

ORDINANCE NO. 3007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE EL MONTE MUNICIPAL CODE TO ADD A NEW CHAPTER 9.01 (TARGETED RESIDENTIAL PICKETING) ESTABLISHING DISTANCE REQUIREMENTS FOR TARGETED RESIDENTIAL PROTESTS

WHEREAS, in recent years, an increasing number of targeted, residential demonstrations and protests have occurred within the City of El Monte ("City"); and

WHEREAS, these demonstrations have involved demonstrators congregating on a residential sidewalk, sometimes immediately adjacent to the targeted residence, and expressing their views by shouting and chanting at the residence; and

WHEREAS, this particular form of expression disturbs the tranquility of the community members living within the targeted residence, threatens their privacy and can cause them to suffer significant emotional and even physical distress in their own homes; and

WHEREAS, City residents have a right to tranquility and privacy within their homes; and

WHEREAS, demonstrators, including those engaging in targeted protests, have the First Amendment right to express their views and convey their message to a particular, targeted audience, including the residents or a particular home; and

WHEREAS, the El Monte City Council ("City Council") must balance the rights of residents and demonstrators to ensure that both groups' rights are respected and fulfilled; and

WHEREAS, in order to safeguard both groups' rights, the City Council must ensure that targeted demonstrations may occur within the community but that such demonstrations do not force residents to become captive audiences to unwanted speech within their own homes; and

WHEREAS, establishing a distance which must be maintained between residential dwellings and demonstrators targeting those dwellings will serve both those ends; and

WHEREAS, this Ordinance is not intended to and does not restrict the expression of views in residential neighborhoods through picketing or demonstrations which do not target particular residences or households; and

WHEREAS, this Ordinance is a necessary time, place and manner restriction, intended to reconcile the needs and rights of protesters to peacefully and effectively communicate and express their views and of residents to enjoy privacy and respite in their own homes; and

WHEREAS, the City Council finds that the prohibitions and buffer zones adopted herein leave open ample alternative avenues for communicating messages and ideas by those who wish to picket or protest in the City; and

WHEREAS, local ordinances prohibiting the targeted picketing of homes have been upheld by the United States Supreme Court in *Frisby vs. Schultz* (1988) 487 U.S. 474, and a three hundred (300) foot buffer zone has been upheld by a California Court of Appeal as a reasonable exercise of the City's legislative discretion in regulating such targeted picketing (*City of San Jose v. Superior Court of Santa Clara County* (1995) 32 Cal. App. 4th 330).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and incorporated herein by reference.

SECTION 2. Title 9 (Public Peace Morals and Welfare) of the El Monte Municipal Code is hereby amended by the addition of a new Chapter 9.01 (Targeted Residential Picketing) which shall read as follows:

"Chapter 9.01. Targeted Residential Picketing.

9.01.010 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings set forth as follows:

- A. "Residential dwelling" shall mean any permanent building being used by its occupants solely for nontransient residential uses.***
- B. "Picketing" shall mean the posting of a person or group for a demonstration or protest.***
- C. "Targeted picketing" means picketing that is directed at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.***

9.01.020 Targeted Residential Picketing Prohibited.

- A. No person shall engage in a targeted picketing activity that is targeted at and is within three hundred (300) feet of a residential dwelling.***
- B. This section does not and shall not be interpreted to prohibit picketing that is not targeted at a particular residential dwelling.***

9.01.030 Picketing Before or About a Residential Dwelling Prohibited.

- A. It is unlawful for any person to engage in picketing before or about a residential dwelling of any individual in the City of El Monte.***
- B. Enforcement of this section shall be limited to those situations where the picketing proceeds on a definite course or route in front of a residential dwelling and is directed at that residential dwelling.***
- C. This section does not and shall not be interpreted to preclude general marching through residential neighborhoods.***
- D. This section shall be and remain in effect and operative during that period of time that the enforcement of Section 9.01.020 is suspended.***

9.01.040 Private Right of Action.

- A. Any person who is aggrieved by an act prohibited by this chapter may bring an action for damages, injunctive and/or declaratory relief, as appropriate, in a court of competent jurisdiction against any person who has violated, has conspired to violate, or proposes to violate the provisions of this chapter.***
- B. Any aggrieved person who prevails in such an action shall be entitled to recover from the violator those damages, costs, attorneys' fees, and such other relief as determined by the court. In addition to all other damages or relief, the court may award to the aggrieved person a civil***

