

ORDINANCE NO. 4678

AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 5 BY INCLUDING BC CHAPTER 5.17 RELATING TO RESIDENTIAL PICKETING AND DECLARING AN EMERGENCY

Whereas, the US Supreme Court and Ninth Circuit have repeatedly said that a government's "interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society;"

Whereas, unless this ordinance is passed, existing law does not adequately protect the right to well-being, tranquility, and privacy in residential dwellings in the City against targeted residential picketing;

Whereas, this ordinance is reasonable, narrowly tailored to serve this significant government interest, and leaves open ample alternatives for communication.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS

Section 1. Beaverton Code Chapter 5 is amended by including Chapter 5.17, which reads as follows:

5.17.005 Short Title.

BC 5.17.005 to 5.17.035 shall be known and may be cited as the "Residential Picketing Ordinance" and may be referred to herein as "this ordinance."

5.17.010 Legislative Findings.

City Council finds:

- A. The preservation and protection of the right to privacy and the enjoyment of tranquility, well-being, and a sense of security in the home are in the public interest and critically important to public health, safety and welfare in the City.
- B. Picketing that is targeted at the occupants and neighbors of a particular residential dwelling who do not welcome such activity may harass and intimidate the occupants and neighbors, is inherently and unreasonably offensive to and intrusive upon the occupants' and neighbors' right to privacy, and may cause the occupants and neighbors of the residential dwelling to experience unreasonable emotional distress.

- C. Unwelcome and targeted picketing creates a "captive audience" because the occupants and neighbors of a residential dwelling cannot readily move to another residential dwelling in order to avoid the unwelcome picketing being directed at them.
- D. This "captive audience" situation and the protection of the right to tranquility, well-being and privacy requires the enactment of a reasonable time, place, and manner restriction upon unwelcome picketing targeted at a particular residential dwelling.
- E. This chapter 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.
- F. This chapter is not intended to preclude the right to picket in a residential area generally and in such a manner that does not target a particular residential dwelling.

5.17.015 Definitions.

- A. "Picketing activity" means the posting of a person or group for a demonstration or protest.
- B. "Targeted picketing activity" means picketing activity that is targeted at a residential dwelling and either (1) proceeds on a definite course or route in front of or about that residential dwelling, or (2) is stationary in front of or about the residential dwelling. It does not preclude:
 - i. Picketing that is not targeted at a particular residential dwelling; or
 - ii. General marching or walking through residential neighborhoods.

5.17.020 Targeted Residential Picketing Activity Prohibited.

A person shall not engage in targeted picketing activity within 250 feet of a residential dwelling in the City.

5.17.025 Private Right of Action.

Any person who is aggrieved by an act prohibited by BC 5.17.020 may bring an action for damages, injunctive or declaratory relief, as appropriate, in any court of competent jurisdiction against any person who has violated, has conspired to violate, or proposes to violate the provisions of this ordinance.

5.17.030 Penalty.

A person who violates BC 5.17.020 commits a Class 1 Civil Infraction. The Class 1 Civil Infraction shall be processed in accordance with the procedures set forth in BC 2.10.010 through 2.10.050. Any fines pursuant to this ordinance are in addition to, and not in lieu of, any other civil or administrative penalty, sanction, or remedy otherwise authorized by law.

5.17.035 Severability.

The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.


Section 2. This ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

First reading this 23rd day of February, 2016.

Second reading and passage by this Council this 1st day of March, 2016.

Approved by the Mayor this 2nd day of March, 2016.

ATTEST:


CATHERINE L. JANSEN, City Recorder

APPROVED:


DENNY DOYLE, Mayor