

# CITY OF MANHATTAN BEACH PUBLIC ART MASTER PLAN

AND  
ONE PERCENT FOR ART ORDINANCE  
PASSED NOVEMBER 19, 2002

## MAYOR AND COUNCIL

Steve A. Napolitano, Mayor  
Jim Aldinger, Mayor pro tem  
Walt Dougher  
Joyce Karlyn Fahey  
Linda Wilson

## THANK YOU TO THE FOLLOWING CULTURAL ARTS COMMISSIONERS

*Who Dedicated Their Knowledge and Time To Develop-  
ing the City of Manhattan Beach Public Art Master Plan*

Kendra Carman 6/1/1998  
Delpha Flad 6/1/1998  
Alison Wright 6/1/1999  
Elisabeth Lee 6/1/1999  
Wayne Powell 6/1/2000  
Sharon Greco 6/1/2001  
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Geoff Dolan, City Manager  
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[www.cityymb.info](http://www.cityymb.info)



# PUBLIC ART MASTER PLAN

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**CITY OF MANHATTAN BEACH  
ART IN PUBLIC PLACES  
MASTER PLAN**

**STATEMENT:** Recognizing that art in public places is important to the vitality of the City of Manhattan Beach and its mission to preserve, enhance and strengthen quality of life, public art should:

- 1) Preserve the heritage of Manhattan Beach while providing a long term vision for art in public places,
- 2) Cultivate and sustain a sense of civic identity and pride,
- 3) Express the ideas, traditions and values of the community in which public art is placed,
- 4) Educate and promote understanding, awareness and access to visual and performing arts,
- 5) Invite the viewer to contemplate the broader meaning of public art and foster understanding of all humankind.

**PURPOSE:** The Master Plan establishes goals and criteria for the acquisition of art works; sets guidelines for inclusion in capital improvement projects, defines appropriate site locations, establishes a process documentation, maintenance, acceptance of art donations, provides for a variety of funding mechanisms, establishes a public art trust fund and outlines an implementation plan.

**DEFINITIONS:**

**Public Place** - Any exterior area on public or private property which is easily accessible and clearly visible to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare, sidewalk, public beaches and parks.

**Donation** - A contribution to the City which may consist of a cash grant, real property (land), or an in-kind contribution (any item or object other than cash or real property which would serve a useful purpose in the provision of City services)

**Unrestricted Donation** - A donation to the City without any limitation being placed upon its use

**Restricted Donation** - A donation to the City for a specified purpose with restrictions

**PUBLIC ART INCLUDES BUT IS NOT LIMITED TO:**

**Commemorative Art:** To call into remembrance

**Monuments:** On a grand scale, usually large in size, elevated in conception, enduring, significant or architectonic in quality. Monuments traditionally commemorate significant events in the City's history, dramatic moments such as the signing of the founding documents, wars, or turning points in history.

**Permanent Works of Art:** Include, but are not limited to, physical art that may be integrated with the work of other design professionals. Public works of art may be permanent (40+ years), fixed, or portable. Examples of public works of art include:

1. Sculpture that may be made of any material or combination of materials; may be free standing, wall-supported or suspended, kinetic, electronic or mechanical
2. Murals and paintings that may be made of any material or variety of materials
3. Earthworks, neon, glass, organic materials (for example fiber, clay or wood), mosaics, photographs, collage which may be made with traditional or non-traditional means, prints, literary arts, calligraphy, any combination of media forms (for example sound, film, holographic, video or computer systems) or hybrids of any media

**Temporary Works of Art:** include exhibits, public appearances by artists, performance events or artists/community interactions, festivals, concerts and arts education programs. Temporary works of art cultivate and sustain a sense of civic identity and pride by fostering understanding, awareness of visual and performing arts through open access and education programs.

**Public Arts Trust Fund:** A Trust Fund established in the City Treasury containing separate accounts to segregate receipts by source or project and administered in compliance with the Public Art Master Plan.

