibited by any other provisions of the Orange County Code
of Ordinances, including the Orange County Public Assembly
Ordinance in Article IV, Chapter 21, Orange County Code, and is
otherwise lawful.

142 **Sec. 21-387. Penalties; legal or equitable relief.**

144 (a) Any person knowingly violating Section 21-385 may
146 be punished as provided in Section 1-9, Orange County Code, or as
provided under any applicable state law.

148 (b) Orange County may seek legal or equitable relief
150 against any person violating any provision of this ordinance. To the
152 extent not inconsistent with Florida law, a violation of this
ordinance may be subject to an injunction, temporary or permanent,
without the necessity of a showing of actual irreparable harm.

154 **Sec. 21-388. Savings Clause.** The decisions of the Supreme Court
156 in *Frisby v. Schultz*, 47 U.S. 474 (1988); *Carey v. Brown*, 447 U.S.
455 (1980); and, *Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753
158 (1994) do not provide a specific number of feet for a buffer that will
160 satisfy a constitutional challenge with respect to an ordinance
designed to protect residential dwelling units. Accordingly, if a
162 court determines that the 150-foot buffer area provided in this
ordinance is too large, then that court shall enforce such buffer that it
164 finds will satisfy the constitutional requirements for a buffer
protecting residential dwelling units, and this ordinance and the
166 subject Code sections contained herein, shall be deemed amended to
reflect that buffer area as a court may declare will satisfy
168 constitutional requirements.

170 **Secs. 21-389 – 21-390. Reserved.**

172 **Section 2. Effective date.** This ordinance shall become effective pursuant to general

174 law.

ADOPTED THIS ____ DAY OF _____ 2021.

176

178

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

180

182

By: _____
Jerry L. Demings,
Orange County Mayor

184

186

ATTEST: Phil Diamond, Orange County Comptroller,
as Clerk of the Board of County Commissioners

190

By: _____
Deputy Clerk

192

194

196

198

200

202

204

206

208

210

212

214 s:\jearmichaelpicketing ordinance\ordinance-resolutions\drafts\5-5-2021 Clean Picketing Ordinance draft