



STAFF REPORT

Item F. 1.

DATE 12/11/2025
TO Honorable Mayor and City Council Members
FROM Jessenia Taimani, Recreation and Community Services
Supervisor I
SUBJECT Waive full reading and introduce by title only an ordinance adding Chapter 12.36, Art in Public Places and Private Development, and an ordinance adding Chapter 2.14, Public Art Committee, to the Newark Municipal Code; and adopt a resolution adopting the Public Art Guidelines to Implement Chapter 12.36, "Public Art In Public Places and Private Development"

SUMMARY AND RECOMMENDATION

Staff has incorporated City Council direction from the October 23, 2025, meeting into the proposed ordinances adding Chapter 12.36, Art in Public Places and Private Development, and Chapter 2.14, Public Art Committee to the Newark Municipal Code. The revisions address affordable housing flexibility, committee composition, and student member terms. Staff recommends that the City Council waive the full reading and introduce by title only the proposed ordinances adding Chapter 12.36, Art in Public Places and Private Development, to Title 12 of the Newark Municipal Code and Chapter 2.14, Public Art Committee, to Title 2 of the Newark Municipal Code.

BACKGROUND

On October 23, 2025, staff presented proposed ordinances to the City Council to support the implementation of the City's updated Public Art Master Plan adopted in June 2024 (see attached staff report). The presentation included two new chapters to the Newark Municipal Code:

- Chapter 12.36, Art in Public Places and Private Development, establishes updated requirements for public art contributions associated with private development; and
- Chapter 2.14, Public Art Committee, establishes the structure, duties, and appointment process for a new advisory body to guide implementation of the program.

At that meeting, the City Council considered the proposed ordinances and directed staff to return with revisions. Specifically, the Council requested that staff:

- Provide additional flexibility for developments that include affordable housing;
- Establish a limited term for the high school student representative on the Public

Art Committee;

- Explore expanding the Committee from five to seven members;
- Include the mentioned letter of support from the Newark Chamber of Commerce; and
- Provide guidelines for implementing the Art in Public Places and Private Development program.

Since the October 23, 2025, presentation, staff have reviewed the City Council's feedback, coordinated with various City staff and departments, and incorporated the requested changes into both proposed chapters. The proposed ordinances have been revised and are now being returned to the City Council for reintroduction and consideration.

DISCUSSION/ANALYSIS

Following City Council direction, staff have incorporated the requested revisions into the proposed ordinances, as outlined below. Revised ordinances are attached including versions with redlines showing relevant updates.

Affordable Housing Exemption:

At the October 23 meeting, the City Council requested modifications to the proposed ordinance to expand flexibility for affordable housing projects under Chapter 12.36. In response, the proposed ordinance now clarifies that the exemption applies to the portion of a residential project that consists of dwelling units that are restricted to very low, low or moderate income households. This change reflects the Council's direction to support the development of affordable housing while maintaining the public art requirement for the market-rate components of projects.

Limited Term for High School Committee Members:

The proposed ordinance now establishes a Newark Memorial High School Committee Member designated as an advisory non-voting member serving a one-year term, with eligibility for reappointment subject to Mayoral appointment and City Council confirmation. This position would not be required for the Committee to reach quorum. Although non-voting, the student representative will receive all meeting materials and actively participate in discussions, ensuring continued youth engagement in the City's public art program. This structure acknowledges the changing availability and priorities of high school students while creating an ongoing pipeline of student voices and perspectives within the committee's work.

Committee Composition of 5 Voting Members plus 1 Non-Voting Student Member:

Revisions to Chapter 2.14 now establish a five-member committee and one advisory non-voting member of the committee that must be a Newark Memorial High School student representative. The five voting positions may be filled by individuals representing arts-focused nonprofit organizations, art curators, public art or design professionals, art educators, or community members with an interest in the arts. This structure balances diverse expertise and community representation while maintaining clear quorum requirements and manageable meeting operations. Consideration was given to expanding the committee to seven members. While this could be accommodated, staff have observed in other committees that larger bodies can create

scheduling challenges due to broader availability conflicts. This has, at times, resulted in difficulty reaching quorum and delays in conducting business. For these reasons, staff recommend maintaining a five-member voting body with a separate non-voting advisory student member, as this structure is more manageable and supports consistent meeting attendance.

Letter of Support from the Newark Chamber of Commerce:

On October 21, 2025, Stephen Cassidy, CEO of the Newark Chamber of Commerce, submitted a letter on behalf of the Chamber's Board of Directors expressing full support for the proposed ordinances. The Chamber highlighted the benefits of the "1% for Art" program in enriching Newark's cultural identity and enhancing the quality of public spaces. In response to the City Council's request, this letter has been included as an attachment to the staff report.

Implementation Guidelines for Art in Public Places and Private Development:

In response to the City Council's request for greater clarity regarding program implementation, staff have developed Guidelines for Art in Public Places and Private Development. These guidelines outline the process, standards, and expectations for both on-site public art installations and in-lieu fee contributions. These guidelines will serve as an administrative tool to support ordinance implementation and will be updated periodically as best practices evolve. The guidelines have been included as Exhibit A to the resolution attached to this staff report. Also attached is a sample Art in Public Places and Private Development Application Form, which applicants will use in either paper or electronic form to notify the City of their proposed selection.

Chapter 12.36, Public Art in Public Places and Private Development Ordinance:

Updates were made to the ordinance based on City Council feedback regarding affordable housing, along with other minor edits, as shown in the attached redlined Chapter 12.36, Public Art in Public Places and Private Development Ordinance.

Chapter 2.14, Public Art Committee Ordinance:

Updates were made to the ordinance based on City Council feedback regarding the student term and committee composition, along with other minor edits, as shown in the attached redlined Chapter 2.14, Public Art Committee Ordinance. Meeting frequency was also revised to reflect a minimum of two meetings per year rather than a maximum of once per month. This revised language supports the committee meeting more frequently than twice per year and also acknowledges it could potentially meet more than once per month in order to meet process timeframes established in the proposed guidelines.

FISCAL IMPACT

There is no fiscal impact associated with this action. Costs associated with implementation of the Public Art Program will be limited to the amount of in lieu contributions collected per the new ordinance and the current Art in Public Places fund balance. As required, appropriations will be brought to the City Council for approval as individual projects are defined.

REVIEW AND APPROVAL

Prepared by - Jessenia Taimani, Recreation and Community Services Supervisor I

Prepared by - Nicholas Cuevas, Recreation and Community Services Director

Reviewed by - Lenka Hovorka, Assistant City Manager

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Newark Chamber of Commerce Letter of Support

Resolution for Public Art Guidelines

Exhibit A

Sample Application Form - Art in Public Places and Private Development

Ordinance - Chapter 2.14 Public Art Committee

Redline Reference Chapter 2.14 Public Art Committee

Ordinance - Chapter 12.36 Art in Public Places

Redline Reference Chapter 12.36 Art in Public Places

Public Art Council Presentation_V2 20251208.pdf

October 23, 2025 City Council Meeting Staff Report

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ADOPTING THE PUBLIC ART GUIDELINES TO
IMPLEMENT CHAPTER 12.36, "PUBLIC ART IN PUBLIC
PLACES AND PRIVATE DEVELOPMENT"

WHEREAS, in 2024 the City Council adopted the Public Art Master Plan to guide the development, administration, and long-term stewardship of a vibrant and inspiring public art program in the City of Newark; and

WHEREAS, staff presented the proposed ordinance to the City Council on October 23, 2025, outlining requirements for qualifying private development projects to either install on-site public art or contribute to the Art in Public Places Fund to ensure public art is provided and maintained throughout the community; and

WHEREAS, implementation of these requirements necessitates clear, consistent, and transparent administrative procedures for applicants, staff, and the Public Art Committee; and

WHEREAS, the "Public Art in Public Places and Private Development Guidelines" establish these procedures, including determining applicability, identifying compliance options, submitting and reviewing Public Art Plans, and defining installation, documentation, and other responsibilities consistent with the Public Art Master Plan, including steps for appeals of the Public Art Committee decisions to City Council; and

WHEREAS, adoption of the Guidelines provides a uniform framework for administering Newark Municipal Code Chapter 12.36.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby adopts the "Public Art in Public Places and Private Development Guidelines," attached hereto as Exhibit A, as the administrative procedures for carrying out the requirements of Chapter 12.36.

BE IT FURTHER RESOLVED that the City Manager, or designee, is authorized to administer the Guidelines and make non-substantive updates as needed to maintain consistency with Chapter 12.36, the Public Art Master Plan, and standard administrative practices.

