

ORDINANCE NO. 3205

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA21-001, A DEVELOPMENT CODE AMENDMENT REVISING SECTION 6.01.035, ADDING PROVISIONS TO ESTABLISH THE AH (AFFORDABLE HOUSING) OVERLAY DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the CITY OF ONTARIO ("Applicant") has filed an Application for the approval of a Development Code Amendment, File No. PDCA21-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application is of Citywide impact, affecting approximately 50 square miles (31,789 acres) of land, which is generally bordered by Benson Avenue and Euclid Avenue on the west; Interstate 10 Freeway, Eighth Street, and Fourth Street on the north; Etiwanda Avenue and Hamner Avenue on the east; and Merrill Avenue and the San Bernardino County/Riverside County boundary on the south; and

WHEREAS, certain minor changes are proposed to the City of Ontario Development Code, as follows:

- Section 6.01.035 (Overlay Zoning Districts) is to be amended, adding Subparagraph C.6 to establish an Affordable Housing Overlay District,
- The purpose of the Affordable Housing Overlay District is to facilitate housing opportunities within the City through the implementation of required rezone programs pursuant to the City's adopted Housing Element where required for compliance with State Housing Element law,
- The Affordable Housing Overlay District applies to sites identified in the housing inventory, part of the City's Housing Element, located 1) south of Riverside Drive, 2) along East Holt Boulevard between the Cucamonga Creek Channel and Corona Avenue, and 3) areas designated as MU-2 at the northeast corner of West Holt Boulevard and Mountain Avenue; 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, a related General Plan Amendment (File No. PGPA21-004) is being processed concurrently with this application for the Housing Element update to the Policy Plan (General Plan) component of The Ontario Plan addressing State mandates and the 6th Cycle Regional Housing Needs Allocation (RHNA) and this application also proposes to modify the Policy Plan Land Use Plan (Exhibit LU-01) to establish an Affordable Housing Overlay; and

WHEREAS, a related Zone Change (File No. PZC-21-002) is being processed concurrently with this application to establish an Affordable Housing Overlay District; and

WHEREAS, on December 20, 2021, the Planning Commission conducted a public hearing and approved Resolution No. PC21-093 recommending the City Council approve a Resolution adopting an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), certified by the City Council on January 27, 2010, in conjunction with File Nos. PGPA21-004, PZC21-002, and PDCA21-002. The Addendum finds that the proposed project introduces no new significant environmental impacts. Furthermore, all mitigation measures previously adopted with the Certified Environmental Impact Report are incorporated into the Project by 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, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project 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 is subject to, and must be consistent with, the policies and criteria set forth in 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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on December 20, 2021, the Planning Commission of the City of Ontario conducted a hearing to consider the Initial Study/Addendum and the Project, and concluded said hearing on that date, voting to issue Resolution No. PC21-093, recommending the City Council approve the Application; and

WHEREAS, on March 1, 2022, the City Council of the City of Ontario conducted a hearing to consider the Initial Study/Addendum and the Project, and concluded said hearing on that date; and

WHEREAS, as the first action on the Project, on March 1, 2022, the City Council approved a resolution adopting an Initial Study/Addendum to a previous Certified EIR prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local

CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance; 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. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report, certified by the City of Ontario City Council on March 1, 2022, in conjunction with File Nos. PGPA21-004, PZC21-002, and PDCA21-002; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) 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. This Application introduces no new significant environmental impacts; and

(4) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

(5) There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

(6) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the Certified EIR, and all mitigation measures previously adopted by the Certified EIR, are incorporated herein by this reference.

**SECTION 2. *Additional Environmental Review Not Required.*** Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 4. *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 through 3, above, the City Council hereby concludes as follows:

(1) 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. The Development Code Amendment proposes:

(a) The identification of specific sites to be included in the AH Overlay District that are included in the housing inventory, which is part of the City's Housing Element, and located (1) south of Riverside Drive, (2) along East Holt Boulevard between the Cucamonga Creek Channel and Corona Avenue, and (3) areas designated as MU-2 at the northeast corner of West Holt Boulevard and Mountain Avenue that are suitable for affordable housing development projects; and

(b) Defining that affordable housing projects for the purposes of the AH Overlay provides that a certain identified percentage of the total units within each development are designated as affordable to lower income households and guaranteed for a minimum of 30 years; and

(c) Establishing that development standards applicable to proposed development in the AH Overlay District shall be in accordance with the applicable base zone, other overlay zones, and all applicable provisions of the Development Code; and

(d) Establishing that all new residential development, within the AH Overlay District, regardless of affordability, requires a minimum density of 20 dwelling units per acre; and

(e) Establishing that affordable housing projects on properties designated as MDR in the Policy Plan shall allow a maximum density of 25 to 30 dwelling units per acre.

