

ORDINANCE NO. 1597

AN ORDINANCE OF THE CITY OF FONTANA TO AMEND CERTAIN SECTIONS OF CHAPTER 3, ARTICLE IV, SIGNS, OF THE FONTANA MUNICIPAL CODE TO REGULATE TEMPORARY NON-COMMERCIAL SIGNS INCLUDING POLITICAL SIGNS

WHEREAS, the City Council finds that there is a need to provide for certain temporary, non-commercial signs, including political signs, in order to provide opportunities for free expression;

WHEREAS, the City Council further finds that it is necessary to reasonably regulate the manner, time, and place of such signs in order to reduce visual clutter and debris throughout the City;

WHEREAS, all temporary, non-commercial signs, including, but not limited to, religious, civic, educational, political or cultural posters, or special events of civic, philanthropic, educational, or religious purposes, can be regulated by reasonable manner, time, place, and size restrictions as to not infringe upon the right to free speech;

WHEREAS, the City Council finds that this ordinance is exempt pursuant to Section 15321, Category 21 of the State CEQA Guidelines; and,

WHEREAS, the City Council heard this item at a duly noticed public hearing and accepted all public testimony afforded, both written and spoken;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adopts the recitals and findings set forth above and in the staff report prepared in connection with this ordinance.

Section 2. The following sections of Chapter 3, Article IV, of the Fontana Municipal Code are hereby amended as follows:

Sec. 3-82. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means a sign where for a period of 90 days or more, there is no sign copy appearing on the sign or where the establishment to which the sign is attached has ceased operation and where it is clear that the sign has been forsaken or deserted.

Accessory use means a use of land or of a building, or portion thereof, which is incidental and subordinate to the principal use of the land or building and located on the same lot or complex with such principal use.

Animated signs means signs designed to attract attention through movement or the semblance of movement of the whole or any part.

Area of a sign means the entire area within a single continuous perimeter composed of squares or rectangles that enclose the extreme limits of writing, representation, emblem, or any figure of similar character, with any frame, background area of sign, structural trim, or other material or color forming an integral part of the display or used to differentiate such signs from the background against which it is placed. If a sign is designed with more than one exterior surface, the area shall be computed as including only the maximum single display surface that is visible from any ground position at one time. The supports or uprights on which any such sign is supported shall not be included in determining the sign area unless such supports or uprights are designed in such a manner as to form an integral background of the display.

Awning signs means a sign painted or printed on the exterior surface of an awning. An alternative to a wall sign, permitted as a wall sign.

Banner means a fabric, fabric-like, or paper material on which an advertising message is painted or otherwise affixed.

Commercial complex means any group of three or more principal commercial uses on a parcel or combination of parcels, which are generally served either by common access or common parking. Accessory commercial uses shall not be considered in the calculation of the number of uses on a parcel or combination of parcels.

Commercial sign means a sign which contains any message, the prevailing thrust of which is to propose a commercial transaction. (Added)

Commercial speech means any message, the prevailing thrust of which is to propose a commercial transaction.

Contour sign means a cabinet sign where the outline of the cabinet follows the outline of the letters.

Directional signs means signs which contain any of the following words: "Entrance," "enter," "out," "one-way" or other similar words, or words which contain nonflashing arrows or other characters indicating traffic direction.

Electronic message signs means signs having the capability of presenting variable message displays, including time and temperature, by projecting an electronically controlled light pattern against a contrasting background and which can be programmed to change the message display periodically.

Face of building means the wall of a building fronting on a street, excluding any appurtenances, such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations, but including any required parapet wall.

Flag means a device, generally made of flexible materials, usually cloth, paper or plastic, usually used as a symbol of a government, school, religion, etc. It may or may not contain any copy.

Flashing signs means lighted signs which in whole or in part disappear and reappear at periodic intervals, or are intermittently on and off.

Frontage means the length of a lot along a street or other principal public thoroughfare, but not including such length along an alley, railroad or freeway.

Height of signs means the distance from the average ground level immediately surrounding the base of the sign to the top of its highest element, including any structural or architectural element.

