

CITY OF ONTARIO
CITY COUNCIL, REDEVELOPMENT AGENCY,
AND HOUSING AUTHORITY
AGENDA
OCTOBER 18, 2011

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Sheila Mautz
Council Member

Jim W. Bowman
Council Member



Chris Hughes
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS: The regular City Council, Redevelopment Agency, and Housing Authority meeting begins with Closed Session and Closed Session Comment at 6:00 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:00 p.m.

ROLL CALL

Dorst-Porada, Wapner, Mautz, Bowman, Mayor/Chairman Leon

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the Council/Redevelopment Agency/Housing Authority meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session. Additional opportunities for further Public Comment will be given during and at the end of the meeting.

CLOSED SESSION

- GC 54956.9 (a), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: City of Ontario vs. Safeco Insurance Company et. al., Case No. CIVRS 901508

In attendance: Dorst-Porada, Wapner, Mautz, Bowman, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Council Member Mautz

INVOCATION

Pastor Chuck Singleton, Loveland Worship Center

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Redevelopment Agency/Housing Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS: The City Manager will go over all updated materials and correspondence received after the agenda was distributed to ensure Council Members have received them. He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

CONSENT CALENDAR

All matters listed under **CONSENT CALENDAR** will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 3 minutes.

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council, Redevelopment Agency and Housing Authority of September 20, 2011, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills August 14, 2011 through August 27, 2011 and **Payroll** August 14, 2011 through August 27, 2011, when audited by the Finance Committee.

3. DESIGNATION OF VOTING DELEGATE FOR THE NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING

That the City Council designate Alan Wapner as the City's voting delegate for the National League of Cities (NLC) Annual Business Meeting scheduled for November 12, 2011.

4. LEASE AGREEMENT FOR USE OF CITY PROPERTY AND FACILITIES LOCATED AT THE ONTARIO CONVENTION CENTER BY THE CALIFORNIA SPORTS HALL OF FAME

That the City Council authorize the City Manager to execute a Lease Agreement (on file in the Records Management Department) with the California Sports Hall of Fame, of Rancho Cucamonga, California, for use of portions of a City-owned building located at 2000 Convention Center Way for display and exhibit purposes of the California Sports Hall of Fame.

5. LEASE AGREEMENT FOR USE OF CITY PROPERTY AND FACILITIES LOCATED AT 217 SOUTH LEMON AVENUE BY THE CHAFFEY COMMUNITY ART ASSOCIATION, DBA CCAA MUSEUM OF ART

That the City Council authorize the City Manager to execute a Lease Agreement (on file in the Records Management Department) with the Chaffey Community Art Association, dba CCAA Museum of Art, of Upland, California, for use of a City-owned building and adjacent property located at 217 South Lemon for the purpose of exhibiting and promoting local art and artists.

6. A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON COUNTY TAX ROLLS

That the City Council adopt a resolution for recovery of costs incurred in abating property and dangerous building violations as well as fees and penalties associated with property maintenance violations, and placing special assessments on County tax rolls.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

7. RECOGNIZE OCTOBER 23-31, 2011 AS RED RIBBON WEEK

That the City Council recognize October 23-31, 2011 as “Red Ribbon Week” in the City of Ontario, to create a unified and visible commitment toward the creation of a drug-free community, and to encourage members of the community to take action by participating in Red Ribbon campaign activities.

8. AN ORDINANCE TO ADD CHAPTER 23 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE TO REGULATE CONDUCT OF REGISTERED SEX OFFENDERS IN THE CITY OF ONTARIO

That the City Council adopt an ordinance adding Chapter 23 to Title 4 of the Ontario Municipal Code (OMC) to create protective measures that mandate and restrict registered sex offenders from living within 2,000 feet of a child safety zone; loitering within 300 feet of locations (public and private) where children may be present; and/or actively soliciting children to go to the registered sex offenders home during Halloween.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, ADDING CHAPTER 23 TO TITLE 4
RELATING TO THE REGULATION OF REGISTERED SEX
OFFENDERS CONDUCT.

