

Chapter 17.90 - ART IN PUBLIC PLACES PROGRAM

Sections:

17.90.010 - Intent and purpose.

The purpose of the city of Sierra Madre art in public places program is to promote the general welfare by encouraging pride in the community, increasing property values, enhancing the quality of life, uniting the community around shared cultural experiences, and creating a cultural legacy for future generations. The program will achieve this purpose through the collection and exhibition of high quality, stylistically diverse art pieces, the chronicling of local history through the collection of artifacts, documents, and memorabilia, and the creation of programs and activities offering artistic opportunities. The program will implement the cultural and recreational elements of the city of Sierra Madre's general plan. Such a plan calls for provisions for the arts and other cultural resources in new commercial development within the city. The art in public places program will further that program goal by establishing a requirement that the design of certain projects incorporate a public art component.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.020 - Definitions.

"Art work" means durable creations that may be original or limited editions of art and that may include, but not be limited to, sculptures, murals, monuments, frescoes, fountains, paintings, stained glass, or ceramics and may include architecture pursuant to Section 17.90.150 of this chapter. Media may include, but not be limited to, steel, bronze, wood, stone and concrete. For purposes of the art in public places program, "art work" does not include the following:

1. Directional elements, such as signage or graphics;
2. Objects that are mass produced in a standard design; or
3. Landscape gardening, unless substantially comprising durable elements defined as "art work" under this section.

"Development project" means any development (including parking structures, mixed use, or commercial or industrial buildings), including remodeling, which requires a building permit or permits as described on the site plan submitted for approval to the city.

"Durable" means lasting, enduring and highly resistant to deterioration due to weather or the passage of time.

"Project developer" means the owner, including its successor and assigns, of the subject property.

"Project valuation" means the total value of the improvements approved for a development project, as indicated on the building permit application or applications submitted to the city in order to obtain a building permit or permits for the development project.

"Public place" means any exterior area on public or private property within the city of Sierra Madre which is easily accessible or clearly visible to the general public from adjacent public property such as a street or other public thoroughfare or sidewalk.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.030 - Administration of the city of Sierra Madre art in public places program.

The art in public places program shall be administered by the city council of the city of Sierra Madre. To assist in administering the program, the city council may designate this responsibility to the Sierra Madre community services commission. If this designation is made, the community services commission shall review the program annually and report the results to the city council.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

(Ord. No. 1345, § 1, 9-24-13)

17.90.040 - Applicability.

- A. All new development projects, as defined in Section 17.90.020(B) of this chapter, including parking structures, residential developments of four units or more, and commercial and industrial development projects with a building valuation or valuations exceeding two hundred fifty thousand dollars in the aggregate, shall be subject to the provisions of this chapter.
- B. Including, but not limited to, exterior and interior modifications and additions, all development projects, as defined in Section 17.90.020(B) of this chapter consisting of the remodeling of existing nonresidential buildings, including parking structures, mixed use, or commercial or industrial buildings, shall be subject to the provisions of this chapter when such remodeling has a project valuation or valuations exceeding two hundred fifty thousand dollars in the aggregate, excluding earthquake rehabilitation required by this code for seismic safety. Individual tenant improvements in a commercial or industrial building shall be included.
- C. This two hundred fifty thousand dollar valuation threshold amount referred to in this section shall be adjusted for inflation in May of every even-numbered year based on the change in the Consumer Price Index For All Urban Consumers in the Los Angeles Riverside Anaheim standard metropolitan statistical area or any successor to that index. The city manager shall calculate the adjusted amount and give notice of the increased amount in the manner required by law for notice of ordinances of the city.
- D. As determined by the city council, the development, remodeling or reconstruction of buildings may be

exempt from the fee for the art in public places program if:

1. The building is intended primarily to house one or more social service providers or government agencies; or
2. The project consists of the reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.050 - Building permits.

- A. Copies of this chapter shall be made available upon request to the public and shall be provided to any party applying for approval of a development project within the city of Sierra Madre.
- B. Prior to issuance of a final building permit or certificate of occupancy, the applicant or developer for projects identified in Section 17.90.040 of this chapter shall be required to either:
 1. Pay one percent of total project valuation of the development project for nonresidential projects, excluding land acquisition and off-site improvement costs, not to exceed four hundred fifty thousand dollars, for an art fee;
 2. Donate art work, as defined in Section 17.90.020(A) of this chapter, which shall have been approved by the city council pursuant to Sections 17.90.100 et seq., and which shall have a minimum value of one percent of the value of the proposed project development, not to exceed four hundred fifty thousand dollars, in lieu of the fee;
 3. Place art work, as defined in Section 17.90.020(A) of this chapter, which shall have been approved by the city council pursuant to Sections 17.90.100 et seq., and which shall have a minimum value of one percent of the value of the proposed project development, on the property on which the development project is located, not to exceed four hundred fifty thousand dollars, in lieu of the fee;
 4. Pay one-half of one percent of total project valuation of the development project for residential single-family projects of four or more units, including remodels and additions, not to exceed four hundred fifty thousand dollars, for an art fee; or
 5. Comply with a combination of the above subject to the approval of the city council.
- C. Any party may contribute money or art works valued at amounts greater than those required by this section with the approval of the city council.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.060 - Certificates of occupancy.

