

ORDINANCE NO. 4268

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING SECTIONS .554.B. AND .554.C OF THE CITY OF POMONA ZONING ORDINANCE TO MODIFY THE LENGTH OF TIME IN WHICH LAND USES MADE NONCONFORMING BY WASTE & RECYCLING ORDINANCE NO. 4234 CAN BE DISCONTINUED FROM TWO YEARS TO 180 DAYS.

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

SECTION 1. Findings.

- A. As currently written, Pomona Zoning Ordinance (PZO), Sections .554.B and Section .554.C allow a legal nonconforming use to resume operations after a cessation of up to two years.
- B. The City of Pomona duly initiated Code Amendment No. 12173-2019 to include language to modify the length of time in which land uses made nonconforming by Waste and Recycling Ordinance 4234 can be discontinued from two years to 180 days.
- C. On July 24, 2019, the Planning Commission of the City of Pomona adopted Planning Commission Resolution No. 19-035 recommending City Council approval of Code Amendment No. 12173-2019.
- D. On September 9, 2019 the City Council of the City of Pomona, after giving notice thereof as required by law, held a public hearing concerning Code Amendment No. 12173-2019.
- E. The City Council has carefully considered all pertinent testimony and the staff report offered in the case as presented at the duly noticed public hearing held on September 9, 2019.
- F. Amending PZO Sections .554.B and .554.C will potentially provide a path to bring legal nonconforming uses in line with the objectives of the Pomona Zoning Ordinance.

SECTION 2. The City Council, exercising independent judgment, finds that Code Amendment No. 12173-2019 is exempt from further review under the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15060(c)(2) and 15060(c)(3). These sections pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a *project* under Section 15378. Therefore, Code Amendment No. 12173-2019 is not subject to CEQA in that the proposed code amendment is not defined as a project.

SECTION 3. Section .554.B “Nonconforming Use of a Conforming Building” and Section .554.C “Nonconforming Use of the Land” of the Pomona Zoning Code (PZO) are hereby amended to read as follows:

Sec. 554. - Nonconforming use of buildings and/or land.

A. NONCONFORMING USE OF A NONCONFORMING BUILDING

Nonconforming uses in a nonconforming building may be expanded or extended throughout said building; provided, however, that no structural alterations, except those required by law or ordinance shall be made therein; and provided, further, that the uses of said building are not incompatible with the use of other property in the district. Further, if no structural alterations are made a nonconforming use of a nonconforming building may be changed to permit a similar or more restricted type of nonconforming use; provided, however, that said new use be determined by the commission to be more compatible with the uses permitted in the district.

B. NONCONFORMING USE OF A CONFORMING BUILDING

The nonconforming use of a conforming building shall not be expanded or extended into any other portion of the conforming building, and if such nonconforming use is discontinued for a period of two years any future use of said building shall be in conformity with the provisions of this ordinance, **except for land uses made nonconforming by Waste & Recycling Ordinance No. 4234 as defined in Section .062., in which case if such nonconforming use is discontinued for a period for 180 days or more, any future use of said building shall be in conformity with the provisions of this ordinance or in the case of destruction due to acts of god, if an application for a building permit for the repair or replacement of the nonconforming structure has not been submitted to the Planning Department within 180 days after the structure’s damage, the right to continue the nonconforming use or nonconforming structure shall terminate and the property and facilities accommodating or serving such activity or structure shall thereafter be utilized only for uses and with structures permitted or conditionally permitted by the regulations of the applicable zone;** and further, that within five years after the notification by the city that an existing use is nonconforming, and not compatible, said use shall be terminated. Conforming uses in said buildings may be expanded.

(Ord. No. 3699, § 3 (part).)

C. NONCONFORMING USE OF THE LAND

1. The nonconforming use of land, where no main buildings are involved, may be continued for a period not to exceed three years after the effective date of this ordinance, subject to the following conditions:

- a) No such nonconforming use of land shall be expanded or extended in any way either on the same or adjoining property.
- b) Where such nonconforming use of the land is discontinued for a period of two years any future use of the land shall be in conformity with this ordinance, **except for land uses made**

nonconforming by Waste & Recycling Ordinance No. 4234 as defined in Section .062., in which case if such nonconforming use is discontinued for a period for 180 days or more, any future use of said building shall be in conformity with the provisions of this ordinance.(Ord. No. 3699, § 3 (part).)

c) These provisions do not apply to land used for agricultural purposes.

SECTION 4. Severability. If any or portion of this ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of the ordinance remains in effect.

SECTION 5. Effective Date. The City Clerk shall attest to the passage and adoption of this ordinance, causing it to be posted as required by law, and it shall become effective thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED this 9th day of September, 2019.

ATTEST:

CITY OF POMONA

Rosalia 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 Butler, City Clerk of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading on September 9, 2019 and adopted at a regular meeting of the City Council of the City of Pomona held on the____ day of____, 2019 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Rosalia Butler, City Clerk