

ORDINANCE NO. 2015-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY ADDING SECTION 2.38 AND CHAPTER 45 TO THE REDWOOD CITY CODE TO (1) ESTABLISH THE ART IN PUBLIC PLACES FUND; (2) ESTABLISH A CITY CONTRIBUTION OF ONE (1) PERCENT OF THE CITY'S ANNUAL CAPITAL OUTLAY FUND TO BE PLACED IN THE ART IN PUBLIC PLACES FUND FOR THE PURPOSE OF PUBLIC ART; AND (3) REQUIRE COMMERCIAL DEVELOPMENT PROJECTS OVER 50,000 SQUARE FEET TO PROVIDE PUBLICLY VISIBLE ART ON-SITE THAT IS EQUAL IN VALUE TO AT LEAST ONE (1) PERCENT OF THE PROJECT'S CONSTRUCTION VALUATION OR, ALTERNATIVELY, PAY AN EQUIVALENT IN-LIEU FEE, WHICH WILL BE DEPOSITED IN THE ART IN PUBLIC PLACES FUND.

THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 2.38 is hereby added to Chapter 2, Article IV of the Redwood City Code, to read as follows:

“Sec. 2.38. ART IN PUBLIC PLACES FUND:

A special fund to be known as the "Art in Public Places Fund" is hereby established.

In establishing this fund, the City Council finds and declares the following: (a) public art is a valuable means of promoting vibrancy, defining cultural uniqueness, building community, and improving the quality of life in the City; (b) the environment, image, and character of the City would be improved by public art; (c) public art helps make cities more livable and more visually stimulating; (d) the presence of and access to public art enlivens the public areas of buildings and their grounds and makes them more welcoming; (d) public art can illuminate the diversity and history of a community, create/nurture/promote positive community interactions and conversation, and foster the economic development of the community.

To further the forgoing goals, the “Art in Public Places Fund” is established to fund the provision of public art within the City. Monies in this fund may be deposited through contributions from the City's Capital Outlay Fund or any other source authorized in Chapter 45 of this Code. Works of public art shall be acquired and installed pursuant to the provisions of Chapter 45of this Code.”

SECTION 2. Chapter 45 is added to the Redwood City Code to read as follows:

“CHAPTER 45: PUBLIC ART

Sec. 45.010 Findings and Purpose.

The City Council finds and declares the following: (a) public art is a valuable means of promoting vibrancy, defining cultural uniqueness, building community, and improving the quality of life in the City; (b) the environment, image, and character of the City would be improved by public art; (c) public art helps make cities more livable and more visually stimulating; (d) the presence of and access to public art enlivens the public areas of buildings and their grounds and makes them more welcoming; (d) public art can illuminate the diversity and history of a community, create/nurture/promote positive community interactions and conversation, and foster the economic development of the community.

To realize these benefits of public art, the City Council believes that the Art in Public Places Fund established in Section 2.38 of this Code should be used to fund art in public places within the City. In providing for funding for art in public places, it is not the intent of the City to establish a designated public forum. Art receiving funding from the Art in Public Places Fund shall communicate the City’s own messages and themes, including but not limited to, encouraging and promoting awareness of the City’s ethnic, social and cultural diversity; showcasing historic heritage; enlivening an area; inspiring creativity; reflecting a sense of community.

The City Council also finds that the environment, image, and character of the City would be improved by art and that the impacts associated with new development projects would be offset, in part, by provision of art in compliance with this chapter. To ensure that public art is present and sustained throughout the community, this Chapter requires the inclusion of art in commercial developments over a certain size.

Sec. 45.020 Definitions. For purposes of this Chapter, unless it is plainly evident from the context that a different meaning is intended, certain terms as used in this chapter are defined as follows:

ART IN PUBLIC PLACES means any work of art displayed for more than two weeks in an open city-owned area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

ART means and includes, but is not limited to the following:

- A. painting in all media including permanently affixed works such as murals or frescoes;
- B. prints and drawings;
- C. reliefs, including carvings, frescoes, mosaics, earth works;
- D. sculpture, including statues, fountains, benches kinetic, electronic, mobiles and monuments, or other in any material or combination of materials;

- E. arches or other structures intended for ornament or commemoration;
- F. graphic and multi-media, including printmaking, photography, video, any combination or forms of electronic media in a large public scale;
- G. mixed or conceptual media in any combination of forms or media including drawings, collages, prints, or the use of sound, light, or water. Water, neon, fiber optic and electronic sculptures are not encouraged due to difficulty of maintenance, though such art may be permitted if adequate assurance of continued maintenance is provided;
- H. video, electronic, holographic, or digital media;
- I. crafts both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials;
- J. stained glass;
- K. Other landscape or architectural features that have been specifically and originally designed as a unique artistic element for the project and are not a mass production or replication.

