

CITY OF PALM SPRINGS



Regular Meeting Agenda

MAY 7, 2026

5:30 PM

Large Conference Room

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92262

Palmspringsca.gov

PUBLIC ARTS COMMISSION

Gary Armstrong, Chair

Tina Gonsalves, Vice Chair

Michelle Loya

Jenan Cameranesi

Lauri Kibby

Natásia Gascón

Lilly Hanner

Jim Lande

Zoom Information:

[https://us02web.zoom.us/j/88437291620?pwd
_S1U5d3UwK2IkeUZ4amR1WEUzeGxrdz09](https://us02web.zoom.us/j/88437291620?pwd=_S1U5d3UwK2IkeUZ4amR1WEUzeGxrdz09)

Webinar ID: 884 3729 1620
Passcode: 582646

Mission Statement

Palm Springs is an inclusive world-class city dedicated to providing excellent and responsive public services to enhance the quality of life for current and future generations.

To view, listen to, or participate in the meeting live, please use the above Zoom Information link and passcode. Individuals wishing to provide public testimony regarding an item on the agenda are requested submit your public comment to the Public Arts Commission electronically by forwarding materials to jay.virata@palmspringsca.gov, or at the telephone number (760) 323-8228 by 5:00 PM before the start of the meeting. Any correspondence received after 5:00 PM will be distributed to the Public Arts Commission and retained for the official record.

View past Public Arts Commission meeting videos on the City's website <http://www.palmspringsca.gov/psectv>, or on YouTube.

- A. CALL TO ORDER:**
- B. ROLL CALL:**
- C. ACCEPTANCE OF AGENDA:**
- D. PUBLIC COMMENTS:** This time has been set aside for members of the public to address the Public Arts Commission on items of general interest within the subject matter jurisdiction of the Commission, and agenda items if the member of the public cannot be present later in the meeting at the time the item is heard by the Commission. Additionally, members of the public may address the Commission on each item listed on the posted agenda at the time each item is heard. Although the

Public Arts Commission values your comments, pursuant to the Brown Act, it generally cannot take any action on items not listed on the posted agenda. Three (3) minutes are assigned for each speaker.

E. REMARKS FROM THE CHAIR:

F. APPROVAL OF MINUTES: March 5, 2026, and April 2, 2026

G. ITEMS FOR DISCUSSION/APPROVAL:

1. Discuss Commemorative Collection and City Attorney revisions to proposed public art ordinance amendment.

H. PROJECT UPDATES:

1. Budget
2. Beautiful Shade
3. Art Maintenance/Inventory
4. The Art of Taming Horses

I. COMMISSIONER AGENDA REQUESTS AND COMMENTS:

J. REPORT FROM DIRECTOR/STAFF:

ADJOURNMENT: The Public Arts Commission will adjourn to a meeting on June 4, 2026, at 5:30 P.M. in the Large Conference Room of Palm Springs City Hall located at 3200 E. Tahquitz Canyon Way.

Pursuant to G.C. Section 54957.5(b)(2) the designated office for inspection of records in connection with the meeting is the Office of the City Clerk, City Hall, 3200 E. Tahquitz Canyon Way (760) 323-8204.

It is the intention of the City of Palm Springs to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, or in meetings on a regular basis, you will need special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the Office of the City Clerk, (760) 323-8204, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible.

AFFIDAVIT OF POSTING

I, JAY VIRATA, Housing & Community Development Director for the City of Palm Springs, California, certify this Agenda was posted at or before 4:30 p.m. on May 4, 2026, as required by established policies and procedures.

/s/ Jay Virata

Jay Virata, Director
Housing & Community
Development Department

Item F

PUBLIC ARTS COMMISSION
MEETING MINUTES
THURSDAY, MARCH 5, 2026
CITY OF PALM SPRINGS, CALIFORNIA
3200 E. TAHQUITZ CANYON WAY – LARGE CONFERENCE ROOM



A. CALL TO ORDER

The meeting of the Palm Springs Public Arts Commission was called to order by Chair Armstrong on Thursday, March 5, 2026, at 5:30 p.m.

B. ROLL CALL

PRESENT: Chair Gary Armstrong, Vice Chair Tina Gonsalves, Commissioners Natasia Gascon, Lilly Hanner, Jim Lande, Jenan Cameranesi, and Michelle Loya.

ABSENT: Commissioner Lauri Kibby was absent.

CITY STAFF: Director, Jay Virata

C. ACCEPTANCE OF AGENDA

MOTION BY COMMISSIONER LOYA, SECONDED BY COMMISSIONER CAMERANESI TO ACCEPT THE AGENDA, CARRIED 7-0.

D. PUBLIC COMMENTS

None.

E. REMARKS FROM THE CHAIR

None.

F. APPROVAL OF MINUTES

MOTION BY COMMISSIONER CAMERANESI, SECONDED BY COMMISSIONER LANDE, TO APPROVE THE MINUTES OF THE FEBRUARY 5, 2026, MEETING, CARRIED 7-0.

G. ITEMS FOR DISCUSSION/APPROVAL:

1. Discuss planning and coordination for World Art Day.

The Commission discussed directing the public to the Google Maps based Palm Springs art map, distributing post cards, and having a painting activity.

2. Discuss and approve categories and evaluation criteria for memorials.

The Commission reviewed draft criteria for the evaluation of memorials and commemorative art. Commissioners discussed how art may be categorized as having commemorative or cultural significance for Palm Springs, whether that significance should be for local, regional, national, or global events; or if the nominating group should be relied upon for proposing how the piece is significant.

MOTION TO PROVIDE DRAFT CRITERIA OF THE PUBLIC ART ORDINANCE AMENDMENT REGARDING THE COMMEMORATIVE COLLECTION TO THE CITY ATTORNEY FOR REVIEW, BY VICE CHAIR GONSALVES, SECONDED BY COMMISSIONER LANDE, CARRIED 7-0.

3. Discuss abstention and recusals.

The Chair affirmed City Council expects commission to vote. A written policy will be drafted for the Commission to review.

H. PROJECT UPDATES:

- Budget. It was reported that no substantial expenditures have been made since the last budget update.
- Artscape in the Parks. A meeting with the Artscape in the Parks artists will be held to plan installations for early April. With concrete pads scheduled for completion by the end of next week, all pieces will be ready for the World Art Day dedication on April 15, 2026.
- Beautiful Shade. Installation for the "Dragonfly" piece is tentatively scheduled for June 2026.
- Art Maintenance/Inventory. Commissioner Gascon and Vice Chair Gonsalves met with Geographic Information System (GIS) staff to review and provide feedback on the Public Arts GIS mapping system. The Commission would like to explore ways to use the GIS system to ensure proper maintenance for these assets.
- The Art of Taming Horses. City has completed initial review of easement agreement, and it is now with the County for their review. It was also reported that

the easement agreement impacts several projects around Tahquitz Creek which involve reviews by other departments.

I. COMMISSIONER AGENDA REQUESTS AND COMMENTS:

Commissioner Gascon reported that March 2026 is Riverside County Arts and Culture Month. Passport booklets were made available by the County and everyone is encouraged to get stamps at the various participating locations. Commissioner Gascon challenged other commissioners to see who could obtain the most stamps.

J. REPORT FROM DIRECTOR/STAFF:

Director Virata reported that the deaccessioning of Pinwheel will be considered by the City Council in April.

ADJOURNMENT:

THE MEETING WAS ADJOURNED AT 6:35 PM TO A MEETING ON APRIL 2, 2026, AT 5:30 PM IN THE LARGE CONFERENCE ROOM OF CITY HALL LOCATED AT 3200 E. TAHQUITZ CANYON WAY.

Respectfully submitted,

Jay Virata, Director
Housing & Community Development Department

PUBLIC ARTS COMMISSION
MEETING MINUTES
THURSDAY, APRIL 2, 2026
CITY OF PALM SPRINGS, CALIFORNIA
3200 E. TAHQUITZ CANYON WAY – LARGE CONFERENCE ROOM



A. CALL TO ORDER

The meeting of the Palm Springs Public Arts Commission was called to order by Chair Armstrong on Thursday, April 2, 2026, at 5:30 p.m.

B. ROLL CALL

PRESENT: Chair Gary Armstrong, Commissioners Natasia Gascon, Lilly Hanner, Jim Lande, and Jenan Cameranesi.

