

ORDINANCE NO. 3256

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, AMENDING THE PUBLIC ART PROGRAM, RENAMING THE PUBLIC ART ADVISORY COMMITTEE TO THE PUBLIC ART ADVISORY COMMISSION, ADDING REGULATIONS FOR PUBLIC ART FUNDED BY CITY FUNDS ON CITY PROJECTS AND FINDING THE ACTION EXEMPT FROM CEQA.

WHEREAS, the City of Ontario ("City") desires to introduce art and artworks into the community; and

WHEREAS, public art enriches the lives of City residents and visitors by exposure to art in various forms; and

WHEREAS, the City encourages public dialogue and interaction through a public art program; and

WHEREAS, the City desires embracing a broad range of artworks, which are reflective of the overall diversity of the City's residents and visitors; and

WHEREAS, the City desires to establish a public art program that would allow and regulate a variety of artworks, including murals, that are either developed on City-owned public property or on private property as part of a development project; and

WHEREAS, the City desires to rename the Public Art Program Advisory Committee to a Commission to be more consistent with industry standard terms; and

WHEREAS, the City desires to use City funds for various capital improvement projects; and

WHEREAS, the City desires to expend an amount equal to one percent (1%) of City capital improvement projects, with some exceptions, in order to commission and/or acquire public art.

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

SECTION 1. The recitals above are true and correct and are hereby incorporated herein by this reference.

SECTION 2. Chapter 33 of Title 5 of Volume I of the Ontario Municipal Code is hereby amended to state as follows:

“Chapter 33: Public Art Program

5-33.01 Purpose

5-33.02 Public Artworks: Definitions

5-33.03 Public Art Program Advisory Commission

5-33.04 Policy for the Gift or Long Term Loan of Public Art

5-33.05 Public Art in Commercial and Industrial Development Projects

5-33.06 Murals

5-33.07 Public Art Funded by City Funds on City Projects

Sec. 5-33.01 Purpose.

This Chapter may be known and cited as the “Ontario Public Art Program.” It is the goal of the City's Public Art Program to promote public art and art in public places, as a cultural resource for the community, and act as a mechanism to enhance the City's commercial vitality and economic stability. Furthermore, it is intended that the Ontario Public Art Program will serve to enrich the community aesthetic and built urban environment, by making available to the public a diverse collection of artworks throughout the City. The aforementioned goals will be realized through bringing contemporary art into the environment and life of Ontario, enriching the lives of City residents and visitors by the exposure to art in various forms, encouraging both emerging and established artists living in Ontario and the Ontario region by supporting and purchasing their work, acquiring a distinguished collection of art representing varying genres, styles, scales, mediums, forms, and intent, and reflective of trends and disciplines in art on a local, regional, national, and international level, integrating artists into the City's design process, encouraging public dialogue and interaction through a public art program; embracing a broad range of artworks, which are reflective of the overall diversity of current works in the field of visual arts, enriching the quality of life and economic vitality of Ontario, and further defining distinct characteristics of neighborhoods.

Sec. 5-33.02. Public Artworks: Definitions.

As used in this Chapter, the words, terms, and phrases listed below in correct alphabetical order, shall have the following meanings:

- (a) “Artist” means a practitioner in the arts, recognized by his or her critics and peers as a professional who possesses serious artistic intent and ability.
- (b) “Artworks” means original pieces of art, including limited editions, not limited by medium used. It may include paintings, sculptures, murals, mosaics, and fountains. These categories may be realized through such media as steel, bronze, stained glass, concrete, wood, ceramic tile, stone, and other suitable materials. Artworks may also include earthworks, performing arts, literary arts, special events, festivals, and other arts and culture programming and/or visual arts not specifically outlined herein, as may be deemed appropriate by the Public Art Program Advisory Committee. Artworks include both temporary and permanent projects. Artworks does not include objects that are mass produced.