BE IT FURTHER RESOLVED that the City Manager, or designee, is authorized to take all actions necessary to effectuate the intent of this Resolution.

EXHIBIT A

GUIDELINES FOR IMPLEMENTATION OF ART IN PUBLIC PLACES AND PRIVATE DEVELOPMENT ORDINANCE

I. INTRODUCTION

Newark Municipal Code, Chapter 12.36, Art in Public Places and Private Development requires that eligible projects include public art with a minimum value of 1% of the construction cost or pay an in-lieu contribution of 1% to the City's Art in Public Places Fund. This requirement supports the City's vision that all residents and visitors in Newark experience public art as part of their daily lives, throughout all neighborhoods, celebrating the City's history, people, natural environment, and culture.

II. PURPOSE OF GUIDELINES

The purpose of these Guidelines is to set forth the specific requirements for the production of public art pursuant to Chapter 12.36. In general, these Guidelines:

- A. Outline the process for determining applicability and selecting a compliance method under Chapter 12.36;
- B. Provide clear direction for the preparation, review, and approval of Public Art Plans;
- C. Ensure the efficient and consistent application of public art requirements;
- D. Support opportunities for qualified artists to contribute to Newark's built environment;
- E. Ensure that artwork is designed, constructed, and installed in a manner that meets professional standards and is suitable for long-term maintenance; and
- F. Promote the placement of public art in locations that are publicly visible, accessible, and distributed equitably throughout the City.

III. DEFINITIONS

For the purposes of these Guidelines and consistent with Chapter 12.36, the following terms shall have the meanings set forth below:

- A. "Applicant" means any individual, firm, partnership, association, joint venture, corporation, or other entity that applies for a planning permit or building permit for a project subject to the Art in Public Places and Private Development Ordinance.
- B. "Art in Public Places Fund" means a dedicated City fund established to receive in-lieu contributions made pursuant to Chapter 12.36. Monies in the Fund shall be used solely for the acquisition, fabrication, installation, and maintenance of public art, and for program administration.
- C. "Artist" means a practitioner of the creative arts, generally recognized as such by critics and peers, with a body of work that may include commissions, exhibitions, sales, publications, and collections. For the purposes of these guidelines, "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 development project architect, landscape architect, engineer or project manager; (iii) any person with a business interest in the 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 development project.
- D. "Artwork" means an original creation by an Artist that is permanently affixed to a publicly accessible location and aligns with the goals of the Public Art Masterplan. Artwork may include, but is not limited to, sculpture, painting, mural, mosaic, relief, bas-relief, glasswork, or integrated design elements approved as public art. Functional design features whose primary purpose is utilitarian (e.g., benches, lighting, signage) do not qualify unless designed by an artist as a distinct artwork.

- E. "Construction Valuation" means the total value of all construction work, including labor and materials, as determined by the City's Building Official for the purpose of calculating building permit fees. Valuation will be determined during the building permit submittal process to ensure an accurate valuation for the 1% public art requirement.
- F. "In-Lieu Contribution" means the payment of an amount equal to one percent (1%) of the total construction valuation, submitted to the City in place of providing artwork on-site.
- G. "Alterations or Tenant Improvement" means any non-residential rehabilitation, renovation, remodeling, or improvement of an existing building that requires the issuance of a building permit by the City of Newark with a construction valuation of \$500,000 or greater.
- H. "Public Art Committee" means the committee appointed by the Mayor and confirmed by City Council pursuant to Chapter 2.14 of the Newark Municipal Code.
- I. "Publicly Accessible Location" means an area that is visible and accessible to the general public without restriction during regular business or daylight hours, such as building entries, plazas, courtyards, or other exterior spaces.
- J. "Public Art Staff" means City staff designated to administer the Art in Public Places and Private Development Program.
- K. "Public Art Plaque" means a well-integrated interpretive element that identifies the artwork and artist, provides program or artwork context, and enhances public engagement. Additional requirements can be found in Chapter 12.36.060, On-Site Public Art, Item G.

IV. APPLICABILITY

The provisions of Chapter 12.36 apply to all construction or alteration except as set forth below.

- a. This Chapter does not apply to residential alterations.
- b. This Chapter does not apply to the portion of a residential project consisting of dwelling units that are restricted to very low, low or moderate income households (as defined in this Code).
- c. This Chapter does not apply to alterations with a construction cost of less than five hundred thousand dollars (\$500,000.00).
- d. This Chapter does not apply to projects that have received entitlements or been deemed complete by written notification from City staff prior to the effective date of this ordinance. If this Chapter does not apply to a project for these reasons, such project must comply with City Council Resolution No. 6582.

V. APPLICATION AND REVIEW

If the proposed project is subject to the Art in Public Places and Private Development Ordinance, the applicant shall complete and submit the Art in Public Places and Private Development Application Form (or equivalent electronic submission) concurrently with the planning application to the City. Tenant improvements that do not require a Planning Permit shall identify their method of compliance with Chapter 12.36 at the time of Building Permit application submittal. This form requires the applicant to indicate the selected method of compliance, either:

- A. Installation of on-site public art equal to one percent (1%) of the total construction valuation, or
- B. In-Lieu Contribution equal to one percent (1%) of the total construction valuation.

Staff will review the Art in Public Places and Private Development Application Form for completeness and confirm applicability under Chapter 12.36. A copy of the application will be provided to Public Art Staff, who will guide applicants selecting Option A above through the process of submitting and receiving approval of the Public Art Plan.

VI. APPLICANT COORDINATION MEETING

Within three (3) business days of receiving the application, Public Art staff will contact the applicant to confirm receipt, acknowledge the selected method for fulfilling the public art requirement, and offer an optional coordination meeting to provide additional guidance.

When providing on-site public art:

The meeting will review the requirements of Chapter 12.36, including applicable procedures, timelines, and submittal standards.

When providing in-lieu contribution:

The meeting will review the requirements of providing the In-Lieu contribution prior to the issuance of the Certificate of Occupancy, as per Chapter 12.36.070.B.

VII. PUBLIC ART REVIEW PROCESS

The public art review process is structured into three (3) sequential steps:

1. Art in Public Places and Private Development Application Submittal

At the time of application submittal, the applicant shall identify the general location intended for the public artwork on the proposed plans included in the planning application. For tenant improvements that do not require Planning review, the applicant shall identify the intended public art location on the plans submitted with the Building Permit application. This preliminary identification ensures that an appropriate and publicly visible space is reserved for future installation. Art selection and design details are not required at this stage.

2. Public Art Plan Submittal

Following planning (or building permit, as applicable) permit approval, the applicant shall initiate working with a qualified artist and develop a Public Art Plan. The Public Art Plan must be submitted to the Public Art Staff prior to the issuance of the Building Permit to ensure the proposed artwork meets the requirements of Chapter 12.36 and the Guidelines.

Public Art Plan submittals to Public Art Staff should be provided in an easily accessible format, such as a PDF, and submitted electronically through the permit portal. Additional submittal details will be shared with applicants during the application coordination meeting process.

The Public Art Plan shall include the following items to be considered a complete submittal:

1. Artist qualifications and contact information;
2. A description and visual representation of the proposed artwork;
3. Site plan showing artwork placement;
4. A cost breakdown;
5. An installation schedule; and
6. A maintenance and conservation plan.

The applicant is responsible for ensuring that all information submitted with the Public Art Plan is complete and accurate to the best of their knowledge. Any missing or incomplete information may delay the overall review process.

3. Review and Approval

Each Public Art Plan must be approved by the City's Public Art Committee. The Committee will review and evaluate the plan for completeness and compliance with Chapter 12.36 and the Public Art Master Plan, and approve or deny the plan at a public meeting within twenty (20) business days of complete submittal. The applicant or representative is required to attend the public meeting.

Approvals are contingent upon submittal of written proof of an executed contractual agreement to commission or purchase and install approved artwork on the development site within 60 days or prior to the building sign-off, whichever comes first.

Information on new projects subject to review, approval, and appeal will be posted on the City website.

VIII. PUBLIC ART COMMITTEE DECISION APPEALS PROCESS

The following process shall be followed for any appeal regarding a decision to approve or deny a Public Art Plan by the Public Art Committee.

Appeals may be filed by the applicant, by the owner of the subject property, or by any other person aggrieved by a decision related to the selected artwork, selected artist, or approved site location. Appeals of the Public Art Committee decisions must be submitted to the City Council by writing to the City Clerk within fourteen (14) calendar days of the date of the decision. In the event an appeal period ends on a Saturday, Sunday, or any other day the city is closed, the appeal period shall end at the close of business on the next consecutive business day. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee as listed in the City of Newark's Master Fee Schedule.

