

**URGENCY ORDINANCE NO. 4338**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING SECTION 50-337 TO ARTICLE III, CHAPTER 50, ADDING SECTION 74-198 AND 74-199 TO ARTICLE III, CHAPTER 74 OF THE POMONA MUNICIPAL CODE RELATING TO ENHANCEMENT OF ENFORCEMENT OPTIONS TO ADDRESS PUBLIC NUISANCE CONDITIONS AND ILLEGAL USES OF PROPERTY WITHOUT REQUIRED APPROVALS AND PERMITS**

**WHEREAS**, the City receives numerous complaints concerning unpermitted and illegal uses of property in the City, causing dangerous conditions; and

**WHEREAS**, the Police Department receives numerous calls for service related to impacts associated with illegal uses, including violent altercations, public nuisances, and damage to public and/or private property; and

**WHEREAS**, particular illegal uses of property are ongoing, and enforcement against these uses has proven difficult in many cases using the existing options available to staff; and

**WHEREAS**, in order to address this serious public safety issues, City staff has sought ways to deter illegal uses of property; and

**WHEREAS**, there is an immediate need to enhance enforcement options to address public nuisance conditions and illegal uses of property; and

**WHEREAS**, the City Council has determined that the public health, safety, and welfare will be served by such enforcement enhancements; and

**WHEREAS**, Section 510 of the City Charter of the City of Pomona, provides for the immediate effect of an urgency ordinance when the Council, by a five-sevenths ( 5/7 ) vote of those present, deems the ordinance to be necessary for the immediate preservation of the public peace, health or safety based upon a declaration of facts constituting the urgency.

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

**SECTION 1. Urgency Findings.** In accordance with Section 510 of the City Charter of the City of Pomona and California Government Code, Section 36937, and in order to protect the public health, safety and welfare, the City Council of the City of Pomona find as follows:

A. The illegal use of properties, for special events, cannabis sales without a permit among many other illegal uses, is ongoing, and enforcement of these illegal uses has proven difficult. The illegal uses often create calls for service, property damage and violent encounters. The Council, therefore, adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Pomona City Charter Section 510 and Government Code Section 36937 and

to remain in effect until rescinded to provide City enforcement officials with a means to deter the use of illegal fireworks.

B. In addition, the City wishes to have these new regulations in place immediately to address an enforcement challenge at a property where five people were shot during a special event that was not permitted.

C. The City Council also finds that this Urgency Ordinance is necessary to promote the immediate preservation of the public peace, health and safety by establishing enhanced enforcement options.

D. Finally, the City Council finds that this this Urgency Ordinance is reasonable in order to preserve the public peace, health and safety of its residents.

**SECTION 2.** Section 50-337, Article VIII, Chapter 50 of the Pomona Municipal Code is hereby amended to read as follows:

“Sec. 50-337. – Application for license.

(a) Every person required to have a license under this article shall make an application for the license to the business license division. Upon the payment of the prescribed license tax, the business license division shall issue to such person a license, if the business is not unlawful and is conducted in conformity to the zoning code. The license application shall contain the following:

- (1) The name of the person to whom the license is issued;
- (2) The business licensed;
- (3) The place where such business is to be transacted and carried on;
- (4) The date of the expiration of such license; and
- (5) Such other information as may be necessary for the enforcement of this article.

(b) At the time of filing an application for issuance of a business license, the applicant shall have a current Certificate of Occupancy.

(c) Every person required to have a license under this article shall pay the license fee at the time of the filing of the application with the business license division.

(d) At the time of filing an application for issuance of a business license, every person or business subject to National Pollutant Discharge Elimination System (NPDES) permit inspections, pursuant to the California NPDES permit and section 18-527 of this Code, shall also pay the NPDES program inspection fee established by resolution of the city council.

(e) At the time of filing an application for issuance of a business license, every person or business subject to an annual inspection of grease producing facilities, as required by State Water Resource

Board Regulations and sections 62-478 and 62-479 of this Code, shall also pay the annual inspection fee established by resolution of the city council.”

**SECTION 3.** Section 74-198, Article III, Chapter 74 of the Pomona Municipal Code is hereby added to read as follows:

“Sec. 74-198. - Certificate of occupancy.

(a) A certificate of occupancy is required when:

(1) There is a change of use classification within a building or structure.

An exception shall exist if a separate building permit for tenant improvements have been filed in conjunction with the change in use classification, permit approval may satisfy this requirement.

(b) No alteration to an existing building which changes the floor area of the building or which changes the means of egress from the building shall be made until the building official has issued a certificate of occupancy therefor as provided herein.

(c) No change of occupant within a building or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein.

(d) Code violations - Disconnection of utilities.