The following are not considered ART for the purposes of this chapter:

- L. directional elements such as supergraphics, signage, or color coding except where these elements are integral parts of the original work of art or executed by artists in unique or limited editions;
- M. objects which are mass produced of standard design such as banners, signs, playground equipment, benches, statuary, street barriers, sidewalk barriers, or fountains;
- N. reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking, or other media arts. Permitted art may include, however, limited editions controlled by the artists of original prints, cast sculpture, photographs and other art forms;
- O. decorative, architectural, or functional elements which are not designed by the building architect or landscape architect as an original artistic design feature unique to the project;
- P. landscape architecture, gardening, or materials, except where these elements are designed by the artist and are integral or part of the work of art created by the artist;
- Q. landscaping required by the City as part of the development entitlements;
- R. artwork that is similar to, reminiscent of or based on a corporate logo.

PERMANENT INSTALLATION OF ART IN PUBLIC PLACES means a work of Art in a public place intended to remain or remaining for five years or more.

PUBLICLY VISIBLE ART means a work of Art that is visible or accessible to the public for a minimum of 40 hours per week.

Sec. 45.030 Duties of the Civic Cultural Commission.

As authorized and in supplementation of Section 2.113, Article IX, Division 2 of this code, the powers and duties of the Civic Cultural Commission with respect to the art provided for by this Chapter shall be as follows:

A. To advise the City in matters pertaining to the quality, quantity, scope, and style of art in public places;

B. To periodically review, at least once a year, the capital improvement program with the Director of Parks, Recreation and Community Services and such other members of the City staff as may be appropriate for inclusion of works of art in various projects;

C. To review and recommend methods of selecting and commissioning artists with respect to the design, execution, and placement of art in public places and, pursuant to such methods, to advise the Director of Parks, Recreation and Community Services on the selection and commissioning of artists for such purposes;

D. To advise the City regarding the amounts to be expended on art in public places;

E. To advise and assist the Director of Parks, Recreation and Community Services in obtaining financial assistance for art in public places from private, corporate, and governmental sources;

F. To review plans for the installation of art in public places;

G. To review the inventory of art in public places and to advise the City in matters pertaining to the maintenance, placement, alteration, sale, transfer, ownership, and acceptance or refusal of donations of, and other matters pertaining to, art in public places;

H. To advise the City on such other matters pertaining to art in public places as may be appropriate;

I. To advise and assist private property owners who desire such advice and assistance regarding the selection and installation of works of art to be located on their property in the public view;

J. To give recognition to, and to maintain, an inventory of meritorious works of art in the public view;

K. To endeavor to preserve works of art in the public view deemed to be meritorious by the Civic Cultural Commission through agreements with the property owner and/or the artist;

L. To explore on a continuing basis the availability of funds for art in public places from such organizations as the National Endowment for the Arts, the California Arts Commission, and other public and private agencies.

Sec. 45.040 Art in Public Places Fund, In General.

A. Source of Funds. The Art in Public Places Fund established in Section 2.38 of this Code shall be credited annually with such funds as determined by the City Council and with all funds received by the City for art in public places, whether contributed, earned, secured through grants, or otherwise obtained. Any funds deposited in the Art in Public Places Fund shall be clearly described as those funds specifically for deposit into the Art in Public Places Fund and shall not include those funds which are earmarked for purposes other than Art in Public Places. Similarly, no calculation of a percentage of the Capital Outlay Fund shall consider any funds earmarked for another purpose when calculating such percentage.

B. Use of Funds. Funds in the Art in Public Places Fund may be appropriated in the annual budget to obtain and install art in public places, to maintain and refurbish art in public places, to obtain professional consultants or City employees to assist the City and the Civic Cultural Commission in selecting artists and art in public places, to preserve meritorious works of art in public places and art on private property in public view, and to defray such other capital expenses which are, or may become, an integral part of providing for and/or maintaining art in public places.

