

INITIATIVE MEASURE TO BE DIRECTLY SUBMITTED TO THE VOTERS

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

AN INITIATIVE MEASURE PROPOSING TO ENACT REGULATIONS REQUIRING STATUTORY DEVELOPMENT AGREEMENTS AND VOTER APPROVAL FOR ALL MAJOR HOTEL DEVELOPMENT PROJECTS AND MAJOR EVENT CENTER DEVELOPMENT PROJECTS IN THE CITY

This initiative measure would add Chapter 10.0 to Title 9 of the Ontario Municipal Code to require that, in addition to all other required land use/development approvals, all “major hotel development projects” and “major event center development projects” must secure a statutory development agreement, as defined in State law, approved by the City Council and then subsequently approved by Ontario voters.

This measure defines a “major hotel development project” as a project resulting in the cumulative creation or addition of eighty (80) or more hotel guest rooms. It defines a “major event center development project” as a project cumulatively creating or adding facilities of more than 50,000 square feet or with a seating capacity of 1,000 seats or more that are used for public performances, sporting events, business meetings or similar events.

In addition to other existing State law or Municipal Code requirements (e.g. CEQA environmental review), this measure requires the City Council to make certain additional findings to approve a statutory development agreement, such as: compatibility with adjacent properties, enhancing the surrounding community or providing an essential service, sufficient market demand for the major development project, no undue or negative impact on demand for affordable housing, public transit, child-care and other social services, employment of local residents, encouraging public transportation, and no undue or negative impact on small businesses in the vicinity.

After Council approval, the City must place the agreement on a regular or special election ballot for voter consideration, with ballot materials clearly describing the scope and main features of the major development project. The agreement may not be considered by voters as an advisory ballot measure. The agreement requires approval by a majority of voters voting at the election.

This measure provides that the statutory development agreement and all approvals shall expire if construction fails to begin within 36 months of voter approval, if building permits expire or are revoked, or if the project is resubmitted, or modified, other than for a “minor modification” that does not materially affect the City Council findings above for the statutory development agreement. A “minor modification” is defined as minor adjustments/alterations listed in the City’s Development Code but does not include modifications that require additional discretionary City approvals, or that increase the square footage, number of rooms or number of seats by more than 5%.

This measure requires subsequent City permits or approvals to implement the project to conform to the project description presented to voters for approval. It also provides that no certificate of occupancy shall be issued until all fees have been paid to the City of Ontario, and all mitigation measures required by the City Council have been implemented or an agreement has been entered into to implement the mitigation measures.

This measure provides that the City may not amend these provisions without subsequent majority voter approval.

/s/ Ruben Duran, City Attorney
 City of Ontario

THE PEOPLE OF THE CITY OF ONTARIO DO ORDAIN AS FOLLOWS:

Section 1. Title.

This Ordinance shall be known as the “Initiative to Require Voter Approval for Major Hotel Development Projects and Major Event Center Projects.”

Section 2. Legislative Findings.

The people of the City of Ontario hereby find and declare the following:

- (a) Major development projects often involve significant expenditures of taxpayer money and gifts of public land and may take the place of other projects that otherwise could have more directly benefited Ontario residents.
- (b) While hotels can bring good jobs and add to the City’s economic base, many hotels burden City social services and impede the development of new housing.
- (c) Stadium development projects in other cities have rarely benefited those cities to the extent promised by developers, and local governments across the country have placed conditions on the use of public funds for such stadiums.
- (d) The benefits provided by the development of major event centers do not always justify their cost, as large venues can crowd out other small businesses from vibrant commercial areas and can prevent the land from being put to potentially better uses, such as affordable housing.
- (e) Transparency in the approval of large hotels and event centers is critical to ensure that significant development projects benefit the People.
- (f) The purpose of this Ordinance is to ensure that responsible governmental practices are followed in situations where the City Council must decide whether to approve an application to build a major new hotel or event center.
- (g) To achieve this purpose, this Ordinance requires that Major Hotel Development Projects and Major Event Center Development Projects obtain a development agreement and voter approval.

