



Public Art in Private Development Application Form

(to be completed by Applicant and submitted to Public Art Program staff)

The Public Art in Private Development Ordinance applies to all new commercial developments (including mixed use projects), including new construction, remodels, additions and reconstruction that **(i)** have a floor area of 10,000 square feet or more, and **(ii)** have a construction value of \$200,000 or more, exclusive of costs for architecture, design, engineering and required studies; and all new residential projects of five or more units.

DEVELOPMENT ADDRESS:	ESTIMATED CONSTRUCTION VALUATION (labor and materials):
	ESTIMATED DEVELOPMENT SIZE (gross sq. ft.):
APPLICANT / ARCHITECT NAME:	OWNER NAME:
ADDRESS:	ADDRESS:
PHONE:	PHONE:
EMAIL:	EMAIL:

The ordinance provides an option of commissioning artwork on your site equal to the cost of 1% of the estimated construction valuation **OR** paying the 1% to the Public Art Fund in-lieu of commissioning artwork.

Final valuation to be confirmed at time of Building Permit application. Should the final construction valuation (labor and materials) submitted at the time of Building Permit application indicate a higher amount, then the 1% fee will be based on the higher valuation. For more information about the verification process, see the Valuation Verification Reference Sheet.

1% of Estimated Construction Valuation: \$ _____

Please choose one of the following options:

Placement of original public art on site Payment of in-lieu fee to Public Art Fund

Applicant Signature: _____ Date: _____



ORDINANCE NO. 5226

Ordinance of the Council of the City of Palo Alto Amending the Municipal Code
to add Chapter 16.61 (Public Art for Private Developments)

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Purpose. The City Council finds and declares that:

(a) A robust public art program fosters economic development, creates vital public spaces, and promotes general health and welfare by contributing to a more desirable community in which to live, work and recreate. Well-conceived and executed works of art that are integrated into their sites and accessible to the public enhance the value of development projects, create greater interest in leased space, promote cultural tourism, create a sense of place and make a lasting a visible contribution to the intellectual, emotional and creative life of the community at large, thereby helping to mitigate the impacts of development. The experience of public art makes public areas of buildings and grounds more inviting and engaging.

(b) To ensure that public art is present and sustained throughout the community, it is necessary to require that private development projects in the City of Palo Alto provide public art on site or, alternatively, contribute to a public art fund so that public art can be established elsewhere in the community.

(c) The purpose of this Chapter is to establish a public art requirement for private developments and to authorize the City Manager to establish regulations and guidelines to effectuate the intent of this Chapter.

SECTION 2. The Palo Alto Municipal Code is amended to add Chapter 16.61 "Public Art for Private Developments".

SECTION 3. The Palo Alto Municipal Code is amended to add Section 16.61.010 "Definitions".

16.61.010 Definitions

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

"Affordable Housing Developments" means a project where 100% of the units are affordable to a "moderate," "low" or "very low" income household, as those terms are defined by the California Department of Housing and Community Development, as applicable to Santa Clara County.

"Art" or "Work of Art" means original artist-designed and produced unique works in any of a variety of styles and forms.

“Artist” means a practitioner of the creative arts, generally recognized as such by critics and peers, with a body of work including commissions, exhibitions, sales, publications, and collections. For the purposes of this Chapter, “artist” shall not include: (i) persons primarily working in the professional fields of architecture, engineering, design or landscaping; (ii) an employee or relative of the development project architect, landscape architect, engineer or project manager; (iii) any person with a business interest in a development project or with respect to individuals or entities serving as project architects, landscape architects, engineers or project managers; or (iv) a relative of or anyone with a financial interest with respect to an individual or entity serving on an art selection panel for the development project.

“Developer” means a person or entity that is financially and legally responsible for the planning, development and construction of any development project covered by this Chapter. The developer may or may not also be the project owner.

“Development Project” means any commercial or residential development described in Section 16.61.40 (a).

“Historic Renovation” means a Development Project involving preservation of a historic resource listed on or eligible for listing on the California Register of Historical Resources, where such preservation follows the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstruction Historic Buildings or the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

“Public Art” means a work of art that is visible or accessible to the public for a minimum of 40 hours per week. Public art is generally large-scale and may include sculpture, painting, installations, photography, video, works of light or sound, or any other work or project determined by the Public Art Commission to satisfy the intent of this Chapter, provided, however, that none of the following shall be considered public art for the purposes of satisfying the requirements of this Chapter:

- (i) Objects that are mass produced of standard design, such as banners, signs, playground equipment, benches, statuary, street or sidewalk barriers, or fountains;
- (ii) Reproduction, by mechanical or other means, of original works of art, except as incorporated into film, video, photography, printmaking or other derivative works as approved by the Public Art Commission;
- (iii) Decorative, architectural, or functional elements that are designed by the building architect or landscape architect as opposed to an artist commissioned for this purpose; or

- (iv) Landscape architecture or gardening, except where these elements are designed by an artist and are an integral part of a work of art.

“Public Art Commission” means the Commission established by Chapter 2.18 of the Municipal Code.

SECTION 4. The Palo Alto Municipal Code is amended to add Section 16.61.020 “Application”:

16.61.020 Application

(a) This Chapter shall apply to all new commercial developments (including mixed use projects), including new construction, remodels, additions and reconstruction that (i) have a floor area of 10,000 square feet or more, and (ii) have a construction value of \$200,000 or more, exclusive of costs for architecture, design, engineering and required studies; and all new residential projects of five or more units.

(b) Notwithstanding subsection (a) above, this Chapter shall not apply to:

- i. Buildings or structures primarily used for religious worship;
- ii. Historic renovations;
- iii. Affordable housing developments;
- iv. Municipal facilities;
- v. Repair or reconstruction of structures damaged by flood, fire, wind, earthquake or other disaster;
- vi. Seismic retrofit projects; or
- vii. Any project exempted by federal or state law.

(c) In mixed use projects, those portions of projects excluded from application of this Chapter under subsection (b) shall be subtracted from the project for purposes of determination of applicability under subsection (a), above, and from construction valuation under Section 16.61.040 and 16.61.090.