Sec. 45.050 Approval Process for Art Funded by the Art in Public Places Fund.

Recognizing that professional expertise is desirable in artistic matters, such as the selection of artists for a project, the selection of particular works of art, and the approval of designs and plans for works of art, the City Council declares that:

A. With respect to art funded by the Art in Public Places Fund, initial decisions on artistic matters will, as a matter of course, be made by City staff, and the Civic Cultural Commission. The City Council will refer questions, suggestions, requests, complaints, and similar items pertaining to the art in public places program to appropriate City staff and/or the Civic Cultural Commission for their review and response.

B. The Civic Cultural Commission shall review any proposed art work to be funded by the Art in Public Places Fund. Such review will include any sketches, designs, photographs, precise plans, art examples, and similar items. Following its review of any proposed art, the Civic Cultural Commission shall submit a written recommendation to the City Council regarding whether such art should be acquired and/or installed. The Civic Cultural Commission shall also review and make recommendations concerning other legitimate expenditures from the Art in Public Places Fund.

C. After receiving the recommendation of the Civic Cultural Commission, the City Council shall approve or disapprove the acquisition and/or installation of any proposed art. The City Council shall also approve or disapprove other legitimate expenditures from the Art in Public Places Fund. If City Council approves an installation, it shall determine the duration of such installation, provided however, that the City Council may delegate the right to extend the duration of any installation to the City Manager (or designee). The previous sentence notwithstanding, no permanent installation of art in public places shall

be removed, altered, or changed without the prior review and advice of the Civic Cultural Commission and the approval of the City Council.

Sec. 45.060 Standards for Review.

In evaluating proposed art in public places to be funded by the Art in Public Places Fund, the Civic Cultural Commission and City Council shall give special attention to the following:

A. The artist is required to have experience in and/or knowledge of the type of art proposed for installation and public viewing. The artist's qualifications will be evaluated and examples of past work may be reviewed to determine whether or not the artist has appropriate experience for the project;

B. Appropriate locations may include, but are not limited to, vehicular entryways to the property, plazas, greenbelts and building façades. The location selected should allow reasonable accessibility to the art. The location shall be exterior and installation of the art piece shall enhance the art and allow for unobstructed public viewing from as many angles as possible;

C. The art shall be proportional to the scale of the development and designed to create an artistic, visual, and aesthetic impact upon observers. Particularly in locations on major thoroughfares and major intersections, the art should be of such size and nature as to strengthen the urban design and aesthetic quality of life in the community;

D. The art shall be conceptually compatible with the immediate environment of the site; appropriate to the function of the site; and compatible within any unified design character or historical character of the site;

E. Appropriateness of the materials, textures, colors, and design to the expression of the design concept;

F. Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community; and

G. Preservation and integration of natural features with the project.

Sec. 45.070 General Rules for Art in Public Places.

A. Private Sites for Art in Public Places. No work of art financed or installed either wholly or in part with City funds or with grants procured by the City shall be permanently installed on privately owned property without a written agreement between the City and the owner specifying the proprietary interests in the work of art, binding the owner to the general rules for art in public places, and specifying other provisions deemed necessary or desirable by the City Attorney. Additionally, such written agreements shall specify that the private property owner shall assure:

1. That the installation of the work of art will be done in a manner which will protect the work of art and the public;
2. That the work of art will be maintained in good condition; and
3. That insurance and indemnification will be provided as is appropriate.

B. Consultation with the Artist. Installation, maintenance, alteration, refinishing, and moving of art in public places shall be done in consultation with the artist whenever feasible.

C. Inventory of Art in Public Places. The Director of Parks, Recreation and Community Services shall maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. The Director of Parks, Recreation and Community Services shall attempt to give appropriate recognition to the artists in publicity and promotion regarding art in public places. For permanent installations of art in public places,

D. Plaque. For each permanent installation of art in public places, an appropriate identification plaque or monument measuring at least eight inches by eight inches shall be installed. The plaque shall be made of cast metal and be placed near the art piece. Information is limited to the date, title and artist. The requirement of this section may be waived by the City Council if determined in a particular circumstance to be unnecessary or inconsistent with the intent of this chapter.

Sec. 45.080 Contribution from Capital Outlay Fund.

