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# CITY OF POMONA COUNCIL REPORT

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September 9, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

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

**SUBJECT: INTRODUCTION AND FIRST READING OF CODE AMENDMENT NO. 12173-2019, AMENDING THE POMONA ZONING ORDINANCE PERTAINING TO LEGAL NONCONFORMING WASTE & RECYCLING USES.**

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**RECOMMENDATION:**

It is recommended that the City Council open the public hearing and after receiving testimony and public comment, close the public hearing and introduce and waive further reading of the following ordinance: (Attachment No. 1)

**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 A LEGAL NONCONFORMING WASTE & RECYCLING USE CAN BE DISCONTINUED BEFORE THE USE IS PERMANENTLY TERMINATED, FROM TWO YEARS TO 180 DAYS.**

**EXECUTIVE SUMMARY:** Based on previous direction from the City Council and a recommendation of the Planning Commission, Ordinance 4268 is being brought forth for Council consideration. The proposed code amendment will reduce the time period as presently specified in Ordinance No. 4234 for discontinuance of legal nonconforming Waste & Recycling uses in all zones from two years to 180 days (approximately six months).

**FISCAL IMPACT:** This ordinance will not result in an impact to the General Fund. Costs associated with processing of City-initiated Code amendments are included in the Development Services Department's adopted FY 2018/19 budget.

**PUBLIC NOTICING REQUIREMENTS:** Pursuant to Section .571(D) of the Zoning Ordinance, a notice of public hearing is required to be published in a newspaper of local circulation, at least ten days prior to the date of the public hearing. A notice was published in the Inland Valley Daily Bulletin on Wednesday, August 28, 2019 (Attachment No. 2).

**PREVIOUS RELATED ACTION:** On June 17, 2019, the City Council was presented with three options to consider for terminating legal nonconforming Waste and Recycling uses in the City of Pomona. The Council selected a voluntary abandonment option and directed Planning staff to prepare a code amendment to the nonconforming section of the Pomona Zoning Ordinance (PZO) to shorten the timeframe in which a waste and recycling use can be discontinued before it is permanently terminated from two years to 180 days. On July 24, 2019, the Planning Commission considered Code Amendment (CODE 12173-2019) and voted 5-0-0-2 (with Commissioners Brown and Kercheval absent from the meeting), to adopt Planning Commission Resolution No. 19-035, to recommend City Council approval of Code Amendment (CODE 12173-2019). The Planning Commission staff report and draft resolution dated July 24, 2019 are provided for Council consideration (Attachment No. 3).

**ENVIRONMENTAL IMPACT:** Pursuant to the provisions of the California Environmental Quality Act (CEQA)-Public Resources Code, Sections 15060(c)(2) and 15060(c)(3) which 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. Accordingly, Code Amendment No. 11576-2019 is not subject to CEQA in that the proposed code amendment is not defined as a project.

**DISCUSSION:** This ordinance amendment would apply to all businesses that fall under the definitions set forth in the Waste and Recycling Ordinance. There are at least a dozen known pallet yards and five recycling businesses that are considered legal nonconforming under the Waste & Recycling Ordinance. The Planning Commission reviewed and discussed Code Amendment (CODE 12173-2019) during a public hearing on July 24, 2019. The Commission recommended a notification be sent to those business/property owners of legal nonconforming waste and recycling businesses, should the City Council adopt the proposed code amendment. A condition of approval was included in the draft Planning Commission Resolution No. 19-035 (Attachment No. 3) to reflect the recommendation.

The proposed code amendment will reduce the time period for discontinuance of legal nonconforming Waste & Recycling uses from two years to 180 days. The intent of the proposed code amendment is to ensure that the goals and objectives of the Pomona Zoning Ordinance are carried out by implementing an option that is equitable to the business/property owners with legal nonconforming land uses and to the community. Once adopted, the code amendment is anticipated to provide a path to bring legal nonconforming uses in line with the objectives of the Pomona Zoning Ordinance.

**COUNCIL PRIORITIES & GOALS:** This item supports the 2019-2020 City Council Priority 3: Safe and Clean Community – Goal L: Hold businesses and residents accountable for property maintenance and compliance with other City codes.

Prepared by:

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Assistant Planner

**ATTACHMENT(S):**

Attachment No. 1 – Draft City Council Ordinance for Code Amendment (CODE 12173-2019)

Attachment No. 2 – Public Hearing Notice

Attachment No. 3 – Planning Commission Staff Report (with attachments) and Draft Resolution 19-035 dated July 24, 2019