

Article VIII. Building Regulations

Chapter 10. ART IN PUBLIC PLACES

§ 8950. STATEMENT OF INTENT AND PURPOSE.

In its awareness of the aesthetic enhancement and enrichment of the community by the inclusion of fine art throughout the City, the City Council adopts this chapter. The goal of Downey's Art in Public Places Program is to provide a collection of permanent artwork and access to facilities where public art is displayed. The program is designed to present the community with a wide range of artwork styles, themes and media, all of the highest quality. All pieces must be of monumental scale in proportion to the size of the buildings. Balance and variety are qualities to strive for as the program grows. This program will provide a collection of public artworks throughout the City to be enjoyed by all. A comprehensive policy manual will be developed to outline the program and to assist developers in complying with this chapter and will be adopted by resolution of the City Council.

(Added by Ord. 05-1182, adopted 11-22-05; amended by Ord. 1301, adopted 03-27-12)

§ 8955. DEFINITIONS.

The following definitions are applicable to the provisions of this chapter:

"Commercial building" means any building or structure, all or part of which contains a commercial or light industrial use;

"Construction costs" means the total value of construction or reconstruction work on a commercial building as determined by the Building Official in issuing a building permit for construction or reconstruction;

"Reconstruction" means all alterations or repairs made to a commercial building within any 12 month period which alterations or repairs exceed 50% of the value of an existing commercial or light industrial structure. Reconstruction necessitated by earthquake damage, other natural disasters, or acts of God shall be exempt from this chapter;

"Residential" means any building or structure, all or part of which contains an element for housing.

(Added by Ord. 05-1182, adopted 11-22-05)

§ 8960. DEFINITION OF PUBLIC ARTWORKS.

The works of art are to be enduring original artworks. They should be of the highest quality and craftsmanship. They should engage one's mind and senses while enhancing and enriching the quality of life in the City. The artworks will be generally permanent sites and an integral part of the landscaping and/or architecture of the building. The artwork shall be constructed in a scale that is proportional to the scale of the development.

(Added by Ord. 05-1182, adopted 11-22-05)

§ 8965. ESTABLISHMENT OF DEVELOPMENT FEE.

An Art in Public Places fee is established on applicable building projects within the City as follows:

- (a) Any person constructing or reconstructing a commercial building with a building valuation of \$500,000 or greater, or a residential project consisting of more than four units with a building valuation of \$500,000 or greater, within the City shall be assessed a fee for acquisition of artwork based on the total building valuation. Where the installation of art is impractical or inaccessible, the developer will contribute the assessed fees to the Art in Public Places Fund. Art purchased from the fund will be installed within the City at the discretion of the City Council.
 - (b) The fee shall be 1% of the building valuation as computed using the latest building valuation data as set forth by the International Conference of Building Officials (ICBO). The maximum fee per project will be set at \$150,000.
- (Added by Ord. 5-1182, adopted 11-22-05; amended by Ord. 6-1194, adopted 8-22-06; amended by Ord. 1283, adopted 6-13-11)

§ 8970. ART IN PUBLIC PLACES ADVISORY COMMITTEE.

(Added by Ord. 5-1182, adopted 11-22-05; repealed by Ord. 1283, adopted 6-13-11)

§ 8975. ART PROJECT APPROVAL.

Prior to issuance of any certificate of occupancy for a commercial structure, the artist and art project shall be approved and the artwork installed after it is approved by the City Council; or the appropriate fees have been collected by the City Building and Safety Division. A list of professional artists will be provided to the developer to assist the decision making process and to insure the professional quality of the artwork. The art must be displayed at the building, in a place highly visible to the public. This location must be reviewed and approved by the City Council before the art is permanently placed.

- (a) The artwork shall be maintained by the property owner in a safe, neat and orderly manner acceptable to the City. Any repair and maintenance shall be the responsibility of the applicant and completed in accordance with a maintenance plan approved by the City.
- (b) The artwork installed on a project shall remain the property of the applicant and shall be replaced in the event of theft or repaired in the event of damage. Artwork shall be insured for the full replacement value. Artwork may not be removed without the prior approval from the City Council. If removal is granted, an in-lieu contribution equal to the value of the artwork shall be made to the City's Art in Public Places Fund.
- (c) Prior to the issuance of any certificate of occupancy, the property owner shall execute and record with the Los Angeles County Recorder, covenants, conditions and restrictions in form and content approved by the City Manager and the City Attorney providing, among other things: (1) that the property owner and its successor and assigns shall maintain the artwork as required by this chapter; (2) indemnify, defend and hold the City and related parties harmless from any and all claims or liabilities arising out of the artwork; and (3) maintain in the City Clerk's office a certificate of public liability insurance naming the City as an additional insured including such coverage and liability limits as may be specified by the City Manager.

(Added by Ord. 5-1182, adopted 11-22-05; amended by Ord. 1283, adopted 6-13-11)

§ 8980. SEPARATE FUND TO BE ESTABLISHED AND USE OF FEES COLLECTED.

All fees collected under this chapter shall be held in a separate fund of the City. The City Manager shall be responsible for maintaining the records relating to the Art in Public Places fund and these records shall be reviewed and approved by the City Council annually. All fine art purchased with such funds shall

be the property of the City. Monies appropriated under this chapter may be used for hiring artists to develop design concepts and for the selection, acquisition, purchase and commissioning of public artworks. Monies appropriated under this chapter may be used for operating costs of the Art in Public Places Program, including the costs of dedications when the artwork is completed. Additionally, monies appropriated under this chapter may be used for facilities where public art is displayed. Funds not expended in any given year shall be carried over into the next year and shall be used solely for the Art in Public Places Program.

Fees collected under this chapter shall not be used for the following:

- (a) Directional elements such as super graphics, 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;
- (b) Art objects which are mass produced of standard design such as playground equipment or fountains;
- (c) Decorative or functional elements or architectural details, which are designed solely by the building architect as opposed to an artist commissioned for this purpose working individually or in collaboration with the building architect;
- (d) Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.

(Added by Ord. 05-1182, adopted 11-22-05; amended by Ord. 1301, adopted 03-27-12)