

ORDINANCE NUMBER 1394

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AMENDING SECTIONS 1.04.010 AND 1.16.005 OF THE PERRIS MUNICIPAL CODE AND ADDING CHAPTER 1.17 TO TITLE 1 OF THE PERRIS MUNICIPAL CODE, WHICH AMENDS THE CITY'S REGULATIONS FOR THE CIVIL ENFORCEMENT OF THE PERRIS MUNICIPAL CODE AND ORDINANCE VIOLATIONS (INCLUDING RECOVERY OF RELATED ATTORNEYS' FEES AND COSTS)

WHEREAS, Government Code Section 38773.5(b), authorizes a city to establish, by ordinance, a procedure for the recovery of attorneys' fees and costs in any action, administrative proceedings, or special proceeding to abate a nuisance; and

WHEREAS, the City is entitled to recover from each responsible person, upon entry of an order or judgment against said persons for a code violation or public nuisance, its enforcement costs and any abatement costs—including attorneys' fees and costs—in an amount approved by the court, incurred by the City related to the code violation or public nuisance; and

WHEREAS, the current Municipal Code provides for abatement of public nuisances and the recovery of costs, but the current Municipal Code provisions regarding cost recovery may create uncertainty about the full extent of the City's authority, ability, and intention to recover nuisance abatement costs; and

WHEREAS, clearly setting forth the City's authority, ability, and intention to collect attorneys' fees and costs incurred by the City in connection with nuisance abatement, will assist the public and general welfare by encouraging voluntary compliance, and by making violators responsible for the costs associated with the nuisance conditions they create, cause, or maintain, rather than the public at large; and

WHEREAS, this Ordinance is intended to pertain to all actions, whether they be administrative, civil, or a special proceeding, pursued by the City, to abate a nuisance where attorney's fees and costs are incurred in order to obtain compliance with the Perris Municipal Code; and

WHEREAS, the City Council announces and declares that it is the intention and policy of the City to recover the City's reasonable attorneys' fees and costs in all actions, administrative proceedings, or special proceedings to abate a nuisance; and

WHEREAS, this Ordinance is further intended to update and revise the City's regulations for the civil enforcement of Perris Municipal Code and ordinance violations; and

WHEREAS, the City Council now desires to amend the Perris Municipal Code to clarify and to ensure that the City is able to recover all attorneys' fees and costs associated with

all nuisance abatement proceedings, as allowed by law; and to update and revise the City's regulations for the civil enforcement of Perris Municipal Code and ordinance violations.

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

Section 1. New Definition. Subsection (a) of Section 1.04.010 (Definitions) of Chapter 1.04 (General Provisions) of Title 1 (General Provisions) of the Perris Municipal Code shall be amended to include the following definition:

“Responsible person. The term “responsible person” means a person, whom a city official reasonably believes, is causing, performing, permitting to exist, or otherwise maintaining, or allowing to be maintained, a public nuisance or violation of this code, and includes the owner of the property involved, and any tenant or occupant or user thereof, or any other person in real or apparent charge or control of said real property.”

Section 2. Revision to Section 1.16.005. Section 1.16.005 (Violations) of Chapter 1.16 (Criminal Enforcement of Perris Municipal Code and Ordinance Violations) of Title 1 (General Provisions) of the Perris Municipal Code shall be amended as follows (~~strikethrough~~ represents deleted language while ***bold italics*** represents added language):

“Section 1.16.005. - Violations.

(a) No person shall violate any provisions, or fail to comply with any of the requirements of this Code. Unless a different penalty is prescribed for violation of a specific provision of this Code, every act prohibited or declared unlawful and every failure to perform an act made mandatory by this Code is punishable as a misdemeanor. Each person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall be punishable accordingly.

~~(b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this Code is a public nuisance and may be, by this city, abated as such. Each day such condition continues shall be regarded as a new and separate offense.”~~

Section 3. New Chapter 1.17. Chapter 1.17 (Civil Enforcement of Perris Municipal Code and Ordinance Violations) is hereby added to Title 1 (General Provisions) of the Perris Municipal Code as follows:

“Section 1.17.001 Applicability.

