

CC 10-21-2025

#13

Art-in-lieu Fees

Presentation

Art-in-lieu Fee Policy

Cupertino City Council
October 21, 2025



**CITY OF
CUPERTINO**

Subject

Study session to review the Arts & Culture Commission's recommendation to the Municipal Code standards for art in public and private development, including the standards in the Municipal Code and developing an Art-in-lieu fee policy.

Background

- March 1, 2005, the City Council approved Resolution No. 05-040, *City of Cupertino Public Art Program: Guidelines for Selection of Public Art*.
- City first approved its original “Required Artwork in Public and Private Developments Ordinance” (09-2037) on February 17, 2009.
- The current Ordinance (18-2175) was approved by the City Council on August 21, 2018.
- General Plan: Community Vision 2015-2040 contains multiple policies and strategies as it relates to art in the City.

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City Council Work Program – Quality of Life (FY 2024-2025)

Revisit Municipal Code standards for art in public and private development, including the standards in the Municipal Code and developing an Art-in-lieu fee policy.

Analysis

- Chapter 19.148: Required Artwork in Public and Private Developments
- CC Resolution No. 05-040: Guidelines for Selection of Public Art
- Researched other Jurisdictions
 - Art Requirements of Private Development
 - Separate Art Fund
 - Fund Distribution
 - Decision Making Bodies

Discussion

September 23, 2024, March 24, 2025, May 19, 2025, and July 22, 2025, staff presented information concerning this item to the Arts and Culture Commission.

- Arts & Culture Commission approve the in-lieu payment option.
- In-lieu payment and valuation of art pieces on private development shall be 1%, instead of the 1.25%.
- Create and maintain a separate art fund.
- Art funding should be used to develop an arts Master Plan, and other Commission recommendations, including an expansion of funding to art programming beyond physical art.
- City Council to be decision-making body, upon recommendation by the Arts and Culture Commission, for allocation of funds.

Discussion

- CMC Table 19.12.030 *Approval Authority* and Chapter 19.148: *Required Artwork in Public and Private Developments modified.*
- Amended City's existing Policy (City Council Resolution No. 05-040) by establishing a separate art fund, as well as parameters for what the funds can be spent on.

Planning Commission

On September 23, 2025, the Planning Commission received a presentation on the Arts & Culture Commission's recommendations to the City Council. The

Planning Commission motioned 3-2 (No: Fung, Lindskog) to

- Retain the existing premium (1.25%) for the in-lieu fee.
- Create a separate art fund to be solely used for the creation of public art in any form
- That Council maintains final discretion on approvals.

Next Steps

With Council direction, staff will prepare amendments to Municipal Code Section 19.12.030, Chapter 19.148, as well as any proposed modifications to the draft policy for Council consideration.