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ORDINANCE NO. 13-2013

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA, REGULATING FUNERAL PROTESTS**

WHEREAS, the Supreme Court of the United States of America has recognized the social and cultural significance of funerals and burial rites in the case of National Archives & Records Administration v. Favish, 541 U.S. 157 (2004); and

WHEREAS, the United States Court of Appeals for the Eighth Circuit in the case of Phelps-Roper v. City of Manchester, Missouri, 658 F. 3d 813 (2011) upheld an ordinance establishing certain regulations on funeral protests; and

WHEREAS, the Common Council is desirous of adopting this Ordinance in order to establish similar regulations intended to protect the privacy of funeral attendees within the geographical boundaries of the City of Valparaiso, Indiana.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Valparaiso, Indiana, that a new Chapter 100 should be added to Title IX of the Municipal Code of the City of Valparaiso, Indiana, and should read as follows:

100.1 FUNERAL PROTESTS

A. Every citizen may freely speak, write and publish the person's sentiments on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one (1) hour before or one (1) hour after the conducting of any actual funeral or burial service at that place.

As used in this section "*other protest activities*" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

As used in this section "*funeral*" and "*burial service*" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this Section does not apply to processions while they are in transit beyond any three hundred (300) foot zone that is Established in Section (A) above.

100.2 ENFORCEMENT

A. Enforcement of this Chapter shall be by the City of Valparaiso Police Department or the City Attorney's Office.

100.3 VIOLATIONS AND PENALTIES

A. Persons violating the provisions of this Ordinance shall be subject to the penalty imposed for a Class B infraction, as set forth in I.C. 34-28-5-4. This Ordinance shall be in force by the provisions of I.C. 34-28-5.

B. Violations of this Ordinance shall be a Class B infraction and upon conviction shall be punishable by a fine of up to \$1,000.00.

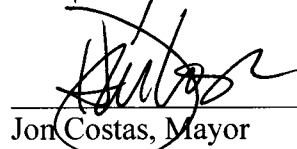
C. The Valparaiso City Attorney is authorized to bring a civil action pursuant to I.C. 36-1-6-4 to enjoin any person from violating this Ordinance.

If any portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other portion or provision of this Ordinance.

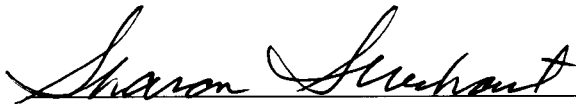
All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinances or parts of ordinances are hereby ratified, re-established and confirmed.

This Ordinance shall be in full force and effect from and after its adoption and the procedures required by law.

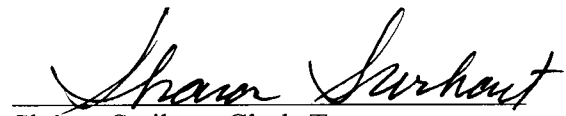
PASSED by the Common Council of the City of Valparaiso, Indiana, by a 7-0 vote of all members present and voting this 13th day of May, 2013.


Jon Costas, Mayor

ATTEST:


Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 13th day of May, 2013 at the hour of 9:00 o'clock p.m.


Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 14th day of May,
2013, at the hour of 9:00 o'clock ~~p.m.~~a.m.



Jon Costas, Mayor