- (c) "Commercial message" means any message that advertises a business conducted, services rendered, or goods produced or sold.
- (d) "Commercial project" means any site, structure, facility, or land use allowed pursuant to Table 5.02-1 (Land Use Matrix) of the City of Ontario Development Code, within any of the commercial zoning districts established under Section 5.01.005.B (Commercial Zoning Districts) of the Development Code, or within the commercial portion of any residential mixed-use development.
- (e) "Industrial project" means any site, structure, facility, or land use allowed pursuant to Table 5.02-1 (Land Use Matrix) of the City of Ontario Development Code, within any of the industrial zoning districts established under Section 5.01.005.D (Industrial Zoning Districts) of the Development Code, or within the industrial portion of any nonresidential mixed-use development.
- (f) "Original art mural" means a unique, hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message.
- (g) "Public Art Collection" means publicly accessible artwork that is acquired or commissioned by the City pursuant to the public art program.
- (h) "Public Art Handbook" means a document that guides the Public Art Program on the many aspects of having a Public Art Collection, including but not limited to the acquisition, commission, gift, loan, maintenance and deaccession of public art.
- (i) "Public Art Program" means the program established for the selection, acquisition, creation, installation, conservation, restoration, management, planning, decommission, community education and publicity of public art in the City of Ontario.
- (j) "Public place" means any area on public property, either interior or exterior, which must be accessible and visible to the general public.
- (k) "Project applicant" means the property owner, developer or other responsible party proposing a project requiring an art component.
- (l) "Project improvement valuation" means the value of the tenant improvements as determined by the then-current City total valuation methodology.
- (m) "Project valuation" means the value of the project as determined by the then-current City total valuation methodology.
- (n) "Project site" means the location of the improvements being developed.
- (o) "Public art on City property" means original works of art located on, affixed to, or applied on City-owned property.

- (p) "Private art for public enjoyment" means original works of art located on, affixed to, or applied on private property that are accessible and/or visible to the general public.
- (q) "Public Art Program Advisory Commission" means the five-member advisory commission appointed by the City Council that is responsible for ensuring that the criteria established by this Public Art Program have been met.
- (r) "Vintage original art mural" means an original art mural that existed prior to the enactment of this Chapter.

Sec. 5-33.03. Public Art Program Advisory Commission.

(a) There is hereby created and established a Public Art Program Advisory Commission. The Public Art Program Advisory Commission shall be comprised of five members who shall be appointed by the City Council.

(b) Members of the Public Art Advisory Commission shall be comprised as follows:

(1) Three (3) of the five (5) members shall be given priority consideration from each of the following organizations, provided that the City has received an application from at least one representative from each organization.

- (A) A representative from the Chaffey Community Museum of Art;
- (B) A representative from Ontario Heritage;
- (C) A representative from the Ontario Museum of History & Art Associates;

(2) The remaining two (2) members, or more if the City has not received an application from each of the three (3) organizations listed in Section 5-33.03(b)(1)(A)-(C), may be selected from the following:

- (A) Local non-profit historic preservation advocacy organization;
- (B) Local arts educators;
- (C) Local artists;
- (D) Local performers;
- (E) Arts professionals;
- (F) College-level arts students; and
- (G) Architects, landscape architects, and other design professionals.

(3) Notwithstanding any contrary provision in the Ontario Municipal Code, members of the Public Art Advisory Commission may be non-residents of the City, subject to the limitation that no more than two (2) of the five (5) members may be non-residents of the City.

(4) The City Councilmember Liaison to the Ontario Museum of History & Art, shall serve as an ex officio, non-voting member.

(c) The process for appointment to the Public Art Advisory Commission shall be as follows. A call for applications will be sent out for interested appointees. Community Life & Culture staff will review the applications received and determine whether the applicants meet the basic requirement from this Section. Community Life & Culture staff will then present the qualified candidates to the City Council for their review and nomination. The Mayor shall appoint the members of the Commission, subject to ratification by a vote of the entire City Council. Each Councilmember may suggest one member from the list of qualified candidates for the Mayor to appoint to the Commission.

(d) Members of the Public Art Program Advisory Commission shall serve a term of four (4) years. A person may serve multiple terms.

(e) Powers and Duties. The Public Art Program Advisory Commission shall ensure that all criteria established by this Public Art Program have been complied with. The Advisory Commission shall review all requests for the installation of public art, examining proposals for public safety, weather resistance, balance with the program, public response, proper lighting, public accessibility, installation methods, proportion, composition, the artist's previous experience, art training, and exhibition record. Advisory Commission support shall be provided by the Museum, Arts & Culture Director or designee. The Advisory Commission may establish, and amend from time to time, a Public Art Handbook. Proposed commission, acquisition, and/or development of public art or artworks shall go to the Commission for review even if an artist is not involved.