Hospital or medical center complex means any group of medical or hospital buildings under single ownership on a parcel or combination of parcels that contain a minimum of 20 acres or more.

Industrial complex means any group of three or more principal industrial uses on a parcel or combination of parcels, which are generally served either by common access or common parking. Accessory industrial uses shall not be considered in the calculation of the number of uses on a parcel or combination of parcels.

Line of sight means the point of visibility from the street to an object, e.g. sign. The longer the line of sight, the further the sign is visible from the street.

Logo means any symbol or any combination thereof adopted and used by an individual or corporation to identify goods made or sold or services rendered by an individual or corporation and to distinguish them from goods made or sold or services rendered by others and that is nationally or State of California registered.

Major tenant means a single tenant occupying an area of 20,000 to 50,000 square feet in a commercial complex.

Monument signs means signs with an overall height of four feet or less, standing directly on the ground or on a base or where supporting poles or structures are enclosed by decorative covers. A decorative frame as required by this code will not be included in determining the sign area.

Non-commercial sign means a sign that displays non-commercial speech. Examples of non-commercial signs include, but are not limited to: signs expressing political views (political signs), religious views, or signs of non-profit organizations related to their tax-exempt purpose. (Added)

Noncommercial speech means any message which is not determined to be commercial speech as defined herein.

Office complex means any group of three or more principal office uses on a parcel or combination of parcels, which are generally served either by common access or common parking. Accessory office uses shall not be considered in the calculation of the number of uses on a parcel or combination of parcels.

Off-site signs means signs which advertise or inform in any manner businesses, services, goods, persons or events at some location other than that upon which the signs are located.

Painted signs means signs painted on the exterior surface of a building or structure.

Pennant means a device generally made of flexible materials, usually cloth, paper or plastic.

Political signs means ~~signs setting forth a political message with respect to an upcoming federal, state or local governmental election.~~ a sign erected prior to an election to advise of, or identify, a candidate, campaign issue, election proposition, or other similar matter. (Amended)

Portable signs means signs not designed to be attached to a building or anchored to the ground, including "A" boards, sandwich signs and signs attached to a fence or wall.

Primary tenant means a single tenant occupying an area more than 50,000 square feet in a commercial complex.

Principal use means a use, which fulfills a primary function of an individual business or complex.

Pylon signs means signs with an overall height exceeding four feet and having one or more decorative supports permanently attached directly into or upon the ground.

Raceway means a cabinet used to loosely hold the electrical wiring for a sign.

Real estate signs means all signs and sign structures relating to the sale, lease or other disposition of the real property on which the signs are located and which are temporary in nature.

Shopping center means the same as commercial complex.

Sign means any card, cloth, plastic, paper, metal or other material or painted character visible from outside of a structure for advertising purposes, mounted to the ground or any tree, building, wall, bush, rock, fence or structure, whether privately or publicly owned. Sign means any graphic announcement, declaration, demonstration, display, illustration, insignia or object used to advertise or promote the interest of any person or business when the sign is placed out-of-doors in view of the general public.

Submajor tenant means a single tenant occupying an area of 10,000 to 20,000 square feet in a commercial complex.

Window area means the area which shall be computed by calculating each window pane or panel. The area shall be separate for each building face and for each window. A group of window panes or panels may be considered one window if they are adjoining on the building face and are less than six inches apart.

(Ord. No. 1240, § 3, 3-3-98; Ord. No. 1337, § 5, 12-5-00)

Sec. 3-161. Exempt signs.

(a) Permits shall not be required for the following situations:

(1) The changing of advertising copy or messages on bulletin boards and similar signs specifically designed for the use of replaceable or changeable copy, unless electrical alterations are made.

(2) Painting, repainting, cleaning or changing copy or message of an advertising structure shall not be considered an erection or alteration which requires a sign permit unless a change in structure size, height or location is made.

