

Print

Baldwin Park Code of Ordinances

ART IN PUBLIC PLACES PROGRAM

§ 154.015 PURPOSE.

(A) The City Council finds:

(1) Cultural and artistic resources, including art work and performing arts enhance the quality of life for individuals living in, working in and visiting the city; and

(2) Balanced development of these resources preserves and improves the quality of the urban environment and increases real property values; and

(3) As development and rehabilitation of real property within the city continues, the opportunity for creation of cultural and artistic resources is diminished. As development and rehabilitation continues as a result of market forces, urbanization of the community results. Since these opportunities are diminished and urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image, and character of the community is increased; and

(4) Development of cultural and artistic assets should be financed by those whose development and revitalization diminishes the availability of the community's resources for those opportunities and contributes to community urbanization; and

(5) Establishment of this public art program will promote the general welfare through balancing the community's physical growth with revitalization and its cultural and artistic resources.

(B) Based upon the foregoing findings, the purpose of this chapter is provide for the development of cultural and artistic assets, including art work and performing arts which will enhance the quality of life for individuals in the city.

(Ord. 1245, passed 9-15-04)

§ 154.016 CULTURAL ARTS COMMISSION ESTABLISHED.

A five-member Cultural Affairs Commission is hereby established (the "Commission"). The Commission shall implement the duties set forth in this chapter. The City Council may prescribe, by resolution, membership, term and other operational rules and duties of the Commission. A majority of the City Council shall appoint the five members of the Commission, pursuant to a process established by the City Council.

(Ord. 1245, passed 9-15-04)

§ 154.017 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ART WORK. A sculpture, mural, or portable painting, earthwork, firework, neon, glass, mosaic, photograph, print, calligraphy, other forms of physical hard media, or other structures that will have a positive aesthetic impact and/or provide a positive perception of the city.

FREELY AVAILABLE. The art work is accessible to the public for viewing, in a direct line of sight, for a period of ten hours per day, seven days per week, with the option of excluding national holidays.

PERFORMING ARTS. Performances presented by professional or amateur performers, including theater performances (any form of dramatic presentation, spoken or silent), musical theater/opera (any dramatic performance of which music is an integral part); dance (any form of rhythmical movement); music/concert (any musical form whether classical or popular); and children's theater (any theater for young audiences, for or by children).

PROJECT. Physical changes and improvements needed to complete a development. Such physical changes shall include the construction of new structures or the remodeling of existing structures.

(Ord. 1245, passed 9-15-04)

§ 154.018 CITY ART FUND CREATED.

(A) There is hereby created a fund known as the "City Art Fund" to account for fees paid pursuant to the program established by this chapter (the "Art in Public Places Program"). This fund shall be maintained by the City Treasurer, and shall only be utilized solely pursuant to this chapter.

(1) For the design, acquisition, commission, installation, improvement, maintenance, and insurance of an art work. Design fees may include any fee paid to an appropriate party for the development of a design concept and preparation of construction drawings, which are separate and apart from the cost of the fabrication and installation of an art work;

(2) To sponsor or support performing arts;

(3) For the acquisition and improvement of real property for the purpose of displaying art work, which has been or may be subsequently approved by the city;

(4) During a fiscal year, for maintenance of and utility charges related to the art work purchased pursuant to division (A)(1), above; provided, that the total amount of expenditures made in any year from the City Art Fund for the purpose set forth in this division (A)(4), shall not exceed 10% of the total available amount of fees deposited, pursuant to this chapter, during the city's fiscal year immediately preceding the expenditure; or

(5) For costs associated with administering the Art in Public Places Program, in an amount not to exceed 15% of the Art in Public Places Program allocation as set forth in § 154.021.

(B) If real property purchased with monies from the City Art Fund is subsequently sold, then the proceeds from the sale shall be returned to the City Art Fund.

(Ord. 1245, passed 9-15-04)

§ 154.019 DEVELOPMENTS SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

(A) All new residential development of more than four units, and all commercial, industrial and public development projects, with a building valuation exceeding \$50,000 shall be subject to the provisions of this chapter; provided, that the value of a residential unit covenanted for very low, low, and moderate income households shall not be included when determining the value of a residential development.

(B) Including, but not limited to, exterior modifications and additions, all remodeling of existing residential buildings of more than four units and all remodeling of existing commercial, industrial and public buildings, shall be subject to the provisions of this chapter when such remodeling has a valuation exceeding \$50,000 excluding earthquake rehabilitation required by this code for seismic safety. As used herein, the value of a residential unit covenanted for very low, low, and/or moderate-income households or for senior citizens shall not be included when determining the value of a residential development.

