



## STAFF REPORT

**DATE:** January 14, 2021  
**TO:** Honorable Mayor and City Council  
**FROM:** John Penrod, City Attorney  
**SUBJECT:** CONSIDERATION OF AN ORDINANCE THAT MAKES TARGETED RESIDENTIAL PICKETING UNLAWFUL.

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### **RECOMMENDED MOTIONS**

Motion to approve Ordinance No. \_\_\_\_ that makes targeted residential picketing unlawful.

### **BACKGROUND**

In recent months, picketing targeted residences has occurred in Springville, the state of Utah and in our country. The proposed ordinance is a time, place and manner ordinance that reconciles and protects picketers First Amendment rights to free speech with the right of residents to have privacy in their homes and to protect the inhabitants from hearing or seeing unwanted messages.

### **DISCUSSION**

Several Utah County cities have recently enacted ordinances making targeted residential picketing unlawful. A number of the targeted residential picketing that has taken place in Utah has resulted from the recent Covid-19 pandemic. One of these targeted residential picketing incidents took place in Springville City. National news has reported other targeted residential picketing, protests, and vandalism related to the pandemic and politics.

The proposed ordinance is the same ordinance that other Utah County cities have passed. The basic provisions of the ordinance have been found to be constitution under free speech scrutiny standards by the United States Supreme Court. *See Frisby v. Schultz*, 487 U.S. 474 (1988). The following summarizes the provisions of the ordinance.

A Resident's Home. The protection of a resident's home is of the highest importance. The public health and welfare and the good order of the community require that citizens enjoy in their homes the feeling of well-being, tranquility and privacy, and enjoy freedom from being a captive audience to unwanted speech in their homes.

Freedom of Speech. Residents have a full opportunity to exercise their free speech rights without resorting to targeted residential picketing. The proposed ordinance establishes a reasonable time, place and manner restriction that allows people free speech rights while still protecting residents' rights to enjoy the right to tranquility, well-being and privacy in their homes.

Unlawful Actions. The proposed ordinance makes it unlawful for any person to specifically focus or direct picketing of a particular residence or occupants of a particular residence by prohibiting such picketing within 100 feet of the residence. If the resident's home is the resident's sole place of business or the location of a public meeting, it is not considered the resident's home.

Penalty. The violation of the proposed ordinance is a class B misdemeanor.

### **FISCAL IMPACT**

None.

Attachments: Proposed Ordinance

**ORDINANCE #XX-2021**

**AN ORDINANCE ENACTING TITLE 8 CHAPTER 2 ESTABLISHING A  
TARGETED RESIDENTIAL PICKETING ORDINANCE IN THE SPRINGVILLE  
CITY CODE.**

**WHEREAS**, the public health and welfare and the good order of the community require that citizens have the opportunity to enjoy in their homes and neighborhoods a feeling of well-being, tranquility and privacy, and enjoy freedom from being a captive audience to unwanted speech in their homes; and

**WHEREAS**, the practice of targeted residential picketing causes emotional disturbance and distress to residents and has the potential to incite breaches of the peace and disrupt residents' enjoyment of their home; and

**WHEREAS**, a full opportunity exists for individuals to exercise their rights of free speech without resorting to targeted residential picketing; and

**WHEREAS**, the City Council desires to establish reasonable time, place and manner restrictions that reconcile and protect the First Amendment rights of picketers to peacefully communicate and express their ideas with the right of persons to enjoy the right to tranquility, well-being and privacy in their homes; and

**WHEREAS**, the United States Supreme Court upheld a municipal ordinance that banned targeted picketing in front of a particular residence to protect residential privacy and to protect the inhabitants from hearing or seeing unwanted messages (*See Frisby v. Schultz*, 487 U.S. 474 (1988)); and

**WHEREAS**, on January 19, 2021, the City Council held a duly-noticed public meeting to hear the facts regarding this matter, which facts are found in the meeting record; and

**WHEREAS**, after considering the facts and comments presented to the City Council, the Council finds that this ordinance should be enacted, and it furthers the health, safety and welfare of the citizens of Springville City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Springville, Utah:

**SECTION 1: SECTION ADOPTED.** Section 8-2-107 of the Springville City Code is hereby adopted to read and provide as follows:

**Section 8-2-107 Targeted Residential Picketing.**

- (1) Purpose. The protection of the home is of the highest importance. The public health and welfare and the good order of the community require that citizens enjoy in their homes and neighborhoods a feeling of well-being, tranquility, and privacy, and enjoy freedom from being a captive audience to an unwanted speech in their homes. The practice of targeted residential picketing causes emotional disturbance and distress to residents, and has the potential to incite breaches of the peace and disrupt the well-being and tranquility of the home. Full opportunity exists for individuals to exercise their rights of free speech without resorting to targeted residential picketing. The provisions of this section are enacted for the purpose of protecting the significant public interests stated above and not to suppress free speech rights of any particular viewpoint. This section is

intended to establish a reasonable time, place and manner restriction that reconciles and protects the First Amendment rights of picketers to peacefully communicate and express their ideas with the right of persons to enjoy the right to tranquility, well-being and privacy in their residential dwellings.

(2) Definitions. As used in this section, the following terms shall have the meanings set forth below:

- (a) "Picketing" means (1) the stationing or posting of one or more persons to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or message; or (2) the presence or gather of a person or group of people for a demonstration or protest.
- (b) "Residence" means any single-family, duplex, multifamily, or other dwelling where the targeted occupant resides and is not used as a targeted occupant's sole place of business or as a place of a public meeting.
- (c) "Targeted residential picketing" means picketing that: (1) is specifically directed or focused toward a particular residence, or one or more occupants of a particular residence; and (2) takes place within one hundred feet (100') of the property line of that residence.

(3) Prohibitions. It is unlawful for any person, acting alone or in concert with others, to engage in targeted residential picketing in Springville City.

(4) Penalty for Violation. Any violation of this section is a class B misdemeanor.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon first publication.

**PASSED, ADOPTED AND ORDERED POSTED** by the Council of Springville City, Utah this 19th day of January, 2021.

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MAYOR RICHARD J. CHILD

**ATTEST:**

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KIM CRANE, CITY RECORDER