

## CHAPTER 3. PUBLIC ART FOR PUBLIC WORKS

### 7-3.101 Purpose.

It is the purpose of this chapter and the policy of this City that each major City construction project shall have an appropriate display of art integrated into the project or a public art fee shall be paid into the In-Lieu Public Art Fund. (§1, Ord. 1973, eff. 10/19/00; § 1, Ord. 2098, eff. 2/18/11)

### 7-3.102 Definitions.

As used in this chapter:

(a) Construction Cost means the estimated construction cost of projects proposed for the Capital Improvement Plan.

(b) Construction or Alteration means construction, rehabilitation, renovation, remodeling or improvement.

(c) City Construction Project means all City buildings, gateways, parks, plazas, medians, and other public areas except service facilities not normally visited by the public.

(d) Major City Construction Project means a City construction project which involves the construction of a City building of fifteen thousand (15,000) square feet or more, or the construction or alteration of a City construction project not involving the construction of a building with an estimated construction cost of seven hundred fifty thousand dollars (\$750,000) or more. (§1, Ord. 1973, eff. 10/19/00; § 2, Ord. 2098, eff. 2/18/11)

### 7-3.103 Dedication for Art.

One percent (1%) of the construction cost of a major City construction project that involves the construction or alteration of a City facility shall be set aside for the inclusion of public art or paid into the In-Lieu Public Art Fund. The art shall be displayed in, upon, adjacent to or in close proximity to the City facility that is the subject of the project. If it would be inappropriate to display art at that location, the one percent (1%) may be used for the acquisition of art for the display in, upon, adjacent to or in close proximity to other City projects or be paid into the In-Lieu Public Art Fund. The cost of the public art shall include the administrative costs in implementing this chapter. The In-Lieu Public Art Fund shall be administered according to Section 10-10.104 of the Walnut Creek Municipal Code. (§1, Ord. 1973, eff. 10/19/00; § 3, Ord. 2098, eff. 2/18/11)

### 7-3.104 Administration.

This chapter shall be administered as provided in the Public Art Master Plan. Funds budgeted for public art may be used for acquisitions, installations and administration of the public art program. (§1, Ord. 1973, eff. 10/19/00)

**7-3.105 Ownership.**

All art acquired pursuant to this chapter shall be acquired in the name of the City of Walnut Creek and title shall vest in the City of Walnut Creek. (§1, Ord. 1973, eff. 10/19/00)

## CHAPTER 10. PUBLIC ART

### 10-10.100 Purpose and Goals.

The purpose of this chapter is to implement Goal 12 of the Walnut Creek General Plan 2025. It is premised on the Public Art Master Plan developed for the City of Walnut Creek in 2000.

Public art helps make our City more livable and more visually stimulating. The experience of public art makes public spaces and the public areas of buildings and their grounds more welcoming, and it creates a deeper interaction with the places we visit, and in which we work and live.

To achieve these goals, the Council believes that the In-Lieu Public Art Fund should be used to realize public art in public spaces, and when art is to be realized on private development, public art planning should be integrated into project planning at the earliest possible stage, and the selected artist become a member of the project's design team early in the design process. (§1, Ord. 1972, eff. 10/19/00; §21, Ord. 2070, eff. 6/20/2008; §1, Ord. 2074, eff. 2/20/2009; §1, Ord. 2099, eff. 2/18/11)

### 10-10.101 Definitions.

As used in this chapter:

A. Construction Cost shall be determined by the Chief Building Official in accordance with the most current building valuation data specified in the Building Permit Fees section of the resolution establishing fees and charges as adopted by the City Council.

B. Construction or Alteration means new construction or the rehabilitation, renovation, remodeling or improvement of more than fifty percent (50%) of the gross square footage of an existing building.

C. Public Art Project means the cost for the development, acquisition, and installation of the public art required by this chapter. It shall include the administrative costs associated with creating and installing art in public spaces and the costs a developer is charged for the administration of this chapter. (§1, Ord. 1972, eff. 10/19/00; §1, Ord. 2074, eff. 2/20/2009; §2, Ord. 2099, eff. 2/18/11)

### 10-10.102 Public Art Fee Requirement.

A. In the case of (i) the construction or alteration of a nonresidential building of twenty-five thousand (25,000) square feet or more anywhere in the City, or (ii) the addition of twenty-five thousand (25,000) square feet or more of floor area to an existing nonresidential building anywhere in the City, a public art fee in an amount not less than one percent (1%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

B. In the case of (i) the construction or alteration of any building of twenty-five thousand (25,000) square feet or more in the Core Area as described in General Plan 2025, or (ii) the addition of twenty-five thousand (25,000) square feet or

more of floor area to any existing building in the Core Area as described in General Plan 2025, a public art fee in an amount not less than one percent (1%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

C. In the case of (i) construction or alteration of any building of at least fifteen thousand (15,000) square feet but less than twenty-five thousand (25,000) square feet in the Core Area as described in General Plan 2025, or (ii) the addition of floor area of at least fifteen thousand (15,000) square feet but less than twenty-five thousand (25,000) square feet to any existing building in the Core Area as described in General Plan 2025, a public art fee in an amount not less than one-half of one percent (0.5%) of the construction cost of the completed development project shall be paid into the City's In-Lieu Public Art Fund.

D. For any project for which the public art fee to be assessed is twenty-five thousand dollars (\$25,000) or greater, the developer can choose to either pay the in-lieu fee or have public art placed on the project site. If the developer chooses to place public art on the project site, the developer must comply with the provisions of Section 10-10.103.

E. In-lieu fees shall be paid, or public art shall be installed on the property, prior to the issuance of a first certificate of occupancy unless an extension is granted by the Arts, Recreation and Community Services Director per Section 10-10.103(B). (§1, Ord. 1972, eff. 10/19/00; §1, Ord. 2074, eff. 2/20/2009; §3, Ord. 2099, eff. 2/18/11)

### **10-10.103 Public Art on Private Development**

A. For any developer that chooses to install public art on the project site, the public art may be located (1) in areas on the site of the building or addition clearly visible from the public street or sidewalk, or (2) on the site of the approved open space feature of the project, or (3) upon the approval of any relevant public agency on adjacent public property, or (4) in a publicly accessible lobby area of an office building or hotel.

B. The works of art shall be installed prior to the issuance of the first certificate of occupancy; provided, however, that if the Arts, Recreation and Community Services Director concludes that it is not feasible to install the works of art within the time and adequate assurance (which the Director may require to be in the form of a letter of credit or bond) is provided that the works will be installed in a timely manner, the Arts, Recreation and Community Services Director may extend the time for installation for a period of not more than twelve (12) months. Public art may include sculpture, murals, photography and original works of graphic art, waterworks, fiberworks, neon, glass, mosaics, or any combination of forms of media, furnishing or fixtures permanently affixed to the building or its grounds, or a combination thereof, and may include architectural features of the building. The creator of public art shall be a practitioner in the visual arts who is not a member of the project architect or landscape architect firm. Public art shall be displayed in a manner that will enhance its enjoyment by the general public.

C. The artwork shall be recommended by the Bedford Gallery Advisory Council and approved by the Arts Commission. The selection criteria may include, but are not limited to, context, artistic quality, media, permanence, and public safety. The Design Review Commission shall approve the scale and location of the artwork. (§4, Ord. 2099, eff. 2/18/11)

**10-10.104 Use of In-Lieu Fund.**

A. In-lieu fees shall be placed in the In-Lieu Public Art Fund. The fund shall be used for City-owned art or City-sponsored exhibitions. The fund shall be used exclusively to (1) provide sites for works of art, (2) acquire and install works of art, (3) maintain works of art, (4) support the exhibition of art which is publicly accessible, or (5) fund other administrative costs associated with the Public Art Program. The Arts Commission shall recommend utilization of monies in the in-lieu fund to the City Council.

B. The Arts Commission shall periodically review and update the list of public art sites as identified in the Public Art Master Plan. In the event the Arts Commission elects to initiate a public art project, the Commission shall refer to the approved list to select a site for a public art project and develop a public art project budget for approval by the City Council. Public Services Department staff shall be consulted in determining the appropriateness of a site for the proposed public art project.

C. The artist(s) and artwork shall be recommended by a selection panel, as outlined in the Public Art Master Plan, and approved by the Arts Commission. The selection criteria may include, but are not limited to, context, artistic quality, media, permanence, and public safety. (§4, Ord. 2099, eff. 2/18/11)

**10-10.105 Maintenance and Removal of Works of Art.**

The owner of the real property on which public art is located shall maintain the public art installed pursuant to this chapter. No work of art may be removed unless a replacement work of public art is approved pursuant to the procedure in Section 10-10.102. (§4, Ord. 2099, eff. 2/18/11)

**10-10.106 Exemptions.**

This chapter shall not apply to residential projects consisting solely of dwelling units that are restricted by federal, state or local law as affordable housing units (as defined in Section 10-2.1.303(A)(7)). (§4, Ord. 2099, eff. 2/18/11)