

ORDINANCE NO. 2024 - ____

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING CHAPTER 15.06, NEW DEVELOPMENT FEES, OF THE CULVER CITY MUNICIPAL CODE, BY REPEALING AND REPLACING SECTIONS 15.06.100 THROUGH 15.06.175 WITH NEW SECTIONS 15.06.100 THROUGH 15.06.180, RELATING TO THE ART IN PUBLIC PLACES PROGRAM.

WHEREAS, on August 29, 1988, the City Council adopted Ordinance No. 88-019, which established the Art in Public Places Program ("APPP"); and

WHEREAS, on February 14, 1994, the City Council adopted Ordinance No. 94-004 which created a City Art Fund, limited the type of art on private property to art in a physical hard media, and authorized expenditures from the City Art Fund for the performing arts; and

WHEREAS, on November 13, 1995, the City Council adopted Ordinance No. 95-016 establishing the criteria and the procedures for approving Architecture as Art; and

WHEREAS, by Ordinance Nos. 2001-013 and 2001-015, the City Council established the Cultural Affairs Commission ("CAC") and directed that the Art in Public Places Program be implemented by the CAC; and,

WHEREAS, the City Council adopted Ordinance No. 2002-007 which incorporated changes made necessary by the establishment of the CAC and the transfer of the Art in Public Places and other Cultural Affairs programs from the Community Development Department to the Parks, Recreation & Community Services Department; and

WHEREAS, in July 2003, the CAC and the programs under its purview were transferred to the Community Development Department from the Parks, Recreation & Community Services Department because of the direct effect upon development projects

1 and the need to better coordinate implementation of the APPP and the development
2 process; and

3 **WHEREAS**, on February 9, 2004, the City Council adopted Ordinance No. 2004-004
4 to address certain omissions and the change in City departments; and

5 **WHEREAS**, with the dissolution of the Culver City Redevelopment Agency on
6 February 1, 2012, the CAC, the performing arts and certain other Cultural Affairs programs
7 were transferred to the Parks, Recreation & Community Services Department while the Art
8 in Public Places Program remained within the Community Development Department; and

9 **WHEREAS**, the arts have increasingly become an important component in Culver
10 City's identity, both regionally and nationally; and

11 **WHEREAS**, the Los Angeles County Economic Development Corporation's annual
12 Otis Report on the Creative Economy consistently demonstrates that the arts have a
13 significant positive economic impact to overall tourism revenues in the region and is one of
14 the largest employment clusters in Los Angeles County; and

15 **WHEREAS**, periodic review and certain amendments are necessary to ensure that
16 Culver City's Art in Public Places Program, Performing Arts Grant Program, and related
17 cultural initiatives remain aligned with the needs of the Culver City community, competitive
18 with current national standards and continue to build upon what has been established to
19 date.

20 **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**
21 **HEREBY ORDAIN**, as follows:

22 **SECTION 1.** Sections 15.06.100 through 15.06.175 of the Culver City Municipal
23 Code are hereby repealed and replaced with new Sections 15.06.100 through 15.06.180 as
24 follows:

ART IN PUBLIC PLACES

- § 15.06.100 Purpose
- § 15.06.105 Implementation by Cultural Affairs Commission
- § 15.06.110 Definitions
- § 15.06.115 Cultural Trust Fund Created
- § 15.06.120 Developments Subject to Provisions of Subchapter
- § 15.06.125 Art in Public Places Program Allocations
- § 15.06.130 Administrative and Design Fees
- § 15.06.135 Application and Approval Procedures for Placing Artwork on Private Property
- § 15.06.140 Approval Procedures for Fulfillment of the Art in Public Places Program Requirement for City Development Projects
- § 15.06.145 Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement
- § 15.06.150 Ownership and Maintenance of Artwork
- § 15.06.155 Final City Approval
- § 15.06.160 Artwork on Public Property, ~~Performing Arts~~ and Purchase of Real Property for Public Art
- § 15.06.163 Performing Arts
- § 15.06.165 Criteria for Approving Architecture as Art
- § 15.06.170 Procedure for Approving Architecture as Art
- § 15.06.175 De-Accessioning of Artwork
- § 15.06.180 Appeal

§ 15.06.100. PURPOSE.