Section 3. Initiative to Require Voter Approval for Major Hotel Development Projects and Major Event Center Projects

Chapter 10.0 of the City of Ontario Development Code is added to read as follows:

Chapter 10.0. Requirements for Major Hotel Development and Major Event Center Projects

Sections:

- 10.01.001: Definitions
- 10.01.002: Major Hotel Development and Event Center Project Requirements

- 10.01.003:City Council Approval of Development Agreement for Major Hotel Development or Event Center Project
- 10.01.004:Voter Approval of Major Hotel Development Project or Major Event Center Project
- 10.01.005:Other Requirements for Major Hotel Development Projects and Major Event Center Projects

10.01.001: Definitions

The following definitions apply to this chapter:

“Hotel” means an establishment that provides temporary lodging for payment in the form of overnight accommodations in guest rooms to transient patrons for periods of thirty (30) consecutive calendar days or less, and may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. “Hotel” includes hotels, motor lodges, motels, apartment hotels, transient occupancy residential structures and extended-stay hotels that rent units (including units with kitchens) for fewer than thirty (30) days, private residential clubs, tourist courts, and hostels that contain both dormitory-style accommodations and private guest rooms that may be reserved, meeting the definition set forth above. “Hotel” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with a hotel or that is used for the primary purpose of providing services at a hotel. Except as provided above, the term “hotel” does not include corporate housing, rooming houses, boarding houses, single-room occupancy housing, or licensed bed and breakfast establishments within a single-unit residence. “Hotel” does not include a short-term rental of a residence, part of a residence, or detached accessory unit to a residence.

“Hotel Development Project” means any construction, addition, or alteration of a hotel.

“Major hotel development project” means a project involving the construction of the addition to, or the alteration of, any buildings or structures, that results in the cumulative creation or addition of eighty (80) or more hotel guest rooms. In determining whether a project is a major hotel development project, the cumulative sum of related or successive permits that are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Planning Director, shall be considered.

“Major event center development project” means a project involving the construction of, the addition to, or the alteration of, any buildings or structures, which cumulatively create or add facilities of more than 50,000 square feet or with a seating capacity of 1,000 seats or more that are used for public performances, sporting events, business meetings or similar events, including but not limited to stadiums, sports arenas, racetracks, coliseums, concert halls, and convention centers. In determining whether a project is a major event center development project, the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Planning Director, shall be considered.

“Minor modification” includes minor adjustments/alterations such as those listed in Development Code Sections 4.02.020 and 4.02.080 but does not include modifications that require additional discretionary City approvals, or that change the square footage or number of rooms in a Hotel Development Project or increase the square footage or number of seats in a Major Event Center Development Project, by more than 5%.

“Project Proponent” means any person, firm, association, syndicate, partnership, limited liability company, limited liability partnership, corporation, trust, or any other legal entity applying to the City of Ontario for entitlements for a development project.

10.01.002. Major Hotel Development and Event Center Project Requirements

A. Major Hotel Development Projects and Major Event Center Development Projects, in addition to any other applicable requirements of the Ontario Development Code, shall require a statutory development agreement as defined in California Government Code § 65867.5 and voter approval of the development agreement, as set forth in Section 10.01.003 and 10.01.0044, except as follows:

1. This requirement shall not apply to the repair, replacement, restoration, or reconstruction of any existing building, structure, or improvement, whether conforming or nonconforming, which has been damaged by fire, flood, wind, earthquake, or other disasters, up to the original size, placement and density and subject to any other applicable requirements of the Development Code.
2. This requirement shall not apply to a Hotel Development Project or a Major Event Center Development Project if, before the effective date of this chapter, the Project Proponent has lawfully obtained a building permit for the project and acquired a vested right to complete construction in accordance with the terms of the permit.

