

## ORDINANCE NO. 3049

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA16-002, A DEVELOPMENT CODE AMENDMENT PROPOSING VARIOUS CLARIFICATIONS TO THE ONTARIO DEVELOPMENT CODE: [1] DELETE "BILLBOARD SIGNS" FROM THE NONCONFORMING SIGN AMORTIZATION LIST (TABLE 3.02-1); [2] DELETE ALL REFERENCES TO THE CCC ZONING DISTRICT; [3] ADD "ESCAPE, EXIT, MYSTERY AND PUZZLE ROOMS" AS A CONDITIONALLY PERMITTED LAND USE IN THE CC, CR, MU-1, BP, IL, AND IG ZONES; [4] CLARIFY THAT THE PUBLIC CONVENIENCE OR NECESSITY DETERMINATION CRITERIA (SECTION 5.03.025: ALCOHOLIC BEVERAGE SALES) APPLIES ONLY TO OFF-PREMISE ALCOHOLIC BEVERAGE CONTROL LICENSES; [5] CLARIFY THAT A TEMPORARY OUTDOOR SALES EVENT (SECTION 5.03.395: TEMPORARY AND INTERIM LAND USES, BUILDINGS, AND STRUCTURES) MAY ONLY BE ALLOWED IN CONJUNCTION WITH A LEGALLY ESTABLISHED BUSINESS THAT HAS BEEN OPERATED FOR A PERIOD OF AT LEAST 180 DAYS PRIOR TO A REQUESTED EVENT; [6] CLARIFY THAT WITHIN THE ICC (INTERIM COMMUNITY COMMERCIAL) OVERLAY DISTRICT (SECTION 6.01.035: OVERLAY ZONING DISTRICTS), A BUILDING EXPANSION, MAXIMUM 25 PERCENT, IS ONLY ALLOWED IN CONJUNCTION WITH AN EXISTING, LEGALLY ESTABLISHED, COMMERCIAL LAND USE; [7] COMBINE THE ALL POLITICAL SIGN REGULATIONS (SECTION 8.01.020: SIGN STANDARDS) INTO A SINGLE PROVISION, AND ADD CLARIFYING PURPOSE AND INTENT STATEMENTS; AND [8] CLARIFY THE MAXIMUM TIMEFRAMES FOR THE ISSUANCE OF TEMPORARY PROMOTIONAL AND SPECIAL EVENT SIGNS AND BANNERS (TABLE 8.01: SIGN REGULATION MATRIX), AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, The City of Ontario ("Applicant") has initiated an Application for the approval of a Development Code Amendment, File No. PDCA16-002, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which states long-term principles, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, On December 1, 2015, the City Council approved a comprehensive update to the Ontario Development Code (Ordinance No. 3028), which became effective on January 1, 2016. City staff has initiated several minor alterations to the Development Code to adjust and further clarify the recent comprehensive update; and

WHEREAS, pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, the Application was reviewed for consistency with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, and was found to be consistent with the Housing Element, as the project does not affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix; and

WHEREAS, the project site is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and has been found to be consistent with the policies and criteria set forth within the Ontario International Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity ; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with an Addendum to the Ontario Plan Environmental Impact Report (SCH# 2008101140), previously prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (Resolution No. 2015-095) on September 1, 2015. The Addendum found that subject application will not introduce any new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures are a condition of project approval and are incorporated by this reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, On March 22, 2016, the Planning Commission of the City of Ontario conducted a public hearing to consider the Application, and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0-1) to approve Resolution No. PC16-011, recommending that the City Council approve the Application; and

WHEREAS, on April 19, 2016, the City Council of the City of Ontario conducted a public hearing to consider the Application, and concluded said hearing on that date. Upon conclusion of the public hearing, the City Council approved the introduction (first reading) of this Ordinance, and waived further reading of the Ordinance; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. *Development Code Chapter 3.0 (Nonconforming Lots, Land Uses, Structures, and Signs).* Make changes to Chapter 3.0 (Nonconforming Lots, Land Uses, Structures, and Signs) of the City of Ontario Development Code (Ordinance No. 3028), modifying Division 3.02 (Nonconforming Signs) to removing “Billboard Signs” from the nonconforming sign amortization list contained in Table 3.02-1 (Amortization Period of Certain Classifications of Nonconforming Signs).

SECTION 2. *Development Code Chapter 5.0 (Zoning and Land Use).* Make changes to Chapter 5.0 (Zoning and Land Use) of the City of Ontario Development Code (Ordinance No. 3028), as follows:

a. Amend Development Code Division 5.02 (Land Use), removing all references to the CCC zoning district contained in Table 5.02-1 (Land Use Matrix).

b. Amend Development Code Division 5.03 (Standards for Certain Land Uses, Activities, and Facilities), as follows:

1. Revise Section 5.03.020 (Air Transportation) and Section 5.03.270 (Massage Services), removing all reference to the CCC zoning district.