(1) Construction and Installation of Public Artworks (Permanent). The following procedure is to be followed in the construction of on-site permanent public artworks:

(A) The composition of the proposed artwork shall be of a permanent type of material in order to be a durable against vandalism, theft, and weather, and require a low level of ongoing maintenance.

(B) The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment. A Certificate of Appropriateness pursuant to Ontario Development Code Section 4.02.050 may be required to ensure that the artwork does not cause an adverse impact to historic resources.

(C) The artwork shall be constructed by persons experienced in the production and installation of such artwork.

(D) The artwork shall be permanently affixed to the property unless it is designated a temporary exhibit in the scope of the project when commissioned.

(E) Installation of the artwork shall be planned and implemented to enhance the piece and allow for unobstructed viewing from as many angles as possible.

(F) The City shall obtain from the artist, complete maintenance instructions, including methods to maintain the piece and the frequency of maintenance.

(G) Each piece of artwork shall be identified by a plaque at the site of an appropriate size and scale to the piece. The plaque shall be made of cast metal and then placed in a location near the art piece listing the title of the piece, the artist, and the date as well as the city and the art in public places program.

(2) Construction and Installation of Public Artworks (Temporary). The following procedure is to be followed in the construction of on-site temporary public artworks:

(A) The composition of the proposed artwork shall be of a type of material in order to be a durable against vandalism, theft, and weather, and require a low level of maintenance.

(B) The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.

(C) The artworks shall be constructed by persons experienced in the production and installation of such artwork.

(D) The method of attachment or securing the artwork shall be identified.

(E) Installation of the artwork shall be planned and implemented to enhance the piece and allow for unobstructed viewing from as many angles as possible.

(F) The City shall obtain from the artist, complete maintenance instructions, including methods to maintain the piece and the frequency of maintenance.

(G) Each piece of artwork shall be identified by a plaque at the site of an appropriate size and scale to the piece. The plaque shall be made of cast metal and then placed in a location near the art piece listing the title of the piece, the artist, and the date as well as the city and the art in public places program.

(H) Any security measures needed to secure the artwork, the estimated cost of the security, and a source of funding for the security shall be identified.

(I) Any temporary artwork must include a deinstallation plan that clearly identifies which parts of the artwork (if any) need to be returned to the artist and which may be disposed of after the term of the installation.

Sec. 5-33.04 Policy for the Gift or Long Term Loan of Public Art.

(a) Purpose. Unsolicited gifts or long term loans to the City can be an important part of the City's art collection. The purpose of this Section is to ensure that proposed gifts of public art undergo a review process to ensure that acceptance of such gifts takes place in a fair and uniform manner. Furthermore, it is the intent of this Section to ensure that potential gifts of public artworks are evaluated as carefully as artworks that are commissioned, and that such artworks undergo a careful review process that evaluates a gift based upon acceptance criteria established according to the purposes, guidelines, goals, and selection process that guides artworks that are commissioned.

(b) Applicability. This Section applies to all unsolicited offers of donation or long term loans of public artworks to the City of Ontario. Unsolicited offers of donation or long term loans of artworks for display in interior spaces of City owned or leased buildings shall not be subject to the procedures in this Section; however, the City Manager may choose to opt-in to the procedures in this Section for review and consideration of such artworks.

(c) Procedures for Gifts or Long Term Loans. For each proposed gift or long term loan of public art, a written proposal or letter of intent shall be submitted to the City Manager. The City Manager shall refer the proposal to the Public Art Advisory Commission for review and recommendation. The City Council's decision shall be final and conclusive. The proposal shall consist of the following items:

- (1) Completed application form;
- (2) Photographs, drawings, models, or designs of proposed artwork;
- (3) Description and samples (if available) of materials and colors;
- (4) Appraisal by a professional art appraiser (for long term loans);
- (5) A site plan, to include photographs of site and neighborhood, drawings of the proposed site with the project to scale. If located within a historic district or on any other historic resource, a Certificate of Appropriateness may be required pursuant to Ontario Development Code Section 4.02.050;
- (6) Proposed transportation/delivery schedule, and request of City responsibility for transport of the artwork to the City, if applicable;
- (7) Proposed installation schedule;
- (8) Maintenance manual, including the long-term intent of artist for the preservation and maintenance of artwork;
- (9) Maintenance schedule prepared by professional art curator;
- (10) Estimated budget for installation and maintenance;

(11) Resume and examples of artist's previous work;

(12) Duration of the loan (if applicable)

(13) Proof of insurance sufficient to meet the requirements of the City's Risk Manager, if necessary; and

(14) Building permits, if necessary.