(3) *Non-commercial signs that comply with Section 3-174. Non-commercial signs that do not comply with the requirements of section 3-174 shall not be exempt from permits pursuant to this Subsection. (Amended)*

(b) These exceptions shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance and its compliance with the provisions of this division or any other law regulating the same and any fee pertaining thereto.

(Ord. No. 1240, § 6, 3-3-98)

Sec. 3-174. Political Signs Temporary non-commercial signs.

~~(a) Placement.~~

~~(1) No political sign shall be erected or maintained in the public right-of-way or upon any public property.~~

~~(2) No political sign shall be erected or maintained earlier than 30 days before the election to which it relates.~~

~~(3) No political sign shall be attached to any utility pole, public fence, tree, or any other post or object located in a public right of way.~~

~~(4) No political sign shall be erected in such a manner that it will, or may reasonably be expected to, obstruct the view or conflict with any traffic sign, signal or device. No political sign shall be erected in such a manner that it will, or may reasonably be expected to, obstruct the view of pedestrian or vehicular traffic.~~

~~(5) No political sign shall be placed or erected upon the property of another without first obtaining permission to do so from the owner, owner's representative, lessee or tenant of said property.~~

~~(6) Any political sign that is in violation of this section shall be deemed a public nuisance and shall be subject to the requirement that it be removed by the owner of the property, candidate, candidate's committee, or ballot measure committee. The city shall also have the authority to remove said sign in accordance with this section.~~

~~(b) Removal of political signs prior to election.—~~

~~(1) Political signs in violation of subsection (a)(2) that are located on private property and have not been removed by the owner of the property, candidate, candidate's committee or ballot measure committee after such persons have been provided with written notification to remove such sign, the reasons for the requested removal and a reasonable opportunity to remove the sign, may be removed by the city in accordance with the requirements of this section.~~

~~(2) Political signs posted on public property or in the public right of way may be removed summarily by the city at any time.~~

~~(c) Removal of political signs after election.—~~

~~(1) Political signs shall be removed after the election to which they relate by the owner of the property, candidate, candidate's committee or ballot measure committee. Political signs remaining more than ten days after the election to which they relate shall be deemed abandoned and a nuisance, and may be summarily removed by the city in accordance with state and federal law after the owner of the property, candidate, candidate's committee or ballot measure committee has been provided with written notification to remove such sign, the reasons for the requested removal and a reasonable opportunity to remove the sign.~~

~~(2) Political signs placed on behalf of candidates or committees who have been successful in primary or special elections shall not remain posted for subsequent general or other election purposes. However, such signs may remain if the subsequent general or other election will be held within 100 days of the prior election.~~

~~(3) Political signs posted on public property or in the public right of way may be removed summarily by the city at any time.~~

~~(4) Political signs on vacant parcels remaining more than ten days after the election to which they relate shall be deemed abandoned and may be summarily removed by the city.~~

~~(d) Post removal and claim procedures.—~~

~~(1) Upon removal of any political sign by the city, such signs shall be taken to the city corporation yard for temporary storage. The city shall keep an itemized account~~

~~of the actual costs incurred in removing such signs, including incidental expenses. Incidental expenses shall include, but not be limited to, the cost of any rental equipment required for removal of the sign, administrative costs incurred to notify the property owner, candidate or committee responsible and any storage costs.~~

~~(2) The city shall provide written notification of its removal of a political sign to the candidate, candidate's committee, or ballot measure committee responsible for its placement. The written notification shall inform that said sign has been removed and is available for pick up at the city's corporation yard. All political signs removed shall be stored in the city corporation yard and may be destroyed by the city if not claimed within 15 days of the written notification to the candidate, candidate's committee, or ballot measure committee. For purposes of this subsection, notification shall be deemed to have been provided upon the delivery of the notification letter addressed to the candidate, candidate's committee, or ballot measure committee to the United States Post Office.~~

~~(3) Any person claiming a sign so removed by the city may have the sign released upon the payment of any fees incurred for removal of such sign. Signs not picked up within 15 days of notification shall be destroyed and the responsible owner of the property, candidate, candidate's committee or ballot measure committee shall be billed for the actual costs of the removal. The city may recoup such costs by any reasonable means available.~~