(2) The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The Development Code Amendment incorporates safeguards intended to ensure that the purposes of the Development Code are preserved; the project will not be contrary to or damage the public health, safety, convenience, or general welfare; the project will not result in any significant environmental impacts; and the project will be in full conformity with the Vision, City Council Priorities, and Policy Plan components of The Ontario Plan.

**SECTION 5. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES the herein described Development Code Amendment, included as "Attachment A" attached hereto and incorporated herein by this reference.

**SECTION 6. 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 7. 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 8. Effective Date.** This Ordinance shall become effective 30 days following its adoption.

**SECTION 9. 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 following 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 15<sup>th</sup> day of March 2022.

  
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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

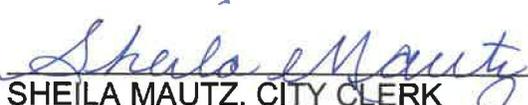
STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO )  
CITY OF ONTARIO )

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3205 was duly introduced at a regular meeting of the City Council of the City of Ontario held March 1, 2022 and adopted at the regular meeting held March 15, 2022 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, WAPNER, BOWMAN,  
DORST-PORADA 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. 3205 duly passed and adopted by the Ontario City Council at their regular meeting held March 15, 2022 and that Summaries of the Ordinance were published on March 8, 2022 and March 22, 2022, in the Inland Valley Daily Bulletin newspaper.

  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**ATTACHMENT A:  
Development Code Amendment  
File No. PDCA21-001**

Development Code Section 6.01.035 (Overlay Zoning Districts) is hereby amended, adding Subparagraph C.6 to read as follows:

**"6. AH (Affordable Housing) Overlay District.**

**a. *Purpose.*** The purpose of the AH Overlay District is to facilitate housing opportunities within the community via implementation of required rezone programs pursuant to the City's adopted Housing Element where required for compliance with State Housing Element law.

**b. *Applicability.*** The herein established rights and responsibilities applicable to the AH Overlay District shall apply to sites identified in the housing inventory, part of the City's Housing Element, located 1) south of Riverside Drive, 2) along East Holt Boulevard between the Cucamonga Creek Channel and Corona Avenue, and 3) areas designated as MU-2 at the northeast corner of West Holt Boulevard and Mountain Avenue.

**c. *Definitions.***

**(1) *Affordable Housing Project.*** Affordable housing projects for the purposes of the affordable housing overlay are defined as follows:

**(a) *Tier 1.*** Any projects with a residential component with at least 20% of total units are designated as affordable to lower incomes via deed restriction or another mechanism to guarantee affordability for a minimum of 30 years.

**(b) *Tier 2.*** Any projects with a residential component with at least 25% of total units are designated as affordable to lower incomes via deed restriction or another mechanism to guarantee affordability for a minimum of 30 years.

**d. *Development Standards.*** The development standards applicable to proposed development in the Affordable Housing Overlay District shall be in accordance with the applicable base zone, other overlay zones, and all applicable provisions of the Development Code, unless otherwise indicated herein, or where necessary to comply with Federal and State law.

**(1) *Minimum Density.*** Within the AH Overlay District, all new residential development, regardless of affordability, requires a minimum density of 20 dwelling units per acre. The minimum density shall be calculated as an average over the entire project area on sites south of Riverside Drive.

**(2) *Affordable Housing Projects.*** Development of affordable housing projects, as defined for the purposes of the affordable housing overlay, shall be

allowed by-right within the AH Overlay District and are encouraged in accordance with the following provisions:

(a) *Specific Plan Base Zoning.* Affordable housing projects with a base zoning designation of SP may develop as follows:

(i) *Tier 1 Affordable housing projects:*

- *Medium Density Residential.* Affordable housing projects on properties designated as MDR in the Policy Plan may be developed in accordance with either the SP zoning district or the MDR-25 zoning district.

- *Mixed Use.* Affordable housing projects on properties designated as MU in the Policy Plan may be developed in accordance with either the SP zoning district or a comparable existing zoning implementation tool that aligns with the density and intensity of the proposed project. The following exceptions would apply:

- *Maximum Density.* The maximum density allowed is equivalent to the maximum density identified for the applicable Mixed-Use area in the Land Use Designations Summary Table (Table LU-02) of the Policy Plan component of The Ontario Plan.

- *Calculating Minimum Density.* If a project with a base designation of SP develops without a specific plan, minimum density shall be calculated as an average over the entire portion of the project area that is within the AH Overlay District.

(ii) *Tier 2 Affordable housing projects:*

- Same as Tier 1, with the following additions:

- *Medium Density Residential.* Affordable housing projects on properties designated as MDR in the Policy Plan shall allow a maximum density of 25 to 30 dwelling units per acre."