## SECTION ONE: PUBLIC ART POLICY

- I. **Objectives:** The City views art in public places as a dynamic process which challenges artists to respond innovatively to the local character of the City of Manhattan Beach and its unique environment.
- A. **Responsibility to the Community:** The City recognizes that works of art often significantly alter public places, becoming a major new presence in the environment. Visual art has rapidly evolved and diversified, creating at times a gap between contemporary art and its appreciation by the general public. The program shall endeavor to bridge this gap, by broadening community awareness of the issues involved in contemporary art and its historical context, and encouraging informed debate among all segments of the community.
  - B. **Diversity:** The City shall promote diversity and pluralism in art in public places in as wide a range of expression as possible.
- II. **Capital Improvement Projects:** In order to encourage works which respond to the City's rich physical setting and diversity of public sites, funding of CIPs will be used for acquisition of new works. Capital Improvement Projects include:
- projects directly related to an agency or program such as public works,
  - systems such as storm water drainage and roads,
  - projects that have similar characteristics, or that offer potential interdepartmental collaboration, such as open space links and systems,
  - projects for which the community is committing funds to construct a special or unique facility, such as an arts complex, civic arena, or recycling center.
- A. The Trust Administrator will work with the Public Works Department to annually identify capital improvement projects appropriate for the inclusion of art or aesthetic enhancement.
  - B. Collaboration between artists and architects during the design process, before the construction phase, shall be encouraged to promote the integration of art work into the site.
- III. **Site Specific Locations:** Site specific locations include public facilities, beaches, the pier and strand, parks and thoroughfares. Special architectural features, such as water and landscape elements, sculpture, and other works of art, add significantly to those locations by providing an opportunity to experience public art. Thus, all works must be consistent with the Public Art Master Plan, Park Master Plans and General Development Plan.
- A. **Public Facilities:** Art work projects will be developed in concert with long- range facility planning. A balance will be sought between works on a large scale and works which relate to areas where people congregate, wait, rest or engage in social activity. Location of art works, advertising, functional installation and signage will be planned to avoid conflicts.

B. Manhattan Beach Pier and Strand: The Manhattan Beach Pier, a historic landmark, was completed in 1922. It has become an icon symbolizing the community's cultural image with its reverence for light, water, air, marine vistas and recreation. The Strand has always been a place where citizens spend time reflecting on the past, making plans for the future and enjoying the present. Priorities for sited art works include:

1. Major entry and exit points, pedestrian ways and visitor areas
2. Downtown approaches, where works of art can encourage strand users to further explore the City's business areas and cultural offerings
3. Areas visible from surrounding thoroughfares and public places
4. Sites under development or improvement, where art works can be integrated through the planning and design process

C. Parks and Thoroughfares: Art work projects in parks and thoroughfares will be planned in concert with Public Works, and the Planning Department. Art works may thematically relate to other sites or may stand alone in variable local character of sites within a given space.

1. Parks: Art work projects for parks will recognize the leisure activities accommodated at individual sites. Park and beach sites are seen as excellent opportunities for art works that offer tactile experiences, invite interaction or participation, establish resting places or focal points, or respond to natural elements or landscape features at the site. Priority will be given to:
  - a. Sites not used exclusively for programmed activity or active recreation.
  - b. Sites under development or improvement, where art works can be integrated through the planning and design process.
2. Thoroughfares: Art work projects will recognize the design functions of thoroughfares as major vehicle movement routes, as pedestrian passages, and as visual links within the cityscape. Priorities will include:
  - a. Pedestrian passages, promenades, malls and routes which open onto important public spaces and centers of activity.
  - b. Thoroughfares which function as strong visual links and directional orientations.
  - c. Perimeter areas which interface with surrounding communities, where works of art can provide amenities and encourage use by the public to pause, reflect, and enjoy the surrounding environment.

## ART DONATION POLICY

**IV. Donated Works of Art:** The City of Manhattan Beach encourages donations of works of art for public places. Gifts of cultural or historic significance proposed to any City department shall be reviewed by the Cultural Arts Commission. This procedure shall also apply to proposed works for long-term loan to the City (one year or more).