ABSENT: Vice Chair Gonsalves and Commissioners Kibby and Loya were absent.

CITY STAFF: Director, Jay Virata

C. ACCEPTANCE OF AGENDA

MOTION BY COMMISSIONER CAMERANESI, SECONDED BY COMMISSIONER LANDE TO ACCEPT THE AGENDA, CARRIED 5-0.

D. PUBLIC COMMENTS

David Haims, Palm Springs Resident: Expressed concern regarding the \$250,000 loan received from Measure J funds. He spoke against the proposal for \$100,000 in loan forgiveness.

E. REMARKS FROM THE CHAIR

None.

F. APPROVAL OF MINUTES

The minutes for the March 5, 2026, meeting were not yet completed.

MOTION BY COMMISSIONER LANDE, SECONDED BY COMMISSIONER HANNER TO STRIKE THE APPROVAL OF MINUTES FROM THE AGENDA, CARRIED 5-0.

G. ITEMS FOR DISCUSSION/APPROVAL:

1. Approve temporary Blue Zone funded SUPERBLOOM mural by artist Chris Ramirez on the Downtown South Parking Garage lightwell south facing wall, north facing wall, and west facing wall.

The Commission reviewed a proposal for a desert wildflower mural on the Downtown South Parking Garage walls. Artist Chris Ramirez and representatives from Blue Zones presented the design, which features the desert sand verbena, California poppy, and desert sunflower. The project is privately funded and includes a community painting component planned for October 2026.

MOTION TO APPROVE THE DESIGN FOR THE TEMPORARY BLUE ZONE FUNDED SUPERBLOOM MURAL BY ARTIST CHRIS RAMIREZ, BY COMMISSIONER GASCÓN, SECONDED BY COMMISSIONER HANNER, CARRIED 5-0.

2. Final review of interactive components and coordination with Parks and Recreation Department for World Art Day.

The Commission reviewed planned activities for World Art Day on April 11, including decorating cloth tote bags and making friendship bracelets. A postcard station was also discussed.

3. Discuss Artscape in Parks Dedication Ceremony and installation status.

Chair Armstrong announced the installation schedule for the Artscape in Parks sculptures. Spegody will be installed in Baristo Park on April 9; Shapes and Sizes will be installed in Desert Highland Park on April 12; Rover will be installed in Victoria Park on April 13; and Dancer #6 will be installed in Gateway Park on April 13. The dedication ceremony will take place on April 15 at City Hall at 10:00 a.m.

4. Discuss Commemorative Collection and City Attorney revisions to proposed public art ordinance amendment.

The Commission reviewed the City Attorney's revisions to the ordinance regarding commemorative art and meaningful public engagement. Commissioners discussed the requirement for "full funding" versus "substantial funding" for donated gifts. It was determined a special meeting would be required to review the extensive legal updates in depth.

5. Review proposed abstention and recusal language provided by City Attorney for legal issues.

The Commission discussed the draft policy affirming that members are expected to vote unless a legal recusal is necessary. The Chair noted that the City does not have an official abstention policy.

H. PROJECT UPDATES:

- Budget. It was reported that the Public Art Fund had an available balance of approximately \$135,000, noting that the maintenance budget will need to be increased once the new Artscape in Parks pieces are installed and to include Fossils of the Future in the cleaning and maintenance rotation.
- Beautiful Shade. The "Dragonfly" project remains on track to be installed in June.
- Art Maintenance/Inventory. Commissioner Gascón is continuing to update the public art map, including adding memorials and newly discovered documentation on pieces like the Kennedy bust.
- The Art of Taming Horses. Signed floodplain documentation is required before this project can move forward.

I. COMMISSIONER AGENDA REQUESTS AND COMMENTS:

Commissioner Gascón reported that Riverside County Arts and Culture Month was a success. Chair Armstrong noted that the final two pieces for Creature Alley are expected to be installed in early May 2026.

J. REPORT FROM DIRECTOR/STAFF:

Director Virata noted that the Engineering Department will seek the Public Art Commission's concurrence for the images featured on the East Palm Canyon Bridge. Additionally, airport staff have requested that the artwork Crushing Inertia currently displayed at the airport be returned to the Commission.

ADJOURNMENT:

MOTION BY COMMISSIONER CAMERANESI, SECOND BY COMMISSIONER HANNER, TO ADJOURN THE MEETING AT 7:15 PM TO A MEETING ON MAY 7, 2026, AT 5:30 PM IN THE LARGE CONFERENCE ROOM OF CITY HALL LOCATED AT 3200 E. TAHQUITZ CANYON WAY WITH THE POSSIBILITY OF A SPECIAL MEETING SCHEDULED SOONER TO DISCUSS ORDINANCE REVISIONS,

Respectfully submitted,

Jay Virata, Director
Housing & Community Development Department

Item G

Ordinance Update

Background

Currently, PSMC 3.37.130 allows developers to request refunds of in-lieu fees after installing approved on-site artwork but lacks a temporal limit for these requests. This omission creates several challenges:

- **Financial Liability:** It ties up Public Arts Fund resources indefinitely, as the city must hold these funds in reserve for potential future claims.
- **Fiscal Planning:** It complicates long-term fiscal planning and budgeting for public art programming.
- **Regulatory Alignment:** It conflicts with the spirit of the California Mitigation Fee Act (Gov. Code § 66001), which emphasizes timely and accountable fee usage.

Benchmarking: Municipal Precedents

Other California municipalities have addressed similar issues by implementing strict deadlines to ensure fiscal certainty:

- **Baldwin Park:** Provides a one-year window after the construction permit is issued for developers to finalize their compliance method before deposits become non-refundable.
- **Downey:** Mandates that artwork must be installed within six months of final building inspection, or the cash deposit is forfeited to the city's art account.

Amendment Language to Consider

City attorney had suggested considering the following revision to PSMC 3.37.130:

(d) **Submission Deadline:** No request for reimbursement shall be accepted more than **one (1) year** after the date of issuance of the certificate of occupancy (or final building inspection approval if no certificate of occupancy is required). Requests submitted after this deadline shall be denied.



Jill Tremblay
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Memorandum

ATTORNEY WORK PRODUCT

To: Palm Springs Public Arts Commission, Ordinance Review Subcommittee
Jay Virata, Director, Housing & Community Development

From: Jill Tremblay

Date: November 7, 2025

Re: Recommendations for Improvements to the Palm Springs Public Art Ordinance
(Chapter 3.37 of the Palm Springs Municipal Code)

INTRODUCTION AND QUESTIONS PRESENTED

This memorandum provides an analysis of potential improvements to the Palm Springs Public Art Ordinance (the “Ordinance”), codified at Chapter 3.37 of the Palm Springs Municipal Code.

The analysis addresses questions and discussions raised by the Commission, including: (1) updating the current PSMC Chapter 3.37; (2) implementing a sunset date for developer requests for refunds or reimbursements; (3) limiting reimbursements to 85-90% of the art fee, with the remainder allocated to general maintenance; (4) increasing the program allocation fee from 0.5% to 1%; (5) requiring City Council approval for art acquisitions and maintenance expenditures; (6) resolving the “double payment” issue for developers who pay in-lieu fees upfront and then seek reimbursement after installing art; (7) donation and deaccession policies; and (8) defining “temporary art” (suggested as between six months and 18 months).

In addition to these targeted areas, this memorandum identifies broader suggestions for the Ordinance based on best practices from prominent California public art programs (e.g., San Francisco, Los Angeles, San Diego, Oakland, Sacramento, San Jose, Culver City, and Richmond) and ensures alignment with relevant California state laws, such as the California Art Preservation Act (Civ. Code §§ 987-989), the Mitigation Fee Act (Gov. Code §§ 66000 et seq.), and precedents like *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

The Ordinance generally complies with state law, as it establishes a reasonable nexus between development fees and cultural impacts (per *Ehrlich*), incorporates exemptions for

affordable housing (consistent with Health & Safety Code § 50093), and supports artist rights through maintenance requirements. However, enhancements could strengthen legal safeguards and improve administrative efficiency.

ANALYSIS

A. Addressing Public Arts Commission Ordinance Subcommittee Questions

1. How is PSMC Chapter 3.37 Outdated?

Chapter 3.37 of the Palm Springs Municipal Code is largely unchanged since its adoption in 1994, with only minor amendments in 2008 and 2014.

