

CITY OF ALAMEDA ORDINANCE NO. 2942
New Series

Approved as to Form
[Signature]
CITY ATTORNEY

AMENDING THE ALAMEDA MUNICIPAL CODE TO CHANGE THE NAME OF THE PUBLIC ART ADVISORY COMMITTEE TO PUBLIC ART COMMISSION, TRANSFER REPORTING FROM RECREATION & PARK COMMISSION TO CITY COUNCIL, AND TRANSFER STAFFING FROM THE RECREATION & PARK DEPARTMENT TO THE PLANNING & BUILDING DEPARTMENT BY AMENDING SUBSECTIONS 30-65.3 (CONTRIBUTION REQUIREMENTS), 30-65.4 (PUBLIC ART), 30-65.5 (ALAMEDA PUBLIC ART FUND), 30-65.7 (PUBLIC ART ADVISORY COMMITTEE), 30-65.8 (APPLICATION AND APPROVAL PROCEDURES FOR PLACING PUBLIC ART ON PRIVATE PROPERTY), 30-65.10 (GUIDELINES FOR APPROVAL), AND 30-65.11 (APPEAL TO THE CITY COUNCIL) OF SECTION 30-65 (PUBLIC ART IN NEW COMMERCIAL, INDUSTRIAL, RESIDENTIAL AND MUNICIPAL CONSTRUCTION)

BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. Subsection 30-65.3(f) is hereby amended to read as follows:

f. Subject to the approval of the Public Art Commission, an owner or developer may incorporate into the development Public Art that has a value lower than the Program Allocation and pay a Public Art In-Lieu Contribution to the Public Art Fund for the balance of the Program Allocation.

Section 2. Subsection 30-65.4(b)(vii) is hereby amended to read as follows:

(vii) Any other form of cultural program determined by the Public Art Commission to satisfy the intent of this section.

Section 3. Subsection 30-65.5(d) is hereby amended to read as follows:

d. The Public Art Commission shall present annually to the City Council for approval a Public Art Plan that recommends the use of Alameda Public Art Fund monies consistent with the purpose of this Section. The Public Art Plan shall be administered by the Planning & Building Department.

Section 4. Section 30-65.7 is hereby amended to read as follows:

30-65.7 Public Art Commission.

a. There is hereby established a Public Art Commission that shall consist of five members appointed by the City Council, who are knowledgeable about contemporary visual public art, and capable of engaging effectively in a jury process.

- b. Membership, term of office, and removal of the members of the Public Art Commission shall be set by City Council Resolution.
- c. The Commission shall make decisions regarding applications for the installation of Public Art, the selection of Public Art, and matters pertaining to the quality, quantity, scope and style of art in public places.
- d. The Commission shall make recommendations to the Council regarding the Public Art Plan.
- e. The Commission shall assist private property owners, as requested, regarding the selection and installation of Public Art.
- f. The Commission shall review and promote City inventory of meritorious Public Art in public view.

Section 5. Section 30-65.8 is hereby amended as follows:

30-65.8 Application and Approval Procedures for Placing Public Art on Private Property.

- a. An application for the installation of Public Art on private property shall be submitted to the Planning & Building Department on forms furnished for that purpose and shall include the following information, as applicable:
 - (i) Landscape and site plans indicating the location and orientation if the Public Art and the landscaping and architectural treatment integrating the piece into the overall project design;
 - (ii) A sample, model, photograph or drawings of the proposed Public Art;
 - (iii) Material samples and finishes if appropriate;
 - (iv) A resume of the proposed artist;
 - (v) Slides and/or photographs of the proposed artist's past Public Art, which demonstrates like Public Art to the proposal;
 - (vi) A written statement by the artist describing any theme or development of the Public Art, as well as a discussion of the manner in which the proposed Public Art meets the Guidelines described in section 30-65.10, and the manner in which the Public Art will be displayed in an area that is visible from a public right-of-way or public property; or, if an on-site cultural program or art space or cultural facility, the means by which the public will gain access to such programs, spaces, or facilities.
 - (vii) A written statement by the artist declaring the valuation of the Public Art.
 - (viii) A maintenance plan for the Public Art.
 - (ix) Any such additional information or material as may be required by the Planning & Building Director, or designee.
- b. The application submitted pursuant to subparagraph (a) shall be referred to the Planning & Building Director or his/her designee for preliminary review to determine whether the application is complete. The completed application

along with the recommendation of staff and/or consultants shall be forwarded to the Public Art Commission for review and decision.

