

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, CALIFORNIA, ADOPTING AN IMPOUND FEE TO HELP PROTECT THE CITY'S COMMUNITY BY MORE EFFECTIVELY REGULATING SALE OF FOOD, GOODS, AND MERCHANDISE CREATING 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, resolutions, and regulations that are not in conflict with the general laws.

WHEREAS, Senate Bill number 946, including Government Code section 51038, authorizes the City to adopt ordinances or resolutions to regulate sidewalk vending to help protect public health and safety.

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

WHEREAS, On October 24, 2023, the City adopted an ordinance adding FMC section 15-829 [Impoundment] to help protect the City's community by more effectively regulating sale of food, goods, and merchandise creating a health and safety danger.

WHEREAS, FMC section 15-829 authorizes the imposition of impound fees reflecting the City's personnel, enforcement, investigation, storage, disposal, and impound costs.

WHEREAS, FMC section 15-829(i) provides that the amount of impound fees may be adopted by resolution of the City Council.

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

Section 1. Impound Fee. Pursuant to FMC section 15-829, an Impound Fee of \$232.00 shall be required from any Sidewalk Vendor who wishes to recover Impounded Items (excluding any Items that were immediately disposed of because they were perishable or could not be safely stored). Said Impound Fee shall be payable in full prior to recovering the Items and upon demonstrating proper proof of ownership of the Items. If said Impoundment action is appealed and the hearing officer upholds the appeal, no Impound Fee shall be required.

Section 2. Compliance with California Environmental Quality Act. The Fontana City Council ("City Council") finds that this Resolution 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 Resolution is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Section 3. Severability. If any section or provision of this Resolution 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 Resolution shall remain in full force and effect.

Section 4. This Resolution shall prevail over any existing resolution in the event of a conflict.

Section 5. The Impound Fee adopted by this Resolution shall become effective thirty days after adoption and shall remain in effect until repealed or amended.

Section 6. Certification. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this ____ day of ____, 2023.

Acquanetta Warren, *Mayor*

I, Germaine Key, City Clerk of the City of Fontana, California, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Fontana held on the __ day of ____, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Germaine Key, *City Clerk*