



Art in Public Places Program INSTRUCTIONS

Purpose

In 2005, the El Cerrito City Council adopted an Art in Public Places Ordinance (Section 13.50 ECMC). The purpose of the ordinance is to establish guidelines, procedures, and standards for the integration of public art into new private and public development and redevelopment projects. In order to realize the vision of enhancing art in public places, new projects with development costs of \$250,000 or more shall devote an amount not less than 1% of the development costs to the acquisition and installation of public art. Non-qualifying projects may voluntarily choose to contribute to public art.

Qualifying Projects

The following projects shall contribute not less than 1% of development costs to public art:

- All private and municipal projects with development costs of \$250,000 or more. This includes:
 - Commercial, industrial or municipal projects
 - Residential projects of 5 or more units
 - Remodels to existing buildings with a construction value equal to or more than 50% of the replacement cost of the building

Exempt Projects

The following projects are not required to contribute to public art:

- All residential projects of 4 or less units (regardless of development costs)
- All non-profit agency or non-municipal governmental projects
 - The City Council may exempt municipal projects
- Additional exemptions are:
 - Underground public works projects
 - Street or sidewalk repair
 - Tree planting
 - Remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity
 - Construction, remodel, repair or reconstruction projects composed entirely of affordable housing
 - Seismic retrofit projects
 - Construction, remodel, repair or reconstruction of structures owned or occupied by public-serving social service and nonprofit agencies
 - Utility pump stations and reservoirs
 - Fire sprinkler installation projects

Contribution

The contribution to public art may be through either:

- Public art in-lieu fee equal to 1% of the development costs.
 - The maximum required contribution is \$150,000.
 - OR -
- Public art, equal to 1% of the development costs, located on the development site and visible from a public right-of-way or from other public property.
 - A written agreement for the installation and maintenance is required.

If the applicant chooses to pay the public art in-lieu fee, it will be levied by the Building Division at the time development costs are due. If the applicant chooses to contribute public art, it must be installed prior to the

issuance of a certificate of occupancy. Exceptions to these deadlines may be granted through the city manager.

What is Public Art?

If the applicant chooses to install public art, it may include the following:

- Visual art, including but not limited to:
 - Sculpture; such as in the round, bas-relief, mobile, fountain, kinetic, electronic, or other, in any material or combination of materials
 - Painting: All media, including but not limited to, murals
 - Graphic and Multi-media: printmaking, drawing, calligraphy and photography including digital, any combination of forms of electronic media including sound, film, holographic, and video and other art forms but only when on a large public scale;
 - Mosaics
 - Crafts: in clay, fiber and textiles, wood metal, plastics and other materials
 - Mixed Media: any combination of forms or media, including collage
 - Any other form determined by the Arts and Culture Commission
- On-site cultural program
 - Performance arts: theatre, dance, music
 - Literary arts: poetry readings and story telling
 - Media areas: film and video, screenings and installations
 - Education: art lectures and presentations
 - Special events: festivals and celebrations
 - Artist-in-residence programs in the arts
 - Any other form of cultural program determined by the Arts and Culture Commission, or City Council on appeal, to satisfy the intent of this section
- On-site art spaces or cultural facilities such as gallery/exhibition spaces, resource libraries, visual arts slide registries, performance spaces, artist studio spaces and arts education facilities which are open and accessible to the public.

Public art does NOT include the following:

- Mass-produced, standard design art objects such as playground equipment, benches or fountains
- Decorative or functional architectural elements designed solely by the project architect
- Landscape architecture and gardening, except if designed by a visual arts professional and is integral to the work of art
- Directional elements such as super graphics, signage or color coding
- Logos or corporate identity

Public Art Evaluation and Criteria

If the applicant chooses to contribute public art, rather than pay the in-lieu fee, the public art proposal will be evaluated by the Public Art Subcommittee of the Arts and Culture Commission (with the option of evaluation by the entire Commission). If the Subcommittee determines that the proposed public art project does not comply with the criteria listed below, the proposal shall be referred to the Arts and Culture Commission (ACC) for their review and determination.