(1) No building or structure shall be occupied, nor shall a business operate without a valid Certificate of Occupancy. A business operating in a manner inconsistent with its Certificate of Occupancy is operating in violation of this Code provision.

(2) Violation of this Code provision may result in the disconnection of any or all utilities.

a. The City Manager and/or their designee shall have the authority and powers necessary to determine whether a violation of this code exists and the authority to take appropriate action to gain compliance with the provisions of this section. These powers include the power to issue notice of violation(s), the power to assess and collect civil fines and penalties as provided by this section. These include the power to make a determination that a violation exists and disconnect the building or structure’s utility services.

b. A building, structure, or business whose utilities have been disconnected shall not have the utilities reconnected until an inspection has been made by the city's building official and the building official has determined that the building complies with this code.

c. A building or structure that is new construction can likewise not be occupied or its utilities connected until an inspection has been made by the city's building official and the building official has determined that the building complies with this Code.

d. Removing or defacing a notice posted in relation to violations of this Code provision or this code, shall constitute a separate and distinct violation of this Code provision.

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e. No building or structure shall be connected with utility services, nor shall a building or structure whose electrical service has been disconnected be reconnected with electrical service until an inspection has been made and the building official has determined that the building does not constitute an unsafe building.”

**SECTION 4.** Section 74-198, Article III, Chapter 74 of the Pomona Municipal Code is hereby added to read as follows:

“Sec. 74-199. Owner responsibility.

a) No person, firm or corporation, whether as principal, agent, management company, employee or otherwise, shall permit another person, firm or corporation to conduct uses or activities upon real property owned or managed by such person, firm or corporation where the uses or activities are in violation of this Municipal Code or any state law. A person, firm or corporation shall be deemed to be permitting such violation if they have been notified in writing that the tenant or person, firm or corporation using their real property is doing so in violation of the law. A person, firm or corporation who is notified in writing that there is an illegal use on their property shall take immediate steps to cause the illegal uses or activities to cease. Every act prohibited or declared unlawful in this section, and every failure to perform an act in this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or City Prosecutor or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in this Municipal Code and/or under state law. Any provision of this section may be enforced by civil injunction issued by the Superior Court upon a suit brought by the City.

b) As part of a civil action filed to enforce provisions of this chapter, this City may ask a court to assess a civil penalty of two thousand five hundred dollars (\$2,500) per violation for each day during which any person, firm or corporation commits, continues, allows or maintains a violation of any provision of this section. This provision shall be enforceable upon the property owner for failure to comply with the provisions of this section.”

**SECTION 5.** If any section, subsection, sentence, clause, phase, or portion of this Urgency 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 Urgency Ordinance. The City Council hereby declares that it would have adopted this Urgency Ordinance, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions might subsequently be declared invalid or unconstitutional.

**SECTION 6. CEQA Determination.** The City Council finds that this Urgency Ordinance is not subject to the requirements of the California Environmental Quality Act, pursuant to (Guidelines) Section 15060(c)(2) & (3) as there is no potential for physical changes to the environment as this Urgency Ordinance implements administrative regulations only for the possession, sale and discharge of fireworks only.

**SECTION 7. Effective Date.** This Urgency Ordinance was adopted by the necessary five-sevenths vote of those present at the City Council meeting pursuant to Pomona City Charter section 510, and shall take effect immediately upon its adoption for the preservation of the public health, safety and welfare.

**SECTION 8.** This Urgency Ordinance was adopted by necessary 5/7 vote of those present at the City Council meeting. The City Clerk shall certify the adoption of this Urgency Ordinance and shall cause the same to be posted as required by law.

**PASSED, APPROVED AND ADOPTED** this 6<sup>th</sup> day of November, 2023.

**CITY OF POMONA:**



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Tim Sandoval  
Mayor

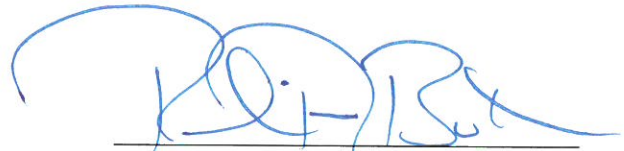
**APPROVED AS TO FORM:**



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Sonia Carvalho  
City Attorney

**ATTEST:**



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Rosalia A. Butler, MMC  
City Clerk

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

I, DIANA RÓBLES, DEPUTY CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on November 6, 2023 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on November 6, 2023 by the following vote:

AYES:            Garcia, Lustro, Nolte, Ontiveros-Cole, Preciado, Sandoval, Torres  
NOES:            None  
ABSENT:         None  
ABSTAIN:        None



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Diana Robles  
Deputy City Clerk