2. Revise Section 5.03.025, Paragraph F.3 (Criteria for Determining Public Convenience or Necessity), to read as follows:

*Criteria for Determining Public Convenience or Necessity. Within a census tract having an undue concentration of off-premise ABC licenses, the City desires to strike a balance between the number of off-premise licenses and the convenience of store customers. Consequently, the Reviewing Authority shall rely upon the following factors in making a determination of public convenience or necessity:*

3. Revise Section 5.03.395, adding Subparagraph G.1.f to read as follows:

*A retail sales event shall only be allowed in conjunction with a legally established business that has been operated for a period of at least 180 days prior to the retail sales event.*

SECTION 3. *Development Code Chapter 6.0 (Development and Subdivision Regulations).* Make changes to Chapter 6.0 (Development and Subdivision Regulations) of the City of Ontario Development Code (Ordinance No. 3028), as follows:

a. Revise Development Code Section 6.01.015 (Commercial Zoning Districts, removing all reference to the CCC zoning district; and

b. Clarify Development Code Section 6.01.035 (Overlay Zoning Districts), amending Subparagraph C.5.c (ICC (*Expansion of Existing Commercial Structures and Uses*)) to read as follows:

c. *Expansion of Existing Commercial Structures and Uses.*

(1) *Within the ICC Overlay District, building expansion, shall only be allowed for the purpose of expanding an existing, legally established commercial land use, which is allowed pursuant to Subparagraph B.5.b(3) of this Section.*

(2) *The expansion of an existing commercial building shall be allowed pursuant to the requirements of Subsection 3.01.020.J (Alteration and/or Expansion of a Nonconforming Nonresidential Structure) of this Development Code, and shall be developed consistent with the standards of the CC zoning district.*

(3) *New Residential Development. New residential development, which is proposed consistent with the Official Land Use Plan (Exhibit LU-01) of the Policy Plan component of The Ontario Plan, shall first require a zone change to the HDR-45 zoning district pursuant to Section 4.01.040 (Zone Changes) of this Development Code, and full compliance with the land use requirements, and development standards and guidelines of the HDR-45 zoning district.*

(4) *Protection of ICC Overlay District Land Use and Development Rights. All land use and development rights granted by the ICC Overlay District shall be transferable to any future owner(s) of property within the ICC Overlay District, and their assigns.*

**SECTION 4.** *Development Code Chapter 8.0 (Sign Regulations).* Make changes to Chapter 8.0 (Sign Regulations) of the City of Ontario Development Code (Ordinance No. 3028), as follows:

a. Combine the various Political Sign regulations, which are currently divided among several sections in Division 8.01 (Sign Regulations), into Subsection 8.01.020.K (Political Signs), and add provisions clarifying the purpose and intent of the Political Sign regulations. Subsection 8.01.020.K (Political Signs) shall read as follows:

## **K. Political Signs.**

### **1. Purpose.**

a. *The purpose of these political sign regulations is to identify the compatibility between the utilization of political signs, the protection of the right to privacy of individuals, and the quiet and undisturbed enjoyment of property.*

b. *It is recognized that there have been abuses in the placement of political signs within the City, including: [i] trespassing upon private property; [ii] placement of political signs without permission from the property owner; [iii] placement of political signs in such a fashion as to make it difficult to remove them; [iv] littering caused by dislodged political signs; [v] sight distance hazards to traffic due to sign size and location; [vi] distracting appearance; [vii] aesthetically displeasing impact; [viii] unnecessary proliferation; and [ix] other reasons, all of which are determined to be contrary to the best interests of the community, and in opposition to the public health, safety and welfare.*

c. *The reasonable regulation of political signs will obviate many of the objections that have been raised to the unregulated placement of such signs.*

d. *It is recognized that to the extent that placement of political signs is not contrary to the purposes stated herein, it is in the best interests of the City and its inhabitants to allow political expression, and, for that reason, it is but to avoid the total prohibition of such signs.*

e. *It is believed that responsibility for the placement of political signs should lie with the candidate for public office, the proponents and opponents of ballot measures, and the various political committees connected therewith. It is recognized that political signs are printed by, or at the direction of, those listed herein, and that the ultimate responsibility for the distribution of such signs and their placement lies with them.*

2. **Definition.** *The term "political sign," as used herein, means any election or nonelection sign, advertising structure, or display, which communicate any message or idea identifying, supporting, opposing, promoting, or conveying a position upon, or relating to, any political cause or issue, or candidate for public office, or proposition or issue connected with any local, special, state, or national election.*

3. **Political Sign Registration.** *Pursuant to BPC Section 5405.3, any candidate (or their designee) or the proponents of a ballot measure who seek to utilize political signs, shall first file a Statement of Responsibility with the Code Enforcement Department, on a City registration form. The registrant shall be responsible for removing the temporary political sign, and may be required to reimburse the City for any cost incurred for temporary political sign removal.*

4. Permitted Signs. Political signs, as herein defined, shall be permitted within any zoning district subject to compliance with all of the rules and regulations set forth in Paragraph K.5 (Regulations) herein.

5. Regulations.

a. No provision in this Development Code shall be so construed as to prohibit the placing of temporary political signs.

b. No political sign shall be installed or displayed sooner than 45 days preceding the election for which the sign is intended.

c. No political sign shall exceed 16 SF in total area, except that a double-faced sign, not exceeding 16 SF on each side, shall be permitted.

d. No political sign shall exceed an overall height of 8 FT, except if such sign shall be within an enclosed building or structure.

e. No candidate for public office, proponent or opponent of ballot measures, and/or any political committees connected therewith, shall post more than one political sign per lot or parcel.

f. No political sign shall be lighted either directly or indirectly.

g. No political sign shall be placed on private property, vacant or otherwise, without the permission of the owner of the property.

h. No political sign shall be placed or affixed to a tree, fence, post, utility pole, or any structure, by glue, nails, or screws.

i. No political sign shall be posted on any public property or in the public right-of-way.

j. No political sign shall be placed within the right-of-way of any highway, or within 660 FT of the edge of, and visible from, the right-of-way of a landscaped freeway.

k. No political signs shall be posted in violation of any other provisions of this Development Code.

l. All political signs shall be removed within 10 days following the date of the election for which the sign was intended.

6. Removal of Illegally Placed Political Signs. The Building Official may cause the removal of any sign placed contrary to any provision of the Political Sign provisions contained herein (commencing with Subsection K (Political Signs) of this Section).

b. Revise Development Code Table 8.01-1 (Sign Regulation Matrix) to clarify timeframes for the issuance of temporary promotional and special event signs and banners, to read as follows:

1. Business Grand Opening. A new business may be allowed temporary signage identifying its grand opening, one time, for a maximum of 30 days duration.
2. Retail Sales Event. A Retail Sales Event pursuant to Paragraph 5.03.395.G.1 of this Development Code may be allowed temporary signage for maximum 7 days duration during the specified "holiday sale periods," and during the specified "additional periods" for which a Temporary Use Permit has been issued, not to exceed a total of 56 days per calendar year. Each "additional period" may be used consecutively with "holiday sale periods," not to exceed a total of 6 consecutive periods (42 consecutive days).
3. Holiday Retail Sales. Holiday Retail Sales established pursuant to Paragraph 5.03.395.G.2 of this Development Code may be allowed temporary signage for maximum 30 days duration.
4. Shows and Exhibits. Shows and Exhibits established pursuant to Paragraph 5.03.395.G.3 of this Development Code may be allowed temporary signage for maximum 30 days duration.
5. Amusement and/or Sporting Events. Amusement and/or Sporting Events established pursuant to Paragraph 5.03.395.G.4 of this Development Code may be allowed temporary signage for maximum 30 days duration per calendar year, which may be used in a single period, or in 2 periods of 15 days duration.
6. Tent Revivals. Tent Revivals established pursuant to Paragraph 5.03.395.G.5 of this Development Code may be allowed temporary signage for maximum 30 days duration per calendar year, which may be used in a single period, or in 2 periods of 15 days duration.
7. Charitable and Fund Raising Events. Charitable and Fund Raising Events established pursuant to Paragraph 5.03.395.G.6 of this Development Code may be allowed temporary signage during the specified "holiday periods," and the specified "additional events" for which a Temporary Use Permit has been issued.

SECTION 5. Environmental Determination and Findings. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously adopted Addendum to The Ontario Plan Environmental Impact Report (SCH# 2008101140), previously prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (Resolution No. 2015-095) on September 1, 2015, and supporting documentation. Based upon the facts and information contained in the previous Addendum to The Ontario Plan Environmental Impact Report, and supporting documentation, the City Council finds as follows:

- a. The previous Addendum contains a complete and accurate reporting of the environmental impacts associated with the Application; and
- b. The previous Addendum was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.
- c. The previous Addendum reflects the independent judgement of the City Council; and
- d. All previously adopted mitigation measures, which are applicable to the Application, are a condition of Project approval, and are incorporated herein by this reference.

SECTION 6. *Housing Element Consistency.* Based upon the facts and information contained in the Application, and supporting documentation, the City Council finds that, at the time of Project implementation, the Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan.

SECTION 7. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* Based upon the facts and information contained in the Application, and supporting documentation, the City Council finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 8. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

- a. The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and
- b. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 9. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the subject Development Code Amendment, File No. PDCA16-002.

SECTION 10. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 11. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 12. *Severability.* If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 13. *Effective Date.* This Ordinance shall become effective 30 days following its adoption.

SECTION 14. *Publication and Posting.* The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days of the adoption. The City Clerk 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 3<sup>rd</sup> day of May 2016.

  
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PAUL S. LEON, MAYOR

ATTEST:

  
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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

  
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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO )  
CITY OF ONTARIO )

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3049 was duly introduced at a regular meeting of the City Council of the City of Ontario held April 19, 2016 and adopted at the regular meeting held May 3, 2016 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,  
BOWMAN AND AVILA

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

  
SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3049 duly passed and adopted by the Ontario City Council at their regular meeting held May 3, 2016 and that Summaries of the Ordinance were published on April 26, 2016 and May 10, 2016, in the Inland Valley Daily Bulletin newspaper.

  
SHEILA MAUTZ, CITY CLERK

(SEAL)