

## DIVISION 7. - PUBLIC ART

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### **Sec. VII-701. - Public art required.**

It is the intent and purpose of this division to further the commitment of the city to the aesthetic enrichment of the community through the private and public acquisition of works of art so that citizens and visitors to the city will be afforded an opportunity to enjoy and appreciate works of art. The requirements of this division shall be construed to promote the aesthetic values of the entire community, to encourage the preservation and protection of works of art.

Any property owner or developer who applies to the city for a building permit to construct or make improvements that exceed \$250,000.00 in construction value to a multi-family, mixed-use or commercial building or nonresidential portion of a mixed use building located in the Downtown Neighborhood Edge (DTNE), Downtown Edge (DTE), Downtown Core (DTC), Downtown Bayfront (DTB), or public building on Governmental Use (G) zoned property located in the community redevelopment area as depicted in the community redevelopment plan adopted September 22, 1986, shall be required to do one of the following:

- (1) Contribute an amount equal to one-half of one percent of the first \$50,000,000.00 in construction cost for the project for a maximum contribution of \$250,000.00) to the city public art fund established by section VII-704 of this division. When a project is to be constructed in phases, the maximum contribution pursuant to this section shall be \$250,000.00 for the entire phased project. For projects whose construction cost is \$1,000,000.00 or less the property owner or developer shall be required to contribute an amount equal to one-half of one percent of the construction cost to the city public art fund in lieu of providing public art or public works of art on the development site or in a public place off-site in accordance with section VII-701(2) or (3) of this division.
- (2) Provide public art or public works of art on the development site provided that:
  - a. The value of such public art or public works of art shall be equal to or greater than one-half of one percent of the construction costs for the project if the construction costs are less than \$50,000,000.00 dollars. The value of such public art or works of art shall be at least \$250,000.00 if construction costs are \$50,000,000.00 or more; and
  - b. Such public art or public work of art is approved by the public art committee hereinafter established prior to placement on the site. The public art committee shall be authorized to approve proposed public art or public work of art prior to its fabrication or acquisition.

- Nothing herein shall be construed to require that public art or a public work of art be in existence and subject to examination at the time of its approval by the public art committee.
- c. Provided, however, that buildings or portions of buildings that include attainable housing units as defined by the city commission, shall not be required to conform to the requirements of this section.
  - d. Provided, however, that building permits for individual condominium units shall not be required to conform to the requirements of this section.
  - e. Provided, however, that the county shall not be required to conform to the requirements of this section so long as the county provides public art, upon the construction of its public buildings, in conformity with the county public art program and so long as the public art proposed by the county is approved by the board of county commissioners after receiving and considering the comments and recommendations of the city public art committee.
  - f. Provided, however, that the city shall not be required to conform to the requirements of this section so long as the city provides public art, upon the construction of its public buildings, in conformity with the city public art program and so long as the public art proposed by city is approved by the city commission after receiving and considering the comments and recommendations of the city public art committee.
  - g. All works of public art located on private parcels shall be installed outside of any and all buildings and completely visible from the adjacent public right-of-way.
- (3) To provide public art or public works of art in a public place on a zoning lot other than the zoning lot proposed for development provided that:
- a. The value of such public art or works of art shall be equal to or greater than one-half of one percent of the construction costs if the construction costs are less than \$50,000,000.00 dollars. The value of such public art or works of art shall be at least \$250,000.00 if construction costs are \$50,000,000.00 or more; and
  - b. Such public art or public work of art is approved by the city commission, after receiving the recommendation of the public art committee, prior to placement, on the site approved by the city commission pursuant to paragraph c. below. The city commission shall be authorized to approve proposed public art or public work of art prior to its fabrication or acquisition. Nothing herein shall be construed to require that public art or a public work of art be in existence and subject to examination at the time of its approval by the city commission.
  - c. Such public art or public works of art is located in a public place off the development site which is approved by the city commission after receiving the recommendation of the public art committee.

All works of art provided in accordance with subsection (2) above or provided in accordance with subsection (3) above and located on private property shall be and remain the sole property of the private land owner. The private property owner shall likewise have the sole responsibility for maintenance and insurance of such works of art. All works of art provided in accordance with subsection (3) above and located on city owned property shall be and remain the sole property of the city.

The above requirements shall not be applied to commercial buildings or public buildings or public buildings in the event the source of funding or other statute or regulation applicable to the development project prohibits art as an object of expenditure of funds.

*(Ord. No. 02-4357, 4-29-02; Ord. No. 04-4531, § 3, 6-7-04; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 10-4927, § 2(att. 1), 2-*

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### **Sec. VII-702. - Removal or replacement—Prohibited of public art.**

After a work of art has been approved by the public art committee or city commission in accordance with section VII-701, such work of art shall be retained on site in its approved location and shall not be removed without prior approval of the public art committee and city commission of a reasonably equivalent replacement work of art.

*(Ord. No. 02-4357, 4-29-02)*

### **Sec. VII-703. - Additional work of public art—Permitted.**

After public art which meets the requirements of this division has been installed on a development site, nothing herein shall be construed to prohibit the installation and placement of additional works of art on site.

*(Ord. No. 02-4357, 4-29-02; Ord. No. 06-4663, § 2, 3-20-06)*

### **Sec. VII-704. - Public art fund.**

There is hereby created a public art fund which shall consist of all contributions received pursuant to section VII-701(1), cash grants to the city for public art projects from governmental or private sources, and all other funds donated to the city for the provision of public art by private parties. The public art fund shall be used solely for the selection, acquisition, transportation, installation, maintenance and promotion of works of art to be displayed in the city and all expenditures from the fund shall be approved by the city commission after the recommendation of the public art committee. Any works of art purchased with such funds shall be and remain the sole property of the city. The public art fund shall be kept in an interest bearing account, separate from general revenues and all accrued interest shall be deposited in the public art fund. The cost of insurance for public art located on property owned by the city shall be paid from the city's general fund.