The timely filing of an appeal shall stay all proceedings in the matter appealed, including, but not limited to, the issuance of city permits. The appeal for consideration (hearing) by the City Council shall be scheduled within forty-five days of the date the appeal is filed. Notice of the hearing shall be given to the applicant and party filing the appeal and any other interested person who has filed with the city clerk a written request for such notice. When reviewing any decision on appeal, the City Council shall use the same standards for decision-making required for the original decision. The City Council may affirm, reverse, modify, or remand the decision to the Public Art Committee for further consideration. An action to grant an appeal requires a majority vote of the City Council. The City Council's decision is final.

Following the appeals process, regardless of the outcome, Public Art staff will contact the applicant to inform them of the City Council's decision and outline any steps required to comply with that decision related to the installation of public art.

VIX. Completion of Implementation of Art in Public Places and Private Development Requirements

An applicant shall be deemed to have satisfied all public art requirements for their project upon completion of the following:

Applicant providing an In-Lieu Contribution equal to one percent (1%) of the total construction valuation:

The requirement is deemed complete when payment has been processed.

Applicant providing the Installation of on-site public art equal to one percent (1%) of the total construction valuation:

The requirement is deemed complete upon final building sign-off.



City of Newark – ATTACHMENT B2

Recreation & Community Services Department
Art in Public Places Program
7401 Enterprise Drive
Newark, CA 94560

Art in Public Places and Private Development Application Form

(to be completed by Applicant and submitted concurrently with planning application or building permit application, if no planning required)

The Art in Public Places and Private Development Ordinance applies to all new residential developments, new non-residential construction, and non-residential alterations or tenant improvements exceeding \$500,000 and all market-rate components of multi-use projects, meaning any part of the development not designated as affordable housing.

APPLICANT:	PROJECT ADDRESS:	
ADDRESS:	ESTIMATED CONSTRUCTION VALUATION:	
PHONE:	EMAIL:	
FOR CITY USE ONLY		
PROJECT NUMBER:	DATE RECEIVED:	APPROVED BY:

Chapter 12.36 requires applicants to comply with either of the following options: Installing on-site public art equal to one percent (1%) of the total construction valuation or making an In-Lieu Contribution equal to one percent (1%) of the total construction valuation.

The final construction valuation will be confirmed at the time of the Building Permit application. Should the final valuation submitted by the applicant be higher or lower than the valuation used during the planning application, the 1% Public Art requirement will be adjusted accordingly based on the valuation determined by the Chief Building Official.

1% of Estimated Construction Valuation: \$ _____

Please choose one of the following options:

- Placement of original Public Art on site In-Lieu Contribution to Art in Public Places Fund

Applicant Signature: _____

Date: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK ADDING CHAPTER 2.14, “PUBLIC ART COMMITTEE”,
TO THE NEWARK MUNICIPAL CODE**

WHEREAS, in 2024 the City Council adopted the Public Art Master Plan update to develop, administer and maintain a vibrant and inspiring public art program in the City of Newark; and

WHEREAS, the City Council has adopted a public art requirement for private development projects in the City of Newark to provide public art on site or, alternatively, contribute to a public art fund so that public art can be established elsewhere in the community, and to ensure that public art is present and sustained throughout the community; and

WHEREAS, the City council is authorized to establish boards, commissions and committees of the City; and

WHEREAS, the City Council desires to formally establish the Public Art Committee as an independent City Committee advising the City on matters pertaining to public art.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWARK DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The above recitals (“Recitals”) are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. The City Council independently finds and determines that this action is exempt from further California Environmental Quality Act (CEQA) environmental review pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment).

SECTION 3. Newark Municipal Code Chapter 2.14. Chapter 2.14 “Public Art Committee,” of the Newark Municipal Code is hereby added to read as displayed in Exhibit A, incorporated and made a part of this Ordinance.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Newark, in accordance with California Government Code Section 36933. This Ordinance shall take effect thirty (30) days after its adoption.

EXHIBIT A

Chapter 2.14 PUBLIC ART COMMITTEE

2.14.010 Created; Purpose.

There is created a committee to consist of five members, which shall constitute a quorum, and one non-voting advisory member, which shall be designated as the Public Art Committee of the City of Newark. The Committee is to support the provision of visual public art in the City.

2.14.020 Membership; Appointment; Term of Office.

- A. The Committee shall consist of five (5) members, constituting a quorum and meeting the qualifications identified in Section 2.14.030.
- B. The Committee shall also consist of one (1) non-voting advisory member who shall be a Newark Memorial High School student meeting the qualifications identified in Section 2.14.040.
- C. The Mayor shall appoint members to the Committee, subject to approval of the City Council.
- D. In making appointments, the City Council shall consider the following categories:
 - 1) Active members of a City-based, art focused, registered nonprofit organization, entity or facility.
 - 2) Persons with experience in the public art field as either an artist, installer, or designer, including any person with professional credentials and work experience as exhibiting or performing artists, contemporary museum and gallery art curators, arts management professionals, arts educators, or design professionals such as architects, landscape architects, and urban planners.
 - 3) Members of the general public, including students and community members with a passion for art.

2.14.030 Qualifications.

Members of the Committee shall have demonstrated, through community service or business experiences, a strong commitment to and knowledge of the artistic, aesthetic, and cultural quality of life in Newark, and will appreciate the role the arts can play in the cultural development and economic vitality of the community. In addition, the non-voting advisory member must be a Newark Memorial High School Student.

2.14.040 Terms of Office.

The terms of office of the voting members of the Committee shall be for four years; provided, however, that of the five members first appointed two shall be appointed for the term of two years, and three for the term of four years. The term of office for the non-voting advisory member of the Committee shall be one year. All Committee members, including the non-voting member, may be considered for reappointment by the Mayor subject to City Council approval.

2.14.050 Removal From Office; Vacancies.

A. Any appointed members of the Committee may be removed either by the Mayor, subject to the approval of the City Council, or by a majority vote of the City Council. Any time a Committee member has unexcused absences during a consecutive six-month period in excess of three meetings, their seat shall be automatically vacated. The following shall constitute valid excuses for failing to attend a meeting: 1. serious illness and/or injury of the Committee and/or their immediate family; 2. death in the family; 3. employment conditions requiring travel outside the Bay Area, evening meetings, etc.; 4. lack of transportation to the meeting; 5. previously scheduled vacation or travel.

B. Any vacancies among the appointed members shall be filled by appointment by the Mayor, subject to approval of the City Council, for the unexpired portion of the term.

2.14.060 Organization.

As soon as practicable following the termination of the term of office of any Committee member, the Public Art Committee shall organize, by electing from its members a Chairman and Vice Chairman to serve at the pleasure of the Committee. A secretary shall be designated for the recording of minutes of the Committee and to keep a record of its resolutions, proceedings and transactions. The secretary may be, but need not be, a member of the Committee and shall serve at the pleasure of the Committee.

2.14.070 Meetings.

The Committee shall fix the times and places of regular meetings of the Committee, which shall be held a minimum of twice per year. All meetings of the Committee shall be open to the public.

2.14.080 Powers and Duties.

The Public Art Committee shall have the following duties and responsibilities:

- A. The powers and duties conferred and imposed upon the Public Art Committee by Chapter 12.36 of this code and the City Council approved Guidelines.
- B. In accordance with City Council-approved guidelines, conducting public art proposal processes (such as requests for proposals, reviewing and acting on artist/artwork selection

panel for public art fund projects,) for City-sponsored projects requiring public art installations.

- C. Establishing and approving the Public Art Program mission and curatorial and programmatic goals, policies, and guidelines and developing and updating a Public Art Workplan outlining specific public art projects, locations, and budgets.
- D. Reviewing and approving recommendations for maintenance and conservation of artwork, deaccession of artwork, and acceptance of artwork gifts and loans, in accordance with each respective policy.
- E. Encouraging and promoting art programs and activities within the City.
- F. Making recommendations to the City Council regarding local visual and performing art needs, activities and programs.
- G. Receiving and gathering input from the community on issues relevant to art policies.
- H. Enhancing community awareness of art resources.
- I. Performing such other functions and render such other reports and recommendations as may be directed by the City Council.
- J. Exercising only the powers herein above enumerated or as otherwise designated by the City Council.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK ADDING CHAPTER 2.14, “PUBLIC ART COMMITTEE”,
TO THE NEWARK MUNICIPAL CODE**

WHEREAS, in 2024 the City Council adopted the Public Art Master Plan update to develop, administer and maintain a vibrant and inspiring public art program in the City of Newark; and

WHEREAS, the City Council has adopted a public art requirement for private development projects in the City of Newark to provide public art on site or, alternatively, contribute to a public art fund so that public art can be established elsewhere in the community, and to ensure that public art is present and sustained throughout the community; and

WHEREAS, the City council is authorized to establish boards, commissions and committees of the City; and

WHEREAS, the City Council desires to formally establish the Public Art Committee as an independent City Committee advising the City on matters pertaining to public art.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWARK DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The above recitals (“Recitals”) are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. The City Council independently finds and determines that this action is exempt from further California Environmental Quality Act (CEQA) environmental review pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment).