Several specific elements render the chapter outdated. First, Section 3.37.070(d) references the “International Conference of Building Officials (ICBO)” for building valuation data, an organization that merged in 1994 to form the International Code Council (ICC), which now publishes the relevant semiannual Building Valuation Data (BVD)—ICBO ceased independent operations by 2003. Second, the chapter uses outdated gendered language like “his or her” throughout (e.g., §§ 3.37.070(a), 3.37.080(a)), which modern codes replace with gender-neutral terms such as “their” or “the applicant” per California Legislative Counsel style guides. Third, references to the “Department of Planning and Zoning” in Sections 3.37.090(d), 3.37.110, and 3.37.120 are obsolete, as the city now uses “Planning Services” under Community Development. Fourth, cross-references to “Section 9404.00 of the zoning ordinance” in Section 3.37.090(d) and 3.37.120(a) appear to be outdated or misprinted.

As noted above the current Chapter 3.37 is generally compliant with California law. It is consistent with core nexus standards under *Ehrlich*, artist protections under the California Art Preservation Act (CAPA), affordable housing exemptions, and Brown Act transparency, so I do not see any major issues.

2. Sunset Date for Refund/Reimbursement Requests

The current PSMC§ 3.37.130 permits developers to request refunds of in-lieu fees after installing and gaining approval for on-site artwork, but it does not impose any temporal limitation on such requests. This omission could result in prolonged administrative uncertainty, tying up Public Arts Fund resources indefinitely and complicating fiscal planning. Implementing a sunset date would promote timely project completion and align with principles of administrative efficiency under California law, such as those implied in the Mitigation Fee Act’s emphasis on accountable fee usage (Gov. Code § 66001). Best practices from programs in Oakland and Culver City, which incorporate similar deadlines to prevent abuse, support a one-year limit from the certificate of occupancy issuance, with provisions for extensions to ensure due process and avoid arbitrary denials that might violate equal protection under the California Constitution (Art. I, § 7).

Recommendation: The Commission should consider adopting a one-year deadline, extendable for good cause, to balance developer rights with program integrity. This approach complies with *Ehrlich* by maintaining the fee’s nexus to actual cultural contributions without undue burdens.

Sample Language (Amend § 3.37.130):

“Requests for reimbursement pursuant to this section must be submitted in writing to the arts administrator no later than one (1) year from the date of issuance of the certificate of occupancy for the project. The Commission may grant a one-time extension of up to six (6) months upon a showing of good cause, such as documented delays in artwork installation due to factors beyond the applicant’s control. Failure to submit a timely request shall result in forfeiture of the reimbursement.”

3. Limiting Reimbursements to 85-90% of Art Fee, with Remainder for General Maintenance

Under the existing framework, Section 3.37.130 allows full reimbursements without reserving funds for maintenance, which could deplete resources needed for long-term artwork preservation and contravene CAPA’s mandate to prevent gross negligence in conservation (Civ. Code § 987). Programs in San Francisco and Los Angeles allocate 10-20% of fees to maintenance endowments to ensure sustainability and reduce liability risks. Capping reimbursements at 85-90% would dedicate the balance to maintenance, strengthening the Ordinance’s compliance with state law by fulfilling the nexus requirement through direct support for ongoing cultural benefits (*Ehrlich, supra*).

Recommendation: The City could cap reimbursements at 90% to fund maintenance, thereby enhancing fiscal responsibility and artist protections under CAPA.

Sample Language (Add to § 3.37.130 as subsection (b)):

“(b) Reimbursements under this section shall not exceed ninety percent (90%) of the in-lieu fee paid. The remaining amount shall be retained in the Public Arts Fund and dedicated exclusively to the maintenance endowment sub-fund for the general maintenance, repair, and conservation of artworks in the city’s collection, in accordance with Section 3.37.040(c).”

4. Increasing Fee from 0.5% to 1%

The Ordinance’s current allocation rates of 0.5% for commercial/industrial projects and 0.25% for residential developments (§ 3.37.070(d)) fall below prevailing standards in California (e.g., 1-2% in San Diego and San Francisco), potentially undermining the program’s ability to counterbalance development’s cultural impacts as articulated in Section 3.37.010(b). An increase would bolster fund revenues without violating the Mitigation Fee Act, provided the nexus findings are updated to reflect heightened contributions to community welfare (Gov. Code § 66001; *Ehrlich*).

Recommendation: The Commission could raise rates to 1% for commercial/industrial and 0.5% for residential.

Sample Language (Amend § 3.37.070(d)):

“(d) The program allocation shall be:

- (1) One percent (1%) for new commercial and industrial construction;
- (2) One percent (1%) for remodel or reconstruction of existing commercial or industrial property;
- (3) One-half of one percent (0.5%) for new residential subdivisions or developments of two or more units;
- (4) One-half of one percent (0.5%) for new individual single-family residential units... for that portion exceeding one hundred thousand dollars (\$100,000).”

Another approach would be to make the percentage increases gradual over time. For example, the commercial and industrial construction contribution could be set at 0.75% for a year or two.

5. Requiring Tiered Approvals for Expenditures and Artistic Changes

Best practices from California programs (e.g., San Luis Obispo, Livermore, Palo Alto) resolve this issue through City Council-approved policies/guidelines that delegate routine authority to the Commission and City Manager, reserving Council for high-value expenditures (> \$50,000) or “substantial artistic changes” (e.g., dramatic alterations to vision, scale, or medium, even if cost-neutral). Minor revisions (e.g., change in material without impacting look/price) or nominal overruns (<10% or \$5K) can be approved by the Commission/City Manager per policy.

Recommendation: Adopt tiered approvals via new § 3.37.____ (Policies) and amended § 3.37.040(c). Council approves initial Policies by resolution (e.g., artist criteria, change thresholds, 10% overrun cap), granting some discretion to the City Manager or designee without repeated City Council review.

Sample Language (Amend § 3.37.040(c) as subsection (2)):

“(2) Tiered Approval Authority

(i) The City Manager may approve expenditures up to fifty thousand dollars (\$50,000) per item/project.

(ii) Expenditures exceeding fifty thousand dollars (\$50,000) for any single artwork acquisition, installation, substantial artistic change, or maintenance project shall require City Council approval, following Commission recommendation. “Substantial artistic change” means a revision that significantly alters the approved artwork’s artistic vision, scale, medium, or public presentation, as defined in the City Council-approved Public Art Policies and Guidelines (per § 3.37.____).

(iii) Minor revisions to artwork (e.g., nominal material substitutions not affecting aesthetics, price, or scale) or overruns up to ten percent (10%) or five thousand dollars (\$5,000) (whichever is less) may be approved by the City Manager per § 3.37.____.

Broader Improvements – NEW: Public Art Policies and Guidelines

To enable the above delegation, add a new section empowering City Council to approve comprehensive Policies via resolution—standard in CA programs. This can avoid per-item Council votes.

Recommendation:

New § 3.37.____ – Council sets policy framework; Commission executes.

Sample Language (Add new § 3.37.____):

“§ 3.37.____ Public Art Policies and Guidelines.

(a) The City Council shall approve, by resolution, Public Art Policies and Guidelines for administering this Chapter.

(b) The City Manager shall exercise decision-making authority pursuant to such Council-approved Policies and Guidelines, subject to annual review and Council amendment.

(c) Policies shall be posted on the City website and provided to applicants.”

6. Avoiding “Double Payment” for Developers

Developers face potential double payments by remitting in-lieu fees upfront (§ 3.37.070(c)) before reimbursements post-installation (§ 3.37.130), which creates cash flow problem. California cities deal with this in a number of ways. For example:

- Berkeley’s approach uses tiered rates with a small upfront administrative fee to eliminate reimbursement hassles entirely. Developers opting for on-site artwork pay only a modest 5% administrative fee before receiving their building permit—this amount fully credits toward the total 1.75% public art requirement. Once the artwork is installed and approved, the project achieves full compliance without any further payments or refund requests.
- Los Angeles employs a pre-permit agreement combined with collateral for developer-led projects under its 1% Art and Design Fee (ADF) program. At the permitting stage, developers select on-site art and enter an advance agreement with the Department of Cultural Affairs (DCA), posting financial collateral such as a letter of credit (LOC) or certificate of deposit (CD) equal to the fee amount—no cash fee is paid upfront. Upon project completion, artwork installation, and Commission approval (typically at certificate of occupancy), the collateral is fully released.
- Los Angeles County’s Public Art Program for Developments (PAPD, 1% fee) relies on a security deposit or escrow mechanism. Developers submit an early Art Plan during permitting; upon approval, they post a security deposit equivalent to 1% of the project valuation (e.g., via LOC or CD) held by the county—no upfront cash fee required. After obtaining the certificate

of occupancy and final artwork approval, the full security is released. If only partial artwork is completed, developers pay the difference in cash.

