

Print

Monrovia, CA Code of Ordinances

CHAPTER 15.44 ART IN PUBLIC PLACES

Sections:

- 15.44.010 Title.
- 15.44.020 Definitions.
- 15.44.030 Implementation of chapter.
- 15.44.040 Art in Public Places Fund.
- 15.44.045 Library Improvement Fund.
- 15.44.050 Applicability of public artwork requirement.
- 15.44.060 Satisfaction of public artwork requirement.
- 15.44.070 Procedure for donation or installation of public artwork.
- 15.44.080 Procedure for payment of in lieu art fee.
- 15.44.090 Maintenance of public artwork on private property.
- 15.44.100 Removal or alteration of public artwork on private property.

§ 15.44.010 TITLE.

This chapter shall be known as the "Art in Public Places Ordinance."

(Ord. 2004-03 § 2 (part), 2004)

§ 15.44.020 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

APPROPRIATELY MAINTAINED. Maintained in conformance with the city's public artwork maintenance policy.

ARTWORK. An original creation of physical art by an established artist. ***ARTWORK*** includes without

limitation a fountain, mobile, mosaic, mural, painting, sculpture or tapestry. An **ARTWORK** may be realized through such mediums as bronze, ceramic tile, concrete, stained glass, steel or wood. An **ARTWORK** shall not include objects that are mass-produced with a standard design.

ARTWORK VALUE. The cost of the following (as applicable) in connection with an artwork: design; acquisition; construction; and installation. **ARTWORK VALUE** shall not include utility and maintenance costs related to the operation and preservation of an artwork.

CITY MANAGER. The **CITY MANAGER** or such person's designee.

COMMITTEE. The Monrovia Endowment for the Arts Committee as established by the City Council.

DEVELOPMENT PROJECT. Construction of a building.

DIRECTOR. The Director of Community Services or such person's designee.

ENDOWMENT. The Monrovia Endowment for the Arts, as established by the City Council.

ESTABLISHED ARTIST. A professional artist who derives his or her income primarily from working as an artist, and whose prominence is recognized by art journals, art books or art gallery reputation.

ESTABLISHED ARTIST shall not include an architect, design consultant or landscaping consultant retained for the design and construction of the subject development project.

IN LIEU ART FEE. A fee paid to the City's Art in Public Places Fund by a development project applicant in an amount equal to 1% of the project cost pursuant to § 15.44.060(A)(3) of this Code, unless otherwise limited in a specific plan or other document approved by the City Council.

PROJECT COST. The total building permit valuation of new construction of a development project, excluding the land value, as indicated on the building permit issued by the city for the project.

PUBLIC ARTWORK. An artwork that is either (i) donated to the city for display on city property; or (ii) installed on private property in a publicly accessible location.

PUBLIC ARTWORK REQUIREMENT. The requirement, imposed by this chapter, of providing a public artwork or paying the in lieu art fee.

PUBLICLY ACCESSIBLE. Located on an area open to the general public and clearly visible from an adjacent public property such as a sidewalk or street.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2004-20 § 1, 2004; Ord. 2008-08 § 1, 2008)

§ 15.44.030 IMPLEMENTATION OF CHAPTER.

(A) The procedures prescribed by this chapter for review and approval of public artwork shall be conducted concurrently with any applicable procedures prescribed by Title 17 of this code for review and approval of development permits.

(B) The Committee shall prepare a public artwork catalogue that identifies artworks that may be used to

satisfy the public artwork requirement. The Committee may update such catalogue when deemed appropriate.

(C) The City Manager shall establish a public artwork maintenance policy that specifies maintenance requirements for public artwork installed on private property to satisfy the public artwork requirement. The City Manager may amend such policy as deemed appropriate.

(D) The City Manager shall prepare guidelines for a mural program that identifies the location, design, content, and care and maintenance of murals that may be installed in the city.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2004-20 § 2, 2004; Ord. 2008-08 § 2, 2008)

§ 15.44.040 ART IN PUBLIC PLACES FUND.