SECTION 3. Newark Municipal Code Chapter 2.14. Chapter 2.14 “Public Art Committee,” of the Newark Municipal Code is hereby added to read as displayed in Exhibit A, incorporated and made a part of this Ordinance.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

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2.14.020 Membership; Appointment; Term of Office.

- A. The Committee shall consist of five (5) members, constituting a quorum and meeting the qualifications identified in Section 2.14.030.
- B. The Committee shall also consist of one (1) non-voting advisory member who shall be a Newark Memorial High School student meeting the qualifications identified in Section 2.14.040.
- C. The Mayor shall appoint members to the Committee, subject to approval of the City Council.
- D. In making appointments, the City Council shall consider the following categories:
 - 1) Active members of a City-based, art focused, registered nonprofit organization, entity or facility.
 - 2) Persons with experience in the public art field as either an artist, installer, or designer, including any person with professional credentials and work experience as exhibiting or performing artists, contemporary museum and gallery art curators, arts management professionals, arts educators, or design professionals such as architects, landscape architects, and urban planners.
 - 3) Members of the general public, including students and community members with a passion for art.

2.14.030 Qualifications.

Members of the Committee shall have demonstrated, through community service or business experiences, a strong commitment to and knowledge of the artistic, aesthetic, and cultural quality of life in Newark, and will appreciate the role the arts can play in the cultural development and economic vitality of the community. In addition, the non-voting advisory member must be a Newark Memorial High School Student.

2.14.040 Terms of Office.

The terms of office of the voting members of the Committee shall be for four years; provided, however, that of the five members first appointed two shall be appointed for the term of two years, and three for the term of four years. The term of office for the non-voting advisory member of the Committee shall be one year. All Committee members, including the non-voting member, may be considered for reappointment by the Mayor subject to City Council approval.

2.14.050 Removal From Office; Vacancies.

A. Any appointed members of the Committee may be removed either by the Mayor, subject to the approval of the City Council, or by a majority vote of the City Council. Any time a Committee member has unexcused absences during a consecutive six-month period in excess of three meetings, their seat shall be automatically vacated. The following shall constitute valid excuses for failing to attend a meeting: 1. serious illness and/or injury of the Committee and/or their immediate family; 2. death in the family; 3. employment conditions requiring travel outside the Bay Area, evening meetings, etc.; 4. lack of transportation to the meeting; 5. previously scheduled vacation or travel.

B. Any vacancies among the appointed members shall be filled by appointment by the Mayor, subject to approval of the City Council, for the unexpired portion of the term.

2.14.060 Organization.

As soon as practicable following the termination of the term of office of any Committee member, the Public Art Committee shall organize, by electing from its members a Chairman and Vice Chairman to serve at the pleasure of the Committee. A secretary shall be designated for the recording of minutes of the Committee and to keep a record of its resolutions, proceedings and transactions. The secretary may be, but need not be, a member of the Committee and shall serve at the pleasure of the Committee.

2.14.070 Meetings.

The Committee shall fix the times and places of regular meetings of the Committee, which shall ~~not be more frequent than once each month~~ held a minimum of twice per year. All meetings of the Committee shall be open to the public.

2.14.080 Powers and Duties.

The Public Art Committee shall have the following duties and responsibilities:

A. The powers and duties conferred and imposed upon the Public Art Committee by Chapter 12.36 of this code and the City Council approved Guidelines.

- B. In accordance with City Council-approved guidelines, conducting public art proposal processes (such as requests for proposals, reviewing and acting on artist/artwork selection panel for public art fund projects,) for City-sponsored projects requiring public art installations.
- C. Establishing and approving the Public Art Program mission and curatorial and programmatic goals, policies, and guidelines and developing and updating a Public Art Workplan outlining specific public art projects, locations, and budgets.
- D. Reviewing and approving recommendations for maintenance and conservation of artwork, deaccession of artwork, and acceptance of artwork gifts and loans, in accordance with each respective policy.
- E. Encouraging and promoting art programs and activities within the City.
- F. Making recommendations to the City Council regarding local visual and performing art needs, activities and programs.
- G. Receiving and gathering input from the community on issues relevant to art policies.
- H. Enhancing community awareness of art resources.
- I. Performing such other functions and render such other reports and recommendations as may be directed by the City Council.
- J. Exercising only the powers herein above enumerated or as otherwise designated by the City Council.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK
ADDING CHAPTER 12.36, “PUBLIC ART IN PUBLIC PLACES AND PRIVATE
DEVELOPMENT”, TO THE NEWARK MUNICIPAL CODE**

WHEREAS, in 2024 the City Council adopted the Public Art Master Plan update to develop, administer and maintain a vibrant and inspiring public art program in the City of Newark; and

WHEREAS, the City Council finds and declares that Public Art provides the following benefits to the community:

- a. Public art contributes to the public's understanding, enjoyment and experience of cultural diversity, and helps to attract and anchor a large and diverse creative sector, enriching the City's cultural identity which is a key component of the City's economic vitality.
- b. The incorporation of public art into private and public development will create a unique sense of community as well as public identity and enhance the visual and aesthetic quality of such developments.
- c. The incorporation of public art in private and public development is in the public interest and enhances the economic sustainability of artists and arts organizations as a key to the vitality of the City of Newark.
- d. The provision of public art supports and implements General Plan policies to use public art that is accessible or visible to the public and conveniently or prominently situated in public places and new developments to commemorate Newark's cultural diversity.
- e. Artistic assets should be included in private development projects, especially major gateways into Newark and along major arterials because gateways make an important first impression and can define a city's image for residents, businesses, and visitors.
- f. Artistic resources foster economic development and tourism, revitalize urban areas, increase real property values, and improve the overall business climate by creating a more desirable community within which to live and work.
- g. The provision of public art supports and implements the City of Newark Public Art Master Plan goals to:
 - i. Provide diverse and engaging public art throughout Newark.
 - ii. Commission community-focused art in publicly accessible places.

- iii. Integrate public art into all qualified municipal capital construction projects.
- iv. Celebrate Newark’s cultural diversity through public art.
- v. Connect and build the artist community in Newark.
- vi. Provide ongoing financial and administrative support for public art.
- vii. Maintain and expand the City’s collection of public art; and

WHEREAS, the City Council finds that to ensure that public art is present and sustained throughout the community, it is necessary to require that private development projects in the City of Newark provide public art on site or, alternatively, contribute to a public art fund so that public art can be established elsewhere in the community; and

WHEREAS, the City has broad authority, under its general police power, to regulate the development and use of real property within its jurisdiction to promote the public welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The above recitals (“Recitals”) are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. The City Council independently finds and determines that this action is exempt from further California Environmental Quality Act (CEQA) environmental review pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061 (b)(3) (no significant effect on the environment), and 15183 (projects consistent with a community plan, general plan, or zoning), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 3. Newark Municipal Code Chapter 12.36

Chapter 12.36 “Public Art In Public Places And Private Development,” of the Newark Municipal Code is hereby added to read as displayed in Exhibit A, incorporated and made a part of this Ordinance.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Newark, in accordance with California Government Code Section 36933. This Ordinance shall take effect thirty (30) days after its adoption.

Exhibit A

Title 12 - STREETS, SIDEWALKS, AND PUBLIC PLACES

Chapter 12.36 PUBLIC ART IN PUBLIC PLACES AND PRIVATE DEVELOPMENT

12.36.010 Purpose.

The purpose of this Chapter is to implement Goals LU-4-9 and LU-4-D of the City of Newark's General Plan to use public art that is accessible or visible to the public and conveniently or prominently situated in public places and new developments to commemorate Newark's cultural diversity, and goals of the Public Art Master plan update adopted by the City of Newark in 2024.

