

Chapter 11.32 ART IN PUBLIC PLACES PROGRAM

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11.32.010 Purpose and intent.

The purpose of this chapter is to administer and implement the art in public places program to promote artistic competition, support performing arts, and build a culture of art investment. The program promotes the general welfare of the community by balancing the city's physical growth and revitalization with cultural and artistic resources. This program is specifically designed to accomplish the following:

- A. Enhance the quality of life through cultural and artistic resources for individuals living in, working in, and visiting the city.
- B. Preserve and improve the quality of the urban environment, and increase real property values through balanced development of cultural and artistic resources.
- C. Capture opportunities for creation of cultural and artistic resources concurrently with development and revitalization of real property in the city.
- D. Be mindful of community urbanization by developing alternative sources for cultural and artistic outlets to improve the environment, image, and character of the community.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.020 Applicability and exemptions.

A. Applicability. The requirements of this chapter, including the establishment, contribution to, and allocation of funds, and implementation of the art in public places program and funds shall apply to private development in all zones and public building development projects that include physical improvement of the property or structures, except as exempted in subsection (B) of this section.

B. Exemptions.

1. Buildings that are designed and continuously maintained as “performing arts” or “library/gallery/museum” land uses shall be exempt from the program allocation requirements of this chapter for as long as the performing arts or museum uses are maintained within the building. Conversion of the building or use to land uses other than “performing arts” or “library/gallery/museum” land uses shall result in the current and/or future property owner being responsible for contribution of funds or art work to the art in public places program based on the valuation of the building improvements at the time of conversion, consistent with the established values of Section [11.32.030](#), Valuation thresholds.
2. Development or improvements valued at less than five hundred thousand dollars.
3. Residential development of four or less units.
4. The value of all residential units in a project that are covenanted for low-income households for a period of twenty or more years, moderate-income households, or for older adults. Contribution of fees to the art in public places program shall not be required upon expiration of the low-income covenant.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.030 Valuation thresholds.

Valuation thresholds triggering the requirements of this chapter for the applicable development types established by Section [11.32.020\(A\)](#), Applicability and exemptions, are as follows:

- A. New Development. All new development with a building valuation equal to or exceeding five hundred thousand dollars.
- B. Modifications and Additions. All remodeling, including exterior and interior modifications and additions, with a building/construction valuation equal to or exceeding two hundred fifty thousand dollars, excluding earthquake rehabilitation required by this title for seismic safety.
- C. Valuation Definition. For the purposes of this chapter, the project valuation is the monetary value of the total building valuation for an applicable project, excluding land acquisition and off-site improvement costs. The total building valuation shall be computed using the latest building valuation data as set forth by the International Code Council unless, in the opinion of the building official, a different valuation measure should be used.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.040 Art work defined.

For the purposes of the art in public places program and the guidelines of this chapter, “art work” shall be any sculpture, mural, portable painting, earthwork, fiber work, neon, glass mosaic, photograph, print, calligraphy, or other form of physical hard or digital media. This shall apply to all art work donated to the city, installed by the city arts committee, and acquired and installed by a project applicant.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.050 Arts committee and fund.

- A. Arts Committee. An arts committee or surrogate body shall be established by the city to administer the

art in public places program and fulfill the duties established herein. The city council shall make appointments of members to the committee. Additional committee duties may be prescribed by the city council.

1. The arts committee shall prepare an annual plan for the art in public places program.
2. The arts committee may recommend to the city council the purchase of art work to be displayed on public property. A recommendation shall include 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.
3. An allocation from the city art fund may be made, upon city council approval, for the following expenditures:
 - i. Allocations for the performing arts; provided, that the city council, in its sole discretion, approves the expenditure and further provides that the performance occurs at a location in the city or at a location owned or facilitated by the city.
 - ii. Allocation for art-related city programming, including art exhibitions within the city or as affiliated with a learning institution, traveling art show, community-based or outreach program, or educational program.

B. City Art Fund. The city art fund shall account for all fees paid pursuant to this chapter, and shall be used solely for the acquisition, installation, improvement, maintenance, and insurance of an art work, or to sponsor or support performing arts events. This fund shall be maintained by the director of finance and subject to Section [11.32.060](#), Program allocation requirements.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.060 Program allocation requirements.

