

ORDINANCE NO. 1653

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FONTANA, CALIFORNIA, REPEALING CHAPTER 15, ARTICLE
I, SECTION 15-2 OF THE FONTANA MUNICIPAL CODE
RELATING TO YARD SALE PERMITS AND ADDING A NEW
SECTION 15-2 RELATING TO YARD / GARAGE SALES**

WHEREAS, although yard sales are important to City residents, and to the economics of the City, frequent, illegal yard sales and resale businesses can result in increased traffic in residential neighborhoods and yard sale patrons occupying on-street parking spaces that would normally be used by local residents or customers obstructing traffic on residential streets when they slow down to look at merchandise for sale, creating a nuisance and possible traffic hazards; and

WHEREAS, the City wishes to assure and promote the safe, convenient and efficient circulation of pedestrians and vehicles on public streets, roadways, highways, parkways, sidewalks, driveways, alleys and other public property; and

WHEREAS, City Code Enforcement Officers are currently required to check permits and to make sure that yard and garage sales are only held twice a year on the same property which takes time away from other enforcement activities; and

WHEREAS, yard and garage sales that are conducted in residential zones often result in the proliferation of signs placed on public property that are sometimes left for months, sometimes years and the abandoned signs detract from the positive visual image of the community, and the community's redevelopment efforts and also have a tendency to attract the placement of additional temporary signs and result in unattractive sign clutter and visual blight; and

WHEREAS, yard sales that are in effect retail businesses conducted on residential property that compete with legitimate retail businesses in commercial zones which are required to pay license fees, and have other expenses related to operating in commercial zones while illegal resale businesses in residential zones deprive the community of business license fees and sales tax revenue, and harm the City's legal retail businesses; and

WHEREAS, for the reasons stated, the City has a compelling interest in regulating residential yard and garage sales and the regulation of such sales is necessary to promote the City's aesthetics, public safety and the health and welfare of its citizens; and

WHEREAS, providing City residents with the ability to hold yard and garage sales up to four times per year on specified dates will promote cleanliness and aesthetics, and maintain public safety;

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

SECTION 1. Repeal. Chapter 15, Article I, Section 15-2 of the Fontana Municipal Code entitled “Yard Sale Permits” is hereby repealed in its entirety.

SECTION 2. Adoption. A new Chapter 15, Article I, Section 15-2 of the Fontana Municipal Code is hereby added to read as follows:

Section 5-12 – YARD / GARAGE SALES

(a) **Definition.** A yard or garage sale shall mean any event where items of personal property owned, utilized, or maintained by the occupants of a dwelling unit, other than a licensed commercial business, are to be offered for sale to the general public.

(b) **Prohibited Sales.** New merchandise, or items acquired or consigned for the purpose of resale may not be sold at a yard or garage sale. A yard or garage sale shall only take place on residential premises.

(c) **Frequency and Time.** The frequency of a yard or garage sale in the City of Fontana shall be limited to no more than four (4) specified weekends per calendar year. The City Council may by resolution declare four (4) Yard/Garage Sale Weekends in which yard or garage sales may be conducted, and may consider such factors as inclement weather or yard or garage sale weekends of neighboring cities, among other factors deemed relevant for setting such dates. Each dwelling unit may conduct a yard or garage sale on any of the four (4) Yard/Garage Sale Weekends declared by the City Council. The term “weekend” shall mean Friday, Saturday, and Sunday. Yard or garage sales shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.

(d) **Signs.** One double-faced sign, not to exceed four square feet in area on any one side, shall be permitted on the property where the yard or garage sale is located. In addition, two directional signs of the same size may be placed elsewhere, but only on private property and with the written consent of the owner or resident of such property. Signs shall not be nailed or affixed to any tree, fence post, public utility pole, or otherwise placed or located in, on, or over any public right-of-way, parkway, or publicly owned property. Signs may be posed only on the actual days of sale and only between the hours of 7:00 a.m. and 6:00 p.m.

(e) **Display of Goods.** Sale goods shall not be displayed in, on, or over the public right-of-way, and all such goods shall be arranged so that fire, safety, health, and other officials will have emergency or enforcement access throughout the areas of display and sale at all times during the sale.

(f) **Violation and Penalty.** Any person violating any of the provisions of this section is guilty of an infraction subject to graduated penalties with each successive violation thereof. The amount of the infraction penalties shall be established by separate City Council resolution.

(g) Exceptions. The provisions of this section shall not apply to sales of personal property made under court order of process nor shall they apply to rummage sales or other fundraising sales conducted by nonprofit organizations.

SECTION 3. Exemption for CEQA. The City Council hereby finds that this Ordinance is categorically exempt from further environmental review pursuant to the California Environmental Quality Act (Pub. Resources Code, §§21000 et seq.) (“CEQA”) because, pursuant to Section 15321(a), Class 21, Category (a) of the State CEQA Guidelines, the Ordinance constitutes the enforcement of a law administered or adopted by the City as a regulatory agency. Therefore, City staff is hereby directed to file a Notice of Exemption with the County Clerk within three (3) days following the adoption of this Ordinance.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 5. Effective Date. This Ordinance shall take effect and be in full force on the 30th day from and after its second reading.

SECTION 6. Notice and Adoption. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the City of Fontana, California.

APPROVED AND ADOPTED this 24th day of January, 2012.

READ AND APPROVED AS TO LEGAL FORM:



City Attorney

I, Tonia Lewis, City Clerk and Ex-Officio Clerk of the City of Fontana do hereby certify that the foregoing Ordinance is the actual Ordinance duly and regularly adopted by the City Council and was introduced at a regular meeting of said City Council on the 24th day of January, 2012, and was finally passed and adopted not less than five (5) days thereafter on the 14th day of February, 2012, by the following vote to wit:

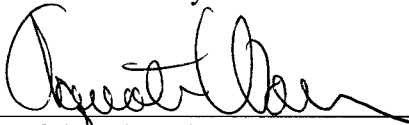
AYES:

NOES:

ABSENT:




City Clerk of the City of Fontana



Mayor of the City of Fontana

ATTEST:



City Clerk