



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Amy J. Bodek, AICP
Director of Regional Planning

Dennis Slavin
Chief Deputy Director,
Regional Planning

July 23, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**HEARING ON PERCENT FOR ART IN PRIVATE DEVELOPMENT ORDINANCE
PROJECT NO. 2017-000213-(1-5)
ADVANCE PLANNING CASE NO. RPPL2017008325
(ALL SUPERVISORIAL DISTRICTS) (3-VOTES)**

SUBJECT

This action is to amend Title 22 (Planning and Zoning) of the Los Angeles County Code to establish policies and guidelines for the Percent for Art in Private Development Program that will apply to development projects in the unincorporated areas of Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

1. Find that the adoption of the Percent for Art in Private Development Ordinance (Ordinance) is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15183 of the CEQA Guidelines;
2. Indicate its intent to approve and adopt an ordinance to establish a Percent for Art in Private Development Program throughout unincorporated Los Angeles County; and
3. Instruct County Counsel to prepare the final ordinance amending Title 22 for this project and submit to the Board of Supervisors (Board) for its consideration.

320 West Temple Street • Los Angeles, CA 90012 • 213-974-6411 • TDD: 213-617-2292

   @LACDRP | planning.lacounty.gov

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On March 14, 2017, the Board directed the Chief Executive Office (CEO) and the Los Angeles County Arts Commission, now Department of Arts and Culture, (Arts and Culture) to work with the Department of Public Works (DPW), the Department of Regional Planning (DRP), and County Counsel to draft an ordinance as an amendment to Title 22 of the County Code for private development to contribute one percent of the building valuation of their projects for civic art.

The proposed Ordinance will establish criteria for certain private development projects to provide a civic art project or pay into a fund to support civic art programs, and establish criteria for civic art. Furthermore, the Ordinance establishes procedures for Arts and Culture to review and approve civic art plans for development projects and to administer the fund established for in-lieu fees collected to support the County's civic art programs.

Los Angeles County is a global leader in all forms of visual and performing arts, and is a creative capital where creative industries including visual and cultural arts are major contributors to the local economy by providing jobs, creating exports, and contributing to the quality of life for the residents. A vibrant and healthy community includes civic arts amenities that are accessible throughout the County, especially in unincorporated and underserved areas where there are limited resources for these amenities. The art and cultural services provided by the proposed Ordinance will create additional public access to the arts, contribute toward realizing cultural equity and inclusion, and create opportunities for artists in underserved communities in the unincorporated areas of the County.

The guiding principles of the Ordinance is to achieve high quality artwork and art experiences, to be innovative, facilitate art that is site-specific and encourage community participation and civic engagement; to transform people, places and communities.

Current Regulations

The County has already established a Civic Art Policy, adopted by the Board in December 2004 and enacted in 2006, which includes a requirement of one percent of the building valuation on County-funded public building projects to fund civic art programs Countywide. However, there is currently no funding source through private development to provide civic arts in the unincorporated communities.

At least 36 municipalities within Los Angeles County have enacted both civic art policies and percent-for-art ordinances where private developers are required to provide artwork or cultural services on site or pay-in-lieu fees to be used toward providing the civic art benefit within that municipality. The County is the only local jurisdiction that has a Civic Art Policy but no percent-for-art requirement for private development.

Proposed Ordinance

The Ordinance proposes the following:

1. Definitions: Defines 13 new terms in Title 22 relating to civic art;
2. Project Applicability:
 - a. Applies to residential, mixed-use, commercial and industrial projects – new construction with a building valuation of at least \$750,000 and repair of existing buildings with cumulative building valuation of at least \$750,000;
 - b. Exempt certain commercial and industrial projects, certain nonprofit projects, affordable housing projects, residential projects of four dwelling units or fewer, performing arts or museum spaces; and certain renovations from this requirement such as required seismic safety or American with Disabilities Act renovations or due to a fire or natural disaster;
3. Administration: Authorize Arts and Culture to administer the Percent for Art in Private Development Program, including reviewing applications and/or civic art plans, working with developers to develop project-specific civic art programs, collecting in-lieu fees and expending the collected fees specifically for civic art; and working with the DPW to provide a valuation of the project, prior to the building permit being issued;
4. Allocate one percent of the building valuation or design and construction costs to go toward providing the civic art on site or as an in-lieu fee to Arts and Culture to fund civic art; and
5. Require that civic art comply with all zoning requirements in Title 22.