- San Francisco’s method focuses on credits and proportional offsets to defer fees based on verified artwork value. Before or at permitting, developers propose on-site art; if the appraised value (acquisition plus installation) meets or exceeds the 1% fee, it’s credited fully against the obligation, with any shortfall paid in cash at certificate of occupancy. Full fees are deferred pending independent verification to avoid upfront payment for qualifying projects.

Recommendation: LA County’s escrow or Berkeley’s tiered admin fee would probably be the most straightforward.

Sample language like LA County:

Add new § 3.37. ____ : Collateral Agreement for On-Site Artwork.

“§ 3.37. ____ Collateral Agreement Option.

(a) In lieu of paying the program allocation fee under § 3.37.070(c), an applicant may elect on-site artwork by entering a Collateral Agreement with the Arts Administrator prior to building permit issuance.

(b) The Collateral Agreement shall require the applicant to post collateral in the full amount of the program allocation, in the form of:

(1) An irrevocable letter of credit (LOC) from a California bank, drawable by the City upon default; or

(2) A certificate of deposit (CD) assigned to the City.

(c) No cash fee shall be collected under this option.

(d) Upon issuance of certificate of occupancy, installation of approved artwork, and final Commission acceptance:

(1) The collateral shall be fully released to the applicant within thirty (30) days; and

(2) The project shall be deemed in full compliance.

(e) Default: If artwork is not installed/approved by the sunset date in the Agreement (one year post-CO, extendable), the City may draw the full collateral amount into the Public Arts Fund.

(f) The Arts Administrator shall develop a standard Collateral Agreement form, approved by the City Attorney.”

Amend § 3.37.070(c):

Insert: “Alternatively, applicants may comply via a Collateral Agreement under Section 3.37._____.”

Amend § 3.37.060(a): Insert after (4):

“(5) A fully executed Collateral Agreement under Section 3.37._____ with posted collateral.”

Amend § 3.37.130(b):

“Reimbursements under this section are not available for projects using the Collateral Agreement option.”

Sample language like Berkeley:

Amend § 3.37.070 as follows:

“(c) Collection Timing and Admin Fee Option

Fees are to be collected with respect to all projects prior to issuance of a building permit, except:

(1) For applicants electing on-site artwork under subsection (e), only an administrative fee equal to five percent (5%) of the program allocation shall be collected prior to building permit issuance. This administrative fee shall be fully credited toward the program allocation upon final Commission approval of the installed artwork.

(2) In the case of residential developments of more than one dwelling unit, the administrative fee shall be collected on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first.

...

(e) On-Site Artwork Compliance – Tiered Payment.

Applicants electing to install and maintain on-site artwork valued at one hundred percent (100%) or more of the program allocation shall achieve full compliance upon: (1) payment of the administrative fee under subsection (c); (2) Commission approval of the artwork plan prior to permit issuance; and (3) installation, final inspection, and Commission acceptance post-certificate of occupancy. No additional fees or reimbursements shall be required.”

Amend § 3.37.060(a) (Certificates of Occupancy):

Insert after (4): “(5) A fully executed On-Site Artwork Agreement and payment of the administrative fee under Section 3.37.070(e).”

Amend § 3.37.130 (Repeal/Obsolete)

7. Deaccession and Donations.

Incorporating sections on deaccession and donations into the Ordinance would provide clear, standardized procedures for managing the City's public art collection, ensuring compliance with VARA/CAPA by obtaining waivers from artists. This would minimize legal risks, such as liability for unauthorized removal or alteration of artworks, while promoting fiscal responsibility by allowing the City to reinvest proceeds from deaccessioned works into new acquisitions or maintenance. Formal policies would also enhance transparency under the Brown Act, foster public trust, and align with best practices for sustainable art programs by addressing obsolescence, hazards, or evolving community needs.

Recommendation: Include provisions in the ordinance regarding donations and deaccessioning.

Sample Language:

"3.37. _____ Donations.

A. All proposed donations shall be reviewed by the City Manager for initial qualification and presented to the Commission

B. The Commission shall approve routine donations. High-profile donations shall be recommended by the Commission to the City Council for final approval.

C. Approved donations shall be added to the Public Art Collection and subject to all provisions of this Chapter and the City Council-approved Public Art Policies and Guidelines."

"3.37. _____ Deaccessioning and relocation.

The City may remove, relocate, or deaccession any work of art that becomes damaged, obsolete, hazardous, or inconsistent with program objectives. Deaccessioning and relocation of high-profile works of art shall occur only after review by the Board and approval by the City Council consistent with City Council-approved Public Art Policies and Guidelines."

I would suggest that we define "high profile," but we could include that definition in the Policy.

A sample definition could include criteria such as:

- Artworks valued at or exceeding \$50,000 (aligned with the tiered approval threshold);
- Those located in prominent public spaces (e.g., civic centers, major parks, or gateways);
- Pieces by nationally or internationally recognized artists; or
- Artworks likely to generate significant public interest based on scale, theme, or medium.

8. Definition of Temporary Art

The Ordinance mentions “temporary” artworks in § 3.37.040(c) without definition, inviting interpretive disputes that could lead to inconsistent application or CAPA violations if short-term pieces are inadequately preserved. Defining a 6-18 month range, as in San Francisco’s rotational programs, provides clarity and flexibility.

Recommendation: The Commission should add a precise definition to support innovative programming.

Sample Language (Amend § 3.37.030):

“‘Temporary artwork’ means any installation, display, or performance intended for public viewing with a defined duration of not less than six (6) months and not more than eighteen (18) months, after which it may be removed, extended, or converted to permanent status with Commission approval. Temporary artworks shall be subject to simplified maintenance requirements as determined by the Commission.”

B. Broader Improvements to the Ordinance

1. Improving Community Engagement and Accessibility

The Ordinance’s provisions in § 3.37.080 set minimum public access standards for artwork placements, such as 18 hours per day for outdoor private property art, but they do not require proactive community engagement mechanisms like workshops or surveys, which could limit public input, potentially leading to claims of insufficient public participation in decisions affecting community resources. From a legal perspective, enhanced engagement could strengthen the Ordinance’s defensibility under First Amendment principles by ensuring viewpoint-neutral processes and fostering inclusive expression, while also supporting the cultural equity goals implicit in state arts statutes (Gov. Code § 8753). Other cities offer valuable models: San Diego’s Council Policy 900-11 (updated to promote cultural heritage) mandates community workshops for neighborhood-specific art, as seen in their Creative City plan adopted in 2025, which involved over 1,800 participants to enhance dialogue and equity; Los Angeles’ Public Art Policy (per Board of Recreation and Parks Commissioners, 1995, updated 2024) emphasizes community building through engagement in park-based art, integrating public input into selections; and Sacramento’s Arts, Culture, and Creative Economy Commission Ordinance (No. 2024-0035) requires awareness-building in the community, with updates to evaluate progress against equity plans like the Creative Edge initiative. Oakland’s program further promotes education and outreach to expand public awareness of the arts process. By adopting similar requirements, the Ordinance can improve accessibility and community buy-in, reducing legal risks associated with exclusionary practices.

Recommendation: The Ordinance could require workshops and enhanced access to foster inclusive participation. Workshops could only be required for “high-profile” or City-funded artworks exceeding a threshold (e.g. \$50,000), with surveys or online feedback used for smaller projects to balance engagement with efficiency.

Sample Language (Add to § 3.37.080 as subsection (c)):

“(c) For all artworks, the Commission shall solicit community input through public workshops or surveys. Artworks must be accessible to the public at least twenty-four (24) hours per day for outdoor placements, or integrate digital access options (e.g., virtual tours).”