No final approval, such as a final inspection or a certificate of occupancy, for any development 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:

- A. The approved art work has been placed in a manner satisfactory to the city council.
- B. In-lieu art fees have been paid.
- C. 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.
- D. An approved art work has been donated and accepted by the city council.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.070 - Creation of art in public places trust fund.

- A. There is hereby created within the treasury of the city a special fund to be known as the city of Sierra Madre art in public places trust fund.
- B. This fund shall be maintained by the city and shall be used solely for the intent and purpose stated in Section 17.90.010. All money received by the city pursuant to Sections 17.90.050 and 17.90.060 of this chapter or from endowments or gifts to the city designated for the arts shall be placed in the art in public places trust fund. All such money shall be deposited, invested, accounted for and expended as follows:
 - 1. Money received pursuant to Sections 17.90.050 and 17.90.060 of this chapter shall be deposited in the art in public places trust fund in a manner to avoid any commingling with other revenues and funds of the city, except for temporary investments, and all funds shall be expended solely for the purposes for which they were collected. Any interest income earned by the money in the art in public places trust fund shall be deposited in the art in public places trust fund and shall be expended only for the purpose for which the money was originally collected.
 - 2. Accounts may be reviewed by the public pursuant to the California Public Records Act.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

(Ord. No. 1345, § 2, 9-24-13)

17.90.080 - Selection of art works.

The city council shall establish procedures for selecting art work to be purchased from the resources of the art in public places trust fund. Those procedures may include the following means:

- A. Open competition;
- B. Limited competition;
- C. Invitation;
- D. Direct purchase;
- E. Donation;
- F. Any combination of the above.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.090 - Art provided in lieu of a fee.

Art that is placed on private property in lieu of a fee, or that is donated to the city in lieu of a fee, must qualify as art work, as defined in Section 17.90.020 of this chapter and shall be operated and maintained at all times in substantial conformity with the manner in which the art work was originally approved by the city council in compliance with Section 17.90.140 of this chapter.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.100 - Donation of art.

Any art proposed to be donated to the city in lieu of payment of a fee to the art in public places trust fund, or otherwise to fulfill the obligations set forth in Section 17.90.040 of this chapter, must qualify as an art work, as defined in Section 17.90.020 of this chapter and must be approved by the city council.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.110 - Application procedures for placement of art work on private property or donations of art work to the city of Sierra Madre in lieu of a fee.

An application for placement of art work on private property, or for the donation of art work to the city in lieu of a fee, shall be submitted to the city council and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art work;
- B. An appraisal or other evidence of the value of the proposed art work, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required by the city council to adequately evaluate the location of the art work and its compatibility with the proposed development project and/or with the character of adjacent developed parcels and the existing neighborhood;
- D. A written agreement executed by the artist who created the art work, in which he/she expressly waives all rights that may be waived under the California Art Preservation Act, the Visual Artists Rights Act, or other applicable state and federal laws;
- E. When art work is to be placed on private property, a written statement executed by the property owner and approved by the city attorney that requires the landowner or his/her successors and assigns to defend, indemnify and hold the city harmless against any liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from any claim, action or liability related to the art work;

- F. A narrative statement to be submitted to the city council to demonstrate that the art work will be display public place, as defined by Section 17.90.020 of this chapter; and
- G. A statement indicating the property owner's willingness to maintain the art work in compliance with Section 17.90.140 of this chapter.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.120 - Approval for placement of art work on private property or donations of art work to the city of Sierra Madre in lieu of a fee.

- A. Completed applications shall be submitted to the city council for review and approval of the art work, including consideration of the art work's conformity to the definition of art work in Section 17.90.020 of this chapter, its aesthetic quality and harmony with the existing on-site improvements and neighborhood, and its proposed location and public accessibility.
- B. If, after review, the applicant proposes, or the city council subsequently recommends, significant revisions to the architecture or physical design and layout of the proposed project, the revised application shall be returned to the city council for further review and recommendation concerning the revised proposal.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.130 - Application procedure for acceptance of art work donated to the city.

An application for acceptance of art work to be donated to the city shall include:

- A. Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art work;
- B. An appraisal or other evidence of the value of the proposed art work, including acquisition and installation costs;
- C. A written agreement executed by the artist who created the art work in which he/she expressly waives all rights that may be waived under the California Art Preservation Act, the Visual Artists Rights Act, or other applicable state and federal laws; and
- D. Other information as may be required by the city council to adequately evaluate the proposed donation of the art work.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.140 - Ownership and maintenance of art work placed on the site of a project.

- A. All art work placed on the site of a development project shall remain the property of the owner of the site for which the final building permit or certificate of occupancy related to the development project was obtained and the owner's successors and assigns in title to the site. The obligation to provide all

maintenance necessary to preserve and maintain the art work in good condition shall remain with the owner of that site and the owner's successors and assigns.

B. The obligation to maintain the art work shall be enforced as follows:

1. Prior to the placement of the art work on a development project, the property owner shall record a document with the county recorder setting forth a description of the art work and acknowledging the obligation of the property owner to repair and maintain it. This document and the underlying covenant shall run with the land and provide notice to future property owners of the obligation to repair and maintain the art work and of certain limitations related to any federal, state or local laws governing the rights of the artists, including, but not limited to, rights regarding the alteration, modification or relocation of subject art work. The city shall be a party to this document, and its final form and content shall be approved by the city attorney.
2. Maintenance of art work, as used in this chapter, shall include, without limitation, preserving the art work in good condition to the satisfaction of the city, protecting the art work against physical defacement, mutilation or alteration, and securing and maintaining insurance coverage for fire, vandalism and extended liability in an amount to be determined by the director.
3. At any time the city council determines that art work has not been maintained in substantial conformity with the manner in which it was originally approved, the director, as authorized by the city council, shall require the current property owner to either:
 - a. Repair or maintain the art work; or
 - b. After reasonable notice, pay the lesser of either the costs estimated by the city to be required to repair and maintain the art work and/or secure and maintain insurance for the art work, or the percent for the art fee required by Section 17.90.050 of this chapter based upon the current fee schedule and the current fair market value of the building, structure or improvement for which the art work was required, as determined by the county tax assessor.

C. Stolen works or works removed without proper authorization by the city are to be replaced by the owner. Replaced pieces are to be reviewed and approved by the city council subject to the criteria set forth in this chapter.

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

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

(Ord. No. 1466, §§ 110, 111, 3-28-23)

17.90.150 - Criteria for approving architecture as art.

Generally, architecture shall not be considered art work for purposes of the art in public places program unless approved by the city council. The criteria used to determine on a case-by-case basis whether architecture may be considered art work for purposes of fulfilling the requirements of this chapter shall include, but not be limited to, the

following:

- A. The architect shall be substantially recognized by the art world in shows, museums, and/or publications.
- B. When reviewing architecture as art, the underlying concept of the architecture shall be more expressive 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.
- C. In the alternative, architecture can be considered art work 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 involved early in the design process. The artist shall have experience and knowledge of monumental scale sculpture.
- D. The architecture must meet all the general criteria regarding placement of art work on private property, as defined in Sections 17.90.120 et seq.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.160 - Procedure for approving architecture as art.

The following procedure shall be followed by the project developer seeking approval of an architectural project to fulfill the requirements of this chapter:

- A. A project developer must make two presentations to the city council or such body designated by the city council to hear the presentation:
 - 1. The first presentation shall be made prior to the development application being deemed complete. The project developer must submit a maquette and other materials which satisfactorily illustrate the proposed conceptual development. The project developer and the architect must submit a conceptual statement expressing why the architecture should be considered an art work, including an explanation of the ideas, meaning, cultural significance or conceptual complexity expressed in the architecture.
 - 2. The second presentation shall be made upon completion of the city approval process. The developer must then submit a maquette and other materials which satisfactorily illustrate the development project.
- B. The project developer and the architect shall demonstrate that high quality materials and craftsmanship will be used in the execution of the construction.
- C. If all of the foregoing criteria are met, the city council shall accept the architecture as an art work only if, in its judgment, the architectural work is of extremely high artistic merit and would make a substantial cultural contribution to the city.
- D. The project developer and/or architect shall have the responsibility to demonstrate that all of the

foregoing criteria are met.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)

17.90.170 - Return of fees.

- A. Fees paid into the art in public places trust fund that are not committed within ten years from the date of payment may be returned to the current owner of the development project with all interests actually earned thereon if a written request for return is filed with the city treasurer during the tenth year after payment and refund of the fees is approved by the city council. The request for return shall be verified and shall include the date of payment, the amount paid and method of payment, the location of the development for which the fee was paid, and a statement that the applicant is the payer of the fees and/or the current owner of the development project.
- B. The city council shall determine if return of the then uncommitted portion of the fees and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the city council determines any one of the following applies:
 - 1. The city council finds the fee is needed for the art in public places program.
 - 2. Moneys were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date.

(Ord. 1244 § 1 (Exh. 1 (part)), 2006)