The City Council finds and declares:

A. Cultural and artistic resources, that include visual artwork, the performing arts, and architectural resources, enhance the quality of life for individuals living in, working in and visiting the City. They also ,eenrich the City's past, celebrate the spirit of the City's present, and shape the identity of the City's future.-

B. Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment, increases real property values, and has a positive economic impact.

1 C. As development and revitalization of real property within the City
2 continues, the opportunity for creation of cultural and artistic resources is
3 diminished. As these opportunities are diminished and urbanization occurs,
4 there is an increased~~the~~ need to develop alternative sources for cultural and
5 artistic outlets that reflect an awareness of the site, both physically and
6 socially, and that encourage the historical and cultural values and sensibilities
7 of the community to improve ~~its~~the environment, image and character of the
8 community. ~~is increased.~~

10 D. The Culver City Art in Public Places Program (“APPP”) was
11 created in 1988 so that development of cultural and artistic assets are
12 financed by those whose development and revitalization diminishes the
13 availability of the community’s resources for those opportunities and
14 contributes to community urbanization.

16 E. The early 21st century saw an increase in the necessity for
17 longterm~~long-term~~ viability in the arts sector which is achieved through
18 cultural equity. Everyone deserves equal access to a full, creative life, which
19 is essential to physical and mental health, and which promotes a democratic
20 society.

23 § 15.06.105. _____ IMPLEMENTATION BY CULTURAL AFFAIRS
24 COMMISSION AND THE CULTURAL AFFAIRS DIVISION
STAFF.

25 The Cultural Affairs Commission (“CAC”), as established by Section
26 3.03.400 of the Culver City Municipal Code, was created in 2001 and shall
27 implement the duties established in this subchapter in conjunction with staff
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1 with specialized qualifications and training in the arts. The City Council may
2 prescribe, by resolution, other duties and the appointment process for the
3 members of the CAC.
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5 § 15.06.110. DEFINITIONS.
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7 As used in this subchapter, the following definitions shall apply:

8 A. “Administrative Fees” include art consultant, conservator, legal
9 fees, travel and out-of-pocket expenses.

10 B. “Art in Public Places Program Allocation” (also referred to as
11 “APPP allocation”) is the percentage of the construction costs which are set
12 aside for the City's Art in Public Places Program.

13 C. “Artwork” includes but is not limited to paintings, drawings,
14 murals in any media, stained glass, statues, bas relief or other sculptures,
15 and any creation under “new genres” as defined herein; environmental
16 artworks or public spaces; monuments, fountains, arches or other structures
17 of a permanent or temporary character intended for ornament or
18 commemoration; integrated and functional architectural, video and other
19 multi-media-based elements designed by a qualified artist. For projects which
20 involve no structures, artwork may include a combination of landscape
21 design, natural and manufactured materials including but not limited to rocks,
22 fountains, reflecting pools, sculptures, screens, benches, and other types of
23 street furniture, provided they have been designed by a qualified artist.
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1 D. ~~“Community Development Director~~Planning and Development
2 Director” shall mean the ~~Community Development Director~~Planning and
3 Development Director of the City or his/her designee.

