

CHAPTER 9.39. - ART IN PUBLIC PLACES

9.39.010. - Title.

This Chapter shall be known as the "Art in Public Places Ordinance."

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.020. - Definitions.

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

- A. "Appropriately maintained" means maintained in conformance with the City's art in public places policy.
- B. "Artwork" means an original creation of physical art. Artwork includes without limitation a fountain, mobile, mosaic, mural, painting, sculpture or tapestry. An artwork may be realized through such mediums as bronze, ceramic tile, concrete, stained glass, steel, or wood. An artwork shall not include objects that are mass-produced with a standard design.
- C. "Artwork value" means the cost of the following (as applicable) in connection with an artwork: design, acquisition, construction, and installation. Artwork value shall not include utility and maintenance costs related to the operation and preservation of an artwork.
- D. "Committee" means the City Council's Environmental Committee.
- E. "Development project" means a construction or modification of a building.
- F. "Director" means the director of planning or such person's designee.
- G. "In-lieu art fee" means a fee in the amount of 1.25 percent of the project cost as calculated at the time building permit fees are assessed.
- H. "Project cost" means the total value of a development project, excluding the land value, as indicated on the building permit issued by the City for the project.
- I. "Public artwork" means an artwork that is either: (1) donated to the City for display on City property; or (2) installed on private property in a publicly accessible location.
- J. "Public artwork requirement" means the requirement, imposed by this Chapter, of providing a public artwork or paying an in-lieu art fee.
- K. "Publicly accessible" means located on an area open to the general public without charge and clearly visible from an adjacent public property such as a sidewalk or street.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.030. - Implementation of Chapter.

- A. The procedures prescribed by this Chapter for review and approval of public artwork shall be conducted concurrently with any applicable procedures prescribed by Article 9 of this Code for review and approval of development permits.
- B. The director shall establish an art in public places policy that specifies application, review, maintenance, and other requirements deemed necessary for implementation of this Chapter. The director may amend such policy as deemed appropriate.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.040. - Art in Public Places Restricted Fund.

- A. There is hereby established in the City a fund known as the "art in public places restricted fund." Such fund shall be a depository for in-lieu art fees, public art-related grant funds, public art-related monetary donations to the City, public art-related monetary donations to the Westlake Village Community Foundation transferred to the City, and general fund moneys appropriated by the City Council.
- B. The art in public places fund shall be maintained by the Finance Director and shall be utilized for the following purposes:
 - 1. Design, acquisition, installation, improvement, maintenance, and insurance of public artwork displayed on City property. Public artwork acquired with money from the art in public places fund shall be the property of the City.
 - 2. Offering of performing arts or art education programs for the community. Such programs shall not be paid for with in-lieu art fees.
 - 3. Public art incorporated into streetscape beautification projects.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.050. - Applicability of Public Artwork Requirement.

- A. Except as provided in subsection B of this Section, the public artwork requirement shall apply to

commercial, industrial, office, or other nonresidential development projects with a project cost of at least one hundred thousand dollars (\$100,000) for which a building permit is required.

B. The following development projects shall be exempt from the public artwork requirement:

1. Public agency development projects.
2. Reconstruction of buildings that have been damaged by fire, flood, wind, earthquake, or other calamity.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.060. - Satisfaction of Public Artwork Requirement.

A. For nonresidential projects having a project cost of at least one hundred thousand dollars (\$100,000), the public art requirement shall be satisfied by completing one of the following actions in accordance with this Chapter:

1. Donation of a public artwork to the City, having a minimum artwork value equal to one percent of the project cost as calculated at the time building permit fees are assessed;
2. Installation of a public artwork on private property. Such artwork shall have a minimum artwork value equal to one percent of the project cost as calculated at the time building permit fees are assessed;
3. Payment of an in-lieu art fee in the amount of 1.25 percent of project cost as calculated at the time building permit fees are assessed.

B. If the artwork value of a public artwork approved by the City Council to satisfy the requirements set forth in subsections (A)(1) and (A)(2) of this Section is less than one percent of the project cost as calculated at the time building permit fees are assessed, then the difference shall be paid to the City and deposited in the art in public places restricted fund.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.070. - Procedure for Donation or Installation of Public Artwork.

- A. An application for donation of a public artwork to the City, or for installation of a public artwork on private property, shall be processed in accordance with the art in public places policy.
- B. Prior to issuance of a building permit for the development project, a security shall be deposited with the director to guarantee the donation or installation of the approved public artwork. Such security shall be a bond, letter of credit, or other form satisfactory to the director and the City Attorney. The

amount of such security shall be the amount of the in-lieu art fee that would be applicable to the development project. The security shall be released upon the donation or installation of the approved public artwork.

- C. An approved public artwork shall be delivered to the City or installed on private property prior to issuance of an occupancy permit for the development project.
- D. Prior to installing a public artwork on private property to satisfy the public artwork requirement, the property owner shall execute and record with the County Recorder a City Attorney-approved covenant. Such covenant shall require the property owner and successors thereof to do the following:
 - 1. Keep the public artwork appropriately maintained;
 - 2. Allow City representatives to enter upon the property upon reasonable written notice to perform necessary repairs to the public artwork at the property owner's expense when the public artwork is not appropriately maintained;
 - 3. Indemnify, defend, and hold harmless the City, its officers, employees, and agents from any claim, demand, damage, liability, loss, cost or expense attributable to the public artwork.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.080. - Procedure for Payment of In-Lieu Art Fee.

Payment of the in-lieu art fee shall be made prior to the issuance of a grading or building permit for the subject development project unless an alternative deadline is approved by the City Council.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.090. - Maintenance of Public Artwork on Private Property.

Public artwork installed on private property to satisfy the public artwork requirement shall be appropriately maintained and insured by the property owner. The insurance shall be in an amount equal to or greater than the artwork value, and shall provide coverage against loss or damage (including vandalism) of the public artwork.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)

9.39.100. - Removal or Alteration of Public Artwork on Private Property.

Public artwork installed on private property to satisfy the public artwork requirement shall not be removed or altered without the prior approval of the City Council. In addition to any other applicable penalty, violation of this Section may render the property owner liable for payment of the in-lieu art fee that would have been applicable to the subject development project, and may result in revocation of the occupancy permit issued for the subject development project. Prior to any imposition of in-lieu art fee liability or occupancy permit revocation pursuant to this Section, the City shall afford the property owner notice and an opportunity for a hearing.

(Ord. No. 199-06, Enacted, 9/27/06)

(Ord. No. 266-18, § 2, 10-28-2018)