(Ord. 1245, passed 9-15-04)

§ 154.020 FINAL CITY APPROVAL.

(A) No final city approval for any project subject to this chapter shall be granted or issued unless and until full compliance with the Art in Public Places Program is achieved by at least one of the following methods:

(1) The approved art work has been placed in a manner satisfactory to the Commission. Placement of art work shall be completed prior to the final inspection and issuance of a certificate of occupancy or temporary certificate of occupancy.

(2) In lieu art fees have been paid pursuant to this chapter, if applicable.

(3) Financial security in an amount equal to the acquisition and installation cost of an approved art work, in a form approved by the City Attorney, has been posted. In cases where an applicant is not certain whether to contribute to the City Art Fund or to obtain approval of an art work, the Community Development Director shall have the authority to negotiate an agreement with the applicant for returnable deposit, into the City Art Fund, an amount of in-lieu fees for the project pursuant to this chapter for a period of time not to exceed one year after the issuance if any construction permit. At the end of that year, the deposit shall no longer be refundable and the applicant will be deemed to have met the Art in Public Places Program requirements. That option is to allow an applicant additional time to determine the desired alternative for compliance with the Art in Public Places Program requirements.

(4) Donation of an approved art work has been accepted by the City Council.

(5) In cases where approved art work is placed on private property pursuant to this chapter, the

applicant shall execute and record a covenant with the Los Angeles County recorder, which sets forth the applicant and subsequent property owner's obligations to comply with maintenance obligations of the Art in Public Places Program. The covenant shall be recorded prior to the request for final construction inspection and the issuance of a temporary certificate of occupancy or certificate of occupancy.

(B) For the purposes of division (A), full compliance with the Art in Public Places Program shall not be found until the entire Art in Public Places Program allocation required by § 154.021 for the project has been satisfied.

(C) A maximum of 25% of funding received in any one year for the City Art Fund shall be allocated for performing arts in subsequent years, subject to the release of funding availability and review of applications by the Commission.

(Ord. 1245, passed 9-15-04)

§ 154.021 PROGRAM ALLOCATIONS.

The Art in Public Places Program allocation, as used in this Chapter, is the percentage of the development costs set aside for the city's Art in Public Places Program and shall be an amount equal to 1% of the total building valuation for an applicable project, as defined in § 154.019, excluding land acquisition and off-site improvement costs (the "Art in Public Places Allocation"). The total building valuation shall consist of the dollar amount of all construction permits using the latest Building Valuation Data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.

(A) In lieu of placement of an approved art work, the applicant may pay for deposit into the city Art Fund an amount equal to the Art in Public Places Program Allocation set forth in division (A), above. In lieu fees are due prior to the issuance of a building permit.

(B) Nothing in this section shall prohibit the applicant from placing an approved art work with acquisition and installation costs in an amount less than the Art in Public Places Program Allocation; provided, that the applicant shall also pay for deposit into the City Art Fund an amount equal to the difference between the Art in Public Places Program Allocation and the costs of acquisition and installation of such art work.

(Ord. 1245, passed 9-15-04)

§ 154.022 APPLICATION AND APPROVAL PROCEDURES FOR PLACING ART WORK ON PRIVATE PROPERTY.

(A) Application procedures. An application for placement of art work on private property shall be submitted to the Community Development Director, and shall include the following information, at minimum:

(1) Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art work.

(2) An appraisal or other evidence of the value of the proposed art work;

(3) Preliminary plans containing such detailed information as may be required by the Community Development Director to evaluate, adequately, the location of the art work in relation to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and

(4) A narrative proposal with elevations, site plans, lines of site studies, renderings, and other descriptive materials, as deemed necessary by the Community Development Director, to be submitted to the Commission to demonstrate the art work will be displayed in an area open and freely available to the general public at least ten hours a day, seven days per week, or otherwise provide public accessibility in an equivalent manner based on the characteristics of the art work or its placement on the site.

(B) Approval.

(1) Except as provided in division (2) below, completed applications shall be submitted to the Community Development Director for review and approval of the art work, considering the aesthetic quality and harmony of the art work with the existing on-site improvements and the proposed location of and public accessibility to the art work.

