

Article XX. Contribution for Public Art Program

3-2.401 Purpose.

The City Council hereby declares that the City has a policy of promoting the arts in the City of Oakland by requiring the inclusion of a public artwork component in new development projects in Oakland. Therefore, as of the effective date of the ordinance codified in this article, the City shall require that certain City-sponsored developments and certain private developments use a portion of building development funds for the acquisition and installation of publicly accessible works of art for placement on the development site or elsewhere in the City as a condition of project approval. Developers are encouraged to employ Oakland artists or arts organizations to fulfill the public art requirement.

3-2.402 Definitions.

For purposes of this article, the following definitions shall apply:

(A) "Building development costs" shall mean those construction costs as declared on all building permit applications, and as accepted by the Building Official. Building permit applications shall include, but not be limited to, all building, plumbing, mechanical and electrical permit applications for the project.

(B) "Public Art Program in-lieu contribution" shall equal the percentage of building development costs required herein.

3-2.403 Contribution Requirements.

(A) Private Developments. Private nonresidential and non-live-work building developments with building development costs in excess of three hundred thousand dollars (\$300,000.00) and subject to design review approval pursuant to Section (XXXX) shall devote an amount not less than one percent (1%) of such costs for acquisition and installation of publicly accessible art on the development site. Private residential and live-work building developments of twenty (20) or more units and subject to design review approval pursuant to Section (XXXX) shall devote an amount not less than one-half of one percent (0.5%) of such costs for acquisition and installation of publicly accessible art on the development site.

(1) At the discretion of the owner or developer, and in lieu of developing an on-site public artwork, a Public Art Program in-lieu contribution may be placed into the Oakland Public Art Project Account for acquisition and placement of public art throughout the City.

(2) Alternatively, developer may by special application and approval by City staff satisfy up to seventy-five percent 75% of the Public Art Program in lieu contribution required hereunder as follows: (a) Developer's inclusion of space within the project that is generally open to the public during regular business hours and is dedicated by developer or owner for regular use as a rotating art gallery, free of charge, will be deemed to satisfy twenty-five percent (25%) of the Public Art Program in lieu contribution; and/or (b) Developer's provision, design and dedication of at least 500 square feet of open space within the development project, to be made available to the public for the primary use of arts and cultural programming, may be deemed to satisfy fifty percent (50%) of the Public Art Program in lieu contribution.

(B) Public Developments. City of Oakland capital improvement projects shall allocate 1.5% of the total capital project appropriation including all construction costs, as well as architectural and engineering fees and site work expenses, for the commissioning of public art works and artists' services in the construction of public works. (Ordinance No. 11086 C.M.S.)

3-2.404 Oakland Public Art Project Account.

There exists an Oakland Public Art Project Account, which funds are restricted to the implementation of the Public Art Program, as set forth in the City of Oakland Percent for Public Art Ordinance (Ordinance No. 11086 C.M.S., February 28, 1989). Such funds may be used to acquire, place, and maintain public art on public property throughout the City, and to administer the Public Art Program. (Ordinance No. 11086 C.M.S.)

3-2.405 Guidelines for Implementation of this Article.

The Public Art Program shall be implemented and administered in compliance with the guidelines contained in the "Public Art Policies and Procedures" document adopted by the City of Oakland on February 28, 1989, as such document may be amended from time to time.

3-2.406 Compliance.

Compliance with the provisions of this article shall be demonstrated by the owner or developer at the time of filing the Building Permit application as follows: (a) payment of the full amount of the Public Art Program in-lieu contribution, or (b) written proof to the Building Department and the Public Art Program of a contractual agreement to commission or purchase and to install the requested art work on the development site. The owner or developer shall provide the City with proof of installation of the requested artwork on the development site or proof of full payment of the Public Art Program in-lieu contribution before issuance of the certificate of occupancy, unless the City has approved some other method of assuring compliance with the provisions of this article.

3-2.407 Violations of this Article.

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this article.

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