(d) Criteria for the Evaluation of Proposed Gifts or Long Term Loans of Public Art. The following criteria shall be used in evaluating proposed gifts of long term loans of public art for review and acceptance by the City:

(1) Artworks may be existing or proposed works of art;

(2) Artworks must be one-of-a-kind or part of an original series. Reproductions of originals are not considered eligible for acceptance;

(3) Gifts must maintain high artistic standards and are appropriate in relationship or historical relevance to the City;

(4) The proposed location (if specified) is available and is appropriate to the artwork's content, scale, and material. Factors to be considered in selecting an appropriate site include type of artwork, relationship to architectural and natural features, visibility and public access, traffic patterns, future development plans for the area (if known), and public use patterns of the site and surrounding area. If a location is on a historic building, site, landscape or within a district issuance of a Certificate of Appropriateness may be required pursuant to Ontario Development Code Section 4.02.050;

(5) Restrictions from the donor, if any;

(6) Artwork proposals must demonstrate how the surrounding community has been involved and consulted in the process;

(7) Costs of installation and maintenance and repair over the expected life of the artwork shall be defined;

(8) Artistic quality (vision, originality and craftsmanship);

(9) Context (architectural, historical, geographical and socio-cultural context of the site);

(10) Quality and permanency of materials (if ephemeral material: is appropriate documentation included?);

(11) Safety;

(12) Diversity of artists (gender, race, culture) representation in the existing collection of publicly-accessible artworks; and

(13) Diversity of artworks (media, scale, style, intention) in the existing collection of publicly accessible artworks.

(e) Long Term Loans of Artwork. Upon recommendation by the Public Art Program Advisory Commission and acceptance by the City Council, long term loans of artwork may be displayed upon execution of a contract between the City and the artist clearly identifying the terms and conditions of the loan and the rights and responsibilities of all parties. Donations to the Ontario Museum of History & Art ("Museum") are subject to a different approval process established by the Museum and/or subject to the City's Donation Policy.

(f) Acceptance of Gifts of Public Art. Upon recommendation by the Public Art Program Advisory Commission and acceptance by the City Council, gifts of artworks will be deemed part of the permanent collection of the City, and registered with the City's Department of Museum Arts & Culture, once the donor has fulfilled the requirements as stated in the Public Art Handbook, which shall include the following:

(1) Written certification of the installation of the artwork, if completed by artist;

(2) An executed contract between the City and the artist transferring title of the artwork and clearly defining the rights and responsibilities of all parties;

(3) Written instructions for the care, maintenance, preservation, and handling of the artwork, prepared with the assistance of a professional art conservator to be provided by the artist;

(4) A sworn statement of no liens, claims, or other encumbrances associated with the artwork;

(5) A written assignment of any and all warranties for materials used, or labor performed by subcontractors or other persons; and

(6) A written assignment conveying, at a minimum, a perpetual license for the City to reproduce the artwork in digital or print medium for City purposes. The written assignment may include, should it be the artist's desire, the conveying of all rights, including copyrights and waiver of all rights under the Visual Artist's Rights Act of 1990, and its amendments (Section 106A of the United States Copyright Act; Pub. L. No. 101-650).

Donations to the Museum shall be subject to a different approval process established by the Museum and/or subject to the City's Donation Policy.

(g) Title and Ownership. Permanent gifts of artwork to the City shall become the property of the City once an Agreement for Acceptance Donated Artwork has been fully executed and the Donor has delivered the Bill of Sale/Transfer of Title. At such time, all rights of

title and ownership shall be conveyed to the City, and all future decisions regarding the use and continued ownership of the artwork shall be under the sole discretion of the City. As owner of the artwork, the City may exercise any and all legal rights of ownership, including, but not limited to, sale, relocation, or removal of the artwork.

(h) Maintenance. When artwork gifts are situated at or on City owned or occupied properties or facilities, the City shall assume its continued maintenance.

(i) Removal, Relocation, or Deaccession of an Artwork. Artworks gifted to the City may be relocated, removed, or deaccessioned from the City's public art collection if the artwork becomes a hazard or liability, if the approved terms of acceptance are not fulfilled, or for any other reason as determined by the City Council, upon recommendation by the Public Art Program Advisory Commission.

