



Board of County Commissioners

**Proposed
Orange County
Residential Picketing Ordinance**

Public Hearing

June 22, 2021



Presentation Overview

- **Purpose**
- **Background**
- **General Statement of the Applicable Law**
- **Important Judicial Decisions in Residential Picketing Cases**
- **Key Elements of the Proposed Residential Picketing Ordinance**
- **Places not Regulated by the Proposed Residential Picketing Ordinance**
- **Combating Public Disorder Act v. Residential Picketing Ordinance**



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Purpose

To protect the well-being, tranquility and privacy of residents within their homes by prohibiting certain picketing activities, while continuing to facilitate free speech, expression, and peaceful assembly on certain public property





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Background

- The Orange County Sheriff requested the Mayor propose a residential picketing ordinance for consideration by the Board.
- The Mayor expressed interest in a residential picketing ordinance, and directed the County Attorney's Office to research and prepare a draft ordinance for the Board's consideration.



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General Statement of the Applicable Law

For the purpose of protecting the well-being, tranquility and privacy of residents within their homes, a local government may restrict an individual's constitutional right to picket within a residential area, as long as the following conditions are met:

- the legislation does not regulate speech on the basis of content or viewpoint of the speech;
- the legislation is limited to achieving the goal of protecting the well-being, tranquility and privacy of residents in their homes; and
- the local government provides alternative places for picketing.



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Important Judicial Decisions in Residential Picketing Cases

United States Supreme Court:

Frisby v. Schultz, 487 U.S. 474 (1988)

- Upheld a town's ordinance that prohibited picketing "before or about a dwelling" (6-3 decision)





Important Judicial Decisions in Residential Picketing Cases (cont.)

U.S. Court of Appeals for the Eleventh Circuit:

Bell v. City of Winter Park,
745 F.3d 1318 (11th Cir. 2014)

- Upheld an ordinance of the City of Winter Park, Florida that prohibited picketing “within a buffer area of 50 feet from the property line of any dwelling unit”



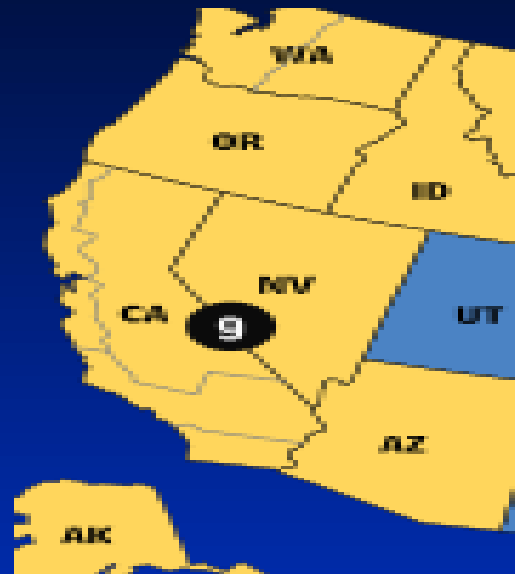


Important Judicial Decisions in Residential Picketing Cases (cont.)

U.S. Court of Appeals for the Ninth Circuit:

Klein v. San Diego County,
463 F.3d 1029 (9th Cir. 2006)

- Upheld a county's ordinance that prohibited picketing activity that was targeted at and within 300 feet of a residential dwelling





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Key Elements of the Proposed Ordinance

Defines *picket* or *picketing*

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...

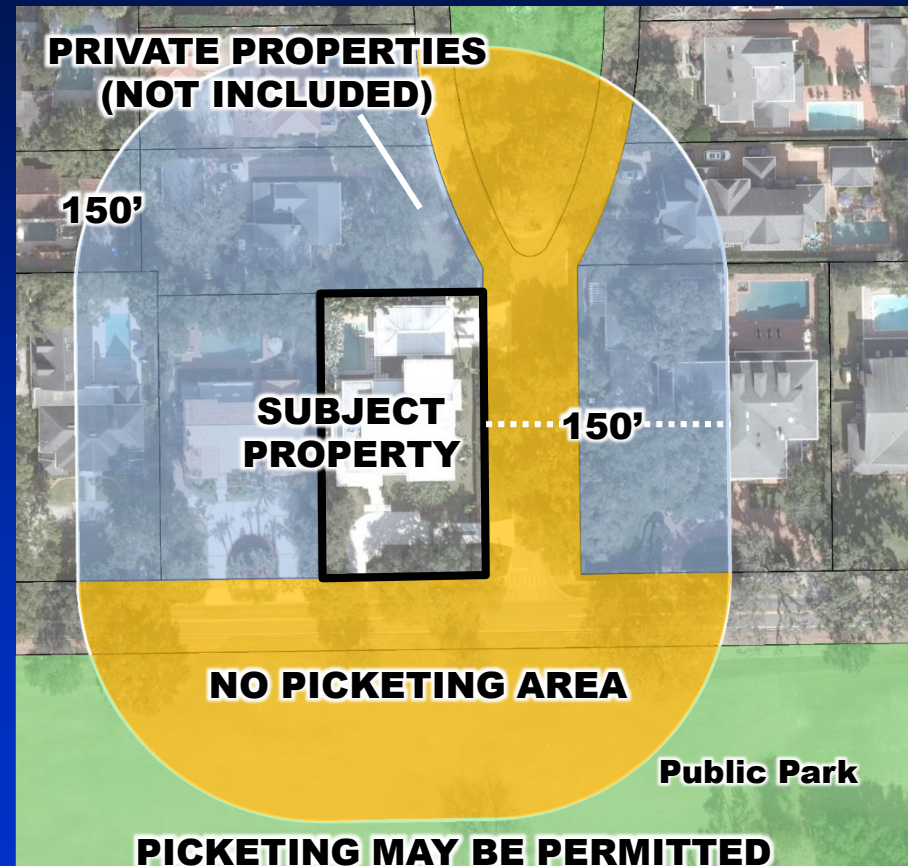


Key Elements of the Proposed Ordinance

Prohibits picketing on public areas such as streets and sidewalks within a 150 foot “No picketing zone”, defined as a *Buffer Area*, that extends outward from the property boundary of the dwelling unit of a person who is a target of picketing activities. Privately owned property is not included in the buffer area, although the laws of trespass shall apply.

Provides alternative places for picketing as follows:

- As permitted by the Public Assembly Ordinance, and
- Within the limitations of the Residential Picketing Ordinance





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Places Not Regulated by the Proposed Residential Picketing Ordinance

The following places are not regulated by the proposed Residential Picketing Ordinance:

- Municipalities
- Apartment complexes and condominiums located on private property
- Private property, including gated communities





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Combating Public Disorder Act v. Residential Picketing Ordinance

Combating Public Disorder Act

- Addresses crimes of affray, rioting intimidation, assault, battery, burglary and new crime of mob intimidation
- Certain violations are felonies
- Person violating to be held in jail until first appearance hearing and a court determined bond
- Waives municipal sovereign immunity for tort claims arising from riots in certain circumstances

Residential Picketing Ordinance

- Does not address any of the crimes in Combating Public Disorder Act
- Violation is a misdemeanor
- No such provisions in Picketing Ordinance
- No waiver of sovereign immunity



Board Action Requested

Approval of the Orange County Residential Picketing Ordinance by creating Article X of Chapter 21 of the Orange County Code, with an effective date of June 25, 2021.



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