

**Sec. 5.3083. Cultural improvements program.**A. *Purpose.* The City Council finds as follows:

[1.] That the continued vitality of the downtown district is essential to the economic, social, and aesthetic well-being of the City of Scottsdale;

[2.] That downtown Scottsdale has an established artistic and cultural component, based on elements including the Scottsdale Center for the Arts, the many art galleries and a variety of public activities;

[3.] That enhancement of this cultural and artistic component will contribute to the continued welfare and revitalization of the downtown district to the benefit of both the private and public sectors;

[4.] That the integration of publicly visible works of art into private development projects will strengthen the downtown as the cultural center of the city by incorporating the arts into the urban environment;

[5.] That the City Council wishes to promote these goals by encouraging collaboration between developers, artists, architects, landscape architects, engineers and other project planners, and by providing a means to finance art works and cultural facilities and programs in key public areas in the downtown [district];

[6.] That a developer of a planned block development in the downtown district is afforded certain incentives and bonuses not available to developers of similar projects.

B. *Definitions.*

1. *Art in public places program.* The program established pursuant to the provisions of Scottsdale Revised Code section 20-121 and 20-121.1 providing for the selection and installation of original works of art in public places within the City of Scottsdale.

2. *Art work or works of art.* All forms of limited edition or one-of-a-kind original creations of visual art created by an artist.

An original work of art, shall not include any of the following, unless specifically allowed by the Scottsdale Cultural Council. Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of the original works of art; art objects which are mass-produced of standard design such as playground equipment, fountains or statuary objects; reproduction by mechanical or other means of original works of art; decorative, ornamental or functional elements created by the project architect instead of an artist commissioned for this purpose; landscape architecture or gardening except for elements designed by the artist as an integral part of the work of art; electrical, water or mechanical service for activation of the works of art; art exhibitions and educational activities; security and publicity concerning works of art, architects fees, land costs.

3. *Artist.* A practitioner in the visual arts, generally recognized by his or her critics and peers as a professional possessing serious artistic intent and ability.

4. *Building valuation.* The building valuation as determined by the development services director or his or her designee, based on the building valuation data published by the International Conference of Building Officials, and noted on the building permits. For purposes of this ordinance only, calculation of building valuation shall not include public improvements square footage, residential uses other than hotel, or hospitals as defined in section 3.100

of the zoning ordinance.

5. *Cultural trust fund.* The separate fund into which shall be placed only the monies received pursuant to this ordinance. This fund may be used only for the purposes authorized by this ordinance.

6. *Planned block development.* A plan for a large parcel area which may include multiple ownerships, allowing flexibility in certain development standards, and subject to specific review, all as provided in section 5.3082, et seq., of the Scottsdale Zoning Ordinance.

7. *Public improvements square footage.* Square footage which is attributable to a special public improvement constructed pursuant to section 5.3090(C)(4) of the zoning ordinance, for which the developer received bonus floor area.

8. *Scottsdale Cultural Council.* The entity, and any successor, designated by the City Council to administer the art in public places program.

9. *Visual arts professional.* An artist, art educator, art critic, art administrator, designer, art historian, art museum curator or director or fine art collector, who is well respected in his or her field, and recognized by his or her peers as being knowledgeable in regard to visual art.

C. *Imposition of percent for arts obligation.*

1. In a planned block development (PBD) in the downtown district, original works of art costing a minimum of one (1) percent of the building valuation shall be installed and maintained in accordance with the provisions of this ordinance, and the art in public places program.

The cost of the art work may include: Structures which enable the display of art work(s); expenses incurred within the artist's budget to cover professional fees for the artist(s); labor of assistants; materials and contracted services required for the production and installation of the work(s) of art; travel expenses of the artist for site visitation and research; transportation of the work of art to the site; site preparation for art work installation; and other installation costs of the completed art work.

2. The artists and art work shall be selected by one of the following procedures, at the option of the developer:

a. The developer may select a visual arts professional to act as a consultant. The visual arts professional will aid the developer in selecting the artist and the art work, in accordance with the guidelines set forth in this ordinance; or

b. The developer may utilize the resources and services of the Scottsdale Cultural Council in selecting the artist and/or art work, in accordance with procedures and guidelines established by the entity.

3. Original art work is to be placed within the PBD, on a site which takes into account the following: Unobstructed public viewing and accessibility; public safety; interior and exterior use patterns which are consistent with existing or future architectural and natural features; and primary uses of the building, and relationship of the proposed art work to existing art works within the site or area. Art work should be placed where visible from the street, or in exterior spaces such as walkways, plazas, and exterior building surfaces.

D. *In-lieu fee.* The developer of a PBD may pay an amount equal to one (1) percent of the building valuation or any portion of the obligation not used on site, into the cultural trust fund, in lieu of installing original art work in the PBD. Such amount shall be disbursed in accordance with the provisions of the art in public places program, provided

that art work purchased with monies deposited in the cultural trust fund, shall be placed only in the downtown district.

E. *Cultural trust fund.* There is hereby established a cultural trust fund (CTF), into which shall be deposited all sums collected pursuant to the provisions of this ordinance. The CTF shall be used exclusively for the purposes and through the processes set forth in this ordinance, and in the art in public places program.

F. *Project completion.*

1. A preliminary art plan and schematic design which identifies location, type and approximate scale of the art work shall be submitted to the planning and zoning department prior to Development Review Board approval of the development project.

The Scottsdale Cultural Council will review the developer's proposed public art plan prior to Development Review Board for consistency with the public art master plan and make a written nonbinding recommendation to the Development Review Board, providing a copy to the developer.

2. A final art plan and design consisting of appropriate drawings and models shall be submitted to the planning and zoning department at or before the submission of final construction drawings.

3. On site art work must be installed by the artist, and the visual arts professional or the Scottsdale Cultural Council must certify that the requirements of this ordinance have been met, and/or the in-lieu fee must be deposited, before a certificate of occupancy will be issued for the project. Certification shall be by the Scottsdale Cultural Council only when the developer has opted not to employ a visual arts professional, and has chosen to select the artist as provided in section C(2)(b) of this ordinance.

The certification shall include: (1) a statement that the art work, artist and site meet the criteria established by this ordinance, (2) the date on which the installation or deposit was completed, and (3) an itemized account of the expenses incurred by the developer in fulfilling the requirements of this ordinance.

G. *Exemptions.* This ordinance shall not apply to:

- (1) Those portions of a planned block development for which a building permit has been issued prior to the effective date;
- (2) Individual tenant improvements; or
- (3) Alterations and reconstruction less than thirty thousand (30,000) square feet.

H. *General provisions.*

1. The fee imposed by this ordinance shall be in addition to and supplemental to all other fees imposed by the city.

2. If any provision of this ordinance is held invalid, such invalidity shall not affect other provisions which can be given effect without the valid provision. To this end, the provisions of this ordinance are declared to be severable.

(Ord. No. 2018, 6-21-88; Ord. No. 2301, § 1, 7-17-90; Ord. No. 3225, § 1, 5-4-99)

**Cross references:** Public library, § 20-16 et seq.; center for the arts, § 20-71 et seq.; Scottsdale Mall, § 20-106 et seq.