

**Ordinance No. 1613**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, TO REPEAL AND REPLACE 17-136.5 OF THE CODE OF THE CITY OF FONTANA TO REFER TO THE CITY'S SCHEDULE OF PENALTIES; AMENDING SECTION 17-147 OF THE CODE OF CITY OF FONTANA TO INCLUDE COMMERCIAL TRAILERS; DELETING AND REPLACING SECTIONS OF 30-312 RELATING TO THE PARKING OF COMMERCIAL TRAILERS; AMENDING SECTION 17-144 RELATING TO PARKING FOR CERTAIN PURPOSES PROHIBITED; ADDING SECTION 17-148 CLARIFYING THE CITY'S AUTHORITY TO TOW VEHICLES.**

**WHEREAS**, the City of Fontana ("City") is authorized by the 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**, there is a growing trend of commercial trailers as well as abandoned vehicles being parked on the City's public streets, in the public right of way, and in residential zones creating a visual blight and a public nuisance to surrounding neighbors and businesses; and

**WHEREAS**, the City has identified existing gaps in the Code of City of Fontana ("Code") as it pertains to citation and removal of commercial trailers and abandoned vehicles stopped, standing or parked in prohibited areas; and

**WHEREAS**, the City Council desires to amend the Code to issue administrative citations to the owners of these trailers; and

**WHEREAS**, the City Council also declares that the same bail amounts shall be set for the prohibition against the parking of commercial trailers on public streets and rights-of-way, as currently set for commercial vehicles; and

**WHEREAS**, the City Council also desires to amend the Code to provide specific authority to any peace officers, designated employees, or trained volunteers to tow vehicles illegally parked, standing, or abandoned as permitted in accordance with the California Vehicle Code; and

**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**SECTION 2.** Section 17-136.5 of the Code of City of Fontana is hereby repealed and replaced in its entirety to read as follows:

Any person violating any provision of this division shall be guilty of a civil offense subject to civil penalty as stated in the City's Schedule of Penalties.

**SECTION 3.** Section 17-147 of the Code of City of Fontana is hereby repealed and replaced in its entirety to read as follows:

**Sec. 17-147. Commercial vehicles and/or trailers prohibited from stopping, standing or parking on public streets or highway**

(a) Commercial vehicles (as defined by California Vehicle Code Section 260) exceeding a manufacturer's gross vehicle weight (commonly referred to as GVW) rating of 10,000 pounds shall be prohibited from stopping, standing, or parking on any public street or highway, or any portion thereof.

(b) Trailers (as defined by California Vehicle Code Section 630) designed and/or used for commercial purposes shall be prohibited from stopping, standing, or parking on any public street or highway or any portion, thereof.

(c) Notwithstanding subsection (a) and (b), the prohibition against stopping, standing, or parking of commercial vehicles or trailers designed and/or used for commercial purposes shall not be effective with respect to any commercial vehicle or trailer designed and/or used for commercial purposes if any of the following are applicable:

- (1) For such time as is reasonably necessary to deliver or collect goods from or provide a service to a property in the block in which the commercial vehicle and trailer designed and/or used for commercial purposes is parked;
- (2) For the purpose of delivering material to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure in the block in which the commercial vehicle or trailer designed and/or used for commercial purposes is parked and for which a building permit has previously been obtained;

- (3) At locations and for the time period authorized by City Council and posted by the Public Services Director;
- (4) Owned and used by a public utility for the construction, installation or repair of any of its facilities or equipment; or
- (5) Designed for “on-call” status that are owned and used by a public utility for construction, installation or repair of any of its facilities or equipment.

(d) Any person violating this section shall be subject to a civil penalty as follows:

- (1) A fine not exceeding \$100.00 for a first violation.
- (2) A fine not exceeding \$200.00 for a second violation within one year.
- (3) A fine not exceeding \$500.00 for each additional violation within one year.

**SECTION 4.** Section 30-312(f) of the Code of City of Fontana is hereby repealed and replaced in its entirety to read as follows:

**Sec. 30-312. General conditions.**

...

(f) Commercial vehicles (as defined by California Vehicle Code Section 260) exceeding a manufacturer’s gross vehicle weight (commonly referred to as GVW) rating of 10,000 pounds and trailers (as defined by California Vehicle Code Section 630) designed and/or used for commercial purposes shall not be parked or stored in residential zones or on properties used for residential purposes, except while the operator of the subject vehicle is making normal deliveries or providing services to the residential premises.

**SECTION 5.** Section 30-312(k) of the Code of City of Fontana is hereby added to read as follows:

**Sec. 30-312. General conditions.**

...

(k) Any person violating this section shall be subject to a civil penalty as follows:

- (1) A fine not exceeding \$100.00 for a first violation.
- (2) A fine not exceeding \$200.00 for a second violation within one year.
- (3) A fine not exceeding \$500.00 for each additional violation within one year.

**SECTION 6.** Section 17-144 of the Code of City of Fontana is hereby repealed and replaced in its entirety to read as follows:

**Sec. 17-144. Parking for certain purposes prohibited.**

(a) No person shall park a vehicle upon any roadway for the sole purpose of displaying such vehicle for sale.

(b) No person shall park a vehicle upon any roadway for the sole purpose of washing, greasing, detailing or repairing such vehicle, except repairs necessitated by an emergency.

(c) No person shall park or leave a vehicle standing upon a highway (as defined by California Vehicle Code Section 360) for 72 or more consecutive hours.

(d) No person shall park or leave a vehicle standing where the use of a highway, or portion thereof, has been deemed necessary for the cleaning, repair or construction of the highway, or for the installation of underground utilities.

(e) No person shall park a vehicle where the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of

unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement.

(f) No person shall park in violation of any other FCC section where the City has prohibited parking and shall be authorized to remove the vehicles, notwithstanding any other state or local law, pursuant to FCC 17-148 (a)(4).

(g) No person shall park a vehicle on a portion of highway located within the boundaries of a common interest development, as defined in subsection (c) of Section 1351 of the Civil Code, where signs, as required by California Vehicle Code 22658 (a) have been posted and a resolution or ordinance has been adopted authorizing the City's enforcement of the City's parking ordinances within the boundaries of the common interest development at the request of the private owner or homeowner association.

(h) No person shall park a vehicle upon any roadway for the sole purpose of peddling or vending, subject to the following:

(1) Except as otherwise provided in this section, no person shall stand or park any automotive or commercial vehicle, animal drawn vehicle or other motorized conveyance from which goods, wares, merchandise, and non-potentially hazardous, prepared or packaged foods are sold, displayed, offered for sale or bartered or exchanged, on any portion of any street within the city, except at the request of a bona fide purchaser, for a period of time not to exceed ten minutes at any one place. The provisions of this subsection shall not apply to persons delivering such articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.

(2) No person shall park or stand on any street any automotive or commercial vehicle, animal drawn vehicle or other motorized conveyance from which non-potentially hazardous, prepared or packaged foods or other articles are sold or offered for sale without first obtaining a written permit to do so from the community development director or its designee, which shall designate the specific location in which such automotive

or commercial vehicle, animal drawn vehicle or other motorized conveyance shall stand.

(3) No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the council, which shall designate the specific location where such vehicle may stand.

(4) Whenever any permit is granted under the provisions of this subsection and a particular location to park or stand is specified therein, no person shall park or stand on any location other than as designated in such permit. If the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the council, upon the filing of the record of such conviction with the council; and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation.

(i) No person shall park or leave standing a vehicle upon any privately owned property, private parking lot or private driveway without the consent of the owner, lessee, tenant, any other person entitled to possession of such premises, or in violation of any posted signs by such authorized persons and a resolution or ordinance has been adopted authorizing the City's enforcement of the City's parking ordinances at the request of the private owner or business entity for those private properties other than offstreet parking facilities. The City shall be authorized to tow such vehicles under FCC § 17-148 (a)(4).

(j) No person shall park or leave standing a vehicle upon any public parking lot or public driveway in violation of any posted signs by the City. The City shall be authorized to tow such vehicles under FCC § 17-148 (a)(4).

(k) Any vehicle in violation of this ordinance will be subject to cite, removal and storage at the owner's expense in accordance with FCC § 17-148.