A. It shall be City policy to set aside one (1) percent of its annual Capital Outlay Fund as defined in Section 2.41.1 of this Code, or such other percentage as determined annually by the City Council, for the purpose of providing for art in public places. Such percentage shall be placed in the Art in Public Places Fund. Except as provided in this section, all capital projects shall be subject to this policy, including but not limited to buildings, shelters, parking garages and lots, restrooms, small structures, parks, medians, landscaping, plazas, gateways, bridges, walls, tunnels, waterways, and street and road construction. Salaries and benefits of public employees supporting capital projects shall not be included in the capital outlay fund budget subject to this ordinance.

The following capital projects are excluded from this policy:

1. ADA compliance projects (not including projects where ADA compliance is a portion of a larger project).
2. Road, path and sidewalk repairs, including: traffic signals and upgrades, curb and gutter repairs, sign reflectivity, road and parking signage, resurfacing of roads or other existing hardscape areas.
3. Emergency repair projects.
4. Cyclical replacement and repair of trails, outdoor furnishings, or fencing.
5. Studies.

6. Roof replacement.
7. Mechanical, security, A/V equipment, HVAC, and IT installations, upgrades and repairs.
8. Art in public places fund.
9. Utilities projects, except where the project includes construction or reconstruction of a building.
10. Vehicle repair and replacement.
11. Seismic upgrades and waterproofing.
12. Projects where the majority of the cost is allocated to elements located underground.
13. Projects where prohibited by federal or state law, including projects or portions of projects funded by grants from non-city sources that prohibit expenditure of funds for art.

B. Nothing in this section is intended to prohibit the City Council from adopting an ordinance or resolution establishing a public art contribution for any project otherwise excluded from this policy or setting the public art contribution for any project at greater than one (1) percent of the Capital Outlay Fund budget.

C. The City Manager or designee, in consultation with the Civic Cultural Commission, as appropriate, shall determine public or publically-accessible sites for art funded by the one (1) percent for art policy. Funds may be expended on public art at any appropriate site within the City pursuant to the approval procedures set forth in Section 45.050 above. Funds from two or more capital projects may be pooled to fund a single work of art. Funds may be used for permanent or temporary public art.

D. City staff may use reasonable efforts to obtain appropriate approvals from any funding source for any capital improvement project to allow use of one (1) percent of such funds for the acquisition of public art as provided in this title. Such efforts may include, without limitation, identifying public art in grant applications for capital improvement projects, efforts to include expenditures for public art in developer funded infrastructure projects, and efforts to include public art in developer-constructed infrastructure and public facilities.

E. If the terms of a contract, federal or state grant, law, rule or regulation prohibit or restrict the collection or use of funds in connection with a city capital improvement project for expenditures upon public art, or if the eligible uses of the funding are limited and specified and do not include public art, then the amount equal to one (1) percent of the funding from such source shall be subtracted from the one (1) percent total allocated from the Capital Outlay Fund to the Art in Public Places Fund, so as to exclude from the Art in Public Places Fund any funds that are so prohibited or restricted. For example and without limitation, the one (1) percent total allocated from the Capital Outlay Fund to the Art in Public Places Fund shall not include any money collected by the City as a Mitigation

Fee on private development subject to the Mitigation Fee Act (Government Code Section 66000 et seq.).

Sec. 45.090 Provision of Publicly Visible Art By Certain Private Developments.

A. Provision of Art. New commercial developments that have a gross floor area of 50,000 square feet or more, including office and retail uses, all industrial or light industrial uses, and any commercial portions of any new mixed use development, shall provide publicly visible art on-site that is equal in value to at least one (1) percent of the project's construction valuation. In some instances the cost of artwork may not equate precisely to one (1) percent of the construction valuation. If the developer does not spend the entire one (1) percent on public art, the remaining amount shall be contributed to the Art in Public Places Fund.

B. Construction Valuation. For purposes of this Chapter, the construction valuation of a development shall be as determined by the Building Official. Valuation of development projects includes the construction of the building shell. Valuation does not include costs for architecture, design, engineering and required studies, land acquisition, site improvements, parking structures, off-site improvements or tenant improvements. In the event of multi-phased development, valuation is based on the cost of all phases, even though all phases may not be completed at the same time.

C. Eligible Public Art Expenditures.

1. Eligible Costs. When calculating the value of art to be placed on a private development site, eligible costs include the purchase price of the art; art consultant fees; costs associated with art commissioned for the specific development site; installation costs, including transportation of the art to the site, pedestals or display costs; wiring, fixtures and other costs directly related to the installation of lighting the art; and identification plaques.

