

## RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD  
1) AMENDING THE FY 2023/24 COST ALLOCATION PLAN AND  
SCHEDULE OF CITY FEES; 2) MAKING CERTAIN SUPPORTING  
FINDINGS, INCLUDING THE INAPPLICABILITY OF THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT TO THESE ACTIONS; 3)  
IMPLEMENTING NEW SIDEWALK VENDING PERMIT APPLICATION FEE  
4) IMPLEMENTING A NEW SIDEWALK VENDING PERMIT FEE; AND 5)  
IMPLEMENTING ADMINISTRATIVE FINES FOR VIOLATIONS OF  
BRENTWOOD MUNICIPAL CODE CHAPTER 5.64, SIDEWALK VENDING**

**WHEREAS**, Article XI, section 7 of the California Constitution allows the City to impose fees and charges that are not in conflict with the general laws of the State; and

**WHEREAS**, the City Finance and Information Systems Department researched and developed a Cost Allocation Plan and Schedule of City Fees, which develops a model for computing fees to cover the City's direct and indirect (overhead) administrative costs incurred in response to requests for permits, maps, licenses and entitlements, and which proposes a revised schedule of such fees; and

**WHEREAS**, on September 12, 2023, the City Council adopted Resolution No. 2023-113, 1) adopting the FY 2023/24 Cost Allocation Plan and Schedule of City Fees; 2) making certain supporting findings, including the inapplicability of the California Environmental Quality Act to the actions; 3) imposing said fees; 4) establishing a process for waiving or adjusting certain fees; 5) adding certain new Community Development, Police and Public Works Fees; and 6) repealing Resolution 2022-122, which adopted the FY 2022/23 Cost Allocation Plan and Schedule of City Fees; and

**WHEREAS**, on March 12, 2024, the City Council adopted Ordinance No. 1069, amending the definition of "Peddler" in Section 5.48.020 and adding Chapter 5.64 to the Brentwood Municipal Code; imposing regulations on sidewalk vending in compliance with Senate Bill 946; amending Section 7.02.210 regarding vendors in parks; and determining the Ordinance is exempt from CEQA; and

**WHEREAS**, two new cost recovery fees are proposed which are not currently included in the FY 2023/24 Cost Allocation Plan and Schedule of City Fees:

1. The first proposed fee is for the Sidewalk Vending Permit Application Fee. This fee is non-refundable and is proposed to be Twenty-Five Dollars (\$25.00). The proposed Application Fee will be reviewed each year but will not be subject to an annual increase.
2. The second proposed fee is the Sidewalk Vending Permit Fee and is proposed to be One Hundred Thirty-Five Dollars (\$135.00). This fee will only be charged after the Sidewalk Vending Permit application has been approved. The proposed Permit Fee would be adjusted at the beginning of the fiscal year based on the

April CPI with the annual Cost Allocation Plan preparation process to ensure cost recovery and consistency with the fees charged by other local agencies. Should the CPI be negative, the fees would remain unchanged pending review of the cost to provide the services by staff; and

**WHEREAS**, new Administrative Fines are proposed, as outlined in Brentwood Municipal Code Section 5.64.130, Violations – Penalties. These fines will not be subject to an annual increases; and

**WHEREAS**, the Cost Allocation Plan and Schedule of City Fees, as well as the proposed fees, were available for public inspection and review for ten (10) days prior to this public hearing; and

**WHEREAS**, a public hearing has been noticed and held in accordance with Government Code Section 66018; and

**WHEREAS**, the City Council has considered the information provided to it by those testifying; has reviewed and considered the information provided in the staff report and staff presentation; and has read and considered the report and supporting data.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Brentwood:

**Section 1. Findings:**

The Council makes each of the following findings:

A. That CEQA does not apply to the adoption of this Resolution, pursuant to Sections 15061, 15273, and 15378 of the State CEQA Guidelines because:

1. The fees established by this Resolution will be collected for the purposes of meeting operational expenses and maintaining service to those that request it; and
2. Because the fees authorized by this Resolution will be collected at the application stage of the project, CEQA review will take place during the processing of the project. Therefore, it can be seen with certainty that the adoption of this Resolution establishing processing fees will not have a significant effect on the environment; and
3. The adoption of this Resolution is not a project because it is a fiscal activity that does not commit the City to any specific project that may result in a potentially significant impact on the environment.

B. The purpose of the processing fees is to support those City services that are undertaken as a direct or indirect result of members of the public using the

services of the City, in particular the services of permits, licenses, subdivision maps and entitlements.

