

CHAPTER 15.01
**PUBLIC ART COMMISSION AND PUBLIC ART IN PRIVATE AND
MUNICIPAL DEVELOPMENT**

§ 15.01.010. Definitions.

The City Council hereby finds the following terms shall have the following meanings:

- (A) "Affordable housing" shall be defined as new projects or developments that have or will have affordability restrictions placed on the project or development, or have funding requirements that require affordable rents or mortgages.
- (B) "Artist" shall mean an individual generally recognized by critics and peers as a professional practitioner of the visual arts as judged by the quality of that professional practitioner's body of work, educational background, experience, past public art commissions, sale of works, exhibition record, publications, and production of artwork. The members of the architectural, engineering, design, or landscaping firms retained for the design and construction of a development project covered shall not be considered artists for the purposes of this chapter.
- (C) "Building permit valuation" shall mean those construction costs as declared on all building permit applications for new construction, but shall not apply to costs solely attributable to tenant improvements. Building permit applications shall include, but not be limited to, all building, plumbing, mechanical and electrical permit applications for the project.
- (D) "Capital improvement program" or "CIP" shall mean any construction project of any new City building or facility, renovation of any existing City building or facility, transportation improvement projects, new parks, and other above-ground structures, such as bridges, that are financed wholly or in part by funds appropriated by the City Council. For the purposes of this section, below-ground sewer and drainage projects are not applicable.
- (E) "Developer" shall mean the person or entity that is financially and legally responsible for the planning, development, and construction of any development project that may, or may not, be the owner of the subject property.
- (F) "Development project" shall mean any commercial and residential development which requires the issuance of a building permit by the City of Palmdale.
- (G) "Public art policy guidelines" or "guidelines" shall mean the document adopted by the Public Art Commission that includes standards and procedures for the implementation and administration of public art in accordance with this chapter.
- (H) "In-lieu contribution" shall equal the percentage of building permit valuation required by this chapter.
- (I) "Maintenance" shall mean those activities required to conserve, repair, or preserve the integrity of the artwork and setting within which the artwork is located. Routine maintenance means the basic day-to-day care of the artwork.

- (J) "Nonprofit agency" shall mean a corporation organized under Internal Revenue Code Section 501(c)(3), in good standing with the California Department of Corporations, and in compliance with any and all federal, state, and local licensing, reporting, and tax requirements.
- (K) "Public art" as defined herein shall be located in a public place on private property, or on land or in a building owned by the City of Palmdale, and encompass all cultures through the broadest possible range of expression, media, and materials that may be permanent, fixed, temporary or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.
- (1) Media. Paintings, sculpture, graphic arts, mosaics, photography, mixed media, ceramics, light, sound, digital or electronic, environmental, video, media-based, time-based, web-based and new and emerging forms.
 - (2) Style. Functional, realistic, abstract, community-based, and process-oriented; permanent and temporary.
 - (3) Genre. Fine art, craft, folk art, performance art. For reference, performance art is an art form in which a performance is presented within a fine art context, usually in collaboration with other interdisciplinary artists. The performance may be live or via media and the performer may be present or absent.
- (L) "Public Art Commission" shall mean the City of Palmdale commission that advises the City Council on public art policies, procedures, and expenditures from the public art fund.
- (M) "Public art fund" means a separate account into which all monies generated under this policy, derived from gifts or donations for public art, shall be deposited.
- (N) "Public art project plan" shall mean a narrative statement submitted to the Public Art Coordinator by the private developer or City department under whose jurisdiction the public art project is located, indicating how the development will meet the requirements of this chapter for on-site artwork. A public art project plan shall be submitted at the concept and final design stages of the project.
- (O) "Public art workplan" shall mean a document developed annually by the Palmdale Public Art Commission with public art project and funding recommendations that shall be presented to the City Council for approval.
- (P) "Public place" shall mean an area on public or private property that is freely accessible to and available for use by the general public during normal hours of business operation consistent with the operation and use of the premises, including lobbies, meeting spaces, and rooftop gardens.
- (Ord. 1534, 2020)

§ 15.01.020. Public art in private and municipal development project contribution requirements.