2. Ineligible Costs. All costs not included in the preceding paragraph are ineligible costs. Such ineligible costs include, but are not limited to, land acquisition, site preparation, travel costs for the artist, architect fees, utility fees associated with the installation or operation of the art, costs associated with dedication ceremonies, publicity, or educational components, operation or maintenance fees and repairs, art assessment and valuation fees, and insurance of the art.

D. Alternative to Provision of Publicly Visible Art. Developers may choose to make a contribution to the Art in Public Places Fund in-lieu of placing art on their project site. Developers shall allocate an in-lieu amount equal to one (1) percent of the building valuation. The in-lieu fee is to be used to fund art in public places pursuant to the provisions of this Chapter. The in-lieu fee shall be paid prior to issuance of a building permit for the project.

E. Exemptions.

The following shall be exempt from the requirements of this Section 45.090:

1. Buildings financed with public funds
2. Capital improvement projects performed by the City.
3. Public and Quasi-Public uses as defined by Article 2, Section 2.2 of the Zoning Code
4. Child Care Centers, including Family Child Care Homes
5. Recreational facilities for public use and enjoyment within commercial or industrial developments
6. Housing for the Elderly, nursing homes, rest homes, residential care facilities and skilled nursing facilities
7. Schools, public and private
8. Property eligible for the California Property Tax Welfare Exemption in that is (1) used exclusively for charitable purposes and (2) owned or held in trust by nonprofit organizations operating for these purposes and that have a current tax exempt letter from the Internal Revenue Service or the Franchise Tax Board.
9. Development projects located on property owned by the state of California, the United States of America, or any of its agencies and used exclusively for governmental or educational purposes.
10. Any structure proposed to repair or replace a building that was damaged or destroyed by fire or other calamity, so long as the square footage and use of the building remains the same, and construction of the replacement building begins within one year of the damage's occurrence.
11. Development projects to the extent they have received a vested right to proceed without providing on-site art pursuant to state law, including those that are the subject of development agreements currently in effect with the City, if such development agreements were approved prior to the effective date of this Section 45.090 and where such agreements expressly preclude the City from requiring compliance with this Section 45.090.
12. Development projects for which applications have been deemed complete prior to the effective date of this Ordinance.

Sec. 45.100 Submittal of Letter of Intent.

Prior to the development application being deemed complete, an applicant must submit a letter of intent stating whether they intend to comply with Section 45.090 by (a) providing publicly visible art on-site; (b) paying the in-lieu fee; or (c) providing publicly visible art on-site in combination with paying an in-lieu fee. This letter shall indicate the proposed locations of any publicly visible art on-site, and such locations shall be included in the project plans.

Sec. 45.110 Public Art Permit Application.

A. Application Requirement. Developers subject to the requirements of Section 45.090 who have not elected in a Letter of Intent to pay the in-lieu fee pursuant to Section 45.090(D), shall file a public art permit application with the Director of Parks, Recreation and Community Services prior to issuance of any building permit containing the following information:

1. An application signed by the owner of the affected property;
2. Landscape and site plans indicating the location and orientation of the art, signage, utility boxes, fire suppression systems, and the landscaping and architectural treatment integrating the piece into the overall project design;
3. Color elevation rendering clearly showing the artwork to scale in relation to its surroundings;
4. A sample, model, or photograph and “to-scale” drawings or renderings of the proposed art piece;
5. Material samples and finishes;
6. A resume of the proposed artist including slides or photographs of the proposed artist’s past work which demonstrates similar work to the proposal;
7. A written statement by the artist describing any theme or development of the art;
8. A lighting plan including samples of lighting fixtures;
9. Description of form of security (e.g. cash deposit) to be provided to assure that publicly visible art is installed by date certain if not to be installed prior to issuance of certificate of occupancy; and
10. Other information as required by the Director of Parks, Recreation and Community Services.

B. Completed Art Application. The completed public art permit application shall be submitted to the Parks, Recreation and Community Services Director prior to issuance of any building permit. Within 30 days of receipt of a completed application, the Parks, Recreation and Community Services Director shall render a written determination of whether such plan complies with the provisions of Section 45.090. The Director shall then submit the completed application and approval recommendation to the Civic Cultural Commission.