- C. After considering the Cost Allocation Plan and Schedule of City Fees and supporting data and the testimony received at this public hearing, the City Council finds that future development in the City will generate a continued need for the services specified in the Report.
- D. The Report and the testimony establish:
  - 1. That there is a reasonable relationship between the need for the fee and the type of service, product, benefit, privilege, or regulatory activity for which the fee is imposed; and
  - 2. That there is a reasonable relationship between the amount of the fee and the estimated reasonable cost of providing the type of service, product, benefit, privilege, or regulatory activity for which the fee is imposed; and
  - 3. The amount of service provided does not exceed what is reasonably necessary in order to process the requested service; and
  - 4. That the cost estimates set forth in the FY 2023/24 Cost Allocation Plan and the Schedule of City Fees are reasonable and best approximate the direct and indirect (overhead) costs of City staff and consultants for providing the service, product, benefit, privilege, or regulatory activity.
- E. The method of allocating the City's administrative costs bears a fair and reasonable relationship to each fee payer's burden on, and benefit from, the services, product, benefit, or privilege requested by that fee payer.
- F. The fees do not exceed the estimated reasonable cost of providing the service, product, benefit, privilege, or regulatory activity for which the fee is charged.

## **Section 2. Fees Imposed:**

- A. Each person requesting a service in the City of Brentwood for which a fee is imposed pursuant to the Cost Allocation Plan and Schedule of City Fees shall pay the fee set forth in the Cost Allocation Plan and Schedule of City Fees.
- B. On July 1 of each year, all fees not tied to an alternate index, and/or requirement, or authorized not to increase annually, will be automatically adjusted by an amount equal to the percentage of increase or decrease in

the April Consumer Price Index Urban Wage Earners and Clerical Workers for San Francisco-Oakland-Hayward California. Should the CPI be negative, the fees would remain unchanged pending review of the cost to provide the services by staff. A recommendation would be brought before City Council prior to adjustments being made.

- C. The fees may also be adjusted if the City updates or modifies the Cost Allocation Plan or the Report and conducts a public hearing to implement a new or revised fee or fees based upon such update or modification.
- D. The applicable fee shall be determined based on the fee schedule in effect at the time the application is submitted to the City for the requested service. The fee shall be payable in full at the time the application is submitted.
- E. The adoption of this Resolution does not affect the ability of the City to request an agreement between the applicant and the City to pay extraordinary processing costs and to establish deposit accounts.

### **Section 3. Use of Fee Revenues:**

The revenues raised by payment of these fees, along with any interest earned, shall be used to pay for the City's costs detailed in the Report, including without limitation the capital costs and labor and contract costs directly or indirectly associated with providing the service, product, benefit, privilege, or regulatory activity for which the fee is charged.

### **Section 4. Effective Date of New Fees:**

The new fees provided in this Resolution shall become effective July 1, 2024.

### **Section 5. Severability:**

Each component of the fees and all portions of this Resolution are severable. Should any individual component of the fee or other provision of this Resolution be adjudged to be invalid and unenforceable, the remaining provisions shall be and continue to be fully effective, and the fee shall be fully effective except as to that portion that has been judged to be invalid.

### **Section 6. Cost Allocation Plan and Schedule of City Fees Amendment:**

The City of Brentwood FY 2023/24 Cost Allocation Plan and Schedule of City Fees is hereby amended to add:

1. Sidewalk Vending Permit Application Fee – Twenty-Five Dollars (\$25.00)

Not subject to an annual increase.

2. Sidewalk Vending Permit Fee – One Hundred Thirty-Five Dollars (\$135.00)

Subject to annual increase on 7/1, beginning 7/1/2025, automatically adjusted by an amount equal to the percentage of increase in the April Consumer Price Index Urban Wage Earners and Clerical Workers for San Francisco-Oakland-Hayward California. Should the CPI be negative, the fees would remain unchanged pending review of the cost to provide the services by staff. A recommendation would be brought before City Council prior to adjustments being made.

3. Administrative Fines as outlined in Brentwood Municipal Code Section 5.64.130, Violations – Penalties and below. These fines will not be subject to an annual increase.

Violation by a Vendor with a Valid Sidewalk Vendor Permit

- First Violation – One Hundred Dollars (\$100)
- Second Violation within one (1) year of first violation – Two Hundred Dollars (\$200)
- Third and subsequent Violations within one (1) year of first violation – Five Hundred Dollars (\$500)
- The City may rescind a permit issued to a sidewalk vendor upon the fourth or any subsequent violation

Violation by a Person Engaging in Sidewalk Vending without a Valid Sidewalk Vendor Permit

- First Violation – Two Hundred Fifty Dollars (\$250)
- Second Violation within one (1) year of first violation – Five Hundred Dollars (\$500)
- Third and subsequent Violations within one (1) year of first violation – One Thousand Dollars (\$1,000)
- Upon proof of a valid Sidewalk Vending Permit issued by the City, the Administrative Fines shall be reduced to the amounts set for Violation by a Vendor with a Valid Sidewalk Vendor Permit above

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Brentwood at a regular meeting held on June 25, 2024 by the following vote: