

ORDINANCE 658

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING
CHAPTER 9.18 TARGETED RESIDENTIAL PICKETING**

WHEREAS, the Town of Atherton ("Town") has a duty to protect public peace, welfare and tranquility of its residents, and;

WHEREAS, the targeted picketing of individual residences in the Town of Atherton is an imminent threat to public peace, welfare and tranquility of the residents of the Town of Atherton, and;

WHEREAS, the Town has the authority to enforce a content-neutral, narrowly-tailored, time, place and manner restriction on picketing in a limited public forum to protect the peace, welfare and tranquility of its residents while leaving open ample alternative channels for communication available to picketers; and,

WHEREAS, the Town wishes to protect its residents from the targeted picketing of their personal residences;

The City Council of the Town of Atherton does hereby ordain as follows:

Section 1. PURPOSE AND AUTHORITY

The purpose of this amendment is to amend Title 9 of the Atherton Municipal Code to adopt Chapter 9.18 Targeted Residential Picketing, in order to protect the peace and tranquility of Atherton residents in their homes. This is a content-neutral, narrowly-tailored time, place and manner restriction on picketing in a limited public forum that will preclude picketers from targeting individual residences by remaining at least 300 feet from any individual residence, while leaving open ample alternative channels for communication available to picketers. Chapter 9.18 additionally created a private right of action enabling persons aggrieved by targeted picketing to bring an action against any person who has violated, conspires or proposes to violate acts prohibited under Chapter 9.18 and recover an award of a civil penalty of up to one thousand dollars, as well as costs and reasonable attorneys' fees.

Section 2. ADOPTION OF CHAPTER 9.18 OF THE ATHERTON MUNICIPAL CODE

Title 9 is amended to include Chapter 9.18, which reads:

Chapter 9.18

TARGETED RESIDENTIAL PICKETING

Sections:

9.18.010 Targeted residential picketing prohibited.

9.18.020 Picketing before or about a residential dwelling prohibited.

9.18.030 Private right of action.

9.18.010 Targeted residential picketing prohibited.

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- A. No person shall engage in picketing activity that is targeted at and is within three hundred feet of a residential dwelling.
- B. For purposes of this chapter, the term "residential dwelling" means any permanent building being used by its occupants solely for non-transient residential uses.
- C. For purposes of this chapter, the term "targeted" picketing means picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.
- D. This chapter does not and shall not be interpreted to preclude picketing in a residential area that is not targeted at a particular residential dwelling.

9.18.020 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 Town of Atherton.
- 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.

9.18.030 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, reasonable 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.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council of the town of Atherton hereby declares that it would have adopted the remainder of this chapter, including each section, subsection, sentence, clause, phrase or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase or portion.

Section 3. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or

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circumstances shall not be affected thereby. To the extent that prior Town ordinances governed any portion of this Ordinance held invalid, such prior Town ordinances shall again become effective if any portion of this Ordinance is held invalid.

Section 4: EFFECTIVE DATE

This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced on the ____ day of _____, 2023.

Passed and adopted as an ordinance of the City Council of the Town of Atherton at a regular meeting thereof held on the ____ day of _____, 2023 by the following vote:

Ayes:

Noes:

Abstentions:

Mayor Bill Widmer

ATTEST:

Anthony Suber, City Clerk/ACM