Objectives of this policy are:

- To provide uniform procedures for review and acceptance of gifts and long term loans of works of art or works of cultural or historic significance to the City.
- To vest in a single city agency the responsibility for ensuring management and maintenance of the City's public works of art.
- To facilitate planning for the placement of works of art in City facilities.
- To maintain high artistic standards in works of art displayed by the City.
- To provide for appropriate recognition of donors of works of art to the City.

Acceptance or rejection of proposed donations, are based on the criteria and policies established in the Implementation Plan.

The Cultural Arts Commission shall advise and refer to the City Council all proposed donations of art, or funds for the acquisition of art works from the private sector.

The City Council shall have final authority to accept or deny all donations.

A. Fund Donations: Proposed donation of funds for the acquisition of works of art, if restricted or dedicated in any way, are to be reviewed to insure that such restrictions or dedications are consistent with the criteria stated in the Implementation Plan.

### Unrestricted Funds:

1. Upon acceptance by the City Council, all donated funds will be deposited in the Public Arts Trust Fund. All funds without restrictions or stipulations will be accepted.
2. Artworks acquired with unrestricted funds will be selected according to the selection procedures outlined in the Implementation Plan.

### Restricted Funds:

1. To maintain control over fabrication, materials, size, maintenance and the overall feel of projects, the Cultural Arts Commission will recommend pre-approved artists or design teams to work with those wishing to commission works of art with restricted funds.
2. The Donor shall be involved in the site selection and in the development of cost estimates for installation and maintenance of the artwork. The Donor shall also establish the monetary value of the artwork through a bonafide appraisal and disclose the value in writing so it may be entered in the Fixed Asset inventory of the Recipient Department.
3. Art work acquired or commissioned with restricted funds will follow the procedures outlined in the Implementation Plan.

4. The Public Art Trust Administrator shall provide information on the City's procedures for the acceptance of gifts of artworks, coordinate meetings of the various principals and prepare the Cultural Arts Commission's recommendation regarding the acceptance of the artwork.
- B. Proposed Sites for Donations: Proposed donations that are site specific shall be reviewed by the Commission to insure consistency with the Master Site Plan that designates planned placement of future works of art. If the Cultural Arts Commission approves the site, the proposal shall be forwarded to City Council.
- C. Ownership and Maintenance of Donated Art Works:
1. If accepted and placed in a public park or other city-owned land or facility, the City will assume ownership and maintenance of art work.
  2. The City will not assume responsibility for replacement of art works removed due to vandalism or lost to theft.
  3. Proposed art works which pose an unusual risk of vandalism, theft or extraordinary maintenance due to design or location shall not be approved unless the private sponsors make financial arrangements, satisfactory to the City, for replacement, repair or removal of the artworks due to vandalism, theft or extraordinary maintenance.
- D. Donation Exceptions: While certain priorities for art work are identified, this shall not preclude consideration of exceptional opportunities to receive donations of art work, where they are in keeping with the criteria and policies established within the Master Plan.

**V. Funding Mechanisms:** A variety of options exist for funding art in Public Places. They are as follows:

- A. Appropriation in the form of line items in an administering budget, currently used by the City. A line item of \$16,300 has traditionally been included in the budget each year, and rolled over if not used.
- B. Appropriation on a project by project basis, initiated by agencies or artists within the state (Example: Leadership Manhattan Beach Time Capsule); and
- C. A percent for art legislation or ordinance -- the typical percent for art law stipulates that a certain percentage of the cost of constructing or renovating a public building or site or of a capital improvement project shall be set aside for art work. Attached are two draft sample ordinances:
  - Capital Improvement Percent for Art Ordinance (1%) applies only to City Capital Improvement Projects.
  - The Percent for Art Ordinance (1%) includes all capital improvement projects, all new residential developments of more than four (4) units that are being remodeled, and all commercial, industrial property with valuations exceeding



\$500,000. This also includes remodeling of existing residential buildings of more than four (4) units and all remodeling of existing commercial industrial buildings with a valuation exceeding \$250,000 that are being remodeled.

