

ORDINANCE NO. 4308

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING ARTICLE XII OF CHAPTER 18 OF THE POMONA MUNICIPAL CODE REGULATING THE REGISTRATION AND MAINTENANCE OF ABANDONED, VACANT OR DISTRESSED PROPERTIES AND PROVIDING ENFORCEMENT AND MONITORING OF THOSE PROPERTIES**

**WHEREAS**, vacant properties and buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the building; and

**WHEREAS**, vacant properties and buildings often attract squatters and criminals, including drug users which can create a risk of fire for the vacant buildings and adjacent properties; and

**WHEREAS**, vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass; and

**WHEREAS**, vacant buildings which are boarded up and other long-term vacancies discourage economic development and hinder appreciation of property values; and

**WHEREAS**, property owners located outside of the area or state and do not provide regular monitoring or securing of their properties, leading to increased dereliction, trespassing, squatting, arson, and other crimes; and

**WHEREAS**, a number of historically significant properties have been abandoned or allowed to remain vacant without proper monitoring or security, leading to vandalism, squatting, arson, and destruction; and

**WHEREAS**, The City Council desires to protect the public health, safety and welfare of the citizens of the City of Pomona and maintain a high quality of life for the citizens of the City through the maintenance of structures and properties in the City; and

**WHEREAS**, on November 19, 1012, the city council adopted Ordinance No. 4168 establishing Article XII of Chapter 18 entitled Abandoned and Distressed Properties, the City Council now desires to amend the registration and maintenance program of abandoned, vacant and/or defaulted mortgage properties; providing for additional property owner responsibilities, as well as additional enforcement options by the City; and

**WHEREAS**, The City Council has a vested interest in protecting neighborhoods against various dangers caused by vacant and abandoned properties and concludes that

it is in the best interests of the health, safety, and welfare of its citizens and residents to ensure that all properties within the City are held to reasonable standards of maintenance and security; and

**WHEREAS**, The City Council desires to amend the City's Code in order to provide additional tools for staff to aggressively enforce the City's registration and maintenance program, requiring the posting of bonds by property owners and installation of fencing on all vacant properties.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Pomona as follows:

**SECTION 1.** The City Council of the City of Pomona hereby finds, determines, and declares as follows:

- A. The recitals are true and correct and are incorporated herein by this reference.
- B. That the implementation of the following amendments to Article XII will assist the City in protecting neighborhoods from the negative impacts and conditions that occur as a result of vacancy, absentee ownership and lack of compliance with City regulations and laws.

**SECTION 2.** The amendment Pomona Municipal Code Article XII of Chapter 18 is not subject to environmental review under the California Environmental Quality Act (CEQA). Under Section 15378(b)(2) and (b)(5), continued administrative activities and organization activities that will not result in a direct or indirect physical change in the environment are not CEQA projects. The proposed amendment is simply modifying the Abandoned, Vacant or Distressed Properties Ordinance to allow for enhanced enforcement. Additionally, pursuant to Section 15061(b)(3) CEQA does not apply to this amendment because there is no potential for causing a significant effect on the environment. Therefore, no further environmental review is necessary. The adoption of this ordinance is exempt from the California Environmental Quality Act and a Notice of Exemption will be filed if this ordinance is adopted.

**SECTION 3.** Article XII of Pomona Municipal Code is hereby amended as such that it reads as follows:

## **ARTICLE XII. – ABANDONED, VACANT, DISTRESSED PROPERTIES OR LAND, INSPECTION, REGISTRATION AND MAINTENANCE**

### **Sec. 18-700. – Purpose and declaration of Public Nuisance.**

A. The purpose of this article is to establish an abandoned, vacant or distressed property registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security properties, and to require certain management and maintenance standards for abandoned, vacant or distressed properties.

B. Vacant properties and buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the property and building. Vacant properties and buildings often attract squatters and criminals, including drug users. Use of vacant buildings by squatters and criminals creates a risk of fire for the vacant buildings and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings which are boarded up and other long-term vacancies discourage economic development and retard appreciation of property values.

C. The city council declares it a public nuisance for any person that owns, leases, occupies, controls or manages any abandoned, vacant or distressed property to cause, permit, or maintain any property condition contrary to any provision of this article.

**Sec. 18-701. - Definitions.**

The following definitions apply in this article:

*Abandoned property* means any unimproved or improved real property, or portion thereof including buildings or structures, that is vacant or shows evidence of vacancy or: (1) the subject of a current notice of default, notice of trustee's sale, or pending Tax Assessor Lien Sale, (3) the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure, (3) has been transferred to the current owner under a deed in lieu of foreclosure, or (4) has been surrendered or deserted in contemplation or threat of foreclosure.

