

URGENCY ORDINANCE NO. 4352

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, PURSUANT TO SECTION 510 OF THE CITY CHARTER, AMENDING POMONA CITY CODE CHAPTER 46 (STREETS SIDEWALKS AND OTHER PUBLIC PLACES), ARTICLE IV (ENCROACHMENTS) TO ADD A NEW DIVISION 4 (SIDEWALK, WALKWAY, OFF-STREET PARKING AND STREET/ROADWAY OBSTRUCTIONS)

WHEREAS, the City of Pomona has received complaints regarding obstructions on sidewalks, walkways, parking lots and streets/roadways that interfere with the safe passage by pedestrians and those using mobility assistance devices;

WHEREAS, the illegal placement of obstructions on sidewalks has led to injuries and tragic accidents;

WHEREAS, ensuring the unobstructed flow of pedestrian traffic on public sidewalks and pedestrian walkways and vehicles through and across off-street parking locations and traffic on roadways and streets promotes public safety by minimizing the risk that pedestrians will jostle one another, collide, trip, or fall, and safeguarding the ability of the public to safely be away from dangerous situations, such as vehicular and bicycle traffic that may occur on or near public streets, sidewalks, and pedestrian paths;

WHEREAS, ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the very young, individuals with disabilities, and others who are less able to navigate through crowds and around obstacles or hazards and who are particularly endangered by having to navigate off and onto curbs when sidewalks or pedestrian paths are blocked;

WHEREAS, safety hazards, such as inhibiting the ability of individuals with disabilities and other pedestrians to follow a safe path of travel; public exposure to fire hazards such as open outdoor flames; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food and merchandise; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic must be regulated to ensure safety; and

WHEREAS, on October 14, 2022 at 7:42 p.m. a driver making an unsafe turn collided with the curb line and proceeded to drive on the sidewalk injuring approximately 12 people, including one fatality, each person was waiting to purchase food or pick up their order from a food vendor vending on the sidewalk; and

WHEREAS, as a Charter City, the City of Pomona, pursuant to Article IX, Section VII of the California Constitution may by ordinance adopt laws concerning obstructions of and the safety of its sidewalks, walkways, off-street parking and streets/roadways; 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 City Council of the City of Pomona as follows:

SECTION 1. The recitals above are true and correct and are hereby incorporated herein by this reference.

SECTION 2. Urgency Findings. In accordance with Section 510 of the City Charter of the City of Pomona, and in order to protect the public health, safety and welfare, the City Council of the City of Pomona find as follows:

A. The Council adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Pomona City Charter Section 510 and to remain in effect until rescinded to provide City enforcement officials with a means to protect the public health, safety and welfare by adopting regulations ensuring the unobstructed flow of pedestrian traffic on public sidewalks and pedestrian walkways and vehicles through and across off-street parking locations and traffic on roadways and streets promotes public safety by minimizing the risk that pedestrians will jostle one another, collide, trip, or fall, and safeguarding the ability of the public to safely be away from dangerous situations, such as vehicular and bicycle traffic that may occur on or near public streets, sidewalks, and pedestrian paths.

B. In addition, the City wishes to have these new regulations in place immediately to ensure the health, safety and welfare of the public during the upcoming holiday season in which causes increased amounts of traffic, affecting the safety of pedestrians and motorists, due to a high concentration of visitors during the holiday season.

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

SECTION 3. Add a new Division 4 to Chapter 46, Article IV, of the Pomona City Code titled "Sidewalk, Walkway, Off-Street Parking and Street/Roadway Obstructions" to read in its entirety as follows:

Division 4. Sidewalk, Walkway, Off-Street Parking and Street/Roadway Obstructions

Sec. 46-214 – Definitions.

The terms used in this division shall have the following meanings:

Enforcement Officer means any city employee or officer, including but not limited to inspectors of the municipal code enforcement division, public works inspectors, building inspectors, County public health inspectors, County fire inspectors and police department officers.

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Obstruction means and includes any one of those items or materials described in Section 46-215 placed, or maintained on public property for a period in excess of thirty (30) minutes.

Off-street Parking means any publicly owned parking facility and any privately owned parking facility for which the privilege to park is held open for the common public use of retail customers.

Pedestrian path or Walkway means any paved path or area owned or controlled by the city and intended specifically for pedestrian travel.

