

ARTICLE II. - ART IN PUBLIC PLACES^[2]

DIVISION 1. - GENERALLY

Sec. 17-31. - Purpose.

The city council finds and declares:

- (a) Cultural and artistic resources enhance the quality of life for persons who live, work, and visit the city.
- (b) Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values.
- (c) As development and revitalization of real property within the city continues, the opportunity for creation of cultural and artistic resources is diminished. As this development and revitalization continues as a result of market forces, urbanization of the community results. As these opportunities are diminished and this urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image, and character of the community is increased.
- (d) Development of cultural and artistic assets should be financed by those whose development and revitalization diminishes the availability of the community's resources for those opportunities and contributes to community urbanization.
- (e) Establishment of the art in public places program will promote the general welfare through balancing the community's physical growth and revitalization and its cultural and artistic resources.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-32. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant. The owner of the property or the tenant utilizing the property and seeking required permits.

Artwork. Original works of art, including, but not limited to, the following categories: sculpture, mural or portable painting, mosaic, fountains, earthwork, firework, neon glass mosaic, photograph, print, calligraphy, or other forms of physical hard media. 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.

City manager. The City Manager of the City of West Covina or his/her designee.

Eligible fund. A source fund for construction projects (construction cost) from which art is not precluded as an object of expenditure. Construction cost excludes costs of real property acquisition, demolition, equipment, normal major maintenance, financing, advertising and legal fees, and costs paid from contingency reserve funds, capital reserve or interest earnings on city bond proceeds.

Performing arts. Performances presented by professional or amateur performers, including theater performance (any form of dramatic presentation, spoken or silent); musical theater/opera (any dramatic performances of which music is an integral part; dance (any form of rhythmical movement); music/concert (any musical form whether classical or popular); and children's theater (any theater for young audiences, for or by children).

Planning commission. The Planning Commission of the City of West Covina.

Planning director. The planning director of the City of West Covina or his/her designee.

Project cost. The total value of the improvements for a project, excluding land value, as determined by the Public works Director, and indicated on the building permit(s) that are issued for that project.

Public place. Any exterior area on public or private property which is easily accessible and clearly visible to the general public, such as a street or other public thoroughfare, sidewalk, parks, and plazas.

Public works director. The Public Works Director of the City of West Covina or his/her designee.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Secs. 17-33—17-40. - Reserved.

DIVISION 2. - PROJECTS SUBJECT TO ART IN PUBLIC PLACES PROGRAM

Sec. 17-41. - Projects subject to requirements.

Except as may be exempted pursuant to section 17-42, the requirements of this article shall apply to the following types of projects:

- (a) *Residential projects.* New residential projects consisting of the subdivision of ten (10) or more residential lots and/or the construction of ten (10) or more dwelling units.
- (b) *New nonresidential projects.* New nonresidential (i.e. commercial, office, or industrial) projects having total projects costs of five hundred thousand dollars (\$500,000.00) or more as determined by the city's valuation of building permits issued for the project.
- (c) *Expansion/remodel of nonresidential projects.* Expansion and/or remodeling of existing nonresidential (i.e. commercial, office, or industrial) projects having total project costs of two hundred fifty thousand dollars (\$250,000.00) or more as determined by the city's valuation of building permits issued for the project.
- (d) *Mixed use projects.* Projects consisting of both residential and nonresidential development that meet one (1) or more of the criteria listed in subsections (a) through (c) above.
- (e) *City projects.* City capital improvement projects involving construction of public buildings or facilities and having project costs of five hundred thousand dollars (\$500,000.00) or more as determined by the public works director.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-42. - Exempt projects.

The following projects shall be exempt from the requirements of this article:

- (a) *Affordable/senior citizen housing.* Residential or mixed use projects involving the construction or remodeling of dwelling units restricted to sale, rent, or occupancy by low- to moderate-income households and/or senior citizen households.
- (b) *Civic, cultural, or governmental facilities.* Projects consisting of the construction, expansion, or remodeling of facilities of a civic or cultural nature or facilities owned by governmental agencies, except "city projects" as listed under subsection 17-41(e) above.
- (c) *Reconstruction or repair of damaged facilities.* Projects consisting of the reconstruction or repair of facilities that have been damaged or destroyed by fire, flood, wind, earthquake, acts of terrorism, or other calamity.

(Ord. No. 2117, § 1, 8-17-04)

Secs. 17-43—17-50. - Reserved.

DIVISION 3. - REQUIREMENTS FOR ART IN PUBLIC PLACES PROGRAM

Sec. 17-51. - Requirements.

When a project is subject to the requirements of this subchapter, the applicant shall comply with the provisions of either subparagraph (a) or (b) of this section or a combination of both.

- (a) *Artwork contribution.*
 - (1) The project applicant shall acquire and install artwork in a public place on or in the vicinity of the project site as approved by the planning commission pursuant to this article.
 - (2) The cost or value of such artwork shall approximate the amount of the in-lieu contribution that would be made under subsection (b) of this section.
 - (3) A project applicant may acquire and install artwork in a public place not on the applicant's property (the "substitute site") subject to approval by the planning commission.
- (b) *In-lieu contribution.*
 - (1) In-lieu of providing artwork in compliance with subsection (a) above, for residential projects, the project applicant may elect to pay an in-lieu fee equal to one-half (½) percent of the total project costs, excluding land, and for nonresidential projects, the project applicant may elect to pay an in-lieu fee equal to one (1) percent of the total project costs, excluding land.
 - (2) Payment of in-lieu fees shall be made by the applicant prior to issuance of a building permit, unless otherwise provided by the city council.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Secs. 17-52—17-60. - Reserved.