*Accessible* means any real property or structure that is unsecured in such a way as to allow access to unauthorized persons.

*Agreement for sale* means any agreement or written instrument that transfers or conveys title to real property from one person to another person.

*Assignment of rents* means a written instrument that transfers the beneficial interest under a deed of trust from one person to another person.

*Beneficiary* means the beneficiary (either original beneficiary or the assignee) under a note secured by a deed of trust.

*Buyer* means any person who agrees to transfer anything of value in consideration for property described in an agreement for sale, as defined in this section.

*Code compliance manager* or *code manager supervisor* shall mean the individual responsible for the day-to-day management of the code compliance division or his/her designee.

*Dangerous building* means any building or structure that is in violation of any condition referenced in the Uniform Code for Abatement of Dangerous Buildings, as adopted by Pomona City Code, chapter 74, International Property Maintenance Code, or California Health and Safety Code section 17920.3.

*Day* means calendar day.

*Deed of trust* means any instrument, including any deed of trust or mortgage, by which legal title to real property, or any interest therein, is transferred to a trustee as security for a real estate loan, including, without limitation, any and all subsequent deeds of trust, i.e.: 2nd trust deed, 3rd trust deed, etc.

*Deed in lieu of foreclosure* means a document that transfers legal title to a property from the trustor to the trustee, upon consent of the beneficiary of the deed of trust.

*Default* means the material breach of or failure to fulfill a legal or contractual obligation, whether monetary or otherwise.

*Development Services Director* means the head of the Development Services Department or their designee.

*Distressed property* means any unimproved or improved real property, or portion thereof including buildings or structures, that is under a current notice of default or notice of trustee's sale, or pending tax assessor's lien sale, or has been foreclosed upon by the trustee or has been conveyed to the beneficiary or trustee by way of a deed in lieu of foreclosure, but which is lawfully occupied.

*Evidence of vacancy* means any condition that, on its own, or combined with other conditions present, would lead a reasonable person to believe that a subject property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, and/or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

*Foreclosure* means the process by which a property, placed as security for a loan, is sold to satisfy the debt if the trustor defaults.

*Local* means the area within forty (40) miles of the subject property.

*Neighborhood standard* means those conditions that are present on a simple majority of other occupied properties within a 300-foot radius of the subject property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property, within the 300-foot radius, shall not be counted toward the simple majority.

*Notice of default or notice of trustee's sale* means a notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale or other similar remedies authorized by law.

*Out of area* means the area in excess of forty (40) miles from the subject.

*Owner* means any person having a legal title in any real property.

*Owner of record* means the person or entity having recorded title to the property as shown in the Los Angeles County Registrar-Recorder's office.

*Person* means and includes any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

*Property* means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property.

*Responsible party* means the person having actual control of the property at any given time, including the owner of record, the beneficiary, the trustee, the servicing company, or real estate agent acting, or any other party, acting on behalf of the owner of record, beneficiary, or trustee.

*Securing* or its variants means such measures as may be directed by the code enforcement manager or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, chaining or padlocking of gates, and the repair or boarding of door, window or other openings to a minimum of the current HUD securing standards at the time the boarding is completed or required.

*Trustee* means the person holding a deed of trust on a property.

*Trustor* means a borrower under a deed of trust, who deeds the legal title to a property over to a trustee as security for the payment of a debt.

*Vacant* means any unimproved or improved real property, or portion thereof including buildings or structures that is not legally occupied or legally developed.

**Sec. 18-701.5. Program for identifying and monitoring the maintenance of abandoned, vacant, or distressed properties**

(a) The Development Services Director shall be responsible for administering a program for identifying and monitoring the maintenance of any abandoned, vacant or distressed unimproved or improved real property, or portion thereof including buildings or structures in the city. The program shall be documented and regularly updated. The program shall be available for public review.

(b) The purpose of the monitoring program shall be:

(1) To identify any unimproved or improved real property, or portion thereof including buildings or structures that become vacant;

(2) To order any unimproved or improved real property, or portion thereof including buildings or structures that are open and accessible to be secured against unlawful entry pursuant to City codes, including the building code, or other applicable law;

(3) To initiate proceedings against the owner of any property found to be in violation of this article or a nuisance under any other provision of this code; and

(4) To maintain surveillance over vacant unimproved or improved real property, or portion thereof including buildings or structures so that timely enforcement proceedings are commenced in the event a building becomes substandard or a nuisance.