SECTION 5. The Palo Alto Municipal Code is amended to add Section 16.61.030 “Public Art Requirement for Private Developments”:

16.61.030 Public Art Requirement for Private Developments

Before a certificate of occupancy is issued for any development project subject to this Chapter, the developer shall participate in the construction or installation of on-site public art under Section 16.61.040, or, at the developer’s option, make a contribution to the Public Art Fund in lieu of providing on-site art, as provided in Section 16.61.090.

SECTION 6. The Palo Alto Municipal Code is amended to add Section 16.61.040 "On-Site Public Art":

16.61.040 On-Site Public Art

(a) A developer may satisfy the requirements of this Chapter by constructing or installing on-site public art valued at 1% of the first \$100 million construction valuation, adjusted as described in subsection (b) below, and .9% of construction valuation for valuation in excess of \$100 million. For purposes of budgeting and planning for on-site art, an initial estimate of the art contribution shall be calculated based on estimated construction valuation at the time of application for entitlements. The arts contribution shall be finally determined based on the construction valuation determined at the time the building permit is issued.

(b) Beginning in FY 2015 and annually thereafter, the Director of Planning and Community Development shall adjust the ceiling for 1% valuation as set forth in subsection (a) above to reflect increases in the Consumer Price Index for All Urban Consumers.

(c) If the market value of the on-site public art is greater than the art contribution provided in Subsection 16.61.040(a), the City shall have no obligation to refund the excess amount. If expenditures do not utilize the entire amount provided in 16.61.040(a), the remainder shall be deposited into the Public Art Fund.

SECTION 7. The Palo Alto Municipal Code is amended to add Section 16.61.050 "Eligible Expenditures for On-Site Public Art Projects":

16.61.050 Eligible Expenditures for On-Site Public Art Projects

The public art contribution for on-site installation may be expended only on costs associated with the selection, acquisition, purchase, commissioning, design, fabrication, placement, installation or exhibition of the public art, and project management and administrative costs not to exceed 20% of the total budget. Eligible expenditures include:

(a) Artist fees;

(b) Labor of assistants, materials, and contracted services required for design, fabrication, engineering and installation of the public art;

(c) Any required permit or certificate fees and reasonable business and legal costs directly related to the public art;

(d) Reasonable art consultant fees, as established in regulations or guidelines approved by the City Manager to implement this Section;

- (e) Communication, utilities, insurance and other indirect costs associated with the creation but not the operation of the public art;
- (f) Transportation of the public art to the site;
- (g) Preparation of the site specifically required for the public art, such as fabrication of platforms or pedestals;
- (h) Installation of the public art;
- (i) Mountings, anchorages, containments or other materials necessary for installation of the public art;
- (j) Public art project management and administration, in an amount not to exceed 20% of the total art contribution; and
- (k) A plaque or plaques identifying the public art.

SECTION 8. The Palo Alto Municipal Code is amended to add Section 16.61.060 "Ineligible Expenditures for On-Site Public Art Projects":

16.61.060 Ineligible Expenditures for On-Site Public Art Projects

Expenditures that are ineligible to be counted toward the on-site public art contribution include:

- (a) Labor of assistants, materials, and contracted services not required for design, fabrication, engineering and installation of the public art;
- (b) Promotional materials or activities for the artist, the public art, the development project, the developer or other parties involved in the development project;
- (c) Opening, dedication or other costs of events for the public art, artist, developer or development;
- (d) Services, materials, utilities or other expenses association with the ongoing operation or maintenance of the public art; and
- (e) Land costs or any other costs associated with the development that are not part of and solely attributable to the public art.

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SECTION 9. The Palo Alto Municipal Code is amended to add Section 16.61.070 "Process for Planning and Approval of On-Site Public Art":

16.61.070 Process for Planning and Approval of On-Site Public Art

(a) Application and Planning. Within 60 days of initial application for permitting or other discretionary approval, the developer shall consult with the Public Art program staff regarding a plan for meeting the requirements of this Chapter. This consultation must be complete before the development project is calendared for consideration by a public body, including the Architectural Review Board, Planning & Transportation Commission or City Council, and before the Director of Planning and Community Environment issues any approvals with respect to the project.

(b) Public Art Commission Review and Approval. If the developer elects to comply with this Chapter by providing on-site art, the developer's public art plan must be presented to the Public Art Commission. The plan should include the process by which the art and artist will be selected while ensuring that no single artist be commissioned for more than 3 public art in private development projects within Palo Alto, the type of art proposed, a plan to integrate the art into the site, and a proposed budget and schedule of payments. The Public Art Commission shall render a decision whether the proposed public art plan conforms to the requirements and intent of this Chapter within 90 days of submission of a complete application, as determined by the Director of Planning and Community Environment, in consultation with the Public Art program staff. The developer shall not enter into contracts or make expenditures until the Public Arts Commission approves the on-site art plan. In addition, before initiating fabrication and installation of the on-site art, the developer shall return to the Public Art Commission for final approval of the artist and the proposed public art. The Public Art Commission shall render a decision within 60 days of submission of a complete proposal, as determined by the Director of Planning and Community Environment, in consultation with the Public Art program staff. No building permit may issue until the Public Art Commission issues the approvals required under this subsection.

SECTION 10. The Palo Alto Municipal Code is amended to add Section 16.61.080 "Additional Requirements for On-Site Public Art":

16.61.080 Additional Requirements for On-Site Public Art

(a) Plaque. The public art shall be identified by a plaque that meets the standards in use by the City at the time of installation of the public art.

(b) Ownership and Maintenance. All on-site public art shall remain the property of the property owner or the property owner's successor in interest. The property owner shall retain the obligation to provide all necessary maintenance to preserve the public art in good condition. Immediately upon installation and continuously thereafter, the developer and the property owner shall maintain the public art and shall promptly perform all

necessary repairs and maintenance to the satisfaction of the City. The obligation to maintain and preserve the public art includes the obligation to take reasonable steps to protect the public art against destruction, damage or modification.

(c) Location and Relocation of Public Art. Except as provided herein, the public art must remain at the development in the location approved by the Public Art Commission. A property owner may petition the Public Art Commission to relocate the public art within the development project.

