

**CHAPTER 10. PUBLIC ART****Sec. 10-10.100. Purpose and Goals.**

The purpose of this chapter is to implement Goal 12 of the Walnut Creek General Plan 2025. It is premised on the Public Art Master Plan developed for the City of Walnut Creek in 2000.

Public art helps make our City more livable and more visually stimulating. The experience of public art makes public spaces and the public areas of buildings and their grounds more welcoming, and it creates a deeper interaction with the places we visit, and in which we work and live.

To achieve these goals, the Council believes that the In-Lieu Public Art Fund should be used to realize public art in public spaces, and when art is to be realized on private development, public art planning should be integrated into project planning at the earliest possible stage, and the selected artist become a member of the project's design team early in the design process. (§1, Ord. 1972, eff. 10/19/00; §21, Ord. 2070, eff. 6/20/2008; §1, Ord. 2074, eff. 2/20/2009; §1, Ord. 2099, eff. 2/18/11)

**Sec. 10-10.101. Definitions.**

As used in this chapter:

A. **Construction Cost** shall be determined by the Chief Building Official in accordance with the most current building valuation data specified in the Building Permit Fees section of the resolution establishing fees and charges as adopted by the City Council.

B. **Construction or Alteration** means new construction or the rehabilitation, renovation, remodeling or improvement of more than fifty percent (50%) of the gross square footage of an existing building.

C. **Public Art Project** means the cost for the development, acquisition, and installation of the public art required by this chapter. It shall include the administrative costs associated with creating and installing art in public spaces and the costs a developer is charged for the administration of this chapter. (§1, Ord. 1972, eff. 10/19/00; §1, Ord. 2074, eff. 2/20/2009; §2, Ord. 2099, eff. 2/18/11)

**Sec. 10-10.102. Public Art Fee Requirement.**

A. In the case of (i) the construction or alteration of a nonresidential building of twenty-five thousand (25,000) square feet or more anywhere in the City, or (ii) the addition of twenty-five thousand (25,000) square feet or more of floor area to an existing nonresidential building anywhere in the City, a public art fee in an amount not less than one percent (1%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

B. In the case of (i) the construction or alteration of any building of twenty-five thousand (25,000) square feet or more in the Core Area as described in General Plan 2025, or (ii) the addition of twenty-five thousand (25,000) square feet or more of floor area to any existing building in the Core Area as described in General Plan 2025, a public art fee in an amount not less than one percent (1%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

C. In the case of (i) construction or alteration of any building of at least fifteen thousand (15,000) square feet but less than twenty-five thousand (25,000) square feet in the Core Area as described in General Plan 2025, or (ii) the addition of floor area of at least fifteen thousand (15,000) square feet but less than twenty-five thousand (25,000) square feet to any existing building in the Core Area as described in General Plan 2025, a public art fee in an amount not less than one-half of one percent (0.5%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

D. For any project for which the public art fee to be assessed is twenty-five thousand dollars (\$25,000) or greater, the developer can choose to either pay the in-lieu fee or have public art placed on the project site. If the developer chooses to place public art on the project site, the developer must comply with the provisions of Section 10-10.103.

E. In-lieu fees shall be paid, or public art shall be installed on the property, prior to the issuance of a first certificate of occupancy unless an extension is granted by the Arts, Recreation and Community Services Director per Section 10-10.103(B). (*§1, Ord. 1972, eff. 10/19/00; §1, Ord. 2074, eff. 2/20/2009; §3, Ord. 2099, eff. 2/18/11*)

#### **Sec. 10-10.103. Public Art on Private Development**

A. For any developer that chooses to install public art on the project site, the public art may be located (1) in areas on the site of the building or addition clearly visible from the public street or sidewalk, or (2) on the site of the approved open space feature of the project, or (3) upon the approval of any relevant public agency on adjacent public property, or (4) in a publicly accessible lobby area of an office building or hotel.

B. The works of art shall be installed prior to the issuance of the first certificate of occupancy; provided, however, that if the Arts, Recreation and Community Services Director concludes that it is not feasible to install the works of art within the time and adequate assurance (which the Director may require to be in the form of a letter of credit or bond) is provided that the works will be installed in a timely manner, the Arts, Recreation and Community Services Director may extend the time for installation for a period of not more than twelve (12) months. Public art may include sculpture, murals, photography and original works of graphic art, waterworks, fiberworks, neon, glass, mosaics, or any combination of forms of media, furnishing or fixtures permanently affixed to the building or its grounds, or a combination thereof, and may include architectural features of the building. The creator of public art shall be a practitioner in the visual arts who is not a member of the project architect or landscape architect firm. Public art shall be displayed in a manner that will enhance its enjoyment by the general public.

C. The artwork shall be recommended by the Bedford Gallery Advisory Council and approved by the Arts Commission. The selection criteria may include, but are not limited to, context, artistic quality, media, permanence, and public safety. The Design Review Commission shall approve the scale and location of the artwork. (*§4, Ord. 2099, eff. 2/18/11*)

#### **Sec. 10-10.104. Use of In-Lieu Fund.**

A. In-lieu fees shall be placed in the In-Lieu Public Art Fund. The fund shall be used for City-owned art or City-sponsored exhibitions. The fund shall be used exclusively to (1) provide sites for works of art, (2) acquire and install works of art, (3) maintain works of art, (4) support the exhibition of art which is

publicly accessible, or (5) fund other administrative costs associated with the Public Art Program. The Arts Commission shall recommend utilization of monies in the in-lieu fund to the City Council.

B. The Arts Commission shall periodically review and update the list of public art sites as identified in the Public Art Master Plan. In the event the Arts Commission elects to initiate a public art project, the Commission shall refer to the approved list to select a site for a public art project and develop a public art project budget for approval by the City Council. Public Services Department staff shall be consulted in determining the appropriateness of a site for the proposed public art project.

C. The artist(s) and artwork shall be recommended by a selection panel, as outlined in the Public Art Master Plan, and approved by the Arts Commission. The selection criteria may include, but are not limited to, context, artistic quality, media, permanence, and public safety. (§4, Ord. 2099, eff. 2/18/11)

**Sec. 10-10.105. Maintenance and Removal of Works of Art.**

The owner of the real property on which public art is located shall maintain the public art installed pursuant to this chapter. No work of art may be removed unless a replacement work of public art is approved pursuant to the procedure in Section 10-10.102. (§4, Ord. 2099, eff. 2/18/11)

**Sec. 10-10.106. Exemptions.**

This chapter shall not apply to residential projects consisting solely of dwelling units that are restricted by federal, state or local law as affordable housing units (as defined in Section 10-2.1.303(A)(7)). (§4, Ord. 2099, eff. 2/18/11)

**CHAPTER 11. PUBLIC IMPROVEMENT REIMBURSEMENTS**

**Sec. 10-11.101. Purpose and Intent.**

The public interest, health and general welfare of the City and its inhabitants require:

- a. The construction of sanitary sewer, water and storm drainage facilities and street paving, including curbs and gutters, and the undergrounding of utilities take place at such time as there are occupied lands to be served thereby;
- b. That when such facilities are constructed, such shall be so sized and located as to be or become an integral part of the planned sewer, water, storm drainage and street systems of the City;
- c. That such construction and such sizing and location shall not be delayed until all lands ultimately to be served by such facilities are occupied or developed in accordance with the City’s street standards, municipal code, general plan or applicable specific plans; and
- d. That, therefore, either the City and/or the owners of only a portion of the lands to be served by such facilities sometimes pay the entire costs of such facilities, notwithstanding that proportionate share of such costs should be borne by other lands that will in the future be served by such facilities.