10.01.003. City Council Approval of Development Agreement for Major Hotel Development or Event Center Project

Unless exempted by Section 10.01.002, and in addition to any other findings or requirements applicable by law, to approve a Major Hotel Development Project or Major Event Center Development Project development agreement, the City Council must make a finding of fact that the evidence presented shows that all of the following conditions exist:

- A. The Major Hotel Development Project’s or Major Event Center Development Project’s location, size, height, operations and other significant features, including open space and other improvements, will be compatible with the scale and character of the adjacent properties;
- B. The Major Hotel Development Project or Major Event Center Development Project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- C. The Major Hotel Development Project or Major Event Center Development Project substantially conforms with the purpose, intent, and provisions of the General Plan and any applicable specific plan;
- D. There is sufficient market demand for the Major Hotel Development Project or Major Event Center Development Project proposed;
- E. The Major Hotel Development Project or Major Event Center Development Project will not unduly and negatively impact demand in the City for affordable housing, public transit, child-care, and other social services, taking into consideration the impact of the part-time or seasonal nature of work at the resulting hotel or event center and of the hotel or event center employees’ expected compensation;
- F. The applicant will take measures to employ residents of neighborhoods adjoining the Major Hotel Development Project or Major Event Center Development Project in order to minimize increased demand for regional transportation and to reduce demand for vehicle trips and vehicle miles traveled;
- G. The applicant will take measures to encourage workers and guests to use public transportation, cycling and other non-automotive means of transportation; and
- H. The Major Hotel Development Project or Major Event Center Development Project will not unduly displace or negatively impact small businesses in the immediate vicinity and that the applicant will adopt measures to increase demand for local goods and services.

10.01.004. Voter Approval of Major Hotel Development Project or Major Event Center Project

A. Unless exempted by in Sections 10.01.002, a Major Hotel Development Project or Major Event Center Development Project shall be considered approved only after both (1) approval of the development agreement and any other legislative entitlement or approval relating to the project by the City and (2) approval of the project by a majority of the voters of the City of Ontario voting “YES” on a ballot measure asking whether the development agreement and any other legislative entitlements for the project should be approved.

B. The vote of the electorate must occur at either a regular or special municipal election. An advisory election does not satisfy the voter approval requirements of this chapter.

C. The sample ballot materials mailed to the registered voters of Ontario prior to an election shall describe the Major Hotel Development Project or Major Event Center Project in a manner that clearly discloses both the scope and main features of the development project (including any and all phases of the project), and the location and the acreage of the development project site.

D. The vote of the electorate shall be set for a regular municipal election following City Council approval of the development agreement; or, by mutual agreement with the Project Proponent, the City Council may call a special municipal election, with the cost of the special election borne solely by the Project Proponent.

10.01.005 Other Requirements for Major Hotel Development Projects and Major Event Center Projects

For all Major Hotel Development Projects and Major Event Center Projects, except for those exempted under Section 10.01.002, the following shall apply.

A. The development agreement and popular vote required by this chapter shall be in addition to all other applicable review and approval requirements for the project, including environmental review in compliance with the California Environmental Quality Act (“CEQA”).

B. Any subsequent City permits or approvals necessary to implement all or part of a Major Hotel Development Project or Major Event Center Development Project shall conform to the development project description presented to voters for approval pursuant to Section 10.01.004.C.

C. No certificate of occupancy shall be issued for a Major Hotel Development Project or Major Event Center Development Project until the Project Proponent has paid all fees to the City of Ontario, and all mitigation measures required by the Ontario City Council have been fully implemented or the City Council and the Project Proponent have entered into an enforceable agreement to implement all mitigation measures.

D. Any permits or approvals issued without voter approval, where such voter approval is required under this chapter, shall be null and void.

E. The development agreement and all other approvals for a Major Hotel Development Project or Major Event Center Development Project shall expire under the following conditions:

1. If construction (other than demolition or grading) fails to begin within 36 months of voter approval, in which case, outstanding permits will be void, unless the holder of the permit has lawfully and in good faith acquired a vested right under state law.
2. Building permits for the project expire or are revoked.
3. The permitted project is resubmitted, or modified, other than a Minor Modification that does not materially affect the findings in Section 10.01.003.