(A) There is hereby established in the city a fund known as the "Art in Public Places Fund", which shall be a depository for fees paid pursuant to this chapter and for public art-related monetary donations to the city.

(B) The Art in Public Places Fund shall be maintained by the Director of Finance and shall be utilized for the following purposes:

(1) Design, acquisition, installation, improvement, maintenance and insurance of public artwork displayed on city property. Public artwork acquired with money from the Art in Public Places Fund shall be the property of the city.

(2) Offering of performing arts programs on city property for the community.

(3) Offering of art education programs on city property for the community; provided, however, that not more than 5% of the fund's annual budget shall be used for this purpose.

(C) The Art in Public Places Fund shall be accounted for separately and shall not be used for general governmental purposes. In lieu art fees deposited into the Fund shall be expended for permitted purposes within five calendar years of deposit.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2004-20 § 3, 2004)

§ 15.44.045 LIBRARY IMPROVEMENT FUND.

(A) There is hereby established in the city a fund known as the "Library Improvement Fund," which shall be a depository for in-lieu fees paid pursuant to this chapter and for library-improvement related monetary donations to the city.

(B) The Library Improvement Fund shall be maintained by the Director of Finance and shall be utilized only to acquire, construct or make capital improvements to the Monrovia public library facilities.

(Ord. 2005-06 § 1, 2005)

§ 15.44.050 APPLICABILITY OF PUBLIC ARTWORK REQUIREMENT.

(A) Except as provided in division (B) below, the public artwork requirement shall apply to the following development projects:

- (1) Residential development projects involving five or more dwelling units and having a project cost in excess of \$1 million.
- (2) Commercial, industrial, office or other non-residential development projects having a project cost in excess of \$1 million.

(B) The following development projects shall be exempt from the public artwork requirement:

- (1) Government agency development projects.
- (2) Reconstruction of buildings that have been damaged by fire, flood, wind, earthquake or other calamity.
- (3) Affordable housing developments that are either deed-restricted for occupancy by persons of moderate income or less for 25 years or more, or constructed pursuant to a disposition and development agreement with the Monrovia Redevelopment Agency.
- (4) Tenant improvements to existing structures.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2008-08 § 4, 2008)

§ 15.44.060 SATISFACTION OF PUBLIC ARTWORK REQUIREMENT.

(A) The public art requirement shall be satisfied by completing one of the following actions in accordance with this chapter:

- (1) Donating a public artwork to the city.
- (2) Installing a public artwork on private property.
- (3) Paying an in-lieu art fee. At the option of developer, 50% of the in lieu art fee may be deposited in the Library Improvement Fund.
- (4) Construction of on-site improvements pursuant to a disposition and development agreement with the Monrovia Redevelopment Agency.

(B) If the artwork value of a public artwork used to satisfy the public artwork requirement is less than the amount of the in-lieu art fee that otherwise would be applicable to the development project, then the difference shall be paid to the city and deposited in the Art in Public Places Fund and/or in the Library Improvement Fund, as provided in this § 15.44.060.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2005-06 § 2, 2005)

§ 15.44.070 PROCEDURE FOR DONATION OR INSTALLATION OF PUBLIC ARTWORK.

(A) An application for donation of a public artwork to the city, or for installation of a public artwork on private property, shall be filed with the City Manager prior to the issuance of a grading or building permit for the development project. The application shall be made on a city-provided form and shall contain:

(1) An appraisal by an independent, qualified art appraiser or other evidence of the artwork value satisfactory to the City Manager.

(2) If the proposed public artwork is not listed in the city's public artwork catalogue, then the application shall include the following:

(a) Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the artwork.

(b) The resume of the artwork's creator.

