

ORDINANCE NO. 09-21 N.S.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND AMENDING
RICHMOND MUNICIPAL CODE CHAPTER 3.59, ARTS AND CULTURE
COMMISSION**

The Council of the City of Richmond does ordain as follows:

SECTION I. Findings

1. Public art fosters economic development, enhances community vitality and enriches the quality of life through the City.

2. Since 1997, the City of Richmond has had a policy requiring City Capital Improvement Projects to devote 1.5 percent of the project's construction budget to public art, and in 2017 extended this requirement to private developments.

3. In 1999, the City of Richmond developed the City of Richmond Arts and Culture Commission Public Art Program Policies and Procedures, which established the Public Art Advisory Committee. Through this amendment, Chapter 3.59 of the Richmond Municipal Code shall be amended to establish the Public Art Advisory Committee as a subcommittee of the Richmond Arts and Culture Commission.

4. As a result of this amendment, all current Public Art Advisory Committee members will now be Arts and Culture Commissioners.

SECTION II.

Chapter 3.59 of the Richmond Municipal Code entitled “Arts and Culture Commission” is hereby amended as follows (~~strikeout text~~ indicates deletion; underline text indicates insertion):

CHAPTER 3.59

ARTS AND CULTURE COMMISSION

Sections:

3.59.010 Creation of Commission.

- 3.59.020 Definitions.
- 3.59.030 Commission purpose and duties.
- 3.59.040 Appointment and qualifications of members.
- 3.59.050 Terms of office.
- 3.59.060 Officers.
- 3.59.070 Meetings.
- 3.59.080 Rules and records.
- 3.59.090 Absence from meetings.
- 3.59.100 Public Art Advisory Committee.
- 3.59.110 Relations with city departments and agencies.

3.59.010 - Creation of Commission.

There is created an Arts and Culture Commission.

3.59.020 - Definitions.

- (a) “Artist” means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner’s body of work, educational background, experience, performances, commissions, exhibition record, publications, and production of Artwork. 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 Private Development project architect, landscape architect, engineer or project manager; (iii) any person with a business interest in a Private 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 Private Development project.
- (b) “Artwork” that may be used to satisfy the requirements of this Chapter includes, but is not limited to, the following:
 - (1) Sculpture: Of any material or combination of materials; freestanding, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical.
 - (2) Murals or paintings: Made of any material or variety of materials including traditional or non-traditional materials and means.
 - (3) Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, books, literary and performing arts,

calligraphy, found objects, any combination of media, including audio, video, film, DVD, holographic or computer-generated technologies, or other genres currently known or which may come to be known at the sole discretion of the City.

- (4) Artwork may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.
- (5) For the purposes of this Chapter, the following, unless specified or designed by an Artist, are not considered Artwork:
 - (i) Reproductions, by mechanical or other means, of original Artwork; however, limited editions controlled by the Artist, or original prints, cast sculpture, or photographs, may be included.
 - (ii) Decorative, ornamental, or functional elements that are not designed by an Artist.
 - (iii) Elements generally considered to be components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc., which are not designed by an Artist.
 - (iv) Art objects that are mass-produced, ordered from a catalog, or of standard design (such as benches or fountains), directional items or other functional elements such as graphics, signage, or maps.
 - (v) Corporate logos.
- (c) “Arts and Culture Manager” means the City of Richmond’s Arts and Culture Manager, or a designee of the Arts and Culture Manager, who is the head of the Arts and Culture Division in the Richmond City Manager’s Office, Economic Development.
- (d) “City Capital Improvement Projects” means any capital improvement project, construction project, or tenant improvement project with a budget or anticipated costs of \$300,000 or more, including any acquisition, leasing, rental, construction or remodeling of any building, structure, park, utility, street, sidewalk, or parking facility, or any other type of capital project or any portion thereof within the geographical limits of the City, paid for wholly or in part by the City or by any board, commission, agency or department of the City.