When and if the development project is sold, the public art must remain at the development and may not be claimed as the property of the seller or removed from the site. If the development is to be demolished, the owner must relocate the public art to another publicly accessible permanent location approved in advance by the Public Art Commission.

(d) Removal and Replacement of Public Art. If the owner desires to deaccession, sell or remove the art from the site, the owner shall give prior notice to the City by providing written notice to the Public Art program staff no less than 90 days before the intended action. The owner must receive prior approval from the Public Art Commission. The developer will be required to replace the sold or de-accessioned artwork with an alternative work of equivalent or greater value, as determined by the Public Art Commission, in current dollars. In the alternative, the developer may elect to pay fees in lieu of replacing on-site art, at a reasonable rate equivalent to the cost of replacing the art in current dollars, as determined by the Public Art Commission.

(e) Statutory and Contractual Rights of Artists. The owner is solely responsible for complying with all statutory and contractual rights of the artist, including rights under the California Preservation of Works of Art Act, the federal Visual Artists' Rights Act, and any other applicable law.

(f) Covenant; Recordation. The property owner shall record against the property a declaration of covenants, conditions and restrictions, in favor of the City, and in a form approved by the City Attorney. The declaration shall include (i) the owner's obligation to provide all necessary maintenance of the public art, including preservation and restoration of the public art, in good condition, to the reasonable satisfaction of the City, and to protect the public art against destruction or damage; (ii) the owner's obligation to ensure that the public art is accessible to the public as required by this Chapter; and (iii) any other terms reasonably necessary to implement this Chapter.

(g) Inspection; Remedies. The City shall have the right to inspect the public art, on reasonable notice, to ensure compliance with this Chapter. Failure to maintain the public art as required by this Section is hereby declared to be a public nuisance. The City may remedy the public nuisance and may pursue additional remedies to obtain compliance with this Chapter. In addition to all other remedies provided by law, in the event the owner fails to maintain the public art, on reasonable notice the City may perform all necessary repairs and

maintenance, or may secure insurance or other needed services, and the costs thereof shall become a lien against the real property.

SECTION 11. The Palo Alto Municipal Code is amended to add Section 16.61.090 "Developer's Option to Pay Fees to Public Art Fund In-Lieu of Providing On-Site Art":

16.61.090 Developer's Option to Pay Fees to Public Art Fund In-Lieu of Providing On-Site Art

In lieu of installation of on-site public art, the developer may elect to make a monetary contribution to the Palo Alto Public Arts Fund. The amount of the contribution shall be the cost of the public art required by Section 16.61.040. A developer who elects to satisfy the requirements of this Chapter through a contribution to the Fund must complete the payment in-lieu prior to the issuance of any building permit for the development project.

SECTION 12. The Palo Alto Municipal Code is amended to add Section 16.61.100 "Inspection and Final Approval."

16.61.100 Inspection and Final Approval.

Before a Certificate of Occupancy is issued for the development project, the City shall inspect and confirm that either: (i) public art has been installed as required by the Public Art Commission approvals and to the satisfaction of the Director of Planning and Community Environment, in consultation with the Public Art program staff; or (ii) in-lieu contributions have been paid in full. In addition, before a Certificate of Occupancy is issued, the City shall confirm that the developer has executed and recorded a covenant as required by Section 16.61.080(f).

SECTION 13. The Palo Alto Municipal Code is amended to add Section 16.61.110 "Public Art Fund":

16.61.110 Public Art Fund

There shall be a fund entitled "Public Art Fund" to account for in-lieu contributions made under Section 16.61.090. This fund and the interest thereon shall be maintained by the Chief Financial Officer according to standard governmental accounting requirements. The Public Art Fund shall be reserved for the design, acquisition, commission and installation of new works of art and art experiences in Palo Alto, or for such other equivalent artistic purposes approved by the Public Art Commission. Funds may be used for project management and administration costs associated with acquisition of new works, not to exceed 20% of the project budget, and for the repair, maintenance, conservation and insurance of those works. Art works acquired through the Public Art Fund shall be owned by the City of Palo Alto and generally made accessible to the public.

SECTION 14. The Palo Alto Municipal Code is amended to add Section 16.61.120 "Regulations":

16.61.120 Regulations

The City Manager, or his or her designee, is authorized to adopt administrative regulations, procedures or guidelines that are consistent with and that further the terms and requirements of this Chapter.

SECTION 15. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 16. Implementation. This ordinance shall be effective on the thirty-first day after the date of its adoption and shall immediately apply to all development projects that have not yet received final land use entitlements.

INTRODUCED: November 12, 2013

PASSED: December 2, 2013

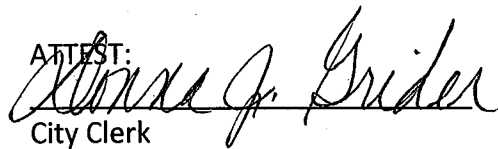
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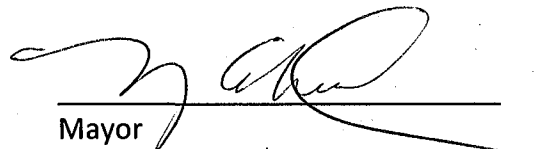
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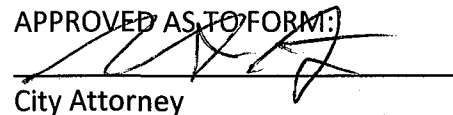
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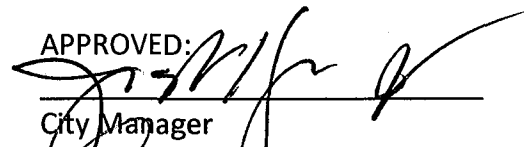

City Clerk


Mayor

APPROVED AS TO FORM:


City Attorney

APPROVED:


City Manager


Director of Community Services


Director of Administrative Services



January 1, 2024

Dear Property Owner/Developer:

On December 2, 2013, the Palo Alto City Council adopted an Ordinance to add chapter 16.61 to the Municipal Code establishing a requirement for public art in construction projects requiring Architectural Review over 10,000 square feet with an estimated construction valuation of more than \$200,000.