The City Council finds and declares:

- a. Public art contributes to the public's understanding, enjoyment and experience of cultural diversity, and helps to attract and anchor a large and diverse creative sector, enriching the City's cultural identity which is a key component of the City's economic vitality.
- b. The incorporation of public art into private and public development will create a unique sense of community as well as public identity and enhance the visual and aesthetic quality of such developments.
- c. The incorporation of public art in private and public development is in the public interest and enhances the economic sustainability of artists and arts organizations as a key to the vitality of the City of Newark.
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- vi. Provide ongoing financial and administrative support for public art.
- vii. Maintain and expand the City’s collection of public art.

12.36.020 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

“Alteration” means the rehabilitation, renovation, remodeling or improvement of an existing building that requires the issuance of a building permit by the City of Newark.

“Construction” means the new construction (in whole or in part) of a building that requires the issuance of a building permit by the City of Newark.

“Construction Cost “means the total value of the project as determined by the Chief Building Official and indicated on the building application submitted to the City in order to obtain a building permit, or permits, for the project. Building permit applications shall include, but not be limited to, all grading, building, plumbing, mechanical, and electrical permit applications for the project.

12.36.030 Applicability.

The provisions of this Chapter apply to all construction or alteration except as set forth below.

- a. This Chapter does not apply to residential alterations.
- b. This Chapter does not apply to the portion of a residential projects consisting of dwelling units that are restricted to very low, low or moderate income households (as defined in this Code).
- c. This Chapter does not apply to alterations with a construction cost of less than five hundred thousand dollars (\$500,000.00).
- d. This Chapter does not apply to projects that have received entitlements or been deemed complete by written notification from City staff prior to the effective date of this ordinance. If this Chapter does not apply to a project for these reasons, such project must comply with City Council Resolution No. 6582.

12.36.040 Public Art Requirement.

- a. For any project subject to this Chapter, public art must be provided as described in Section 12.36.060 or an equivalent payment must be made to the public art fund as provided in Section 12.36.070.
- b. Except as provided elsewhere in this Chapter, the public art requirement applies for each incidence where construction or alteration occurs. No exemptions or credits for previously installed public art or previous payments to the public art fund will apply.

12.36.050 Guidelines for Implementation of this Chapter.

The City Council has established guidelines for implementation of this Chapter.

12.36.060 On-Site Public Art.

- a. Anyone seeking to satisfy the public art requirement by placing art on a project site must comply with this section.
- b. Except as provided below, construction or alteration projects must provide art with a value equal to at least one percent (1%) of the construction cost. The value of the public art includes the cost of the development, acquisition, and installation of the public art, the administrative costs associated with creating and installing the art, and any costs charged for the administration of this Chapter.
- c. Public art may include sculpture, murals, photography and original works of graphic art, earthworks, fiber works, waterworks, neon, glass, mosaics, or any combination of forms of media, furnishing or fixtures permanently affixed to the building or its grounds, or a combination thereof, and may include architectural features of the building or elements of landscape design.
 - i. Public art may also include any other artwork determined by the Public Art Committee, or City Council on appeal, to satisfy the intent of this section. ii. The creator of public art shall be a practitioner in the visual arts who is not a member of the project engineering, architecture or landscape architecture firm.
- d. The public art must be located (1) in areas on the site clearly visible from the public street or sidewalk, or (2) in publicly accessible outdoor areas, or (3) on adjacent public property (subject to the approval of any relevant public agency), or (4) in a publicly accessible area such as a hotel lobby. Public art must be displayed in a manner that will enhance its enjoyment by the general public.
- e. Written proof to the City of a contractual agreement to commission (or purchase) and to install the requested artwork on the development site must be provided at the time of filing the building permit application.
- f. The public art must be installed prior to the issuance of the first certificate of occupancy unless the Community Development Director concludes that it is not feasible to install the public art within this time frame and adequate assurance (which the Director may require

to be in the form of a letter of credit or bond) is provided that the public art will be installed in a timely manner, in which case the Community Development Director may extend the time for installation.

- g. Each piece of art shall provide an approved identification plaque or monument which shall be placed near the artwork.

12.36.070 Contribution to Public Art Fund.

- a. Any person subject to this Chapter may choose to make a payment to the City's public art fund that is equivalent to the valuation required for providing art as set forth in Section 12.36.060. When the value of the public art would be fifty thousand dollars (\$50,000.00) or less, it is encouraged, but not required, that a payment be made to the public art fund.
- b. Public art payments must be made prior to the issuance of a certificate of occupancy.

12.36.080 Use of Public Art Fund.

The City of Newark Public Art Fund must be used to further City-owned art or City-sponsored exhibitions that are accessible to the public. The fund must be used exclusively to (1) prepare sites for works of art, (2) acquire and install works of art, (3) maintain works of art, (4) support the exhibition of art, and (5) fund administrative costs associated with the public art program. The Public Art Committee shall recommend utilization of monies in the public art fund.

12.36.090 Appeal of Public Art Committee Decision.

The appeals process will be pursuant to the City Council approved Public Art Guidelines.

12.36.100 Maintenance and Removal of Works of Art.

- a. The owner of the real property on which public art is located must maintain the public art installed pursuant to this Chapter, or cause to be maintained, in good condition the on-site artwork continuously after its installation and shall perform necessary maintenance thereto to the satisfaction of the City. No work of art may be removed unless a replacement work of public art is approved pursuant to this Chapter.
- b. Should the property owner wish to remove the on-site artwork, the City must be notified in advance. The property owner shall replace the on-site artwork with on-site artwork of equal or greater value, and consistent with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law.
- c. The City reserves the right to inspect the artwork at any time to ensure it is being maintained as required pursuant to this section.

12.36.110 Waiver.

The City Council, at its discretion, may waive, wholly or partially, the requirements of this Chapter and approve alternative methods of compliance with this Chapter if the applicant

demonstrates, and the City Council finds, that such alternative methods meet the purposes of this Chapter.

12.36.120 Violations.

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any permit granted to any developer and/or owner who violates the provisions of this Chapter.

ORDINANCE NO. _____

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NEWARK ADDING CHAPTER 12.36, “PUBLIC ART IN PUBLIC PLACES AND
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TO THE NEWARK MUNICIPAL CODE**

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12.36.050 Guidelines for Implementation of this Chapter.

The City Council ~~may~~has established guidelines for implementation of this Chapter.

12.36.060 On-Site Public Art.

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- c. Public art may include sculpture, murals, photography and original works of graphic art, earthworks, fiber works, waterworks, neon, glass, mosaics, or any combination of forms of media, furnishing or fixtures permanently affixed to the building or its grounds, or a combination thereof, and may include architectural features of the building or elements of landscape design.
 - i. Public art may also include any other artwork determined by the Public Art Committee, or City Council on appeal, to satisfy the intent of this section. ii. The creator of public art shall be a practitioner in the visual arts who is not a member of the project engineering, architecture or landscape architecture firm.
- d. The public art must be located (1) in areas on the site clearly visible from the public street or sidewalk, or (2) in publicly accessible outdoor areas, or (3) on adjacent public property (subject to the approval of any relevant public agency), or (4) in a publicly accessible area such as a hotel lobby. Public art must be displayed in a manner that will enhance its enjoyment by the general public.
- e. Written proof to the City of a contractual agreement to commission (or purchase) and to install the requested artwork on the development site must be provided at the time of filing the building permit application.
- f. The public art must be installed prior to the issuance of the first certificate of occupancy unless the Community Development Director concludes that it is not feasible to install the public art within this time frame and adequate assurance (which the Director may require

to be in the form of a letter of credit or bond) is provided that the public art will be installed in a timely manner, in which case the Community Development Director may extend the time for installation.

f.g. Each piece of art shall provide an approved identification plaque or monument which shall be placed near the artwork.

12.36.070 Contribution to Public Art Fund.

- a. Any person subject to this Chapter may choose to make a payment to the City's public art fund that is equivalent to the valuation required for providing art as set forth in Section 12.36.060. When the value of the public art would be fifty thousand dollars (\$50,000.00) or less, it is encouraged, but not required, that a payment be made to the public art fund.
- b. Public art payments must be made prior to the issuance of a certificate of occupancy.

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12.36.090 Appeal of Public Art Committee Decision.

~~A final decision by the Public Art Committee on the selection of public art, the artist or the site location may be appealed to the City Council within ten (10) days of the decision. The City Council may refer the matter back to the Public Art Committee for further consideration, or may reverse, affirm or modify the Public Art Committee decision. The City Council's findings and decision on the appeal are final.~~The appeals process will be pursuant to the City Council approved Public Art Guidelines.

