

ARTICLE 37 PUBLIC ART

§ 33-730. Intent.

- (a) It is the intent of the City to create a program designed to promote art in public places. It is intended that art work will be installed throughout the neighborhoods of Escondido and be a source of pride to the residents of the City and the community life.
- (b) The Public Art Program will provide art education and experiences which will enhance the economic vitality, commemorate local values, history and progress, as well as develop community pride and identity and improve the general welfare and quality of life in the City. The Program will promote collaboration between business, local government and private citizens and thereby encourage awareness and enjoyment of art experiences. An increase in the quantity and quality of distinguished works of art will improve and expand the use and value of public buildings and facilities and enhance the urban development of the community.

(Zoning Code, Ch. 107, § 1074.10; Ord. 2025-01, 5/7/2025)

§ 33-731. Definitions.

"Annual Public Art Work Plan" as used in this Article 37 shall mean annual initiatives prepared by the Community Services Department and managed by the Public Art Commission to fund new artworks, including but not limited to; educational programs, maintenance, and decommissioning. It establishes project timelines, budget allocations, and public involvement processes to enhance Escondido's cultural landscape and community engagement through art.

"Art in lieu" or "in lieu fees" shall mean charges levied on private property developers to support the integration of public art within the cityscape. Enacted through City Council resolution, these fees apply to both residential and non-residential development projects. Developers have the option to fulfill this requirement either by paying a specified public art fee or by integrating art pieces directly into their developments. This initiative aims to enhance the aesthetic appeal and cultural identity of the City by ensuring that new constructions contribute to the public realm through art installations. The fee structure is detailed in the City's Fee Guide for Development Projects, periodically updated to reflect current requirements and values.

"Art in public places" or "public art" means any visual work of art, accessible to public view, on public or private property within the Escondido neighborhood environs including residential, business or industrial buildings, apartment and condominium complexes, parks, multiple-use structures and similar facilities. The work of art may include, but need not be limited to, sculptures, murals, monuments, frescoes, fountains, paintings, stained glass, ceramics, digital art, light art, tapestries, dance, or temporary installations. Media may include, but need not be limited to, steel, bronze, wood, plastic, stone and concrete.

"Public Art Commission" or the "Commission" as used in this Article 37 shall mean

the advisory body that develops recommendations and presents supporting information to the City Council in matters pertaining to art in public places. Their role includes but is not limited to hearing public testimony, building community consensus for proposals or projects, facilitating a study of issues, guiding implementation of new or regulating established programs, or assessing the alternatives regarding issues of community concern.

"Public Art Program" or "Program" as used in this Article 37 refers to a comprehensive initiative established by the City to promote art in public places. It aims to enhance community life by integrating visual art throughout residential, business, and recreational environments. The Program includes installations such as sculptures, murals, and digital art, fostering civic pride, commemorating local heritage, and supporting economic vitality. Managed by the Public Art Commission, the Program coordinates art education, maintenance, and the development of a diverse public art portfolio, thereby enriching Escondido's cultural landscape and urban development.

"Public Art Strategic Plan" as used in this Article 37 shall mean the document used to define the City's role in public art, including the role of the Public Art Commission and staff administration role. This document seeks to clarify the intention of public art in the City of Escondido as a means to provide a unified purpose for local art organizations and artists, to express and unite the City, nonprofits, and businesses to motivate residents and visitors to be inspired through art. It is designed to further guide the City's decision-making in the management of the City's public art portfolio.

"Tenant improvements" mean improvements within the confines of an existing building exclusive of those required to meet minimum Uniform Building Code occupancy standards, such as wiring or plumbing.

(Zoning Code, Ch. 107, § 1074.20; Ord. 2025-01, 5/7/2025)

§ 33-732. Appointment and terms of office.

- (a) The City Council shall appoint a Public Art Commission, which shall meet as needed. The Commission shall consist of seven members possessing an interest in public art. Members of the Public Art Commission shall be appointed by the mayor. Members of the Commission shall reside or own a business within the city's general plan area; up to two members may be appointed who do not reside or own a business within the city's general plan area provided they are employed at a business within the city's general plan area. Members of the Public Art Commission shall serve at the pleasure of the City Council, and may be removed from the Commission at any time, without cause.
- (b) The terms of office for members of the Public Art Commission shall be for a two year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.
- (c) Any vacancy within the Commission which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Escondido Municipal Code section 2-30.

