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## Chapter 15.44 ART IN PUBLIC PLACES PROGRAM

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### 15.44.010 Program created.

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This chapter may be known and cited as the “City of Norwalk Art in Public Places Program.” The intent of the Art in Public Places Program is to provide a collection of nationally recognized, permanent outdoor sculpture throughout the City, to be of public benefit. The program is designed to present the community with a variety of sculpture styles and themes, all of the highest possible quality. (Ord. 05-1555 § 1 (part), 2005: prior code § 5-26.1)

### 15.44.020 Definitions.

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As used in this chapter:

“Applicant” means the owner of the property or tenant utilizing the property and seeking the required permits.

“Artwork” means original creations of art including but not limited to, the following categories: sculpture, murals, mosaic and fountains. These categories may be realized through such mediums as steel, bronze, stained glass, concrete, wood, ceramic tile and stone, as well as other suitable materials.

“Project cost” means the total value of a project, excluding the land value, as determined by the Building Official, and indicated on the building permits issued by the City for that project.

“Public place” means any exterior area on public or private property, which is accessible and visible to the general public.

“Theme” means the subjects that have been approved by the committee. (Ord. 05-1555 § 1 (part), 2005: prior code § 5-26.2)

### 15.44.030 Requirement to provide artwork or pay in-lieu contribution.

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When a project is subject to the requirements of this chapter, the applicant shall comply with provisions of either subsection A or B of this section or a combination of both:

A. The project applicant shall acquire and install an artwork in a public place on or in the vicinity of the project site as approved by the City Council pursuant to this chapter. The cost or value of such work as approved by the City Council shall equal or exceed the amount to be in-lieu contribution that would otherwise be made under subsection B of this section.

B. In-Lieu Contribution. In lieu of acquiring and installing an artwork, project applicants may contribute funds to the Art in Public Places Fund established pursuant to Section 15.44.080 equal to one percent of the total project cost. The in-lieu contribution shall be paid by the project applicant before the issuance of building permits, unless otherwise provided by the City Council. Project applicants shall indicate on their art in public places application that they wish to make an in-lieu contribution. (Ord. 05-1555 § 1 (part), 2005: prior code § 5-26.3)

### 15.44.040 Projects subject to art in public places requirement.

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A. The requirements of this chapter shall apply to the following activities:

1. Commercial or industrial developments, having a project cost in excess of five hundred thousand dollars (\$500,000.00);
  2. Residential development of more than four lots or units, including single-family residential structures, condominiums, apartments, townhouses or other dwelling units, if the aggregate project costs exceed five hundred thousand dollars (\$500,000.00).
- B. Exceptions. The requirements of this chapter shall not apply to the following activities:
1. All public work and governmental agency projects;
  2. Reconstruction of structures, which have been damaged by fire, flood, wind, earthquake or other calamity;
  3. Religious, hospital, scientific or charitable organizations if the project is constructed on property exempt from taxation pursuant to California Revenue and Taxation Code Section 214. (Ord. 05-1555 § 1 (part), 2005: amended during 1999 codification; prior code § 5-26.4)

#### **15.44.050 Processing.**

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The requirements and procedures for the processing of an art in public places application shall be as follows:

- A. Prior to or at the time of submission of plans for plan check for a project subject to the requirements of this chapter, the applicant shall submit to the Department of Community Development a completed art in public places application indicating whether the applicant has elected to acquire and install artwork or make an in-lieu contribution to the Art in Public Places Fund.
- B. When the project applicant has elected to make an in-lieu contribution to the Art in Public Places Fund, building permits shall not be issued until such contribution has been paid.
- C. The Department of Community Development shall submit to the Art in Public Places Advisory Committee each application to acquire and install artwork.
- D. The Art in Public Places Advisory Committee shall evaluate and provide comments and/or make a recommendation on each proposed artwork within thirty (30) days from the date of receipt of the application to acquire and install artwork.
- E. The application shall be submitted to the City Council for final action at the next regular City Council meeting held not less than fourteen (14) days following the action of the Art in Public Places Advisory Committee. The City Council shall approve, approve in part, conditionally approve or deny the application based upon the guidelines set forth in Section 15.44.070 and shall make a determination whether the value of the proposed artwork equals or exceeds the amount of the in-lieu contribution that would otherwise apply to the project.
- F. When the project applicant has elected to acquire and install an artwork, no building permit shall be issued until the City Council has approved the art in public places application. A certificate of occupancy shall not be issued for the project until the approved artwork has been installed or an amount equal to the in-lieu contribution the applicant would otherwise have been obligated to pay is deposited with the City to secure proper installation of the artwork. The deposit will be forfeited to the City and placed in the Art in Public Places Fund if the artwork is not installed within the ninety (90) day period or by the expiration of any extension to install the artwork the City Council shall grant. The City shall use such forfeited funds for other public artworks complying with Section 15.44.080. (Ord. 08-1614 § 1; Ord. 05-1555 § 1 (part), 2005: prior code § 5-26.5)

#### **15.44.060 Art in Public Places Advisory Committee.**

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- A. The Art in Public Places Advisory Committee shall review art in public places projects to ensure that the

project complies with all City Council criteria. The Committee shall review proposals for art in public places installations for public safety, weather resistance, theme balance within the overall program, verification of value, anticipated public response, proper lighting, public accessibility, installation methods, proportion, composition, the artist's previous experience on monumental scale sculpture, and the artist's art training and exhibition record. The Committee shall consist of:

1. A member of the City Planning Commission appointed by the chair of that commission;
2. A member of the City Parks and Recreation Commission appointed by the chair of that commission;
3. An outside authority with expertise in art appointed by the City Council;
4. A member of the business community or a representative from a community college appointed by the City Council;
5. A member at large appointed by the City Council;
6. Five City Residents. Each member of the City Council may appoint one City resident.