4 E. “Conservation” encompasses actions taken toward the long-
5 term preservation of cultural property and includes examination,
6 documentation, treatment and ~~preventative~~preventive care, supported by
7 research and education. Restoration is a type of conservation treatment and
8 specifically refers to an attempt to bring cultural property closer to its original
9 appearance and/or function. Stabilization, also a type of conservation, refers
10 to an attempt to maintain the integrity of cultural property and to only minimize
11 deterioration.
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13 F. “Cultural Affairs Commission” shall be the Commission
14 established in 2001 pursuant to Section 3.03.400 of this Code. Unless
15 otherwise specified, any reference to “Commission” in this subchapter shall
16 mean the Cultural Affairs Commission.
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18 G. “De-accession” refers to the process of permanently removing
19 artwork acquired through the Art in Public Places Program as outlined in this
20 subchapter.
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22 H. “Design Fees” include, but are not limited to, those fees which
23 are paid to an artist, architect, structural engineer or an appropriate party for
24 the development of a design concept and the preparation of construction
25 drawings. Design fees are separate and apart from the cost of the fabrication
26 and installation of an artwork.
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1 I. "Freely Accessible" is defined to mean the artwork is accessible
2 ~~or perceptible~~ to the public for viewing or appreciating, in its entirety and in a
3 direct line of sight without hindrances or obstacles, for a period of ten (10)
4 hours per day, seven (7) days per week.

5 J. "New Genres" include, but are not limited to, sculpture, sound
6 installation, video, film, audio, digital, hybrid and emerging art forms. These
7 works may be temporary or permanent in nature.

8 K. "Non-Profit" shall mean those entities deemed to be exempt
9 under Section 501(c)(3) of the Internal Revenue ~~Service~~ Code.

10 L. "Performing Arts" is defined as performances presented by
11 professional or amateur performers including, theatre performance (any form
12 of dramatic presentation, spoken or silent); musical theatre/opera (any
13 dramatic performance of which music is an integral part); dance (any form of
14 rhythmical movement); music or concert (any musical performance with live
15 instrumental or vocal musicians ~~and/or singers~~).

16 M. "Permanent Installation" is defined as artwork designed and
17 fabricated to remain installed for 20 or more years.

18 N. "Project" (also referred herein as "Development Project") is
19 defined as consisting of all physical changes and improvements necessary to
20 complete a development. Such physical changes shall include the
21 construction of new structures or the remodeling of existing structures.

22 O. "Real Property" shall mean that which consists of land, and of all
23 rights and profits arising from and annexed to land, of a permanent,
24 immovable nature.

1 P. "Qualified Artist" (also referred herein as "Artist") shall be
2 defined as a practicing artist who has demonstrated a high level of
3 accomplishment through a body of work, exhibitions, presentations, or
4 performances. The qualified artist ~~may~~shall have a history of strong
5 conceptual development, as well as possess the ability for skillful execution of
6 tools, materials, and craft. This includes programs rooted in innovative uses
7 of technology, collaborative work, or interdisciplinary projects. The qualified
8 artist ~~shall~~may have a BFA, MFA or other comprehensive advanced training
9 in the visual arts and work primarily in the production of art in unique or
10 limited editions and not for purposes of marketing, mass production or
11 advertising.
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13 Q. "Temporary Installation" is defined as artwork intended to
14 remain installed for 3 years or less.
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§ 15.06.115. CULTURAL TRUST FUND CREATED.

A. There is hereby created a fund to be known as the “Culver City Cultural Trust Fund” (hereinafter “Cultural Trust Fund”) to account for fees paid pursuant to this subchapter. This fund, maintained by the Chief Financial Officer, and subject to Sections 15.06.040 and 15.06.050, shall be used solely:

1. For the design, acquisition, commission, installation, improvement, relocation, conservation, utility charges and insurance of artwork acquired by the City through the APPP;

2. For preventive care, maintenance and utility charges related to the artwork and real property purchased pursuant to Subsection 15.06.115.A.1; provided, that the total amount of the appropriation made in any year from the Cultural Trust Fund for the purpose set forth in this Subsection 15.06.115.A.2 shall not exceed fifteen percent (15%) of the total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the fiscal year immediately preceding that appropriation. The City Council, with a recommendation by the Cultural Affairs Commission, may appropriate additional funds from the Cultural Trust Fund for the purpose of completing larger conservation efforts, including restoration projects, for one or more artworks;

3. To sponsor or support the performing arts in Culver City;

1 4. For the acquisition and improvement of real property for
2 the purpose of displaying artwork or to be used as a cultural facility,
3 which has been or may be subsequently approved by the City;

4 5. For costs associated with administering The Art in Public
5 Places Program and associated cultural programs, in an amount not to
6 exceed fifteen percent (15%) of the total fees deposited into the
7 Cultural Trust Fund, pursuant to this subchapter, during the fiscal year
8 immediately preceding that appropriation; however, in the event the
9 City Council determines that a special circumstance exists, the City
10 Council may set a higher amount by a majority vote; and

11 6. Other City-produced cultural programs and projects
12 pursuant to the requirements of this subchapter.