Alternatively, the City could include public workshop parameters within its Guidelines and Policy document.

2. Adding Flexible Compliance Options

Compliance under § 3.37.070 is largely limited to on-site artwork or in-lieu fees, without alternatives such as contributions to cultural programming or partnerships, which could restrict developer flexibility and may deter participation. Legally, broadening options would reinforce the fee nexus by allowing tailored contributions that directly address urbanization impacts (Gov. Code § 66001), while aligning with state encouragement for innovative arts initiatives. Some programs provide precedents: Los Angeles’ Ordinance offers credits against arts fees for cultural facilities or amenities, enabling partial satisfaction through community events; Culver City’s program allows alternatives like donations to local museums; and Sacramento permits contributions to art education and creative economy programs. Incorporating such flexibility could make the Ordinance more adaptable and legally robust.

Recommendation: The City could consider permitting partial credits for related contributions to expand compliance pathways.

Sample Language (Amend § 3.37.070(a)):

“(a) ... Obligations may also be satisfied through contributions to art education programs, cultural events, or partnerships with local museums, valued at up to fifty percent (50%) of the allocation, subject to Commission recommendation and City Council approval.”

The remaining 50% of the fee could be satisfied through on-site artwork, in-lieu fees, or a combination to ensure that the full allocation supports cultural benefits while providing flexibility.

3. Incorporating Legal Safeguards and Reporting

Although § 3.37.040 requires accounting for the Public Arts Fund, the Ordinance does not mandate annual audits which could lead to transparency deficits under the Brown Act. Legally, adding these elements would enhance fiduciary accountability. Other ordinances exemplify safeguards: San Francisco’s policies include annual reports with equity metrics and compliance with non-discrimination ordinances; Los Angeles’ Civic Art Program requires audits and integrates legal references in its guidelines; and Oakland’s Ordinance mandates plans for administration and maintenance with public reporting. Sacramento’s updates emphasize evaluation against creative plans. By mandating audits, the Ordinance can improve oversight and legal compliance.

Recommendation: The Commission could add audit requirements to promote transparency.

Sample Language (Add to § 3.37.040(b)):

“(b) ... The Fund shall be subject to annual independent audits, with reports presented to the City Council.”

CONCLUSION

The proposed amendments to Chapter 3.37 will modernize the Ordinance, enhance administrative efficiency, and align with best practices seen in other jurisdictions. Please provide feedback and I will work to finalize a draft of the ordinance.

Chapter 3.37 Public Arts Fee, Fund and Program

§ 3.37.010 Purpose.

(a) The purpose of the Palm Springs public arts program is to develop and maintain a ~~high-quality~~ visual arts program for the residents and visitors of Palm Springs, to ~~support~~~~add to~~ the economic ~~vitality~~~~ability~~ of the community, and to enhance the environment and unique character of Palm Springs by ~~acquiring, installing, and maintaining excellent~~~~providing for the acquisition and maintenance of quality~~ works of public art.

(b) The city council finds and declares as follows:

(1) Cultural and artistic resources enhance the quality of life for individuals living in, working in, and visiting the city.

(2) Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values.

(3) As development and revitalization of the real property within the city continues, ~~the~~ opportunity for creating ~~en~~~~of~~ cultural and artistic resources is diminished.

(4) ~~As~~ this development and revitalization, ~~driven by market forces, contribute to increasing~~~~continue as a result of market forces~~, urbanization of the community ~~results~~.

(5) As these opportunities are diminished and this urbanization occurs, the need ~~for~~~~to~~ develop alternative sources for cultural and artistic ~~outlets~~~~expression~~ to improve the environment, image, and character of the community ~~is increased~~~~grows~~.

(6) Development of cultural and artistic assets should be financed by those whose development and revitalization diminish ~~such~~~~the availability of the community's resources for these~~ opportunities and contribute to ~~community~~~~this~~ urbanization.

(7) ~~The~~ establishment of this public arts program ~~balances~~~~will promote the general welfare through balancing~~ the community's physical growth and revitalization ~~with~~~~and~~ its cultural and artistic resources.

(8) ~~It is the purpose of~~ this chapter ~~to~~ ~~modernizes~~~~modify~~, clarifies, and codifies ~~the~~ city's existing public arts program.

§ 3.37.020 Program execution.

The Palm Springs ~~P~~ublic ~~A~~rts ~~C~~ommission shall ~~carry out~~~~administer~~ the duties established by this chapter.

§ 3.37.030 Definitions.

For the purpose of this chapter:

“Arts administrator” means the staff person hired-designated by the city to administer the public arts program. The arts administrator’s salary and other-related compensation-of-the-arts administrator may be paid from the public arts fund to the extent thesuch person-is performing the duties prescribed-hereinunder this chapter.

“Artwork” means an original tangible creation in any visual medium, including but not limited to painting, sculpture, mosaic, photography, printmaking, drawing, craft, fiber art, glass art, ceramic art, video or digital installation, and site-specific work, that is produced by a professional artist and possesses recognized aesthetic qualities. “Artwork” does not include: (i) works that are solely functional, structural, or utilitarian, except where an artist has been commissioned to integrate aesthetic elements as an integral part of the work; (ii) mass-produced objects or unlimited editions; (iii) reproductions of original works, except limited editions of no more than twenty-five numbered and signed copies; (iv) works produced by students under supervision to satisfy course requirements; or (v) architectural rehabilitation or historical preservation work.

“Building valuation” means the total estimated cost of constructing or remodeling a structure, as determined by the building official using the most current building valuation data published by the International Code Council or a more accurate valuation method as determined by the building official, and excluding: (i) the value of land acquisition; (ii) off-site improvements; and (iii) the value added by installation of a solar energy system.

“Commemorative work” means any work, marker, or structure that is designed primarily to honor, memorialize, or recognize an individual, group, event, or social movement of significance to the history or culture of the City of Palm Springs, and that has been included in the Commemorative Collection pursuant to this chapter.

“Commission” means the Palm Springs Ppublic Aarts Ccommission.

“Department” means the City of Palm Springs Department of Planning Services.

“Director of Finance & Treasurer” means the City of Palm Springs Director of Finance & Treasurer or their designee.

“Local or regional significance” means that the individual, group, event, or social movement proposed for commemoration had a demonstrable and documented connection to, or impact on, the City of Palm Springs or the greater Coachella Valley, as evidenced by historical records, scholarly sources, or contemporaneous documentation.

“Meaningful public engagement” means a documented outreach process conducted by the proposing party prior to submission of a commemorative work proposal, which shall include at a minimum: (i) at least one public meeting or forum open to residents of the neighborhood in which the proposed site is located; and (ii) written evidence of support, as defined in this section, from at least one community-based organization with a demonstrated connection to the subject of the proposed commemorative work and from the neighborhood association nearest the proposed site, if one exists.

“Off-site improvements” means improvements to public or private infrastructure located outside the boundaries of the project site that are required as a condition of project approval, including but not limited to street widening, curb and gutter installation, utility extensions, sidewalks, traffic signals, and dedications of right-of-way or easements.

“One-of-a-kind” means an artwork that is unique and has not been duplicated in substantially the same form, material, or composition by the same artist. An artwork is not one-of-a-kind if it is a reproduction, a copy, or a cast or print from an edition of more than one, except that a limited edition of no more than twenty-five numbered and signed copies may qualify if the Commission determines that the work otherwise meets the criteria of this chapter.

“Public arts fund” means ~~the~~ a separate fund and account ~~which is~~ established to receive monies collected for the ~~designated~~ purposes of the public arts program.

“Public arts program” means the program adopted by the city council pursuant to this chapter.

“Significant revision” means, for purposes of Section 3.37.120(b), a change to a project’s architecture, design, or site layout that: (i) materially alters the location, orientation, scale, or visibility of approved artwork; (ii) changes the materials, dimensions, or structural support of the approved artwork or its mounting; or (iii) materially alters the relationship between the approved artwork and the surrounding architecture or landscape in a manner that affects the aesthetic integration of the artwork with the project as approved by the Commission.

“Solar energy system” means a system ~~installed as~~ which is an accessory use ~~on~~ added to any residential, commercial, industrial, or public structure, ~~for the purpose of providing solar energy~~ to generate onsite electric power, heating, cooling, or water heating using solar energy.