Public art enhances the quality of life in a community, providing benefits to the developer and the public. Some of these benefits are outlined in the attached ordinance and embody the goals for the Public Art in Private Development Program:

- A robust public art program fosters economic development, creates vital public spaces, and promotes general health and welfare by contributing to a more desirable community in which to live, work and visit.
- Well-conceived and executed works of art- that are integrated into their sites and accessible to the public- enhance the value of development projects, create greater interest in leased space, promote cultural tourism, and create a vibrant environment
- Public art is a lasting visible contribution to the intellectual, emotional and creative life of the community at large, thereby enhancing the perception of development projects.
- Public art should reflect the creative community that lives, works, and visits Palo Alto. By adding public art in private development, the program strives to build the City's reputation as a dynamic public art locale with works of many diverse styles and disciplines, of the highest aesthetic standards.

The ordinance gives you the option of commissioning artwork on your site equal to the cost of 1% of the estimated construction valuation (labor and materials) **or** paying the 1% to the Public Art Fund in-lieu of commissioning artwork. Should you decide to make the in-lieu contribution, then those funds are due prior to issuance of building permit. Public Art staff will need to confirm the construction valuation amount through an established verification process. No presentations to the Public Art Commission or meeting with the Public Art staff will be required.

Should you decide to create original public art on site, the process is key to successful outcomes. Artwork is best integrated into a construction project when the artist is identified early enough in the project planning to become part of the design team. Artists will often see opportunities to leverage existing construction budgets and create more impactful artworks when they are brought into the process early. The ordinance allows for a very broad spectrum of types of artwork allowed to be commissioned on site; this creates opportunities for developers and artists to create engaging and diverse art experiences for the community. Should you decide to commission artwork on site, then the steps of the process are as follows:

1. Meet with the Public Art Program Director within 60 days of the initial application to the Planning Department. At this meeting, you will get more detailed information on the process, resources available, and discuss the possible types of artwork you are interested in commissioning.
2. Preliminary Review with the Public Art Commission. At the preliminary review, you will present your development project and your outlined plan for artist selection. You can gain input from the Commission as to types of artists or artworks that may be best suited for the development. The PAC may request that you return to the Commission for an interim review.
3. Final Review with the Public Art Commission. At the final review, the Commission will want to review the chosen artist, the final art concept proposal, a budget breakdown, and a timeline for installation. Final approval is necessary prior to application for a building permit.
4. The artwork and identification signage must be installed and verified by City staff prior to the issuance of the final Certificate of Occupancy.

We look forward to working with you to make this new ordinance work for you and the City. We expect some changes will be needed during the early implementation stage and look forward to your feedback.

We hope that the information presented in this packet is informative regarding the public art in private development ordinance. Please feel free to call the public art office for more information or to set up an appointment with the Public Art staff at 650.329.2227 or email nadya.chuprina@cityofpaloalto.org.

Sincerely,



Elise DeMarzo
Public Art Program Director

Examples of artworks commissioned with the Percent for Art in Private Development in Palo Alto



Tabula, 2016
Charles Gadeken and D.V. Rogers
Controllable LED lights

385 Sherman Ave, Palo Alto, CA

An interactive installation by artists Charles Gadeken and D.V. Rogers, *Tabula* displays information about the world around us and below our feet. The dynamic artwork, mounted along two walls of the Visa building at 385 Sherman Avenue, interprets an open and live seismic data feed made public by the United States Geological Survey, creating an illuminated display of seismic light on geographical images. Colors change throughout the week and data sets throughout the hours.

An informational touch screen is located on the ground floor of the building, explaining the seismic art of *Tabula* and the data that is being represented. This permanent installation was recognized by the Americans for the Arts' Public Art Network Year in Review honoring outstanding, national public art projects created in 2016.



Frequencies, 2020
Barbara Grygutis
Aluminum, LED lights

1050 Page Mill Road, Palo Alto, CA

Frequencies by internationally renowned artist Barbara Grygutis is a series of five monumental sculptures. The concept behind the artwork is inspired by the patterns created through the visual realization of "waves" in the atmosphere, that are not seen, but are known to be there, such as sound waves, and light waves.

For this commission, Grygutis took inspiration from the architecture, the landscape, and the history of the site and worked closely with the design team to create a dynamic artwork that responds to the narrative of the project site and honors the history of the Stanford Research Park. Fabricated with perforated aluminum and incorporated LED lights, the artwork has a robust day and night presence.



Promenade, 2022
Matt Gil
Concrete

585 Hamilton Ave, Palo Alto, CA

When initiating their project, the private developer felt strongly about commissioning public art onsite that would enhance visibility and make their property more unique and memorable, while benefiting the local community. Bay Area-based artist Matt Gil who has been creating sculptural artwork since the 1970s was commissioned by the developer team to achieve these goals.

As a result, the site-specific sculpture, fabricated with reinforced concrete and placed at the building entrance in the landscaped planter, adds a prominent landmark to the Hamilton Ave / Waverly St corner and is accessible to viewers at all times.



Public Art in Private Development: Valuation Verification Process Guide

A copy of the [Public Art in Private Development Ordinance no. 5226](#) and Application materials are available at <https://www.cityofpaloalto.org/publicart> under the [Policies and Documents](#) tab.

Applicability: The Public Art Requirement applies to all developments (including mixed use projects), including new construction, remodels (including associated tenant improvements that require planning entitlements), additions and reconstruction that have a floor area of 10,000 sf or more.

Review the Ordinance for exemptions or contact the Public Art Program Office at (650) 617-3517.