13 7. For peer review panelist honoraria for the performing
14 arts, commission or acquisition of artworks by the City, or other
15 Cultural Affairs projects or programs where such panels are
16 incorporated into the review process.

17 8. For artist stipends or other professionals submitting a
18 proposal in conjunction with an RFP for an artwork or other Cultural
19 Affairs project or program.

20 B. If real property purchased with monies from the Cultural Trust
21 Fund is subsequently sold, the proceeds from the sale shall be returned to the
22 Cultural Trust Fund.
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§ 15.06.120. DEVELOPMENTS SUBJECT TO PROVISIONS OF
SUBCHAPTER.

A. All new residential development projects of five or more units, and all commercial, industrial, and public building development projects, with a building valuation of Five Hundred Thousand Dollars (\$500,000.00) or more shall be subject to the provisions of this subchapter.

B. Including but not limited to exterior and interior modifications and additions, all remodeling of existing residential buildings of five or more units, and all remodeling of existing commercial, industrial and public buildings, shall be subject to the provisions of this subchapter when such remodeling has a valuation of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more, excluding earthquake rehabilitation required by this Code for seismic safety.

~~C. Covenanted low- and moderate-income and senior citizen housing shall be exempted from the requirements of this subchapter for as long as it is used for that purpose.~~

~~1. The APPP allocation for a development project that includes residential units covenanted for low- or moderate-income households or for senior citizens shall be reduced by the value of the square footage of the covenanted units and associated spaces (such as parking).~~

~~2. Prior to the date any restrictions regarding residential units covenanted for low- or moderate-income households or for senior citizens terminate, the then current owner of the development shall pay fees to the~~

~~Cultural Trust Fund in an amount equal to the exemption calculated in
Subsection 15.06.120.C.1.~~

D. Buildings which are designed and dedicated primarily to non-profit performing arts spaces or museum uses shall not be required to meet the Art in Public Places Program Allocation requirement for as long as the performing arts or museum uses are maintained within these building~~s~~.

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3 §15.06.125. ART IN PUBLIC PLACES PROGRAM ALLOCATIONS.

4 A. The APPP allocation, as used in this subchapter, is the
5 percentage of the construction costs which is set aside for the City's APPP
6 and shall be an amount equal to one percent (1%) of the total building permit
7 construction valuation for an applicable project, including shoring permits but,
8 excluding land acquisition costs. The total building permit construction
9 valuation used for determining the APPP allocation shall be based on the
10 latest building construction valuation data used by the Building Safety division
11 staff, based on R.S. Means Square Foot Costs, unless, in the opinion of the
12 Building Official, a different valuation methodology is more appropriate for a
13 particular project.
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16 B. Multiple building permits issued within a three year period for a
17 single project shall be considered in the aggregate in determining the APPP
18 allocation.

19 C. With the exception of low- and moderate-income housing and
20 senior, including assisted living and nursing facilities, if the total APPP
21 allocation for a project is less than \$75,000, the applicant shall pay their
22 APPP allocation into the Cultural Trust Fund as the only option for complying
23 with the APPP requirement unless the applicant voluntarily increases their
24 APPP allocation to an amount of \$75,000 or greater, thereby qualifying the
25 applicant to fulfill the APPP requirement pursuant to Subsection 15.06.125.E.
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1 D. Payment of any required APPP allocation shall be received prior
2 to issuance of a City building permit.