Civic Art Requirement

The Ordinance provides two avenues in which a developer of a private development project that meets the valuation threshold may choose to comply with the Percent for Art requirement:

1. *Provide Civic Art.* Include a publicly accessible civic artwork valued at one percent of the building valuation, either on site or in the vicinity of the site. The civic art may be comprised of, but not limited to:
 - a. Newly commissioned original work of art,
 - b. New cultural facility;
 - c. Conservation or restoration of existing artwork, historic or architectural landmark, or cultural facility within a five-mile radius.
 - d. Artistic and cultural services – such as theatrical performances, arts education, or festivals – within a five-mile radius; or

2. *In-Lieu Fee.* Pay an in-lieu fee to the County Private Development Art Fund that is valued at one percent of the building valuation. If the developer chooses to pay an in-lieu fee into the County Private Development Art Fund to satisfy the Ordinance requirement, the developer is to contribute one percent of the total building valuation of the entire development project.

One hundred percent of the in-lieu fees will be used solely for civic art projects exclusively for the acquisition, commissioning, installation, improvement, maintenance and insurance of civic art on County property; the restoration, conservation, or preservation of existing County-owned civic art; the provision of civic art in any of the four types of programs described in the civic art requirement, above; or any similar arts or cultural services as approved by Arts and Culture.

Civic Art Standards

If the developer chooses to provide a civic art installation on-site or in the vicinity of the project site, the civic art must meet the following standards:

1. The civic art is to be privately owned and maintained by all future owners or occupants of the development, through a covenant or other written provision depending on the type of civic art chosen;
2. The civic art must be openly and freely accessible by the general public for at least eight hours a day, five days a week;
3. The civic art must comply with the County Public Art Policy;
4. The civic art must satisfy the artistic and cultural needs of the development and the community where the development is located; and
5. The civic art must be original artwork; not reproductions, mass-produced or of standard design, and must not contain commercial messages.

The following cannot be considered as part of civic art or factor into the one percent valuation threshold:

1. The costs involved in maintaining the civic art;
2. Services or utilities required to operate or maintain the civic art;
3. Super graphics, signage, or coloring code;
4. Reproductions of original artwork (with the exception of media arts);
5. Building architecture or ornamentation, except if specially commissioned by an artist, however, considerations will be made for restoration of architectural landmarks; and

6. Landscape architecture and gardening, except if specially commissioned by an artist.

Implementation of Strategic Plan Goals

This action supports County Strategic Plan Goal No. II (Foster Vibrant and Resilient Communities), Strategy II.2.2 (Expand Access to Recreational and Cultural Opportunities) as civic art provided by private developers will increase public access to civic art in the communities throughout the County. This program also gives opportunities for partnerships between local artists and developers to improve the quality of development projects and to foster a "sense of place" and a source of pride for these projects within the communities.

The County Civic Art Policy, adopted in 2006 by the Board, states that "artistic and cultural resources are key to the overall quality of life of a community" and art contributes to "fostering a positive community identity," and the proposed Ordinance aligns with that Policy's goals.

FISCAL IMPACT/FINANCING

A historical look back at eligible permitting data between 2012 and 2017 shows that one percent of all permitting revenues total approximately \$16.1 million/\$2.6 million annual average (Attachment I). The revenue collected from the proposed Ordinance will be used in the development of civic art or are collected as an in-lieu fee. The in-lieu fees collected in the Private Development Art Fund will vary depending on developer participation. Estimates for participation in the Private Development Art Fund (in-lieu fees) are estimated to range from a low of 10% participation resulting in approximately \$268,000 in fees collected annually to a high of 60% participation, resulting in \$1.6 million fees collected annually.

