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# CITY OF POMONA COUNCIL REPORT

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June 5, 2023

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Anita D. Gutierrez, AICP, Development Services Director

**SUBJECT: CONSIDERATION OF AN EXTENSION UNTIL DECEMBER 31, 2023 (OR 169 DAYS) OF THE MORATORIUM ON THE ESTABLISHMENT, EXPANSION, OR MODIFICATION OF WAREHOUSES, TRUCKING FACILITIES, AND RELATED USES THAT ARE LOCATED WITHIN THE CITY OF POMONA**

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## **RECOMMENDATION:**

It is recommended that the City Council introduce, waive further, and give reading to the following urgency ordinance (Attachment No. 1):

**URGENCY ORDINANCE NO. 4332 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, IN ACCORDANCE WITH GOVERNMENT CODE SECTION 65858, EXTENSION OF TERM BY ONE HUNDRED AND SIXTY-NINE (169) DAYS, A MORATORIUM ON THE ESTABLISHMENT, EXPANSION, OR MODIFICATION OF WAREHOUSES, TRUCKING FACILITIES, AND RELATED USES THAT ARE LOCATED WITHIN THE CITY OF POMONA**

## **EXECUTIVE SUMMARY:**

This action would extend the current moratorium in place until the end of the year at the latest while the Pomona Zoning Code update is completed and final development standards and use restrictions are adopted. The extension of the Moratorium provides for an additional term of one hundred and sixty-nine (169) days on the establishment, expansion, or modification of warehouses, trucking facilities, and related uses that are located within the City of Pomona. If approved, the Moratorium will be adopted as an urgency ordinance in accordance with Government Code Section 65858 and expire on December 31, 2023. A written report ("10-day report") was brought to the City Council on May 15, 2023 (Attachment No. 2) that addressed the conditions that led to the adoption of the urgency ordinance and actions the City has taken to address those conditions. An affirmative vote of five-sevenths (5/7) of the City Council is required for this ordinance to be adopted.

**FISCAL IMPACT:**

The adoption of the urgency ordinance will not result in any fiscal impact at this time.

**PUBLIC NOTICING REQUIREMENTS:**

The public hearing on this item has been duly noticed in accordance with State law. The notice was published in the Inland Valley Daily Bulletin on Thursday, May 25, 2023 (Attachment No. 3).

**PREVIOUS RELATED ACTION:**

On July 18, 2022, the City Council adopted Urgency Ordinance No. 4319, establishing a temporary forty-five (45) day moratorium on the establishment, expansion, or modification of warehouses, trucking facilities, and related uses city-wide (Attachment No. 4). This ordinance was scheduled to expire on September 1, 2022.

On August 1, 2022, prior to the adoption of the ten (10) months and fifteen (15) days moratorium extension, the City Council issued and filed the 10-day report describing the measures which the City has taken to address the conditions which led to the adoption of the Moratorium as required per Government Code 65858 (Attachment No. 5).

On August 15, 2022, Council adopted Urgency Ordinance No. 4321 establishing a ten (10) months and fifteen (15) days moratorium thereby extending the original forty-five (45) day moratorium on the establishment, expansion, or modification of Warehouses, Trucking Facilities, and related uses, city-wide, in order to protect public health, safety, and welfare (Attachment No. 6). This ordinance is scheduled to expire on July 16, 2023.

On May 15, 2023, prior to the moratorium extension being considered this evening, the City Council issued and filed the 10-day report describing the measures which the City has taken to address the conditions which led to the adoption of the Moratorium as required per Government Code 65858.

**ENVIRONMENTAL IMPACT:**

Pursuant to Section 15378(b)(5) of the California Environmental Quality Act (CEQA), this Ordinance is an organizational or administrative activity of the City that will not result in direct or indirect physical changes in the environment, and therefore not a project. Additionally, pursuant to CEQA Guidelines Section 15061(b)(3), this Ordinance is exempt from CEQA review because there is no possibility that the Moratorium may have a significant effect on the environment, insofar as it prohibits the construction of or alterations to, Warehouses, trucking facilities, and related uses within the City. Furthermore, even if the Ordinance is considered a project, the proposed moratorium is categorically exempt under CEQA Guidelines Section 15308, because it is clear that the Moratorium will not create an environmental impact and the action will assure the maintenance, enhancement, or protection of the environment through the eventual adoption of regulations and development standards on Warehouses, trucking facilities, and related uses. Accordingly, no further

