

Chapter 17.177 PUBLIC ART PROGRAM

17.177.010 Program execution.

The Yountville Arts Commission shall carry out the duties established by this chapter. (Ord. 16-449)

17.177.015 Definitions.

“Applicant” means a person or entity who applies to the Town for any development entitlement, including a use permit or master development permit.

“Commercial unit” means a structure or enclosed portion of a structure intended for occupation by a commercial use.

“In-lieu art fee deposit” means a deposit in an amount equal to the in-lieu fee calculated pursuant to Section 17.177.060.

“Public art” means physical and permanent artwork, installed on private property for public view as required in this chapter. (Ord. 16-449; Ord. 18-473)

17.177.020 Provision of public art or contribution towards placement of public art—Required.

An applicant for commercial development within the Town shall either directly provide public art or make a contribution towards the placement of public art. An applicant has three ways in which to comply with the requirement to place public art or make a contribution towards the placement of public art:

A. Install and maintain approved public art on property which has a value equal to or exceeding the in-lieu art fee deposit. Prior to installation of public art in satisfaction of this chapter, the property owner or developer shall comply with all procedures set forth in this chapter for selection and approval of public art.

B. Install and maintain approved public art which has a value less than the in-lieu art fee deposit and pay the difference as an additional in-lieu fee. Prior to installation of public art in satisfaction of this chapter, the property owner or developer shall comply with all procedures set forth in this chapter for selection and approval of public art.

C. Direct payment of the in-lieu art fee deposit into the dedicated art program fee fund managed by the Yountville Arts Commission in accordance with Section 17.177.050. (Ord. 16-449; Ord. 18-473)

17.177.030 Application for public art.

If choosing to install and maintain public art, the property owner or developer shall submit an application to the Yountville Arts Commission which shall include:

A. Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art, the résumé of the artist as well as evidence of previous work and efforts of the artist;

- B. An independent appraisal or other similar evidence of the value of the proposed artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required by the Yountville Arts Commission to adequately evaluate the location of the public art in relating to the proposed development, and its compatibility with the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and
- D. A narrative statement and maps or diagrams demonstrating that the public art will be only exterior to all structures and accessible and visible to the public at all times. (Ord. 16-449; Ord. 18-473)

17.177.040 Approval for public art.

- A. The Yountville Arts Commission shall review the completed application submitted pursuant to Section 17.177.030, considering the aesthetic quality and harmony with the proposed project, and the public accessibility to the public art. In order to satisfy the requirements of this chapter, the public art must be approved by the Arts Commission.
- B. The applicant may appeal the Arts Commission's decision to the Town Council in writing within 30 days. If the applicant fails to submit a timely appeal, the decision of the Arts Commission shall become final. If the applicant submits a timely appeal of the Arts Commission's decision, the Town Council shall conduct a hearing on the appeal. The decision of the Town Council shall be final.
- C. If, during proceedings related to the overall project which occur subsequent to the Arts Commission's decision, significant revisions to the proposed public art or its physical location and context are proposed or required by the applicant, the Zoning and Design Review Board, or Town Council, the application shall be returned to Arts Commission for further review and recommendation concerning the revised proposal for review and approval prior to the final review of the project as a whole.
- D. The Arts Commission may recommend conditions of approval related to the Public Art to be included in any entitlements approved by the Town Council or ZDRB. (Ord. 16-449)

17.177.050 In-lieu art fee deposit and refund thereof for installation of public art.

A property owner or developer shall pay an in-lieu art fee deposit at the time of applying for a building permit for commercial development, in support of the requirement to provide public art in accordance with Sections 17.177.020 through 17.177.040. All fees paid pursuant to this chapter shall be deposited into an art program fee fund. If the applicant opts to install and maintain public art, the applicant is eligible for a refund of the in-lieu art fee deposit up to the maximum appraised value of the art upon completion of the art installation. If the applicant opts not to place public art, the in-lieu art fee deposit shall remain in the art program fee fund and shall be exclusively used for the acquisition, installation, improvement, and maintenance of physical artwork to be displayed in the Town for public view. The revenue deposited into this fund shall also be used for the administration of the public art program. This fund shall be maintained by the Town Treasurer. (Ord. 16-449; Ord. 18-473)

17.177.060 In-lieu fee determination.

The amount of the fee shall be a percentage of the project valuation as follows:

- A. The total project valuation shall be computed 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.
- B. Each commercial unit shall be assessed an amount equal to one percent of its valuation, excluding land acquisition and off-site improvement costs. (Ord. 16-449)

17.177.070 Timing of compliance.

- A. An in-lieu art fee deposit shall be paid when applying for a building permit for commercial development;
- B. Applications for installed public art must be submitted to the Yountville Arts Commission for consideration and approved prior to the project's completion and issuance of a certificate of occupancy (temporary or final) by the Planning and Building Department. Placement of approved public art must be within 90 days of approval unless an alternative date is approved by the Yountville Arts Commission at time of approval.
- C. All documentation required under Section 17.177.080 must be provided prior to installation of public art. (Ord. 16-449; Ord. 18-473)

17.177.080 Documentation for public art.

Prior to installing public art in accordance with this chapter, the applicant must provide to the Town:

- A. Financial security in an amount equal to the acquisition and installation costs of approved public art, in a form approved by the Town Attorney;
- B. Covenants, conditions, and restrictions (CC&Rs), in a form approved by the Town Manager and the Town Attorney, which require the property owner, successors in interest, and assigns to maintain the public art in good condition. CC&Rs shall be executed and recorded by the applicant with the County of Napa;
- A statement which indemnifies, defends, and holds the Town and related parties harmless from any and all claims or liabilities from the public art, in a form acceptable to the Town Attorney; and
- C. Certificate of insurance naming the Town as an additional insured, including such coverage and liability limits as may be specified by the Town Manager. (Ord. 16-449)

17.177.090 Ownership of public art.

A. All public art installed by an applicant pursuant to this chapter shall remain the property of the applicant; the obligation to provide all maintenance necessary to preserve the public art in good condition shall remain with the owner of the site.

B. Maintenance of public art shall include, without limitation, preservation of the public art in good condition to the satisfaction of the Town, protection of the public art against physical defacement, mutilation or alteration, and securing and maintaining insurance in an amount and form to be determined by the Town Manager. Prior to installation of an approved artwork, applicant and owner of the site shall execute and record a covenant in a form approved by the Town for maintenance of the public art. (Ord. 16-449)

17.177.100 Removal or alteration of public art.

A. Public art installed pursuant to the provisions of this chapter shall not be removed or altered without the approval of the Yountville Arts Commission.

B. If this requirement is not met, the occupancy and/or use permit for the project may be revoked by the Town Council. (Ord. 16-449)

17.177.110 Reserved.

17.177.120 Violations.

A. If the public art is not installed or maintained as required by this chapter, the Town Council may revoke the occupancy permit for the project upon recommendation by the Arts Commission. Prior to revoking an occupancy permit, the Council shall conduct a hearing, with no less than 15 days' notice to the property owner.

B. If any public art provided pursuant to the provisions of this chapter is knowingly removed by the property owner without the approval of the Yountville Arts Commission, the property owner shall contribute funds equal to the development project's original public art requirement to the Town's public art program fee fund, or replace the removed public art with one which is of comparable value and approved of by the Yountville Arts Commission.

C. In addition to all other remedies provided by law, in the event the owner fails to maintain the public art, upon reasonable notice, the Town may perform all necessary repairs, maintenance or secure insurance, and the costs therefor shall become a lien against the real property.

D. A violation of this chapter shall be considered a public nuisance. (Ord. 16-449)