Definitions for the Purposes of Public Art

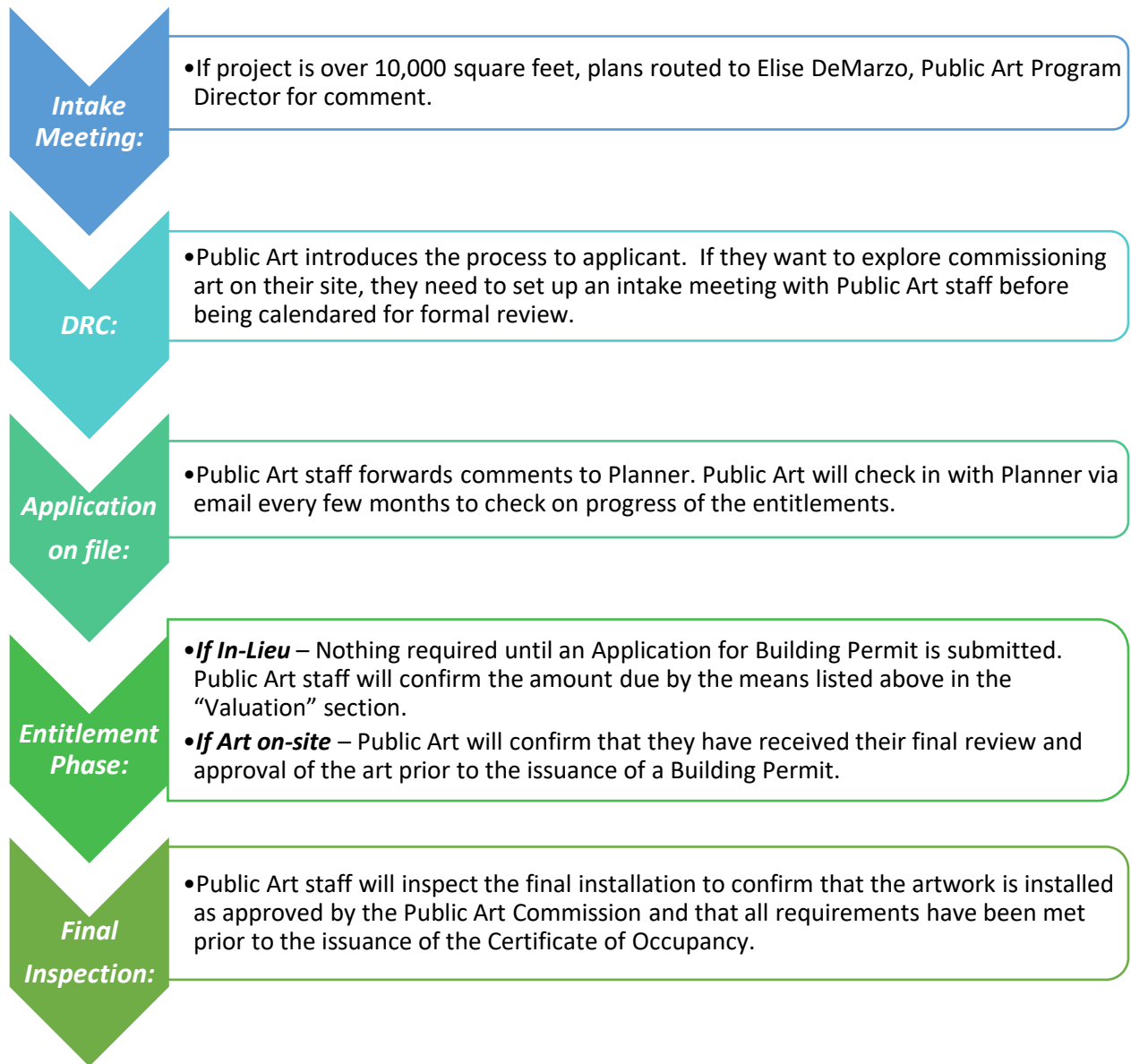
Floor Area: Floor area shall include the definition of gross floor area as defined in [18.04.030](#) as well as roof decks, parking, and all paving and landscaping area associated with the construction project.

Valuation: There are two valuations for each project:

- 1- Valuation assigned by [Development Services](#) for the purposes of cost recovery (**Job Value**).
- 2- Valuation given by the applicant that reflects the labor and material cost to build the project (**Given Valuation**). This is the valuation used for the Public Art Application. To verify the given valuation, Public Art staff may request a copy of the executed contractor's contract with the not-to-exceed amount. If such contract has not been drawn up, then the latest itemized construction estimate could be requested, generated through MS Means or similar software. Public Art staff will draw from the administrative funds in the Public Art Fund to pay a qualified contract estimator to review/verify the documentation and verify the construction amount.

Timeline/Process (see the next page):

The Public Art process runs concurrently with the entitlement process.



Contact Elise DeMarzo, Public Art Program Director at (650) 617-3517 with any additional questions.

Learn more about the Public Art in Private Development Ordinance at

<https://www.cityofpaloalto.org/Departments/Community-Services/Arts-Sciences/Public-Art-Program/Policies-and-Documents>

PUBLIC ART IN PRIVATE DEVELOPMENT PROCESS CHART

INTAKE MEETING WITH PLANNING DEPARTMENT

Estimate Construction Valuation (materials and labor) of the Development Project.
(1% of the estimated construction valuation will constitute the **Public Art Budget**.
Final amount to be confirmed at time of Building Permit Application by Public Art staff.)

PUBLIC ART IN PRIVATE DEVELOPMENT APPLICATION FORM TO PUBLIC ART STAFF

Developer submits the Public Art Application Form indicating the intent to Public Art staff **within 60 days** of Planning Intake Meeting and Application. Developer chooses one of the options below:

OPTION 1: ON-SITE ART (1%)

Public Art Budget is \$ 100,000 or OVER, and Developer chooses to place on-site art

INTAKE MEETING PUBLIC ART STAFF

Developer meets Public Art staff to discuss process for commissioning public art including:

- Application for Public Art Commission Review
- Project Management options
- Types of artwork and integration of art into site
- Artist selection process or direct art purchase
- Contract and financial management
- Fabrication and Installation
- Maintenance and care management

INITIAL REVIEW BY PUBLIC ART COMMISSION

(See *Application Checklist for Public Art Commission Review*)

Developer presents development plans to integrate Public Art into the site and receives recommendations from PAC. PAC may request an interim review

FINAL REVIEW BY PUBLIC ART COMMISSION

(See *Application Checklist for Public Art Commission Review*)

Developer submits Final Art Plan which will include selected commissioning process, art concept, budget, timeline, maintenance information, and information about the project artist. Art Plan will be reviewed by PAC **within 60 days** of submission of materials.

PRIOR TO ISSUANCE OF BUILDING PERMIT

Developer must receive final approval for Public Art on-site from PAC and have verified construction valuation in order to receive the building permit.

FINAL INSPECTION

Public Art staff confirms that Artwork was installed as approved by PAC prior to the final Certificate of Occupancy issuance.