3 E. If the APPP allocation is \$75,000 or greater, the applicant shall
4 either:

5 1. Pay the APPP allocation into the Cultural Trust Fund
6 prior to issuance of a City Building Permit ("in-lieu fee"); or

7 2. Commission original, site-specific artwork for the
8 applicant's development project, with a valuation equal to or greater
9 than the APPP allocation, in compliance with the guidelines of this
10 subchapter; or

11 3. Donate artwork to the City with an appraised value equal
12 to or greater than the APPP allocation, in compliance with the
13 guidelines of this subchapter; or

14 4. Incorporate a Cultural Facility into the applicant's
15 development project, in compliance with the guidelines of this
16 subchapter; or

17 5. Have the building or a portion thereof designated
18 "Architecture as Art," in compliance with the guidelines of this
19 subchapter.

20 ~~F. Any applicant whose APPP allocation is less than \$75,000 may~~
21 ~~voluntarily increase their APPP allocation to an amount of \$75,000 or greater,~~
22 ~~and thereby qualify the applicant to fulfill the APPP requirement pursuant to~~
23 ~~Subsection 15.06.125.E.~~

1 FG. If the APPP allocation is \$75,000 or greater, the applicant may
2 place an approved artwork, create a Cultural Facility, donate artwork, or
3 designate their building "Architecture as Art" with acquisition and installation
4 costs totaling less than the applicant's APPP allocation; provided that, such
5 costs are at least \$75,000 and that the applicant also pay the difference
6 between its APPP allocation and such costs into the Cultural Trust Fund.
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8 GH. For the commission of new on-site artwork, applicants are
9 required to use a Request for Proposal ("RFP") process for selecting an artist
10 when the APPP allocation exceeds \$100,000. The applicant shall also hire a
11 qualified art consultant to assist with the RFP process, proposal development,
12 and project oversight. The art consultant shall be selected from a pre-qualified
13 list provided by the City. The CAC Public Art subcommittee and staff shall
14 review the art consultant and RFP information with the applicant prior to
15 releasing the RFP.
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17 The RFP will include the following components:

- 18 1. Deadline for submission of requested information;
- 19 2. Information on development project components,
20 including but not limited to goals for the development project and the
21 artwork, scope of work, physical description of project site and other
22 physical or legal restrictions which may apply;
- 23 3. Proposal review/selection schedule;
- 24 4. Scope of services;
- 25 5. Artwork budget;
- 26 6. Development project and artwork timelines; and,
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7. Evaluation criteria, including a description of efforts to expand diversity in the applicants.

I. If the APPP allocation is \$75,000 or greater, the applicant may opt to fulfill the APPP requirement by incorporating a Cultural Facility within the development project. In order to ensure integrated projects, applicants shall submit plans to the Community Development Director during Preliminary Project Review (PPR) or prior to receiving any discretionary review approvals. The only acceptable Cultural Facilities are: indoor and outdoor performing arts spaces that can accommodate a minimum audience of 50, with a performance area of at least 500 square feet, or exhibition spaces designed for the visual arts. Cultural Facilities must include all amenities for supporting a performance or art exhibition space, such as including a sound and lighting systems, audience seating, separately designated restrooms, and technical space. Cultural Facilities shall be permanent and must be ADA-compliant. Further, the facility must be made available to the recipients of the Culver City Performing Arts Grant Program and Culver City-based visual and performing arts organizations at rental rates no higher than other local arts venues. Cultural Facilities must be specifically designated as such and cannot be used for any other purpose on an on-going basis. Applicants may receive credit for up to three years of operations, maintenance, and programming costs for Cultural Facilities, together with construction costs, toward fulfillment of the minimum APPP allocation for their project. The applicant's proposal for a Cultural Facility shall include a plan that identifies key staff, programming goals and an associated budget for a minimum of three years. The proposal

1 shall be approved by the Cultural Affairs Commission, monitored by
2 designated City staff, and subject to all applicable federal, state and local
3 laws and regulations. Review and approval of Cultural Facilities shall include
4 review by a CAC subcommittee with a recommendation to the full CAC.
5 Cultural Facilities are required to display a permanent plaque as outlined in
6 Subsection 15.06.155.F.3 and are subject to the covenant and maintenance
7 requirements of Section 15.06.150.
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1 § 15.06.130. ADMINISTRATIVE AND DESIGN FEES.

