

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING SECTIONS 17.14 AND 17.15 AND ADDING SECTION 17.16 OF ARTICLE I OF CHAPTER 17 OF THE OCEANSIDE CITY CODE RELATING TO RECOVERY OF ATTORNEYS' FEES IN CONNECTION WITH NUISANCE ABATEMENT ACTIONS

WHEREAS, Chapter 17 of the Oceanside City Code currently provides for recovery of attorneys' fees incurred by the City in nuisance abatement actions brought under Chapter 17; and

WHEREAS, the City Council has determined that it is desirous to provide for the recovery of attorneys' fees incurred by the prevailing party in nuisance abatement actions brought under Chapter 17 pursuant to Government Code section 38773(b); and

WHEREAS, the City Council has determined that it is desirous to limit the recovery of attorneys' fees by the prevailing party in nuisance abatement actions brought under Chapter 17 to those actions or proceedings in which the City elects, at the initiation of the action or proceeding, to seek recovery of its own attorneys' fees.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows: SECTION 1. That Sections 17.14 and 17.15 of the Oceanside City Code are amended to read, and that former Section 17.15 is renumbered as Section 17.16 to read, as follows:

Sec. 17.14. Alternative remedies.

Penalties and remedies under this chapter may be cumulative and in addition to other administrative, civil or criminal remedies. Nothing in this chapter shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings set forth in this article.

Sec. 17.15. Attorneys' fees.

In any action, administrative proceeding or special proceeding to abate a nuisance brought pursuant to this chapter, the prevailing party may recover attorneys' fees. The recovery of attorneys' fees by the prevailing party is limited to those individual actions or

1 proceedings in which the City elects, at the initiation of that individual action or proceeding, to
2 seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special
3 proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of
4 reasonable attorneys' fees incurred by the City in the action or proceeding.

5 Sec. 17.16. Criminal violations.

6 The owner(s), occupant(s), or other person(s) having possession or control of any
7 buildings or premises which constitute a public nuisance as defined in this chapter, or anyone
8 who violates any order of abatement made pursuant to this article commits a public offense
9 which may be prosecuted as a misdemeanor offense as defined under this Code.

10 SECTION 2. Severability.

11 If any section, sentence, clause or phrase of this ordinance is for any reason held to be
12 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
13 shall not affect the validity of the remaining portions of this ordinance. The City Council
14 hereby declares that it would have passed this ordinance and adopted this ordinance and each
15 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section,
16 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

17 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this
18 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
19 days after its passage in the North County Times, a newspaper of general circulation published
20 in the City of Oceanside.

21 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day
22 from and after its final passage.

23 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
24 California held on the _____, day of _____, 2007, and, thereafter,

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28 ///

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside, California held on the _____ day of _____, 2007, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

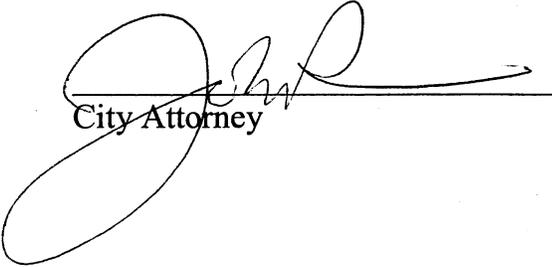
6 ABSTAIN:

7
8 MAYOR OF THE CITY OF OCEANSIDE

9
10 ATTEST:

APPROVED AS TO FORM:

11
12 _____
13 City Clerk

14 
15 _____
16 City Attorney

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19
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21 AND 17.15 AND ADDING SECTION 17.16 OF ARTICLE I OF CHAPTER 17 OF
22 THE OCEANSIDE CITY CODE RELATING TO RECOVERY OF ATTORNEYS'
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