

Draft Public Art Ordinance

I. Findings and Purpose

- a. The City of Venice recognizes that public art is important to the quality of life of its citizens, the economic success of its businesses, an attraction for visitors and a benefit to tourism.

A Public Art Program will permit the City to attain recognition as a leader in art in public places and in cultural life thereby increasing public access to works of art, promote understanding and awareness of the visual arts in the public environment, and enhance the climate for artistic creativity within the City.

- b. It is the intent and purpose of this ordinance to further the commitment of the City of Venice to the aesthetic enrichment of the city through the private and public acquisition of works of art so that citizens and visitors to the city will be given an opportunity to enjoy and appreciate works of art. The requirements of this ordinance shall be construed to promote the aesthetic values of the entire city, to encourage the preservation and protection of works of art.

It is also the intent and purpose of this ordinance to establish the framework for a comprehensive policy to promote the educational, cultural, economic and general welfare of the city in keeping with the vitality for which the city is recognized and to provide the means to enhance its aesthetic environment, to encourage incorporation of public art into private and public development recognizing that the art will become integral, lasting components of the cityscape and will be of intrinsic value to developments or, in lieu thereof, to contribute monies to a public art fund to provide for incorporation of visual art throughout the city. Public art provides artistic and cultural resources that enhance the quality of life for individuals living and working in the city. By mandating a percent for art fee for capital improvement projects and encouraging contributions for private development projects, planned unit developments, and government entity projects within the city, the public art program serves to:

- i. Promote and strengthen civic pride;
- ii. Enhance and define the identity of the city;
- iii. Reflect the unique character and history of the city;
- iv. Create an important impression for visitors;
- v. Encourage and increase tourism;
- vi. Spur economic development within the community;
- vii. Increase property values;
- viii. Reinforce the community as a leader in visual and performing arts;
- ix. Create visual and aesthetic landmarks;
- x. Impart a cohesive visual and physical appearance;
- xi. Enhance the public environment visually;
- xii. Enrich the cultural climate of the city;
- xiii. Enhance the quality of life;

- xiv. Raise the level of awareness to the importance of aesthetic and intellectual experiences in everyday life; and
- xv. Promote awareness of visual arts in the public realm.

II. Definitions

III. Administration

- a. Composition
- b. Meetings
- c. Powers and Duties

IV. Applicability

All public art initiated within the city limits and visible from an adjacent right-of-way are subject to this ordinance.

- a. Public art initiated by the City of Venice shall be funded through the public art fund. Public art projects may be initiated by the public art advisory board, city council, city manager, or department head.
- b. In keeping with the City's intent for art and culture, all governmental Capital Improvement Projects that requires a building permit from the city and has a Total Construction Project of five hundred thousand dollars (\$500,000) or more.
 - i. Exemptions include:
 - 1. Stormwater management projects or any portion of a water or storm sewer project that is built below ground level;
 - 2. The purchase and installation of equipment that is not attached to, or is not an integral part of, a facility and could be easily removed; or
 - 3. If the funding source for the project is not legally permitted to be used for artwork or specifically prohibits the use of the monies for designed elements exposed to public view, the total construction budget shall be reduced by that portion of the funding so restricted.
- c. Public art initiated by a commercial property owner, residential developer, or non-profit organization and visible from the adjacent right-of-way must first submit a proposal for said project to the public art advisory board for review and recommendation to city council prior to fabrication and or acquisition.
- d. All nongovernmental and private sector development projects that requires a building permit from the city and has a Total Construction Project of five hundred thousand dollars (\$500,000) or more.
 - i. Exemptions include:
 - 1. The structure is intended primarily for affordable housing projects, or religious facilities; or
 - 2. The project consists of the reconstruction of structures that have been damaged by fire, flood, wind, or other force majeure occurrence.