**Sec. 18-702. – Recordation of transfer of loan—Deed of trust—Assignment of rents.**

Within ten (10) days following the purchase or transfer of a loan or any deed of trust secured by abandoned property, the new beneficiary and trustee shall both record with the Los Angeles County Registrar-Recorder's office an assignment of rents that lists the names of the beneficiary and trustee and the mailing address and contact phone number of the new beneficiary and trustee responsible for receiving payments associated with the deed of trust.

**Sec. 18-703. - Registration requirements.**

(a) Any beneficiary and trustee under a deed of trust, or their designee, on abandoned property located within the city shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the Los Angeles County Registrar-Recorder's office. If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned, and the beneficiary and trustee shall, within ten (10) days following the inspection, register the abandoned property with the code compliance manager on forms provided by the city.

(b) Any distressed property shall be inspected by the owner or beneficiary and trustee, or their designee, at least monthly until either: (1) the trustor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned, and the owner or beneficiary and trustee shall, within ten (10) days following the inspection, register the abandoned property with the code compliance manager on forms provided by the city

(c) Any property that is vacant or showing evidence of vacancy shall within ten (10) days, of the earlier of vacancy or showing evidence of vacancy, register the property with the code compliance manager on forms provided by the city.

(d) The registration shall contain the names of the owner or beneficiary and trustee, the street address of the beneficiary and trustee (no P.O. boxes), a direct contact name, facsimile and phone numbers for the owner or beneficiary and trustee and, in the case of an out of area owner, beneficiary or trustee, the local property management company responsible for the security, maintenance and marketing of the subject property.

(e) At the time of registration, a statement of intent shall be concurrently filed which will include: (1) the expected period of vacancy, (2) a plan for regular maintenance during the period of vacancy, and (3) a timeline for the lawful occupancy, rehabilitation or demolition of the subject property.

(f) An annual registration fee shall accompany the registration form. Registration fees will not be prorated. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received by the code compliance manager no later than January 31st of the year due. The amount of the registration fee shall be set by resolution of the city council.

(g) Any time after the property is determined to be vacant or showing evidence of vacancy and if there are any changes to ownership, whether recorded or not, or if the loan is transferred to another beneficiary, trustee or owner, that new beneficiary, trustee or owner shall re-register the property with the city. The re-registration must occur within ten (10) days of the change. A re-registration fee will be assessed. The amount of the re-registration fee shall be set by resolution of the city council.

(h) Abandoned, Vacant, or Distressed properties shall remain subject to the annual registration requirement and the security and maintenance standards of this article as long as they remain abandoned, vacant, showing evidence of vacancy or distressed.

(i) Any person who has registered a property under this article must report in writing any change of information contained in the registration within ten (10) days following the change.

(j) Non-payment of fees lien. If the registration fee is not paid within sixty (60) days, the city manager may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

**Sec. 18-704. - Management and maintenance requirements.**

(a) The abandoned, vacant or distress property shall be inspected on a monthly basis by a local beneficiary and trustee or owner to monitor the property for compliance with this article and Federal, State and Local laws. An out of the area beneficiary and trustee or owner of the registered property shall obtain a local property management company that holds a valid and current City of Pomona business license to inspect the property on a monthly basis by a local beneficiary and trustee or owner to monitor the property for compliance with this article and Federal, State and Local laws.

(b) A notice no less than 8.5" x 11" in size shall be posted on the property indicating the most recent date and time of inspection and the person conducting the inspection. The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building or structure facing the street to the front of the property so that it is visible from the street, or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals or passersby. All exterior postings must be constructed

of, and printed with, weather resistant materials.. A failure to perform such inspection or post a notice of inspection shall constitute a violation of this article.

- (c) A notice shall be posted with the name and a 24-hour contact phone number of the local contact person. The posting shall be no less than 18" x 24" in size and shall be of a font that is legible from a distance of at least 45 feet and shall contain along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY" \_\_\_\_\_ and "TO REPORT PROBLEMS OR CONCERNS CALL \_\_\_\_\_." The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building or structure facing the street to the front of the property so that it is visible from the street, or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals or passersby. All exterior postings must be constructed of, and printed with, weather resistant materials.
- (d) In addition to any other management and maintenance requirements in this Code abandoned, vacant, evidence of vacancy, or distressed properties shall conform to the following standards:
  - (1) Properties shall be, in comparison to the neighborhood standard, kept free of: weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), discarded personal items, including, but not limited to, inoperable or abandoned vehicles, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned, vacant or distressed.
  - (2) Properties shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.
  - (3) Visible front and side yards shall be landscaped and maintained to the neighborhood standard existing at the time registration was required.
    - (i) Required landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf or so designed specifically designed for residential installation. Required landscaping shall be subject to approval by the Director of Development Services prior to installation.
    - (ii) Required landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor/outdoor carpet or any similar material.