Percent for Art Ordinances are written to meet the needs of the city in which they exist. Following are additional funding sources in use by other cities. They also may be considered as part of a written ordinance.

- Private donation
- Trusts and Grants
- Hotel and motel tax
- Lottery and special industry taxes
- Bond issues

**VI. Public Arts Trust Fund:** A Trust Fund shall be established in the City Treasury containing separate accounts to segregate receipts by source or project and will be administered in compliance with the Public Arts Master Plan.

- A. The Public Arts Trust Fund shall be administered by a City Manager appointed staff member who will act as the Trust Administrator in the public interest upon all matters relating to the Program and shall support the Program's goals and objectives.
- B. The Public Art Trust Administrator shall oversee the acquisition of public art on the basis of informed and carefully considered professional judgment. The Trust Administrator shall also foster a professional approach in dealings with artists, supporting the artist's aesthetic judgment in the interest of always securing the best possible work. The Administrator's responsibilities shall include:
1. Acting as liaison to the Cultural Arts Commission and the City Council
  2. Interfacing with other City Commissions such as Parks and Recreation, Planning and Public Works
  3. Overseeing acquisition, maintenance and planning of project
  4. Providing public education on the Art in Public Places Program
  5. Curating of works of art acquired by the Program
  6. Administering budget in accordance with the Master Plan and City Ordinance

Flexibility in funding uses put a spending priority on art acquisition, but also permits the use of funds for administrative costs, insurance costs, or repair and maintenance of art works if approved by the City Council.

**Prohibition of Use:** Trust funds shall not be spent for:

- Reproductions or unlimited editions of original works,
- Works that are decorative, ornamental or functional elements of architecture or landscape design, except when commissioned and designed by an artist as an integral aspect of a structure or site, or

- Architectural rehabilitation or historical preservation, although works may be acquired in connection with such projects.

## SECTION TWO: IMPLEMENTATION GUIDELINES

### OVERVIEW:

The Implementation Guidelines define the role of the Cultural Arts Commission, the Art in Public Places Committee and the City Council in the acquisition of public art works. The Guidelines shall also govern the selection, implementation and acquisition process while establishing criteria for the acceptance of donations, documentation and community education in relation to public arts.

- I. **The City Council:** The City Council shall have final authority on acquisition and acceptance of all public art works.
- II. **The Cultural Arts Commission:** The Cultural Arts Commission was established by Resolution No.5362. The role of the Commission is advisory.
  - A. The Cultural Arts Commission provides recommendations to the City Council regarding policy issues presented to them by the City Council, City staff and the community.
  - B. The Cultural Arts Commission shall have the authority to review all works of art to be sited in public places and to make recommendation to City Council on acceptance or rejection of works based on criteria established in the Implementation Plan.
  - C. The Commission shall have authority to appoint ad-hoc committees to assist in an advisory role in the selection and acquisition of public art.
  - D. The Cultural Arts Commission does not have the authority to expend City funds or to direct City staff.
- III. **The Art in Public Places Committee:** an ad-hoc committee is appointed for each acquisition or related group of acquisitions to act in an advisory capacity to the Cultural Arts Commission. Their duties include reviewing proposals and works of art, and making recommendations on sites and acquisitions.

Membership Qualifications: The Art in Public Places Committee (APPC) is made up of five members, one (1) art professional, one (1) Cultural Arts Commissioner, one (1) community member at large, one (1) college art student and one (1) local business member.

Depending on the project, the Cultural Arts Commission may enlarge the committee, or change its composition as needed. It may include more than one arts professional if the project demands specific knowledge or skills such as in large architectural projects.

APPC Selection Process: A roster composed of qualified community members shall be maintained by City staff including resumes, areas of interest and education. For each project, the Cultural Arts Commission shall have authority to select committee members according to specific project needs to act in an advisory capacity.

Term of APPC: The APPC shall remain active until the project is completed. A new committee shall be selected from the roster for each new project.