2 In those instances covered by Subsections 15.06.125.E, 15.06.125.H
3 or 15.06.125.I, the following shall apply:

4 A. Total Administrative Fees shall not exceed 15% of the APPP
5 allocation or \$100,000, whichever is less.

6 B. Design fees must be proportionate to the overall scope of the
7 budget.
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10 § 15.06.135. APPLICATION AND APPROVAL PROCEDURES FOR
11 PLACING ARTWORK ON PRIVATE PROPERTY.

12 A. In order to ensure integrated projects, applicants choosing to
13 commission new artwork for their project shall submit plans to the ~~Community~~
14 ~~Development~~Planning and Development Director during Preliminary Project
15 Review (PPR) or prior to receiving any discretionary review approvals. At a
16 minimum, the following information shall be included:

17 1. Preliminary sketches, photographs or other
18 documentation of sufficient descriptive clarity to indicate the nature of
19 the proposed artwork;
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21 2. Preliminary plans containing such detailed information as
22 may be required by the ~~Community Development~~Planning and
23 Development Director to adequately evaluate the location of the
24 artwork in relation to the proposed development, including compatibility
25 with the character of adjacent conforming developed parcels and the
26 existing neighborhood. Applicants should be involved in the
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1 development of the preliminary plans in order to assist in the proper
2 placement of the artwork in relation to their proposed development
3 environment, and to ensure that the artist that is chosen creates an
4 artwork that fits the needs and requirements of both the applicant's
5 project and the APPP ~~., while being respectful of any native peoples~~
6 ~~who previously inhabited the area..~~

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8 B. Upon receipt of discretionary review approvals, applicants shall
9 prepare the following in preparation for Cultural Affairs Commission review:

10 1. A narrative proposal, with the artwork's budget and
11 timeline. Elevations, site plans, line of sight studies, renderings and
12 other descriptive materials, as deemed necessary by the ~~Community~~
13 ~~Planning and~~ Development Director, shall be included to demonstrate
14 that the artwork will be displayed in an area open and freely accessible
15 to the general public.

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17 2. Information provided by a conservator affiliated with the
18 American Institute for Conservation ("AIC") about the durability of the
19 proposed materials, recommendations for future maintenance and
20 estimated maintenance costs. ~~It is recommended that the artist's~~
21 ~~materials, fabrication, and electronic technology be warrantied for two~~
22 ~~years.~~ In addition, the application shall include information on how the
23 future maintenance ~~costs~~ will be ~~assured allocated and identify the~~
24 ~~party responsible for ensuring that maintenance is performed~~; and,
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26 3. If applicable, an appraisal or other evidence of the value
27 of the proposed artwork, including acquisition and installation costs.
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1 C. The Cultural Affairs Commission shall review the completed
2 application together with the recommendation of the ~~Community~~
3 ~~Development~~Planning and Development Director and CAC Public Art
4 subcommittee, and approve, approve with conditions, or deny the proposed
5 artwork, and its proposed location, considering the aesthetic quality and
6 harmony with the proposed project, and the public accessibility of the artwork.
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8 D. Submitted artwork applications shall be assessed on:

9 ~~1. 1.~~ 1. Compliance with the general APPP requirements
10 as outlined in this subchapter;

11 2. Artistic quality. ~~This encompasses o;; original art that is of~~
12 the highest quality, both in terms of concept, process and execution;
13 that enriches the City and evokes meaning to the broadest range of
14 people that will encompass a broad aesthetic range reflecting the City
15 and the minds of its citizens, art that enriches the City and evokes
16 meaning to the broadest range of people, including visitors.
17 Consideration of artistic quality includes: discerning between true
18 quality and mere novelty or decoration; art concepts that advance the
19 practice and understanding of visual arts and demonstrate a mastery
20 of materials and techniques; and, strong and original conceptual skills
21 with innovative and effective approaches that are related to or an
22 expansion of the artist's studio practice.;

