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**Public Hearing**

**TO:** Mayor Jerry L. Demings  
and  
County Commissioners

**FROM:** Jeffrey J. Newton, County Attorney *JJN*  
Joy T. Carmichael, Assistant County Attorney *JTC*  
Contact: (407) 836-7320

**DATE:** May 27, 2021

**SUBJECT: Public Hearing for Board Meeting on June 8, 2021**  
An Ordinance Creating Article X of Chapter 21 – Highways, Bridges, and  
Miscellaneous Public Places; Relating to Picketing Targeted Residences in  
Residential Areas

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**I. EXPLANATION & SUMMARY:**

At the request of Sheriff John Mina and after consultation with Mayor Demings, this ordinance is scheduled for a public hearing on Tuesday, June 8, 2021. The ordinance would establish limitations for picketing a residence of a person who is a target of criticism, objection, complaint, ridicule, or other protest. Additionally, the ordinance balances protection for the well-being, tranquility and privacy of residents within their homes, while continuing to facilitate free speech, expression, and peaceful assembly on certain public property. Specifically, the ordinance would prohibit picketing on public property, such as sidewalks and streets, within a 150 linear foot buffer area around a targeted person's home.

The ordinance would only apply within the unincorporated area.

If you have any questions, please contact Joy Carmichael or Joel Prinsell.

**II. ACTION REQUESTED: Approve the 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; Allowing for Alternative Means; Providing for Penalties and Legal and Equitable Relief; Incorporating a Savings Clause; and Providing an Effective Date.**

JJN/JC/ad

Mayor Jerry L. Demmings  
and  
County Commissioners  
May 27, 2021  
Page 2

c: Byron W. Brooks, AICP, County Administrator  
Daniel Banks, Deputy County Administrator, Public Safety  
Joel Prinsell, Deputy County Attorney  
Austin Moore, General Counsel

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ORDINANCE NO. 2021-\_\_\_\_

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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; ALLOWING FOR ALTERNATIVE MEANS; PROVIDING FOR PENALTIES AND LEGAL AND EQUITABLE RELIEF; INCORPORATING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

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ORANGE COUNTY:

*Section 1. Adoption of "Orange County Residential Picketing Ordinance."* The

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"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

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County Code:

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**ARTICLE X. PROHIBITION AGAINST RESIDENTIAL PICKETING**

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**Sec. 21-381. Title.**

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

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

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

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

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

battery, destruction of property or other injury to person or property.

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**Sec. 21-383. Scope.**

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

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**Sec. 21-384. Definitions.**

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

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*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.

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*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.

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*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.

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**Sec. 21-385. Prohibited picketing.**

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It shall be unlawful for any person to engage in a picket or

130 picketing, as defined by this ordinance, within a buffer area, as  
132 defined by this ordinance.

134 **Sec. 21-386. Alternative means.**

136 Nothing in this ordinance prohibits, or may be construed as  
138 prohibiting, a person or persons from engaging in picketing activity  
140 that is not defined by and prohibited by this ordinance, and that is  
142 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.

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

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

150 (b) Orange County may seek legal or equitable relief  
152 against any person violating any provision of this ordinance. To the  
154 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.

156 **Sec. 21-388. Savings clause.**

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

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

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**Section 2. Effective date.** This ordinance shall become effective on June 15, 2021.

**ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_ 2021.**

**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings,  
Orange County Mayor

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

By: \_\_\_\_\_  
Deputy Clerk