environmental review is necessary. Furthermore, as the Ordinance is an administrative procedure related to uses, facilities, and regulations identified in the Pomona Zoning Ordinance and General Plan, and given that the proposed Ordinance is not related to a specific project, the Ordinance (i) by virtue of the location of affected improvements, will not impact a sensitive environmental resource of hazardous or critical concern; (ii) will not have a cumulative impact on the environment through successive projects of the same type, in the same place, over time; (iii) does not have any unusual circumstances that will have a significant effect on the environment; (iv) does not impact a scenic highway; (v) is not located on a hazardous waste site; and (vi) will not adversely impact a historical resource. Accordingly, none of the exceptions to categorical exemptions set forth in the CEQA Guidelines, Section 15300.2, apply to this Ordinance.

## **DISCUSSION:**

During the City Council meeting of June 6, 2022, Staff prepared a discussion regarding a potential moratorium and other strategies to address cumulative impacts from warehousing development in the City of Pomona (see Attachment No. 7 for the complete discussion). Staff reported that due to high market demand, Pomona and the surrounding region is experiencing increased interest in the development and redevelopment of industrially zoned land. The warehousing demand, if fulfilled in Pomona without additional regulation, will likely increase impacts from truck traffic, poor warehouse design, and location to sensitive receptors. Staff identified four strategies for the Council's consideration to address the cumulative impacts of unprecedented warehousing demand in the region— 1) adopt an immediate moratorium, 2) update the City's zoning code, 3) create an Environmental Justice element in the General Plan, and 4) adopt a warehouse tax. The urgency ordinance which was adopted on July 18, 2022 addresses the first solution, the establishment of a Moratorium.

During both the initial Moratorium period as well as the ten (10) months and fifteen (15) days extension period, City Staff analyzed existing regulations and researched the adverse impacts of warehouses, distribution centers and truck storage facilities, as well as, existing regulations and development standards enacted in surrounding jurisdictions to determine which standards would best address the traffic, safety, health, and environmental concerns, while still allowing for growth of such uses and other industrial developments within the City. The 10-day written report describing the measures which the City has taken to address the conditions which led to the adoption of the Moratorium was brought before the City Council on May 15, 2023. Despite City Staff's efforts, the conditions which necessitated the adoption of the Moratorium continue to exist at the present time. Extending the Moratorium will provide City Staff with the necessary time to complete its analysis, and research. As well as the development of appropriate regulations for allowing the establishment, modification, or expansion of warehouses, distribution centers and truck storage facilities to ensure the protection of the public health, safety and welfare which is being completed as part of the zoning code which is currently in process and anticipated to be effective prior to December 31, 2023.

Government Code Section 65858 authorizes the City Council to extend the Moratorium once more for a term of up to twelve (12) months. However, Staff is recommending utilizing only half of that timeframe so that the expiration of the Moratorium aligns with the adoption of the zoning code update

which is anticipated to occur no later than December 31, 2023 or for a term of one hundred and sixty-nine (169) days.

**COUNCIL PRIORITIES & GOALS:**

This item supports the following 2021-2022 City Council priorities and goals:

Priority 2: Economic Development – Goal J: Encourage the development and maintenance of quality housing opportunities for all.

Priority 3: Safe and Clean Community – Goal M: Improve safety and cleanliness at parks and public spaces.

Priority 5: Infrastructure – Goal P: Improve condition of streets, alleys, and associated sidewalks.

Prepared by:



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Senior Planner

**ATTACHMENT(S):**

- Attachment No. 1 – Draft Urgency Ordinance No. 4332
- Attachment No. 2 – 10-Day Report dated May 15, 2023
- Attachment No. 3 – Public Hearing Notice
- Attachment No. 4 – Urgency Ordinance No. 4319
- Attachment No. 5 – 10-Day Report dated August 1, 2022
- Attachment No. 6 – Urgency Ordinance No. 4321
- Attachment No. 7 – City Council Staff Report dated June 6, 2022