All applicable development identified in Section [11.32.020](#), Applicability and exemptions, shall be required to acquire, place, and install approved art work, subject to the guidelines of this chapter and approval by the arts committee, concurrently with completion of the development/modification project.

A. Art Work Allocation. The value of the placed and installed approved art work shall be equal to a minimum of one percent of the total building valuation, consistent with the standards of Section [11.32.020](#), Applicability and Exemptions, and Section [11.32.030](#), Valuation thresholds.

B. In-Lieu Fees. In lieu of placement of an approved art work, the project applicant may pay to the city art fund an amount equal to one percent of the total building valuation. In-lieu fees paid into the city art fund shall be administered by the arts committee.

C. Placement and Fees. The applicant shall be permitted to place and install an approved art work in an amount less than the required value (Section [11.32.030](#)(C) and subsection (A) of this section); provided, that the applicant pay in-lieu fees to the city art fund equal to the difference between the required value and the costs of acquisition and installation of such art work.

D. Payment of Fees. Payment of city art fund fees as required by this section shall be paid prior to issuance of a final building permit and/or physical occupancy of the building or property.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.070 Placement on private property.

All art work required by this chapter or donated to the city for placement on private property shall be subject to the application and approval process established by the city. At minimum, the application shall include an appraisal of the art work and a sufficient narrative statement to descriptively indicate the nature of the proposed art work.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.080 Approving architecture as art.

Architecture can be considered art in some cases where the architectural work is of extremely high artistic merit and would make a substantial cultural contribution. 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 city's art in public places program:

1. 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.
2. In the alternative, architecture can be considered art if it is created as a collaborative effort with an artist, the artist does a 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 sculpture.
3. The architecture must meet all of the guidelines and general criteria of this chapter.

The following procedure shall be followed by the developer to fulfill the public art requirement with the building's architecture.

A. Arts Committee Presentations. A developer shall be required to make a presentation to the arts committee to demonstrate that there will be high-quality materials and craftsmanship used in the execution of the construction, subject to the following:

1. The presentation shall be made prior to the development application being deemed complete. The developer shall submit a maquette (small model) and other materials that satisfactorily illustrate the proposed conceptual development. The developer 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 developer shall be required to make an additional presentation if modifications to the previously reviewed plans are made.

B. Architecture as Art. If all of the foregoing criteria are met, the arts committee shall make the recommendation to 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 city.

C. Responsibility. The developer and/or architect shall have the responsibility to demonstrate that all of the foregoing criteria are met.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.090 Ownership of art work.

A. Private Ownership. All art in public places program art work owned by the developer and located on city property or on private property shall remain the property of the applicant; the obligation to provide all maintenance necessary to preserve the art work in good condition shall remain with the owner of the site.

1. Maintenance of art in public places program art work shall include preservation of the art work in good condition to the satisfaction of the city; protection of the art work against physical defacement, mutilation, and alteration; and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the city attorney. Prior to placement of an approved art work, the applicant and owner shall execute and record a covenant in a form approved by the city for maintenance of the art work. Failure to maintain the art work as provided herein shall be declared a public nuisance.

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

B. City Ownership. All art work donated to the city shall become the property of the city upon acceptance by the city council.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

11.32.100 Administration.

A. Art in Public Places Compliance. No final city approval, such as final inspection, 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, in one or more of the following ways:

1. The approved art work has been placed in a manner satisfactory to the director.
2. In-lieu art fees have been paid.
3. Financial security in an amount equal to the acquisition and installation costs of an approved art work, in a form approved by the city attorney, has been posted.
4. Donation of an approved art work has been accepted by the city council.

B. Art in Public Places Allocation. For the purposes of this section, "full compliance with the art in public places program" shall not be found until the entire program allocation required by Section [11.32.050](#), Arts committee and fund, for the project has been satisfied. If any approved art work placed on private property pursuant to this chapter is removed without city approval, the certificate of occupancy may be revoked.

(Ord. 2323 § 1 Exh. A (part), 4-28-15)

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