“Support” means, for purposes of Section 3.37.170(d)(2)(B), a written statement, resolution, or formal endorsement from an authorized representative of the relevant organization affirming the organization’s approval of the proposed commemorative work and its proposed site, which shall be dated no more than twelve months prior to submission of the proposal.

§ 3.37.040 Public arts fund.

(a) ~~Creation~~ Establishment.

There is established a public arts fund. ~~A~~ into which shall be deposited all funds collected under this chapter, ~~plus~~ of the Palm Springs Municipal Code and such ~~any~~ other funds as may be appropriated by the city council or donated ~~for use in connection to the city for expenditures in conjunction~~ with the public arts program, shall be deposited into this fund.

(b) Accounting.

This fund shall be maintained by the ~~Director of Finance & Treasurer~~ city treasurer, with accounting records ~~sufficient~~ established to sufficiently identify and control these funds. Expenditures shall be processed through the city’s established warrant payment procedure.

(c) Use of Fund.

The funds shall be used ~~exclusively~~solely for the permanent or temporary acquisition, installation, improvement, display, maintenance, and insurance of artwork ~~to be~~ displayed in the city and ~~for the~~ administration of the public arts program.

(d) Permissible Expenditures. Permissible expenditures include, without limitation:

(1) ~~The costs~~ of artwork, ~~and~~ its installation, and maintenance;

(2) ~~The costs~~ toof purchase or lease ~~sites for~~ art ~~sites~~;

(3) Contributions to local art museums subject to ~~an agreement providing negotiated benefits~~ for Palm Springs residents as determined by the city;

(4) Waterworks, landscaping, lighting, signage, and other ~~elements~~objects which are commissioned from an artist as an integral ~~part~~aspect of a structure or site, or ~~which are~~ necessary for ~~the proper~~ aesthetic presentation and structural placement of artwork;

(5) Frames, mats, pedestals, and other ~~objects~~items which are necessary for ~~the~~ proper presentation of the artwork;

(6) ~~Expenditures~~Costs for maintenance and repair of artworks;

(7) Administrative expenses, including legal costs, to ~~otherwise~~ implement, ~~enforce, uphold,~~ or carry out ~~any~~ provisions of this chapter.

(e) Ineligible Expenditures. Ineligible expenditures include:

(1) Reproductions of original work, ~~except~~ limited editions;

(2) Unlimited editions of original work;

(3) Mass-produced art objects;

(4) Works that are ~~solely~~ decorative, ornamental, or functional landscape or architectural elements, ~~except~~ when commissioned from an artist as an integral ~~aspect~~part of a structure or site;

(5) Architectural rehabilitation or historical preservation of buildings.

(f) Endowments.

The public arts fund ~~may receive~~ shall also be used as a depository for endowments, bequests, grants, or donations. ~~Subject to commission approval, sSuch funds~~endowments, bequests, grants or donations may be expended as set forth in subsections (c) and (d) of this section and ~~when approved by the commission~~for:

(1) Art exhibitions or displays;

(2) Promotion of art education ~~within~~ the community, either independently or in partnership separate from or complementary to art programs ofwith schools, museums, or other nonprofit organizations.

(g) Replacement.

For ~~those~~ artworks ~~that have been~~ purchased with ~~monies from the~~ public arts fund ~~monies~~ or donated to the city, the city council may ~~determine to sell~~authorize the sale or exchange of existing artworks for replacement artworks. ~~Proceeds from a~~Any ~~funds obtained from the sale of artwork~~ shall be credited to the public arts fund.

§ 3.37.050 Projects subject to public arts program requirements.

(a) ~~Requirements~~Applicability.

Except as provided in subsection (b) of this section, ~~the requirements of~~ this chapter ~~shall~~ apply to all ~~works of~~ construction and rehabilitation projects for which are requiring a building permit ~~is required~~, including but not limited to:

(1) New commercial and industrial construction;

(2) Remodeling or reconstruction of existing commercial or industrial property;

(3) New residential subdivisions or developments ~~containing~~of two or more units, whether ~~by~~ detached single-family ~~dwellings~~residential structures, condominiums, apartments, duplexes, townhouses, or other dwelling ~~types~~ units being built~~developed~~ in the same tract by the same owner or developer;

(4) New individual single-family residential units ~~constructed~~built on a lot ~~located~~ in an existing subdivision, ~~where~~ ~~the~~whose building permit valuation ~~is exceed~~over one hundred thousand dollars (\$100,000).

(b) ~~Exemption~~exceptions.

~~The requirements of~~ this chapter ~~do~~shall not apply to ~~the following~~ activities:

(1) Public projects ~~undertaken~~ by ~~any agency of~~ the city, the state, county, school district, or ~~any~~ other governmental entity;

(2) Remodeling, repair, or reconstruction ~~required of~~structures to comply with earthquake seismic safety code standards ~~or which have been damaged~~or to repair damage by fire, flood, wind, earthquake, or other calamity;

(3) Remodeling, repair, or reconstruction of residential units not otherwise subject under subsection (a) of this Section;

(4) Nonprofit social service or cultural institution projects;

(5) Low- to moderate-income housing projects as defined by household income California Health and Safety Code Section 50093;

(6) Affordable housing developments receiving city, state, or federal assistance;

(7) Private educational institutions ~~which~~ providing general education equivalent to the public school system (kindergarten through high school or any part thereof);

(8) Architectural rehabilitation or historical preservation of properties which are designated as Class 1 Historic Sites by the city council;

(9) ~~Any~~ The valuation added ~~for installation of to works of construction and rehabilitation for existing residential, commercial, and industrial construction~~ for an onsite Solar Energy System to existing residential, commercial, or industrial construction.

§ 3.37.060 Certificates of occupancy.

(a) No final city approval, ~~such as including~~ final inspection or a certificate of occupancy, for any project subject to this chapter ~~may~~ shall be granted ~~or issued unless and~~ until full compliance is achieved through with the public arts program is achieved, in one or more of the following ~~ways~~:

(1) ~~Placement of~~ The approved artwork ~~has been placed~~ in a manner satisfactory to the Public Arts Commission;

(2) ~~Payment of in-lieu art fees have been paid~~;

(3) ~~Posting of financial security in an amount~~ equal to the acquisition and installation costs of an approved artwork, in a form approved by the city attorney, ~~have been posted~~;

(4) ~~Donation and public arts commission acceptance of~~ An approved artwork ~~has been donated and accepted by the public arts commission~~;

(b) Full compliance requires provision of with the public arts program shall not be deemed to exist until the entire program allocation for the project, as defined in Section 3.37.070 ~~has been provided~~.

§ 3.37.070 Requirement to provide artwork or pay development fee.

(a) ~~An~~ The applicant ~~shall be deemed to have satisfied his or her obligations under this chapter through the placement by placing~~ of artwork ~~in a manner consistent with this chapter, valued at least an amount~~ equal to the program allocation, consistent with this chapter.

(b) ~~Alternatively, the applicant may pay an in-lieu fee of placement of an approved artwork, the applicant may, at his or her discretion, pay to the city for deposit into the public arts fund an amount~~ equal to the program allocation set ~~forth in subsection (d) of this section for deposit into the public arts fund~~.

(c) Fees are ~~to be collected with respect to all projects~~ prior to issuance of a building permit, except ~~in the case of~~ residential developments of more than one dwelling unit, where ~~the fees are -shall be collected on a pro rata upon basis for each dwelling when it receives its final inspection or certificate of occupancy for each unit,~~ whichever occurs first.

(d) The program allocation, as used in this chapter, is the percentage of the total building valuation required for the cost which is set aside for the city's public arts program. ~~The total building valuation shall be computed 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 more accurately represents the value of the building. Excluding land acquisition and off-site improvement costs, the program allocation shall be an amount equal to the percentage of the total building valuation for an applicable project, as listed herein: as follows:~~

(1) One-half of one percent (0.5%) for new commercial and industrial construction;

(2) One-half of one percent (0.5%) for remodel or reconstruction of existing commercial or industrial property;

(3) One-quarter of one percent (0.25%) for new residential subdivisions or developments of two or more units as described in Section 3.37.050(a)(3). A project qualifies as such when ; whether by detached single family residential structures, condominiums, apartments, duplexes, townhouses or other dwelling units being built in the same tract by the same owner or developer. A project shall be considered a development of two or more units when two or more building permits are issued to the same person for development of new residential structures within a one-hundred-eighty 180-day period;

(4) One-quarter of one percent (0.25%) applied only to the portion of building permit valuation exceeding \$100,000 for new individual single-family residential units _constructed on a lot located in an existing subdivision.

