

ORDINANCE NO. 2040

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

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

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

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

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:

NOES:

ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach

ATTEST:

City Clerk