

Article 4. Contribution for Art in Public Places Program*

* Editor's Note: The provisions set out in this article were originally added to the Code as Secs. 9-4.91.5 through 9-4.91.12 by Sec. 2 of Ord. 90-20, eff. Jan. 17, 1991. Sec. 6 of Ord. 92-06 renumbered the provisions set out in Ord. 90-20 Sec. 2 to their current location in the Code.

3-2.401 Purpose.

The City Council hereby declares that the City has a policy of promoting the visual arts in Emeryville by requiring the inclusion of a public artwork component in new development projects in Emeryville. Therefore, as of the effective date of the ordinance codified in this article, the City shall require that certain City-sponsored developments and certain private developments use a portion of building development funds for the acquisition of publicly accessible works of art for placement on the development site or elsewhere in the City as a condition of project approval.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)

3-2.402 Definitions.

For purposes of this article, the following definitions shall apply:

(a) "Building development costs" shall mean those construction costs as declared on all building permit applications, and as accepted by the Building Official. Building permit applications shall include, but not be limited to, all building, plumbing, mechanical and electrical permit applications for the project.

(b) "Art in Public Places Program in-lieu contribution" shall equal the percentage of building development costs required herein.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992; Sec. 2 (part), Ord. 09-002, eff. Mar. 5, 2009)

3-2.403 Contribution Requirements.

(a) Private Developments. Private nonresidential and non-live-work building developments with building development costs in excess of three hundred thousand dollars (\$300,000.00) and subject to design review approval pursuant to Section [9-4.84.2](#) shall devote an amount not less than one percent (1%) of such costs for acquisition and installation of publicly accessible art on the development site. Private residential and live-work building developments of twenty (20) or more units and subject to design review approval pursuant to Section [9-4.84.2](#) shall devote an amount not less than one-half of one percent (0.5%) of such costs for acquisition and installation of publicly accessible art on the development site.

(1) At the discretion of the owner or developer, and in lieu of developing an on-site public artwork, an Art in Public Places in-lieu contribution may be placed into the Emeryville Public Art Fund for acquisition and placement of public art throughout the City.

(2) Contributions of funds or other involvement with the Redevelopment Agency shall not necessarily change the characterization of the project as a private development.

(b) Public Developments. For public building developments by the City of Emeryville or Redevelopment Agency, with building development costs in excess of three hundred thousand dollars (\$300,000.00) and subject to design review approval pursuant to Section [9-4.84.2](#), the City or Redevelopment Agency shall expend an amount not less than one and one-half percent (1.5%) of such costs for publicly accessible art on the development site.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992; Sec. 2, Ord. 05-002, eff. Apr. 14, 2005; Sec. 2 (part), Ord. 09-002, eff. Mar. 5, 2009)

3-2.404 Emeryville Public Art Fund.

There is hereby created an Emeryville Public Art Fund, which funds shall be restricted to the implementation of the Art in Public Places Program, as set forth in the Emeryville Capital Improvement Program. Such funds may be used to acquire, place, and maintain public art on public property throughout the City, and to administer the Art in Public Places Program.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)

3-2.405 Guidelines for Implementation of this Article.

Guidelines for implementation of the Art in Public Places Program shall be promulgated by the Public Art Committee to be approved by the Emeryville City Council.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)

3-2.406 Compliance.

Compliance with the provisions of this article shall be demonstrated by the owner or developer at the time of filing the Building Permit application as follows: (a) payment of the full amount of the in-lieu contribution, or (b) written proof to the Building Department of a contractual agreement to commission or purchase and to install the requested art work on the development site. The owner or developer shall provide the City with proof of installation of the requested artwork on the development site or proof of full payment of the in-lieu contribution before issuance of the certificate of occupancy, unless the City has approved some other method of assuring compliance with the provisions of this article.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)

3-2.407 Waiver of Conditions.

Any or all of the provisions of this article may be waived pursuant to waiver provisions established in the approved Guidelines for Implementation.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)

3-2.408 Violations of this Article.

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this article.

(Sec. 2 (part), Ord. 90-20, eff. Jan. 17, 1991, as amended by Sec. 6 (part), Ord. 92-06, eff. Mar. 5, 1992)