



# CITY COUNCIL AGENDA REPORT



**DEPARTMENT:** City Attorney

**MEETING DATE:** June 15, 2004

**PREPARED BY:** Craig A Steele

**AGENDA LOCATION:** I-14

**TITLE:** Amendment to Title 9 of the Monrovia Municipal Code Regulating Targeted Picketing at Residences in the City, First Reading and Adoption of Urgency Ordinance No 2004-13U

**OBJECTIVE:** To consider adoption of Urgency Ordinance No 2004-13U

**BACKGROUND:** As requested at the last City Council meeting, I have prepared the attached urgency ordinance prohibiting targeted residential picketing in the City. The urgency ordinance is identical to the ordinance you introduced last week, and which you are scheduled to adopt this week, with the exception of the additional findings regarding urgency.

**ANALYSIS:** An urgency ordinance takes effect immediately upon adoption if the City Council, by 4/5 vote, adopts findings establishing that there is an urgent need to protect public health and safety. In this case, if the City Council determines that an urgency ordinance is appropriate, I believe the urgency findings in the ordinance are legally supportable. An urgency ordinance is still subject to the right of referendum, despite the fact that it takes effect immediately.

**RECOMMENDATION:** I recommend that you proceed with second reading and adoption of the "normal" version of the ordinance whether you adopt the urgency version or not. If the urgency version is adopted, the "normal" version provides a back-up ordinance in place if the urgency findings were ever challenged in court.

**COUNCIL ACTION REQUIRED:** If the City Council decides to adopt an urgency ordinance, the appropriate motion would be

A motion to introduce and adopt Ordinance No. 2004-13U.

Craig A Steele, City Attorney

## URGENCY ORDINANCE NO. 2004-13U

### AN URGENCY ORDINANCE OF THE CITY OF MONROVIA AMENDING TITLE 9 OF THE MONROVIA MUNICIPAL CODE REGULATING TARGETED PICKETING DIRECTED AT RESIDENCES IN THE CITY AND MAKING FINDINGS REGARDING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF MONROVIA DOES ORDAIN AS FOLLOWS:

SECTION 1 The Monrovia City Council, in adopting this ordinance, hereby finds the following to be true

- a) Targeted residential picketing is a phenomenon that is harmful to the public health, safety and welfare, and must be limited
- b) Picketing at or near the borders of a private residence, directed at the inhabitants of the residence, is a disfavored activity not entitled to a high level of First Amendment protection, according to the State and Federal courts Picketing directed at individual homes is intended to harass and intimidate the occupants, and is inherently and unreasonably offensive to and intrusive upon the right to privacy in one's home
- c) In adopting this ordinance, it is the intent of the City Council to protect what the courts have called the "captive audience" inside the targeted homes The City Council does not intend to stifle any speech protected by the First Amendment
- d) The prohibitions and buffer zones adopted herein leave open ample alternative avenues for communicating messages and ideas by those who wish to picket or protest in the City
- e) A 300-foot "buffer zone" as established herein, creates a minimum zone of protection for residents from unwanted harassment and intimidation, but it does not prevent picketers from disseminating their message to the general public or local residents, from a lawful distance

SECTION 2 Chapter 9 20 of the Monrovia Municipal Code is hereby amended to be entitled "Loitering and Targeted Residential Picketing" and Sections 9 20 020 and 9 20 021 are hereby added to the Monrovia Municipal Code, to read as follows

#### **"9.20.020. Targeted Residential Picketing Prohibited.**

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

**9.20.21. 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, 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 "

SECTION 3 In addition to any civil remedy created herein, the violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law

SECTION 4 By at least a 4/5 vote, the City Council hereby finds that there is a current and immediate threat to the public health, safety, and welfare presented by picketing and protests taking place in residential zones and directed at individual residences in the City Picketing and protests in a residential area of the City, directed at an individual residence, have occurred in the recent past, as have acts of vandalism Police officers were required to respond to those incidents to maintain peace and order, and to protect private property Additional enforcement tools must be made available immediately to the members of the Monrovia Police Department to protect the public health, safety and welfare In the absence of immediate effectiveness, further picketing or demonstrations could occur, resulting in a threat to the public health, safety and welfare Due to the foregoing circumstances, and pursuant to Government Code Section 36937, it is urgently necessary for the preservation of the public health, safety and welfare that this ordinance takes effect immediately

**PASSED, APPROVED and ADOPTED** this 15th day of June 2004 by the following vote

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**EXCUSED:**

**BY:**

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Rob Hammond, Mayor  
City of Monrovia