

ORDINANCE NO. 1671

AN ORDINANCE AMENDING TITLE 15 (ZONING REGULATIONS) OF THE EL SEGUNDO MUNICIPAL CODE ESTABLISHING A PUBLIC ART OR IN-LIEU FEE REQUIREMENT AND A CULTURAL DEVELOPMENT FUND

(ENVIRONMENTAL ASSESSMENT NO. 1382 AND ZONE TEXT AMENDMENT NO. 25-01)

The City Council of the City of El Segundo does ordain as follows:

SECTION 1: The City Council finds and declares as follows:

- A. Courts have recognized a public art requirement as a lawful exercise of a city's traditional planning and zoning police power; such a requirement for either public art or in-lieu fees are not a development impact fee that is subject to the California Mitigation Fee Act, but instead is considered a development standard allowed by the City's zoning and police powers, provided the requirement is reasonably related to a constitutionally permissible public purpose (*Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854; *Cal. Bldg. Industry Assn, v. City of San Jose* (2015) 61 Cal.4th 435);
- B. The City of El Segundo is 5.46 square miles and has distinct areas throughout the City that are zoned for commercial and industrial uses, including the Downtown area, Smoky Hollow, and the portion of the City east of Pacific Coast Highway. Because the City is surrounded by other cities (Manhattan Beach, Hawthorne), the Los Angeles International Airport and the Pacific Ocean, and because the City is almost entirely built out, existing opportunities to expand public art within the community are scarce;
- C. As commercial and industrial development and revitalization of the real property within the City continues, urbanization of the community results, and the need to develop new artistic and cultural resources to enhance the environment, image, and character of the City increases;
- D. Cultural and artistic resources enhance the quality of life for individuals living in, working in, and visiting the City; public art increases cultural awareness, stimulates imaginations and provokes creative dialog among community members;
- E. The development of artistic and cultural resources promotes the general welfare of the community, by preserving and improving the quality of the urban environment, increasing property values, and resulting in a positive

economic output;

- F. Artistic and cultural assets should be either provided or financed by those whose commercial and industrial development and revitalization increase the community's demand for cultural resources;
- G. The proposed public art requirement is a requirement of general application for voluntary development within the City, and the optional in-lieu fee will be used for providing artwork, cultural services, performing arts and arts events to the public, as described in this ordinance;
- H. On December 18, 2018, the City Council directed the Arts and Culture Advisory Committee and City staff to develop a Cultural Development Fund proposal for its consideration;
- L. The Planning Commission of the City of El Segundo held a noticed public hearing on October 10, 2019, to review and consider the staff report prepared for the project, receive public testimony, and review all correspondence received on the project; the Planning Commission reviewed and considered the proposed amendments, and adopted PC Resolution No. 2875 recommending the City Council adopt the ordinance; and
- I. On July 16, 2019, and November 5, 2019, the City Council, after giving notice thereof as required by law, held a public hearing concerning the proposed ordinance and carefully considered all pertinent testimony offered in the case, approved the Ordinance;
- J. At the November 19, 2024, City Council Meeting, the City Council directed staff to return to the City Council with an analysis of the CDP funding and information on similar programs in surrounding municipalities;
- K. At the City Council Meeting held on January 21, 2025, Staff conducted a comprehensive review of the CDP and received directives from the City Council to amend the ordinance including the ability to split the funds between projects, establish a fee cap of \$1,000,000, and update timing of the in-lieu fee payments.
- L. On February 13, 2025, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the draft ordinance including, without limitation, information provided to the Planning Commission by city staff; and adopted Resolution No. 2961 recommending that the City Council approve this Ordinance;

- M. On March 18, 2025, the City Council held a public hearing and considered the information provided by City staff and public testimony regarding this Ordinance; and
- N. This Ordinance and its findings are made based upon the entire administrative record including, without limitation, testimony and evidence presented to the City Council at its April 1, 2025, hearing and the staff report submitted by the Community Development Department.

SECTION 2: General Plan and Zoning Consistency. The City Council finds as follows:

- A. The proposed ordinance is compatible with, and will not frustrate, the goals and policies of the City's General Plan. Furthermore, the proposed ordinance would directly advance Goal LU2 and Objectives LU2-1 and LU2-2, which seek to preserve and enhance the City's cultural resources. The proposed ordinance would also advance Objective LU2-3, which encourages the development of public programs and facilities that will meet the cultural needs of the City's various age, income and ethnic groups. The proposed ordinance is intended to require developers of industrial and commercial projects to either provide public art or pay a fee which will be used for public art and cultural activities. The proposed ordinance establishes a dedicated source of funding for projects and programs to meet and exceed the cultural needs of the City's residents.
- B. The proposed ordinance is consistent with the Zoning Code which recognizes works of art and establishes certain standards to distinguish them from commercial signs (ESMC § 15-18-3(H)).

SECTION 3: Environmental Assessment. Based upon the findings of fact set forth in Sections 1 and 2, the proposed zone text amendment is exempt from further environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that adoption of the proposed ordinance will have a significant effect on the environment.

SECTION 4: ESMC Title 15 (Zoning Regulations) is amended to add the following chapter:

Section 15-34-3. Requirement to Provide Artwork or Pay In-lieu Fee.

- A. When a project is subject to this chapter, the applicant must

either (a) commission or acquire and install new artwork in a location on or in the vicinity of the project site, with the appraised value of such artwork and any direct expenses as described herein being equal to or exceeding one percent of the project cost; or (b) pay to the City an amount equal to one percent of the project cost: not to exceed \$1,000,000.

- E. The fee may be allocated between the provision of on-site art installations and the remittance of the remaining balance as an in-lieu fee.

Section 15-34-4. Application and Approval Process.

- C. ~~If a~~ An applicant may elects to pay the in-lieu fee at any time prior to no building permit certificate of occupancy or final inspection shall be issued until the total fee has been paid.

SECTION 5: CONSTRUCTION. This ordinance must be broadly construed in order to achieve the purposes stated in this ordinance. It is the City Council's intent that the provisions of this ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this ordinance.

SECTION 6: ENFORCEABILITY. Repeal of any provision of the El Segundo Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this ordinance.

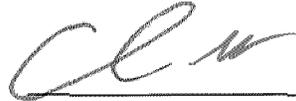
SECTION 7: VALIDITY OF PREVIOUS CODE SECTIONS. If this entire ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the ESMC or other city ordinance by this ordinance will be rendered void and cause such previous ESMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 8: SEVERABILITY. If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

SECTION 9: The City Clerk is directed to certify the passage and adoption of this ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this ordinance, cause it to be published or posted in accordance with California law.

SECTION 10: This Ordinance will go into effect and be in full force and effect 30 days after its passage and adoption.

PASSED AND ADOPTED this 1st day of April, 2025.



Chris Pimentel, Mayor

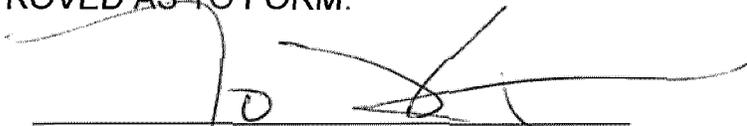
ATTEST:



Susan Truax, City Clerk

APPROVED AS TO FORM:

By:



Mark D. Hensley, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF EL SEGUNDO)

I, Susan Truax, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No.1671 was duly introduced by said City Council at a regular meeting held on the 18 day of March, 2025, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 1st day of April, 2025, and the same was so passed and adopted by the following vote:

AYES: Mayor Pimentel, Mayor Pro Tem Baldino, Council Member Boyles,
 Council Member Giroux and Council Member Keldorf

NOES: None

ABSENT: None

ABSTAIN: None

WITNESS MY HAND THE OFFICIAL SEAL OF SAID CITY this 1st day of April, 2025.



Susan Truax, City Clerk
of the City of El Segundo,
California