- c. The Public Art Commission shall review the permit application within sixty (60) days of receipt of a complete application. The Public Art Commission may make recommendations regarding possible changes, modifications or additions to the proposal. Fourteen (14) days' prior written notice shall be provided to the applicant of the time and place of the meeting at which the application will be considered.
- d. The Public Art Commission shall approve or deny the application in accordance with the Guidelines for Approval referenced in section 30-65.10. The Public Art Commission may conditionally approve an application subject to such conditions that the Public Art Commission deems reasonably necessary to conform the Public Art Guidelines for Approval.
- e. Failure of the Public Art Commission to act on an application and to notify the applicant within seventy-five (75) calendar days of receipt of a complete application, or such extended period as may be mutually agreed upon by the applicant and the Public Art Commission, shall be deemed a denial of such application.
- f. The application required by this section shall be made, approval obtained and the Public Art installed prior to final building inspection or issuance of approval of a certificate of occupancy for the new construction. If installation prior to the date of occupancy is impracticable, as determined by the Planning and Building Director or his/her designee, a certificate of occupancy may be approved for the building or portion thereof if the application submitted pursuant to this section has been approved, the applicant has executed a written agreement with the City to install the Public Art, and the applicant has filed security in an amount and form acceptable to the City Attorney to guarantee installation of the Public Art.
- g. The property owner shall maintain, or cause to be maintained, in good condition the Public Art continuously after its installation and shall perform necessary repairs and maintenance to the satisfaction of the City. The maintenance obligations of the property owner shall be contained in the covenant and recorded against the property by the applicant. Should the property owner wish to remove the Public Art, the City must be notified in advance. The property owner shall replace the Public Art with Public Art of equal or greater value, and consistent with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law.

Section 6. Subsection 30-65.10(a) is hereby amended to read as follows:

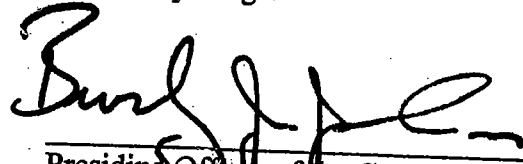
- a. Guidelines for approval and maintenance of Public Art ("Guidelines for Approval") shall be adopted by the City Council, upon recommendation from the Public Art Commission. Guidelines shall be adopted within sixty (60) days of the Ordinance codified in this Chapter.

Section 7. Section 30-65.11 is hereby amended to read as follows:

30-65.11 Appeal to the City Council.

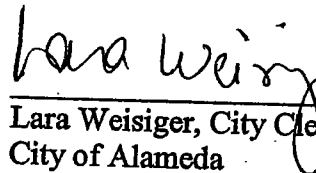
Any final decision of the Public Art Commission may be appealed to the City Council within ten (10) calendar days following the decision of the Public Art Commission. Said appeal shall explain the grounds for the appeal in writing.

Section 8. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.



Presiding Officer of the Council

Attest:



Lara Weisiger, City Clerk
City of Alameda

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 5th day of July, 2005 by the following vote to wit:

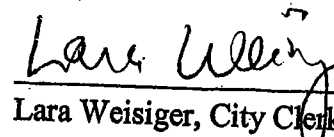
AYES: Councilmembers Daysog, deHaan, Gilmore, Matarrese,
and Mayor Johnson - 5.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 6th day of July, 2005.



Lara Weisiger, City Clerk
City of Alameda