- (e) “City Property” means any property owned by the City of Richmond, which may include, but is not limited to, City-owned buildings, facilities, structures, plazas, and parks. For purposes of this Chapter, this definition shall not include the City’s right-of-way.
- (f) “Commission” or “Arts and Culture Commission” means the City of Richmond Arts and Culture Commission (and by extension the Public Art Advisory Committee, a subcommittee of the Richmond Arts and Culture Commission), established by this Chapter.
- (g) “Private Developer” means any person or entity that is financially and legally responsible for the planning, development and construction, or maintenance and operation of a Private Development project.
- (h) “Private Development” means a building project that is funded by private funds, except where a Private Developer is in partnership with the City.
- (i) “Public Art” means any Artwork installed on, placed in, or integrated into or about publicly accessible places, which shall include, but not be limited to:
 - (1) City-owned property, buildings, or facilities;
 - (2) City parks, or other areas designated as a public area, lobby, or public assembly area;
 - (3) The site of a City Capital Improvement Project;
 - (4) Private Development project that is located in a place accessible to the general public for two weeks or more;
 - (5) Non-City property if the Artwork is installed or financed, either wholly or in part, with City funds or grants procured by the City.
- (j) “Public Art Master Plan” or “Master Plan” means a plan which identifies specific Public Art projects to be accomplished with the City’s Public Art allocations.
- (k) “Public Art Appropriation for Capital Improvement Projects” is a program of the City Manager’s Office, Arts and Culture Division, as further defined and discussed in 06.50.020 of the Richmond Municipal Code.
- (l) “Public Art Program” means a program of the City Manager’s Office, Economic Development, Arts and Culture Division addressing matters of Public Art in the City and administered by Chapter 6.50 of the Richmond Municipal Code.
- (m) “Public Art Policies and Procedures” means the Public Art policies and guidelines adopted by the City Council, consistent with Chapter 06.50 of the Municipal Code.

- (n) “Selection Panels” means ad-hoc panels assembled for specific Public Art projects. The role of the selection panel is to assist the Public Art Program in identifying qualified artists to be considered for a Public Art project commission. A Selection Panel shall be comprised of a minimum of three members, shall always be an odd number, and shall include at least one Artist or arts professional (curator, educator, etc.) and one representative of the neighborhood in which the Artwork will occur.

3.59.030 - Commission purpose and duties.

The purpose of the Commission is to promote and encourage the development of and interest in the visual and performing arts, and to act in an advisory capacity to the City concerning its artistic and cultural development and the preservation of Richmond's heritage. The duties of the Commission shall be as follows:

- (a) Advise the City Council on all art-related issues;
- (b) Evaluate the resources and needs of local arts organizations;
- (c) Facilitate communication and cooperation among art groups;
- (d) Pursue ways to increase funding and resources for the arts in the City of Richmond, including but not limited to, by soliciting funds for Public Art from foundations, corporations, public agencies, and other appropriate sources;
- (e) Cooperate with existing public and private agencies to develop programs to further the development and public awareness of the visual and performing arts reflecting the cultural diversity and historical resources of the City of Richmond;
- (f) Disseminate information concerning arts and cultural programs in the City of Richmond;
- (g) Recommend policies and advise the City concerning the receipt or purchase of Artwork to be placed on municipal property;
- (h) Recommend needed changes in laws, legislation, and policies needed to promote the aesthetic, cultural development and historical preservation of the City;
- (i) Be available to City departments, when appropriate, to advise on arts, cultural and historical issues;
- (j) Administer and coordinate the Neighborhood Public Art mini-grant program designated to stimulate arts and culture in the City, help emerging Artists of all ages and ethnicities, and fund local visual, literary and performing arts projects, as further described in the Public Art Policies and Procedures;
- (k) Administer and coordinate the appointment of a Richmond Poet Laureate who provides a focus for the appreciation and dissemination of poetry in the City, promotes the appreciation and knowledge of poetry among our youth, and acts as a spokesperson for the growing number of poets and writers in the City;

- (l) Advise the City in matters pertaining to the quality, quantity, scope, and style of Public Art;
- (m) Periodically review the Public Art Appropriation for Capital Improvement Projects with the Arts and Culture Manager and such other members of the City staff as may be appropriate for inclusion of Artwork in various projects;
- (n) Advise the City regarding the amounts to be expended on Public Art;
- (o) Review and approve plans and proposals for the installation of Public Art in the City, including for City Capital Improvements Projects (RMC 06.50.020) and Private Development Projects (RMC 06.50.30);
- (p) Review the inventory of Public Art and advise the City in matters pertaining to the maintenance, placement, alteration, sale, transfer, ownership, and acceptance or refusal of donations of, and other matters pertaining to Public Art;
- (q) Advise and assist private property owners who desire such advice and assistance regarding the selection and installation of Artwork to be located on their private property in the public view;
- (r) Act as a liaison between local Artists and private property owners desiring to install Artwork on their private property in public view;
- (s) Give recognition to, and maintain an inventory of, Artwork in the public view when reasonably feasible;
- (t) Endeavor to preserve Artwork in the public view through agreements with the property owner and/or the Artist;
- (u) Recommend Public Art projects and budgets, in the form of a Public Art Master Plan developed with the Arts and Culture Manager, to the City Council;
- (v) Review and recommend to the City Council the acceptance or rejection of all proposed gifts or loans of Artwork to the City, and make recommendations for the lending of City-owned Artwork to other organizations or institutions; and
- (w) Perform such other duties and undertake such other responsibilities as the City Council may direct from time to time.