- (A) Municipal developments shall devote an amount not less than one percent of CIP construction costs for municipal development of \$500,000 or more for acquisition and installation of public art on the development site. This amount shall be the program allocation with a cap of \$250,000 allocated for single construction projects. The public art shall be installed on the development site in a public place that allows the public art to be visible from a public right-of-way or from other public property.
- (B) As of July 1, 2021, private developments shall devote an amount not less than one-half percent of building permit valuation for private development of \$500,000 or more for acquisition and installation of public art on the development site. This amount shall be the program allocation with a cap of \$250,000 allocated for single construction projects. The public art shall be installed on the development site in a public place that allows the public art to be visible from a public right-of-way or from other public property. The fee associated with this subsection may be subject to a development or deferral agreement with the City of Palmdale. For residential development projects with no funding mechanism for repairs and maintenance (as required in PMC § 15.01.080(A)(8)), the developer shall make an in-lieu contribution into the public art fund as stated in PMC § 15.01.020(G).
- (C) Private and municipal developments shall deposit an amount equal to 10 percent of the minimum percent for art allocation to the public art fund to support public art in Palmdale.
- (D) For phased development, calculation of the total building permit valuation shall be based on the total number of building permits applied for and does not include any withdrawn permit applications. If an owner or developer chooses to stagger the application of building permits in accordance with a phased schedule, the contribution shall be applicable to the total number of building permits applied for at the time of each application.
- (E) The contribution requirement of this section shall apply to mixed-use and residential projects that create five or more residential units.
- (F) All nonprofit and affordable housing developments and structures shall be exempt from the requirements of this section. The valuation of any exempt component of a mixed-use development shall be deducted from the combined total building permit valuation. If only part of a development or project is affordable, the public art fee shall be reduced, pro rata, based on the affordable portion of the development or project. Determination of a project or development as affordable housing shall be determined in the sole discretion of the Planning Manager/Director.
- (G) In lieu of public art on the private or municipal development site with building permit valuation/CIP construction costs of \$500,000 or more, an owner or developer, at its discretion, may place a public art in-lieu contribution in an amount equal to the program allocation into the Palmdale public art fund to support public art in Palmdale. The public art in-lieu contribution shall be paid prior to the issuance of a building permit for the project on the development site and will be capped at \$250,000 for single construction projects.

- (H) An owner or developer may incorporate public art into the development that has a value lower than the program allocation and pay a public art in-lieu contribution to the public art fund for the balance of the program allocation.
 - (I) If an owner or developer chooses to incorporate public art into the development that has a value higher than the program allocation, the development project does not qualify for fee credit or other reimbursement.
- (Ord. 1534, 2020)

§ 15.01.030. Public art in private and municipal development project contribution exemptions.

(A) Private Development Exemptions.

- (1) Nonprofit and affordable housing developments and structures, as set forth in PMC § 15.01.020(F).
- (2) Mixed-use and residential projects that create four or less residential units.

(B) Municipal Development Exemptions.

- (1) Costs of non-construction-related activities such as studies, design, reports, leases, and easements; including, without limitation, activities in the City's capital improvement budget that are designated as non-construction.
- (2) The cost of environmental review, whether or not it is related to a construction project.
- (3) Sewer and drainage projects and other below-ground construction.
- (4) Capital improvement program projects that are designated as maintenance in the City's CIP budget or designated as nonconstruction projects in the CIP budget, retrofits (e.g., seismic or those required to meet legal requirements such as compliance with the Americans with Disabilities Act); site remediation; acquisition or installation of furniture, fixtures, and equipment; and affordable housing projects.
- (5) Nothing is intended to prohibit the City Manager, in conjunction with the submission and approval of the annual capital budgets of the City and subject to the approval of the City Council, from designating additional funds, subject to applicable restrictions, to be utilized for public art.
- (6) Appropriations for purposes of acquiring public art in order to carry out the provisions of this chapter shall comply with applicable funding source requirements. If the source of funding or other applicable law or regulation with respect to any particular project prohibits or restricts the use of funds for public art, the amount of funds so prohibited or restricted shall be excluded in determining the one percent.

(Ord. 1534, 2020)

§ 15.01.040. Public art in private and municipal development project compliance standards.

The following public art may be used to satisfy the requirements of this chapter:

- (A) On-Site Artwork. On-site installation of artwork that is created uniquely by an artist.
 - (1) Sculpture. Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials;
 - (2) Murals or Portable Paintings. In any materials or variety of materials, with or without collage or the addition of nontraditional materials and means;
 - (3) Earthworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media, including sound, film, holographic, and video systems, hybrids of any media and new genres;
 - (4) Standardized fixtures such as grates, street lights, signage, and other design enhancements, as are rendered by an artist for unique or limited editions; and
 - (5) Any other form determined by the City Manager or designee to satisfy the intent of this section if the owner or developer appeals the decision of the Public Art Coordinator.
 - (B) The following expenses may be included in the program allocation for public art:
 - (1) Acquisition of public art through direct purchase or through the design, fabrication, transportation, installation, and presentation of public art;
 - (2) Artist fees and expenses;
 - (3) Project related supplies and materials; and
 - (4) Costs for insurance, identification plaques, project management by an independent consultant, and other reasonable expenses associated with the planning, development and completion of public art.
 - (C) The developer may be required by the Public Art Coordinator to contract the services of a professional art consultant to oversee the public art project, particularly if valued at \$50,000 or more. Art consultant fees are an allowable budget expense and shall not exceed 10 percent of the on-site budget and shall not be more than the artist design fee.
- (Ord. 1534, 2020)

§ 15.01.050. Establishes the public art fund.

- (A) There is hereby created the public art fund to account for the public art in-lieu contributions and any and all other revenues appropriated or received for public art. The revenues in such fund shall be used solely for:
 - (1) The acquisition, commission, design, transportation, installation, production,

presentation, maintenance, and insurance of public art.

- (2) The acquisition or improvement of real property for the purpose of displaying public art.
 - (3) Other project expenses associated with implementation of public art and the public art workplan.
 - (4) Furthering the purposes of public art as defined in this chapter.
- (B) The public art fund shall be distributed annually as follows:
- (1) No more than 20 percent of the annual public art fund shall be used for all necessary and reasonable administrative costs incurred in connection with Public Art Coordinator and staff supervision of the public art program and the expenditure of all funds appropriated for public art.
 - (2) The balance of the public art fund shall be used to support public art throughout Palmdale that may take the form of site-specific artwork commissions, purchase of artwork, and other special public art initiatives.
 - (3) The public art fund shall be authorized to accept gifts, grants and donations made to the City of Palmdale, as well as any in-lieu contributions from private and municipal development projects. The fund shall be self-perpetuating from year to year.
- (C) If real property purchased with monies from the public art fund is subsequently sold, the proceeds from the sale shall be returned to the public art fund.
- (D) The Public Art Commission shall present annually to the City Council for approval a public art workplan that recommends the use of public art fund monies consistent with the purpose of this section. The public art workplan shall be administered by the City Manager or designee.
- (Ord. 1534, 2020)

§ 15.01.060. Establishes allowable public art fund expenses and exclusions.

- (A) The following expenses may be included in the program allocation for public art:
- (1) Acquisition of public art through direct purchase or through the design, fabrication, transportation, installation, and presentation of public art;
 - (2) Artist fees and expenses;
 - (3) Project-related supplies and materials; and
 - (4) Costs for insurance, identification plaques, project management by an independent public art consultant, and other reasonable expenses associated with the planning, development and completion of public art. Art consultant fees shall not exceed 10 percent of the on-site budget and shall not be more than the artist design fee.

- (B) The following expenses shall not be included in the program allocation for public art:
- (1) Reproductions, by mechanical or other means, of original artwork, except in cases of film, video, photography, printmaking, theater, or other media arts;
 - (2) Decorative, ornamental, architectural, or functional elements that are designed by the project architect or other design consultants engaged by the architect as opposed to an artist commissioned for this purpose;
 - (3) Landscape architecture, gardening, or materials generally considered to be components of the landscape designed by the project architect, landscape architect or other design professional engaged by the architect as opposed to an artist commissioned for this purpose;
 - (4) Art objects that are mass produced (excluding artist-created, signed limited-edition works), ordered from a catalog, or of a standard design, such as playground sculpture or fountains;
 - (5) Directional or other functional elements such as signage, supergraphics, color coding, or maps that are designed by the architect, landscape architect or other design professional engaged by the primary designer;
 - (6) Utility costs and expenses related to the ongoing operation of the artwork such as electrical, water, or mechanical service required to activate the work; and
 - (7) Other services and ongoing operating expenses for maintenance of the artwork.

(Ord. 1534, 2020)

§ 15.01.070. Establishes the Public Art Commission.

- (A) There is hereby created the City of Palmdale Public Art Commission in accordance with PMC § 2.08.030.
- (B) The Public Art Commission shall consist of seven members who shall serve at the pleasure of the City Council. Commission members shall be nominated by the Mayor and approved by the City Council.

Palmdale Public Art Commission members shall have professional credentials and work experience as exhibiting and performing artists in the visual and media arts, contemporary museum and gallery art curators/directors, arts management professionals, arts educators, design professionals such as architects, landscape architects, and urban planners. At least two of the seven voting members shall be professional artists, at least two of the seven voting members shall be design professionals, and at least one of the seven members shall be a member of the Planning Commission.

Consistent with national standards, the term for each member will be three years, renewable for a second term, or until a successor takes office.

(C) It shall be the duty of the Palmdale Public Art Commission to:

- (1) Prepare and approve bylaws that follow this chapter and the Ralph M. Brown Act; organize and conduct meetings in compliance with the Ralph M. Brown Act;
- (2) Establish and approve the public art program mission, curatorial and programmatic goals, policies, and guidelines;
- (3) Encourage and promote public art programs and activities within the City;
- (4) Make recommendations to the City Council regarding local visual art needs, activities and programs;
- (5) Receive and gather input from the community on issues relevant to public art policies;
- (6) Enhance community awareness of public art resources;
- (7) Work cooperatively with public and private agencies to procure space and opportunities for public art and to contribute to the enrichment of the community by adding public art that is of the highest quality, visually stimulating and of enduring value;
- (8) Analyze and make recommendations to the City Council on long-term financing to support public art;
- (9) Advise and make recommendations to the City Council on the acceptance of donations and submissions of art and other matters of arts in the community;
- (10) Develop an annual public art workplan that charts current and future public art projects and determines resources and funding priorities;
- (11) Review and forward recommendations to City Council for deaccession of artwork, acceptance of artwork gifts and loans, and proposals for memorials and murals on City-owned property, in accordance with each respective policy; and
- (12) Serve as the key advocacy body for the public art program and participate in community outreach activities and events.

(Ord. 1534, 2020)

§ 15.01.080. Application and approval procedures for public art.

(A) Private Property.

- (1) The developer has the option of proposing public art incorporating on-site artwork into the development or may elect to deposit the full amount into the public art fund as required under PMC § 15.01.020(B) (Public art in private and municipal development project contribution requirements). In any event, 10 percent of the amount required under PMC § 15.01.020(B) (Public art in

private and municipal development project contribution requirements) shall be deposited into the public art fund as required under PMC § 15.01.020(C) (Public art in private and municipal development project contribution requirements).

- (2) In conjunction with an application for a building permit, the developer shall submit to the City a concept public art project plan for on-site artwork.
- (3) Following approval of the concept public art project plan by the Public Art Coordinator, the developer shall refine the design and submit a final public art project plan.
 - (a) An application for the installation of public art on private property on forms furnished by the City for that purpose;
 - (b) The developer shall refer to the public art policy guidelines referenced in this Chapter.
- (4) The concept public art project plan and final public art project plan submitted pursuant to this Section shall be delivered to the Public Art Coordinator for review to determine whether the public art project plan is complete.
- (5) The Public Art Coordinator shall review the permit application within 60 days of receipt of a complete concept public art project plan and final public art project plan. The Public Art Coordinator may make recommendations regarding possible changes, modifications or additions to the concept public art project plan.
- (6) The Public Art Coordinator shall approve or deny the concept public art project plan and final public art project plan pursuant to the public art policy guidelines referenced in this Chapter. The Public Art Coordinator may conditionally approve a concept public art project plan and final public art project plan subject to such conditions that the Public Art Coordinator deems reasonably necessary to conform to the public art policy guidelines for approval.
- (7) The public art project plans required by this Section shall be made, approval obtained, and the public art installed prior to final building inspection or issuance of approval of a certificate of occupancy for the new construction. If installation prior to the date of occupancy is impracticable, as determined by the Public Art Coordinator, a certificate of occupancy may be approved for the building or portion thereof if the concept public art project plan and final public art project plan submitted pursuant to this Section have been approved, the applicant has executed a written agreement with the City to install the public art, and the applicant deposits with the City security either in the form of a surety bond issued by a surety company authorized to do business in the State of California, or in cash, or the equivalent amount in other security approved by the City Manager and City Attorney in an amount equal to one-half percent of the total building permit valuation to guarantee installation of

the public art. Any costs associated with acquiring the required security are the responsibility of the applicant and may not be applied to the public art allocation.

- (8) The property owner shall maintain, or cause to be maintained, in good condition the public art continuously after its installation, and shall perform necessary repairs and maintenance to the satisfaction of the City. The property owner shall execute and record a covenant against the property with the Los Angeles County Recorder which sets forth the property owner's and any subsequent property owner's obligations to comply with maintenance requirements. The covenant shall be recorded prior to the request for final construction inspection and the issuance of a temporary certificate of occupancy or certificate of occupancy.
- (9) Stolen or removed artwork shall be replaced by the property owner. Replaced artwork shall be reviewed and approved by the Public Art Commission and City Council subject to the criteria set forth in this Chapter.
- (10) The property owner shall be required, when property is transferred to new property owners, to inform the new property owners of the requirement not to remove or alter the artwork without the approval of the Public Art Commission and City Council, and their responsibility to maintain the artwork and any surrounding landscaping and lighting that are integral to the artwork.

(B) Municipal Property.

- (1) Each year in adopting the City's annual capital improvement program budget, the City Council shall approve the appropriation of one percent of eligible construction project costs to be set aside and identified as funds to be appropriated and expended for acquisition or commissioning of public art.
- (2) Management of public art in municipal development shall be provided by the Public Art Coordinator or by contracting the services of a professional public art consultant.
- (3) The Public Art Commission shall approve or deny the selection of artists, and shall make recommendations to the City Council or their delegated authority for approval of the commissioning of public art and/or the purchase of artwork to be located on municipal property pursuant to the public art policy guidelines defined in this Chapter.
- (4) The Public Art Coordinator shall set meetings with the Engineering, Public Works, and Building and Safety departments/divisions to review maintenance and safety considerations for all public art prior to it being commissioned and/or purchased.
- (5) Routine maintenance of public art shall be performed by the Public Works Department, consistent with the specifications of the artist. Minor routine costs shall be borne by the Public Works Department budget. When routine maintenance costs exceed the resources of the Public Works Department, the

Public Art Commission may recommend the expenditure of public art fund reserves to support the cost of supplies and labor to perform routine maintenance.

(Ord. 1534, 2020; Ord. 1614 § 4 (Exh. I), 2023)

§ 15.01.090. Public art in private development.

Compliance with the provisions of this section shall be demonstrated by the owner or developer prior to the issuance of a certificate of occupancy as follows:

- (A) Payment of the public art in-lieu contribution; or
- (B) Installation of the public art in accordance with approval of the final public art project plan submitted pursuant to this chapter; and
- (C) Execution of an installation agreement and evidence that a maintenance covenant has been recorded against the property as outlined in PMC § 15.01.080(A)(7).

(Ord. 1534, 2020)

§ 15.01.100. Public art policy guidelines.

- (A) Guidelines for the implementation and administration of public art ("public art policy guidelines") shall be adopted by the Public Art Commission. Any major changes to the public art policy guidelines after adoption shall be submitted to the Palmdale Public Art Commission for review and approval.
- (B) The guidelines for approval shall include standards for reviewing a concept public art project plan and final public art project plan and shall provide guidance in the appropriation for and maintenance of public art.

(Ord. 1534, 2020)

§ 15.01.110. City Council role and responsibilities.

- (A) Approve the Palmdale public art master plan.
- (B) Approve the annual public art workplan as part of the City's annual budget adoption process, which outlines the projects and expenses the public art program will undertake each year.
- (C) Approve annual capital improvement plan allocations to include the public art program, as outlined in this chapter.
- (D) Approve annual operating allocations for the public art program from the general fund as part of the City's annual budget process, including necessary funding for staffing the public art program and maintenance of public art with a relief of 20 percent for allowable costs from the public art fund as indicated in PMC § 15.01.050(B).
- (E) The City Council, or their delegated authority, makes final determinations on Public Art Commission recommendations regarding the commissioning and acquisition of

municipal public art on City property.

- (F) Make final determinations on Public Art Commission recommendations regarding deaccession of artwork, acceptance of artwork gifts and loans, and proposals for memorials on City property, in accordance with each respective policy.
 - (G) Receive periodic informational reports from the public art program and the Public Art Commission on the status of public art project implementation on the basis of the public art workplan.
- (Ord. 1534, 2020)

§ 15.01.120. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this chapter and the benefits to the City and the public are not substantially impaired.

(Ord. 1534, 2020)