OPTION 2: IN-LIEU PAYMENT (1%) TO PUBLIC ART FUND

Public Art Budget is UNDER \$ 100,000, and/or Developer chooses to pay the in-lieu fee

CONTRIBUTION TO PUBLIC ART FUND

Planner adds the confirmed in-lieu amount to the impact fee schedule. Developer submits the payment at the City's Revenue Collections in-person or on-line and provides a copy of receipt to Public Art staff.

PRIOR TO ISSUANCE OF BUILDING PERMIT

Public Art staff confirms valuation amount and receipt of contribution to the Public Art Fund in-lieu of providing art on-site prior to the final Certificate of Occupancy issuance.

Contact the Public Art Program office

for more information:

elise.demarzo@cityofpaloalto.org

[\(650\) 617-3517](tel:6506173517)

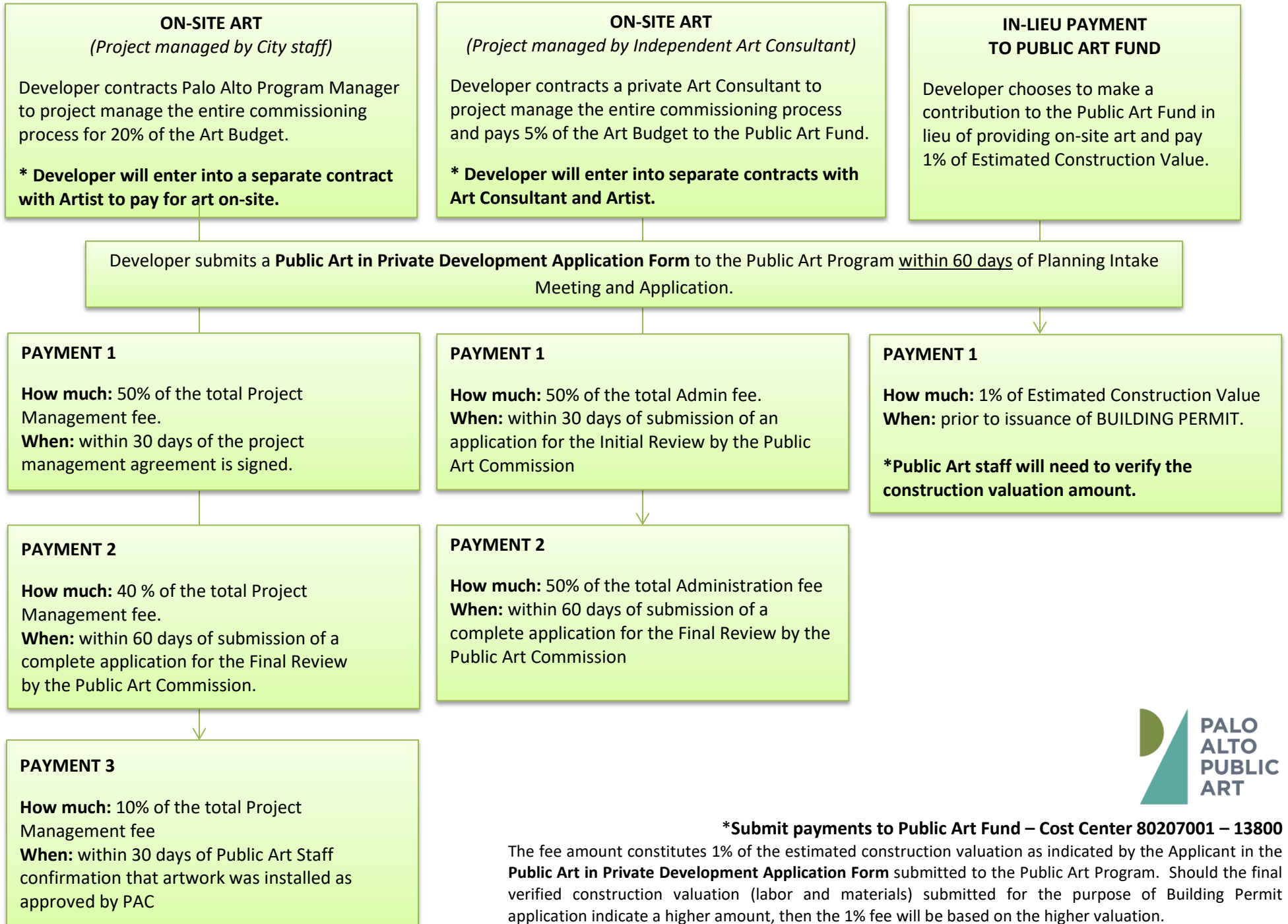
Or visit:

<https://www.cityofpaloalto.org/publicart>



PUBLIC ART IN PRIVATE DEVELOPMENT - PAYMENT SCHEDULE

1% of the estimated Construction Valuation will constitute the Public Art Budget



***Submit payments to Public Art Fund – Cost Center 80207001 – 13800**

The fee amount constitutes 1% of the estimated construction valuation as indicated by the Applicant in the **Public Art in Private Development Application Form** submitted to the Public Art Program. Should the final verified construction valuation (labor and materials) submitted for the purpose of Building Permit application indicate a higher amount, then the 1% fee will be based on the higher valuation.



PUBLIC ART COMMISSION APPLICATION CHECKLIST AND INFORMATION

INITIAL REVIEW

Applicants must meet with the Public Art Program staff and submit a **Public Art in Private Development Application Form** prior to submitting application materials for initial review by the Public Art Commission. Public Art Commission (PAC) meetings take place the third Thursday of each month at 7PM at City Hall. Applicants must submit the following materials electronically **one week prior** to the meeting to nadya.chuprina@cityofpaloalto.org:

1. A written summary of the project: this should include an overview of the development, the approximate art budget, the art selection plan and consultant, and timeline for the project.
2. PDF files of the overall site and architectural drawings.
3. A PDF of the PowerPoint presentation of the project that will be given at the meeting.
4. Name and contact information for the person who will be presenting the project to the Commission.