(j) Exemption. Gifts of state presented to the City by foreign governments or by other political jurisdictions of the United States that may be accepted by the City Council or City Manager on behalf of the City. Permanent placement of any such artworks will be determined jointly by the City Manager and the Public Art Program Advisory Commission. If not provided by the donor, maintenance of the art will be the responsibility of the host City department.

Sec. 5-33.05 Private Art for Public Enjoyment in Commercial and Industrial Development Projects.

(a) Purpose.

(1) The purpose of this Section is to establish a program for private art for public enjoyment in which private developers shall be required to integrate artworks throughout the commercial and industrial sectors of the City, for the benefit of the general public. The goals of this program are as follows:

(A) Differentiate the City of Ontario as a special place to live, work, play, visit, and invest;

(B) Strengthen cultural awareness, creativity, and innovative thinking in the community;

(C) Integrate the vision of artists with the perspective of other design professionals into the planning and design of the urban landscape;

(D) Ensure public artworks are visually accessible to every member of the community;

(E) Provide an acceptable counterbalance to what many consider to be the undesirable effects of commercial and industrial development (e.g. construction noise, traffic, congestion, and pollution); and

(F) Build a diverse collection of outdoor artworks by qualified artists and ensure the collection is continually maintained.

(2) The public art in commercial and industrial development projects program provides developers a way to make a lasting and visible contribution to the community and alleviate the undesirable effects that may be associated with commercial and industrial development.

(b) Applicability.

(1) All new commercial and industrial development projects, and new tenant improvements constructed in or on new or existing commercial and industrial buildings, having a total project building valuation of \$500,000 or more, shall be subject to the requirements of this Section. This Section does not apply to the residential portion of mixed-use projects.

(2) All residential projects and public facilities projects constructed by the City or by nonprofit organizations shall be exempt from the requirements of this Section.

(c) Minimum Public Art Allocation.

(1) The required minimum public art allocation fees shall be as follows, and may be amended from time to time by Resolution:

Eligibility	On-Site Fee Option	City Fee Option
New commercial/industrial development \$5,000,000 or more.	Developer installs On-Site public art display valued at 1% of the total final project valuation as determined by the building official or designee.	Developer provides the City \$10,000 for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.
Tenant Improvement on commercial/industrial development \$500K or more.	Developer installs On-Site public art display valued at 1% of the total final project improvement valuation as determined by the building official or designee.	Developer provides the City \$5,000 for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.

(2) All projects created through the On-Site Fee Option must be reviewed and approved by the City and shall be installed in compliance with all federal, state, and local applicable laws and regulations.

(3) All projects installed through the On-Site Fee Option must be maintained by the developer during the life of the buildings and structures.

(4) If the artwork installed pursuant to this Section is altered, removed, is not maintained in good condition, or is not provided as required, the City may exercise any and all available legal and/or equitable remedies.

(d) Penalties. Violations of this Section may be subject to the penalties set forth in Chapter 2 of Title 1 of Volume I of the Ontario Municipal Code and/or subject to revocation of the entitlements for the development project.

Sec. 5-33.06 Murals.

(a) Murals commissioned by the City may only be installed and maintained if they have been approved by the Public Art Program Advisory Commission. Other murals not commissioned by the City will be subject to an objective design checklist established, and amended from time to time, by Resolution, and subject to ministerial City review. Murals may only be located in commercial, industrial, City-owned public property, and private property. The Advisory Commission shall have the authority to review and approve City commissioned murals in accordance with the procedures and standards outlined in this Chapter.

(b) Standards. The Public Art Program Advisory Commission shall ensure that City commissioned murals are consistent with the following standards:

(1) Murals shall be an original art mural, a work of art, that is hand-painted, hand-tiled or digitally printed image or digital display system on the exterior surfaces of a building or site designed as a work of art. The image cannot be advertising or other commercial message with brand name, product name, abbreviation thereof, company or business name or logo, trademark, brand imagery or products and services for sale. The Public Art Program Advisory Commission will determine if an image, painting pattern, or other element on the exterior of a building or site is a work of art. If the Public Art Program Advisory Commission determines that the image, painting pattern, or other element is not a work of art, then other applicable law may be applied such as sign or building design guidelines by other City departments.

(2) Murals must be durable and capable of being well-maintained.

(3) Murals shall not compromise the proper function of any building or use or diminish public safety.