(2) The Commission shall review the completed application, together with the recommendation of the Community Development Director and approve, approve with conditions or deny the proposed art work, and its proposed location, considering the aesthetic quality and harmony with the proposed project, and the public accessibility to the art work.

(a) If the applicant proposed significant revisions to the art work, a revised application shall be submitted to the Community Development Director for review and recommendation to the Commission. The Commission shall make a determination whether to approve, approve with conditions, or deny the requested revision.

(b) If the applicant proposed or the Planning Commission, or other decision-making body, recommends significant revisions to the architecture or physical design and layout of the proposed project subsequent to receipt of the Community Development Director's recommendation, the revised application may be returned to the Commission for further review and recommendation.

(Ord. 1245, passed 9-15-04)

§ 154.023 PROCEDURE FOR ACCEPTANCE OF ART WORK DONATED TO THE CITY.

(A) Application procedure. An application for acceptance of art work to be donated to the city for placement on public property shall be submitted to the Community Development Director and shall include the following information, at a minimum:

(1) Preliminary sketches, photographs, models, site plan, lines of sight, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art work.

(2) An appraisal or other evidence of the value of the proposed art work, including acquisition and

installation costs;

(3) A written agreement in a form approved by the City Attorney, executed by or on behalf of the artist who created the art work, which expressly waives his or her rights under the California Art Preservation Act or other applicable law;

(4) Other information as may be required by the City Council to adequately evaluate the proposed donation of art work.

(B) Review of application.

(1) Completed applications shall be submitted to the Community Development Director for review and recommendation to the City Council.

(2) Recommendations shall be forwarded to the City Council, which shall have the sole authority.

(Ord. 1245, passed 9-15-04)

§154.024 LIMITATIONS ON FORMS OF ART.

(A) Private property. Subject to the provisions of § 154.021, if a person subject to this chapter chooses to meet the Art in Public Places Program allocation requirement by providing art work, the only form of art that can satisfy the requirement is placement of an approved art work on private property. As used in this chapter, an art work is a sculpture, mural, or portable painting, earthwork, firework, neon, glass mosaic, photograph, print calligraphy, or other physical hard media.

(B) Donation of art. Subject to the provisions of § 154.023, if an applicant subject to this chapter chooses to meet the Art in Public Places Program allocation by donation of art, the only form of art which can be donated to the city is an art work, as described in the definition contained in § 154.017.

(Ord. 1245, passed 9-15-04)

§ 154.025 OWNERSHIP AND MAINTENANCE OF ART WORK.

(A) All art work placed on the site of an applicant's project shall remain the property of the property owner and his or her successor(s) in interest. The obligation to provide all maintenance necessary to preserve the art work in good condition shall remain with the property owner of the site.

(B) Maintenance of art work, as used in this section shall include without limitation, preservation of the art work in good condition to the satisfaction of the city, protection of the art work against physical defacement, mutilation or alteration, and securing and maintaining fire and extended insurance coverage and vandalism coverage in an amount to be determined by the City Attorney. Prior to placement of an approved art work, the applicant and the owner of the site shall execute and record a covenant in a form approved by the City Attorney for maintenance of the art work. Failure to maintain the art work as provided herein is hereby declared to be a public nuisance. The city shall pursue additional remedies to obtain compliance with the provisions of this Art in Public Places Program as appropriate.

(C) In addition to all other remedies provided by law, in the event the owner fails to maintain the art work, upon reasonable notice, the city may perform all necessary repairs, maintenance or secure insurance, and the costs thereof, shall become a lien against the real property.

(D) All art work donated to the city shall become the property of the city upon acceptance by the City Council.

(Ord. 1245, passed 9-15-04)

§ 154.026 ART WORK ON PUBLIC PROPERTY, PERFORMING ARTS AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

(A) The Commission shall prepare an annual plan for the Art in Public Places Program.

(B) The Commission may recommend to the City Council the purchase of art work to be displayed on public property, support for the performing arts, and the purchase and improvement of real property to be used for the display of art work. A recommendation shall include the following information:

(1) The type of art work considered, an analysis of the constraints applicable to placement of the art work on a site, the need for and practicality of the maintenance of the art work, and the costs of acquisition and installation of the art work; or

(2) The type of performance and amount recommended; or

(3) The estimated costs of acquisition and improvements of the real property proposed to be purchased.

(C) The Commission is authorized to review performing arts grants allocations and make a recommendation to the City Council up to the amount authorized by the City budget for the current fiscal year during which the grants are being considered.

(D) An expenditure from the City Art Fund may be made for the performing arts; provided, the City Council approved the performing arts event and the performance would occur at a location in the city, or owned or controlled by the city or the City of Baldwin Park Community Development Commission, or at an alternative site which is in close proximity to the corporate boundaries of the city and has facilities for performing arts which compliment or supplement those available within the city.

(Ord. 1245, passed 9-15-04)

§ 154.027 RETURN OF FEES.

(A) Fees paid into the City Art Fund which are not committed within five years after the date of payment may be returned to the then current owner of the development project, with all interest actually earned thereon at the rate earned by the city, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of fees is approved by the City Council. The request for return shall be verified, and include the date of payment, the amount paid and method of payment, the

location of the new development for which the fee was paid, and a statement that the applicant is the payer of the fees or the current owner of the development project.

(B) The City Council shall determine if return of the then uncommitted portion of the fees and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the City Council determines any of the following applies:

(1) The City Council finds the fee is needed for the Art in Public Places Program; provided, that at least ten days prior to the hearing, notice of public hearing on this issue has been published and posted on the site of the development project in not less than three places.

(2) Moneys were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date.

(3) The administrative costs of refunding the uncommitted fees pursuant to this chapter exceeds the amount to be refunded; provided, that at least ten days prior to the hearing, a notice of public hearing on this issue has been published and posted on the site of the development project in not less than three places.

(Ord. 1245, passed 9-15-04)

§ 154.028 CRITERIA FOR APPROVING ARCHITECTURE AS ART.

The following criteria shall be used to determine, on a case-by-case basis, whether architecture can be considered art for purposes of fulfilling the Art in Public Places Program requirements:

(A) The architect shall be substantially recognized by the art world in shows, museums, and/or publications.

(B) When reviewing architecture as art, the underlying concept of the architecture shall be expressive as more than mere utilitarian architecture. The architecture as a whole or certain architectural features shall express ideas or meaning and have cultural significance or conceptual complexity in relation to the totality of the object.

(C) In the alternative, architecture can be considered art if it is created as a collaborative effort with an artist, the artist does the majority of the work, the artist has major design control of the portions of the architecture to be considered art, and the artist has been brought in early in the process. The artist shall have experience and knowledge of monumental scale and sculpture.

(D) The architecture must meet all the general criteria regarding placement of art work on private property as defined in § 154.022 of this chapter.

(Ord. 1245, passed 9-15-04)

§ 154.029 PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

The following procedure must be followed by the developer to fill the public art requirement with the

building's architecture.

(A) The applicant and architect must make two presentations to the Commission:

(1) The first presentation shall be made prior to the development application being deemed complete. The applicant must submit a maquette and other materials which satisfactorily illustrate the proposed conceptual development. The applicant and architect must submit a conceptual statement expressing why the architecture should be considered art, including an explanation of the ideas, meaning, cultural significance or conceptual complexity expressed in the architecture.

(2) The second presentation shall be made at the completion of the city approval process. The applicant must then submit a maquette and other materials and other materials that satisfactorily illustrate the to-be-built development.

(B) The applicant and architect shall demonstrate there will be high quality materials and craftsmanship used in the execution of the construction.

(C) If all of the foregoing criteria are met, then the Commission shall accept the architecture as art, only if, in its judgment, the architectural work is of extremely high artistic merit and would make a substantial cultural contribution to the community.

(D) The applicant or architect shall have the responsibility to demonstrate all of the foregoing criteria are met.

(Ord. 1245, passed 9-15-04)

§ 154.030 EXEMPTION.

Buildings which are designed and dedicated to performing arts spaces or museum uses shall not also be required to meet the 1% set-aside requirement for as long as the performing arts or museum uses are maintained within the building.

(Ord. 1245, passed 9-15-04)

§ 154.031 REMOVAL OF ART WORK.

The Commission shall recommend and the City Council shall establish guidelines to address potential options for the sale, removal, and disposal of art work in cases where such change becomes necessary. These guidelines shall be adopted by resolution as soon as reasonable feasible.

(Ord. 1245, passed 9-15-04)

§ 154.032 APPEAL.

Any person may seek review of any decision of the Commission by the City Council by filing a written

appeal with the City Clerk's Office within ten days after the decision of the Commission. The City Clerk's Office shall coordinate with the Community Development Director to schedule the appeal hearing before the City Council.

(Ord. 1245, passed 9-15-04)

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