

REPORT TO THE CITY COUNCIL



DATE: June 5, 2018

TITLE: Ordinance Amending Chapter 17.60 "Art in Public Places Program" of Title 17 "Zoning" of the Desert Hot Springs Municipal Code

Prepared by: Jennifer Mizrahi, City Attorney

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from the City Council;
- 3) Open the Public Hearing;
- 4) Take Testimony of those in Favor;
- 5) Take Testimony of those Opposed;
- 6) Take Testimony of those in a neutral position;
- 7) Close the Public Hearing
- 8) City Council Discussion; and
- 9) Consider a recommendation from the Planning Commission: Approve First Reading, and read by title only, "An Ordinance of the City Council of the City of Desert Hot Springs amending Chapter 17.60 "Art in Public Places Program" of Title 17 "Zoning" of the Desert Hot Springs Municipal Code," as amended by the Planning Commission.

DISCUSSION

The City's Art in Public Places Program, codified in Desert Hot Springs Municipal Code ("DHSMC") Chapter 17.60, is intended to promote the general welfare by requiring developers to contribute to the placement of public art in the City, prior to obtaining final City approval of their development projects.

Developers may satisfy their public art contribution requirements either by acquiring and installing public art, the value of which is equal to a specified percentage of the overall value of the corresponding development project, or, when the value of the public art contribution does not exceed \$20,000, by making a payment of the same value into the City's Art in Public Places Fund in lieu of acquiring and installing public art (an "In-Lieu Contribution"). In-Lieu Contributions promote the general welfare because the City can pool the In-Lieu Contributions into its Art in Public Places Fund and can use the pooled funds to acquire beautiful and high-quality pieces of art, to be placed in public locations selected by the City. State law does not require a cap of \$20,000 or any other amount on the availability of the In-Lieu Contribution as an option to developers.

Prior Draft Ordinance

A Prior Draft Ordinance was presented to the Planning Commission during a noticed public hearing at their January 9, 2018 meeting. The Prior Draft Ordinance as originally drafted and presented to the Planning Commission 1) removed the \$20,000 cap on the availability of the In-Lieu Contribution as an option to developers, thereby allowing developers to make In-Lieu Contributions regardless of the amount of the required public art contribution, and finds that doing so will promote the general welfare, 2) required industrial developers to pay the In-Lieu Contribution, and 3) clarified the procedures and requirements relating to the role of the Community and Cultural Affairs Commission and further revised certain procedural aspects of the City's Art in Public Places Program. The Planning Commission voted to recommend to the City Council the Prior Draft Ordinance, but removing the language requiring industrial

developers to solely have the option of paying the In-Lieu Contribution and not allowing industrial developers to have the option of installing public art.

The City Council then had the first reading of the Prior Draft Ordinance and reduced the industrial developer contribution to 0.25%. There were further edits and discussion. However, the Prior Draft Ordinance never had a second reading so it did not become effective.

Current Ordinance

The Current Ordinance 1) removes the \$20,000 cap on the availability of the In-Lieu Contribution as an option to developers, thereby allowing developers to make In-Lieu Contributions regardless of the amount of the required public art contribution, and finds that doing so will promote the general welfare, 2) requires industrial developers satisfy their art in public places requirement by making an In-Lieu Contribution only, 3) removes lighting and landscaping as contributory costs to art in public places, and 4) clarifies the procedures and requirements relating to the role of the Community and Cultural Affairs Commission, and further revised certain procedural aspects of the City's Art in Public Places Program. It further keeps the Industrial Development contribution at 0.75% of the building valuation.

Exhibit 2 provides a table that shows how much Art in Public Places funds the City has collected from Residential, Commercial, and Industrial developments for the past 4 years.

FISCAL IMPACT

None.

EXHIBIT(S)

- 1) Proposed Ordinance
- 2) Art in Public Places Revenues
- 3) Art in Public Places Estimates