

ORDINANCE NO. 712-15

**AN ORDINANCE OF THE MIAMI SHORES VILLAGE COUNCIL AMENDING CHAPTER 20, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" BY CREATING ARTICLE VI "TARGETED PICKETING" RELATING TO CERTAIN PROHIBITIONS AND LIMITATIONS ON PICKETING AT A RESIDENCE OR DWELLING WITHIN THE VILLAGE; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Village Council finds that a series of reported picketing activities targeted at the homes of Village residents has resulted in residents fearing for their safety as well as the safety of their family members and unable to enjoy the privacy of their homes; and

WHEREAS, the United States Supreme Court has found that picketing activities and a resident's privacy in the home require a balancing of the interests between first amendment freedom of expression rights and the rights of individual citizens to feel safe and secure within their home; and

WHEREAS, the restrictions presented in this ordinance are intended to be content and viewpoint neutral and, neutral with respect to time, place and manner restrictions; and

WHEREAS, the United States Supreme Court has stated in similar circumstances 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." *Carey v. Brown*, 447 U.S. 455, 471 (1980); and

WHEREAS, the United States Supreme Court also recognized that a "special benefit of the privacy all citizens enjoy within their own walls, which the State may legislate to protect, is an ability to avoid intrusions." *Frisby v. Schultz*, 487 U.S. 474, 484-85 (1988). Moreover, the Supreme Court has "repeatedly held that individuals are not required to welcome unwanted speech into their homes and that the government may protect this freedom." *Id.* at 85; and

WHEREAS, the Village Council enacts this ordinance for the primary purpose of protecting and preserving a feeling of safety, well-being, tranquility, and privacy for its residents, while narrowly tailoring the prohibitions contained in this ordinance so as to continue protecting the constitutional right of free expression for all individuals; and

WHEREAS, the proposed ordinance does not prohibit any particular type of speech content and is directed to the protection of occupants in their residential dwellings within the Village; and

WHEREAS, the Village Council finds that this ordinance is in the best interest and welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE MIAMI SHORES VILLAGE COUNCIL THAT:

Section 1. The foregoing "whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Chapter 20 of the Miami Shores Code of Ordinances is hereby amended by adding Article VI, which said section shall read as follows:

**ARTICLE VI. TARGETED PICKETING.**

**Sec. 20-110. Residential Picketing.**

**(a) Purpose.**

1. The purpose of this section is to protect the public health, welfare and good order of Miami Shores Village which requires that its citizens have the opportunity to experience peace, well-being, and privacy in their homes at all times.
2. The practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the inhabitants as well as obstructs and interferes with free use of public sidewalks and public ways of travel and such practice has as its object the harassment and discomfort of the dwelling inhabitants.
3. Other opportunities exist and will continue to exist for the exercise of freedom of speech and other constitutional rights. This Ordinance is intended to prohibit targeted picketing of a Village resident's dwelling while permitting other speech options.
4. The provisions enacted by this article are necessary for the public interest to avoid such detrimental results set forth above and are enacted by the Village Council pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes.

**(b) Picketing Residence or Dwelling Prohibited.** No person shall engage in picketing upon, before, or about the residence or dwelling of any individual in Miami Shores Village.

~~Moreover, it shall be unlawful for any person or persons to picket, protest or conduct any picketing or protesting activity within a buffer area of 50 feet from the property line of any dwelling unit in Miami Shores Village. It shall also be unlawful for any person or persons to picket, protest or conduct any picketing or protesting activity in any park, public street, public right of way, or on a sidewalk, when such activity impedes or interferes with the rights of others to travel on or in such areas in a safe manner, consistent with the traditional pedestrian, bicycle or motor vehicle use of such areas.~~

~~**Notice Requirement.** No person that is part of a group of 3 or more persons shall engage in picketing a residence or dwelling of any individual in the Village without first providing at least twenty four hours (24) notice, which is to include the location and approximate time of the picketing activities, to the Village Chief of Police prior to engaging in such activities. The Village Police Department shall post on its website the email and telephone number by which the operational unit may be notified 24 hours a day, and the address to which notification may be hand-delivered, as an alternative, during business hours. Any person who violates this subsection shall be issued a written notice of warning for the first violation. Any subsequent violation of this subsection shall subject the alleged violator to criminal penalties as set forth in subsection (d) below.~~

~~(d)~~(c) **Criminal Penalties.** Any person who violates this Ordinance shall be subject to a fine exceed \$500 or a term of imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Any authorized law enforcement officer of the Village who witnesses a violation of this Ordinance may immediately arrest the violator, ~~except if the violation is pursuant to subsection (d), wherein, prior to arrest, the law enforcement officer shall confirm that the person has been previously issued a notice of warning. This section shall in no way limit the discretion of the Village to enforce civil penalties pursuant to any other section of the Village Code.~~

**Section 3.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4.** All Sections or parts of Sections of the Code or Ordinances, all Ordinances or part of Ordinances, and all Resolutions or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 5.** This Ordinance shall be effective immediately upon adoption at second and final reading.

PASSED on first reading this 6<sup>th</sup> day of October, 2015.

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PASSED and ADOPTED on second and final reading, this 3<sup>rd</sup> day of November, 2015.

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ATTEST:

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Alice Burch, Mayor

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Barbara A. Estep, MMC  
Village Clerk

APPROVED AS TO FORM:

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Richard Sarafan  
Village Attorney