**IV. Criteria or Standard of Excellence for Works of Art:** Each individual art work shall be evaluated by the following criteria as applicable:

A. Aesthetic Criteria:

1. Does it add to the attractiveness and /or usefulness of the site?
2. Does it provide comfort and amenity?
3. Does it promote communication among members of the community?
4. Does it stimulate curiosity and interest in the community's heritage?

B. Practical Criteria:

1. Are City funds needed for installation, and are they available?
2. Is the project appropriate for the intended site?
3. Will proper maintenance be feasible?
4. Will the art work withstand vandalism and can its design be altered either to deter vandalism or make the clean up of vandalism easier?

C. Memorials:

1. To what extent has the person, group, or event been commemorated in other locations in the metropolitan area?
2. Does a proposal for a tribute to a deceased person meet all aesthetic and practical criteria, and will "time" substantiate the memorial?
3. Does it commemorate an individual, group or event that has made a significant difference or contribution in the lives of the citizens of Manhattan Beach?
4. Does the location proposed add significance to the memorial?

**V. Initiation of Public Art Projects:** The Cultural Arts Commission alone shall be vested with the power to forward requests to the City Council. Projects may be initiated through requests made to the Cultural Arts Commission by the City Council, special interest groups and community members. The Cultural Arts Commission shall also have power to initiate proposals.

**VI. Implementation Process:** The Cultural Arts Commission, through City staff, makes recommendations to City Council and requests approval to begin the

implementation process. The Cultural Arts Commission identifies the site/s, scope of work and budget. Once approved by Council, staff works with Cultural Arts Commission to create a Request for Proposals (RFP). Selections are made in accordance with the criteria suggested and identified in the RFP.

- A. Acquisition and Selection: Art work may be acquired by direct selection, invitation, open competition or donation.
  - 1. Direct Selection: The Cultural Arts Commission may recommend acquisitions of an existing work to Council if it is in compliance with the Public Art Master Plan.
  - 2. Invitation: The Cultural Arts Commission may recommend a limited number of pre-approved artists if suited for a specific work. The selected artists are invited to prepare proposals for the project, and are paid according to the scope of work. The Cultural Arts Commission, with the assistance of the APPC, reviews the proposals and recommends acquisitions to Council.
  - 3. Open Competition: The Cultural Arts Commission and the APPC selection committees review proposals submitted by artists in response to the Request for Proposals (RFP) and advertisements. After reviewing the proposals, they may 1) recommend an artist's work for acquisition, or 2) recommend a limited number of artists (3-5) who are paid to develop more detailed proposals. If more detailed proposals are recommended, then the Cultural Arts Commission, with the assistance of the APPC, will review the developed proposals. Once selections have been made, the Cultural Arts Commission will prioritize the final selection and make written recommendations to the City Council.
  - 4. Donated Works: See section IV Public Art Donation Policy
- B. Request for Proposal Announcement: The RFP is to be widely publicized and may be sent to databases which include local artists, California artists and depending on the scope of work may be sent to international artists.
  - 1. Artists Database: A database of pre-approved artists shall be maintained by City staff and will be recommended to community members wishing to commission benches or other works of art commemorating the lives of community members.
  - 2. The database will be reviewed no less than once a year to maintain or add artist's resumes, slides, and designs of previous public works.
- C. The RFP announcement shall include the following:
  - 1. Project background
  - 2. Project description
  - 3. Site description
  - 4. Artist eligibility

5. Budget
6. Selection process
7. Timeline
8. Application submission requirements

D. Review of work: Once all proposals have been received and posted according to date and time received, proposals, including slides and visual representations of recent works, are reviewed by City staff, organized and prepared for the selection process. They are organized according to media, subject or site when applicable. Proposals not meeting criteria or RFP requirements and deadlines may be omitted.

Technical feasibility and maintenance acceptability are investigated by staff, in consultation with the departments responsible for the site and with the assistance of technical consultants if required

- E. APPC Selection Committee: The Cultural Arts Commission, along with the City staff, assigns schedules and coordinates the APPC selection committee. The APPC recommends no more than five choices for each acquisition and staff submits a written report on the recommendations to the Cultural Arts Commission.
- F. City Council Approval: Each acquisition must be approved by the City Council. Approval shall require a majority vote of a quorum present at a duly called meeting of the City Council.