C. Commission Recommendation. The Commission shall recommend approval or denial to the City Manager (or designee), based on the following factors:

1. The budget for the proposed publicly visible art ensures that only eligible expenditures pursuant to Section 45.090 are proposed and that such expenditures (including any in-lieu fee paid) total the amount of the public art contribution;

2. The proposed publicly visible art, its installation and maintenance is consistent with the standards and the purpose of this chapter, and with the criteria set forth in Sections 45.060(A) through 45.060(D);
3. Artistic Preference. The determination of artistic preferences is a function of the owner or developer of the property. It is the intent of this chapter to provide for the public display of private art on private property without substituting the artistic preferences of the city for those of the owner or developer of the property. In approving or disapproving a public art permit, the Commission shall not consider the artistic preferences of the developer other than as explicitly set forth herein. The Commission may not rule upon artistic content when considering the plans. All financial arrangements related to the publicly visible art are negotiated between the artist and the developer as contracting parties and shall be verified by a written agreement.

D. City Manager Approval. Upon receiving recommendation from the Commission, the City Manager (or designee) shall approve, deny, or approve with conditions the application. The decision of the City Manager (or designee) shall be based on the same factors described in Section 45.120(C) above.

E. Appeals. The action of the City Manager (or designee) may be appealed to the City Council as provided in Chapter 1, Article III of this Code.

Sec. 45.130 Installation and maintenance requirements.

A. Timing of Installation. Issuance of a certificate of occupancy for a development project providing publicly visible art pursuant to Section 45.090 will be conditioned on completion and full installation of the publicly visible art at the development site in accordance with the public art permit approved by the City, and confirmation by the City that the developer expended the publicly visible art contribution in full on the publicly visible art and in accordance with this Chapter. However, if art installation is impracticable prior to the anticipated date of building occupancy, the City may allow building occupancy provided that the public art permit has been issued and the applicant has filed with the city adequate security to guarantee installation of the art. The security may take the form of a cash deposit along with an agreement to install the required publicly visible art in such amount and form as is acceptable to the City within a date certain or, if the publicly visible art is not installed by such date, the cash deposit shall be immediately transferred into the Art in Public Places Fund.

B. Permanence. The publicly visible art shall be a permanent, fixed asset to the property. The composition of the art shall be of permanent materials requiring a low level of maintenance. Materials used shall be durable and weather resistant.

C. Maintenance. The developer and subsequently the property owner shall continuously maintain the publicly visible art in good condition after its installation for the life of the project, and shall perform necessary repairs and maintenance to the satisfaction of the City. Maintenance of the art includes related landscaping, lighting and the identification plaque. The repair and maintenance obligations of the property owner shall be contained in a covenant and recorded against the property and shall run with the property.

D. Plaque Required. Each piece of publicly visible art shall provide an appropriate identification plaque or monument measuring at least eight inches by eight inches. The plaque shall be made of cast metal and be placed near the art piece. Information is limited to the date, title and artist. The requirement of this section may be waived by the City if determined in a particular circumstance to be unnecessary or inconsistent with the intent of this chapter.

E. Removal. Removal of required publicly visible art is prohibited without the City's approval. The City may require replacement of the art as a condition of approval for its removal. Any removal, relocation, or replacement of the publicly visible art must be consistent with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law. Developer or owner shall execute a restrictive covenant in a form acceptable to the City Attorney enforceable by the City, which shall be recorded against the project site and shall run with the land for a period of time equal to the life of the project.

Sec. 45.140 Violations.

In addition to assessing fines, penalties or administrative citations provided by State or municipal law for violation of this Chapter, the City may revoke or suspend any permit granted to any developer and/or owner who violates the provisions of this Chapter. The violation of the construction and maintenance obligations of this Chapter is hereby declared to be a public nuisance which may be abated as provided by law.

Sec. 45.150 Regulations.

The City Council and/or City Manager may adopt administrative regulations or procedures to administer this Chapter, including procedures for selecting sites, artists and art works to implement this Chapter."

SECTION 3. Severability. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

SECTION 4. CEQA. The City Council finds that the proposed ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061 of the CEQA Guidelines because it can be seen with certainty that there is no possibility that passage of this ordinance will have a significant effect on the environment. Staff shall file a Notice of Exemption with the County Clerk pursuant to CEQA Guidelines Section 15062.

SECTION 5. The City Clerk shall publish this Ordinance in accordance with applicable law.

SECTION 6. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

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