(Ord. No. 2021-14R, § 4, 3-2-22; Ord. 2025-01, 5/7/2025)

§ 33-733. Administrative Commission duties.

The duties of the Public Art Commission shall include, but not be limited to, the following:

- (a) To establish an annual Public Art Work Plan that is approved by the Commission and then brought to City Council;
 - (1) The Annual Public Art Work Plan will outline key priorities for the City in the following categories: art solicitation, education, maintenance, deaccessioning and budget for these items,
 - (2) The Annual Public Art Work Plan must align with the City's Public Art Strategic Plan and the City's adopted Cultural Arts Policies;
- (b) To review, select and approve art work proposed within the Public Art Program;
- (c) To devise methods of selecting and commissioning artists with respect to the design, execution and placement of art in public places and to advise the City Council on the selection and commissioning of artists for such purposes;
- (d) To advise the City in matters pertaining to the quality, quantity, scope and style of art in public places;
- (e) To advise the City regarding the amount of the "percent for art" fund to be expended on specific art projects;
- (f) To review and maintain an inventory of art in public places and advise the City in matters pertaining to the maintenance, placement, alteration, sale, transfer, ownership and acceptance or refusal of donations and other matters pertaining to art in public places;
- (g) To recommend the retention of consultants to assist the City in making decisions concerning the Public Art Program;
- (h) To advise and assist private property owners regarding the selection and installation of works of art to be located on private property in the public view;
- (i) To make recommendations as to art funded by the program which is to be installed on private property;
- (j) To establish and maintain an inventory of meritorious works of art in the public view and give recognition to the artist and the donor;
- (k) To endeavor to establish/create works of art in the public view deemed to be meritorious by the Public Art Commission through approval of agreements with the property owners and the artist;
- (l) To seek grants, donations, gifts and other funding methods for works of art in public places;
- (m) To educate, edify and generally inform the public about art.

(Zoning Code, Ch. 107, § 1074.31; Ord. 2025-01, 5/7/2025)

§ 33-734. Fees.

- (a) By resolution, the City Council shall establish a schedule of construction requiring building permits from the City which shall pay a fee for art in public places or provide art in public places pursuant to subsection (b) of this section. There shall be no fee for the following:
 - (1) Individual tenant improvements in a commercial or industrial building and all residential improvements to existing residential structures (such as room additions) except for work which results in an additional dwelling unit.
 - (2) The first 2,000 square feet of any structure. This exception shall not apply on an individual basis to commercial structures which are part of a larger integrated commercial center, but shall apply only to the first 2,000 square feet of the entire center.
- (b) Prior to issuance of a building permit, the applicant or developer for projects identified in subsection (a) of this section shall be required to either:
 - (1) Pay the art fee which shall be established from time to time by City Council resolution; or
 - (2) Enter into an agreement with the City to defer payment to a date established by the City, not to exceed one year from building permit issuance, with the calculation of such fee due based on the fee schedule in effect at the time of payment; or
 - (3) In lieu of the fee, donate art which shall have been approved by the Public Art Commission provide documentation of the art's minimum value from a certified art appraiser. The appraiser must hold membership in a recognized professional organization, such as the International Society of Appraisers, the Appraisers Association of America, the American Society of Appraisers or the like. Approval by the Commission shall be contingent upon the appraiser's valuation meeting the requirements of the fee schedule established by City Council resolution; or
 - (4) Enter into a Public Art Program with the City; or
 - (5) A combination of the above.
- (c) If art has been provided in lieu of a fee for construction requiring building permits, the art shall be installed, maintained and operated at all times in substantial conformance with the manner in which the art was originally approved by the Commission.
- (d) Following approval of the project, the applicant shall record a document with the county recorder setting forth a description of the art and stating the obligation of the property owner to repair and maintain the art project. This document and the

underlying land shall be in form to run with the land and provide notice to future property owners of the obligation to repair and maintain the art project.

- (e) At any time the Commission has determined that project has not been maintained in substantial conformance to the manner in which it was originally approved, the Commission shall require the current property owner to either:

(1) Repair or maintain the art; or

(2) Pay the art fee required by subsection (b) of this section, based upon the current fee schedule and the square footage of the building, structure or improvement for which the art was required.

(Zoning Code, Ch. 107, § 1074.40; Ord. No. 90-26, § 1, 6-13-90; Ord. No. 97-10, § 1, 6-4-97; Ord. No. 2012-12, § 8, 6-20-12; Ord. 2025-01, 5/7/2025)

§ 33-735. Art project proposals.

The Public Art Commission shall develop procedures to implement the Public Art Program and shall develop and review criteria for all art under the program.

(Zoning Code, Ch. 107, § 1074.50; Ord. 2025-01, 5/7/2025)

§ 33-736. Notice.

Shall be advertised on the City's website any time the Commission reviews an art proposal.

(Zoning Code, Ch. 107, § 1074.51; Ord. 2025-01, 5/7/2025)

§ 33-737. Appeal.

Decisions of the Public Art Commission pursuant to this article and related resolutions on art for private and public property are deemed final at the time they are made and are effective 10 days after the decision is made. An appeal of any final decision filed with the City Clerk within 10 days of the date the decision is made shall stay the decision until determination of the appeal. An appeal to the Commission for reconsideration of the Commission's decision may be filed by any aggrieved person, and shall be processed as follows:

- (a) An appeal shall be reviewed at the first regularly scheduled meeting after it is filed;
- (b) Appeals shall be filed on forms available at the City Clerk's office and shall contain the grounds upon which the appeal is made;
- (c) On appeal, the Commission shall review all pertinent documents, including the original application, records, specifications and details of the appeal which may indicate how or why the application and art proposal failed to meet the requirements of this article and the related resolutions and guidelines;
- (d) The Commission may affirm, reverse or modify in whole, or in part, any appealed decision, determination or requirement. Before granting any appealed petition which was originally denied, the Commission shall indicate in writing where and

how the proposal meets or fails to meet the relevant requirements as stated;

- (e) The Commission review of its own action may be appealed by any aggrieved person in writing to the city council within 10 days of the Commission's final decision. The appeal shall state the grounds upon which it is based. A fee based on the fee schedule in effect at the time, shall be paid at the time the appeal is filed;
- (f) The City Council will not exercise its independent judgment on artistic matters unless the city council requests that the matter be put on the agenda for review or an appeal of a Commission decision is filed. Unless the City Council determines to exercise its independent judgment as provided in this section, designs, sketches, precise plans, photographs, art examples and similar items concerning art in public places shall not be transmitted to the city council as a matter of course in conjunction with projects before the city council.

(Zoning Code, Ch. 107, § 1074.52; Ord. 2025-01, 5/7/2025)

§ 33-738. Installation.

A certificate of occupancy shall not be issued until such time as the art/sculpture is in place, the appropriate fee has been paid or a letter of credit for the full amount of the fee has been deposited with the city. If the art work is not completed within 12 months, the fee or letter of credit shall be forfeited and the obligation satisfied.

(Zoning Code, Ch. 107, § 1074.53; Ord. 2025-01, 5/7/2025)

§ 33-739. Nondevelopment proposals.

- (a) The Public Art Commission shall receive art/sculpture project proposals from sculptors, painters, environmental artists, ceramicists, glass artists, woodworkers and metalsmiths. All such artists who work in either large or small scale are encouraged to submit project ideas. The Commission shall maintain such ideas in readiness for continuous review by the Commission and such ideas shall be matched with requests by developers, builders, owners or users of prospective sites. The Commission shall also make available to other public and private organizations such information.
- (b) The Public Art Commission shall develop necessary criteria for the nondevelopment proposals.

(Zoning Code, Ch. 107, § 1074.60; Ord. 2025-01, 5/7/2025)

§ 33-740. Duties of public art artists.

- (a) The artist must maintain the art for its duration or five years, whichever comes first.
- (b) After five years or a pre-defined time period that is less than five years, the ownership of the art shall become property of the artist or the City as defined within the artist agreement.
- (c) Public Art shall be owned by the City and shall only be reproduced by the artist or the City, or with the City's permission.

(Ord. 2025-01, 5/7/2025)

§ 33-741. Internal City staff review.

- (a) Public Art shall be reviewed by city staff for risk, safety, and compliance.
 - (b) Public Art installed or created without the approval of the Public Art Commission on public property or in the public right-of-way is subject to removal.
- (Ord. 2025-01, 5/7/2025)

§ 33-742. through § 33-749. (Reserved)