(a) Development Standards

(1) Temporary non-commercial signs shall conform to all of the following standards:

a. Maximum size of sign shall not exceed thirty-six (36) square feet and the top of the sign shall not be placed higher than eight (8) feet above grade.

b. Temporary non-commercial signs shall not be posted for more than thirty (30) days prior to and ten (10) days after such event, except that political signs shall be exempt from the thirty (30) day requirement. Such political signs, however, must be maintained or shall be considered abandoned pursuant to section (a)(1)(j).

c. Such signs shall not be permitted to be stuck, glued, painted, pasted, posted, nailed, stapled, or otherwise affixed to any public property, publicly owned sign, public appurtenance, utility pole, fire hydrant, tree, boulder, or other natural feature, and may not be placed within the public right of way.

d. Such signs shall not obscure traffic signs and signals nor block motorists' line of sight.

e. It shall be unlawful to attach, connect, or otherwise affix any sign to another permanent or temporary sign, or direct, permit or allow such action, without the permission of the owner of the permanent or temporary sign.

f. Property owner permission shall be obtained for erection of temporary non commercial signs, provided that written evidence of such permission need not be submitted to the City prior to erection of the signs.

g. Such signs shall contain information about the individual or organization which owns or has erected the sign, along with the address or phone number of such entity.

h. Such signs shall not be illuminated.

i. Notwithstanding any other provision of this chapter, all temporary non-commercial signs shall be maintained in good, clean, and safe condition. Signs that are faded, torn, punctured, vandalized, not properly affixed, or generally damaged in any way, and at any time during their display, shall be replaced or shall be considered abandoned.

(b) Violation

(1). Except as otherwise provided herein, upon a determination of any violation of the provisions of this subsection regulating temporary non-commercial signs, the empowered officer of the city shall send notification in writing to the owner of such sign, if such owner is known, stating that the sign has been determined to be illegally erected and requiring its removal within ten (10) days of the date of such written notice. Upon determination that a violation exists with respect to any temporary non-commercial sign, if the sign is not removed within the specified time period, the empowered officer of the city may cause the sign to be removed, and shall notify the sign owner in writing of any sign removal, stating the location where the sign is being held and that it will be destroyed if not claimed by the owner within the ten (10) day period. If the sign is not claimed by the owner within the given time frame, the empowered officer of the city may destroy or otherwise dispose of such sign. The owner of the sign shall reimburse the City for the actual costs of notifying the sign owner and of removing, storing, and destroying or otherwise disposing of the sign.

(c) Removal of signs

(1) No person shall remove, destroy, relocate, or otherwise disturb any lawfully-erected temporary non-commercial sign, or direct, permit, or allow such removal, destruction, relocation, or disturbance without the permission of the party who erected the sign. It shall be presumed that the owner of the temporary non-commercial sign or representative is the party who erected the sign. Where applicable, it shall further be presumed that the committee who has registered with the Secretary of State to support a position on a ballot proposition is the party who erected the sign taking the position on the ballot measure. Nothing in this subsection shall prohibit the owner of a piece of property, or his or her authorized representative, from removing a sign from his or her property when the sign has been erected without his or her consent; and provided, further, nothing in this subsection shall prevent the empowered officer of the city or other authorized representative of the City from taking action to abate sign violations.
(Amended)

(e) (d) Appeal procedures. (Amended)

(1) Any person aggrieved by any action of the city may appeal such action, in writing, to the ~~city council~~ **city manager** or a designee within five days of any written notification by the city of the impending removal of a sign or summary removal. The appeal shall be submitted to the city clerk and shall state the reasons for the requested appeal, ***the date the notice of violation was received, and the location of the alleged violation.***