(3) If the application is for donation, then the application shall include the following:

(a) A City Attorney-approved written statement executed by the artwork's creator waiving such person's rights under the Visual Artists Rights Act of 1990 (17 U.S.C. 101 et seq.), Cal. Civil Code § 1542 and equivalent laws.

(4) If the application is for installation, then the application shall include the following:

(a) Preliminary plans of sufficient descriptive clarity to indicate the compatibility of the artwork with the development project, adjacent parcels and the surrounding neighborhood.

(b) A written statement explaining how the artwork will be publicly accessible.

(5) Any other information requested by the City Manager to enable reasonable evaluation of the application including review by the City's Risk Manager.

(B) Each application for the installation of an artwork on private property shall be reviewed initially by the Committee which shall make a recommendation thereon to the City Council. The Committee shall be an advisory body only, and the City Council shall be the final decision-maker on all applications. The City Council may accept or reject a proposed public artwork in its absolute discretion based on its aesthetic judgment. Notwithstanding the foregoing, if the public artwork proposed to be installed is listed in the city's public artwork catalogue, the City Manager may approve the application, with a right of appeal to the City Council.

(C) Each application for the donation of an artwork to be placed on City property, or for the purchase of an artwork with revenue from the Art in Public Places Fund, shall be reviewed initially by the Committee which shall make a recommendation thereon to the City Council. The Committee shall be an advisory body only, and the City Council shall be the final decision-maker on all applications. The City Council may accept or reject a proposed public artwork in its absolute discretion based on its aesthetic judgment. Notwithstanding the foregoing, if the public artwork proposed to be donated or purchased is listed in the city's public artwork catalogue, the City Manager may approve the application, with a right of appeal to the City Council.

(D) An approved public artwork shall be delivered to the city or installed on private property prior to issuance of an occupancy permit for the development project.

(E) Prior to installing a public artwork on private property to satisfy the public artwork requirement, the property owner shall execute and record with the County Recorder a City Attorney-approved covenant. Such covenant shall require the property owner and successors thereof to do the following:

(1) Keep the public artwork appropriately maintained.

(2) Allow city representatives to enter upon the property upon reasonable written notice to perform necessary repairs to the public artwork at the property owner's expense when the public artwork is not appropriately maintained.

(3) Indemnify, defend and hold harmless the city, its officers, employees and agents from any claim, demand, damage, liability, loss, cost or expense attributable to the public artwork.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2004-20 § 5, 2004; Ord. 2008-08 § 5, 2008)

§ 15.44.080 PROCEDURE FOR PAYMENT OF IN LIEU ART FEE.

Unless an alternative deadline is approved by the City Council, payment of the in lieu art fee shall be made prior to the issuance of a building permit for the subject development project. A certificate of deposit, with the city as the named party, that is equal to the amount of the in lieu art fee may be substituted, subject to the approval of the City Manager.

(Ord. 2004-03 § 2 (part), 2004; Ord. 2008-08 § 6, 2008)

§ 15.44.090 MAINTENANCE OF PUBLIC ARTWORK ON PRIVATE PROPERTY.

Public artwork installed on private property to satisfy the public artwork requirement shall be appropriately maintained and insured by the property owner. The insurance shall be in an amount equal to or greater than the artwork value, and shall provide coverage against loss or damage (including vandalism) of the public artwork.

(Ord. 2004-03 § 2 (part), 2004)

§ 15.44.100 REMOVAL OR ALTERATION OF PUBLIC ARTWORK ON PRIVATE PROPERTY.

Public artwork installed on private property to satisfy the public artwork requirement shall not be removed or altered without the prior approval of the City Council. In addition to any other applicable penalty, violation of this section may render the property owner liable for payment of the in lieu art fee that would have been applicable to the subject development project, and may result in revocation of the occupancy permit issued for the subject development project. Prior to any imposition of in lieu art fee liability or occupancy permit revocation pursuant to this section, the city shall afford the property owner notice and an opportunity for a hearing.

(Ord. 2004-03 § 2 (part), 2004)

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