

ORDINANCE NO. 1591

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, ADDING SECTION 1-13 TO THE FONTANA MUNICIPAL CODE RELATING TO RECOVERY OF COSTS IN CONNECTION WITH CODE ENFORCEMENT ACTIVITIES

WHEREAS, the City of Fontana ("City") is authorized by California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, compliance with the Fontana Municipal Code by reluctant property owners within the City continues to persist as a problem for the City and its departments devote significant personnel to code enforcement efforts; and

WHEREAS, with increasing population, the demands on the City to enforce its codes continues to grow; and

WHEREAS, code enforcement is complex and, therefore, there is a need for many tools, including cost recovery tools, to help and maintain an effective, efficient, and responsive enforcement of the City's codes; and

WHEREAS, recovery of attorney's fees, where appropriate, from code violators will enable the City to replenish resources otherwise needed to meet the increasing demands on code enforcement; and

WHEREAS, California Government Code Section 38773.5 authorizes the City to enact an ordinance providing for the recovery of attorneys' fees by the prevailing party in any nuisance abatement action; and

WHEREAS, all other prerequisites to the adoption of this ordinance have properly taken place.

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

SECTION 1. The City Council hereby finds and determines that the Recitals of this Ordinance are true and correct and are hereby incorporated into this Ordinance as though fully set forth herein.

SECTION 2. Section 1-13 of the Fontana Municipal Code is hereby added to read as follows:

“Sec. 1-13 Recovery of Attorneys’ Fees

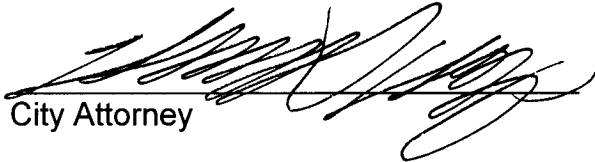
(a) *Recovery Authorized.* Any violation of this Municipal Code is hereby determined to constitute a public nuisance. The prevailing party in any judicial action and/or administrative proceeding to abate a nuisance and/or to enforce any provision of this Municipal Code may elect to recover the incurred attorneys’ fees. In no judicial action or administrative proceeding shall an award of attorneys’ fees to a prevailing party exceed the amount of reasonable attorneys’ fees incurred by the City in the judicial action or administrative proceeding.

SECTION 3. Based on the record before the City Council, the City Council hereby finds and determines that the Ordinance is exempt from further environmental review under the California Environmental Quality Act (“CEQA”) (Cal. Pub. Resources Code, §§ 21000) and its implementing regulations because the Application is not a “project” within the meaning of CEQA Regulations section 15378(b)(2) in that it is merely general policy or procedure making and because the Application is exempt from further environmental review pursuant to CEQA Regulations section 15061(b)(3) based on the fact that the Ordinance is within the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment and it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Therefore, staff is hereby directed to file a Notice of Exemption with the County within 3 working days of the adoption of this Resolution.

SECTION 4. This ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of the fifteen (15) days from the passage, therefore, the Ordinance, or a summary of the Ordinance, shall be published at least once in the Herald News, a newspaper of general circulation in the City of Fontana. Thereafter, this Ordinance shall be in full force and effect.

APPROVED AND ADOPTED this 10th day of February, 2009.

READ AND APPROVED AS TO LEGAL FORM:


City Attorney


I, Tonia Lewis, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council of the City of Fontana, California, do hereby certify that the foregoing Ordinance is the actual Ordinance introduced at a regular meeting of said City Council on the 27th day of January, 2008, and was finally passed and adopted not less than five (5) days thereafter on the 10th day of February, 2009, by the following vote to wit:

AYES: Mayor Nuaimi, Council Members Roberts, Rutherford, Scialdone, Warren


NOES: None

ABSENT: None


City Clerk of the City of Fontana


Mayor of the City of Fontana

ATTEST:


City Clerk

This space is for the
County Clerk's stamp

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

State of California
County of San Bernardino

**CITY OF FONTANA
PROPOSED ORDINANCE #1591
AFF# 1454**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Fontana Herald News, a newspaper of general circulation, printed and published every Friday in the City of Fontana, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the State of California, in and for the County of San Bernardino, under the date of March 15, 1955, Case Number 73171, and that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, To-wit January 30, 2009.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Fontana, California, the 30th day of January, 2009.


Signature

**SUMMARY OF PROPOSED
ORDINANCE NO. 1591**

NOTICE IS HEREBY GIVEN that the City Council of the City of Fontana, at a Regular Meeting scheduled on Tuesday, February 10, 2009 in the City Hall Council Chambers, 8353 Sierra Avenue, Fontana, California, will consider adoption of Ordinance No. 1591, an ordinance of the City of Fontana, adding Section 1-13 to Chapter 1 of the Fontana Municipal Code relating to recovery of costs in connection with Code Enforcement activities.

A certified copy of the full text of the ordinance is available in the office of the City Clerk of the City of Fontana, 8353 Sierra Avenue, Fontana, California 92335.

**CITY COUNCIL OF THE
CITY OF FONTANA**

Mark N. Nuaimi, Mayor

Tonia Lewis

City Clerk

tlm

P.O. #800496

Publish January 30, 2009

FONTANA HERALD NEWS

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Fontana, California 92334

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County Clerk's stamp

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

State of California
County of San Bernardino

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Fontana Herald News, a newspaper of general circulation, printed and published every Friday in the City of Fontana, County of San Bernardino, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the State of California, in and for the County of San Bernardino, under the date of March 15, 1955, Case Number 73171, and that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, To-wit February 13, 2009.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Fontana, California, the 13th day of February, 2009.


Signature

**CITY OF FONTANA
ADOPTED ORDINANCE 1591
AFF # 1663**

**SUMMARY OF ADOPTED
ORDINANCE NO 1591.**
NOTICE IS HEREBY GIVEN that the City Council of the City of Fontana, at a Regular Meeting scheduled on Tuesday February 10, 2009, in the City Hall Council Chambers, 8353 Sierra Avenue, adopted Ordinance No. 1591, adding Section 1-13 to the Fontana Municipal Code relating to recovery of costs in connection with Code Enforcement activities.
A certified copy of the full text of the ordinance is available in the office of the City Clerk of the City of Fontana, 8353 Sierra Avenue, Fontana, California 92335.
AYES: Mayor Nuaimi, Council Members Roberts, Rutherford, Scialdone, Warren.
NOES: None
ABSENT: None
CITY COUNCIL OF THE
CITY OF FONTANA
Mark N. Nuaimi, Mayor
Tonia Lewis
City Clerk
tim
P.O. #800496
Publish February 13, 2009

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