Upon adoption of the Ordinance, preliminary implementation of the program will be performed by current Civic Art staff. CEO will work with the Arts and Culture to determine workload impact and if additional staffing is required for the administration of the program as part of the County's process.

Furthermore, Arts and Culture will work with CEO and the Auditor Controller to establish a new interest bearing Special Revenue Fund for FY 2019-20 and budget funds appropriately. The Private Development Art Fund will be a dedicated account to be managed by Arts and Culture. A developer that elects to pay an in-lieu fee will pay into the account and all funds collected in that account will be distributed for civic art projects. Civic art projects using money from the Private Development Art Fund will belong to the County and will be managed and maintained by Arts and Culture. Expenditures made from the Private Development Art Fund are subject to approval by the Board, and must

be used in accordance with the County Civic Art Policy. Arts and Culture will report annually on the use of the Private Development Art Fund to the Board.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The proposed Ordinance was created as directed by a motion carried by the Board on March 14, 2017. On August 1, 2018, the Regional Planning Commission (RPC) held a duly-noticed public hearing to consider the proposed Ordinance. Multiple letters and testimonies were submitted to the RPC. The RPC continued the hearing to November 28, 2018, and then again to April 24, 2019, directing staff to conduct additional research and outreach through roundtables to address concerns raised at the hearings, and to bring back revised language. On April 24, 2019, RPC closed the hearing and adopted a resolution recommending that the Board adopt the proposed amendments to Title 22 of the County Code.

A public hearing before the Board is required pursuant to Section 22.16.200 of the existing Los Angeles County Code and Section 65856 of the State Government Code. Required notice has been given pursuant to the procedures and requirements set forth in Section 22.60.174 of the County Code.

ENVIRONMENTAL DOCUMENTATION

The proposed Ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines, Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment and therefore not subject to CEQA. The Ordinance is also exempt pursuant to Section 15183 (Projects Consistent with a General Plan, Community Plan, or Zoning), as the Ordinance is consistent with the policies of the County General Plan to include art in community planning.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Department of Art and Culture

The Ordinance will require the development and implementation of the program, outreach and consultation to private developers, oversight of developer led projects, oversight of in lieu fees collected and Civic Art Project management from which those fees are collected, reporting and communications, and service and assistance to communities. The Ordinance will allow for the provision of increased arts and cultural services and amenities, particularly in unincorporated and often underserved communities across the County, thereby supporting County Strategic Plan goals and the purpose of Arts and Culture.

Department of Regional Planning

The proposed Ordinance will have very minimal impacts to current services within DRP, as application intake procedures are already established, and will not require extensive staff time. DRP staff only needs to inform applicants at case intake that their development projects may potentially be subject to the Ordinance, and refer them to Arts and Culture for an initial consultation to see if the development project qualifies to be subject to the Ordinance. In certain cases, when the developer elects to develop a civic art plan, DRP staff may check whether the proposed civic art installation or facility depicted on the site plan for the development project complies with all development standards, including setbacks and parking.

Department of Public Works

The proposed Ordinance will have minimal impacts to current services within DPW, as plan check and permit application procedures are already established. Building and Safety staff in DPW will need to inform applicants at application submittal that their projects are subject to the Ordinance and refer them to Art and Culture or collect in-lieu fees. In cases when the developer is approved by Arts and Culture to implement a civic art plan, DPW will check whether the proposed civic art work complies with building codes and issue permits. Plan check and inspection services for the proposed civic art work will be funded by the existing fees in Title 26 of the Los Angeles County Code.

Should you have any questions, please contact Grace Ramirez-Gaston, Director of Civic Arts, Arts and Culture, via email at gramirezgaston@arts.lacounty.gov or (213) 205-5865.

For questions pertaining to DRP, you may contact Bruce Durbin, Supervising Regional Planner, Ordinance Studies Section, via e-mail at bdurbin@planning.lacounty.gov or (213) 974-6432.

Respectfully submitted,



Amy J. Bodek, AICP
Director of Regional Planning

AJB:GRG:BD:ems

Attachment

- c: Executive Office, Board of Supervisors
- Arts and Culture
- Chief Executive Office
- County Counsel
- Public Works

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Percent for Art in Private Development Ordinance
2012-2017 Residential and Commercial Development Permitting Data

Attachment I

Historical Residential and Commercial Development Permitting Data by Supervisorial District												
Year	1st District		2nd District		3rd District		4th District		5th District		Total	
	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits
2017	\$ 678,148.50	8	\$ 92,000.00	11	\$ 301,638.00	4	\$ 1,282,864.91	17	\$ 844,557.88	20	\$ 3,199,209.29	60
2016	\$ 490,180.00	8	\$ 99,417.90	11	\$ 50,000.00	2	\$ 127,268.10	12	\$ 581,076.25	24	\$ 1,347,942.25	57
2015	\$ 39,300.00	8	\$ 517,374.00	12	\$ 1,036,030.00	1	\$ 622,086.80	23	\$ 191,064.00	16	\$ 2,405,854.80	60
2014	\$ 116,500.00	6	\$ 124,368.40	10	\$ 22,450.00	5	\$ 278,750.00	11	\$ 4,277,198.00	29	\$ 4,819,266.40	61
2013	\$ 172,540.00	6	\$ 598,985.30	10	\$ 36,230.00	3	\$ 596,079.68	8	\$ 862,155.00	9	\$ 2,265,989.98	36
2012	\$ 54,529.20	3	\$ 394,674.60	6	\$ -	0	\$ 365,503.50	10	\$ 1,281,100.00	28	\$ 2,095,807.30	47
Total	\$ 1,551,197.70	39	\$ 1,826,820.20	60	\$ 1,446,348.00	15	\$ 3,272,552.99	81	\$ 8,037,151.13	126	\$ 16,134,070.02	321

Estimated Annual Percent for Art in Private Development Funding by Supervisorial District						
District	1st District	2nd District	3rd District	4th District	5th District	Total Annual Funding
Annual Average	\$ 258,532.95	\$ 304,470.03	\$ 241,058.00	\$ 545,425.50	\$ 1,339,525.19	\$ 2,689,012

Estimated Annual In Lieu Contributions by Supervisorial District						
District	1st District	2nd District	3rd District	4th District	5th District	Total Annual In Lieu Fees
Low Estimate (10%)	\$ 25,853.30	\$ 30,447.00	\$ 24,105.80	\$ 54,542.55	\$ 133,952.52	\$ 268,901
High Estimate (60%)	\$ 155,119.77	\$ 182,682.02	\$ 144,634.80	\$ 327,255.30	\$ 803,715.11	\$ 1,613,407

The Ordinance provides two avenues in which a developer of a private development project may choose to comply with the Percent for Art requirement: Provide civic art or pay an in-lieu fee to the County Private Development Art Fund. The chart below estimates the annual in-lieu contributions by Supervisorial District.

ORDINANCE NO. _____

An ordinance amending Title 22 - Planning and Zoning of the Los Angeles County Code – to establish a Percent for Art in Private Development requirement for residential, commercial, and industrial development, and revitalization projects in the unincorporated areas of the County.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. The Board of Supervisors finds as follows:

A. That artistic and cultural resources enhance the quality of life for individuals living in, working in and visiting the unincorporated areas of the County;

B. That development of artistic and cultural resources in communities preserves and improves the quality of the urban environment, encourages civic engagement, promotes cultural diversity, enhances social well-being, and fosters economic vitality of communities;

C. That as residential, commercial, and industrial development, and revitalization of real property within the unincorporated areas of the County continues, urbanization and increased density of the community results, and the need to develop new artistic and cultural resources to enhance the environment, image and character of the community increases;

D. That the development of artistic and cultural assets should be financed by those whose residential, commercial, and industrial development and revitalization projects increase the community's demand for cultural resources; and, therefore,

E. That the Civic Art requirement is a fair and equitable method of distributing the cost of Civic Art among residential, commercial, and industrial development and revitalization projects.

SECTION 2. Section 22.14.160 is thereby amended to read as follows:

...

Pedestrian paseo. A landscaped walkway accessible to the public, located outside of a public right-of-way or private roadway, where motorized vehicles are prohibited. A pedestrian paseo shall be a minimum of five feet in width, provide amenities such as appropriate lighting, benches, and water features, and be designed to maximize visibility of the paseo from public view points.

Percent for Art in Private Development. The following terms are defined solely for the purpose of Section 22.246.080 (Percent for Art in Private Development):

Art consultant. A 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, contracting artists and arts media for venues with public audiences or providing oversight of on-site logistics, demonstrates previous success in project management, and provides leadership in completion of the Civic Art.

Artist. A person who has established a reputation of artistic excellence in the arts, including but not limited to visual, performing or literary arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment.

Building valuation. The total value of all construction work for which a building permit is issued, and includes, but is not limited to, outside improvements, all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanently installed work or permanently installed equipment.

Civic Art. An original, site-specific work of art or a facility dedicated to the arts that is placed to be publicly accessible on both private property and publicly-owned property. Works of art or facility acceptable as Civic Art may be in any artistic discipline and in any media accepted by the Department of Arts and Culture in compliance with Section 22.246.080. “Civic art” does not include fixtures or features such as streetlights, benches, signs, or other design enhancements, unless rendered by an artist as a unique or limited edition feature for the development project.

Civic Art Program. The Los Angeles County Department of Arts and Culture–Civic Art Program to provide artistic and cultural facilities, services and/or amenities to the residents of the County.

Commercial and industrial development. Any nonresidential land use, including, but not limited to, retail, office, professional, research, manufacturing, heavy industry, hotels, motels, utilities and private recreational facilities, but not including any use by a public entity for which the Board of Supervisors is the governing body.

Cultural facility. Any facility that is open to the public that provides artistic or cultural services, including but not limited to theaters, performance space(s), art galleries, exhibition spaces, artist studio spaces, arts education facilities, and other

similar facilities as determined appropriate by the Department of Arts and Culture. The definition do not include churches, schools, commercial movie theatres, gymnasiums or other sports facilities, bookstores, buildings dedicated primarily to housing or administrative activities, and non-profit facilities used for non-profit activities.

Development project. Any activity which requires the issuance of at least one building permit by the County and includes all related permits contained within the same project number in the County's master tracking system.

Fee. A monetary responsibility other than a tax or special assessment that is collected under the terms of Section 22.246.080 to provide funds for Civic Art projects.

Landmark. A property, including, any structure, site, place, object, tree, landscape, or natural feature, that is designated as a landmark by the Board of Supervisors pursuant to Chapter 22.124 (Historic Preservation).

Publicly accessible. Any site within the County which is open to the general public or is in public view. If the Civic Art is located in an interior location it must be publicly accessible during regular business hours.

Private recreation facilities. Recreation facilities established and operated by a private entity or an association of persons who are bona fide members, to be used exclusively by its members. Such term may also include private recreation clubs, as defined in Section 22.08.180.

Residential development. A development project for five or more dwelling units, including mixed use developments. It may also be a subdivision or a common interest development as defined in Section 4100 of the California Civil Code, approved

by the County and consisting of five or more dwelling units or unimproved residential lots. It may also be either a project to substantially rehabilitate and convert an existing commercial building to residential use with five or more dwelling units, or the substantial rehabilitation of an existing multi-family dwelling, as defined in Section 65863.4(d) of the California Government Code, with five or more dwelling units.

SECTION 3. Section 22.246.080 is hereby added to Title 22 of the Los Angeles County Code to read as follows:

22.246.080 Percent for Art in Private Development

A. **Purpose.** The purpose of this Section is to promote the general welfare and enhance livable communities by requiring the use and incorporation of works of publicly accessible art in private development. By doing so, the County preserves and enriches the character and environment of its unincorporated communities; improves the quality of life for those who visit, live, or work in the County; mitigates potential adverse impacts of construction and increased density; fosters the economic vitality of communities; and engages residents, neighborhoods, businesses, and community organizations in creative partnerships with artists. This Section sets forth requirements for the provision of Civic Art, in connection with conditions for the design of residential, commercial, and industrial development projects.

B. **Applicability.** The provisions of this Section shall apply only to private residential, commercial, and industrial development projects with a building valuation of \$750,000 or more for which a building permit has not been issued as of the effective date of this Ordinance. The provisions shall also apply to repair and renovation projects with

a building valuation of \$750,000 or more on existing development, in which one percent of design and construction costs instead of total project valuation shall be allocated to commission Civic Art. The building valuation shall be adjusted annually on March first, based on the changes to the Consumer Price Index of the preceding year.

C. **Definitions.** Specific terms used in this Section are defined in Division 2 (Definitions), under “Percent for Art in Private Development.”

D. **Administration.** In accordance with Chapter 22.89 (Department of Arts and Culture) in Title 2 (Administration) of the County Code, the Los Angeles County Department of Arts and Culture shall:

1. Promulgate Civic Art program policies, guidelines and implementation procedures pursuant to this Section;

2. Maintain records of civic work created and supported pursuant to this Section;

3. Report annually to the Board as required by Subsection K (Use of Fees Collected), below.

E. **Establishment of Civic Art Requirement.** When a development project is subject to the requirements of this Section, the applicant shall comply with the provisions of Subsection E.1 or E.2, or a combination of both, as defined below.

1. ***On and Off-Site Civic Art Option.***

a. For new projects, the applicant shall provide and maintain Civic Art in a publicly accessible place pursuant to this Section. The Civic Art may include but is not limited to the following four types of programs:

i. *Newly commissioned work of hard art.* The hard art may be created in any permanent media approved by the Department of Arts and Culture, and presented in a publicly accessible location on and/or within 250 feet of the development project site. If the applicant chooses to place artwork on municipal property or private property within 250 feet of the development project site, all required approvals, permits, and agreements in compliance with this Section, shall be the responsibility of the applicant to obtain, and shall be presented to the Department of Arts and Culture prior to approving the Civic Art plan.

ii. *Cultural facilities.* The construction, repair, and/or funding of cultural facilities that are on the development project site or within a five-mile radius of the site.

iii. *Conservation.* Restoration, conservation or preservation of existing private and/or County-owned publicly accessible Civic Art that is on the development project site or within a five-mile radius of the site. This may include, but is not limited to, the restoration or replication of original decorative ornament or artwork deemed historically or culturally significant as part of the rehabilitation of historic, cultural, and architectural landmarks; and/or

iv. *Artistic and cultural programs and services.* Artistic and cultural services that are on the development project site or within a five-mile radius of the site, including but not limited to:

(1) *Performing arts: theatre, dance, music and performance art;*

(2) Literary art: poetry readings and storytelling;

(3) Media art: film and video, screenings and installations;

(4) Arts education: lectures, programs, presentations and instruction in and about arts and culture;

(5) Special events: parades, festivals and celebrations provided that they are cultural in nature;

(6) Temporary and mixed media artworks: ecological, environmental, lighting, aerial, water, sound, participatory, exhibition; and

(7) Similar arts services as approved by the Department of Arts and Culture.

b. For repair and renovation projects not listed under Subsection F, below, with a building valuation of \$750,000 or more, as adjusted annually based on the changes in the Consumer Price Index, one percent of design and construction costs instead of total project valuation shall be allocated to commission Civic Art.

c. For the creation of Civic Art pursuant to this Section, applicants may hire a professional art consultant to assist with all phases of the project development and project oversight from inception to completion. The art consultant may be selected by the developer or from an optional prequalified list provided by the Department of Arts and Culture. The applicant may utilize Department of Arts and Culture staff as the art consultant for a fee equal to fifteen percent of the one percent requirement.

2. **Civic Art In-lieu Fee Option.** In lieu of providing Civic Art, the applicant may pay a fee to be deposited in the Private Development Art Fund equal to one percent of building valuation.

3. The provision of Civic Art pursuant to this Section shall be subject to the approval of the Department of Arts and Culture in accordance with the County Civic Art Program policies and implementation procedures.

F. **Exemptions from Civic Art Requirement.** The following shall be exempt from the provisions of this Section:

1. Commercial and industrial development projects with a cumulative building valuation of less than \$750,000, as adjusted annually based on the changes in the Consumer Price Index;

2. Commercial and industrial development projects owned or operated by religious facilities under Internal Revenue Code section 501(c)(3) and used exclusively for religious activities;

3. Commercial and industrial development projects with additions or modifications to existing buildings when such work has a cumulative building valuation of less than \$750,000, as adjusted annually based on the changes in the Consumer Price Index;

4. Commercial and industrial development consisting exclusively of rehabilitation work required for seismic safety or to comply with governmental mandates, including the Americans with Disabilities Act of 1990 regardless of valuation;

5. Repair intended to upgrade an existing building or structure that does not change the use or type and does not alter the size or occupancy load of the building;

6. Replacement, repair, renovation, or rehabilitation to an existing building, including replacement of on-site Civic Art, that has been partially or completely destroyed by a fire or natural disaster up to the original building valuation. Improvements in excess of the original building valuation shall not be exempt;

7. All residential development projects of four dwelling units or fewer;

8. Affordable housing development projects, provided that the development projects consist solely of dwelling units, exclusive of a manager's unit(s), that are affordable to extremely low, very low, lower, or moderate income households;

9. Facilities owned solely by a non-profit organization, as defined in Section 22.14.140 (N) and under Internal Revenue Code section 501(c)3, provided the premises are used solely in furtherance of the owner's non-profit purpose; and

10. Commercial and industrial development projects, or portion(s) thereof, that are designed and dedicated to the arts, as long as the sites are maintained within the building, provided the premises continue to be dedicated to the arts. Acceptable facilities include museums, theaters, performance arts centers, and other similar facilities as determined appropriate by the Department of Arts and Culture. Excluded facilities include schools, commercial movie theaters, banquet halls, gymnasiums or other sports facilities, and buildings dedicated primarily to administrative activities.

G. Compliance with Civic Art Requirement.

1. When an applicant elects to fulfill the Civic Art requirement by means other than paying the in-lieu fee, no building permit shall be issued until the County has received and accepted a Civic Art plan with a proposal committing the applicant to comply with this requirement by a pre-determined date. Once applicant is notified of acceptance of the Civic Art proposal, applicant will submit the same in order to obtain a building permit, and at the same time, shall post an automatically renewing certificate of deposit payable to the County in an amount equivalent to one percent of the building's valuation with the County. The County may hold the deposit until a certificate of occupancy is issued for the development project. A certificate of occupancy may be issued and the deposit returned with clearance by the Department of Arts and Culture when the Civic Art project is determined to be in compliance with this Section and with the County's Civic Art Program policies and implementation procedures. If the requirement is not met, and the applicant has been given a reasonable time to cure, the Department of Arts and Culture shall put the deposit into the Private Development Art Fund.

2. When an applicant has elected to pay a Civic Art in-lieu fee, no building permit shall be issued until such fee has been paid.

H. Civic Art Compliance with Zoning Requirements

1. The proposed Civic Art shall comply with all zoning regulations prescribed by this Title 22, including permitted uses for the zone, applicable entitlements for the use, and development standards, including height, parking and setbacks, in addition to the zoning requirements for the proposed development project. Entitlements

for the proposed Civic Art, if required, shall be submitted concurrently with site plans and any required entitlements for the development project.

2. All on and off-site Civic Art plans in conjunction with a development project located within the geographic area governed by the Marina Del Rey Specific Plan shall be submitted to the Design Control Board for review, any recommendations, including a written report and/or marked plans, to illustrate its conclusions relating to the project's architectural design and site planning shall be submitted by the Design Control Board to the Commission or Hearing Officer within 120 days of the filing of a Coastal Development Permit application in compliance with Section 22.46.1110.D (Design Control Board).

I. Civic Art Standards

1. The proposed Civic Art shall comply with the following standards:

a. The Civic Art satisfies the artistic and cultural needs of the development project so as to reduce the need for public artistic and cultural facilities, services and community amenities to serve the patrons, occupants and owners of the development project and is responsive to the needs of the community in which the development project and/or Civic Art will be located;

b. For the three types of programs described in Section 22.246.080.E.1.a.i through iii, the Civic Art is to be privately owned and maintained by the applicant and future occupants or owners of the subject property. Maintenance shall be adequately provided for by a covenant for a minimum of 25 years, which shall run with the land, or other appropriate provisions will be made based on the characteristics of the

Civic Art. Any Civic Art to be removed upon expiration of the 25 year term from the subject property shall be deaccessioned in accordance with the Civic Art Program policies and procedures;

c. The Civic Art shall be in an area open and publicly accessible at least eight hours each day of at least five days per week;

d. A cultural facility that is being improved pursuant to this Section shall be publicly accessible during its regular business hours;

e. The cost of services or utilities necessary to operate or maintain the Civic Art over time is not included in calculating the value of a Civic Art for the purpose of satisfying the one percent of building valuation requirement; and

f. The Civic Art shall be in substantial compliance with any arts and cultural master plan, policies and implementation procedures adopted by the Board.

2. For purposes of compliance with Subsection I.1, above, the cost of a Civic Art project shall not include any of the following to satisfy of the Civic Art requirement:

a. Directional elements such as supergraphics, signage, or color coding;

b. Artworks that contain a commercial message by referencing, presenting, or promoting a product or service that is available on or off site of the subject property through text, image, logo, trademark, or other mechanism;

c. Art objects that are mass produced or of standard design;

d. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts;

e. The architecture of the building or facility, or any portion thereof, including decorative, ornamental or functional elements, unless designed by an artist specifically commissioned for this design enhancement purpose;

f. Landscape architecture and landscape gardening, except where these elements are designed by an artist specifically commissioned for this design enhancement purpose; or

g. Services or utilities necessary to operate or maintain the Civic Art over time.

J. Private Development Art Fund.

1. A Private Development Art Fund shall be established and shall continue from year to year. The fund shall consist of one account to be used in all Supervisorial Districts, to be established by the Auditor-Controller in accordance with Section 27100.1 of the California Government Code and administered by the County Treasurer and Tax Collector apart from the general revenue funds and accounts of the County. All interest and investment earnings in said fund shall accrue to the use and benefit of the applicable fund.

2. All Civic Art in-lieu fees received by the County pursuant to this Section shall be deposited in the applicable account in the Private Development Art Fund and shall be accounted for and expended consistent with Section 66006 of the California

Government Code. The fund is authorized to accept gifts, grants and donations made to the County for Civic Art.

3. All appropriations, gifts, grants and awards of money or property received for Civic Art from either public or private donors shall be placed in trust for and inure to the use and benefit of the County for Civic Art purposes; and said property and funds shall be expended, utilized and disbursed pursuant to the provisions of this Section. Any gifts, grants and awards received subject to a condition shall be expended strictly in accordance with such condition.

K. Use of Fees Collected.

1. The Department of Arts and Culture shall make recommendations to the Board for expenditures from the Private Development Art Fund in accordance with County budgetary procedures and adopted Civic Art program policies and implementation procedures, which expenditures shall be exclusively for the acquisition, commissioning, installation, improvement, maintenance and insurance of Civic Art on County property; the restoration, conservation, or preservation of existing County-owned Civic Art; the provision of Civic Art in any of the four types of programs described in Subsection E, above; or any similar arts or cultural services as approved by the Department of Arts and Culture.

2. The Department of Arts and Culture shall provide an annual report to the Board which outlines Percent for Art in Private Development activities for the previous fiscal year. The report will detail the provision of on or off-site art installations and arts services, restoration and conservation, programs, facilities and amenities

undertaken during the year, and the use of all Civic Art in-lieu fees collected and deposited in the Private Development Art Fund. The report may set priorities for use of the Private Development Art Fund in future years.

SECTION 4. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. This ordinance shall be effective 30 days after adoption.