The provisions of this chapter shall apply to the Perris Municipal Code and all ordinances of the city.

Section 1.17.005 Violations.

In addition to the penalties provided in Section 1.16.005, any condition caused or permitted to exist in violation of any of the provisions of the Perris Municipal Code or any ordinances of the city is a public nuisance and may be abated as such. Each day such condition continues shall be regarded as a new and separate violation.

Section 1.17.010 Civil Proceedings.

(a) Commencement of Action. If an enforcement officer has issued a notice of public nuisance to a responsible person and the corrective or abatement work specified in the notice has not been completed within the time stated therein, the city, through its City Attorney or such other authorized legal counsel, may commence a civil action against the responsible person in the California court of competent jurisdiction to prevent, restrain, correct, and/or abate the code violation or public nuisance, and to recover enforcement and abatement costs, including reasonable attorneys' fees and costs, as well as any other damages and relief to which the city may be entitled, as authorized by Government Code section 38773.5(b).

(b) Notice of Pendency. Upon the commencement of a civil action, the city may record a notice of pendency of action in each case where the code violation or public nuisance affects title to, or the right to possession of, specific real property, or use of an easement, against the real property owned, leased, or possessed by a responsible party, as provided in Code of Civil Procedure section 405.4.

(c) Relief Sought. The city may seek any order or judgment from a court against any responsible person that is reasonably likely to prevent, restrain, correct, or abate the violation or public nuisance or to compensate the city therefore including, but not limited to, any and all of following:

(1) Injunctive relief, including temporary restraining orders, preliminary injunctions, and permanent injunctions to restrain and enjoin the responsible person from causing, permitting or continuing a public nuisance, from using or occupying any real property, buildings, dwellings or structures in violation of the code, from engaging in specified actions which are reasonably likely to lead to a violation of the Perris Municipal Code or any ordinance of the city, or from any act or omission which threatens or endangers the public health, safety or welfare;

(2) Orders requiring the correction of a code or ordinance violation or abatement of a public nuisance by repairing, rehabilitating, razing, demolishing or removing any building or structure, or by grading, clearing, grubbing or cleaning any real property by removing trash and debris, by ceasing any use or activity that is in violation of the provisions of this code or by other appropriate remedy approved by the court;

(3) Judgments for recovery of damages incurred by the city, awards of enforcement costs and any abatement costs, and reasonable attorneys' fees incurred by the city related to the code or ordinance violation or public nuisance, and for such other and further relief as the court may grant.

Section 1.17.020 Cost Recovery.

(a) In any action brought pursuant to this chapter, the city shall be entitled to recover from each responsible person, jointly and severally, upon entry of an order or judgment against said person or persons, for a code or ordinance violation or public nuisance, its enforcement costs and any abatement costs, in an amount approved by the court, incurred by the city related to the code or ordinance violation or public nuisance.

(b) Upon entry of each subsequent civil order or judgment within a one year period, finding that the responsible person was responsible for the code or ordinance violation or public nuisance, the court may order the responsible person to pay treble damages to the city equal to three times amount of the enforcement and abatement costs incurred by the city related to the code or ordinance violation or public nuisance.

(c) Pursuant to California Government Code Section 38773.5.(b), where the city makes a demand for the recovery of its attorneys' fees and costs at the initiation of a civil action commenced by the city under this chapter, the prevailing party in said action shall be entitled to recovery of that party's attorneys' fees in an amount not to exceed the amount of reasonable attorneys' fees and costs incurred by the city in said action.”

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption and the City Clerk shall cause it to be published and posted pursuant to applicable law.

ADOPTED, SIGNED and APPROVED this 27th day of October, 2020.

Michael M. Vargas, Mayor

ATTEST:

City Clerk, Nancy Salazar

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1394 was duly introduced at by the City Council of the City of Perris at a regular meeting held on the 29th day of September, 2020 and was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 27th day of October, 2020, by the following called vote:

AYES: MAGAÑA, CORONA, RABB, ROGERS, VARGAS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

City Clerk, Nancy Salazar