(4) Murals shall not incorporate recognized signs of hatred or discrimination against any race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, gender identity or expression, or sexual orientation.

(5) Murals shall not be obscene or harmful to minors as defined by law.

(6) A Certificate of Appropriateness shall be required if the mural is on a historic building or site pursuant to Ontario Development Code Section 4.02.050.

(c) Application fee. There shall be an application fee of \$100 per non-City-commissioned mural application, which may be amended from time to time by Resolution.

(d) An Original Art Mural is not considered a sign as defined in the Ontario Development Code. However, nothing contained in this Chapter is intended to change the rules governing the determination of whether a mural may be placed on a historic building.

(e) A City commissioned mural shall remain in place, without alteration, for a minimum of six (6) months.

(f) Removal. A City commissioned mural may be removed after six (6) months from the date of registration, so long as it is not a registered historic landmark itself or associated with a registered historic landmark property, under any the following circumstances as determined by the Executive Director of the Community Life & Culture Agency:

(1) The property is sold;

(2) The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural;

(3) The property undergoes a change of use authorized.

Sec. 5-33.07 Public Art Funded by City Funds on City Projects.

(a) For the purposes of this Section, "capital improvement project" means new vertical City construction projects with a construction budget of \$1,000,000 or more that provide significant general public access. Examples include, but are not limited to, new libraries, fire stations, police stations, department campuses/headquarters, community centers, bridges, plazas, bus shelters, shade structures, and structures within parks such as but not limited to barns. A "capital improvement project" does not include park improvements, new park development, or improvements to existing facilities.

(b) For the purposes of this Section, "development costs" means the total development costs of the capital improvement project. Development costs may include, but are not limited to, any and all construction costs, and site work expenses. Development costs shall not include property acquisition, demolition, financing, or any salaries and benefits of public employees supporting the capital improvement project.

(c) For all City capital improvement projects that are funded through City funds, with the exception of capital improvement projects funded through bond proceeds or development impact fees as described in subsection (d) and/or (e) herein below, the City shall, at the discretion of the City Council, set aside an amount equal to one (1) percent of the City Council approved budget for development costs of such capital improvement projects for the commission, acquisition, and/or development of public art or artworks on site. Projects by the Ontario Municipal Utility Company shall not use any ratepayer money for public art but non-ratepayer funds may be used for such Ontario Municipal Utility Company projects such as constructing a new building. There shall be no requirement that an artist be involved in the commission, acquisition, and/or development of such public art or

artworks. For the purposes of this Section, City funds means any funds held in City accounts, including but not limited to the general fund, special funds, and bond revenues, excluding any enterprise and ratepayer funds and any funds limited by federal, state, and/or local statute, regulation, or funding source. Applicable capital improvement projects may apply the one (1) percent of funds towards public art on the same project site. However, the City Council shall have the discretion to designate the use of such funds towards public art projects other than on the site from which the funds were budgeted for projects valued at \$100,000,000.00 or more.

(d) Bond proceeds may be utilized for the commission and/or acquisition of Artwork on a case by case basis and upon review and approval by City Finance staff and City's Bond Counsel. If City Finance staff and City's Bond Counsel approve the use of bond proceeds for the commission and/or acquisition of a specific Artwork, then the Public Art Commission shall request that the specific amount needed to commission and/or acquire that Artwork be distributed to cover expenses, up to one (1) percent of the approved budget for development costs of such capital improvement project. Bond proceeds shall not be directly transferred to the Public Art Fund upon issuance of bonds but will only be distributed on a case by case basis with approval by City Finance staff and City's Bond Counsel.

(e) Development Impact Fees may be utilized for the commission and/or acquisition of Artwork on a case by case basis and upon review and approval by City Finance staff and City's legal counsel. If City Finance staff and City's legal counsel approve the use of Development Impact Fees proceeds for the commission and/or acquisition of a specific Artwork, then the Public Art Commission shall request that the specific amount needed to commission and/or acquire that Artwork be distributed to cover expenses, up to one (1) percent of the approved budget for development costs of such capital improvement project."

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).

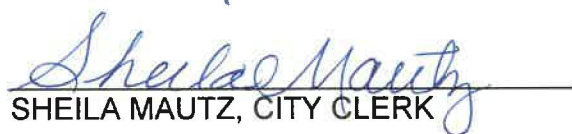
SECTION 6. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post 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.