DIVISION 4. - ADMINISTRATION AND PROCESSING

Sec. 17-61. - Project screening.

- (a) Upon application for land use entitlements and/or building permits, the planning director shall determine whether a project is subject to the requirements of this article. The planning director may require the submission of additional information regarding project valuation to assist in making this determination.
- (b) Within thirty (30) days of the date of applying for entitlements or permits, the planning director shall determine whether a project is subject to the requirements of this article or shall request additional information in writing to assist in making this determination. If additional information is requested, the planning director shall make his/her determination within thirty (30) days of receiving all requested additional information.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-62. - Art in public places application.

- (a) *Application.* For projects which are subject to the requirements of this article and which decide to not fulfill the requirements of this subchapter through the payment of in-lieu fees as set forth in subsection 17-51(b), the project applicant shall submit an art in public places application form to the planning department. The application shall set forth the manner in which the applicant proposes to fulfill the requirements of this article, including whether the fulfillment shall be by on-site artwork contribution, off-site artwork contribution, in-lieu contribution, or any combination thereof.
- (b) *Planning commission review.* The planning commission shall be responsible for reviewing and rendering decisions regarding art in public places applications. The determination of the planning commission shall be final unless appealed to the city council within ten (10) days of the planning commission decision pursuant to procedures set forth in section 26-212.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Sec. 17-63. - Completion of requirements.

- (a) *In lieu contribution.* No project grading or building permits may be issued until all in lieu contributions have been paid in full pursuant to the approved art in public places application.
- (b) *Artwork contribution.* When the project applicant has elected to fulfill the requirements of this article in full or in part through an artwork contribution pursuant to an approved art in public places application, the certificate of occupancy or final building permit shall not be issued until the approved artwork(s) has been fully installed and completed in a manner satisfactory to the planning director. At the discretion of the planning director, an in lieu contribution in the amount of the valuation of the approved artwork may be made as a deposit to secure the proper installation of artwork subsequent to the issuance of a certificate of occupancy or final building permit.

Upon proper installation of the approved artwork, the deposit shall be refunded. After one (1) year following the deposit of an in lieu contribution, the city may elect to cancel the requirement for the approved artwork and retain the deposit as fulfillment of the requirement for this article.

(Ord. No. 2117, § 1, 8-17-04)

Secs. 17-64—17-70. - Reserved.

DIVISION 5. - ART IN PUBLIC PLACES FUND

Sec. 17-71. - Fund created.

There is hereby created an art in public places fund. All monies collected in accordance with this article, and in particular in accordance with the in lieu contribution provisions of this article, shall be deposited into this fund. The art in public places fund may also be used as a depository for endowments, bequests, grants, or donations.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-72. - Accounting.

The city manager shall establish accounting records sufficient to identify and control the art in public places fund. The account containing these funds shall earn interest and the earned interest shall be used for and be subject to the same restrictions set forth in section 17-73.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-73. - Use of funds.

Monies in the art in public places fund may only be used for the following purposes:

- (a) The purchase, commission, and/or installation of public artwork.
- (b) Maintenance or restoration of public artwork.
- (c) Art education programs and events.
- (d) Plaques and signage.
- (e) Publicity and promotional materials for public art programs and functions.
- (f) Training and development for staff and commissioners involved in the administration of the art in public places program.
- (g) Other costs directly associated with the administration of the art in public places program as set forth in the annual program budget.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-74. - Budget and work program.

The art in public places program shall have an annual administrative budget that shall be included as part of the city's budget. In conjunction with the annual budget, a work program shall be prepared each year which shall set forth a plan for use and expenditure of funds. The work program should specify locations for proposed artworks, approximate value of artworks, and the selection process to be used for commissioning or purchasing artworks. The planning commission shall review the annual work program and render a recommendation for final approval by the city council.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Secs. 17-75—17-80. - Reserved.

DIVISION 6. - STANDARDS FOR ARTWORKS

Sec. 17-81. - Location.

Artwork shall be situated so as to be readily visible by the general public and be located in an area specifically designated on approved building plans. Appropriate locations may include entryways, greenbelts, and building exteriors.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-82. - Materials.

Artwork shall be constructed of permanent materials requiring a low level of maintenance. The application is reviewed for durability and weather resistance of the art media.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-83. - Maintenance.

The continued maintenance of artwork shall be responsibility of the owner. Artists and developers shall include maintenance provisions in the artist's contract which stipulate the length of time the artist shall be responsible for repairs. Where artwork is placed on private property pursuant to the requirements of this article, the applicant shall execute and record a covenant with the Los Angeles County Recorder which sets forth the applicant's obligation to properly maintain the approved artwork. If any approved artwork placed on private property pursuant to this article is removed without city approval, the city shall pursue enforcement of the covenant and any other appropriate remedies that will ensure compliance with the requirements of this article.

(Ord. No. 2117, § 1, 8-17-04)

Sec. 17-84. - Artist qualifications.

Artwork must be designed by artists with experience and knowledge of monumental-scale public art. The artist's qualifications shall be reviewed by the planning commission. Qualifications must include examples of past works that can be documented.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Sec. 17-85. - Art in public places guidelines.

In addition to the standards set out in this article, the planning commission shall also be responsible for promulgating and adopting a set of guidelines that shall further set out appropriate standards for artwork, artists, and other related matters. These guidelines shall be adopted by resolution of the planning commission and may be amended from time to time as necessary.

(Ord. No. 2117, § 1, 8-17-04; Ord. No. 2174, § 1, 4-15-08; Ord. No. 2229, § 2(Exh. B), 3-20-12)

Secs. 17-86—17-100. - Reserved.