



Civic Arts Program
Office of Economic Development
City Manager's Office

Fact Sheet

Public Art on Private Development Program



Calliope, by Joseph Slusky, Berkeley Marina,

Program Overview

The Public Art on Private Development policy was adopted by Berkeley City Council in July 2016 in order to enhance and support art and culture in the City of Berkeley. **For complete details please refer to full Guidelines and Procedures document, available online at:**

www.cityofberkeley.info/Public_Art_on_Private_Development_Program.aspx

Applicability

The policy applies Citywide, in all zoning districts, to new multifamily residential projects of five or more Dwelling Units, new commercial and industrial structures and all construction of building additions exceeding 10,000 square feet. The policy applies retroactively to all projects whose use permit application was completed subsequent to **June 9, 2015**. There are exceptions for the following project types to which the policy does not apply:

- Multifamily housing that has a regulatory agreement with a government agency restricting the rent and limiting tenancy to qualifying households not exceeding specified incomes for at least 60% of the units.
- Buildings with Religious Assembly Uses as defined in Section 23F.04.010 and Buildings with Arts and Cultural Uses. For purposes of this section, "Arts and Cultural Use" means buildings that have as their primary purpose the presentation of one or more cultural resources, and that are operated by public entities or non-profit organizations dedicated to cultural activities available to a broad public.
- Transitional Housing.

Compliance

Developers have three options for compliance with the policy:

1. Include on-site publicly accessible artwork valued at 1.75% of construction costs; or
2. Pay an in-lieu fee to the Private Percent Art Fund valued at 0.8% of construction costs.
3. A combination of 1 & 2: include on-site publicly accessible artwork valued at less than 1.75%, with an amount equal to 80% of the difference in value paid to the City as an in-lieu fee.

Public Art & the Development Review Process

- Developers electing to pay an in lieu fee must pay the 0.8% fee into the Private Percent Art Fund at the same time as other building permit fees.
- Developers electing to include on-site publicly accessible art must include a Conceptual Public Art Plan with Use Permit Application materials (required for projects with art budgets of more than \$100,000; others may proceed directly to Final Public Art Plan) and must have their Final Public Art Plan reviewed and approved by the Civic Arts Commission prior to issuance of a building permit.
- Developers who elect to provide On-Site Publicly Accessible Art must pay an administrative fee equal to 5% of the 1.75% requirement directly to the Private Percent Art Fund prior to issuance of the building permit.
- The Civic Arts Commission, not the Design Review Committee or the Zoning Adjustments Board, is responsible for providing review and recommendations on the Final Public Art Plan (but not content, viewpoint, or any other expressive aspect of the proposed on-site publicly accessible art).
- Prior to construction and installation of the On-Site Publicly Accessible Art, signed engineering and construction documents must be reviewed as part of the overall building permit review for the Development Project.
- If major changes to a project valuation occur, the developer has the option of submitting a revised Final Public Art Plan for reapproval by the Civic Arts Commission or paying the remainder of the fee (in the event of an increase in construction budget) to the in lieu fund. The City is not responsible for delays to reissuance of a building permit should the developer chose to resubmit their plan.

Developers electing to include on-site artwork in their project should refer to the Guidelines and Procedures document, and for questions please contact one of the following staff member:

- **Mary Ann Merker, the City of Berkeley's Civic Arts Coordinator at mmerker@cityofberkeley.info**
- **Chrystal O'Malley, the City of Berkeley's Civic Arts Analyst at comalley@cityofberkeley.info**