The number of members necessary to form a quorum to transact business shall be four of the members appointed to the Committee. Vacancies shall not be used for determining the number of members necessary to form a quorum.

B. Committee support shall be provided by the City Manager or his or her designee. (Ord. 06-1566 § 1, 2006; Ord. 05-1555 § 1 (part), 2005; Ord. 1512 § 1, 2001; Ord. 1509 §§ 12, 13, 2000; prior code § 5-26.6)

#### **15.44.070 Guidelines for artworks.**

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Guidelines for the approval and maintenance of artworks shall include, but are not limited to the following criteria:

- A. The artwork shall be displayed in an area that is open and freely accessible to the public for at least ten (10) hours each day or displayed in a manner which otherwise provides public accessibility in an equivalent manner based on the characteristics of the artwork or its placement on the site.
- B. The art in public places application shall include a site plan showing the location of the artwork, complete with landscaping, lighting and other appropriate accessories to complement and protect the artwork.
- C. The composition of the artwork shall be of a permanent type of material in order to be durable against vandalism, theft and weather, and in order to require a low level of maintenance.
- D. 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.
- E. The artwork shall be designed and constructed by persons experienced in the production of such artwork and recognized by critics and by his or her peers as one who produces works of art.
- F. The artwork shall be permanently affixed to the property.
- G. The artwork shall be maintained by the property owner in a safe, neat and orderly manner acceptable to the City. Any repair and maintenance shall be the responsibility of the applicant and completed in accordance with a maintenance plan approved by the City.
- H. The artwork installed on a project site shall remain the property of the applicant and shall be replaced in the event of theft or repaired in the event of damage. Artwork shall be insured for the full replacement value. Art may not be removed without prior approval from the City Council. If removal is granted, an in-lieu contribution equal to the value of the artwork shall be made to the City's Art in Public Places Fund.
- I. Prior to the issuance of building permits the property owner shall execute and record with the Los Angeles County Recorder, covenants, conditions and restrictions in form and content approved by the City Manager and the

City Attorney providing, among other things: (1) that the property owner and its successor and assigns shall maintain the artwork as required by subsection G of this section above; (2) indemnify, defend and hold the City and related parties harmless from any and all claims or liabilities arising out of the artwork; and (3) maintain in the City Clerk's office a certificate of public liability insurance naming the City as an additional insured including such coverage and liability limits as may be specified by the City Manager.

J. The following items are not to be considered as artwork:

1. Art objects that are mass produced from a standard design. However, limited productions may be considered with specific restrictions;
2. Reproductions of original artworks;
3. Decorative, ornamental or functional elements that are designed by the building architect as opposed to an artist commissioned for the purpose of creating the artwork;
4. Landscape architecture and landscape gardening except where these elements are designed or approved by the artist and are an integral part of the artwork by the artist;
5. Any artwork that promotes a business or service;
6. Services or utilities necessary to operate or maintain the artwork.

K. The artwork shall be consistent with the theme approved by the committee. The theme shall be reviewed by the committee annually. (Ord. 05-1555 § 1 (part), 2005: amended during 1999 codification: prior code § 5-26.7)

#### **15.44.080 Art in Public Places Fund.**

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A. Accounting. Any moneys collected in accordance with the in-lieu contribution provisions of this chapter shall be deposited in a separate account denominated as the "Art in Public Places Fund." The City Manager or his/her designee shall establish accounting records sufficient to identify and control these funds. The account containing these funds shall earn interest and the earned interest shall be used for and be subject to the same restrictions established in subsection B of this section.

B. Use of Fund. The Art in Public Places Fund shall be used to provide sites for, and works of art in, public places in order to further the intent and purpose of this chapter as set forth in Section 15.44.010.

C. Permissible Expenditures. Expenditures of funds shall be limited to the following uses:

1. The cost of artwork and its installation;
2. Waterworks, landscaping, lighting and other objects which are an integral part of the artwork;
3. Frames, mats, pedestals, and other objects necessary for the proper presentation of the artwork;
4. Walls, pools, landscaping or other architectural or landscape architectural elements necessary for the proper aesthetic and structural placement of the artwork;
5. Maintenance and repair of artworks funded through the Art in Public Places Fund.

D. Administration.

1. The Art in Public Places Fund shall be administered by the City Council.
2. The Art in Public Places Advisory Committee shall make recommendations to the City Council concerning the purchase or commissioning of artworks, including:
  - a. Places which should be considered for artworks; and
  - b. The medium of the proposed artwork; and
  - c. The artist whose work should be considered for placement in the recommended location.

3. Selection of artists and artworks shall be based on the guidelines set forth in Section 15.44.070.
  4. The City will contract with the artist and with consultants as necessary for the purchase or commissioning as well as the execution and installation of the artwork.
  5. On-site activity in connection with the artwork installation shall be coordinated by the City Manager.
  6. Maintenance and repair of artworks funded through the Art in Public Places Fund shall be financed from that account.
  7. So far as is practical, in the event repair of the artwork is required, the City shall first give the artist the opportunity to do that work for a reasonable fee. In the event the artist is unable or refuses to make the repair for such a fee, the City may proceed to contract for such repair with another qualified artist.
- E. Endowments. The Art in Public Places Fund shall also be used as a depository for endowments, bequests, grants or donations. Such sums may be expended as set forth in subsection C of this section above as approved by the City Council. (Ord. 05-1555 § 1 (part), 2005: prior code § 5-26.8)