What to expect:

Items 1-3 will be distributed to the PAC in advance of the meeting. You will have 15 minutes to present the project to the PAC. The Commission will then have the opportunity to ask questions and make recommendations regarding the possible placement of artwork(s), types and scale of artwork that may be appropriate to the site and point out areas of concern. The Initial Review is not an action item with an approval, but an opportunity for you to get input that will help make the final artwork more successful. The PAC may also recommend that the Applicant returns to the Commission for an interim review.

Next Steps:

Once you have completed the selection process for an artist and art proposal, then you must return to the Public Art Commission for **Final Review and Approval** before fabrication of artwork can begin. It is highly recommended that your art consultant stays in close contact with Public Art staff or that you hire staff to manage the process for you.

Questions:

Contact Elise DeMarzo 650.617.3517 or Nadya Chuprina at 650.629.2227.



PUBLIC ART COMMISSION APPLICATION CHECKLIST AND INFORMATION

FINAL REVIEW

Applicants must have met with the Public Art Program staff, submitted a **Public Art in Private Development Application Form**, and completed an **Initial review by the PAC** prior to submitting application materials for final review by the Public Art Commission (PAC). Public Art Commission meetings take place the third Thursday of each month at 7PM at City Hall. Applicants must submit the following materials electronically **one week prior** to the meeting to nadya.chuprina@cityofpaloalto.org:

1. A written summary of the art selection process (how the artwork(s)/ artist were selected).
2. Samples of the artist's previous work and a resume.
3. Description of the proposed artwork, including dimensions, materials, method of construction.
4. Detailed drawings or photographs of the proposed artwork, including a rendering in-situ.
5. A rendering showing the artwork, along with the locations for any lighting, the identification plaque, and other elements included in the proposal associated with the art installation.
6. A detailed timeline and itemized budget, including installation, artist fees, art consultant fees.
7. A statement on the maintenance requirements for the artwork(s).

What you can expect:

Items 1-7 will be distributed to the PAC in advance of the meeting. You will have 20 minutes to present the art plan to the Commission. The Commission will then have the opportunity to ask questions and make recommendations regarding the artwork and point out areas of concern. Final review is an action item requiring the approval of the PAC prior to the issuance of a building permit.

Next Steps:

Once you have the final approval of the Public Art Commission, you may secure your building permit. Prior to the issuance of your Certificate of Occupancy, the Public Art Program staff must confirm that the artwork was installed as approved by the PAC, including an identification plaque for the piece (standards apply – inquire with the Public Art Program staff).

Questions:

Contact Elise DeMarzo 650.617.3517 or Nadya Chuprina at 650.629.2227.

Frequently Asked Questions – a Quick Guide for Private Developers

WHY IS PALO ALTO REQUIRING THAT MY DEVELOPMENT CONTRIBUTE TO PUBLIC ART?

Public art is an integral element in private development that offers Palo Alto many possibilities, to celebrate our city’s character and aspirations, enhance civic pride and a sense of place, and to reflect the creative community that lives, works, and visits here. Private development is critical to Palo Alto’s growth. Successful public art projects have the ability to infuse new development with a strong connection to the community, giving both residents and visitors a vibrant sense of place.

WHAT IS A WORK OF PUBLIC ART?

Public art is artwork in the public realm, which may be situated on public or private property, and acquired through public or private funding. The most important aspect of a work of public art is that it is created by a professional working artist of recognized achievement in the field of public art. The artist may collaborate with architects, landscape architects, engineers, lighting designers and/or other professionals, but he or she must be the primary designer of the art project, and must hold the contract with the developer for the work of art.

HOW WOULD MY DEVELOPMENT BENEFIT FROM INCORPORATING PUBLIC ART ON SITE?

There are many benefits for Developers in commissioning public art, including gaining



Semillas, 2016 by Brad Howe
Stanford Shopping Center
180 El Camino Real, Palo Alto CA

visibility, making their properties more attractive and memorable to both business and residential markets, and promoting good relationships within the community.

“Don’t just pay for art because it is required. Work hard to get the best possible solution for the site and project. The end result of this should be something you will enjoy seeing every time you visit the project. If you are not proud of the art, it is just an expense.”

David Jury | Vice President, Support Services & Facilities Development | Palo Alto Medical Foundation

WHAT ARE PALO ALTO’S REQUIREMENTS FOR PUBLIC ART IN PRIVATE DEVELOPMENT?

The Public Art in Private Development Ordinance, adopted by the City of Palo Alto in December 2013, establishes a requirement for art for all new developments, including new construction, remodels, addition and reconstruction with a floor area of 10,000 sq. ft. or more and construction valuation of \$200,000 or more; and all new residential projects of five

or more units. The ordinance provides an option of commissioning artwork on the development site equal to the cost of 1% of the estimated construction valuation, or paying the 1% to the Public Art Fund in-lieu of commissioning artwork.

HOW DO I PAY THE IN-LIEU CONTRIBUTION?

In lieu of an on-site project, a Developer may contribute 1% of the estimated Construction Valuation to the City's Public Art Fund. Developments with Art Budgets of \$100,000 or less are encouraged to pay the in-lieu contribution rather than commission artwork on-site. Upon making the in-lieu contribution the Developer receives a receipt from Accounts Payable or online. Public Art staff will confirm valuation amount and receipt of contribution to the Public Art Fund prior to the final Certificate of Occupancy issuance.



Tabula, 2016 LED installation by Charles Gaden and D.V. Rogers, Visa building at 385 Sherman Ave in Palo Alto, CA. Image by Allen Mort

HOW DOES PUBLIC ART ON SITE GET SELECTED?

First, the Developer should meet with the Public Art Program Staff within 60 days of the planning intake meeting and application. At this meeting, the Developer will gain more details about the process, eligible types of artwork, costs and resources available. This consultation must be complete before the development project is calendared for consideration by a public body, including the Architectural Review Board, Planning & Transportation Commission or City Council, and before the Director of Planning and Community Environment issues any approvals with respect to the project.