Consideration: City Staff will coordinate and facilitate communication among the artist, the community, and the City Council.

Selection: Following City Council approval of an acquisition, City staff prepares and negotiates the contract for the purchase or commission of the art work. The contract is approved by the City Council and executed by the City Manager or his/her designee, the Director of Parks and Recreation, the Public Art Trust Administrator and noted by the City Clerk. Liaison between the artist or provider of the art work in the administration of the contract is provided by City staff. Dedication or unveiling of the work is coordinated with the Cultural Arts Commission, the City Council and by City staff.

**VII. Care and Maintenance of Art Work:** The City of Manhattan Beach is responsible for the care and maintenance of art work acquired under the City's Art in Public Places Program. A system providing for the care and maintenance of art in public places acquisitions will be developed and administered by Staff. The system will provide for location, documentation, condition monitoring, and repair or relocation of works. Consultants may be retained, as necessary, to design and implement the system.

**VIII. Public Information and Community Education:** Public information and education activities will be supported to bring the community and the artist commissioned to do public art works closer together. Activities may include informed discussions of art in public places and its history. Extensive efforts will be made to promote the Art in Public Places Program as a significant cultural resource to residents and visitors.

- A. Information on art projects, the artists involved, and progress on their work, will be disseminated regularly through press releases. The Cultural Arts Commission, with the assistance of staff, may from time to time provide opportunities for dialogue between artists and the public.
- B. The City staff will initiate and coordinate activities designed to stimulate public understanding of visual arts and awareness of art in public places in Manhattan Beach which may include:
  - 1. Conferences, symposia, and tours, special media programming, cooperative programs with educational and arts institutions and organizations
  - 2. Easily accessible Program information on Art in Public Places (printed materials web-site, etc.)
  - 3. Special activities coinciding with art work dedications and other events in the community

**IX. Documentation:**

- A. The art work selection, acquisition and installation process will be accurately recorded, and the construction or provenance of each work acquired fully documented.
- B. Recognition plaques and signage shall be discretely placed and planned to avoid conflicts. Thus, consistency in size, as related to "like" projects, shall be maintained. Information shall include:
  - 1. Title of Work
  - 2. Artists Name
  - 3. Date
  - 4. If the art project is commemorating an event or the life of an individual the plaque may say: "*Dedicated to John Doe 1935*"
- C. Monuments traditionally commemorate a significant event or individual, and are grand in scale. Thus, documentation commemorating the event with additional educational didactic information may be included as part of the work or may be on a separate bronze plaque, or other appropriate materials, at the site.

ORDINANCE NO. 2040

1  
2 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
3 MANHATTAN BEACH, CALIFORNIA, ADDING A NEW CHAPTER 10.90  
4 TO THE MANHATTAN BEACH MUNICIPAL CODE REGARDING  
5 DEVELOPMENT FEES FOR ART IN PUBLIC PLACES

6 THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES  
7 ORDAIN AS FOLLOWS:

8 SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- 9
- 10 A. Cultural and artistic resources enhance the quality of life for
  - 11 individuals living in, working in and visiting the City;
  - 12 B. Balanced development of cultural and artistic resources preserves
  - 13 and improves the quality of the urban environment and increases
  - 14 real property values;
  - 15 C. As development and revitalization of the real property within the
  - 16 City continues, the opportunity for creation of cultural and artistic
  - 17 resources is diminished;
  - 18 D. As these opportunities are diminished the need to develop
  - 19 alternative sources for cultural and artistic outlets to improve the
  - 20 environment, image and character of the community is increased;
  - 21 E. Development of cultural and artistic assets should be financed by
  - 22 those whose development and revitalization diminishes the
  - 23 availability of the community's resources for those opportunities
  - 24 and contributes to community urbanization;
  - 25 F. Establishment of an Art in Public Places program will promote the
  - 26 general welfare through balancing the community's physical
  - 27 growth and revitalization and its cultural and artistic resources.