PASSED, APPROVED, AND ADOPTED this 15th day of August 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. 3256 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 18, 2023 and adopted at the regular meeting held August 15, 2023 by the following roll call vote, to wit:

- AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER AND VALENCIA
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: BOWMAN


SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3256 duly passed and adopted by the Ontario City Council at their regular meeting held August 15, 2023 and that Summaries of the Ordinance were published on July 25, 2023 and August 22, 2023, in the Inland Valley Daily Bulletin newspaper.


SHEILA MAUTZ, CITY CLERK

(SEAL)

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303 East B Street
Ontario, California 91764

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
County of San Bernardino**

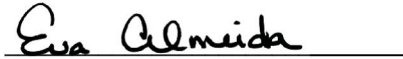
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not party to or interested in the above-entitled matter. I am the principal clerk of the printer of Inland Valley Daily Bulletin - SB, a newspaper of general circulation, printed and published in the City of Ontario*, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of County of San Bernardino, State of California, under the date of June 15, 1945, Decree No. Pomo C-606. The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

07/25/2023

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Ontario, California

On this 25th day of July, 2023.



Signature

*Inland Valley Daily Bulletin - SB circulation includes the following cities: [UNKNOWN LIST]

**PUBLIC NOTICE OF PROPOSED
ADOPTION OF CITY OF ONTARIO
ORDINANCE NO. 3256**

NOTICE IS HEREBY GIVEN that on August 15, 2023, the City Council of the City of Ontario will consider adoption of proposed Ordinance No. 3256 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 33 OF TITLE 5 OF VOLUME 1 TO THE ONTARIO MUNICIPAL CODE, AMENDING THE PUBLIC ART PROGRAM, RENAMING THE PUBLIC ART ADVISORY COMMITTEE TO THE PUBLIC ART ADVISORY COMMISSION, ADDING REGULATIONS FOR PUBLIC ART FUNDED BY CITY FUNDS ON CITY PROJECTS, AND FINDING THE ACTION EXEMPT FROM CEQA.

A copy of the full text of the proposed ordinance is available for review in the office of the City Clerk, City of Ontario, 303 East B Street, Ontario, California 91764, Monday through Thursday, 7:30 a.m. to 5:30 p.m. and Friday, 8:00 a.m. to 5:00 p.m.

Dated: July 18, 2023

s/CLAUDIA Y. ISBELL, MMC, ASSISTANT CITY CLERK

**Inland Valley Daily Bulletin - SB
Published: 7/25/23**

Inland Valley Daily Bulletin - SB
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0011619229

City of Ontario
303 East B Street
Ontario, California 91764

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
County of San Bernardino**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not party to or interested in the above-entitled matter. I am the principal clerk of the printer of Inland Valley Daily Bulletin - SB, a newspaper of general circulation, printed and published in the City of Ontario*, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of County of San Bernardino, State of California, under the date of June 15, 1945, Decree No. Pomo C-606. The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

08/22/2023

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Ontario, California

On this 22nd day of August, 2023.



Signature

*Inland Valley Daily Bulletin - SB circulation includes the following cities: [UNKNOWN LIST]

**PUBLIC NOTICE OF ADOPTION
OF CITY OF ONTARIO
ORDINANCE NO. 3256**

NOTICE IS HEREBY GIVEN that on August 15, 2023, the City Council of the City of Ontario adopted Ordinance No. 3256 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, AMENDING THE PUBLIC ART PROGRAM, RENAMING THE PUBLIC ART ADVISORY COMMITTEE TO THE PUBLIC ART ADVISORY COMMISSION, ADDING REGULATIONS FOR PUBLIC ART FUNDED BY CITY FUNDS ON CITY PROJECTS AND FINDING THE ACTION EXEMPT FROM CEQA.

Ordinance No. 3256 was adopted by the following roll call vote:

Ayes:	Leon, Dorst-Porada, Wapner and Valencia
Noes:	None
Absent:	Bowman

A certified copy of the full text of the Ordinance is available for review in the office of the City Clerk, City of Ontario, 303 East B Street, Ontario, California 91764, Monday through Thursday, 7:30 a.m. to 5:30 p.m. and Friday, 8:00 a.m. to 5:00 p.m. and at www.ontariloca.gov

Dated: August 15, 2023

s/CLAUDIA Y. ISBELL, MMC, ASSISTANT CITY CLERK

Inland Valley Daily Bulletin - SB

Published: 8/22/23