(2) Upon receipt of an appeal, the city clerk shall schedule the matter for hearing ~~at the next available city council hearing for which a quorum is present before the city manager or designee at the next date and time the city manager or designee is available.~~ The city clerk shall provide the appellant with written notice concerning the hearing date and time. The ~~city council~~ **city manager or designee** shall determine the appeal at a hearing held on the appointed date and time. The decision of the ~~city council~~ **city manager or designee** on the matter shall be final. ~~unless appealed to a court of competent jurisdiction. Any such appeal shall be processed by the City in accordance with California Code of Civil Procedure § 1094.8, or its successor statute or regulation.~~ **(Amended)**

(Ord. No. 1324, § 2, 7-18-00)

~~**Editor's note:** The adoption of the ordinance from which this section derives is exempt from the California Environmental Quality Act (CEQA) pursuant to § 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that establishing standards for placement of political signs may have a significant effect on the environment. Staff is therefore directed to file a Notice of Exemption with the San Bernardino County clerk's office within five working days.~~ **(Deleted)**

Section 3. If any sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decisions shall not affect the validity of the remaining provisions of this Ordinance.

Section 4. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from passage thereof, shall be published in the Herald News, a newspaper of general circulation, published and circulated in the City of Fontana; and henceforth and thereafter the same bill shall be in force and effect.

APPROVED AND ADOPTED this 12th day of May, 2009.

READ AND APPROVED AS TO LEGAL FORM:




City Attorney

I, Tonia Lewis, City Clerk and Ex-Officio Clerk of the City of Fontana, California, do hereby certify that the foregoing ordinance is the actual ordinance adopted by the City Council and was introduced at a regular meeting of said City Council on the 28th day of April, 2009, and was finally passed and adopted not less than five (5) days thereafter on the 12th day of May, 2009, by the following vote to wit:


AYES: Council Members Roberts, Rutherford, Scialdone, Warren

NOES: None

ABSENT: Mayor Nuaimi




City Clerk of the City of Fontana



Mayor Pro Tem of the City of Fontana

ATTEST:



City Clerk

**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 May 1, 2009.

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

Dated at Fontana, California, the 1st day of May, 2009.


Signature

**SUMMARY OF PROPOSED ORDINANCE
No. 1597
AFF# 2887**

SUMMARY OF PROPOSED ORDINANCE NO. 1597.

NOTICE IS HEREBY GIVEN that the City Council of the City of Fontana, at a Regular Meeting scheduled on Tuesday, May 12, 2009 in the City Hall Council Chambers, 8353 Sierra Avenue, Fontana, California, will consider adoption of Ordinance No. 1597, an ordinance of the City of Fontana, to amend certain sections of Chapter 3, Article IV, Signs, of the Fontana Municipal Code to regulate temporary non-commercial signs, including political signs.

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 May 1, 2009

FONTANA HERALD NEWS

16981 Foothill Boulevard, Suite N

P.O. Box 549

Fontana, California 92334

Phone (909)822-2231

Fax (909)355-9358

**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 May 15, 2009.

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

Dated at Fontana, California, the 15th day of May, 2009.


Signature

**CITY OF FONTANA
SUMMARY OF ADOPTED ORDINANCE
No. 1597
AFF# 3198**

**SUMMARY OF ADOPTED
ORDINANCE NO 1597.**

NOTICE IS HEREBY GIVEN that the City Council of the City of Fontana, at a Regular Meeting scheduled on Tuesday May 12, 2009, in the City Hall Council Chambers, 8353 Sierra Avenue, adopted Ordinance No. 1597, an ordinance of the City of Fontana, amending certain sections of Chapter 3, Article IV: Signs, of the Fontana Municipal Code to regulate temporary non-commercial signs including political signs.

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: Council Members Roberts, Rutherford, Scialdone, Warren

NOES: None

ABSENT: Mayor Nuaimi

CITY COUNCIL OF THE
CITY OF FONTANA

Acquanetta Warren, Mayor
Pro Tem

Tonia Lewis

City Clerk

tlm

P.O. #800496

Publish May 15, 2009

FONTANA HERALD NEWS

16981 Foothill Boulevard, Suite N

P.O. Box 549

Fontana, California 92334

Phone (909)822-2231

Fax (909)355-9358