The criteria listed below will be used to evaluate the proposed public art (Section 13.50.030.H.2. ECMC):

- The public art shall:
 - Be designed and constructed by a visual art professional

- Require low a level maintenance
- Relate in terms of scale, material, form and content to the immediate surroundings
- Be fixed asset to the property
- Be maintained by property owner
- Meet all applicable building code requirements

The following guidelines should be taken into consideration for any public art placed within the City of El Cerrito:

1. **Quality:** The work should be of the highest standard with regard to workmanship, materials, assembly, content, placement, and appropriateness in theme and character as determined by the ACC.
2. **Elements of Design:** consideration should take into account that public art, in addition to meeting aesthetic requirements, also may serve as focal points, modifiers, definers of public spaces and/or creates identity within the public realm.
3. **Context/Style and Nature:** Works of art must be compatible in scale, material, form, and content with their surroundings. Consideration should be given to the architectural, historical, geographical, and social/cultural context of the site. Works may be participatory in nature.
4. **Diversity:** The Arts in Public Places program should strive for diversity of style, scale, media, artists—including ethnicity and gender—and equitable distribution of artworks throughout the City.
5. **Originality:** edition of one or part of a limited edition
6. **Conservation:** consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, excessive maintenance, and accessibility requirements.
7. **Public Safety and Accessibility:** Each work shall be evaluated to ensure that it does not present a hazard to public safety and complies with all applicable building codes and accessibility requirements.
8. **Public Liability:** artworks should be examined for unsafe conditions or factors that may bear on public liability.

The public art shall be created by a visual art professional who is not a member of the project architect, engineering or landscape architect firm.

Maintenance and Replacement of Public Art

The property owner shall maintain the public art in good condition and perform necessary repairs to the city's satisfaction. A maintenance plan will be submitted with the application, and the maintenance requirements of the public art shall be recorded on the title of the property. If the property owner wishes to remove the public art, the City must be notified 90 days in advance. The public art shall then be replaced with public art of equal or greater value.

If the property owner decides to replace any public art, the following requirements for the replacement public art must be met:

- The cost shall be greater or equal to the cost of the art being removed
- The location shall meet the requirement for public accessibility
- It shall conform with all required standards and criteria
- The replacement art, location and installation shall not violate any city ordinances
- It shall be available for public view within 180 days after removing the existing art

Public Art Fund

If the applicant chooses not install public art, s/he has the option of paying an in-lieu fee to the Public Art Fund. The Public Art Fund is administered by the City Manager, and each fiscal year is reviewed by the ACC and approved by the City Council. The fund will be used for the acquisition, commission, design, installation, improvement, maintenance and insurance of public art or cultural programs on public property.

Resources

The ACC can assist in directing applicants to resources before, during, and after the submittal process and can provide assistance in developing the public art project. Applicants are encouraged to contact the ACC or attend a meeting (3rd Wednesday of each month, 7:00 p.m., City Hall) to receive input before a formal application is submitted. Contact the Staff Liaison at (510) 215-4302 or kpinkos@ci.el-cerrito.ca.us for more information.

Application Process

At the time of Building Permit submittal, the developer is required to either provide payment of the full amount of the Public Art In-Lieu Contribution or submit an application for the proposed Public Art Project. The report shall contain the following information:

1. Contractual agreement to commission or purchase and install the required Public Art on the subject development site
2. Indicate the intended site, media, and material(s) of the art work or the components of the program or facility
3. Written acknowledgment by the Visual Art Professional and/or the owner or developer that the proposed Public Art complies with the following criteria:
 - The Public Art shall require a low level of maintenance and that the proposed maintenance provisions are adequate for the long-term integrity and enjoyment of the work
 - The Public Art shall be related in terms of scale, material, form and content to immediate and adjacent buildings and architecture, landscaping or other setting so to complement the site and its surroundings and shall be consistent with any corresponding action of the Planning Commission, Design Review Board or City Council as it may relate to any development entitlements
 - Permanent Public Art shall be a fixed asset to the property
 - The Public Art shall be maintained by the property owner in a manner acceptable to the City
 - The Public Art meets all applicable building code requirements.

City staff will review the application to determine whether the proposed Public Art project meets the Public Art criteria and the spirit of the Art in Public Places ordinance. In the event that the City determines that the proposed Public Art Project does not comply with these criteria, the project will be referred to the Arts and Culture Commission for review and a determination as to the project's compliance with the Art in Public Places ordinance. The determination of the Arts and Culture Commission may be appealed to the City Council.

The owner or developer shall provide the City with proof of installation of the required Public Art Project on the development site prior to the issuance of a Certificate of Occupancy. If installation prior to the date of occupancy is impracticable, as determined by the City Manager or his/her designee, a Certificate of Occupancy may be approved for the building or portion thereof if the application submitted pursuant to this section has been approved, the applicant has executed a written agreement with the City to install the Public Art, and the applicant has filed security in an amount and form acceptable to the City Attorney to guarantee installation of the Public Art.