

**City of Culver City, California  
Agenda Item Report**

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| Meeting Date: 03/11/2013                                                                                                                                                                                                                                                                      |  | Item Number: A-1                                                                                  |  |
| <b>AGENDA ITEM: Introduction of an Ordinance Amending Chapter 15.06, New Development Fees, of the Culver City Municipal Code, by Repealing and Replacing Sections 15.06.100 through 15.06.175 with New Sections 15.06.100 through 15.06.180, Relating to the Art in Public Places Program</b> |  |                                                                                                   |  |
| Contact Person/Dept.: B. Christine Byers /<br>Cultural Affairs                                                                                                                                                                                                                                |  | Phone Number: (310) 253-5776                                                                      |  |
| Fiscal Impact: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                                                                            |  | General Fund: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                 |  |
| Public Hearing: <input type="checkbox"/>                                                                                                                                                                                                                                                      |  | Action Item: <input checked="" type="checkbox"/> Attachments: <input checked="" type="checkbox"/> |  |
| Public Notification: E-Mail: Cultural Affairs Master Notification List (02/26/2013); Culver City Cultural Affairs Commission (02/28/2013); Agenda and Meetings – City Council (03/05/13)                                                                                                      |  |                                                                                                   |  |
| Department Approval:<br>Sol Blumenfeld (01/29/13)                                                                                                                                                                                                                                             |  | City Attorney Approval:<br>Carol Schwab (by R. Miranda) (02/26/13)                                |  |
| Chief Financial Officer Approval:<br>Jeff Muir (03/04/13)                                                                                                                                                                                                                                     |  | City Manager Approval:<br>John M. Nachbar (03/05/13)                                              |  |

**RECOMMENDATION:**

Staff recommends that the City Council introduce a proposed Ordinance, amending Chapter 15.06, New Development Fees, of the Culver City Municipal Code (CCMC), by repealing and replacing Sections 15.06.100 through 15.06.175 with new Sections 15.06.100 through 15.06.180, relating to the Art in Public Places Program (APPP).

**BACKGROUND:**

Culver City's Art in Public Places Program was established by Ordinance in 1988 as part of Chapter 15.06 of the CCMC. Since 1988, the subchapter containing the APPP (Sections 15.06.100 et seq.) has been amended periodically to reflect programming changes (e.g., establishing a Performing Arts Grant Program and the "Architecture as Art" designation), and administrative changes within the City (e.g., creation of the Cultural Affairs Commission in 2001, and relocation of the APPP and Cultural Affairs staff to various City departments). The last update to the APPP was in 2004 and is attached hereto as Attachment 3 (Ordinance No. 2004 – 004).

The changes proposed to the APPP (Attachments 1 and 2), are informed by extensive review of ordinances and policies of other jurisdictions' art programs, documented best practices in the field of public art, conversations with public art

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administrators throughout California, and past experience with implementing the APPP in Culver City. These changes reflect input from the Cultural Affairs Commission's (CAC) Ad Hoc Art in Public Places Ordinance Update Subcommittee (Chair Smashey and Vice Chair Koosed), together with the City Attorney's Office and Community Development Department staff.

**DISCUSSION:**

While a wide variety of ordinances and policies from other public art programs were reviewed, many of the amendments to Ordinance No. 2004 – 004 were specifically informed by language from programs considered the best examples in the field: The City of San Jose, the former Community Redevelopment Agency of the City of Los Angeles (CRA/LA) (which had the second oldest program in the US), and the cities of San Francisco, Portland, Seattle and Santa Monica. These examples, combined with lessons learned from de-accessioning certain artworks in Culver City, maintenance challenges, efforts to foster diversity in the collection, as well as issues relating to the current economic climate and the elimination of redevelopment as a funding source, further informed the proposed changes to the APPP language.

Below is a brief summary of these changes. All page references included herein refer to the proposed Ordinance (Attachment 1).

**General:**

Pages 1 - 2 provide a historical overview of the changes affecting the APPP since its inception in 1988. This section also includes a reference to the annual *Otis Report on the Creative Economy*, which demonstrates that the arts have a significant positive economic impact as the 4<sup>th</sup> largest employment cluster in Los Angeles County.

Some of the sections included in Ordinance 2004 - 004 have been relocated so that they flow logically together. All sections are proposed to be renumbered accordingly.

**Purpose (p. 3):**

The language in this section has been consolidated but still focuses on cultural and artistic resources and the APPP as a land use tool.

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Definitions (pp. 4 – 7):

The number of definitions has been expanded to seventeen and includes, among others, new definitions for Administrative Fees, Conservation, De-Accession, Design Fees, New Genres, Permanent and Temporary Installations, and Qualified Artist. Changes to some of the existing definitions, such as Artwork and Freely Accessible, are also included.

Cultural Trust Fund Created (pp. 8 - 9):

The term “Art Fund” is changed to “Cultural Trust Fund” (Fund) to reflect the wider impact this fund has on cultural arts in Culver City. The cities of Santa Monica and Pasadena use similar names for their public art program funds, as did the former CRA/LA.

Money from this fund is restricted primarily to capital improvements, but amendments have been made to the CCMC to allow for adequate funding for preventative maintenance and restoration of artwork that reflects current needs. As included in Paragraph 2 on p. 8, the maximum allocation for preventative maintenance and utility charges related to artwork has been increased from 5% to 15% of the payments made to the Fund in the prior fiscal year. Based on the current three-year average for total payments made to the Fund (\$152,042), this would allow approximately \$22,806 to be allocated each year for maintenance (cleaning, waxing, etc.). The current outside amount required to cover such costs for City-owned artwork is \$20,000. Maintenance costs do not include periodic larger restoration costs such as those associated with the replacement of the supporting steel structure for Ed Carpenter’s *Hanging Garden* which was completed a few years ago.

Developments Subject to Provisions of Subchapter (pp. 9 - 10):

The current thresholds for development projects and the types of development projects exempted from the APPP remain unchanged. The language for covenanted low- and moderate-income and senior citizen housing has been expanded to reflect the current common development model of incorporating these units into larger projects. A formula for calculating an adjusted APPP allocation, to allow for these exemptions, has been included.

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Art in Public Places Program Allocations (pp. 11 - 14):

Public art programs throughout the US typically have program allocations ranging from .5% to 2%. In light of the current economic climate, the existing 1% allocation has remained unchanged but a threshold of \$75,000 has been added. Developers (applicants) whose APPP allocation exceeds this threshold have additional options as to how they wish to fulfill the APPP requirements.

This \$75,000 threshold is based on the average cost for commissioning artwork for a private development project in Culver City as well as current City resources and staffing levels. For 31 separate artwork commissions, developers in Culver City have paid, on average, \$99,839 per artwork commission since the APPP was created in 1988. Since 2009, the average cost for commissions of artwork for private development projects (excluding the cost for *Rainbow* at Sony Pictures Entertainment) is \$198,537.

If an applicant's APPP allocation is under this \$75,000 threshold, the applicant may increase their allocation should they wish to pursue one of the other options available to those with APPP allocations greater than \$75,000.

For new on-site art commissions, additional criteria for the artist selection process are included for projects with APPP allocations exceeding \$100,000. These criteria (using a Request for Proposal process and hiring an art consultant) are based on best practices. Many larger private art commissions, such as those at Westfield Culver City and Sony Pictures Entertainment, have already relied on art consultants and a RFP process in past years.

Subsection 15.06.125.I (p.13) allows for the incorporation of a Cultural Facility within a larger development project for APPP allocations exceeding \$75,000. Based on input from other programs having a similar option, this provides more alternatives for developers in terms of how to fulfill their APPP requirement.

Application and Approval Procedures for Placing Artwork on Private Property (pp. 15 - 19):

This section has been modified to reference involvement of certain CAC subcommittees in the review process and to emphasize the necessity for preliminary design development as early as possible to ensure artworks are integrated within the larger development project. Specific criteria involved in the assessment of proposals for artwork, as well as disqualifying characteristics for art commissions, have been included.

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Approval Procedures for Fulfillment of the Art in Public Places Program Requirement for City Development Projects (pp. 19 - 20):

This section is new and outlines the parameters that should be considered for City-funded art commissions, including using community advisory committees and artist selection panels so that these projects remain competitive but are transparent with regard to process.

Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement (pp. 20 - 21):

Language has been added to this section with regard to art appraisers and the use of conservators.

Ownership and Maintenance of Artwork (pp. 22 – 24):

The language in this section has been greatly expanded to make it clear to applicants that future maintenance of artwork is a long-term commitment and needs to be accounted for in the planning process.

Final City Approval (pp. 24 - 26):

Language regarding posting money to the Cultural Trust Fund temporarily in cases where the applicant has not decided how they wish to fulfill the APPP requirement has been removed. This option was rarely used by developers, causes unnecessary delays, and poses an added burden on limited City staffing levels.

Final City approval will require the submission of maintenance guidelines to the City, installation of a plaque, and proof of payment to the artist (and/or design team). Language reflecting all of this has been added to this section.

Artwork on Public Property, Performing Arts and Purchase of Real Property for Public Art (pp. 26 - 28):

The amount available from the Fund for the performing arts remains at a maximum of 25% of the total money deposited into the Fund in the prior fiscal year. However, a provision has been added that a minimum amount of \$25,000 is available each year for the performing arts. Historically, these monies have been allocated to the Culver City Performing Arts Grant Program. Language has been incorporated to allow for some of this money to be spent on City-produced performing arts events.

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Subsection 15.06.160.F (pp. 27 – 28) allows for up to \$10,000 to be allocated per year for capital improvements to enhance the performance area in City-owned *and* City-operated facilities to help attract more cultural users.

Criteria for Approving Architecture as Art and Procedure for Approving Architecture as Art (pp. 28 - 29):

These two sections have been amended to include a requirement for applicants to demonstrate how the APPP allocation enhances the design of their project. The incorporation of a peer panel in the review process and the involvement of the CAC Public Art Ad-Hoc Subcommittee are referenced in the amended language.

De-Accessioning of Artwork (pp. 30 - 32):

This is a new section that reflects the need for specific guidelines based on past experience.

On December 11, 2012, the CAC considered and unanimously (with Commissioner Williams absent) supported the proposed changes to the Art in Public Places Program as incorporated into the proposed Ordinance.

**FISCAL ANALYSIS:**

The current Art Fund balance is approximately \$597,786. It is anticipated that with a threshold of \$75,000, under which developers pay the in-lieu fee to the Cultural Trust Fund, the total annual payments to the Fund will, at minimum, remain consistent with the current average of \$152,042. With the exception of an increase in the amount allowed for costs associated with the maintenance of City-owned artworks, the proportion of annual allocations for capital improvements (new artworks, enhancements to performance areas of City-owned and City-operated facilities, art restoration projects) to allocations for soft costs (Performing Arts Grant Program and Fund Administration), will remain relatively consistent. There will also be an indirect positive impact on staff time (and costs) associated with implementing the updated Art in Public Places Program given the higher APPP allocation threshold over which developers may choose an alternative for fulfilling the program requirements other than paying the in-lieu fee.

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**ATTACHMENTS:**

1. Proposed Ordinance (with all additions/deletions to Ordinance No. 2004-004 accepted);
2. Proposed Ordinance (showing all additions/deletions to Ordinance No. 2004-004);
3. Adopted Ordinance No. 2004 – 004 (excluding Exhibit A – Revisions to Historic Preservation Program); and,
4. Excerpt of December 11, 2012 CAC Meeting Minutes.

**MOTION:**

That the City Council:

Introduce an Ordinance, amending Chapter 15.06, New Development Fees, of the Culver City Municipal Code, by repealing and replacing Sections 15.06.100 through 15.06.175 with new Sections 15.06.100 through 15.06.180, relating to the Art in Public Places Program.