Sidewalk means that portion of the street between the curb line and the adjacent property line, a public sidewalk or paved pedestrian path specifically designed for pedestrian travel or any surface in the public right-of-way provided for the exclusive use of pedestrians.

Street/Roadway means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Street includes all roads and any part of the entire width of right-of-way of any city street, whether or not such entire area is actually used for street purposes.

Sec. 46-215 – Unlawful Obstruction.

(a) It shall be unlawful for any person to place any of the following on a pedestrian path, walkway, sidewalk, off-street parking lot or street/roadway without a permit:

(1) Any chair, stool, bench, table or any materials or items that form a chair or table or stand.

(2) Any easy-up shade structure or umbrella that is not directly attached to vending equipment or conveyance.

(3) Any compressed gas container or flammable liquids, gasses or solid fuels including but not limited to gasoline, kerosene, or propane.

(4) Any battery or generator or accessory used to create power.

(5) Any ovens, barbecues, grills or cooking device with an open flame or heat source.

(6) Any free standing light or object to illuminate the sidewalk.

(7) Any device to amplify sound.

(8) Any utility cord.

(9) Any area rug or carpet.

(10) Any banner or freestanding sign on a walkway, sidewalk or Street/Roadway.

(11) Trashcan.

(12) Ice chest.

Sec. 46-216 – Unlawful Discharges and Materials.

It shall be unlawful for any person to discharge onto a walkway, sidewalk, storm drain, right-of-way or any gutter, tree wells, any liquids, grease or waste materials.

Sec. 46-217. - Enforcement.

(a) This Division 4 shall be enforced by any duly authorized Enforcement Officer.

(b) Upon observing and documenting a violation of this Division 4, the Enforcement Officer may proceed as follows.

(1) Order to Cure or Impound Obstructions. The Enforcement Officer may: (i) order to cure or remove the Obstruction; (ii) issue a warning or administrative citation; or (iii) after failure to cure or remove the Obstruction and based on the risk to public safety, impound the items or materials creating the obstruction.

(2) Impoundment. Any items or materials that are placed upon a sidewalk, walkway, off-street parking lot or street in violation of this Division 4 may be confiscated by the enforcing officer and will be stored. At the time of an impoundment of the Obstruction, the Enforcement Officer shall issue a receipt to the person who put the Obstruction in place that includes the date and time of the impoundment, a description of the items, and instructions on how to reclaim them. If the Enforcement Officer determines that due to its condition the equipment cannot be safely stored and must be destroyed, the Enforcement Officer shall state this on the receipt.

(i) Forfeiture. If not reclaimed within 60 days, or at such earlier time the City determines that the equipment cannot be safely stored, impounded equipment will be deemed forfeited to the City. Forfeited items may be sold, destroyed, or otherwise disposed of at the City's sole discretion in accordance with applicable laws governing hazardous materials.

(ii) Fees. The City Council may adopt impound fees by resolution, which shall reflect the costs of enforcement, investigation, and storage. The City may require that a person seeking to reclaim an impounded item pay impound fees and demonstrate ownership.

(c) In addition to any other remedy allowed by law, any person who violates a provision of this chapter may be subject to criminal sanctions, civil actions, and administrative citations pursuant to Section 1-7 of this Code.

(d) All remedies prescribed under this Division 4 are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy to enforce this Division.

SECTION 4. CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) 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.

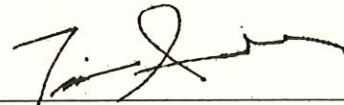
SECTION 5. Severability. If any section, subsection, sentence, clause, phase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this 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. Effective Date. This Urgency Ordinance was adopted by the necessary five-sevenths (5/7) 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 7. Publication. The City Clerk shall certify as to the adoption of this ordinance and shall cause a copy thereof to be published within fifteen (15) days of the adoption, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2024.

CITY OF POMONA:



Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia Carvalho
City Attorney

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ATTEST:

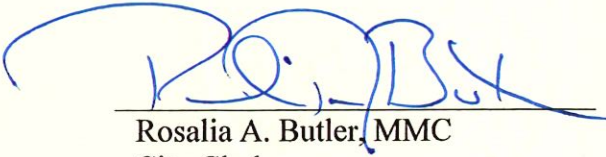


Rosalia A. Butler, MMC
City Clerk

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 Urgency Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on October 21, 2024 and was adopted at a regular meeting of the City Council of the City of Pomona held on October 21, 2024, by the following vote:

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



Rosalia A. Butler, MMC
City Clerk