(e) Building valuation shall be determined using the latest building valuation data from the International Conference of Building Officials (ICBO) or, if the building official determines, a more accurate valuation method, for that portion of building permit valuation in excess of one hundred thousand dollars.

(fe) Nothing in this section shall prohibit the An applicant may from placing place an approved artwork with acquisition and installation costs in an amount less than the program allocation,; provided the difference is paid to the public art fund, that the applicant shall also pay to the public arts fund an amount equal to the difference between the program allocation and the costs of acquisition and installation of such artwork.

(gf) Nothing in this chapter herein shall restrict prevents the city council from waiving the requirements, of this chapter, in whole or in part, with respect to for any project, if the city council finds, based on substantial evidence, that the -otherwise subject to the provisions of this chapter, provided that the city council determines that the project applicant has entered intoexecuted an agreement with the city providing for the applicant's acquisition and installation of artwork that meets or exceeds the goals of this chapter compared to in connection with the

~~development of the project which addresses the goals and aims of this chapter in a manner equally or more favorable to the city than would be achieved by strict compliance with this chapter. In such an event, the city council shall make findings to this effect on the basis of substantial evidence.~~

§ 3.37.080 Art site acceptability.

(a) ~~Private Property~~ Placement of Art by Applicant.

~~The applicant shall place artwork placed by the applicant must be located in outdoor areas of the private property that are accessible to and used by the public at least minimum of eighteen hours per day. Interior spaces, including lobbies, courtyards, and malls, etc., may be eligible qualify if they are accessible to the public at least minimum of twelve hours per day.~~

(b) Art Purchased through Public Arts Fund.

~~When selecting the location for art purchased through the public arts fund, preference shall be given to publicly accessible locations, including public places. This would include libraries, parks, office buildings, sidewalks, traffic islands, etc. Lobbies, plazas, adjacent open spaces, or exteriors treatment of publicly owned buildings shall be potential sites; however, interior offices in , but the offices themselves of publicly owned buildings are shall not be considered acceptable sites. acceptable.~~

§ 3.37.090 Criteria for artwork selection.

(a) ~~Eligibility and criteria. Requirements for each project will be established by the The Public Arts Commission shall establish s. Specific eligibility requirements for each project. Early excluded are artworks created done by students under the supervision of art instructors to satisfy course requirements and works by current artists who are members of the Public Arts Commission.~~

~~In selecting artwork, the Commission shall consider: The following criteria shall be considered in the selection of artwork:~~

(1) Quality of the artwork;

(2) Media. ~~A-~~

~~All visual art forms may be considered are eligible, subject to limitations set by the selection jury panel or Public Arts the arts Commission;~~

(3) Style. ~~A-~~

~~Artworks of all schools, styles, and tastes perspectives should be considered for the city collection;~~

(4) Environment Context. ~~A-~~

~~Artworks and art places should be appropriate~~ ness of scale, material, form, and content ~~for to~~ the immediate, general, social, and physical ~~environments with which they relate; surroundings;~~

(5) ~~Permanence-~~

~~Consideration should be given to. S~~ structural and surface integrity, durability, ~~permanence,~~ and protection against theft, vandalism, weathering, and excessive maintenance or, ~~and~~ repair costs;

(6) ~~Elements of Design elements. Potential to -~~

~~Consideration should take into account that public art, in addition to meeting aesthetic requirements, also may serve to~~ establish focal points, terminate ~~vistas~~ areas, modify, enhance, or define ~~specific~~ spaces, or ~~establish~~ create identity;

(7) ~~Diversity.-~~

~~The public arts program should S~~ triving for diversity of style, scale, media, artists, — including ethnicity and gender, and equitable distribution ~~of artworks and art places throughout the city across the city.~~

(b) ~~The following methods may be used to select artwork;~~ Selection methods. The Public Art Commission may use:

(1) ~~Direct p~~ urchase of a -

~~A completed work of art may be purchased~~ for a specific project or location;

(2) ~~Direct c~~ ommission. Selecting an -

~~An artist may be chosen directly by an artist-selection jury and paid to submit a proposal. Artists will be selected on the bas~~ is of their qualifications and likelihood of successful completion to submit a proposal; ~~for a particular project and its probability of successful completion;~~

(3) ~~Limited c~~ ompetition.-

~~A small number of artists may be i~~ n inviting a small number of artists, compensating ~~themed and paid by the selection jury to submit proposals;~~

(4) ~~Open c~~ ompetition. Allowing -a

~~Any artist to~~ may apply subject to commission-established limitations, ~~established by the selection jury. No proposal fee is paid to artists; however, a small number of finalists may receive~~ compensation ~~be selected~~ to submit details, models, or plans ~~for which a fee is paid.~~

(c) ~~Selection Panel. The Public Arts Commission In selecting an artwork, the arts commission may appoint a selection jury panel of qualified persons to assist in selection. The jury panel shall be subject to the provisions of comply with~~ the Brown Act.

(d) ~~Review by Department of Planning and Zoning~~ Planning review.

A department of planning ~~and zoning representatives~~ services representative shall review the artwork, ~~k and its placement,~~ and landscaping elements, and may refer the proposal artwork to the planning commission for approval pursuant to Section 9404.00 of the zoning ordinance code.

§ 3.37.100 Maintenance of artwork on public and private property.

(a) Public Artwork on Public Property.

A maintenance fund ~~shall be~~ established as part of the public arts program. The Commission shall adopt procedures for custody, maintenance, and conservation of artwork, shall be established by the public arts commission as well as including a maintenance schedule and . Specific instructions for care of each work shall be kept on file as part of the collection management protocols. Contracts for artwork shall include provisions requiring the artist to provide a maintenance manual, remain responsible for repairs for a specified period (typically one year) and have first-refusal rights on subsequent repairs at fair market rates. Designated city personnel shall conduct regular condition inspections. When needed, a prioritized conservation plan shall be developed.

~~The public arts commission will strive to include maintenance provisions in the artwork contracts that stipulate the length of time (typically one year) the artist will be responsible for repairs, that urge artists to provide a maintenance manual, and that allow the artist first refusal on repair contracts within the fair market rate of remuneration. Regular inspection for condition reporting shall be conducted so that the collection is maintained in the best possible condition as supervised by designated city personnel. When necessary, a conservation plan will be established prioritizing the work which is to be done.~~

(b) Private Artwork on Private Property.

~~The property owner shall be responsible for all obligation to provide all maintenance necessary to preserve the artwork in good condition. shall remain with the owner of the site. Artwork installed on or integrated into a construction project pursuant to the provisions of this chapter shall may not be removed or altered without the Public Art Commission approval of the public arts commission. Artwork installed pursuant to this chapter shall be maintained Maintenance obligations, including preservation, protection against as specified in the written agreement between the city and the private property owner with regard to that artwork. Maintenance of artwork, as used in this chapter, shall include without limitation, preservation of the artwork in good condition to the satisfaction of the city, protection of the artwork against physical defacement, mutilation, or alteration, and securing and maintaining fire and extended coverage insurance against vandalism and other similar acts shall be specified in a written agreement between the city and property owner. Prior to placement, the in an amount to be determined by the city attorney. Prior to placement of an approved artwork, applicant and the~~

owner ~~of the site~~ shall execute and record a covenant ~~in a form~~ approved by the city for maintenance ~~of the artwork~~. Failure to maintain the artwork ~~or unauthorized removal or alteration, constitutes as provided herein is declared to be a public nuisance. Upon reasonable notice, If the artwork is not maintained in the manner prescribed, or is removed or altered without approval of the public arts commission, in addition to all other remedies provided by law, the city may, upon reasonable notice, the city may~~ perform ~~all necessary~~ repairs, maintenance, ~~or~~ secure insurance, or take ~~such legal or other action to ensure maintenance and restoration, with costs deemed necessary to have the artwork maintained and if necessary, restored, and the costs therefor shall become~~ a lien ~~against the realon the~~ property.

§ 3.37.110 Application procedures for placement of artwork on private property.

~~(a) Any artwork being placed on private property to satisfy this chapter must be a part of the city's public arts program shall be a one-of-a-kind piece. Applicants are encouraged to submit an application before prior to the development of the architect's schematic design is finalized.~~

~~(a)(b)~~ The requirements and procedures for the processing of a public arts program proposal application (an "arts application") shall be as follows:

(1) Upon ~~submission application for a covered of a~~ development project, ~~the application for a project subject to the requirements of this chapter, the~~ department of planning and zoning services shall provide ~~to the project the~~ applicant ~~with a copy of this chapter, an arts application form and contact information the name and phone number of for the city's~~ arts administrator.

(2) The ~~project~~ applicant shall submit ~~to the arts administrator the a~~ completed arts application ~~to the arts administrator form,~~ describing ~~compliance the manner in which the project applicant intends to comply with this chapter.~~

(3) The arts application shall include:

(A) Preliminary sketches, photographs, or other ~~documentation of material~~ sufficiently descriptive ~~clarity to indicate the nature~~ of the proposed artwork;

(B) ~~Documentation of An appraisal or other evidence of the value, of the proposed artwork,~~ including acquisition and installation costs;

(C) Preliminary plans ~~containing showing the artwork's location in relation to such detailed information as may be required by the public arts commission to adequately evaluate the location of the artwork in relation to the proposed development, and its integration with landscaping and/or architecture, and compatibility with adjacent properties and neighborhoods as needed the proposed development (the artwork shall be an integral part of the landscaping and/or architecture of the building), including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods if necessary to evaluate the proposal;~~

(D) A narrative ~~demonstrating statement to demonstrate that the artwork will be displayed in an area open and freely available to the general public, or otherwise provide public accessibility (freely available or equivalent based on characteristics and placement) in an equivalent manner based on the characteristics of the artwork or its placement on the site;~~ and

(E) Maintenance ~~factors considerations required to insure to ensure its~~ permanence.

§ 3.37.120 Approval procedures for placement of artwork on private property.

(a) ~~The application for the proposed artwork and its placement shall will be considered at a monthly regular public meeting of the Palm Springs public Arts Commission. A department of planning and zoning representative will also review the artwork and its placement and landscaping elements and may refer the application to the planning commission for approval pursuant to Section 9404.00 of the zoning ordinance. The Public Arts Commission shall provide written comments. Any changes, or recommendations questions or recommendations shall be conveyed in writing to the applicant. Upon resolution of issues, the Commission will shall approve or deny determine when all issued have been addressed and accept or reject the artwork and notify. The applicant will be notified in writing of the public arts commission's decision in writing. A department of planning services representative shall review and may refer the proposal to the planning commission pursuant to the zoning code.~~

(b) ~~If the applicant proposes or the planning commission or city council recommends significant revisions to the project architecture, or physical design, and or layout occur after Public Art Commission of the proposed project subsequent to the receipt of the public arts commission's approval, the application shall, if legally permitted permissible, be returned to the Public Arts Commission for further review before final approval, unless otherwise directed by city council. and recommendation concerning the revised proposal prior to final approval unless the council otherwise directs.~~

(c) A contract between the city and the applicant ~~specifying~~ ~~ling out all~~ requirements, including insurance and maintenance, shall be executed prior to ~~the city's~~ final acceptance of the ~~artwork or applicant's art~~ in-lieu proposal.

§ 3.37.130 Procedure for refund of public arts fee for artwork in lieu of fee.

If in-lieu artwork ~~has been is~~ placed ~~subsequent to after~~ payment of a public arts fee, the applicant ~~shall may~~ submit ~~to the arts administrator~~ a written request ~~to the arts administrator~~ for refund of the amount spent on the artwork, ~~placed on the applicant's property. The amount to be refunded shall not to exceed the applicable in-lieu fee. The request shall be submitted after installation, Public Arts Commission approval, and city acceptance. amount that would have been paid into the public arts fund should the applicant have chosen to pay a fee instead of place artwork on the site. The request for reimbursement shall be submitted after the artwork is installed, approved by the public arts commission and accepted by the city.~~

§ 3.37.140 Ownership of artwork on private property.

Artwork placed ~~on the applicant's property~~ by the applicant ~~in satisfaction of to satisfy this chapter e applicant's program requirement~~ shall remain the property of the applicant.

§ 3.37.150 Application procedure for donation of artwork to the city.

~~The A~~ prospective donor shall submit to the arts administrator:

- (1) Sketches, photographs, or other ~~sufficiently documentation of sufficient~~ descriptive ~~materials of clarity to indicate the nature of~~ the proposed artwork to be donated;
- (2) Additional samples of artist's work ~~other than the proposed donation~~;
- (3) Background information on artist ~~who created the proposed donation~~;
- (4) Estimated ~~i~~ installation costs, if available;
- (5) Maintenance ~~factors considerations required~~ to ensure ~~its~~ permanence.

§ 3.37.160 Review and acceptance of artwork donated to the city.

The proposed donation ~~will shall~~ be considered at a ~~monthly regular~~ public meeting of the ~~P~~ublic ~~A~~rts ~~C~~ommission. ~~The Commission shall evaluate All details of the proposed donation, including the feasibility, and expense of placing and care, and other detailsing for the work of art will be considered.~~ The ~~C~~ommission ~~may request additional information from the donor or artist, including a personal appearance. Upon resolution of issues, the Commission shall will review and discuss the donation and will direct the arts administrator as to any questions to be asked of the donor or artist. A personal appearance by artist may be requested. The commission will determine when all issues have been addressed and accept or reject the artwork.~~

§ 3.37.170 Commemorative Collection.

(a) Establishment and Purpose. Pursuant to this chapter, a subcollection is established within the Public Arts Program to be known as the Commemorative Collection. The purpose of this subcollection is to provide specialized management, preservation, and curation of commemorative works owned or overseen by the city, recognizing their distinct historical, cultural, and stewardship needs.

(b) Scope. The Commemorative Collection consists of works, markers, monuments, memorials, and structures designed primarily to commemorate an individual, group, event, or social movement of significance to the history or culture of Palm Springs. Works meeting the definition of "commemorative work" in Section 3.37.030 and approved pursuant to this section shall be included in the Commemorative Collection.

(c) Eligibility and Inclusion.

- (1) Inclusion pathways. Works may be added to the Commemorative Collection by:

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(A) Gift or donation to the city;

(B) Request of the Palm Springs City Council; or

(C) Recategorization from the general public art collection upon recommendation of the Public Arts Commission to the city council.

(2) Eligibility criteria for gifts and donations. To be eligible for inclusion by gift or donation, the proposal must demonstrate:

(A) Local or regional significance of the subject;

(B) Contextual appropriateness of the proposed site to the commemorative purpose;

(C) No duplication of an existing commemoration in the city, or, if similar works exist, a detailed justification for an additional piece; and

(D) A long-term maintenance and conservation plan.

(3) Recategorization process. A recommendation by the Commission to recategorize a work from the general collection into the Commemorative Collection shall be presented at a regular public meeting of the Commission, with opportunity for public comment, before transmittal to the city council. City council approval is required for recategorization. The eligibility criteria set forth in subsection (c)(2) shall apply to recategorization proposals.

(d) Approval Process.

(1) All proposed commemorative works shall follow the standard approval process under this chapter applicable to donations or placements.

(2) In addition to the standard process, a party proposing inclusion by gift or donation under subsection (c)(1)(A) of this Section must:

(A) Provide proof of full funding for all costs, including fabrication (if applicable), installation, signage, and a long-term maintenance and conservation plan funded by the donor; and

(B) Demonstrate meaningful public engagement, including evidence of outreach and support from at least one relevant community-based organization and the neighborhood association nearest the proposed site.

(3) Upon submission of a complete proposal meeting these requirements, the Public Arts Commission shall provide an opportunity for public comment at a regular meeting.

(4) The Commission shall review the proposal and make a recommendation to the city council. No work may be accepted into the Commemorative Collection without city council approval and verification of a sustainable funding and conservation plan.

(c) Administration. The Public Arts Commission shall maintain a comprehensive, publicly accessible inventory of all public art works, with Commemorative Collection works clearly identified as such.

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