

CITY OF LAGUNA BEACH
PUBLIC ART ORDINANCE AND
POLICIES

Cultural Planning Group
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ABOUT THIS DOCUMENT

Laguna Beach is a city with a vibrant, century-old history as an art colony and a robust ongoing presence of artists, public art, art festivals, art marketplaces, galleries, and many other cultural assets. A defining feature is Laguna Beach’s public art collection, which encompasses original site-specific artworks, a variety of temporary installations, and select donated works. The purpose of this report is to provide a consolidated and updated set of policies and ordinance for the Public Art Program, and to assist the Arts Commission and staff to address challenges in their management of the program. Once finalized, these policies and ordinance will become the comprehensive program guide available online for all artists, other stakeholders, and the public.

Recommended policy changes are based on interviews with program stakeholders – artists, developers, city staff, donors, architects, commissioners, and others – and refined in several work sessions with staff and the Public Art Subcommittee.

SUMMARY OF RECOMMENDED POLICY CHANGES

Public Art Program Name

The current program includes several components: Art in Public Places, Public Art and Murals, and Artist Designed Benches. Under the recommended policies, the program is consolidated under the term “Public Art Program” to be clearer and more transparent to the community and stakeholders, while retaining the distinct functions of each element of the program. AIPP is retitled as Public Art in Private Development and City Capital Projects.

Decision-making Authority of the Arts Commission (Page 8)

Currently, City Council reviews all Arts Commission decisions. The recommended policy places explicit and greater authority with the Arts Commission to fulfill its role and asks Council to only substitute its judgment narrowly in cases where there is evidence of a departure from or error in following Arts Commission policies and guidelines. Acknowledges and strengthens the Arts Commission’s authority and role in applying aesthetic and artistic judgments, and places their authority on a par with other City commissions and boards.

Comprehensive and Transparent Policies (Page 9)

The current public art policies and procedures are a collection of municipal code, resolutions, criteria, and unwritten procedures that have accrued over time and are not currently consolidated into one set of program policies. The recommended policies are comprehensive and can be made available online as a resource for all program stakeholders – artists, developers, property owners, city staff, and members of the public. They also provide improvements addressing challenges identified by the Arts Commission, staff, and others.

Acknowledging Importance of Artists (Page 9)

The policy now explicitly acknowledges artists and artworks as the heart of the program and contributing great value to the community. The City also acknowledges its commitment to be respectful in all artist involvement with the program. This includes providing equitable and transparent policies, paying artists for proposal development, creating a directory of artists interested in developer or City commissions, and accommodating artists’ rights in all agreements.

Selection Criteria (Page 9)

Establishes clear criteria for selecting artists, artworks, and sites. Acknowledges the Arts Commission’s authority and role in applying aesthetic and artistic judgments.

Timeframe for All Artworks (Page 12)

Current practice is to treat artworks as permanent accessions into the collection, except for specific temporary works. The recommended policy is to treat all new artworks as having a specific timeframe, as opposed to permanently accessioning them into collection (private development projects have a 20-year minimum). Create an agreement with the artist and/or developer for each artwork setting forth the

timeframe defined in relation to the nature of the work and review the work at the end of the agreement to determine the future of the work.

Deaccessioning Criteria (Page 12)

Sets stronger criteria allowing City to deaccession works, including the Arts Commission's authority and role in applying aesthetic/artistic judgments.

Artwork Donations (Page 13)

Current practice is to treat proposed donations of artwork like other artworks. The recommended policy sets clear criteria for the Arts Commission to review and refuse donated artworks. Allows the Arts Commission to set a moratorium on donations. Places responsibility for the cost of maintenance on the donor.

Memorials (Page 15)

Current practice is to treat proposed memorials like other artworks. The recommended policy sets clear criteria for the Arts Commission to review and refuse memorials and eliminates individual memorials from the program. Allows the Arts Commission to set a moratorium on memorials. Places responsibility for the cost of maintenance on the donor.

Financial Contributions to Program (Page 16)

Acknowledges and encourages financial contributions of any amount to help fund the cost of artworks. All decisions about the choice of artwork and use of donated funds are at the sole discretion of the Arts Commission under its policies and guidelines. Donors who wish to propose a specific artwork or site may meet with staff and explore a donor agreement setting forth the terms and conditions of the project based on the artwork donation policy, which will then be reviewed by the Arts Commission.

Administrative Costs of the Program (Page 17)

Under the recommended policy, a portion of developers' 1% public art obligation will be charged as an administrative fee to help cover the costs of the program. Developers' total financial obligation remains 1% (1.25% if they choose to pay the in-lieu fee) but 15% of that amount will be allocated as the administrative fee, leaving 85% of the total for other costs of the artwork.

Maintenance of Artwork (Page 20)

As stated above, maintenance costs for donated works and memorials become the responsibility of the donor (and remain the responsibility of property owners for private artworks). A collection condition survey is recommended as the basis for long-term maintenance and conservation of the overall collection.

Policy for Partnerships (Page 21)

There is currently no policy governing partnerships for public art. The recommended policy spells out the requirements for a partnership and places specific responsibilities on each partner to assure mutuality in workload and costs.

Diversity of Collection (Page 21)

Promote the diversity of collection by limiting artists to four pieces in the collection at any one time.

Appeals and Mitigation of Disagreements (Page 23)

Applicants can appeal an Arts Commission decision through specific process and criteria. Providing a well-defined appeals process can mitigate disagreements.

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ADDITIONAL RECOMMENDATIONS

The primary purpose of this document is to provide a consolidated and updated ordinance and policies for the Public Art Program. The consultants are providing additional recommendations relevant to the future of the program that can be considered by the Arts Commission and staff following adoption of this report to further assure a sustainable and high-quality program for the Laguna Beach community.

Record and broadcast Arts Commission meetings. Making the Arts Commission meetings and decision-making processes more readily available to the public increases transparency and supports community understanding and trust. This also aligns Arts Commission practices with other City Commissions.

Reestablish the Public Art Coordinator staff position. The Public Art Program has had two staff positions in the past (it now has one) and is under-staffed in relation to the size of its growing collection. Also, implementation of the policies in this report will require additional staff time.

Conduct a formal conservation survey of the collection and develop a full maintenance and conservation plan, to ensure the quality of the collection is maintained and that its appearance remains an asset to the City.

Establish an online inventory and database for the collection to support management and public education. One possibility is WESTAF's Public Art Archive and its Collection Management Software (<https://www.publicartarchive.org>).

Establish an open process for artists to register their general interest in participating in the Public Art Program and submit their qualifications outside of the RFQ/RFP process for a specific project. This list of interested artists can serve as a resource for developers and others seeking artists for projects. Platforms such as Artsopolis (<https://www.artsopolis.com>) and others may be options for this directory.

Expand the practice of temporary installations as part of the public art program. Build on the success of installations including Chakaia Booker's *Pass the Buck*, Jeffery Skarvan's *Call to Action*, and Casey Parlette's *Shark Migration*. These works have served several valuable functions, raising the public visibility of the program, focusing attention on issues and artistic craft, and transforming public criticism into support. The Arts Commission can commission additional temporary projects that tackle important topics, engage the community, and increase the public profile of the program and the Arts Commission. Such projects can also provide opportunities for partnerships with the Laguna College of Art and Design, Laguna Art Museum, and others, under the recommended new partnership policy.

Build a regular program of community education and promotion for the Public Art Program. Work to expand community awareness, understanding and “ownership” of public art through ongoing activities. The possibilities are many and may include activities in the public schools, print/broadcast media coverage, social media, special events, exhibitions, public art tours, artist-in-residence programs, publications, interpretive materials, brochures, films and videos, and artist interaction with the community.

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ROLES AND RESPONSIBILITIES

Laguna Beach Public Art Staff

- Be responsible for the day-to-day management of the public art program.
- Support the Arts Commission in fulfillment of its responsibilities.
- Propose public art project parameters for review (site, budget, artwork medium, artwork approach, etc.).
- Review all proposed public art projects and advance projects to the Arts Commission as appropriate.
- Liaise with artists and the arts community.

Laguna Beach Arts Commission

- Advise City Council on all matters related to the Public Art Program.
- Make aesthetic and artistic judgments in the application of the program policies and guidelines.
- Review and approve installation of private development projects pursuant to this policy document.
- Review and approve installation of art as part of a capital city project pursuant to this policy document.
- Review and approve proposed murals, temporary installations, and other public art projects.
- Review and approve proposed donations, loans, and memorials of artworks.
- Review and approve changes to the public art program guidelines, policies, and procedures.
- Recommend sites for location of public art in accordance with the site criteria set forth in this policy document.
- Review and approve deaccessioning, removal or replacement of public art owned by the city.

Laguna Beach City Council

- Reviews and approves all contracts and expenditures for the public art program.
- Will review Arts Commission decisions only in cases where an error or abuse of discretion in relation to its policies and procedures has occurred and is supported by substantial evidence.

LAGUNA BEACH PUBLIC ART PROGRAM POLICIES

Introduction

This section provides updated and comprehensive policies and guidelines for the public art program, responding to issues and opportunities identified by staff, the Arts Commission, and stakeholders. It is based on national best practices but adapted to the specific needs and circumstances of Laguna Beach and its public art program.

Importance of Artists and Artworks

Artists and artworks are the heart of the Laguna Beach Public Art Program, and their work contributes great value to the community. Artists' public artworks enrich Laguna Beach artistically and aesthetically, they support quality of life of residents and enhance the visitor experience, they further the city's reputation and identity as an arts community, and they stimulate community dialogue. The City seeks to reflect respect for artists and their work throughout all aspects of the program and their involvement with the Arts Commission and staff. One element of that respect is to provide clear guidance and equitable procedures for artists' interactions with the program. In addition, the program will pay artists for proposal development and provide a procedure for registering interest in being commissioned by developers and the program. All artists' rights will be acknowledged and included in artists' agreements.

Artist and Art Selection Criteria

The following criteria shall be referenced and applied by the Arts Commission throughout all selection processes.

Qualifications: Artists shall be selected based on their qualifications as demonstrated by past work and the appropriateness of their concepts to the project. Of highest priority are the artistic capabilities of the artist and the inherent quality of their artwork.

Artistic Excellence: Artists and the public art shall demonstrate excellence of creative and aesthetic ideas, a mastery of skills and techniques, communication of unique vision or perspective, and professional approaches to process and presentation.

Media and Styles: All forms of public art shall be considered, subject to any requirements set forth by the project prospectus. Artists whose artworks are representative of all schools, styles, and tastes shall be considered, as appropriate to the specific characteristics of the project and the site.

Appropriateness to Site: Artwork shall be appropriate in scale, material, form, and content for the selected site. The art must have an artistically compelling relationship to the physical character or significance of the site, and the surrounding geographic context. It shall also have or reasonably accommodate any necessary supporting infrastructure and follow applicable City Code requirements.

Durability: Durability shall be defined in relation to the intended lifespan of the project. For both short-term and long-term installations consideration shall be given to structural and surface integrity, permanence, and protection of the proposed artwork against theft, vandalism, weathering, excessive maintenance, repair costs, and extreme weather events such as floods, earthquakes, or fires.

Visual Accessibility: The proposed artwork will be readily visible to the public and meet the location requirements of the project.

Public Liability: Safety conditions or factors that may bear on public liability should be considered in selecting an artist or artwork. Examples of safety concerns may include a work that invites children to climb on it, has sharp edges, or is at risk of damage from extreme weather.

Diversity: The public art program shall strive for diversity of style, scale, media, and artists. The program shall also strive for an equitable distribution of artworks throughout the City.

Maintenance: The proposed artwork will not require extraordinary maintenance and the maintenance plan addresses vandalism, weathering, natural disasters, and the timeframe of the artwork.

Eligible Artworks

In general, all forms of artistic expression created by professional artists, in a wide variety of styles, media and genres, are eligible for inclusion in the public art program. Examples may include free-standing works, murals, or works that have been integrated into the underlying architecture or landscape. Artworks may include performance, participatory, functional and/or interactive elements.

Ineligible Artworks

Public art projects are not intended to substitute for functional elements that would normally be a part of private development or City capital projects. Unless they are specifically designed by professional artists, the following will not be considered as part of the public art program:

- Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of an overall design created by a professional visual artist.
- Art objects which are mass produced or of standard manufacture, such as playground equipment, fountains or statuary elements, unless incorporated into an artwork by a project artist.
- Reproductions, by mechanical or other means, of original works of art, except in the cases of film, video, photography, printmaking or other media arts.
- Decorative, ornamental, architectural or functional elements that are existing and designed by the building architect, as opposed to elements created by an artist commissioned for that purpose.
- Landscape architecture and gardening except where these elements are designed by a professional visual artist and/or are an integral part of the artwork by the artist.
- Service or utilities necessary to operate and maintain an artwork.

Site Selection Criteria

The Arts Commission will consider the importance of each of the following site criteria for public art projects. Site selection criteria may include, but are not limited to, the following:

- The visibility of the site by the public.
- Public accessibility to the artwork.
- Public safety of the site, especially when considering interactive public art.
- Pedestrian traffic patterns and vehicular traffic patterns.
- Surrounding design including landscaping, lighting, and seating considerations.
- Proposed artwork relationship with and complement to nearby existing artworks.
- Environmental considerations such as flooding, salt, light, etc.
- Impact on any adjacent property owner's vistas, views, or other impact.
- Cost of installation and maintenance as related to the site.
- The probability of vandalism or theft.

Artists' Call Processes

Call Methods

The public art staff shall determine the selection method for individual projects. Any of the following methods may be used, depending upon the requirements of the project. Stipends are provided to the artists for public art proposals.

Open Competition (RFQ/RFP): An open competition is a call to artists for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit qualifications and proposals. Calls for entries for open competitions will be sufficiently detailed to permit artists to determine whether their work is appropriate to the project under consideration.

A two-part selection process is recommended:

Step 1: Request for Qualifications (RFQ). Artists are invited to submit a resume, work samples, and a letter of intent outlining their interest in the project and their approach to the project. The Selection Panel will choose a small group of artists to move to the proposal phase.

Step 2: Request for Proposals (RFP). The selected group of artists are invited to submit proposals. The artists are given specific details and guidelines about the project to develop a conceptual proposal. The artists are paid a stipend for their time to develop the concepts for the project.

Limited or Invitational Competition: Staff and the Arts Commission invite a limited number of artists to submit credentials and/or proposals for a specific project. Invitations shall be based on evaluation of an artist's past work and demonstrated abilities to successfully respond to the conditions posed by the project (i.e., water features, light works, paintings, sound works, landscape works, design team efforts, etc.) or on other non-aesthetic public art program goals (e.g., artists who reside in a particular community or neighborhood where a project is occurring, local artists or regional artists). The artists are paid a stipend for their time to develop the concepts for the project.

Direct Selection: The Commission may choose a direct selection in which they contract with a specific artist for a commission or to purchase an existing work. This approach is rarely used and will generally occur when circumstances surrounding the project render an open or invitational competition unfeasible (e.g., project timeline, community, or aesthetic considerations). The artist is paid a stipend for their time to develop the concepts for the project.

Timeframe for Artworks

All artworks approved by the Arts Commission shall be considered installations for a set time period, with specific provisions regarding future disposition. The Commission may choose it to be a short- or long-term installation, shall determine the timeframe for the artwork to be displayed with input from the artist and/or developer, and shall create an agreement setting forth the terms of the installation. At the end of the timeframe, the artwork will be reviewed, and the timeframe extended, the work purchased, donated, removed, or moved. It is anticipated that some artworks will have a timeframe of one, five, ten or twenty years, while others may be longer-term. Artworks created under the public art in private development (1%) requirement will have a minimum timeframe of twenty years. Setting a timeframe allows for the artist, developer, property owner and the Commission to define the terms of display and to reassess the work within its larger context, such as changes to the site/location, to the artwork itself, and other factors. To assure equitable treatment of the artist and artwork, the agreement shall include provisions addressing the responsibilities and costs of removal, should the artwork be removed or moved at the end of the timeframe.

Criteria for Reviewing Artwork Upon Completion of Timeframe

When the negotiated timeframe for a work of art has expired, the Arts Commission will act in accordance with the terms of the agreement. Under the agreement it may, in its discretion, choose to extend the time period of the work; purchase, remove or move it; or accept it as a donation. The Commission will base its decision on the following criteria, which would support continuation of the artwork:

- The community supports the continued presence of the artwork.
- The artwork is of high artistic quality and/or offers alternative artistic value, such as an educational piece.
- The artwork and/or artist add to the diversity of the collection.
- Maintenance and conservation of the artwork are manageable.
- The site is and will continue to be City property or continue to belong to the developer/property owner and remain a suitable location for the artwork.
- Retaining the artwork does not prevent valuable alternative use of the site for other artwork(s).

Deaccessioning Artworks

The City of Laguna Beach is responsible for maintaining the quality and integrity of the City public art collection. While it is regrettable, occasionally it is necessary to remove an artwork from the collection if it no longer meets standards for quality or safety, or if there is an immediate weather or natural disaster

threat. The Arts Commission is responsible for review and approval of deaccessioning decisions. All deaccessioning shall be subject to artists' rights under their agreement with the City, the California Art Preservation Act, and the federal Visual Artists Rights Act.

Criteria for Deaccessioning

A work of art may be deaccessioned for one or more of the following reasons:

- In the judgment of the Arts Commission, the artwork does not meet the aesthetic or artistic standards of the collection.
- The artwork is not or is rarely on display for lack of a suitable site.
- The condition or security of the artwork cannot be reasonably guaranteed.
- The artwork is damaged and repair is infeasible or the cost of repair is disproportionate to the value of the artwork.
- The artwork requires excessive maintenance due to faults in its design.
- The artwork endangers public safety.
- The artwork needs to be removed immediately due to a pending weather event or natural disaster.
- The site of a site specific artwork is so severely altered that the artwork is no longer compatible or relevant.
- The property on which a site-specific artwork is located is no longer owned by the City.
- The property needs to undergo necessary infrastructure improvements.
- The artwork is significantly incompatible or inferior in the context of the collection.
- The City wishes to replace the artwork with a work of more significance by the same artist.
- There has been sustained and overwhelming public objection to the artwork over period of time.
- The artwork has been stolen or destroyed.

Artwork Donations and Loans

Works of art proposed for donation or long-term (six months or longer) loan to City shall be carefully reviewed by the Arts Commission under criteria which have been established to meet the following objectives:

- To provide uniform procedures for the review and acceptance of gifts or loans of artworks to City.
- To vest in a single agency the responsibility of ensuring the management and long-term care of the donated works of art.
- To facilitate planning for the placement of artworks on City-owned property.
- To maintain high artistic standards for artworks displayed in City facilities.
- To provide appropriate recognition for donors of artworks to the City.

At any time, the Arts Commission may impose a temporary moratorium on donations and loans. All artworks proposed for donation or long-term loan shall be subject to the timeframe requirements as with all other artworks.

Memorials are ineligible as proposed donations or loans of artwork. Proposed memorials are subject to specific policies (see Memorials, below).

Arts Commission Process

The Arts Commission has sole discretion to review and accept or deny, or accept with conditions, any proposed donated or loaned artwork. The Commission will consider proposals for donations and loans only during the first three months of the year. The Commission will schedule a feasibility consultation with the applicant, in advance of their making a proposal, and advise them of the content of this policy, the appropriateness of the proposed artwork donation or loan, and the necessary courses of action required for a full proposal for consideration by The Arts Commission.

Review Criteria for Artwork Donations or Loans

The Arts Commission shall evaluate proposed donations or loans and base its decision of acceptance or denial on the following criteria:

1. **Aesthetic Considerations:** To ensure artworks of the highest quality, proposed gifts or long-term loans of works of art should be accompanied by a detailed written proposal and concept drawings of the proposal, and/or photographs of an existing artwork, documentation of the artist's professional qualifications and, if needed, a current certified appraisal of the worth of the artwork. The Arts Commission shall assess the aesthetic value of the artist and the artwork to determine whether the donation or loan should be accepted and may refuse the proposed donation or loan on aesthetic grounds.
2. **Site Context:** If the donor is proposing a site for the donated or loaned artwork, the artwork must be compatible in scale, material, form, and content with its proposed site. Attention shall be given to the social context of the work and the way it may interact with or contribute to the use of the site. Significant consideration shall be given to the structural and surface soundness, and to the possibility of and resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.
3. **Financial Considerations:** Funding for the project, and the estimated cost of maintenance and repair over the expected timeframe of the artwork. If the proposed donation or loan is accepted, a legal instrument of conveyance of the work of art should be executed between the City and the donor. Acceptance is contingent on receipt of payment from the owner for all costs associated with the gift, including transportation, installation, and maintenance endowment and staff time.
4. **Liability:** Susceptibility of the artwork to damage and vandalism, any potential danger to the public, and any special insurance requirements.
5. **Maintenance:** The City shall require that the donor provide an endowment for the long-term maintenance and conservation of the donated and loaned artwork, except where there are alternative funding sources for these expenses or there is a compelling reason for the City to accept financial responsibility.
6. **Uniqueness of Art:** The City will accept only unique, one of a kind works of art apart from prints, photographs, or a desirable high-quality, limited edition work of art by a renowned artist.

Proposed artwork donations and loan proposals shall be reviewed by the Arts Commission. Proposals shall be accompanied by the following information:

- Slides, photos, or a model of the proposed work.
- Biography of the artist.
- Cost of the artwork and anticipated budget for installation.
- Information for giving acknowledgement of the donor.
- Maintenance requirements for the artwork.

Artworks proposed for long-term loan (one year or more) to the City shall be subject to the same considerations outlined above. Artworks proposed for placement in private offices or in non-public areas of City facilities shall not be subject to Commission review.

Memorials

This policy addresses requests received for permission to place monuments, memorials, markers, or plaques to an organization or event on City property. Proposals for memorials honoring organizations or events are eligible for consideration. Memorials honoring individual persons are not eligible.

The City is committed to preserving the public use and enjoyment of its parks, open spaces, public buildings, and other public areas of the City while providing opportunities for appropriately designed monuments, memorials, markers, and plaques that honor an organization or event beneficial to the greater good of the community.

To preserve space for future generations of Laguna Beach, proposed memorials shall be subject to the timeframe requirements as with all other artworks.

At any time, the Arts Commission may impose a temporary moratorium on memorials.

The Arts Commission shall evaluate proposed memorials, markers or plaques and base its decision on application of criteria listed above for donations, plus the following:

- **Use of Public Space:** Consideration of the primary uses of public open space is a priority. While appropriate memorials may enrich an area, public open space is a precious commodity for Laguna Beach residents. Any memorial applications will be carefully reviewed in context of these two public benefits.
- **Timelessness:** The quality of timelessness shall be considered in the significance of the organization or event being memorialized. The memorial must represent the values and principles relevant to future generations.
- **Community Significance:** Proposed projects must serve to commemorate or to identify a particularly significant historic event or organization. Projects that seek to honor events by placing them into the public realm should appeal to the broader interests of the community.

- Location: The location must be an appropriate setting for the memorial and specific geographic justification should be stated in the application.

Financial Contributions to Program

The Public Art Program encourages and accepts financial contributions to help fund the cost of artworks. The program has a history of donors contributing amounts towards the cost of commissioning artworks. Donations of any amount, large or small, are gratefully accepted into the Public Art Fund to defray the costs of commissioning and maintaining new works for the collection. All decisions about the choice of artwork and use of donated funds are at the sole discretion of the Arts Commission under its policies and guidelines. Donors who wish to propose a specific artwork or site may meet with staff and explore a donor agreement setting forth the terms and conditions of the project based on the artwork donation policy, which will then be reviewed by the Arts Commission.

Murals

A mural is any large-scale artwork, painting, mosaic, fresco, or other artwork attached to or applied directly to the exterior of a structure. A mural is a pictorial representation or design intended to reflect a thematic or artistic expression. Murals can offer great community benefit and are a longstanding tradition in Laguna Beach. However, murals must be designed to avoid confusing drivers and/or pedestrians or causing any other negative impact on public safety or welfare.

Murals in Laguna Beach are governed by (a) location on public or private property, (b) the use of public or private monies, and (c) their duration status (temporary or long-term). Temporary murals are intended to be installed and on view for 12 months or less. Murals intended for installation and to be on view for more than 12 months are considered long-term murals. Murals on public or private property shall conform to the requirements of this chapter and require approval of the Arts Commission if they are within public view via public right of way.

Applications for new outdoor murals subject to the requirements of this chapter are approved by the Arts Commission. Murals approved through this program are exempt from the City sign code, Chapter 25.54.

Any individual or organization wishing to create an outdoor mural in the City of Laguna Beach must apply for approval through the Public Art Program, regardless of the funding source. Applicants may be: an individual artist or group of artists; a business or building owner; or a nonprofit organization, such as a neighborhood association, educational or community organization. Federal tax-exempt status 501(c)(3) is not required.

Murals on private property outside of public view via public right of way and funded with private dollars, do not need approval from the Arts Commission but are subject to all City codes and other ordinances, including Sign Regulations, Chapter 25.54.

Murals placed on public property and/or financed by City funds are the responsibility of the City, including its maintenance, conservation, and removal. Alteration or removal of murals must be approved by the Arts Commission and are subject to the provisions of the California Art Preservation Act and Visual Artists Rights Act.

Murals placed on private property shall become the responsibility of the property owner, including its maintenance, conservation, and removal. Murals not maintained properly may be subject to code compliance penalties and removal.

The following criteria shall be applied in review and approval of mural proposals to ensure aesthetic quality and design integrity, and to determine that the work is appropriate to the setting, architecture, and social context:

- Support of mural by community demonstrated through a community engagement process.
- Strength of the artist's concept and demonstrated technical skills and expertise.
- Appropriateness of theme and other relationships to the surrounding environment.
- Compatibility with the character of the surrounding area (particularly when near residential areas) in terms of its size, style, colors, materials, general appearance, and location.
- Appropriateness in scale to the location. The mural should not overwhelm nor compete with the scale of the site or adjacent architecture.
- Placement on building, including the consideration of door and window coverings.
- Budget and timeline.
- Confirmation of original work of the artist, with no violation of copyrights.
- Designation of property (no installation allowed on designated historic property).
- Appropriateness of content (e.g., no signage, names, logos, or subject matter that could be construed as advertising or as overtly political, religious, or sexual in nature). Any design considered indecent or illicit by community standards will be denied.
- Suitability of the work for outdoor display, including its maintenance and conservation requirements.

Public Art in Private Development and City Capital Projects

One percent art requirement and administrative fee: Private real estate development projects and City capital projects shall be subject to a public art requirement as defined in the ordinance. Developers and the City shall allocate a total of one percent (1.0%) of the total value of their project budget for public art. Of the one percent art requirement, they shall allocate and spend eighty-five percent (85%) to acquire and install a work of public art on the project site. In addition, they shall pay fifteen percent (15%) of the one percent art requirement as an administrative fee to offset costs of managing the program. In lieu of acquiring and installing an artwork, the developer or City may contribute funds to the Public Art Fund in the amount of one-and-one quarter percent (1.25%) of the total value of their project budget. The artwork shall include a plaque acknowledging the artwork name, the artist's name, and the date of installation.

The public art requirement shall apply to private real estate development and City capital improvement projects with valuations greater than \$225,000.

Private development projects subject to art requirement: New commercial or industrial developments; remodeling, repair, or reconstruction of existing commercial or industrial property; residential subdivision or development of more than four lots of units, whether by detached single family residential structures, condominiums, apartments, townhouses or other dwelling units, including the repair, remodeling, or renovation of same.

City capital improvement projects subject to art requirement: City parks and public works projects and renovations such as bridges, viaducts, elevated ways, gates, or other structures upon or over land owned by the City within the city. Renovation applies to any capital project that increases the square footage, expands the uses, or creates new uses of a facility. Renovation does not include capital projects that are replacement of existing systems (such as electrical or plumbing). Renovation also excludes regular maintenance of facilities, such as painting, gutter replacement, etc.

Exclusions: The public art requirement shall not apply to underground public works projects; street or sidewalk repairs; tree planting; remodeling, repair or reconstruction of structure damaged by fire, flood, wind, earthquake, or other natural disaster; low-income housing construction, remodel, repair or reconstruction projects; construction, remodel, repair or reconstruction of structures to be occupied by a nonprofit, social service agency or institution.

The developer shall be responsible for maintenance and conservation of the artwork and these future costs shall not be included in the project budget nor counted towards fulfillment of the public art requirement.

The public art must remain on the project site for a period to be negotiated but not less than twenty years from the original installation date. When and if the development project is sold within twenty years from the installation date, the public art must remain at the development for which it was created and may not be claimed as the property of the seller or removed from the development or its location as approved by the Arts Commission. If a property is to be demolished within said twenty-year period, the owner must relocate the public art to another publicly accessible, long-term location that is approved in advance by the Arts Commission. A property owner may petition the Arts Commission to relocate the public art to another publicly accessible location on the development project site. In the case of removal of the public art for any reason prior to the expiration of the twenty year period, developer or owner of the development project must notify the City at least 30 days in advance of the removal, and must replace the public art within six (6) months of its removal, meeting all of the requirements of this chapter and using the same approval process, or pay an amount equal the remaining portion of the in lieu contribution prorated over said twenty year period. Any removal, relocation, or replacement of the public art must be consistent with the California Art Preservation Act and the Federal Visual Artists Rights Act and any other relevant law. The developer or owner shall execute a restrictive covenant in a form

acceptable to the City Attorney enforceable by the City, which shall be recorded against the project site and shall run with the land for a period of twenty years from the installation date.

Artwork created to fulfill the public art requirement shall be of permanent-type materials to be durable against vandalism, theft, weather, and natural disaster, and shall be related in terms of scale, material, form and content to the immediate and adjacent buildings and landscaping so that it relates to the site and surrounding environment.

Public art shall be clearly visible and easily accessible to the public. If located on private property, the area must be open to the public and clearly visible from adjacent public property such as a street or other public thoroughfare, sidewalk, or public beach.

Permissible expenditures in fulfillment of the one percent (1.0%) private development requirement shall include artist fees; fabrication and installation services and materials; shipping and transportation of artwork to the site; site preparation; display and mounting; and permits and fees directly related to the artwork. The Arts Commission shall have discretion to include or exclude line items or portions of expenses as part of the review and approval process.

Approval Process for Public Art in Private Development

Artist Selection. Selection of the artist and public art shall be the responsibility of the developer for private development projects. City staff may, to the extent practicable, provide any public lists of potential artists or potential locations for the public art. Financial agreements regarding the public art shall be negotiated between the developer and artist and memorialized in a written agreement.

Approval. An approved and installed project is required before issuance of a certificate of occupancy. To assure the best possible artistic outcome, the developer shall initiate the planning and negotiating process for the public art project as early as practicable in the development process.

Process: The developer applies to the Community Development Department for review and approval by the Arts Commission along with payment of the fifteen percent (15%) of the one percent art requirement for administrative costs. The review and approval process continues with an initial presentation to the Arts Commission to propose concepts and plans for the public art project, and to receive feedback and direction from the Arts Commission. To the extent possible, processing of the public art application shall be concurrent and coordinated with the design review application, if any, for the development project. Following conceptual approval from the Arts Commission, the developer will submit a final application including specific plans for the public art project to the Arts Commission for review and approval. Formal or conditional approval of a final application shall be granted by the Arts Commission before the Community Development Department accepts drawings for structural plan check of the development project. In the discretion of the Arts Commission, and upon a showing of good cause by the project applicant, drawings for structural plan check may be accepted and processed prior to formal approval or conditional approval of a final application for public art. The City Council shall accept the

recommendation of the Arts Commission except in cases where a Commission decision is not supported by substantial evidence or constitutes an error or abuse of discretion in relation to its policies and guidelines.

In-Lieu Fee. When the developer has elected to make an in-lieu contribution to the Public Art Fund, the payment shall be made at or before the time the certificate of occupancy is issued.

Maintenance and Conservation

The City shall be responsible for all maintenance and conservation of artworks in its collection, during the timeframe of installation, except for works commissioned through the Public Art in Private Development requirement, which shall be the responsibility of the property owner. The City shall regularly arrange for a survey of the entire Public Art Collection to meet the following objectives:

- To provide for the regular inspection of public works of art.
- To establish a regular procedure for effecting necessary repairs to public works of art.
- To ensure regular maintenance of public works of art.
- To ensure that all maintenance of public works of art are completed with the highest standards of professional conservation.

The City shall also inventory the public art collection with information critical to maintenance and conservation of the collection. This includes artist information, materials, recommended individual maintenance schedule for the artwork, photographic documentation of the artwork, and other information deemed important and necessary.

Artist Responsibilities

- Guarantee and maintain the work of art against all defects of material or workmanship for a period of one year following installation, subject to the terms of the artist's contract.
- Provide the public art program with drawings of the installation and with detailed instructions regarding routine maintenance of the artwork.
- Be given the opportunity to comment on, and participate in, all repairs and restorations that are made during their lifetime.

City of Laguna Beach Responsibilities

- Be responsible for routine maintenance of artwork, upon the advice the Public Art Staff or Arts Commission, and shall perform all maintenance work in a manner that is consistent with conservation requirements supplied by the artist.
- Not intentionally destroy, modify, relocate or remove from display any work of art.
- Not do any non-routine maintenance or repairs to artworks without prior consultation with the Public Art Staff and/or a qualified professional.

- Be responsible for conducting a comprehensive maintenance survey of the public art collection at least once every five to seven years. This survey shall include a report on the location and condition of each work, prioritized recommendations for the restoration or repair or maintenance of works of art, and estimated costs.
- If a work is in need of attention and/or restoration staff may, at its discretion, engage a professional conservator to evaluate the condition of the work further, or effect repairs to the work. The artist should be asked to repair the work for a fair market value fee. If the work cannot be restored, the work will be considered for deaccessioning or removal from the collection.

Partnerships

Partnerships can enrich the Public Art Program and extend its relationships and impact in the community. They also require time and resources to manage the additional process and work involved in shared initiatives. In this context, partnerships will be temporary agreements to produce a public art project. To best assure success, the Public Art Program will engage in partnerships within the following guidelines:

- All partners discuss and agree in advance on a project plan, including addressing goals, desired outcomes, tasks, roles, communications, schedule and budget. They also identify a process for decision-making and resolving conflicts that arise during the project.
- Each partner assigns a lead staff person to the project.
- Each partner commits significant financial and human resources to the project.
- All partners commit to work together and strive to reach mutually beneficial results even in the face of difficulties and disagreements.

Artist and Collection Diversity

The Arts Commission desires to create a public art collection that is diverse and includes artworks of numerous styles and media. Therefore, it is important that many artists have an opportunity to participate in the program.

Artists are limited to having a maximum of four (4) artworks in the collection at any one time. Artists with the maximum number of concurrent artworks cannot be considered for another commission or purchase for three years after the date of the last signed contract or letter of agreement, unless the commission is directly related to a previous artwork completed by the artist.

The Commission shall ensure over time that the public art collection is inclusive of artists of diverse backgrounds. The Arts Commission will not discriminate against any artist or other program participant based on race, religion, gender, sexual orientation, national origin, or disability status.

Artist Rights

The City of Laguna Beach is committed to a climate wherein artists will thrive and receive the economic benefits of, and recognition for, their work. For that reason, it is important that artists retain reasonable

control of the integrity of their artworks and that artists receive equitable compensation for their creative endeavors.

The City seeks to assure the following rights to artists, which shall be embodied in artist contracts for the commissioning or purchase of works of art.

- Recognizing that successful public art is generally inseparable from the site for which it is created, the City shall endeavor to ensure that City departments or site agencies do not move or remove an artwork unless its site has been destroyed, the use of the space has changed, or compelling circumstances arise that require relocation of the work of art. Any such actions should be reviewed by the City prior to being undertaken. Should it become necessary to move or remove an artwork, the City shall make reasonable efforts to consult with the artist before effecting any removal or relocation. However, the City reserves the right to move or remove the artwork without notification in emergency situations where an immediate threat to property or public safety is present. In all instances, the City will act within the provisions of the California Art Preservation Act and federal Visual Artists Rights Act.
- Recognizing the importance of preserving the integrity of an artwork, the City shall seek to ensure that City departments or site agencies do not intentionally alter, modify or destroy an artwork. Nevertheless, if an artwork is significantly altered, modified or destroyed, whether intentionally or unintentionally, the artist shall have the right to disclaim authorship of the artwork. Should an artist choose to exercise this disclaimer, the City shall, upon request by the artist, officially request that the department or agency remove any plaques, labels or other identifying materials that associate the work with the artist.
- The integrity of an artwork depends upon regular conservation and maintenance. The City is committed to the periodic inspection of the artworks in the Collection and to make reasonable efforts to ensure that each artwork is properly and professionally maintained.
- The City agrees to make its best effort to ensure that all maintenance and repairs to works of art are accomplished in accordance with any maintenance and repair instructions the artist has provided to the City at the time of accession and that all such maintenance and repairs adhere to the highest professional standards of artwork conservation. The City shall make reasonable efforts to notify the artist before departments or site agencies undertake repairs or restorations to the artwork during the lifetime of the artist. Where practical, the City shall seek to ensure that the artist be consulted and given an opportunity to accomplish the repairs or restorations at a reasonable fee. The City reserves the right to make emergency repairs without prior notification to the artist.

The artist retains all copyrights associated with works of art accessioned by the City, including those acquired for the City. The City agrees that it will not copy or reproduce the artwork in any way, or permit third parties to do so, without prior written permission of the artist. Notwithstanding this policy, the City

reserves the right to make photographs or other two-dimensional representations of the artwork for public, noncommercial purposes such as catalogues, brochures, and guides.

Conflicts of Interest

Members of the Arts Commission, or any appointed members of a City Board or Commission, are bound by the City's Conflict of Interest provisions:

https://library.qcode.us/lib/laguna_beach_ca/pub/municipal_code/item/title_2-chapter_2_14-2_14_070

Appeals and Mitigation of Disagreements

Applicants for public art projects may appeal the recommendations of the Cultural Arts Director and the Arts Commission. Appeals will be reviewed solely based on determining if the public art process was appropriate. The appeals procedure allows for a review of the process for approval of a public art project. It is only to confirm the decision was reached in a manner consistent with the public art review policies.

The appeal will be determined at the discretion of the Cultural Arts Director, who may make a final ruling or refer the matter to the Arts Commission. In the event the Cultural Arts Director makes a final ruling, they will make a report to the Arts Commission at the earliest opportunity.

Dissatisfaction with the denial is not sufficient grounds for an appeal. Incomplete proposals or errors contained within proposals do not constitute grounds for appeal. Grounds for appeal are evidence of at least one of the following:

- The proposal was reviewed with criteria other than those appearing in the relevant public art guidelines.
- The Commission or selection process members were influenced willfully or unwilfully by members who failed to disclose conflicts of interest.
- Erroneous information was knowingly provided to the panel during its review of proposals.

The Cultural Affairs Director and/or Arts Commission will use the following procedures for appeals:

- Appeals must be sent in writing to Cultural Arts Director within 14 days of notification of the pertinent recommendation. The letter must cite evidence to support one or more of the grounds for appeal.
- The Cultural Arts Director shall consult the appropriate Arts Commission chairperson in accepting or rejecting the appeal.
- A rejection by the Cultural Arts Director is final and ends the appeal request.
- If the Cultural Arts Director accepts the appeal request, the applicant will be asked to make a presentation to the Arts Commission.
- The Arts Commission will recommend acceptance or rejection of the appeal and recommend modifications to awards as required.

- The Cultural Arts Director will notify the applicant in writing of the Commission recommendation and the date and time at which the Arts Commission will consider the appeal.

In addition to the above appeals policy, the City provides an additional appeals process:

25.05.070 Appeals and requests for review of discretionary decisions.

http://qcode.us/codes/lagunabeach/view.php?topic=25-25_05-25_05_070

Liability Insurance and Performance Bonds

The City of Laguna Beach recognizes that the cost of insurance, particularly liability insurance and performance bonds, is prohibitively expensive for professional visual artists. Inevitably, any insurance requirement to artists creating public artworks means that these costs would be passed on to the City in the form of increased fees for the artwork or a smaller portion of the project budget allocated to the art.

The City shall endeavor to seek alternatives to liability insurance and performance bonds, which are often difficult or unreasonably expensive for an artist to obtain. Whenever possible, arrangements shall be sought to cover the artist's liability under umbrella insurance programs, which generally cover all work being performed by contractors and subcontractors on the project site, or to arrange coverage for the artist and artwork under the insurance of the general contractors for projects. The artists shall be liable, in every instance, for their own negligent acts or omissions. Artists may be required to have their drawings, plans, specifications, fabrication techniques and installation methods reviewed by licensed California engineers for structural and/or mechanical integrity. The City will, if warranted by a particular project, engage engineers to verify project designs and installations.

DEFINITIONS

Accessioning: The process of adding and recording an artwork into the City's Public Art Collection, whether by commissioning, purchase, or donation.

Acquisition: The inclusion of an artwork in the City's Public Art Collection by commission, gift, or loan. Works on loan for periods of less than six months shall be considered as exhibition presentations. Works on loan for between six months and five years shall be considered temporary acquisitions and shall be included in the overall management of the City's public art collection.

Agency: Any public commission, authority, department, or corporation established or authorized to perform one or more functions on behalf of the City and funded in whole or part with City revenues or funds applied for, granted, or allocated by, to, or on behalf of the City.

Art, Work(s) of Art or Art Works: The objects resulting from the application of skill and taste to production of tangible objects, designs, and/or environments according to aesthetic principles, including, but not limited to: painting, sculptures, engravings, carvings, frescoes, murals, collages, mosaics, statues, tapestries, photographs, drawings, crafts, installations, digital and light-based works, fabric and textile works, earthworks, and conceptual works.

Artist: A person who practices any of the creative arts and who creates a body of artwork.

Capital Project or Capital Improvement Project: A government supported undertaking such as a land acquisition, construction, renovation, or demolition project of the City or of any City Agency intended to add to the long-term net worth, service capacity, or betterment of a particular government function, facility or asset.

Capital Project Budget or Construction Cost: The total cost of acquiring and constructing a Capital Project, including without limitation, legal, architectural, engineering, and other professional fees, site work, contingency allowances, and change orders.

Deaccessioning: The process of permanently removing an artwork from the Public Art Collection, whether by sale, destruction and/or removal from public display.

Functional Public Art: Combines aesthetic and artistic ideals with functional products and places, such as bus benches, bike racks, or exercise equipment.

Laguna Beach Arts Commission: A seven-to-nine member body appointed by the City Council and advisory to City Council, responsible for governance and oversight of the public art program, including public art policy, artworks, and funding for the City.

Laguna Beach Public Art Program: A City program which administers the public art policy, activities, and contracts to support the mission of the City.

Open Competition: A publicly announced invitation, to which any artist(s) may apply, subject to the parameters which have been established for creation and installation of a Work of Art or Public Art Project.

Performance Art: A nontraditional, hybrid art form that typically features a live presentation to an audience or onlookers (as on a street) and draws on such additional artforms as acting, poetry, music, dance, or painting.

Public Art: A work of visual art in a variety of media produced by a professional visual artist(s). Artworks may include painting, sculptures, engravings, carvings, frescoes, murals, collages, mosaics, statues, tapestries, photographs, prints, drawings, ceramics, crafts, installations, digital and light-based works, fabric, and textile works, earthworks, conceptual works, functional elements if designed by a professional artist, or such other visual art media as shall be deemed appropriate by the Arts Commission. Artworks may include a performance, participatory or time-based element. Public art shall not include artworks designed by the capital project designers or engineers, mass-produced artworks, reproductions of original artworks, or landscape architecture except where these elements are designed by a professional visual artist and/or are an integral part of the artwork by the artist.

Public Art Project: Projects for the creation of Public Art pursuant to these policies.

Public Places: Buildings, parks, major roads, and all spaces, indoors and outdoors, located in the City and that are accessible to the public.

Renovation: Any construction or cosmetic change of facilities, exclusive of regular maintenance. A renovated building is (a) a building undergoing alteration of the exterior envelope, heating, ventilation, and air-conditioning systems, water heating systems, or lighting systems for which the aggregate cost of alteration exceeds 10 percent of the assessed value of the building prior to such alteration, or (b) a building undergoing alteration in the physical configuration or interior space, for which the aggregate cost of alteration exceeds one-fourth of the assessed value of the building immediately prior to such alteration.

Request for Proposal: A public announcement of an upcoming public art project, inviting artists to submit a conceptual proposal for the project.

Request for Qualifications: A public announcement of an upcoming public art project, inviting artists to submit credentials for consideration for the public art project.

Site Specific Artwork: An artwork designed for a particular site and whose artistic intention is inseparable and cannot be transformed from the particulars of that given site to another location.

Temporary Art or Temporary installation: Public art within public view for less than one year.

Timeframe: The duration of time that artworks are made part of the City's collection, with specific provisions regarding future disposition.

APPENDICES

The revised public art ordinance will be attached as a separate document once the draft policies are reviewed.

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