



Item No. 8 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: STEVEN D. MCCULLEY, CHIEF OF POLICE

DATE: FEBRUARY 15, 2023

**SUBJECT: WAIVE THE SECOND READING BY SUBSTITUTION OF THE
TITLE AND ADOPT AN ORDINANCE AMENDING TITLE 9 OF
THE ATHERTON MUNICIPAL CODE CHAPTER 9.18 RELATED
TO TARGETED RESIDENTIAL PICKETING**

RECOMMENDATION

Waive the second reading by substitution of the title and adopt an Ordinance of the Atherton Municipal Code Chapter 9.18 related to Targeted Residential Picketing.

BACKGROUND

During the last two weeks of November 2022, and the first two weeks of December 2022, organized protestors demonstrated in front of a residence located on Carolina Avenue in Atherton. The protests took place daily for up to 8 hours per day.

The resident feared for his safety, the safety of his family, and temporarily moved from their residence during these protests.

ANALYSIS

Under the First Amendment to the United States Constitution, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” There is a balance of the right to exercise free speech through public protests and the basic rights of residents to feel safe, secure, and to protect the peace and tranquility in their homes.

The purpose of this amendment is to amend Title 9 of the Atherton Municipal Code to adopt Chapter 9.18 Targeted Residential Picketing, 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 creates 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.

Any person violating the provisions of this proposed ordinance shall first be verbally warned. If, after the warning, the person continues to violate this Chapter, he or she will be guilty of a misdemeanor and separately subject to the provisions of Chapter 8.20 (Nuisance Abatement).

RECOMMENDATIONS

Staff recommends amending Title 9 of the Atherton Municipal Code and adopt Chapter 9.18 related to targeted residential picketing.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area B – Preserve Small Town Character and Quality of Life
- Goal Area D – Managing Circulation and Improve

FISCAL IMPACT

There is no fiscal impact related to the adoption of this ordinance.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ____ has or X has not been before a Town Committee or Commission.

____ Audit/Finance Committee (meets every other month)

____ Bicycle/Pedestrian Committee (meets as needed)

- _____ Civic Center Advisory Committee (meets as needed)
- _____ Environmental Programs Committee (meets every other month)
- _____ Park and Recreation Committee (meets each month)
- _____ Planning Commission (meets each month)
- _____ Rail Committee (meets every other month)
- _____ Transportation Committee (meets every other month)
- _____ Tree Committee (meets each month)

ATTACHMENTS

1. ORD No. 658 - Targeted Residential Picketing