

ART IN PUBLIC PLACES ORDINANCE

City of Costa Mesa

1. PURPOSE.

The City of Costa Mesa rededicates itself to the distinction of being a “City of the Arts,” and seeks to encourage and expand Public Art throughout the City by establishing and growing a world class Public Art program that serves all districts and neighborhoods. Public support for the arts can heighten civic pride, promote a positive city image and create an urban landscape that encourages tourism and increases property values. The Art in Public Places program also serves to implement a number of goals, policies and recommendations in the City Council approved Arts and Culture Master Plan and the 2015-2035 General Plan (Open Space and Recreation Element).

2. DEFINITIONS.

As used in this chapter:

“**Accessible**” is a place or something that is capable of being reached, used or seen by the general public and that is easily used or accessed by people with disabilities.

“**Art Consultant**” is an organization or individual working as a professional administrator of the arts, who realizes income through the provision of services relating to the arts such as, but not limited to, identifying artists and on-site art opportunities, and contracting with artists for venues with public audiences, or providing oversight of on-site logistics, demonstrates previous success in project management, and provides leadership in completion of public art projects.

“**Artist**” is a person who has established a reputation of artistic excellence in the fine arts, including but not limited to visual or performing arts, as judged by peer and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and or educational attainment. The qualified artist shall work primarily in the production of unique fine art.

“**Artwork**” means original creations of art including, but not limited to, the following media and materials:

- *Sculpture*: Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials.
- *Murals or portable paintings*: In any materials or variety of materials, with or without the addition of nontraditional materials and means.
- *Works on paper*: Photographs, prints, watercolors, drawings of any media and other paper works.
- *Textiles*: Tapestries, quilts, embroideries and other forms of woven or non-woven fiber art.
- *New media*: Including but not limited to new technologies in light, sound, film, holograms, virtual reality, digital media, and any hybrids of media and new genres.
- *Other media*: Neon, glass, earthworks, mosaics, tile, ceramics, printmaking, collage, mixed media, assemblage.
- *Standardized fixtures or enhanced functional architectural elements*: If rendered by an Artist as unique features, including but not limited to, grates, facade enhancements, stairways, fencing, and other design elements.
- *Cultural Facilities*: Public gallery, exhibition space, public performance spaces, theaters, public artistic studio spaces, and public art education facilities; and
- *Performing Arts*: Theatre, dance, music and performance art.

- *Literary Art*: Poetry readings, storytelling and creative writing.
- *Media Art*: Film, video, or digital media.
- *Education*: Lectures, presentations, and training in and about arts and culture.
- *Special events*: Parades, festivals, and celebrations; and similar arts services, facilities and amenities as approved by the City of Costa Mesa.

“Mural” A one-of-a-kind original artwork created by a Mural Artist, or through a community engagement process led by a Mural Artist that is fabricated directly upon an exterior wall of a building, that is hand-painted, spray painted or hand-tiled and does not contain commercial messaging. For definition purposes, a commercial message is any text, image, logo, or other visual communication that advertises or references a business conducted, services rendered, commercial enterprise, or goods produced or sold on or off the premises.

“Mural Artist” A person who has established a reputation of artistic excellence in the visual arts, as judged by peers and/or experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment. The qualified artist’s creative output shall primarily consist of the production of unique fine art.

“Permanent Public Art” means Art in public spaces, created by an Artist and fabricated with materials and methods with an expected lifespan of twenty-five years or more.

“Project Valuation” means the total value of the development project as determined by the Economic and Development Services department and indicated by the building official on the building application submitted to the Public Works department to obtain a building permit, or permits, for the development project.

“Public Place” means any exterior area on public or private property which is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare, sidewalk, or public beach.

“Temporary Public Art” means Art in public spaces, created by an Artist which is designed to be exhibited for a limited, articulated period of time, typically five years or less.

3. PROJECTS SUBJECT TO ART IN PUBLIC PLACES REQUIREMENT.

The requirements of this chapter shall apply to the following activities:

- a) New commercial or industrial developments;
- b) Remodeling, repair or reconstruction of existing commercial or industrial property which exceeds (\$500,000) five hundred thousand dollars in valuation;
- c) Residential projects and or developments of more than four lots or units, whether by detached single family residential structures, condominiums, apartments, townhouses or other dwelling units.
- d) City Park projects on land owned by the City of Costa Mesa within the city, if valuation exceeds (\$500,000) five hundred thousand dollars.
- e) New public works projects such as bridges, viaducts, elevated ways, gates, or other structures upon or over land owned by the City of Costa Mesa within the city if valuation exceeds (\$500,000) five hundred thousand dollars.

4. PUBLIC ART REQUIREMENTS FOR PRIVATE DEVELOPMENT

When a privately funded development project is subject to the requirement of this ordinance, the applicant may comply at their discretion with provisions of subsection (a) and (b).

- a) **Optional In-Lieu Contribution.** The in-lieu fee can be paid by the project applicant prior to the issuance of a certificate of occupancy, as may be applicable, unless otherwise provided by the city council. Project applicants shall indicate on their art in public places application that they wish to make an in-lieu contribution of \$20,000 or more. The public art fund will be administered by the Parks & Community Services Department as set forth in Section 6.
- b) **Project Benefits & Commitments for Private Development Projects.** On a case-by-case basis, the requested Economic Recovery and Community Enhancement Funds (ERCEF) stipulated by City Council approval within development agreements between private development companies and the City, can be reduced if an In-Lieu contribution is made to the City's public art fund. A reduction would be implemented as a decrease in interest fees for the pay out of the ERCEF from 3% to 2%.

5. PUBLIC ART REQUIREMENTS FOR CITY FUNDED PROJECTS

Capital Improvement Plan projects are considered eligible for public art and are expected to contribute to the City's public art fund in an amount equal to one percent (1%) of the project's valuation upwards of \$500,000, unless the project is exempt. **Exemptions include:**

- a) Underground public works projects;
- b) Street or sidewalk repairs;
- c) Tree planting;
- d) Remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity;
- e) Low-income housing construction, remodel, repair, or reconstruction projects;
- f) Construction, remodel, repair, or reconstructing of structures to be occupied by a nonprofit, social service agency or institution.

6. PUBLIC ART FUND

Accounting. Any moneys collected in accordance with the in-lieu contribution from private development projects and city capital improvement plan projects, shall be deposited in a separate account denominated as the "public art fund." The city manager or his/her designee shall establish accounting records sufficient to identify and control these funds.

Use of Fund. The public art fund shall be used to provide sites for and install works of art in Public Places in order to further the intent and purpose of this chapter as set forth in Section 1.

Permissible Expenditures. Expenditures of funds may include, but are not limited to, the following uses:

- a) The cost of artwork and its installation.
- b) Water works, landscaping, lighting and other objects which are an integral part of the artwork.
- c) Frames, mats, pedestals, artwork signage, identification plaques and other objects necessary for the proper presentation of the artwork.
- d) Walls, pools, landscaping or other architectural or landscape architectural elements necessary for the proper aesthetic and structural placement of the artwork.
- e) Maintenance and repair of artworks funded through the public art fund.

Administration. The public art fund shall be administered by the Parks and Community Services Department.

The arts commission shall make recommendations to the Parks and Community Services Department, with the assistance of a public art review panel comprised of community constituents, relevant staff, artists and one to two arts commissioners, about:

- a) Places which should be considered for artworks.
- b) Medium of the proposed artwork; and
- c) The artist whose work should be considered for placement in the recommended location.
- d) Selection of artists and artworks shall be based on the guidelines set forth in Section 2.

Contracting and Maintenance. The city will contract with the artist and with consultants as necessary for the purchase or commissioning of the as well as the execution and installation of the artwork.

On-site activity in connection with the artwork installation shall be coordinated by the Arts Specialist. Maintenance and repair of art works will be funded through the public art fund.

So far as is practical, in the event repair of the artwork is required, the city shall first give the artist the opportunity to do that work for a reasonable fee. In the event the artist is unable or refuses to make the repair for such a fee, the city may proceed to contract for such repair with another qualified artist or tradesperson.

7. GUIDELINES FOR ARTWORKS

Guidelines for the approval and maintenance of artworks shall include, but are not limited to, the following criteria:

- a) Public artwork shall be of high artistic quality. The artwork shall be designed and constructed by persons experienced in the production of such artwork and recognized by critics and by his or her peers as one who produces works of art.
- b) Public art shall be located within the public right-of way or shall otherwise be easily visible or accessible from a public right-of-way.
- c) Interior locations for public art shall be freely open and accessible to the public.
- d) Public art shall be compatible with the immediate site and neighborhood in terms of historic, social and cultural characteristics, architectural scale, materials, land use, and geographical and environmental context. The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and should include landscaping, lighting, interpretive information and other amenities where appropriate.
- e) The design and placement of public art shall not impede pedestrian or vehicle traffic, or conflict with public or private easements.
- f) The composition of the artwork shall be of permanent materials to be durable against vandalism, theft and weather, and to require a low level of maintenance.
- g) The artwork shall be a permanent, fixed asset to the property.
- h) The artwork shall be maintained by the property owner in a neat and orderly manner acceptable to the city.
- i) The following items are not to be considered as artworks:
 - Art objects which are mass produced from a standard design.

- Reproductions of original artworks.
- Decorative, ornamental or functional elements which are designed by the building architect as opposed to an artist commissioned for the purpose of creating the artwork.
- Landscape architecture and landscape gardening except where these elements are designed or approved by the artist and are an integral part of the artwork by the artist.
- Services or utilities necessary to operate or maintain the artwork.

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