*(Ord. No. 02-4357, 4-29-02)*

### **Sec. VII-705. - Application for building permits.**

Developments required to provide public art in accordance with this article shall:

- (1) If a contribution to the art fund is to be made, then, prior to the issuance of a building permit, the property owner or developer shall make the contribution as provided for in section VII-701(1).
- (2) If the public art has not been created, produced or rendered, then at the same time as the application for a permit is submitted to the director of building, zoning and code enforcement, the property owner or developer shall submit to the public art committee:
  - a. A description, in writing, of the process by which the artist(s) were or will be selected;
  - b. A proposed schedule for the creation, completion and installation of the approved art at the development site;
  - c. The location where the public art is to be installed;
  - d. Deposit with the city finance department in the form of cash or cashier's check the

amount of 115 percent of the value of the public art, as required in section VII-701(2) or (3).

The application for a building permit shall certify that such submittal to the public art committee and the required deposit has been made.

Either prior to or subsequent to the issuance of the building permit, the public art committee will review all documentation submitted by the property owner or developer, including photographic examples of existing work of the proposed artist and such other documentary material as may be requested by the public art committee. The public art committee shall approve, approve with conditions or disapprove the installation to the public art according to the standards set forth in section VII-706 and shall so advise the director of building, zoning and code enforcement, in writing.

Upon installation, the director of building, zoning and code enforcement will certify that the art work is properly installed according to the plans and specifications previously submitted and approved.

The director of building, zoning and code enforcement will not issue certificate of occupancy until the public art is properly installed, or an extension of time for the installation has been granted by the public art committee, or the funds deposited with the finance department have been forfeited to the city, as provided for in this section.

- (3) If the public art has been created, produced or rendered, then at the same time as the application for a building permit is submitted to the director of building, zoning and code enforcement, the property owner or developer shall:
- a. Submit graphic, photographic or architectural renderings;
  - b. A description of the proposed public art which is to be installed at the development site or other public place;
  - c. The location where the public art is to be installed; and
  - d. An independent appraisal of the value of the art work, to the public art committee or other evidence of value.

The application for a building permit shall certify that such submittal to the public art committee has been made. The cost of the appraisal shall be the sole responsibility of the property owner or the developer.

Prior to the issuance of a building permit, the public art committee will review all documentation submitted by the property owner or developer. The public art committee shall approve, approve with conditions or disapprove the installation of the public art according to the standards set forth in section VII-706 and shall so advise the director of building, zoning and code enforcement, in writing. No building permit shall be issued prior to the approval of the public art by the public art committee.

Upon installation, the director of building, zoning and code enforcement will certify that the art work is properly installed according to the plans and specifications previously submitted and approved. The director of building, zoning and code enforcement will not issue a certification of occupancy until the public art is properly installed or an extension of the time up to one year for the installation has been granted by the public art committee. Any such extension shall be conditioned upon the property owner or developer depositing with the city finance department, in the form of cash or cashier's check, the amount of 115 percent of the value of the public art, as required in section VII-701(2) or (3).

- (4) Funds of the property owner or developer deposited with the finance department, as provided for in subsection (2) or (3), shall be released when the director of building, zoning and code

- enforcement certifies to the finance director that the public art has been installed as required.
- (5) If the public art has not been installed as required herein and any extensions for such installation, if any, have elapsed, the director of building, zoning and code enforcement shall petition the city commission for authorization to forfeit all monies deposited with the finance department. Such deposit shall be ordered forfeited by the city commission, if it determines, after notice to the property owner or developer, that the public art was not installed as required by this section.
- (6) All decisions of the public art committee made pursuant to this section shall be appealable to the city commission within 30 days of the oral rendering of such decision.

(Ord. No. 02-4357, 4-29-02; Ord. No. 06-4663, § 2, 3-20-06)

## **Sec. VII-706. - Standards for approval or disapproval of public art.**

- (a) The public art committee shall be governed by the following mandatory and non-mandatory criteria in the exercise of their discretion to approve, approve with conditions or disapprove the proposed installation of public art as required by this division. The public art committee must find that each element of the mandatory criteria has been satisfied. In addition, the public art committee shall determine whether or not the proposed installation of the public art, on balance, comports generally with the elements of the non-mandatory criteria.
- (1) *Mandatory criteria.*
- a. Whether the proposed public art conforms to the definition of public art as set forth in section II-201;
  - b. Whether the proposed public art meets or exceeds the value requirements of section VII-701;
  - c. Whether the proposed public art is compatible with the neighborhood and not injurious to the neighborhood or otherwise detrimental to the public welfare;
  - d. Whether the proposed public art presents a safety hazard to the public;
  - e. Whether signs or other encroachments are or should be set back a certain distance from the proposed public art.
- (2) *Non-mandatory criteria.*
- a. Whether the proposed public art is of exceptional quality and enduring value;
  - b. Whether the proposed public art serves to further the city's goal of promoting cultural diversity;
  - c. Whether the proposed public art serves to further the city's goal of promoting a broad range of artistic styles and media from traditional to contemporary works of art in order to maintain an overall balance within the city;
  - d. Whether the proposed public art is supportive of the city's vision and goals;
  - e. Whether the proposed public art is appropriate to the site;
  - f. Whether the proposed public art should be installed at the proposed location on a site or at a different location;
  - g. Whether the proposed public art requires extraordinary maintenance, such as any special servicing due to periodic adjustment, repainting, or repair or replacement of moving parts;

(Ord. No. 02-4357, 4-29-02)