SECTION 2. A new Chapter 10.90 is hereby added to Title 10 of the Manhattan Beach  
Municipal Code to read as follows:

**CHAPTER 10.90 DEVELOPMENT FEES**

**10.90.010 Fees or Allocations For Art In Public Places**

There is hereby imposed a fee for art in public places on every residential development of four or more units, and every commercial and industrial building project with a building valuation exceeding \$500,000 as determined by the Building Official. This fee shall also be imposed upon any remodeling project of existing commercial or industrial buildings and any residential building or complex of four or more units, whether exterior or interior, when the remodeling has a building valuation exceeding \$250,000 as determined by the Building Official.

**10.90.020 Calculation of Fee**

The fee imposed for Art in Public Places, as provided for in Section 10.90.010 above, shall be a percentage of the building cost which is set aside for the City's Art in Public Places Programs (as defined in the Public Art Master Plan) in an amount equal to one percent (1%) of the total building valuation for the project excluding land acquisition and off-site improvement expenses. The total building valuation shall be computed by the Building Official using the latest Building Valuation Data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the Building Official, a different valuation measure should be used.



#### **10.90.030 Satisfaction of Fee**

Any project to which the fee for Art in Public Places must be applied must satisfy the imposition of the fee by making a monetary payment. The applicant shall pay the 1% fee directly to the appropriate fund designated by the City Finance Director prior to the City issuing building permits.

#### **10.90.040 Ownership of Art Work**

All Art Work purchased or created with funds from the proceeds of fees collected hereunder shall become the property of the City upon acceptance by the City Council.

#### **10.90.050 Establishment of Public Arts Fund**

The City Finance Director shall reserve all fees paid hereunder within an appropriate fund designated specifically for said fees to account for any fees for Art in Public Places paid pursuant to this Chapter. This fund shall be maintained by the City Finance Director, and shall be allocated as follows:

Eighty (80)% of the Public Arts Fund shall be solely used for project cost. Approximately 20% shall be allocated to administration. (There is no required percentage.)

1. Project costs include fees for artists' design concepts, the selection, acquisition, purchase, commissioning, placement, installation, exhibition, and display of artworks.
2. Administration costs include project administration, artist-selection-related cost, architect fee when collaboration is involved, design, drawing, and maquette cost, community education, insurance, maintenance, curatorial services, identifying plaques, documentation, and publicity.

#### **10.90.060 Use of Funds**

Projects to be funded from the proceeds of fees collected hereunder shall consist of works of art placed in public places or incorporated into public buildings, art education programs or art display programs designated by the Cultural Arts Commission and approved or accepted by the City Council.

#### **10.90.070 Certificate of Occupancy**

No final City approval, such as building permits, final inspection or a certificate of occupancy, for any project subject to this Chapter shall be granted or issued unless and until full compliance with the Art in Public Places Program is achieved in accordance with the provisions of this Chapter. For purposes of this section "full compliance" shall not be found until the entire program allocation required by this Chapter has been satisfied.

#### **10.90.080 Return of Fees**

Fees paid into the City Art Fund which are not committed to a specific project within five (5) years from the date of actual receipt by the City shall be returned to the then current owner of the development project, with all interest actually earned thereon if a written request for return is filed with the City Clerk at any time during the sixth year after payment. The request for return shall be verified, and include the date of payment, the amount paid and method of payment, the location of the development for which the fee was paid, and a statement that the applicant is the current owner of the development project.

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SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

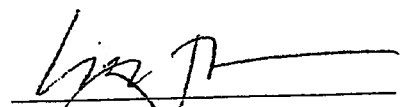
SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published as provided by law. The summary shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 19th day of November, 2002.

Ayes: Fahey, Aldinger, Wilson, Dougher and Mayor Napolitano.  
Noes: None.  
Absent: None.  
Abstain: None.

  
Mayor, City of Manhattan Beach

ATTEST:

  
City Clerk