PUBLIC HEARINGS

9. AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 1 (GENERAL PROVISIONS), CHAPTER 5 (ADMINISTRATIVE CITATIONS), SECTION 1-5.04 AND TITLE 4 (PUBLIC SAFETY), CHAPTER 13 (PARKING ON UNPAVED SURFACES), SECTION 4-13.04

That the City Council introduce and waive further reading of an ordinance amending Ontario Municipal Code:

- (A) Title 1 (General Provisions), Chapter 5 (Administrative Citations), Section 1-5.04 pertaining to fine amounts for administrative citations; and
- (B) Title 4 (Public Safety), Chapter 13 (Parking On Unpaved Surfaces), Section 4-13.04 pertaining to civil penalty amounts for violation of provisions restricting parking on unpaved surfaces.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, AMENDING ONTARIO MUNICIPAL
CODE TITLE 1, CHAPTER 5, SECTION 1-5.04 TO ESTABLISH THE
AMOUNTS FOR ADMINISTRATIVE CITATION PENALTIES BY
RESOLUTION; AND AMENDING TITLE 4, CHAPTER 13, SECTION
4-13.04 TO ESTABLISH THE CIVIL PENALTIES FOR PARKING ON
UNPAVED SURFACES BY RESOLUTION.

10. AN ORDINANCE APPROVING A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA11-002) REVISING ONTARIO MUNICIPAL CODE TITLE 9, CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), SECTION 9-1.1305

That the City Council introduce and waive further reading of ordinance approving a Development Code amendment (File No. PDCA11-002) revising Ontario Municipal Code Title 9, Chapter 1 (Zoning and Land Use Requirements), Article 13 (Land Use and Special Requirements), Section 9-1.1305 to include criteria pertaining to alcoholic beverage sales operating standards and approval requirements.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.
Oral presentation.
Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA11-002, A
DEVELOPMENT CODE AMENDMENT TO INCLUDE CRITERIA
PERTAINING TO ALCOHOLIC BEVERAGE SALES OPERATING
STANDARDS AND APPROVAL REQUIREMENTS, AND MAKING
FINDINGS IN SUPPORT THEREOF.

COUNCIL MATTERS

Mayor Leon
Mayor pro Tem Dorst-Porada
Council Member Wapner
Council Member Mautz
Council Member Bowman

STAFF MATTERS

City Manager Hughes

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**

City Council / / Housing Authority / / Redevelopment Agency / /
Redevelopment Financing Agency / / Other / / (GC 54957.1)

October 18, 2011

ROLL CALL: Dorst-Porada __, Wapner __, Mautz __, Bowman __,
Mayor / Chairman Leon __.

STAFF: City Manager / Executive Director __, City Attorney __

In attendance: Dorst-Porada __, Wapner __, Mautz __, Bowman __, Mayor / Chairman Leon __

- GC 54956.9 (a), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION:
City of Ontario vs. Safeco Insurance Company et. Al., Case No. CIVRS 901508

No Reportable Action	Continue	Approved
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/ /

/ /

/ /

Disposition: _____

Reported by: _____
City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

SUBJECT: DESIGNATION OF VOTING DELEGATE FOR THE NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING

RECOMMENDATION: That the City Council designate Alan Wapner as the City's voting delegate for the National League of Cities (NLC) Annual Business Meeting scheduled for November 12, 2011.

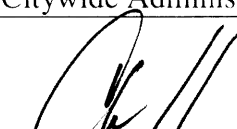
COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: There is no direct fiscal impact by taking this action; however, representation and participation in the upcoming business meeting will help establish NLC's policy on matters which affect the City's finances.

BACKGROUND: The National League of Cities has scheduled their Annual Business Meeting for November 12, 2011 during the annual Congress of Cities and Exposition in Phoenix, Arizona. The Annual Business Meeting will include consideration of actions requiring approval of the membership of NLC.

NLC's bylaws require that the City's voting delegates be designated by the City Council.

STAFF MEMBER PRESENTING: Chris Hughes, City Manager

Prepared by: Al C. Boling
Department: Citywide Administration
City Manager Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

**SUBJECT: LEASE AGREEMENT FOR USE OF CITY PROPERTY AND FACILITIES
LOCATED AT THE ONTARIO CONVENTION CENTER BY THE
CALIFORNIA SPORTS HALL OF FAME**

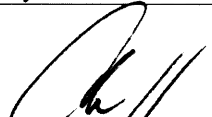
RECOMMENDATION: That the City Council authorize the City Manager to execute a Lease Agreement (on file in the Records Management Department) with the California Sports Hall of Fame, of Rancho Cucamonga, California, for use of portions of a City-owned building located at 2000 Convention Center Way for display and exhibit purposes of the California Sports Hall of Fame.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The recommended agreement calls for a 10-year term with the option to extend for up to an additional 10 years. In return for the use of the City-owned property, the California Sports Hall of Fame will make rental payments of \$1 per year and will make tenant improvements to the facility to provide display cases and exhibition space to showcase sports memorabilia. The improvements will enhance the City's property, provide additional usefulness of the building, and result in no increase to the City's recurring maintenance costs.

BACKGROUND: Founded by former Kansas City Chiefs All-Pro Running Back Christian Okoye, the California Sport Hall of Fame is a non-profit corporation whose primary focus is to educate the public and showcase California sports history by honoring and recognizing the accomplishments and contributions of those who have excelled in their respective areas of sports and sports media in the State of California. Since 2007, the California Sports Hall of Fame has named 44 persons as inductees including such sports icons as: Eric Dickerson, Reggie Jackson, Tommy Lasorda, Magic Johnson, Marcus Allen, Deacon Jones, Tom Flores, Jackie Joyner-Kersey, Bob Miller, Ken Norton, Dick Vermeil, Mike Haynes, Tony "The Tiger" Lopez, and Vin Scully.

STAFF MEMBER PRESENTING: Chris Hughes, City Manager

Prepared by: Al Boling
Department: Citywide Administration
City Manager Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011
Approved: _____
Continued to: _____
Denied: _____

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This agreement will permit the organization to construct, operate and maintain display cases and exhibition space co-located at the Ontario Convention Center. There will be no separate general admission fee or charge for visitors of the exhibit. It is anticipated that the exhibit will create another community point of interest and capitalize on marketing of the Convention Center venue and its visitors. During the term of the agreement, the California Sports Hall of Fame will hold its annual induction ceremonies and the related banquets, dinners, and/or receptions at the Ontario Convention Center.

CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

**SUBJECT: LEASE AGREEMENT FOR USE OF CITY PROPERTY AND FACILITIES
LOCATED AT 217 SOUTH LEMON AVENUE BY THE CHAFFEY
COMMUNITY ART ASSOCIATION, DBA CCAA MUSEUM OF ART**

RECOMMENDATION: That the City Council authorize the City Manager to execute a Lease Agreement (on file in the Records Management Department) with the Chaffey Community Art Association, dba CCAA Museum of Art, of Upland, California, for use of a City-owned building and adjacent property located at 217 South Lemon for the purpose of exhibiting and promoting local art and artists.

**COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities**

FISCAL IMPACT: The recommended agreement calls for a 10-year term with the option to extend for up to an additional 10 years. In return for the use of the City-owned property, the Chaffey Community Art Association (CCAA) will make rental payments of \$1 per year and will make tenant improvements to the facility to provide display and exhibition space for the purpose of exhibiting and promoting local art and artists, and operating administrative functions in support of CCAA's efforts. The improvements are expected to be complete in fall 2012 and will enhance the City's property, provide additional usefulness of the building, and result in no increase to the City's recurring maintenance costs.

BACKGROUND: The CCAA was founded in 1941 and is among the oldest organizations in the Inland Empire dedicated to stimulating and fostering an interest in art. CCAA maintains a museum collection and displays the work of current artists who are well-known in the region or nationally. The mission of CCAA includes the display and restoration of the CCAA art collection; operation of a local Museum of Art; and the stimulation and fostering of art interest, education and enjoyment for the general public by conducting, maintaining and establishing art exhibitions, programs and classes. Relocation of the CCAA to this City-owned property will assist in meeting the organization's goals.

STAFF MEMBER PRESENTING: Chris Hughes, City Manager

Prepared by: Al Boling
Department: Citywide Administration

City Manager
Approval: _____



Submitted to Council/O.R.A./O.H.A. 10/18/2011

Approved: _____

Continued to: _____

Denied: _____

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CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON COUNTY TAX ROLLS

RECOMMENDATION: That the City Council adopt a resolution for recovery of costs incurred in abating property and dangerous building violations as well as fees and penalties associated with property maintenance violations, and placing special assessments on County tax rolls.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Operate in a Businesslike Manner

FISCAL IMPACT: The levy of special assessments will result in the recovery of \$88,291 in costs the City has expended for inspection or abatement as well as the collection of \$739,385 associated with civil penalties for continued violations for a total of \$827,676 related to 140 parcels. When received, reimbursement will be made to the General Fund \$794,668 and the Dangerous Building Fund \$33,008.

BACKGROUND: The City has established revolving funds to cover City costs for abatement of property and dangerous building violations as a result of code enforcement activities as well as the generation of fees and penalties associated with the Abandoned and Distressed Property Program. These costs, fees and penalties are recovered through placement of special tax assessments upon the properties. The placement of special assessments and collection of revenue is done under Ordinance 2553, Property Appearance (Title 5, Chapter 22 of the Ontario Municipal Code), Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings and Ordinance 2920 for civil penalties for continued violations of the Ontario Municipal Code (Title 1, Chapter 2 of Ontario Municipal Code). The City and the County currently have a contractual agreement regarding implementation of special assessments; however, a resolution authorizing the placement of the specific assessments is required.

This assessment cycle, the Code Enforcement Department has billed \$1,208,868 in costs for the abatement of violations and the issuance of registration fees and civil penalties associated with the Abandoned and Distressed Property Program on 786 parcels. Of this amount, \$299,919 has already been

STAFF MEMBER PRESENTING: Karen De Vrieze, Code Enforcement Director

Prepared by: Erin Bonett
Department: Code Enforcement Department

City Manager
Approval: _____



Submitted to Council/O.R.A./O.H.A. 10/18/2011

Approved: _____

Continued to: _____

Denied: _____

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collected as a result of direct invoicing. Attached are itemized accountings of: 1) costs associated with inspection or abatement as shown in Exhibit A of the resolution; 2) civil penalties for continued violations as shown in Exhibit B of the resolution; and 3) total amounts assessed per parcel as shown in Exhibit C of the resolution. The expenditure list, with any necessary corrections and adjustments, will be submitted to the County prior to August 2012 for placement on its 2012-2013 tax rolls. The uncollected balance of \$81,273 reflects funds expended on matters that are not yet resolved. Most often such matters are under the jurisdiction of the local Superior Court. When these matters are brought into court, the City becomes dependent on the court to award the abatement costs and attorney fees.

All affected property owners were given notice of the imposition of the special assessment via certified mail as provided in Ontario Municipal Code Section 1-4.05(a), and either have not requested an appeal or have exhausted the appellate procedure as provided in Ontario Municipal Code Section 1-4.05(b).

CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

SUBJECT: RECOGNIZE OCTOBER 23-31, 2011 AS RED RIBBON WEEK

RECOMMENDATION: That the City Council recognize October 23-31, 2011 as “Red Ribbon Week” in the City of Ontario, to create a unified and visible commitment toward the creation of a drug-free community, and to encourage members of the community to take action by participating in Red Ribbon campaign activities.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario’s Economy and the City’s Fiscal Health
Maintain the Current High Level of Public Safety

FISCAL IMPACT: The Fiscal Year 2011-12 Adopted Budget includes appropriations for the minimal staff and materials cost associated with Red Ribbon Week.

BACKGROUND: The Red Ribbon Week campaign is a comprehensive drug-abuse prevention education program designed to create awareness, build coalitions and support healthy, drug-free lifestyles. The campaign is the catalyst to mobilize communities into action and create a drug-free environment in every neighborhood in California. The goal of the Red Ribbon campaign is to present a unified and visible commitment toward the creation of a drug-free California and America.

In the past, the City has recognized Red Ribbon Week with the display of red ribbons on City vehicles, trees and buildings, and as worn by City employees. City schools, churches, community centers, and local businesses are encouraged to celebrate the week as well.

The Crime Prevention Unit will promote the celebration of the week by providing school and church programs as requested.

STAFF MEMBER PRESENTING: Eric V. Hopley, Chief of Police

Prepared by: Barbara White
Department: Police

City Manager
Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report
October 18, 2011

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE TO ADD CHAPTER 23 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE TO REGULATE CONDUCT OF REGISTERED SEX OFFENDERS IN THE CITY OF ONTARIO

RECOMMENDATION: That the City Council adopt an ordinance adding Chapter 23 to Title 4 of the Ontario Municipal Code (OMC) to create protective measures that mandate and restrict registered sex offenders from living within 2,000 feet of a child safety zone; loitering within 300 feet of locations (public and private) where children may be present; and/or actively soliciting children to go to the registered sex offenders home during Halloween.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety

FISCAL IMPACT: The minor incremental costs associated with enforcement of this amendment to the Ontario Municipal Code will be covered by the existing operating budget of the Police Department. Penalties are also being proposed for any violation of the provisions of this ordinance, which could result in a \$1,000 fine and/or six months imprisonment.

BACKGROUND: At the meeting of October 4, 2011, the City Council held a public hearing to introduce this ordinance adding Chapter 23 of Title 4 of the OMC to regulate the conduct of registered sex offenders in the City of Ontario.

Statistics show that sex offenders are about four times more likely than non-sex offenders to be arrested for another sex crime after their discharge from prison. Consequently, the City Council finds that sex offenders pose a potential threat to children residing in or visiting the City of Ontario.


The U. S. Supreme Court has determined that an imposition of restrictive measures on sex offenders adjudged to be dangerous is a legitimate, non-punitive governmental objective (*Kansas v. Hendricks*, 521 U. S. 346). On November 7, 2006, the voters of the State of California overwhelmingly approved

STAFF MEMBER PRESENTING: Eric V. Hopley, Chief of Police

Prepared by: Melissa Ramirez

Department: Police

City Manager

Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011

Approved: _____

Continued to: _____

Denied: _____

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Proposition 83, "The Sexual Predator Punishment and Control Act: Jessica's Law," to better protect Californians, and the children of this State in particular, from sex offenders. Proposition 83 enacted a new Section 3003.5(b) of the Penal Code which made it unlawful for any registered sex offender to reside within two thousand (2,000' 0") feet of any public or private school or any park where children regularly gather. Proposition 83 also specifies in Section 3003.5(c) of the Penal Code that municipal jurisdictions may enact local ordinances that further restrict the residency of sex offenders. The City of Ontario may impose safety precautions in furtherance of the compelling interest to protect children.

The proposed ordinance is a precaution in which specified restrictions limit registered sex offenders' access to locations where children regularly gather. It is the intent of these restrictions to reduce the threat sex offenders pose to children by impeding the ability of sex offenders to be in contact with children at public and private locations and/or events (i.e., Halloween, youth sport competitions, etc.) that are primarily dedicated to providing programs to children. Some of these safety zones are specifically identified in the proposed ordinance as follows:

- Any registered sex offender is prohibited from being located within 300 feet of a school, day care center, park, bus stops in the immediate vicinity of parks, public and private playgrounds, public library, public museum, public or private crisis center or shelter, arcade, youth sports facilities, and amusement parks (indoor and outdoor), when children are present.
- Any registered sex offender is prohibited from residing within 2,000 feet of any school, park or day care center.
- A registered sex offender shall not, on October 31st (or any other date set by the City of Ontario for trick-or-treaters) between the hours of 4:00 p.m. and 12:00 a.m., leave an exterior porch light, which faces the street, on or otherwise invite trick-or-treaters to solicit the premises in which the sex registrant resides.
- Any registered sex offender is prohibited from living in single family dwellings, multi-family dwellings, duplex dwelling, multi-unit residential dwellings, or hotel/motel/inns where another sex offender already resides.

Additionally, penalties are also being proposed for any violation of the provisions of this ordinance, which could result in a \$1,000 fine and/or six months imprisonment.

There are exceptions to the above restrictions under the following conditions:

- If the registered sex offender is a parent or guardian of a child and the child is present with the registered sex offender;
- If a registered sex offender's place of residence is regulated by state law;
- If to the extent that it restricts access for the purposes of exercising constitutional rights such as freedom of expression, assembly and religion;
- If "incidental proximity" does not amount to loitering;
- If the registered sex offender is lawfully employed at a location within 300 feet of protected location.

This proposed ordinance is not intended to conflict with, but to supplement, state law by imposing more stringent restrictions on the locations where sex offenders may reside and by imposing restrictions on the locations which sex offenders may frequent.

If approved, staff anticipates a significant reduction in registered sex offenders frequenting locations and events where children gather, thereby mitigating to an extent the risk of children being victimized by these child predators.

CITY OF ONTARIO

Agenda Report
October 18, 2011

**SECTION:
PUBLIC HEARINGS**

SUBJECT: AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 1 (GENERAL PROVISIONS), CHAPTER 5 (ADMINISTRATIVE CITATIONS), SECTION 1-5.04 AND TITLE 4 (PUBLIC SAFETY), CHAPTER 13 (PARKING ON UNPAVED SURFACES), SECTION 4-13.04

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance amending Ontario Municipal Code:

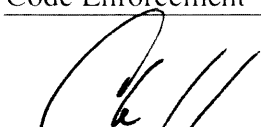
- (A) Title 1 (General Provisions), Chapter 5 (Administrative Citations), Section 1-5.04 pertaining to fine amounts for administrative citations; and
- (B) Title 4 (Public Safety), Chapter 13 (Parking On Unpaved Surfaces), Section 4-13.04 pertaining to civil penalty amounts for violation of provisions restricting parking on unpaved surfaces.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Operate in a Businesslike Manner

FISCAL IMPACT: The City last adjusted amounts for administrative citation penalties and civil penalties for parking on unpaved surfaces in 1997 and 1993, respectively. Since that time, the City's costs of enforcement efforts and processing citations have increased. It is estimated that the recommended adjustments will result in approximately \$55,000 per year to help offset the cost increases that have occurred since the 1990's. The actual amount the City receives in fine amounts and civil penalties in any given year is generally dependent upon the number of violators cited for non-compliance with provisions of the Ontario Municipal Code (OMC) and the number of those violators who are repeat offenders.

BACKGROUND: Administrative Citations: California Government Code sections 53069.4 and 36900 grant cities the authority to assess fines and penalties for administrative citations issued to violators of

STAFF MEMBER PRESENTING: Brent Schultz, Housing & Neighborhood Revitalization Director

Prepared by: Barbara Paine
Department: Code Enforcement
City Manager Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011
Approved: _____
Continued to: _____
Denied: _____

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provisions of local law. The City of Ontario last reviewed and updated its administrative citation fine amounts in March 1997. In general, penalties serve as a deterrent to unlawful actions making Ontario less attractive to violators; and help ensure that City residents and business owners who maintain their property and comply with City ordinances do not unduly subsidize the actions of those who refuse to comply.

In the OMC, three penalty categories are called out: Minor Penalty, General Penalty, and Health and Safety Penalty; and there are graduated fines for subsequent citations for the same offense. Currently fine amounts range from \$30 as the lowest fine for a minor penalty (first offense) and \$450 as the highest penalty for a third or subsequent offense on a Health and Safety Violation.

Staff recommends that the City Council amend OMC Section 1-05.04 to provide for the establishment of fine amounts by resolution of the City Council; and increase citation penalties for the three violation categories. Minor Penalties which include OMC violations such as illegal vendors or trash containers stored in public view will increase to \$50/\$100/\$200 for the first, second and third or subsequent offense. General Penalties which include OMC violations pertaining to public nuisance affecting the aesthetics of the community and being detrimental to property values in the area such as exterior trash and debris, illegal businesses, and graffiti will increase to amounts of \$100/\$200/\$400. Health and Safety Penalties, which are reserved for the most serious offenses such as collapsing structures, exposed electrical wiring, and sewage outflow will increase to amounts of \$150/\$300/\$500.

Staff performed a review of administrative citation fine amounts for other local cities including Riverside, Corona, Rialto, Pomona, Chino, and Rancho Cucamonga. With the exception of Rancho Cucamonga, which fines \$200/\$500/\$1,000 for Building Code violations, these other cities do not differentiate between minor, general, and health and safety penalties but rather fine the same amount for all types of violations. The common fine amounts are \$100 for the first offense, increasing to \$200 and \$500 for the second and third offense, respectively. Chino differs from the survey cities in that their fines are \$75 for the first offense, and increase to \$150 and \$300 for the second and third offenses, respectively.

Parking Violations: California Vehicle Code section 40203.5 expressly authorizes the cities the ability to assess penalties related to parking violations. The City of Ontario last reviewed and updated the civil penalty for parking on an unpaved surface in September 1993. Currently, per OMC Section 4-13.04 the civil penalty is \$30.00 which includes a State mandated court-related surcharge.

Staff recommends that the City Council amend OMC Section 4-13.04 to provide for the establishment of civil penalty amounts by resolution of the City Council; and increase the civil penalty amount for parking on unpaved surfaces to \$37.50 plus the State mandated court surcharge for a total of \$45.00. In December 2010, the City Council adopted Ordinance No. 2930, raising the fines charged by the Police Department for parking violations and related charges. Adjusting the civil penalties for parking on unpaved surfaces would make them a consistent amount with the citations issued by the Police Department.

Draft resolutions reflecting the proposed fines and civil penalties are provided as Attachment "A" for Administrative Citations and "B" for Parking Violations for review and consideration. The resolutions will be presented to the City Council for adoption along with the second reading of this ordinance.

CITY OF ONTARIO

Agenda Report
October 18, 2011

**SECTION:
PUBLIC HEARINGS**

SUBJECT: AN ORDINANCE APPROVING A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA11-002) REVISING ONTARIO MUNICIPAL CODE TITLE 9, CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), SECTION 9-1.1305


RECOMMENDATION: That the City Council introduce and waive further reading of ordinance approving a Development Code amendment (File No. PDCA11-002) revising Ontario Municipal Code Title 9, Chapter 1 (Zoning and Land Use Requirements), Article 13 (Land Use and Special Requirements), Section 9-1.1305 to include criteria pertaining to alcoholic beverage sales operating standards and approval requirements.

COUNCIL GOALS: Develop Strategies and Take Actions to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The establishment of alcoholic beverage sales operating standards and approval requirements may result in an increase in City staff resources required to process and monitor additional Conditional Use Permits (CUP). Such costs will be mostly offset by the permit fees collected from new, approved Alcoholic Beverage Control (ABC) licensed facilities.

BACKGROUND: Prior to 1998, the City's permitting process as established by the then existing Development Code routinely allowed the sale of alcoholic beverages for both on-sale and off-sale consumption. As alcoholic-related crimes increased, the City re-evaluated its approach to the control of ABC licensed businesses and instituted a new approach by (1) requiring a Conditional Use Permit (CUP) for all new ABC licenses, (2) designating a police officer to coordinate directly with ABC in the handling of license applications, and (3) providing routine inspections of all businesses selling or serving alcohol for compliance with ABC, City, Building Code, and Fire Code requirements. Further, in

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by: Scott Murphy
Department: Planning
City Manager Approval: 

Submitted to Council/O.R.A./O.H.A. 10/18/2011

Approved: _____

Continued to: _____

Denied: _____

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instances of applications for proposed business operations in over-concentrated census tracts, the City denied all ABC license requests.

In 2002, the City modified the manner in which the City Council considered off-sale licenses with the approval of a Conditional Use Permit for Superior Market. In this case, the City Council noted the relative small percent of floor area and sales devoted to alcohol sales and the general characterization of the business as a large corporate store. Accordingly, the City Council allowed that alcoholic beverage sales associated with a grocery store should be permitted, even within census tract areas with over-concentrated ABC licenses. To date, two applications have been approved for grocery stores in over-concentrated areas—Superior Market and Target.

In June 2010, Walgreens submitted a CUP application for an off-premise ABC license for their store at the northwest corner of Archibald Avenue and Riverside Drive. In keeping with the City Council's policy direction, the Zoning Administrator denied the application based on an over-concentration of off-premise licenses within the census tract. The application was subsequently appealed to the Planning Commission. During the Commission hearing, the applicant claimed that their business met the City's definition of a grocery store and, as a result, should be subject to the same consideration as Superior Market and Target. The Commission stated that the drugstore was different than a grocery store and, therefore, was not consistent with the Council's direction and denied the appeal. The applicant subsequently appealed the Planning Commission's decision but has agreed to hold the hearing in abeyance until consideration of an amendment to the Development Code was reached.

POLICY DISCUSSION: In reviewing the applicant's appeal, staff was concerned about the defensibility of the CUP denial. The Development Code defines grocery stores as:

Grocery Store - A retail establishment over 3,500 square feet in size, offering for sale prepackaged food and products, household items, newspapers and magazines, and sandwiches/salads and other freshly prepared foods for off-site consumption.

Under this definition, Walgreens and several other similar businesses (i.e., Rite Aid, CVS) could meet the grocery store definition. To address future situations, the Planning Commission considered three options:

1. Maintain the current policy. This approach might expose the City to possible litigation from Walgreens and other similar uses;
2. Deny all off-premise licenses in over-concentrated census tracts regardless of the user. This approach would eliminate alcohol sales for larger businesses that provide alcohol beverages as a convenience for their customers but which the sales of alcohol is minor in comparison to the overall sales of other items; or
3. Provide criteria under which the City would consider approving off-premise licenses in over-concentrated areas. This approach would allow, under specified criteria, for off-premise licenses for larger businesses that provide alcohol as a convenience for their customers and do not rely on alcohol sales to maintain the business. The suggested criterion are:
 - a) The retailer must occupy at least 12,000 square feet of gross floor area;

- b) No more than 10% of the floor area may be devoted to alcoholic beverage display;
- c) At least 10% of the floor area must be devoted to food sales;
- d) If the location of the proposed business is located within a crime reporting district that has 20 percent or greater the number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the hearing body may use that fact in denying the application or the Public Convenience and Necessity finding required for ABC. Reported crimes means the most recent yearly compilation by the City of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations;
- e) The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity; and
- f) The site is properly maintained, including building improvements, landscaping, and lighting.

Compliance with this criterion would provide the opportunity, but not the mandate, for CUP approval for off-premise alcohol sales in over-concentrated areas. This approach would strike a balance between the number of off-premise licenses and providing for public convenience for residents in areas of over-concentration.

The Planning Commission reviewed the three options proposed by staff and determined that the implementation of the proposed criteria (option three) was an appropriate approach and, on September 27, 2011, unanimously recommended approval of the criteria to the City Council.

EXHIBIT "A"

Section 9-1.1305 is hereby amended to include the following:

ALCOHOLIC BEVERAGE SALES – The sale of alcoholic beverages shall require approval of a Conditional Use Permit (CUP). In areas with an over-concentration of off-premise licenses, the City desires to strike a balance between the number of off-premise licenses and the convenience of store customers. As a result, consideration to approve a CUP may be given to the businesses wishing to obtain an off-premise license in over-concentrated areas that comply with the following criteria:

- A. The retailer must occupy at leased 12,000 square feet of gross floor area;
- B. No more than 10% of the floor area may be devoted to alcoholic beverage display;
- C. At least 10% of the floor area must be devoted to food sales;
- D. If location of the proposed business is located within a crime reporting district that has 20 percent greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the hearing body may use that fact in denying the application or the Public Convenience and Necessity finding required for ABC. Reported crimes means the most recent yearly compilation by the City of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations;
- E. The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity; and
- F. The site is properly maintained, including building improvements, landscaping, and lighting.