3.59.040 - Appointment and qualifications of members.

The Commission shall consist of fifteen (15) members who are intended to reflect the demographic, cultural, social, and professional diversity of the City and who shall not be officers or employees of the City of Richmond and who shall be appointed by the Mayor with the concurrence of the City Council. Any vacancies on the Commission shall be filled by appointment by the Mayor with the concurrence of the City Council for a full-term as defined in 3.59.050 below. A majority of the appointees shall be residents of the City, maintain a balance of all the arts disciplines, and a majority of the members shall be professional artists, arts educators or arts administrators, and one local historian, with a commitment to public accessibility to the arts. There shall be at least a minimum of two years between serving on the Commission and compensation from the City for services.

3.59.050 - Terms of office.

The term of each member of the Commission shall be for four years. A full term shall be defined as four (4) full years from the appointment date by the City Council. Terms shall be staggered to ensure a degree of continuity. No member shall serve for more than two consecutive full terms.

3.59.060 - Officers.

The Commission shall from their own number elect a chairperson and vice-chairperson. Said officers shall serve for a period of two (2) full years from the appointment date with a maximum of two (2) consecutive terms per office. In the case of a vacancy in the position of the chairperson or vice-chairperson, the Commission shall elect a successor who shall serve for the balance of the predecessor's term. The Commission shall appoint a secretary who may be, but need not be, a member of the Commission.

3.59.070 - Meetings.

The Commission shall fix the time and place of regular meetings of the Commission which shall be not less frequent than once each month. All meetings of the Commission shall be open to the public. A majority of the currently serving members of the Commission shall constitute a quorum for the conduct of business. If a quorum is present, a majority of the votes cast is sufficient for the adoption of any motion.

3.59.080 - Rules and records.

The Commission shall adopt rules, subject to the approval of the Arts and Culture Manager, for the transaction of the business of the Commission, which rules shall, among other things, include the term of the secretary of the commission, the manner of calling and giving notices of special meetings and hearings, and the appointment and powers of standing committees. The Commission shall keep records which shall be open to the public of its resolutions, transactions, motions, orders, findings and determinations. There shall be a ten (10) business days notice to the Arts and Culture Manager for placing an agenda item for a Commission meeting.

3.59.090 - Absence from meetings.

The absence of any member of the Commission from more than three regularly scheduled meetings of the Commission within any twelve-consecutive- month period shall constitute an automatic resignation from the Commission. Such a resignation shall not, however, disqualify an individual from subsequently being appointed to the same or any other City commission or board. In the event of any such resignations, the vacancy shall be filled by appointment for a full-term as defined in 3.59.050 in the manner prescribed in Section 3.59.040.

3.59.100 - Public Art Advisory Committee.

The Public Art Advisory Committee (PAAC) shall be established as a sub-committee of the Commission.

The PAAC shall be composed of a maximum of seven (7) Arts and Culture commissioners. The PAAC members are intended to reflect the demographic, cultural, social, and professional diversity of the City.

The PAAC shall:

- a. Recommend Public Art policies and procedures to the Commission;
- b. Recommend Public Art projects and budgets, in the form of a Public Art Master Plan developed with the Arts and Culture Manager, to the Commission;
- c. Review proposals for Public Art in a Private Development, as recommended by Selection Panels, and forward a recommendation to the Commission;
- d. Review proposals for Public Art acquisitions, as recommended by Selection Panels, and forward a recommendation to the Commission;
- e. Review and recommend to the Commission the acceptance or rejection of all proposed gifts or loans of Artwork to the City, and make recommendations for the lending of City-owned Artwork to other organizations or institutions; and
- f. Serve as community liaisons and provide advocacy for the Public Art Program and its activities in all of the City.

3.59.110 - Relations with city departments and agencies.

So far as practicable and subject to the approval of the City Manager, the services of all other City departments and agencies shall be made available by their respective heads to the Commission for the purpose of carrying out the responsibilities of the Commission. The City Attorney may assign legal counsel to assist the Commission in the conduct of its business.

SECTION III. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION IV. CEQA. This Ordinance is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because the adoption of this ordinance is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment; and a project does not include the creation of a government funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines section 15378). In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant

effect on the environment. CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the Ordinance would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION V. Effective Date. This ordinance becomes effective thirty (30) days after its final passage and adoption.

First read at a meeting of the Council of the City of Richmond, California, held _____, and finally passed and adopted at a meeting thereof held _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney