



## AGENDA REPORT

**Meeting Date:** August 21, 2007  
**Item Number:** F-5  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS PUBLIC ART ORDINANCE  
**Attachments:** 1. Ordinance

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### RECOMMENDATION

Staff recommends adoption of this ordinance.

### INTRODUCTION

This ordinance increases the value of fine art required to be installed when constructing or reconstructing a commercial or industrial building that exceeds \$1,000,000 in construction cost to 1.5%. If construction cost is between \$500,000 to \$1,000,000, the value of fine art required to be installed remains at 1%. The ordinance also eliminates the previous cap placed on the maximum value of fine art, including the cap on the optional in lieu fee.

### DISCUSSION

At the City Council meeting of August 7, 2007, the City Council conducted a first reading of this ordinance.

### FISCAL IMPACT

There will not be any expenses incurred by the City due to the amendments. It is anticipated that a more consistent flow of monies into the Public Art Fund will be realized.

Laurence S. Wiener, City Attorney

  
Approved By \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE BEVERLY HILLS PUBLIC ART  
ORDINANCE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

Section 1. Section 3-1-802 of Article 8, Chapter 1 of Title 3 of the Beverly Hills Municipal Code shall be amended to read as follows:

“3-1-802: Public Art or In Lieu Payment Required:

A. Any person constructing, reconstructing or constructing an addition to a commercial or industrial building within the city shall provide fine art as follows:

1. Install fine art that has a value that equals or exceeds one percent (1%) of the total construction cost of the building when the total construction cost is between five hundred thousand (\$500,000.00) and one million dollars (\$1,000,000.00).

2. Install fine art that has a value that equals or exceeds one and one-half percent (1.5%) of the total construction cost of the building when the total construction cost exceeds one million dollars (\$1,000,000.00).

B. In lieu of providing the fine art required by subsection A of this section, payment may be made to the city in an amount of ninety percent (90%) of the value required by subsection A of this section. All payments made pursuant to this subsection shall be segregated and used only as provided in section 3-1-808 of this article.”

Section 2. The definition of “reconstruction” set forth in Section 3-1-803 of Article 8, Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“RECONSTRUCTION: All alterations or repairs made to a commercial or industrial building within any twelve (12) month period where: a) any such alterations or repairs result in changes to the exterior of the building, other than signs or fabric awnings, that can be seen from the public right of way, b) the changes to the exterior of the building are not limited to repair and ordinary maintenance, c) the building permit valuation of the

changes to the exterior of the building exceeds five thousand dollars (\$5,000.00), and d) the building permit valuation of all alterations or repairs to the building exceeds five-hundred thousand dollars (\$500,000.00).

For the purposes of this subsection, the twelve (12) month period referenced above shall include all building permits issued during the twelve (12) months following final inspection of an alteration or repair.

Notwithstanding the foregoing, reconstruction necessitated by damage due to fire, flood, wind, earthquake, or other disaster shall be exempt from this article.”

Section 3. Paragraph “C” of Section 3-1-806 of Article 8, Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“C. If the issuance of a building permit does not trigger the requirements of this article, but that building permit: 1) has a valuation in excess of two-hundred and fifty thousand dollars (\$250,000.00), or 2) is issued within one year after final inspection of improvements with a valuation in excess of two-hundred and fifty thousand dollars (\$250,000.00), then the applicant shall deposit cash, a letter of credit, or other security satisfactory to the director of building and safety in an amount equal to the amount required by subsection 3-1-802B of this article. The purpose of such security is to guarantee installation of the art required by this article if later improvements to the building trigger the public art requirement and the applicant is required to pay the applicant's fair share of the public art requirement for the building renovations. The deposit or other security shall be returned to the applicant if the requirements of this article are not triggered within one year after the date of the final inspection of the building improvements with a valuation in excess of two hundred and fifty thousand dollars (\$250,000.00). The deposit or other security shall be forfeited if the applicant does not fulfill the requirements of this article within three (3) months after final inspection of the construction or reconstruction that triggers the requirements of this article. The forfeited security shall be used as provided in section 3-1-808 of this article.”

Section 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase,

or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 5. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 6. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:  
Effective:

\_\_\_\_\_  
JIMMY DELSHAD  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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BYRON POPE  
City Clerk

APPROVED AS TO FORM:



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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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RODERICK J. WOOD  
City Manager



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VINCENT P. BERTONI, AICP  
Director of Planning and Community  
Development



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STEPHEN V. MILLER  
Director of Community Services