



## OFFICE OF THE CITY ATTORNEY

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# ORD-35

**DAWN A. MCINTOSH**  
City Attorney

**GARY J. ANDERSON**  
Assistant City Attorney

March 21, 2023

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Declare an Ordinance of the City Council of the City of Long Beach amending the Long Beach Municipal Code by adding Chapter 9.28 relating to targeted residential picketing; read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

### DISCUSSION


Pursuant to City Council's request, we have prepared the attached Ordinance adding Chapter 9.28 to the Long Beach Municipal Code.

### SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

DAWN MCINTOSH, City Attorney

By:   
Anita Lakhani  
Deputy City Attorney

AL:kd

ATTACHMENT: CITY COUNCIL ORDINANCE

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING CHAPTER 9.28 RELATING  
TO TARGETED RESIDENTIAL PICKETING

WHEREAS, Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, demonstrators and protestors have a right, protected by the First Amendment of the United States Constitution, to express their views and to convey their message to both a general audience and a particularly targeted audience; and

WHEREAS, demonstrations and protests that are targeted at a particular residence or household whose occupants do not welcome such activity may harass and intimidate such occupants; and

WHEREAS, this particular form of expression inherently and offensively intrudes on residential privacy, disturbs the tranquility of the community members living in the targeted residence, threatens their privacy, and can cause them to suffer significant distress in their own homes; and

WHEREAS, the City must balance the rights of residents and demonstrators to ensure that both groups' rights are respected and fulfilled; and

WHEREAS, in *Carey v. Brown* (1980) 447 US 455, the United States Supreme Court confirmed that the government's protection of the "well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society" and that preserving "the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value"; and

1           WHEREAS, in *Frisby v. Schultz* (1988) 487 US 474, the United States  
2 Supreme Court concluded that “[t]here simply is no right to force speech into the home of  
3 an unwilling listener” and that the “devastating effect of targeted picketing on the quiet  
4 enjoyment of the home is beyond doubt”; and

5           WHEREAS, in order to safeguard both groups’ rights, the City must ensure  
6 that targeted picketing may occur within the community but that such picketing does not  
7 force residents to become captive audiences to unwanted speech within their own homes;  
8 and

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

12           WHEREAS, in *City of San Jose v. Superior Court of Santa Clara County*  
13 (1995) 35 Cal.App.4th 330, the Court of Appeal for the 6th District, upheld an ordinance of  
14 the City of San Jose prohibiting targeted residential picketing within three hundred feet  
15 (300’) of the targeted residential dwelling; and

16           WHEREAS, this ordinance is not intended to be applied, construed, or given  
17 effect in a manner that precludes or restricts the expression of views in a residential  
18 neighborhood through picketing or demonstrations which do not target particular residential  
19 residences or occupants therein; and

20           WHEREAS, the distance restriction for targeted picketing proposed within  
21 this ordinance preserves ample alternative channels of communication for protestors and  
22 demonstrators to disseminate their message(s) and/or idea(s); and

23           WHEREAS, this ordinance is a necessary time, place, and manner  
24 restriction, intended to reconcile and protect the needs and rights of protestors to peacefully  
25 and effectively communicate their views, and residents to enjoy privacy and respite in their  
26 homes;

27           NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
28 follows:

1 Section 1. Chapter 9.28 is hereby added to the Long Beach Municipal  
2 Code to read as follows:

3  
4 CHAPTER 9.28  
5 TARGETED RESIDENTIAL PICKETING

6  
7 9.28.010 Definitions.

8 For purposes of this Chapter, the following definitions shall apply:

9 A. "Residential dwelling" shall mean any permanent building  
10 situated in the City of Long Beach that is used by one or more occupants  
11 primarily for non-transient residential purposes.

12 B. "Targeted picketing" shall mean marching and/or picketing  
13 activity that is directed at a particular residential dwelling and occurs in front  
14 of the residential dwelling and/or which proceeds on a definite course or  
15 route in front of or around that particular dwelling.

16  
17 9.28.020 Prohibition on targeted residential picketing.

18 A. No person shall engage in targeted picketing that is within  
19 three hundred feet (300') of a residential dwelling.

20 For purposes of this Section, the distance shall be measured from  
21 the outer walls of the residential structure. An attached garage shall be  
22 considered part of the residential structure.

23 B. This Chapter does not and shall not be interpreted to preclude  
24 picketing in a residential area that is not targeted at a particular residential  
25 dwelling or dwellings.

26 C. Enforcement of this Section shall be limited to those situations  
27 where the picketing is targeted at the residential dwelling.

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9.28.030 Penalty.

A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor or infraction, as set forth in Long Beach Municipal Code Section 1.32.010.

9.28.040 Private right of action.

A. Any person who is aggrieved by an act prohibited by this Chapter may bring an action for damages and/or declaratory relief, as appropriate, in a court of a competent jurisdiction against any person who violates this Chapter.

B. Any aggrieved person who prevails in such 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 penalty of up to one thousand dollars for each violation of this Chapter.

C. The remedies provided by this Chapter are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.

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Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2023, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor