

ORDINANCE NO. 3260

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 5-11.02 OF CHAPTER 11 OF TITLE 5 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE PUBLIC CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON OR IN PUBLIC FACILITIES.

WHEREAS, Division 9, Chapter 16 of the California Business and Professions Code provides that any person possessing any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, on or in any City-owned facility, shall be guilty of an infraction if the City has enacted an ordinance that prohibits the possession of those containers in those areas or the consumption of alcoholic beverages in those areas; and

WHEREAS, the City desires to allow for the possession and consumption of alcohol in City facilities with requisite permitting and/or permission for events hosted by the City of Ontario and supporting organizations of the City of Ontario.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the recitals discussed above are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Section 5-11.02 of the Ontario Municipal Code is hereby amended to read as follows:

“Sec. 5-11.02. Public Consumption of Alcoholic Beverages and Possession of Any Open Alcoholic Beverage Container.

- (a) As used in this section, “alcoholic beverage” includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent (0.5%) or more of alcohol by volume, and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (b) It shall be unlawful for any person to drink an alcoholic beverage in any City park or other City-owned property or other public place, including, but not limited to, City-owned or City-leased buildings, parking lots, streets, alleys, ways, sidewalks, parkways and playgrounds.
- (c) It shall be unlawful for any person to possess any can, bottle, or other receptacle containing an alcoholic beverage, as defined in subsection (a), that has been opened, or had its seal broken, or the contents of which have been partially removed, in any City park or other City-owned property or other public place, including, but not limited to, City-owned or City-leased buildings, parking lots, streets, alleys, ways, sidewalks, parkways and playgrounds.

(d) It shall be unlawful for any person to possess any can, bottle, or other receptacle containing an alcoholic beverage, as defined in subsection (a), that has been opened, or had its seal broken, or the contents of which have been partially removed, to enter or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with § 23000) of the Business & Professions Code. All licensees shall comply with the following requirements:

(1) All retail package off-sale alcoholic beverage licensees pursuant to Division 9 (commencing with § 23000) of the Business & Professions Code to operate in the City shall post on the licensed premises permanent signs which shall include language stating the following: "Possession of any open alcoholic beverage container in or outside this store is prohibited by law."

(2) Required signs shall be posted such that they are visible to:

- (i) patrons of the licensee;
- (ii) patrons using the parking lot immediately adjacent to the licensed premises; and
- (iii) persons on any public sidewalk immediately adjacent to the licensed premises.

(3) For purposes of this subsection, "posted premises" shall mean those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, and the parking lot immediately adjacent to the licensed premises which are posted with notice pursuant to subsections (d)(1) and (d)(2). "Parking lot immediately adjacent to the licensed premises" shall mean any parking lot which is contiguous to the licensed premises and is utilized by patrons of the licensed premises, except a private residential parking lot immediately adjacent to the posted premises.

(e) Subsections (b) and (c) of this section shall not apply to: persons attending an event at any City-owned facility or park if the City department host has obtained permission from the City Manager or his/her designee or a supporting organization host has obtained a Special Event Permit ("SEP") from the City, as applicable, that remains valid through the occurrence of the event.

For the purposes of this Section, a supporting organization means non-profit organizations affiliated with the City of Ontario whose missions are to support City Departments. Nothing herein shall affect the ability of the City's contract operator of The Arena located at 4000 E Ontario Center Parkway to sell alcohol or for persons to consume alcohol inside The Arena subject to the terms of the operator agreement and all applicable laws.

(f) This section shall not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related activity. Furthermore, this section shall not be deemed to make punishable any act or acts which are prohibited by any law of the State of California.

- (g) Any person in violation of this section shall be guilty of an infraction. Alcoholic beverage licensees in violation of subsection (d)(1) and (d)(2) shall also be guilty of an infraction.
- (h) Unless otherwise exempted by law, any event occurring in a City-owned facility, park, or any adjacent area owned or controlled by the City, which involves the sale of alcoholic beverages must possess a daily alcohol beverage license issued by the ABC and written approval of the Chief of Policy or his/her designee and must comply with all other applicable laws.
- (i) Except when hosted by the City of Ontario, all persons that request to host an event that will allow for the consumption and possession of alcohol at a City-owned facility or park must also obtain a one (1) day Liquor Liability Insurance Policy with combined single limits of one million dollars (\$1,000,000.00) for bodily injury and property damage, for each occasion, naming the City as additional named insured, provided, however, that the City Manager or his/her designee may increase or decrease the required amount of coverage as warranted by individual circumstances. The Certificate of Insurance must be on file with the City Manager or his/her designee no later than seventy-two (72) hours before the start of each event or occasion.
- (j) Notwithstanding the foregoing, any permit and/or permission issued by the City that will allow for the consumption and possession of alcohol at a City-owned facility or park may be modified, suspended, or revoked at any time by the Chief of Police, or his/her designee without a notice or a hearing in instances where there exists a breach of the peace or danger to the public health, safety, or general welfare of the residents, public, or event participants.

SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective.

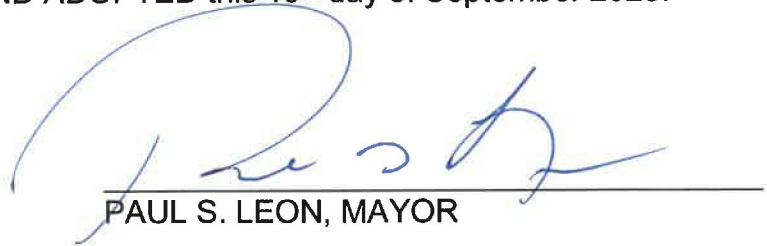
SECTION 4. This Ordinance shall become effective thirty (30) days after its adoption by the City Council.

SECTION 5. CEQA. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Moreover, the City Council finds that this Ordinance is also exempt under CEQA pursuant to Guidelines Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment).

SECTION 6. 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 fifteen (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.

The City Clerk of the City of Ontario shall certify as to the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 19th day of September 2023.



PAUL S. LEON, MAYOR

ATTEST:



SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:



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. 3260 was duly introduced at a regular meeting of the City Council of the City of Ontario held September 5, 2023 and adopted at the regular meeting held September 19, 2023 by the following roll call vote, to wit:

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

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. 3260 duly passed and adopted by the Ontario City Council at their regular meeting held September 19, 2023 and that Summaries of the Ordinance were published on September 12, 2023 and September 26, 2023, in the Inland Valley Daily Bulletin newspaper.


SHEILA MAUTZ, CITY CLERK

(SEAL)