Section 4. Amendments.

The provisions of this Ordinance may be amended or repealed only upon approval by the voters of the City of Ontario.

Section 5. Consistency with Other Ballot Measures.

It is the intent of the voters of the City of Ontario that, should this measure and one or more measures relating to the same subject matter appear on the same ballot, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Section 6. Severability.

If any section, subdivision, clause, sentence, clause, phrase or word of this Ordinance is declared invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The voters of the City of Ontario hereby declare that they would have passed and adopted all sections, subdivisions, clauses, sentences, phrases and words of this Ordinance without the section, subdivision, clause, sentence, phrase or word declared invalid by a court of competent jurisdiction.

Section 7. Liberal Construction.

This measure is an exercise of the initiative power of the people of the City of Ontario to implement the regulations set forth in the Ordinance, and it shall be liberally construed to effectuate these purposes.

* * * * *

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Ontario for the purpose of adopting an initiative that will enact provisions to require voter approval for Major Hotel Development Projects and Major Event Center Projects.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

This ordinance seeks to require voter approval for Major Hotel Development Projects and Major Event Center Projects in the City of Ontario (“City”).

Major development projects often involve significant expenditures of taxpayer money and gifts of public land and may take the place of other projects that otherwise could have more directly benefited Ontario residents.

While hotels can bring good jobs and add to the City’s economic base, many hotels burden City social services and impede the development of new housing.

Stadium development projects in other cities have rarely benefited those cities to the extent promised by developers, and local governments across the country have placed conditions on the use of public funds for such stadiums.

The benefits provided by the development of major event centers do not always justify their cost, as large venues can crowd out other small businesses from vibrant commercial areas and can prevent the land from being put to potentially better uses, such as affordable housing.

Transparency in the approval of large hotels and event centers is critical to ensure that significant development projects benefit the People.

The purpose of this Ordinance is to ensure that responsible governmental practices are followed in situations where the City Council must decide whether to approve an application to build a major new hotel or event center.

To achieve this purpose, this Ordinance requires that Major Hotel Development Projects and Major Event Center Development Projects obtain a development agreement and voter approval.

Wendy Morales

NAME OF PROPONENT

/s/ Wendy Morales

PROPONENT’S SIGNATURE

[street address omitted for privacy reasons]
Ontario CA 91764

PROPONENT’S ADDRESS

Omar Torres Gomez

NAME OF PROPONENT

/s/ Omar Torres Gomez

PROPONENT’S SIGNATURE

[street address omitted for privacy reasons]
Ontario, CA 91762

PROPONENT’S ADDRESS

Jose J. Cuevas

NAME OF PROPONENT

/s/ Jose J. Cuevas

PROPONENT’S SIGNATURE

[street address omitted for privacy reasons]
Ontario, CA 91764

PROPONENT’S ADDRESS

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City of Ontario

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/s/ Ruben Duran, City Attorney
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DECLARATION OF CIRCULATOR

(to be completed in the circulator’s own hand after above signatures have been obtained)

I, _____, am 18 years of age or older. My residence address is _____.
(print name)
_____. I circulated this section of the
(street address, city, state, zip; if no such street number exists, adequate designation of residence so that the location may be readily ascertained)
petition and witnessed each of the appended signatures being written. Each signature on this petition is, to the best of my
Information and belief, the genuine signature of the person whose name it purports to be. All signatures on this document were
obtained between the dates of ____/____/____ and ____/____/____. I showed each signer a valid and unfalsified “Official
(month, day, year) (month, day, year)
Top Funders” sheet, as required by Section 107. I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Executed on ____/____/____ at _____, California.
(month, day, year) (city or community where signed)

Signature of Circulator _____
(complete signature including full name of circulator)