- (iii) Required maintenance includes, but is not limited to, compliance with Pomona City Code chapter 18 and Pomona Zoning Code sections .503-J(M) and .600, ensuring irrigation equipment that is operational at all times, including an ongoing water supply, conducting regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.
- (4) Pools and spas shall be (i) kept in working order so the water remains clear and free of pollutants mosquito or other vector larvae, and debris, or (ii) drained and kept dry. If pools and spas are kept in working order pursuant to subdivision (i) above, electrical service to the property must be maintained and ongoing, and a failure to maintain electrical service in this scenario shall constitute a violation of this article. Under either subdivision (i) or (ii) above, properties with pools or spas must comply with the minimum security fencing requirements of the State of California.
- (e) Adherence to this section does not relieve the beneficiary, trustee or owner of any obligations set forth in this Code, any other code, law, covenants conditions and restrictions, or any homeowners association rules and regulations that may apply to the property.
- (f) The code compliance manager may allow exceptions to the maintenance standards set forth in this article for property that is under construction or repair, that is diligently pursued for at least three (3) days per week, and is undertaken in compliance with all applicable laws including but not limited to city permitting requirements.
- (g) The owner of any boarded building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the city, shall cause the boarded building to be rehabilitated for occupancy within ninety (90) days after the building is boarded and shall comply with the provisions of subsections (a) through (f) of this section, as well as all other provisions of the city code.

**Sec. 18-705. - Security requirements.**

- (a) Abandoned, vacant or distressed properties shall be maintained in a secure manner so as not to be accessible by unauthorized persons. "Secure manner" includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows, "secure manner" means the re-glazing or boarding of the broken window. If the window is boarded up on the exterior of the building, any boards used must be painted to match the existing color of the building.
- (b) Security Deposit - Bonding. If a property is vacant for a period of ninety (90) days or more, in addition to the other requirements of this article the owner, beneficiary or trustee, shall post with the city a bond or similar security in an amount equal to three

(3) months estimated costs of blight prevention and security activities, as estimated by Development Services Director or Code Enforcement Manager. Should the City do an Abatement of the property (see Section 18-708 (b), (c) or (d)) the City may use the bond or similar security to pay for the costs of the abatement. Should the bond be insufficient to cover the entire abatement costs, Owner beneficiary or trustee shall be liable to the City for any outstanding abatement costs. If any portion of the bond or similar security is utilized to pay for the abatement costs, the property owner, beneficiary or trustee shall be required to immediately replace the bond or similar security so that the amount equal to three (3) months estimated costs of blight prevention and security activities is maintained.

- (c) A property remains vacant for a period of ninety (90) days or more, in addition to the other requirements of this article, the owner, beneficiary or trustee shall cause to be installed a minimum six foot (6') high chain link fence adjacent to the property boundaries, or other alternative fencing acceptable to the Development Services Director or Code compliance manager that is adequate to protect the public safety and welfare, unless the Development Services Director or Code compliance manager determine that the installation of such fencing will be detrimental to the public safety and welfare. Any fencing required under this section may require additional screening if deemed necessary in order to protect the safety, streetscape and overall appearance of the site. The Development Services Director or Code compliance manager may promulgate additional fencing standards for vacant registerable properties consistent with this section.

**Sec. 18-706. - Additional authority.**

In addition to the enforcement remedies established in this Code, the code compliance manager shall have the authority to require the beneficiary, trustee or owner, or any combination thereof, to implement additional maintenance or security measures, including but not limited to, securing of any and all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard, or other measures as may be reasonably required to stop the decline of the abandoned or distressed property.

**Sec. 18-707. - Fees.**

The fees for registering or re-registering a property subject to this article shall be set from time to time by resolution of the city council.

**Sec. 18-708. - Enforcement.**

- (a) Notice of Violation. Whenever the City determines that a violation of one or more provisions of the Municipal Code, including, without limitation, the Uniform Housing Code, the Uniform Code for the Abatement of Dangerous Buildings, or the California Building Code, or any applicable state codes exist: 1) a civil penalty may be issued in conjunction with a notice of violation; 2) the notice of violation shall refer to all code

sections violated, including a description of the violation; 3) the notice of violation shall refer to the dates and locations of the violations; 4) the notice of violation shall establish a daily amount of civil penalties and the date that the civil penalties begin to accrue, and in case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate; 5) if the violations are continuing, the notice of violation shall demand that the responsible party cease and desist from further action causing the violation, or to take affirmative action to cease from maintaining or permitting the violation to exist, and commence and complete all action to correct the outstanding violations; 6) the notice of violation shall enumerate any other consequences should the responsible party fail to comply with the terms and deadlines prescribed; 7) an Administrative Notice of Pendency is to be recorded against the property to inform that continued violations exist at the property.

- (b) Administrative Abatement Procedures for Non-Emergency. In the event that the responsible party fails to comply with a notice of violation to conform with maintenance and security issues as outlined above within the required time period, the city may: 1) clean and board the unsecured vacant property; 2) remove all litter, waste, rubbish, solid waste, excessive vegetation; 3) remove all vehicles and items stored on the property; 4) conduct any repairs or engage in any remedies on the property if any hazard or blight conditions exist; and 5) recover all costs related to such abatement, including city staff time, city contractor's costs, and any attorney's fees and costs related to such abatement.
- (c) Continuous Public Abatement Authority. If a vacant property previously abated by the responsible party or by the city through the Administrative Abatement Procedures again becomes unsecured and open to unauthorized entry or again contains debris, rubbish, waste or excessive vegetation, or other health and safety issues, the City may proceed to abate the nuisance and recover costs, after providing 72-hour notice to the local property management company via the address provided with the registration.
- (d) Summary Abatement for Immediate or Emergency Need. Summary Abatement may be executed when the city determines that the public nuisance constitutes an immediate or imminent threat to the public health, safety or general welfare. Summary Abatement is the abatement of the nuisance by the city by removal, demolition, repair or other acts with or without notice to the responsible party of the property, as the immediacy requires. A post-abatement hearing shall be provided within seventy two (72) hours following any summary abatement, and the owner shall be provided notice of said hearing as soon as practical following the abatement but before the hearing. The abatement shall be at the expense of the responsible party.
- (e) The registration of a vacant building pursuant to this Chapter shall not preclude action by the City to demolish or to take other action against the building pursuant to other

provisions of the City Municipal Code, including, without limitation, the Uniform Housing Code, the Uniform Code for the Abatement of Dangerous Buildings, or the California Building Code, or any applicable state codes.

- (f) In addition to the above, violations of this article may be enforced as allowed in this Code or state law, including, but not limited to, administrative citations (Chapter 2, article X); and the appointment of a receiver or an injunction in order to ensure compliance with this article.

**Sec. 18-709. - Violations and penalties.**

Violations of this article shall be treated as a strict liability offense regardless of intent. Any person that violates any portion of this article shall be subject to enforcement and fines as provided in this Code or as provided by state law.

**Sec. 18-710. -Appeals.**

Any Beneficiary, Trustee, Owner or other party responsible for compliance with this article may appeal a violation by following these procedures:

- a. Appeals are made by filing with the city clerk a written notice of appeal within fifteen (15) days from the date of the notice issued by the city.

b. The notice of appeal shall be in writing and signed by the person making the appeal ("appellant"), or his or her legal representative, and shall contain the following:

1. Name, address, and telephone number of the appellant.
2. Specify the decision, action, or a particular part thereof, that is the subject of the appeal.
3. State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.
4. All documents or other evidence pertinent to the appeal that the appellant requests the considered at the appeal hearing.
5. An appeal fee, as established by resolution of the city council.

c. Failure to file a timely notice of appeal constitutes a waiver of the right to appeal rendering the city action final and binding.

d. In the event a written notice of appeal is timely filed, the City Manager or designee (hearing officer) will conduct the hearing within sixty (60) days from the notice of appeal is filed with the city clerk.

1. At the date, time and location set forth in the notice of appeal hearing, the hearing officer shall hear and consider the testimony and any documentary evidence properly submitted for consideration.

2. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.

3. The violation will be upheld only if a preponderance of the evidence supports the violation.

e. Final decision. The decision of the hearing officer is the final administrative decision and subject to judicial review within the time limits set forth in California Code of Civil Procedure Section 1094.6.

**SECTION 4.** Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The city council of the City of Pomona hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

**SECTION 5.** The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its adoption.

**PASSED, APPROVED AND ADOPTED THIS 2nd DAY OF AUGUST, 2021**

**ATTEST:**

**CITY OF POMONA:**

---

Rosalia A. Butler, City Clerk

---

Tim Sandoval, Mayor

**APPROVED AS TO FORM:**

---

Sonia Carvalho, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES )  
CITY OF POMONA )

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on August 2, 2021 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on August 2, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Rosalia A. Butler, MMC  
City Clerk