

ORDINANCE NO. 1981

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, CALIFORNIA, AMENDING FONTANA MUNICIPAL CODE SECTIONS 15-820 (PERMITS REQUIRED) AND 15-821 (REVIEW OF PERMIT APPLICATION; DECISION) TO COMPLY WITH NEW STATE LAW AND HELP PROTECT THE CITY'S COMMUNITY BY EFFECTIVELY REGULATING THE SALE OF FOOD, GOODS, AND MERCHANDISE THAT CREATE A HEALTH AND SAFETY DANGER

WHEREAS, California Constitution, article XI, section 7, authorizes the City of Fontana ("City") to adopt and enforce local police, sanitary, and other ordinances and regulations that are not in conflict with the general laws.

WHEREAS, Government Code section 51038 authorizes the City to regulate sidewalk vending to help protect public health and safety.

WHEREAS, Senate Bill number 635, effective January 1, 2026, changes the law regarding regulation of sidewalk vending.

WHEREAS, the City has previously adopted Fontana Municipal Code ("FMC") chapter 15, article XVII (Sidewalk Vending) to regulate sidewalk vending within the City.

WHEREAS, the City now desires to amend FMC sections 15-820 (Permits Required) and 15-821 (Review of Permit Application; Decision) to comply with State law and help protect the City's community by effectively regulating the sale of food, goods, and merchandise that have a significant potential to create health and safety danger.

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

Section 1. The above recitals are true and correct and are incorporated herein.

Section 2. FMC section 15-820 (Permits Required) is hereby amended, and is to read in its entirety as follows:

15-820 Permits Required

- (a) All sidewalk vendors shall obtain a sidewalk vending permit from the city's business license department prior to engaging in any sidewalk vending activities. All of the following information shall be required:
 - (1) Name, current mailing address, and phone number of the vendor, any person(s) who will be in charge of any sidewalk vending and/or be responsible for the person(s) working at the sidewalk vending location, and any person(s) that will be employed as roaming sidewalk vendors.

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- (2) A description of the merchandise/goods to be offered for sale or exchange.
- (3) The days and hours of operation.
- (4) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.
- (5) A copy of the California seller's permit with the sales tax number issued by the California Department of Tax and Fee Administration to the vendor, which notes that the city is a location or sub-location, which permit shall be maintained for the duration of the vendor's permit.
- (6) If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.
- (7) If preparing or selling food, a copy of the county health department health permit issued to the vendor and, if applicable, to the transport vehicle.
- (8) For stationary sidewalk vendors, a site plan map of the proposed location(s) where vending will take place, showing that the sidewalk location maintains a minimum of 36 inches of accessible route area, in compliance with the Americans with Disabilities Act, which site plan shall be approved by the planning division in consultation with the engineering department.
- (9) For stationary sidewalk vendors, a public liability policy, including products liability insurance, issued by an insurance company approved by the city with limits of \$1,000,000.00 each person, \$2,000,000.00 each occurrence for personal and \$1,000,000.00 each occurrence for property damage, or equivalent cash, certified check or cashier's check, in favor of the city, to insure the city against any and all liability of every nature whatsoever connected directly or indirectly with the applicant's activities. All insurance companies affording coverage shall be required to add the city as an additional insured under their insurance policy. A copy of the policy endorsement shall be provided to the city. A certificate of insurance, providing evidence of coverage in compliance with this article shall be supplied to the city prior to issuance of the permit.
- (10) If the sidewalk vendor will be selling food, a statement as to whether the food will be prepared on site, whether such food will require a heating element inside or on the sidewalk vending receptacle for food preparation, and the type of heating element.
- (11) An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, state and federal laws.

- (12) A certification that, to the applicant's knowledge and belief, the information contained in the application is true.
 - (13) An agreement by the vendor to defend, indemnify, release, and hold harmless the city, its city council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever that may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the city, any costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action or proceeding whether incurred by the permittee, city and/or the parties initiating or bringing such proceeding.
 - (14) An acknowledgment by the vendor that the use of public property is at the vendor's own risk, that the city does not undertake any steps to ensure public property is safe or conducive to sidewalk vending activities, and the sidewalk vendor uses public property at his/her own risk.
 - (15) An acknowledgement by the vendor that the vendor will obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by this chapter.
 - (16) Proof of payment of the applicable business license tax
 - (17) Any other relevant information required by the director permitted by State law.
- (b) At the time the application or renewal application is filed, the applicant shall pay a nonrefundable permit processing fee, which fee may be established and amended from time to time by resolution or motion of the city council.

Section 3. FMC section 15-821 (Review of Permit Application; Decision) is hereby amended, and is to read in its entirety as follows:

15-821 Review of Permit Application; Decision

- (a) Upon receipt of a properly completed and filed sidewalk vendor permit application and payment of the applicable permit processing fee, the director shall conduct a preliminary investigation to determine compliance with this article and shall make such determination within no more than 30 days following such receipt to approve or deny the application. The director

shall provide the applicant with written notice of his or her decision to the address indicated in the application.

- (b) The director may deny an application for a permit if he or she makes any of the following findings:
 - (1) The applicant has failed to pay the application permit fee.
 - (2) The applicant has made one or more material misstatements in the application for a permit.
 - (3) The applicant's vending operation, as described in the application, is inconsistent with the standards, conditions, and requirements of this article.
 - (4) It is determined that the applicant does not possess all federal, state, and local permits and licenses necessary to engage in the activity in which he or she seeks to engage.
- (c) If the application is denied, the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his or her application is denied and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form.
- (d) If the director approves the applicant's permit, he or she shall endorse his or her approval on the application and shall, upon payment of the prescribed fee, deliver the permit to the applicant.
- (e) *Exemptions.* A sidewalk vending permit shall not be required for the following activities:
 - (1) The sale of agriculture products on the site where the product is grown.
 - (2) Catering for private parties held exclusively on private property and not open to the general public.
 - (3) Events permitted pursuant to a lawfully issued temporary event permit including but not limited to a certified farmers' market, swap meet, street fairs, outdoor concerts, sport league opening day, and business sidewalk sales.
- (f) *Term of permit.* A sidewalk vending permit issued pursuant to this chapter shall automatically expire one year from the date issued, unless an earlier expiration

date is noted on the permit. Renewal applications must be submitted 30 days prior to expiration of the permit.

- (g) *Transferability.* A sidewalk vending permit shall not be transferable to any other entity or person and is valid only as to the original applicant for the term stated.

Section 4. Compliance with California Environmental Quality Act. The Fontana City Council ("City Council") finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, title 14, chapter 3 ("CEQA Guidelines"), sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project, the City Council finds that this Ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Section 5. Severability. If any section or provision of this Ordinance is for any reason held to be invalid, unconstitutional, illegal, or unenforceable by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, then such section or provision shall be severed and shall be inoperative, and the remainder of this Ordinance shall remain in full force and effect.

Section 6. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and the City Clerk shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect 30 days after its final passage.

APPROVED AND ADOPTED this 27th day of January 2026.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, 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 9th day of December 2025, and was finally passed and adopted not less than five days thereafter on the 27th day of January 2026, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk