

Sample Ordinance

Art in Public Places Ordinances

Laguna Beach, California

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1.09.010 Intent and purpose

This chapter may be known and cited as the "Laguna Beach art in public places program." Laguna Beach has developed historically as an art colony and haven for artists, and attracts millions of visitors every year to view and purchase arts and crafts in the city. The public health, morals, safety and welfare, as well as the popularity and prosperity of the community, are dependent upon and enhanced by visually pleasing and high quality public art. Therefore, the city council declares that in the interest of the public health, morals safety and welfare, it is the policy of the city to require the acquisition and installation of public art works as provided in this chapter.

(Ord. 1119 _ 1 (part), 1986).

1.09.020 Definitions.

As used in this chapter: "Art work" means original creations of art including, but not limited to, the following media and materials:

1 Freestanding, wall-supported or suspended, kinetic, electronic, or other type sculpture, in any material or combination of materials;

2 Murals or portable paintings in any material or combination of materials, with or without collage or the addition of nontraditional materials or means;

3 Earthworks, fiberworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media including sound, film, holographic and video systems, hybrids of any media and new genres.

"Project valuation" means the total value of the development project as determined by the community development department and indicated by the building official on the building application submitted to the department in order to obtain a building permit, or permits, for the development project. Where a project involves the subdivision of land for which no improvements are planned by the project applicant, "project valuation" shall be determined on the basis of the fair market value of the subdivided lots.

"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.

(Ord. 1210 _ 1, 1991: Ord. 1119 _ 1 (part), 1986).

1.09.030 Requirement to provide art work or pay in-lieu contribution.

When a project is subject to the requirement of this chapter, the applicant shall comply with provisions of either subsection (a) or (b).

a The project applicant shall acquire and install an art work in a public place on or in the vicinity of the project site as approved by the city council pursuant to this chapter. As a guide, the cost or value of such work should be equal at least to one percent of the total project valuation.

b In-Lieu Contribution. In lieu of acquiring and installing an art work, project applicants may contribute funds to the art in public places

fund established pursuant to Section 1.09.070 equal to one and one-quarter percent of the total project valuation. The in-lieu fee shall be paid by the project applicant at the time of final subdivision map approval or 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.

(Ord. 1210 _ 2, 1991: Ord. 1119 _ 1 (part), 1986).

1.09.040 Projects subject to art in public places requirement.

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

- 1 New commercial or industrial developments;
- 2 Remodeling, repair or reconstruction of existing commercial or industrial property which exceeds two hundred twenty-five thousand dollars in expenditures;
- 3 Residential subdivision or development of more than four lots or units, whether by detached single family residential structures, condominiums, apartments, townhouses or other dwelling units, including the repair, remodeling or renovation of same, if such expenditures are to exceed two hundred twenty-five thousand dollars;
- 4 City parks and public works projects such as bridges, viaducts, elevated ways, gates, or other structures upon or over land owned by the city of Laguna Beach within the city if such expenditures are to exceed two hundred twenty-five thousand dollars

b Exceptions: The requirements of this chapter shall not apply to the following activities:

- 1 Underground public works projects
- 2 Street or sidewalk repairs
- 3 Tree planting
- 4 Remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity;
- 5 Low-income housing construction, remodel, repair, or reconstruction projects;

6 Construction, remodel, repair, or reconstructing of structures to be occupied by a nonprofit, social service agency or institution.

(Ord. 1210 _ 3, 1991: Ord. 1119 _ 1 (part), 1986).

1.09.050 Processing.

The requirements and procedures for the processing of an art in public places application shall be as follows:

a Upon submission of a project application subject to the requirement of this chapter, the department of community development shall provide to the applicant a copy of this chapter and an art in public places application form.

b The project applicant shall submit to the department of community development a completed art in public places application form.

c The community development department shall forward a copy of the building permit and the art in public places application form, including the valuation of the project used by the community development department to determine building permit fees, to the staff liaison to the arts commission.

d An initial presentation shall be made to the arts commission within sixty days of the city's acceptance of the art in public places application form as complete. To the maximum extent possible, processing of the art in public places application shall be concurrent and coordinated with the design review application, if any, for the development project. The purpose of this initial presentation shall be to introduce the development project to the arts commission and to propose concepts and plans for a public art project.

e Once the project applicant receives conceptual approval from the arts commission, a final application form shall be submitted by the applicant, including specific plans for the public art project, and such final application shall be presented to the arts commission for review and decision. The arts commission is empowered to modify the plans presented by recommending conditions of approval to the city council.

f Formal approval or conditional approval of a final application shall be granted by the arts commission before the department of community development accepts drawings for structural plan check of the development project. A permit compliance form will serve as evidence of formal approval and shall be submitted as part of the plan check process.

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.

g The final art in public places application shall then be submitted to the city council for action. The city council shall approve, conditionally approve or deny the application based upon the guidelines set forth in Section 1.09.060.

h When the project applicant has elected to acquire and install an art work, the building permit for the development project shall not be issued until the city council has approved the art in public places application, and the certificate of occupancy shall not be issued until the approved work of art has been installed

i When the project applicant has elected to make an in-lieu contribution to the art in public places fund, the certificate of occupancy shall not be issued until such contribution has been paid.

(Ord. 1210 _ 4, 1991: Ord. 1119 _ 1 (part), 1986).

1.09.060 Guidelines for art works.

a Guidelines. Guidelines for the approval and maintenance of art works shall include, but are not limited to, the following criteria:

1 The art works shall be clearly visible and easily accessible to the public.

2 The art in public places application shall include a site plan showing the location of the art work, complete with landscaping, lighting and other appropriate accessories to complement and protect the art work.

3 The composition of the art work shall be of permanent-type of materials in order to be durable against vandalism, theft and weather, and in order to require a low level of maintenance.

4 The art work shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.

5 The art work shall be designed and constructed by persons experienced in the production of such art work and recognized by critics and by his or her peers as one who produces works of art.

6 The art work shall be a permanent, fixed asset to the property.

7 The art work shall be maintained by the property owner in a

neat and orderly manner acceptable to the city.

- b The following items are not to be considered as art works:
 - 1 Art objects which are mass produced from a standard design.
 - 2 Reproductions of original art works.
 - 3 Decorative, ornamental or functional elements which are designed by the building architect as opposed to an artist commissioned for the purpose of creating the art work.
 - 4 Landscape architecture and landscape gardening except where these elements are designed or approved by the artist and are an integral part of the art work by the artist.
 - 5 Services or utilities necessary to operate or maintain the art work.

(Ord. 1210 _ 5, 1991; Ord. 1119 _ 1 (part), 1986).

1.09.070 Art in public places fund.

a Accounting. Any moneys collected in accordance with the in-lieu contribution provisions of this chapter shall be deposited in a separate account denominated as the "art in public places fund." The city manager or his/her designee shall establish accounting records sufficient to identify and control these funds. The account containing these funds shall earn interest and the earned interest shall be used for and be subject to the same restrictions established in subsection (b).

b Use of Fund. The art in public places fund shall be used to provide sites for, and works of art in, public places in order to further the intent and purpose of this chapter as set forth in Section 1.09.010.

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

- 1 The cost of art work and its installation.
- 2 Water works, landscaping, lighting and other objects which are an integral part of the art work.
- 3 Frames, mats, pedestals, and other objects necessary for the proper presentation of the art work.
- 4 Walls, pools, landscaping or other architectural or landscape architectural elements necessary for the proper aesthetic and structural placement of the art work.

5 Maintenance and repair of art works funded through the art in public places fund.

d Administration.

1 The art in public places fund shall be administered by the city council.

2 The arts commission shall make recommendations to the city council concerning the purchase or commissioning of art works, including

A places which should be considered for art works;
B the medium of the proposed art work; and
C the artist whose work should be considered for placement in the recommended location.

3 Selection of artists and art works shall be based on the guidelines set forth in Section 1.09.060.

4 The city will contract with the artist and with consultants as necessary for the purchase or commissioning as well as the execution and installation of the art work.

5 On-site activity in connection with the art work installation shall be coordinated by the city manager or his/her designee.

6 Maintenance and repair of art works funded through the art in public places fund shall be financed from that account.

7 So far as is practical, in the event repair of the art work 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.

e Endowments. The art in public places fund shall also be used as a depository for endowments, bequests, grants or donations. Such sums may be expended as set forth in subsection (c) above and for performing art exhibitions or displays as approved by the city council.

(Ord. 1119 _ 1 (part), 1986).