(l) Any person violating this section shall also be subject to a civil penalty as follows:

- (1) A fine not exceeding \$50.00 for a first violation.
- (2) A fine not exceeding \$100.00 for a second violation within one year.
- (3) A fine not exceeding \$250.00 for each additional violation within one year.

**SECTION 7.** Section 17-148 of the Code of City of Fontana is hereby added to read as follows:

**Sec. 17-148. Authority to Tow Vehicles.**

(a) Pursuant to California Vehicle Code 22651 and 22651.05, any peace officer, designated employee or trained volunteer, who is engaged in directing traffic or enforcing parking laws and regulations within the City is authorized to remove the vehicles under the following circumstances:

- (1) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of FCC § 17-144 (c). (Cal. Vehicle Code §§ 22651 (k), 22651.05 (a)(1).)
- (2) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (d). (Cal. Vehicle Code §§ 22651 (l), 22651.05 (a)(2).) Vehicles removed pursuant to this subsection (a)(2) may be removed only when signs are placed or erected at least 24 hours prior to the removal.
- (3) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (e). (Cal. Vehicle Code §§ 22651 (m), 22651.05 (a)(3).) Vehicles removed pursuant to this subsection (a)(3) may be removed only when signs are placed or erected at least 24 hours prior to the removal.
- (4) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (f). (Cal. Vehicle Code §§ 22651 (n), 22651.05 (a)(4).) Vehicles removed pursuant to this subsection (a)(4) may

be removed immediately if signs are posted or erected which give notice of the removal.

- (5) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (g). (Cal. Vehicle Code §§ 22651 (q), 22651.05 (a)(5).) Vehicles removed pursuant to this subsection (a)(5) may be removed only when signs, as required by Cal. Vehicle Code § 22658 (a) have been posted on that portion of the highway providing notice to drivers of the removal. A private property owner may tow a vehicle as permitted under Vehicle Code section 22658; while, a peace officer, a regular employed and salaried employee, who is engaged in traffic or enforcing parking laws and regulations of the City, is authorized to tow a vehicle at the owner's expense under Vehicle Code section 22651 (q) only when such a vehicle has been parked for more than 24 hours if such a resolution or ordinance has been adopted by the City.
- (6) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (i). (Cal. Vehicle Code §§ 22651 (n), 22651.05 (a)(4).) Vehicles removed pursuant to this subsection (a)(6) may be removed immediately if signs are posted or erected which give notice of the removal.
- (7) When a vehicle is illegally parked or left standing in violation of FCC § 17-144 (j). (Cal. Vehicle Code §§ 22651 (n), 22651.05 (a)(4).) Vehicles removed pursuant to this subsection (a)(7) may be removed immediately if signs are posted or erected which give notice of the removal.

(b) The authority to tow vehicles provided under FCC § 17-148 does not apply, amend or limit the towing authority to remove abandoned vehicles as provided under California Vehicle Code § 22669 or the authority for the abatement and removal of a vehicle as provided under California Vehicle Code § 22660.

**SECTION 8.** 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 Ordinance.


**SECTION 9.** The City Council hereby finds and determines that City Staff shall update all City parking citations to reflect all the new parking prohibitions and penalties contained herein.

**SECTION 10.** The City Clerk shall certify the adoption of this Ordinance and cause the same or a summary thereof to be published in the County of San Bernardino, State of California.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**APPROVED and ADOPTED** this 27th day of January, 2010.

**READ AND APPROVED AS TO LEGAL FORM:**


  
\_\_\_\_\_  
City Attorney

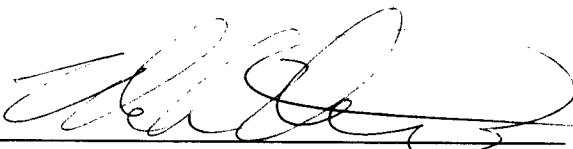
I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 13th day of January, 2010, and was finally passed and adopted not less than five days thereafter on the 27th day of January, 2010, by the following vote to wit:

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

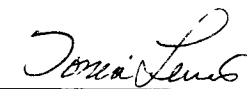
**NOES:** None

**ABSENT:** None

  
\_\_\_\_\_  
City Clerk of the City of Fontana

  
\_\_\_\_\_  
Mayor of the City of Fontana

**ATTEST:**

  
\_\_\_\_\_  
City Clerk