V. Public Art Fund

- a. There is hereby created and established a public art fund which shall consist of all fees received pursuant to this ordinance, cash grants and donations to the city for public art projects from governmental or private sources, and all other funds donated to the City for the provision of public art by private parties. The public art fund shall be used for the following:
 - i. Selection and acquisition;
 - ii. Transportation;
 - iii. Installation, including site preparation directly related to public art installation, the base and any anchoring system for selected or approved work of art;
 - iv. Maintenance and conservation;
 - v. Promotion of works of art to be displayed in the city;
 - vi. Obtain loans or temporary leases of artworks, and the associated shipping and installation costs; and
 - vii. Removal of public art, if necessary.
- b. Fees shall be established by City Council through Resolution.
- c. All eligible city capital improvement projects shall be required to do one of the following:
 - i. Contribute an amount equal to the fee established by City Council to the City of Venice public art fund.
 - ii. Provide public art on the development site provided:
 - 1. That the value of such public art shall be equal to or greater than the established fee;
 - 2. The City contracts with a professional artist to create a permanent piece of public artwork as part of the project;
 - 3. Such public art shall be reviewed and approved by the public art advisory board prior to its fabrication or acquisition; and
 - 4. Nothing herein shall be construed to require that public art be in existence and subject to examination at the time of its review and approval by the public art advisory committee; and
 - 5. All works of public art shall be installed outside of any and all buildings and be completely visible from the adjacent public right-of-way.
- d. All eligible nongovernmental and private sector development projects shall be required to do one of the following:
 - i. Contribute an amount equal to the fee established by City Council to the City of Venice public art fund.
 - ii. Provide public art on the development site provided:
 - 1. That the value of such public art shall be equal to or greater than the established fee;
 - 2. The developer contracts with a professional artist to create a permanent piece of public artwork as part of the development project;
 - 3. Such public art shall be reviewed and approved by the public art advisory board prior to its fabrication or acquisition;

4. Nothing herein shall be construed to require that public art be in existence and subject to examination at the time of its review and approval by the public art advisory committee;
 5. All works of public art located on private parcels shall be installed outside of any and all buildings and be completely visible from the adjacent public right-of-way; and
 6. For subdivisions, works of public art be located in common areas and visible from the adjacent public-right-of-way.
- e. All expenditures from the fund shall be approved by the city council after the review and recommendation of the public art board. Any works of art purchased with such funds shall be and remain the sole property of the City.
 - f. The City shall maintain a separate accounting of monies received for public art which shall consist of the following:
 - i. All funds received as part of the public art fee;
 - ii. All funds donated to the City for purposes of the creation or maintenance of public art or for purposes of community outreach and education regarding public art;
 - iii. All funds received from grants designated for public art projects; and
 - iv. All funds allocated as part of eligible city capital improvement projects.
 - g. Interest earned on the public art fund that was allocated from private development or donated from outside donors shall be deposited into the public art fund. Unless otherwise required by law, interest earned on funds received from or allocated by the City from capital improvement projects or other funds shall be returned to the original funding source. All funds shall be used only as permitted by law.
 - h. At least ten percent and up to 25 percent of all amounts received pursuant to this section shall be designated for conservation, repair and maintenance of city-owned public art. The specific reserve between ten percent and 25 percent shall be reviewed annually by the public art board. The city council has the right to allocate additional city funds for conservation, repairs and maintenance at its own discretion.

VI. Application

- a. An application for placement of art works on private property but within "public space" or for the donation of art work to the city (as a gift or in lieu of a fee), shall be submitted to the city council, after review and recommendation by the board, and shall include:
 - i. A Public Art Application Form;
 - ii. Artist's qualifications, including resume and portfolio establishing the artist's credentials;
 - iii. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art work;
 - iv. An appraisal or other evidence of the value of the proposed art work including acquisition and installation costs;
 - v. Preliminary plans to adequately evaluate the location of the artwork and its compatibility with the proposed development project and/or with the character of adjacent developed parcels and the existing neighborhood;

- vi. A written agreement executed by the artist who created the artwork, in which he or she expressly waives all rights that can be waived under applicable state and federal laws. The artist of approved artwork shall grant to the city an unlimited, perpetual, non-exclusive, royalty-free, irrevocable license to reproduce and distribute two-dimensional reproductions of the artwork for city-related purposes. City approval of the artwork shall be deemed to be a grant of the artist for authorization by third parties to review and reproduce documents provided by the artist to the city which are deemed to be public records pursuant to the public records laws of the state. The city shall also have the option of referring to the name and title of the artist and artwork in reproductions;
 - vii. When art work is to be placed on private property, a written statement executed by the property owner and approved by the city attorney that requires the landowner or his or her successors and assigns to defend, indemnify and hold the city harmless against any liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from any claim, action or liability related to the art work; and
 - viii. A narrative statement to be submitted to the city to demonstrate that the art work will be displayed in a public place.
- b. Appeals of the decisions of the committee. All decisions of the public art advisory committee made pursuant to this section shall be appealable to the city council within thirty (30) days of the verbal rendering of such decision.

VII. Design Guidelines

All selections will be in accordance with the criteria identified in this ordinance. The City Council shall be authorized to approve proposed public artwork prior to its fabrication or acquisition, after receiving the recommendation of the Public Art Advisory Board.

- a. Selection process. The Public Art Advisory Board shall establish procedures for selecting artworks to be approved or purchased from the city's public arts fund. Those procedures can include the following means:
 - i. Open competition;
 - ii. Limited competition;
 - iii. Invitation;
 - iv. Direct purchase;
 - v. Donation; and
 - vi. Any combination of the above.
- b. Selection criteria. In the selection process, the following principles shall be observed:
 - i. Permanent and temporary works of art shall be located in areas where residents and visitors live and congregate and shall be publicly accessible and visible (maximum visual accessibility to pedestrian or vehicular traffic);
 - ii. Areas used by tourists, including parks and thoroughfares, at public or governmental facilities;

- iii. The board should consider the inherently intrusive nature of public art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought;
- iv. Appropriateness of the artwork to the site and site environmental conditions;
- v. The size of the artwork is appropriate for its location;
- vi. The board's selections must reflect the cultural and ethnic diversity of the city without deviation from a standard of excellence;
- vii. Quality of the artwork;
- viii. Ability of the artist to complete the project within a specified schedule and budget;
- ix. Any structural support or attachments have been approved by a professional structural engineer;
- x. A maintenance plan which details appropriate maintenance procedures and annual cost projections to maintain the art;
- xi. Whether the artwork too closely resembles a business logo or sign and should, therefore, be rejected;
- xii. Any other criteria set forth in the public art program guidelines, as amended from time to time; and
- xiii. The design and structural supports or attachments meet the approval of the City of Venice's Risk Manager.

VIII. Maintenance

- a. All works of art located on private property shall be and remain the sole property of the private land owner. The private property owner shall likewise have the sole responsibility for maintenance and insurance of such works of art.
 - i. The property owner shall be responsible for ensuring that the public's view of the artwork is maintained and no vegetation or additional construction shall obstruct the public's view. Maintenance shall include any associated landscaping or related improvements.
 - ii. If the property is sold, the seller may either include restrictions in the deed that require maintenance of the artwork and prevent its removal from the property, transfer ownership of the artwork to the City to be maintained as public artwork, or remove the artwork and make a contribution to the Public Art Fund in an amount equal to 100% of the initial value. If the title is passed to a subsequent owner and, as a result, a deed restriction exists as to the artwork, the subsequent owner shall maintain the artwork in accordance with applicable law or other established guidelines. The artwork cannot be altered, modified, relocated, or removed other than as provided herein without the prior approval of the Public Art Board.
 - iii. The owner may request that the artwork be removed from the site due to hardship with the approval of the Public Art Board. In addition, in the event there is a condition that occurs outside the reasonable control of the owner such as an Act of God, then this provision may be implemented with the approval of the Board.

- b. Ownership of all works of art acquired on behalf of the City shall be vested in the City, which shall retain title to each work of art.
 - i. All maintenance activities will be conducted by the City indefinitely or until the artwork is removed.
 - ii. Artwork or elements installed in accordance with this section shall remain on site in the approved location and cannot be altered, replaced or removed except as provided in this article, or when deemed to be unsafe by the city building official, or necessary replacement due to damage from Acts of God.

IX. Violations