

CHAPTER 16.148 PUBLIC ART PROGRAM

§ 16.148.000. Purpose.

The purpose of Claremont's Public Art Program is to enhance the aesthetic and cultural quality throughout the community, provide opportunities for the public to be exposed to a broad range of quality visual art, acknowledge our local artistic community, inspire pride, identity, and a sense of place among the residents of the community and enhance the general welfare of people living and working in the City of Claremont.

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§ 16.148.010. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

"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 the professional practitioner's body of work, educational background and experience, past public commissions, sale of works, exhibition record, publications, and production of artwork.

"Artwork" shall mean works in any style, expression, genre and media created by an artist as defined herein that may be permanent, temporary, and functional. Artwork may be stand-alone and integrated into the architecture, landscaping, or other site development if such are designed by an artist as defined herein.

"Arts professionals" shall mean visual artists, curators, educators, and others who engage in specialized practices pertaining to the visual arts.

"Building permit valuation" shall mean the combined total valuation of all new structures, including tenant improvements within those new structures, within the premises, using the latest building valuation data as set forth by the International Code Council and utilized by the City of Claremont in determining valuation.

"Capital project" shall mean any construction project of any new City building or facility and renovation of any existing City building or facility financed wholly or in part by funds appropriated by the City Council. For the purposes of this chapter, street and right-of-way improvements, sewer and drainage projects, and public landscape maintenance projects are not considered facilities.

"Conservation" shall mean the activities required to repair, restore, and conserve a damaged or malfunctioning artwork, including treatment that returns the artwork to its original condition.

"Deaccession" shall mean the removal of artwork from the City's collection and care.

"Design professionals" shall mean architects, civil, structural, mechanical, electrical engineers; landscape architects; urban planners; graphic, interior, industrial, fashion designers; and others whose services require licensing or registration by the state or otherwise require the knowledge and application of design principles appropriate to the Public Art Program.

"Maintenance" shall mean all activities required to conserve, repair, or preserve the integrity of the artwork and setting within which the artwork is located. Routine maintenance is limited to the basic day-to-day care of the artwork.

"Public art" as defined herein shall be artwork located in a public place on private property or on land or in a building owned by the City of Claremont. Public art shall encompass the broadest possible range of expression, media, and materials.

"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 public rights-of-way, landscape areas, entry plazas, building façades, interior lobbies, meeting spaces, and rooftop gardens.

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§ 16.148.020. Applicability.

Except as otherwise provided in Section 16.148.030 of this chapter, the requirements of this chapter shall apply to all new subdivisions, development projects, and remodeling and modifications to existing development projects.

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§ 16.148.030. Exemptions.

The following projects are exempt from the requirements of this chapter:

- A. Reconstruction of a building built prior to September 23, 1997, if destroyed by fire, earthquake, and flood and rebuilt to the same size and height.
- B. Rehabilitation of a building or structure listed on a local, state, or national historic register.
- C. New construction or modifications to existing development for an educational institution or other organization that is exempt from federal income tax under Internal Revenue Code Section IRC 501(c)(3), including residential development.
- D. Any project which is not included in one of the categories listed in the table contained in Section 16.148.060, Minimum Allocation for Artwork.

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§ 16.148.040. Requirement to provide artwork allocation or in-lieu fee.

- A. The applicant of a development project subject to the requirements of this chapter shall select, purchase and install permanent outdoor artwork at the development site, accessible and visible to the general public from public streets or other public property in accordance with the provisions of this chapter. The minimum allocation for the artwork shall be that amount set forth in Section 16.148.060 of this chapter; provided, however, that if the minimum allocation for the development project is \$20,000.00 or greater, then an amount equal to 10% of the minimum allocation shall be deposited into the Public Art Fund as more particularly described in Section

16.148.130 of this chapter, and the balance of the allocation shall be used for the artwork.

- B. In lieu of installing artwork as set forth in subsection A, the project applicant may pay, as a public art fee, an amount equal to the minimum allocation for the artwork as set forth in Section 16.148.060 of this chapter into the Public Art Fund.
- C. Subject to the approval of the City Manager or designee (hereinafter, the "City Manager"), the project applicant may satisfy the minimum allocation by a combination of both artwork at the development site and a deposit of funds into the Public Art Fund.

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§ 16.148.050. Artwork expenditures.

- A. The minimum art allocation may be used for the following expenditures:
 - 1. Acquisition of public art through direct purchase or through the design, fabrication, transportation, and installation of public art;
 - 2. Artist fees and expenses;
 - 3. Supplies and materials;
 - 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; and
 - 5. Other related expenses approved by the Public Art Committee.
- B. The minimum art allocation may not be used for the following expenditures:
 - 1. Reproductions, by mechanical or other means of original artwork, except in cases of film, video, photography, printmaking, and other media arts;
 - 2. Objects that are mass produced, ordered from a catalog, or of a standard design, such as playground equipment and fountains;
 - 3. Directional and other functional graphic elements such as signage, supergraphics, color coding, and maps;
 - 4. Services, utilities, and other on-going operating expenses for maintenance of the artwork.

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§ 16.148.060. Minimum allocation for artwork.

The minimum allocation for artwork shall be based on a percentage of the project's total building permit valuation as computed using Claremont's current building valuation data. In determining the minimum allocation for the acquisition of artwork, the percentages are as shown in the following table:

PROJECT TYPE	PERCENTAGE
Public capital improvement projects, except street, right-of-way, sewer, and drainage projects, with a building permit valuation of \$150,000.00 or greater	1%
Commercial and industrial development projects that have a building permit valuation of \$250,000.00 or greater	1%
Residential development projects with a building permit valuation of \$250,000.00 or greater, except individually built single-family homes	1/2%
New single-family tract construction on 5 or more lots or a new subdivision of 5 or more lots. For a project consisting of vacant single-family lots to be sold for future development, the minimum allocation shall be based on the estimated building permit valuation assuming maximum permitted density and dwelling unit sizes	1/2%

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§ 16.148.070. Green principles.

Private and municipal public art shall utilize whenever possible:

- A. Sustainable design principles including alternative energy sources, recycled materials, low polluting and energy conserving production techniques, and renewable resources.
- B. Public art that incorporates sustainable strategies, demonstrates green processes, and utilizes green design, materials, theories, and techniques.

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§ 16.148.080. Gifts and loans of artwork.

- A. The City Council shall review all proposed gifts and loans of artwork pursuant to the City Council policy on gifts and loans of artwork.
- B. Gifts of state by foreign governments or by other political jurisdictions of the United States are not considered artwork.

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§ 16.148.090. Deaccession of artwork.

The City shall retain the right to deaccession any artwork in the public art collection. The City Council shall review all artwork being considered for deaccession by deliberate, standardized procedures independent of political pressures, fluctuations in artistic taste, and public opinion pursuant to the City Council policy on the deaccession of artwork.

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§ 16.148.100. Public Art Committee (PAC).

- A. There hereby is established a Public Art Committee subject to the Ralph M. Brown Act that shall consist of seven members appointed by the City Council, each of who has considerable knowledge and experience in the visual arts.
- B. Public Art Committee members may include professional artists, arts professionals, and design professionals as defined herein.
 - 1. At least two of the seven voting members shall be professional artists.
 - 2. At least one of the seven voting members shall be a member of the Architectural Commission, serving as liaison to the Architectural Commission.
 - 3. Up to three of the seven voting members may live and/or work within one-quarter mile outside of Claremont City boundaries.
 - 4. The members of the Public Art Committee shall elect a chairperson and a vice chair at its first meeting after August 31st of each calendar year. The chairperson shall be a resident of Claremont.
 - 5. Except for a replacement term as described below, voting members of the Public Art Committee shall be appointed by the City Council for a term of four years, and no member may serve more than two consecutive terms. Should a member serve a partial term to complete the non-expired term of a prior member, such partial term shall not be included for purposes of the maximum service of two consecutive terms.
 - a. A member's term shall commence on the date the member is appointed or reappointed to the Public Art Committee.
 - b. Should a vacancy occur prior to the end of the member's scheduled term, the City Council shall recommend a replacement for the non-expired term.
 - 6. The Public Art Committee shall provide expert advice regarding the following:
 - a. Public Art Program policies and procedures;
 - b. Artist selection, review panels, and processes for municipal and private development projects;
 - c. Artwork review and selection for municipal and private development projects;
 - d. Maintenance and conservation of artwork;
 - e. Proposed deaccession of artwork;
 - f. Proposed gifts and loans of artwork;

- g. Advocacy, community outreach, and strategic planning in support of the Public Art Program.
7. Public Art Committee members are subject to the City's Conflict of Interest Code, which is required under the California Political Reform Act. The Code requires members to avoid participating in discussing or taking action on items for which conflicts of interest may exist. Actions that members may be required to take to comply with this Code include, but are not limited to:
- a. Withdrawal from participating in PAC discussions or voting on any recommendation involving a competition, commission, project or program for which any monetary gain or for which any business or familial relationship would make it difficult to render an objective and impartial decision or create the perception that an objective and impartial decision would be difficult;
 - b. Be ineligible for any City-related public art competition, commission, project, or program during their tenure; and
 - c. Disclose any real or perceived conflicts of interest.

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§ 16.148.110. Architectural Commission.

- A. For private and municipal development projects, the Architectural Commission shall review and approve the proposed site and scale for public art within the development prior to review by the Public Art Committee and concurrent with final site plan review.
- B. For private and municipal development projects, the Architectural Commission shall provide advisory comments to the PAC regarding materials, form, and contextual relationship of the artwork to the surrounding development.
- C. Review of the proposed artwork site and scale shall be consistent with all applicable review criteria of Section 16.300.060.

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§ 16.148.120. City Manager.

- A. The City Manager shall be responsible for the following, based on advice provided by the Public Art Committee and Architectural Commission:
 - 1. Administration and implementation of the Public Art Program;
 - 2. Selection of artists and artwork;
 - 3. Ongoing care, maintenance, and conservation of artwork;
 - 4. Deaccession of artwork;
 - 5. Gifts and loans of artwork;

6. Upon recommendation from the Public Art Committee and if necessary, authorization by the City Council, negotiation and execution of contracts with artists for the purchase or commission of artwork for the City.

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§ 16.148.130. Application and approval procedures for public art.

A. Private Development

1. Upon submission of a proposed development project, the City Manager shall advise the project applicant of the requirements of this chapter including the option to pay the fee in-lieu of providing artwork on-site.
2. If the project applicant chooses to purchase and install on-site artwork to satisfy all or a portion of the minimum allocation for artwork, the project applicant shall submit to the City Manager a Public Art Project Concept Plan for the artwork. The Concept Plan shall, at a minimum, identify the selected artist and include the proposed site for the artwork, the approximate size of the artwork, and the estimated artwork budget.
3. Upon a determination by the City Manager that the Concept Plan is complete, it shall be submitted to the Architectural Commission for review and approval of the proposed site and scale of the artwork concurrent with final site plan review.
4. Following review of the Concept Plan by the Architectural Commission, the Concept Plan shall be submitted to the Public Art Committee for approval of the proposed artist.
5. Upon approval of the Concept Plan by the Public Art Committee, the project applicant shall prepare and submit to the City Manager a Schematic Plan for the artwork. The Schematic Plan shall include the following:
 - a. Narrative description of the proposed artwork;
 - b. Schematic designs, drawings, and if determined by City Manager, a scale model;
 - c. Site plans and elevations;
 - d. Proposed color and materials sample board;
 - e. Implementation timeline;
 - f. Budget overview; and
 - g. Maintenance requirements.
6. Upon a determination by the City Manager that the Schematic Plan is complete, the Schematic Plan and the Concept Plan, together with a report and recommendation from City staff, shall be submitted to the Public Art

Committee for review and approval.

7. The Public Art Committee shall approve, conditionally approve, or deny the Concept Plan and Schematic Plan pursuant to this chapter. Review of the proposed artwork shall be consistent with all applicable review criteria contained in Section 16.148.150.

B. Municipal Development

1. Appropriations for purposes of acquiring public art in order to carry out the provisions of this chapter shall be made in accordance with law and the budgeting procedures of the City.
2. 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 percentage.
3. The Public Art Committee shall be responsible for approval of the location of public art, selection of artists, commissioning of public art, and purchase of artwork in compliance with this chapter. Review of artists and selection of artwork for commission or purchase shall be consistent with all applicable review criteria contained in Section 16.148.150.
4. Management of the procurement of public art for municipal development including selection of an artist, contract negotiation, and contract administration shall be by the City Manager or by contracting the services of a professional public art consultant. Costs for administration of public art are allowable Public Art Fund expenditures.

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§ 16.148.140. Compliance with chapter for private development.

- A. Except as provided in subsection B, compliance with the provisions of this chapter shall be required prior to the issuance of a certificate of occupancy for the development project. Compliance shall be demonstrated by the project applicant as follows:
 1. Payment of the public art in-lieu contribution; or
 2. Installation of the public art and the submission of final documentation thereof, which documentation shall consist of: (a) a narrative statement detailing the artwork maintenance requirements, including evidence of the recorded maintenance covenant required pursuant to Section 16.148.160 of this chapter; (b) photo documentation of the installed artwork; and (c) the final budget for the artwork.
- B. If installation prior to the date of occupancy is impractical, as determined by the City Manager, a temporary certificate of occupancy may be approved for the building or portion thereof if: (a) the project applicant has received approval of the

Concept and Schematic Plans by the Public Art Committee; (b) the project applicant has executed a written agreement with the City to install the artwork; (c) the applicant has filed security in an amount and form acceptable to the City Attorney to guarantee installation of the public art; and (d) the project applicant has executed and recorded a maintenance covenant as required pursuant to Section 16.148.150 of this chapter.

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§ 16.148.150. Public art review criteria.

The Public Art Committee may recommend artists and Concept and Schematic Plans for artwork for projects that are subject to the minimum allocation for artwork requirement only if all of the following criteria can be met:

A. Criteria for the Artist Selection

1. The artist meets the definition of artist, as defined in Section 16.148.010.
2. Demonstrates artistic excellence, innovation and originality as represented in past work and supporting materials.
3. Demonstrates capacity for working in the selected media and with concepts that are appropriate to the project goals and site.
4. Demonstrates interest and capability in creating public art in collaboration with the City, Public Art Program, the design team (if applicable) and other project partners.
5. Demonstrates experience in successfully completing artwork of similar scope, scale, budget and complexity, or ability to articulate how he or she would be able to bring the necessary artistic and technical skills to this project.
6. Demonstrates interest in and understanding of the project.
7. Is available to perform the scope of the work in a timely and professional manner.
8. Contributes to the diversity of the City's public art collection.
9. Demonstrates a cohesive team (if applicable).

B. Criteria for Evaluating Concept and Schematic Plans for Artwork

1. Clearly responds to the project goals.
2. Meets the definition of artwork as defined in Section 16.148.010.
3. Demonstrates excellence in aesthetic quality, workmanship, innovation, and creativity.
4. Demonstrates appropriateness in scale and form and is of materials and media suitable for the site.

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5. Demonstrates feasibility in terms of budget, timeline, safety, durability, operation, maintenance, conservation, legal and ethical issues related to possession and use of proposed artwork, security, storage, and siting.
6. Builds the diversity of the City's public art collection or adds depth to an existing art form or heritage already contained in the City's public art collection.

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§ 16.148.160. Maintenance and replacement of public art on private development.

A. Private Development

1. The project applicant shall maintain, or cause to be maintained, in good condition the artwork continuously after its installation and shall perform necessary repairs and maintenance to the satisfaction of the City.
2. The maintenance obligations of the project applicant shall be contained in a covenant and recorded against the property by the applicant.
3. Should the project applicant, or its successor in interest, wish to remove the artwork, the City must be notified in advance. The project applicant, or its successor in interest, shall replace the artwork with artwork of equal or greater value and in compliance with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law.

B. Municipal Development

Routine maintenance of public art and the costs of such maintenance shall be performed by the City department under whose jurisdiction the artwork is located, consistent with the specifications of the artist.

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§ 16.148.170. Public art fund.

- A. Fees collected pursuant to this chapter from developers electing not to provide art shall be deposited into an account known as the "Public Art Fund." The Fund may also receive contributions, as approved by the City Council.
- B. The revenues in such Fund shall be used solely for:
 1. The acquisition, commission, design, fabrication, installation, presentation, and insurance of public art identified herein.
 2. The acquisition or improvement of real property for the purpose of displaying public art.
 3. Services of a professional conservator to conduct condition surveys and provide professional art conservation services and repairs of City-owned artwork.

4. Other expenses associated with implementation of the Public Art Master Plan as approved in the annual Public Art Workplan. These expenses may include program administration; artist selection processes including artist fees for proposal development, materials, and travel; community outreach and publicity; and project documentation.
- C. The Public Art Fund shall be distributed as follows:
1. No more than 20% of the annual Public Art Fund shall be used for all necessary and reasonable program administrative costs, excluding City employee salaries, incurred in connection with City staff supervision and control of 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 Claremont that may take the form of site-specific artwork commissions, purchase of artwork, public art events, and other special public art initiatives as determined by the Public Art Committee in compliance with this chapter.
 3. The Public Art Fund shall be authorized to accept gifts, grants and donations made to the City of Claremont in addition to in-lieu contributions from private development projects.
- D. The Public Art Fund shall be self-perpetuating from year to year to the extent permitted by law and funding source restrictions.
- E. The City Manager or designee shall present annually to City Council for approval a Public Art Workplan that recommends the use of Public Art Fund monies consistent with the purpose of this chapter.
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§ 16.148.180. Public art workplan.

- A. Annually, the Public Art Committee shall develop a Public Art Workplan, detailing the proposed Public Art Program projects to be implemented in the next fiscal year, a status report on current projects, and a report on projects completed in the last year.
 - B. The Public Art Committee shall submit this plan to the City Manager or designee for review and recommendation to the City Council for approval.
 - C. The Public Art Workplan shall be administered by the City Manager or designee.
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§ 16.148.190. Public art policy guidelines.

- A. Guidelines for the implementation and administration of the Public Art Program shall be adopted by the City Council, upon recommendation from the Public Art Committee.

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- B. Any changes to the Guidelines after adoption shall be submitted by the Public Art Committee to the City Council for approval.
- C. The Guidelines shall include standards for reviewing a Public Art Concept Plan and Schematic Plan.

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§ 16.148.200. Appeals.

Any decision made by City staff, the Architectural Commission and the Public Art Committee pursuant to this chapter may be appealed pursuant to Chapter 16.321, Appeals and Council Review.

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