12.36.100 Maintenance and Removal of Works of Art.

- a. The owner of the real property on which public art is located must maintain the public art installed pursuant to this Chapter, or cause to be maintained, in good condition the on-site artwork continuously after its installation and shall perform necessary maintenance thereto to the satisfaction of the City. No work of art may be removed unless a replacement work of public art is approved pursuant to this Chapter.
- b. Should the property owner wish to remove the on-site artwork, the City must be notified in advance. The property owner shall replace the on-site artwork with on-site artwork of equal or greater value, and consistent with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law.
- c. The City reserves the right to inspect the artwork at any time to ensure it is being maintained as required pursuant to this section.

12.36.110 Waiver.

The City Council, at its discretion, may waive, wholly or partially, the requirements of this Chapter and approve alternative methods of compliance with this Chapter if the applicant demonstrates, and the City Council finds, that such alternative methods meet the purposes of this Chapter.

12.36.120 Violations.

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any permit granted to any developer and/or owner who violates the provisions of this Chapter.



**CITY OF
NEWARK**

Public Art Master Plan Revised Ordinance Introductions

December 11, 2025 | City Council Meeting

Revised Ordinance Introductions Recap

- **Chapter 12.36** - Art in Public Places and Private Development, establishes updated requirements for public art contributions associated with private development; and
- **Chapter 2.14** - Public Art Committee, establishes the structure, duties, and appointment process for a new advisory body to guide implementation of the program.



Affordable Housing Applicability

This Chapter does not apply to the portion of a residential project consisting of dwelling units that are restricted to very low, low or moderate income households (as defined in this Code).



Chapter 2.14 Public Art Committee

Newark Memorial High School Student

- Advisory Non-voting committee member
- One year term

Committee Composition

- 5 Public Art Committee Members
 - 5 Voting
 - 1 Advisory Non-voting (NMHS Student)

Committee Meeting Frequency

- Minimum of twice per year



Implementation Guidelines for Public Places and Private Development

In response to the City Council's request for greater clarity regarding program implementation, staff have developed Guidelines for Art in Public Places and Private Development to accompany Chapter 12.36.

These guidelines:

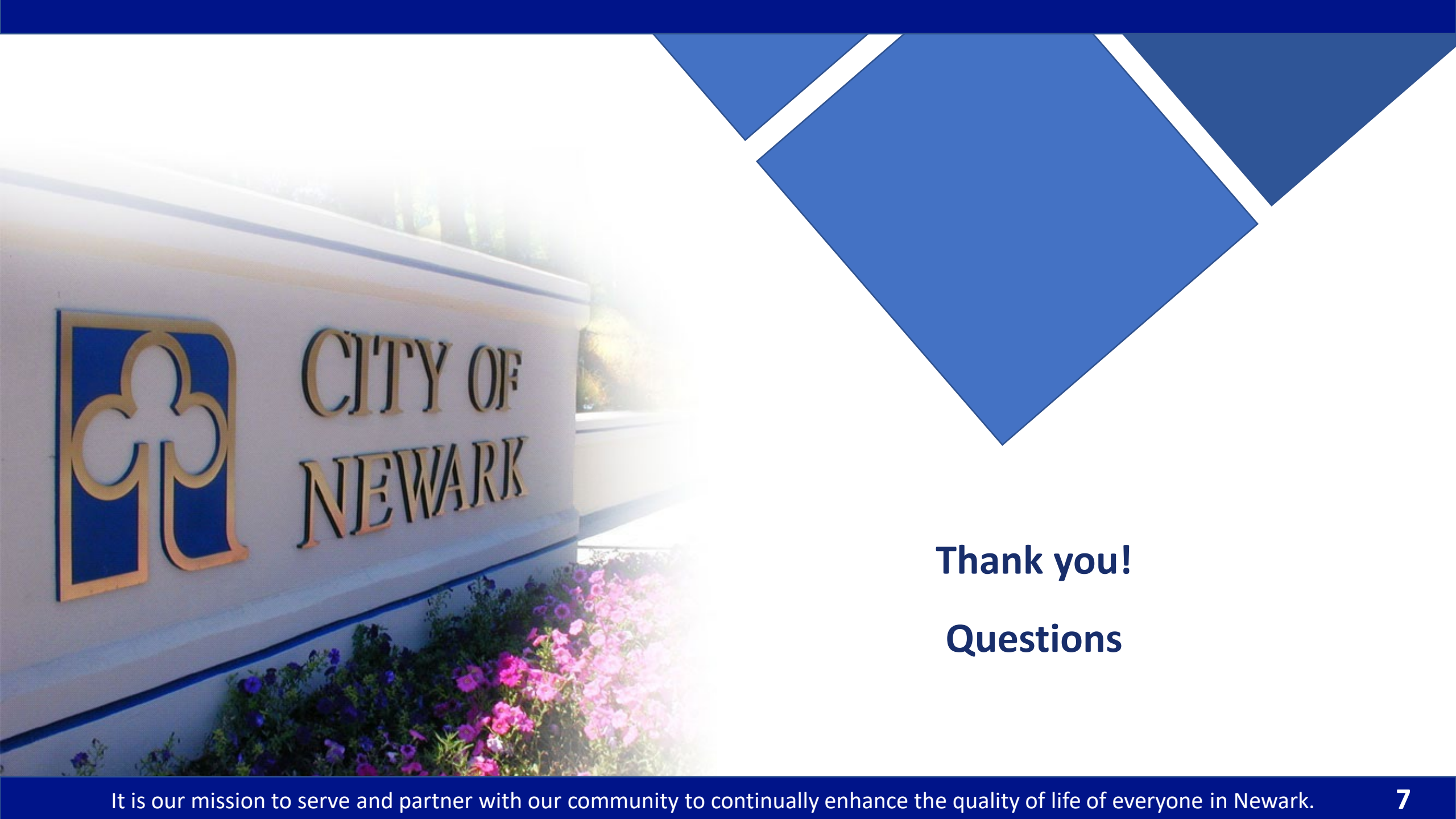
- Explain When Requirements Apply
- Define Compliance Options
- Guide Applicants Through the Process
- Ensure Consistent and Efficient Review
- Support High-Quality Artwork
- Promote Public Access & Equity
- Clarify Roles & Definitions
- Outline Appeal Procedures



Staff Recommendation

- Waive the full reading and introduce by title only a revised ordinance adding Chapter 2.14, Public Art Committee, to Title 2 of the Newark Municipal Code.
- Waive the full reading and introduce by title only a revised ordinance adding Chapter 12.36, Art in Public Places and Private Development, to Title 12 of the Newark Municipal Code.
- Adopt a resolution approving the Guidelines for Implementation of Art in Public Places and Private Development Ordinance.





Thank you!

Questions



STAFF REPORT

Item F.2.

DATE 10/23/2025
TO Honorable Mayor and City Council Members
FROM Jessenia Taimani, Recreation and Community Services Supervisor I
SUBJECT Waive full reading and introduce by title only an ordinance adding Chapter 12.36, Art in Public Places and Private Development and an ordinance adding Chapter 2.14, Public Art Committee, to the Newark Municipal Code

SUMMARY AND RECOMMENDATION

Newark's Public Art Master Plan update (Plan) outlines a vision and several strategic initiatives to establish a vibrant and sustainable public art program that will enrich the City's cultural landscape and benefit the Newark community. Staff continue to implement several of these initiatives and now seek City Council action on two essential recommendations of the Plan:

1. Adopting an ordinance establishing an art in public places requirement to replace the City's existing impact fee; and
2. Adopting an ordinance establishing a Public Art Committee to guide implementation of the Plan.

Staff recommends that the City Council waive the full reading and introduce by title only an ordinance adding Chapter 12.36, Art in Public Places and Private Development, to Title 12 of the Newark Municipal Code and an ordinance adding Chapter 2.14, Public Art Committee, to Title 2 of the Newark Municipal Code.

BACKGROUND

In 1992, the City Council adopted resolutions related to Art in Public Places and Private Development, including the establishment of associated fees. Resolution No. 6582 (attached) established a policy for the implementation of Art in Public Places and Private Development, requiring the development of a Master Plan to guide the expenditures of the fees collected. Public art fees apply to new residential units and to commercial/industrial buildings and additions that add over 10,000 square feet of new or expanded space or that are located along major arterials as indicated in the General Plan. Resolution No. 6583 (attached) established the nexus for the Art in Public Places development fee, and resolution No. 6584 (attached) established the Art in Public Places fees as follows:

Current Art in Public Places Fees	
Residential (excluding affordable housing)	\$ 270 / unit
Retail	\$0.26 / square foot
Office	\$0.38 / square foot
Light Manufacturing Warehouse	\$0.21 / square foot
Hi -Tech	\$0.41 / square foot

The City Council approved Newark's first Public Art Master Plan in 2001 to guide the use of these funds. Over the past two decades, Newark has experienced significant change, and many of the projects identified in the 2001 Public Art Master Plan have become outdated or are no longer feasible. As a result, an update was needed to reflect changes in the community. Additionally, best practices in the public art field have evolved, further reinforcing the need for an update.

In November 2022, the City Council authorized an agreement with Gail M. Goldman Associates and Art Builds Community to update the 2001 plan. The update process involved comprehensive industry research and robust community engagement. Findings from this process informed the themes, vision, goals, and recommendations of the Public Art Master Plan update, which was adopted by City Council on June 13, 2024 (attached).

The Plan update was organized into five recurring themes with specific recommendations in each:

1. Identity and Civic Pride: Use public art to set Newark apart from surrounding communities.
2. Accessibility and Public Education: Place high-quality art throughout Newark, ensuring that it is fully accessible to the public.
3. Local Artists: Support and increase the visibility of local artists and creative entrepreneurs.
4. Administration and Collection Management: Promote the implementation of the Public Art Master Plan.
5. Funding: Ensure that the Public Art Fund has sufficient dollars to support public art and other arts initiatives.

The consultant team worked closely with staff and the community to develop the following Vision, Goals, and Guiding Principles:

Vision: All residents and visitors in Newark experience public art as part of their daily lives and throughout all neighborhoods, celebrating the City's history, people, natural environment, and culture.

Goals: The City of Newark adopted the Public Art Master Plan May 2024 update as the guiding document for all public art and public art programming proposed for City property and the public realm in general.

- Provide diverse and engaging public art throughout Newark
- Commission community-focused art in publicly accessible places
- Integrate public art into qualified municipal construction projects
- Celebrate Newark's cultural diversity through public art
- Connect and build the artist community in Newark
- Provide ongoing financial and administrative support for public art
- Maintain and expand the City's collection of public art

Guiding Principles: Public art in Newark has the power to:

- Express Newark's identity throughout the built environment.
- Elevate the role of artist and the creative process play in connecting people and place.
- Provide equitable access to a diversity of artists and artistic experiences.
- Encourage multi-disciplinary collaboration in the public and private sectors to create vibrant public spaces.
- Celebrate the communities' cultural assets, highlighting the unique character of Newark's neighborhood, honoring their histories, and preserving quality of place.

The Public Art Master Plan May 2024 Update outlines a variety of recommendations to support the vision, goals, and guiding principles. The recommendations are meant to guide the City Council, staff and the future Public Art Committee with the flexibility to develop, implement and manage projects that are within the resources available.

Since adoption, progress has been made on several of the Plan's recommendations. Public art has been incorporated into a number of City activities, such as the 2024 State of the City event, as well as included in large-scale Capital Improvement Plan projects currently in design including the Old Town Streetscape Improvements.

DISCUSSION/ANALYSIS

Two key priorities were identified in the updated Plan: (1) creating an Art in Public Places Ordinance, and (2) establishing a Public Art Committee (PAC) to provide oversight, transparency, and strategic direction. The proposed ordinances advance two critical implementation steps recommended in the Public Art Master Plan update. Together, these actions will provide the infrastructure needed to support a dynamic public art program that celebrates Newark's identity, fosters civic pride, and invests in cultural assets that serve all community members.

Chapter 12.36 Art in Public Places and Private Development

The City's current public art requirement is based on fees adopted in 1992 as described above. While these fees helped implement some elements of the original Public Art Master Plan developed in 2001, the existing fee structure is outdated and no longer supports the City's goals and vision for a robust and sustainable public art program. The fee structure is now over three decades old as annual adjustments based on changes in the regional Construction Cost Index that were recommended to occur were not applied, further widening the gap between what was collected and what could have been generated.

Updating to a modernized Art in Public Places Ordinance will align Newark with regional practices and ensure that public art investment keeps pace with the scale of new development. Staff recommends a 1% public art contribution based on construction value (including development, acquisition, installation, and administrative expenses) with an option of either contributing art or paying an in-lieu fee. Exemptions from the contribution include projects that are 100% affordable housing, residential alterations, and (non-residential) tenant improvements under \$500,000. Projects that have received their entitlements or been deemed complete by written notification from City staff prior to the effective date of the proposed Ordinance will be subject to the Art in Public Places and Private Development Policy fees adopted by City Council Resolution No. 6584 (attached).

Over the span of more than two decades, the City's current fee structure has generated approximately \$2 million in public art funding. As explained below, although actual revenues will vary based on future development activity, modernizing the program has the potential to generate several hundred thousand dollars annually in sustainable funding to support Newark's public art program, consistent with the goals of the Public Art Master Plan.

To ensure public benefit, on-site public art installed by the developer must be located in areas that are publicly visible or accessible. Public art must be created by professional artists and may include murals, sculptures, integrated landscape features, or other media that contribute to the public experience. Artists must be independent of the project's architectural or engineering teams.

To address the limitations discussed and ensure all major sectors contribute proportionally, the proposed ordinance includes two key updates:

1. It formalizes the existing public art requirement by codifying it in the Newark Municipal Code as opposed to merely stating the requirement in a resolution; and
2. It modernizes the fee structure, shifting from a flat square footage-based fee to a percentage-based model tied to construction valuation.

Under the proposed ordinance, developers would have the flexibility to either integrate public art directly into their projects, valued at 1% of construction, or pay an equivalent in-lieu fee into the City's Public Art Fund. Contributions would be encouraged, but not required, when the calculated art value is \$50,000 or less. This ensures that public art is consistently funded while giving developers the option to select the approach that best aligns with their project.

Residential Impacts (Affordable Housing, Single Family, and Multi-Family)

Under the proposed ordinance, 100% affordable housing projects will remain exempt from a public art requirement. This exemption ensures that limited funding for these developments can be fully directed toward construction, essential services, and keeping housing costs low for residents.

The proposed ordinance would continue to apply to all new residential developments. To illustrate the limitations of the current fee structure, staff analyzed single-family development activity from Fiscal Year 2023-24. Under the existing flat art fee of \$270 per unit, the City collected approximately nearly \$29,900 across 107 homes in the Bayside subdivision, less than 0.1% of the construction valuation. By contrast, applying a 1% public art requirement would have generated over \$378,000 in art installation or fees.

Staff also reviewed a large multi-family development permitted in Fiscal Year 2023-24, consisting of senior housing, with a construction valuation of \$35,357,000. Under the current resolution, this project was exempt from the public art fee because it qualified as affordable housing (and would remain exempt under the proposed ordinance). Development-related fees collected for this project totaled \$2,826,443.18. For illustration purposes only, if the project had not been considered affordable housing, the application of the proposed 1% public art requirement would have generated approximately \$335,570 in public art funding or art installation. This example underscores both the value of maintaining exemptions for affordable housing and the proportional scale of the 1% art requirement.

Under the proposed ordinance, updating the art requirement to a contribution equal to 1% of the project construction value, ensures that public art investment keeps pace with the scale of Newark's future growth. Below is a table of other Alameda County cities' public art fees for residential projects.

Alameda County Cities' Public Art Requirements - Residential Projects			
City	Public Art Installation Cost	Public Art In-Lieu Fee or Mandatory Fee	Applicability/Notes
Alameda	1% of development cost	1% of development cost	Applies to development with 5 or more units
Albany	1.75% of development cost	1.75% of development cost	A single family home as primary residence exempt
Berkeley	1.75% of construction cost	0.8% of construction cost	Applies to development with 5 or more units
Dublin	0.5% of building valuation	0.5% of building valuation	Applies to development with 20 or more units
Emeryville	0.5% of development cost	0.5% of development cost	Applies to development with 20 or more units
Fremont	Option if over 100,000 sq. ft.	\$0.80 per sq. ft.	Optional outside of four designated Art Zones/Districts
Hayward	N/A	N/A	*
Livermore	N/A	0.33% of construction cost	Applies to rehabilitation projects adding 25% or more square footage
Oakland	N/A	0.5%	Applies to development with 20 or more units
Piedmont	N/A	N/A	N/A
Pleasanton	N/A	N/A	Developers encouraged to voluntarily include public art

San Leandro	N/A	N/A	**
Union City	1% of permit valuation	1% of permit valuation	Applies to development with 8 or more units

*Hayward City Council recently reviewed an informational item exploring the creation of a public art fee. City Council expressed support for the concept, and directed staff to conduct further analysis and develop a fee structure recommendation.

**San Leandro City Council recently discussed proposed implementation of a public art requirement. The item was referred to a rules committee for additional analysis and is expected to return to the City Council for consideration.

Non-residential Impacts (Retail, Office, Light Manufacturing Warehouse, Hi-Tech)

Under the proposed ordinance, all qualifying new non-residential construction and major alterations must meet the public art requirement by either installing on-site public art or making an equivalent in-lieu contribution to the City's Public Art Fund. Tenant improvements would remain exempt if they fall below \$500,000.

Staff reviewed tenant improvement activity under the current program. During Fiscal Year 2023-24, 18 permits for tenant improvements were issued with a combined job valuation of over \$90 million. These projects generated approximately \$3.6 million in other development-related fees. However, public art fees were not assessed, as tenant improvement projects, even large-scale ones, are currently excluded from contributing under the existing model. If the 1% art requirement had been applied to the 18 tenant improvement permits issued in Fiscal Year 2023-24, Newark could have collected approximately \$906,000 in additional public art installation or funding in a single fiscal year.

Similar to residential projects, large commercial or industrial projects would also generate proportional contributions under the 1% art requirement model, ensuring investment in public art keeps pace with Newark's broader economic growth. Below is a table of other Alameda County cities' public art requirements for non-residential projects. All costs and fees shown apply to new construction. Applicability to tenant improvements or minimum requirements for new construction applicability are noted.

Alameda County Cities' Public Art Requirements - Non-residential Projects			
City	Public Art Installation Cost	Public Art In-Lieu Fee or Mandatory Fee	Applicability/Notes
Alameda	1% of development cost	1% of development cost	Projects over \$250,000
Albany	1.75% of development cost	1.75% of development cost	Development over \$300,000; excludes projects exempt from design review
Berkeley	1.75% of construction cost	0.8% of construction cost	Applies to building additions exceeding 10,000 sq. ft.
Dublin	0.5% of development cost	0.5% if 50,000 sq. ft. or greater 0.45% if under 50,000 sq. ft.	New developments only
Emeryville	1% of development cost	1% of development cost	Projects over \$300,000
Fremont	Option if over 100,000 sq. ft.	\$0.80 per sq. ft.	Optional outside of four designated Art Zones/Districts
Hayward	N/A	N/A	*
Livermore	N/A	0.33% of construction cost	Applies to rehabilitation projects adding 25% or more sq. footage
Oakland	N/A	1%	Applies to buildings with 2,000 sq. ft. or more of new floor area
Piedmont	N/A	N/A	N/A
Pleasanton	N/A	N/A	Developers encouraged to voluntarily include public art
San Leandro	N/A	N/A	**
Union City	1% of permit valuation	1% of permit valuation	Developments over \$250,000

*Hayward City Council recently reviewed an informational item exploring the creation of a public art fee. City Council expressed support for the concept, and directed staff to conduct further analysis and develop a fee structure recommendation.

**San Leandro City Council recently discussed proposed implementation of a public art requirement. The item was referred to a rules committee for additional analysis and is expected to return to the City Council for consideration.

Use of the Art in Public Places Fund

The proposed ordinance formally establishes that public art in-lieu contributions made in accordance with Chapter 12.36 be deposited into the Art in Public Places Fund. Per section 12.36.080 of the proposed ordinance, monies deposited into the

Fund must be used exclusively for City-owned public art or City-sponsored exhibitions that are accessible to the public. Eligible uses include:

- Preparing sites for the installation of public art
- Acquiring and installing new public artworks
- Conserving and maintaining existing artworks
- Supporting public art exhibitions
- Covering administrative costs related to program implementation

Chapter 2.14 Public Art Committee

Recommendation D.3 of the updated Public Art Master Plan identifies the need to establish a formal Public Art Committee (PAC) to support the implementation of the City's Public Art Program. To fulfill this recommendation, staff propose adding Chapter 2.14, "Public Art Committee," to the Newark Municipal Code which is attached to this staff report for City Council consideration. This chapter would formally establish a committee of up to five members appointed by the Mayor and confirmed by the City Council. Members may include representatives of art-focused nonprofits, art curators, professionals in public art or design fields, art educators, Newark Memorial High School students and community members with a passion for the arts; a range of backgrounds is ideal. The terms of office of the PAC members shall be for four years, except for the initial appointments, in which two members would be appointed to two-year terms. The PAC would promote and advise on art policies and programs and determine art installations, ensuring public access to diverse opportunities. PAC members would serve as ambassadors, educators, and advocates for the arts.

The PAC would convene on an as-needed basis and no less than two times per calendar year. In general, the duties of the PAC would include:

- Establish and approve the Public Art Program mission and curatorial and programmatic goals, policies, and guidelines
- Review and act on recommendations for Public Art Fund projects
- Review and approve recommendations for maintenance and conservation of artwork, deaccession of artwork, and acceptance of artwork gifts and loans, in accordance with City policies currently under staff development
- Develop and update a Public Art Workplan outlining specific public art projects, locations, and budgets identified in the Public Art Master Plan and in accordance with the proposed ordinance
- Serve as the key advocacy body for the City's Public Art Program
- Advise and assist the City Council on matters pertaining to public art, as may be referred by the Council

Establishing the PAC will create a consistent and community-centered mechanism for shaping public art policy, reviewing and determining projects, and advocating for the City's long-term arts vision.

Next Steps

Should City Council approve staff's recommendation, a second reading of the ordinances will be planned for the November 13, 2025 City Council meeting. The ordinances will be effective 30 days following City Council approval in November. During the 30-day waiting period, applications for Public Art Committee membership would be widely advertised and accepted, and staff would begin revising forms and procedures and preparing outreach materials regarding the updated public art requirement. The appointment of Public Art Committee Members would likely occur in February 2026 and the inaugural meeting of the Public Art Committee would be anticipated in March or April 2026.

The ordinances include provisions related to the creation of City Council approved Guidelines that further define the role and function of the Public Art Committee. Staff intends to prepare draft Guidelines for City Council review and approval prior to the effective date of the ordinances.

FISCAL IMPACT

Costs associated with implementation of the Public Art Program will be limited to the amount of in lieu fees collected per the new Ordinance and the current Art in Public Places fund balance. When required, appropriations will be brought to City Council for approval as individual projects are defined.

REVIEW AND APPROVAL

Prepared by - Jessennia Taimani, Recreation and Community Services Supervisor I
Nicholas Cuevas, Recreation and Community Services Director
Roya Gonzalez, Strategic Initiatives Manager
Lenka Hovorka, Assistant City Manager

Reviewed by - Krysten Lee, Finance Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Presentation

2001 Public Art Master Plan

Resolution 6282: Adopting a Policy for Providing Art in Public Places and Private Development

Resolution 6583: Establishing Nexus for Development Fees

Resolution 6584: Amending the Schedule of Fees, 1992-93

Public Art Master Plan May 2024 update

Proposed Chapter 2.14 Public Art Committee

Proposed Chapter 12.36 Public Art in Public Places and Private Development



October 21, 2025

Hon. Michael K. Hannon & City Council
City of Newark
37101 Newark Blvd
Newark, CA 94560

Via Email

Subject: Support for Arts Ordinances

Dear Mayor Hannon and City Council members,

On behalf of the Board of Directors of the Newark Chamber of Commerce, I am pleased to express the Chamber's full support for the proposed ordinances adding Chapter 12.36, Art in Public Places and Private Development, and Chapter 2.14, Public Art Committee, to the Newark Municipal Code (Item F.2 on the October 23, 2025, City Council agenda).

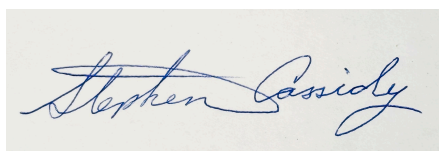
The Chamber appreciates the opportunity provided by City staff to review and discuss the proposed "1% for the Arts" program in advance of Thursday's meeting. This outreach allowed the Chamber Board to carefully consider and unanimously endorse the initiative.

The Newark Chamber of Commerce strongly supports the continued investment in public art throughout our community. Public art enriches civic life—fostering community pride, encouraging creativity, and helping to define Newark's distinct identity within the Tri-City area.

Vibrant public art installations enhance the sense of place, celebrate Newark's cultural diversity, and make our city more welcoming to residents, businesses, and visitors alike.

Expanding public art is an important step toward improving the quality of life in Newark and strengthening our local economy.

Very Truly Yours,

A handwritten signature in blue ink that reads "Stephen Cassidy". The signature is written in a cursive style with a horizontal line above the name.

Stephen Cassidy
President/Chief Executive Officer
Newark Chamber of Commerce

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