Once this initial meeting has taken place, the Developer can choose from the following methods:

- Employ a private, Public Art Consultant whose services would be used to solicit or identify public artists that meet the City's criteria for public art. Some Art Consultants also manage the process from start to finish. The fee for the use of a consultant is included in the 1% budget allocation. 5% of the budget goes to the Public Art Staff to offset administrative costs associated with your project.
- Delegate project management and administration process to the City of Palo Alto Public Art Staff. The fees for the use of the Public Art Program Staff will be allocated from the overall art budget and costs will not exceed 20% of the total art budget.
- Although not recommended, the Developer can directly propose an artist or work of art and pay 5% to Public Art Staff for the administration of your project.

The Public Art Commission must review and approve the final public art proposal. The Commission will review the plan for compliance with the public art requirements identified in the Ordinance.

At the Initial PAC Review, the Developer presents the development plan and outlines their plan for arts administration to the Commission and receives guidelines and recommendations from the PAC.

AT WHAT POINT AM I REQUIRED TO PRESENT WHAT THE ARTWORK WILL LOOK LIKE?

The Developer should present their final Art Plan at the final Review meeting with the Public Art Commission once the following information has been formulated by the Developer:

- The process that outlines how the artwork and artist were selected (*i.e.* RFQ/RFP; through an Art Consultant; Invitation / Commission; Direct Selection / Purchase)
- Images of previous work by that artist and Resume.
- Description of artwork, including overall length, width and height, materials, and method of construction;
- Detailed drawings or photographs of the proposed work;
- Detailed drawings of the specific public art site showing: location of artwork and location of plaque for artwork;
- Detailed timeline and itemized budget including installation, artist fees and any art consultant fees;
- Description of maintenance requirements.



Aperture, 2021 by Gordon Huether
3251 Hanover Street, Palo Alto, CA

WHAT CRITERIA DOES THE PUBLIC ART COMMISSION APPLY TO REVIEW AND APPROVE THE PROPOSED PUBLIC ART?

When reviewing the final Art Plan, the PAC will evaluate the public art based on the following criteria:

- Appropriateness of the artwork to the site;
- Quality and originality of the artwork;
- Visibility and accessibility of the artwork by the public;
- Engagement or Interactive Elements;
- Durability of Materials;
- Public Safety.

IS THE PUBLIC ART COMMISSION THE ONLY BODY THAT APPROVES THE ARTWORK OR MUST IT ALSO BE APPROVED BY P&TC, ARB, AND THE CITY COUNCIL?

The artwork only gets approved by the PAC. However, the other bodies may comment on the placement of the art as it pertains to the architecture, circulation issues, lighting concerns, or other elements.

WHEN MUST THE DEVELOPER SUBMIT THE FINAL PROPOSAL AND INSTALL PUBLIC ART ON SITE?

The Developer must submit their final art proposal for the PAC review and approval before the issuance of a building permit. The artwork must be completed, installed and inspected by the City's Public Art Program staff before the final Certificate of Occupancy can be issued.

WHO OWNS THE ARTWORK?

The public art is owned by the property owner.

WHO IS RESPONSIBLE FOR MAINTENANCE OF ARTWORK?

The property owner is responsible for the maintenance and conservation of the artwork. Durable materials should be used for minimal maintenance and proven ability to withstand the specific environmental conditions of the site. Artwork shall have reasonable maintenance requirements as specified by the artist and these requirements shall be compatible with routine city maintenance procedures. We recommend that the development team consults and art conservator when evaluating materials used to fabricate the artwork.

WHAT HAPPENS IF THE OWNER SELLS THE PROPERTY?

In case the development project is sold, the ownership of the public art will be transferred with the property. The artwork must remain at the development in the location approved by the PAC and may not be claimed as the property of the seller or removed from the site.

I WANT TO REMOVE THE ARTWORK FROM THE DEVELOPMENT SITE. WHAT SHOULD I DO?

If the development owner wishes to sell, de-accession or remove the artwork from a site, the owner must notify the City a minimum of 90 days before removing the work.* The owner must receive prior approval from the Public Art

Commission. The Developer will be required to replace the sold or de-accessioned artwork with an alternative work of equivalent or greater value, as determined by the PAC. In the alternative, the Developer can choose to contribute to the Public Art Fund in lieu of replacing on-site art.

*As it pertains to public art, property owners and developers should be aware of Visual Artists Rights Act (VARA), a section of the Federal Copyright Legislation. Among other things, this law forbids the willful destruction of a work of visual art. For further information regarding VARA, see United States Code Annotated, Title 17. Copyrights, Chapter 1 – Subject Matter and Scope of Copyright, Current through P.L. 105-153, approved 12-17-97.

Guide to Public Art Resources

The following list of online resources is provided as an optional informational resource for developers who may be subject to the requirements of the Public Art in Private Developments Ordinance. These links are for informational purposes only and are not intended to endorse any of the listed organizations, artists, or types of art. The Palo Alto Public Art Program is not responsible for any content or products which may be available or advertised on any of these sites.

General Information

<https://forecastpublicart.org/>

Forecast Public Art was one of the country's first nonprofit organizations dedicated to advancing the field of public art.

www.publicartdialogue.org

Public Art Dialogue (PAD), an organization devoted to public art. PAD was founded on the premise that dialogue is the essential element in all effective public art endeavors.

Artists Directories and Examples of Public Art

<https://www.americansforthearts.org/by-program/networks-and-councils/public-art-network/pan-year-in-review-database>

The database contains curated, categorized, and searchable examples of the best in public art projects from across the country that received PAN Year in Review recognition.

<https://www.publicartexchange.org/>

Public Art Exchange is an open and transparent network for the Public Art Field, including artists, art administrators, and others interested and or involved in the field.

<http://www.artstor.org>

The site is a photo bank that features images of architecture, public art projects, temporary commissions, and sustainable design.

www.publicartarchive.org

The Public Art Archive™ is a free, online resource for comprehensive data and rich media, employing a standardized framework to catalog public art. The Archive allows collection stewards to share their artworks with new, broader audiences; helps find information about best practices in public art.

www.codaworx.com

CODAworx is an online community for artists and design professionals to showcase their work, collaborate with one another, and earn recognition for their projects.

Local Arts Agencies

www.cac.ca.gov

The site provides essential information about the California Arts Council, an agency that helps build strong arts organizations at the local and statewide level, directly supports arts programs for all citizens, assists with the professional development of arts leaders, supports arts education in schools in all areas of the state, and promotes awareness of the value of the Arts.