23 3. Conceptual compatibility of the design with the immediate
24 environment ~~for-of~~ the site and appropriateness of the design to the
25 function of the site. Considerations include:; local character and
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1 history, increasing cultural awareness, encouraging public dialogue,
2 social dynamics, considered in terms of the physical dimensions, social
3 dynamics, local character, and the surrounding context of the site.
4 Artworks should stand on their own within the site, and not be
5 designed primarily to serve as disguising a physical feature of the site.
6 Artworks shall not compete with the character-defining features of
7 structures or sites that are considered to be of cultural or historical
8 significance.;

10 4. ~~Appropriateness of the design to the function of the site~~
11 ~~to represent an expression of our time, contribute to a sense of the~~
12 ~~City's identity, entail a measure of public significance, increase cultural~~
13 ~~awareness, and encourage public dialogue;~~

14 45. Creation of a desirable environment for the benefit and
15 better understanding of the general community ~~and their individual~~
16 lives, by the design and location of the artwork;

18 56. Preservation and integration of natural features with the
19 project site;

20 67. Appropriateness of the materials, textures, colors, and
21 design to the expression of the ~~design-art~~ concept;

23 78. Ability to convey the artist's authentic intention and
24 underlying themes, while providing new experiences that evoke some
25 aspect of social, environmental, cultural, physical, political, economical
26 or historical context of the site and its locale;

1 89. Whether the artwork is representative of a broad variety
2 of tastes and cultures within the community, including minority
3 populations, and encourages public dialogue and interaction, thereby
4 transforming public spaces into areas of community interest, pride and
5 enjoyment, and thereby makesmaking a contribution to the provision of
6 a balanced inventory of artworks commissioned through the APPP;
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8 940. Permanence of structural and surface components
9 including, but not limited to, the structural and surface soundness and
10 inherent resistance to theft, vandalism, weathering, and excessive
11 maintenance or repair costs.

12 E. Disqualifying characteristics for artwork:

13 1. Directional elements such as super graphics, signage, or
14 color coding except where these elements are integral parts of the
15 original artwork or executed by the artist in unique or limited editions;
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17 2. Artwork that incorporates logos, images, text or other
18 elements that relate directly to a specific business's or organization's
19 branding or marketing themes;

20 -3. Art objects ~~which~~ that are mass-produced and of
21 standard design such as playground equipment or fountain pieces;
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23 -4. Reproduction of original artworks, except in cases where
24 incorporated into an original artwork;

25 -55. Decorative or functional elements, including those which
26 ~~are~~ designed by the building architect as opposed to a qualified artist;
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1 ~~-66.~~ Landscape design except where it is designed by a
2 qualified artist and is an integral part of the artwork;

3 ~~-77.~~ Architectural rehabilitation, historic preservation and
4 structural building modifications;

5 ~~-88.~~ Temporary art exhibitions, unless included with a Cultural
6 Facility as outlined in Subsection 15.06.125.I;

7 ~~-99.~~ Educational activities (e.g., fine art classes);;

8 ~~1040.~~ Artwork designed by City elected or appointed officials,
9 City staff or members of their immediate family, members of the project
10 architect's firm or immediate family members, individuals directly
11 associated with the development team or immediate family members
12 of the property owner/applicant, or any individuals with whom the
13 property owner and/or applicant may have an interest in common; and,
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16 ~~114.~~ Artwork designed by an artist who has received a prior
17 permanent public art commission through the City's Art in Public
18 Places Program, if the contract for said commission was executed
19 within the last ten years.

20 F. If the applicant proposes significant revisions to the artwork, a
21 revised application shall be submitted to the ~~Community~~
22 ~~Development~~Planning and Development Director for review and
23 recommendation to the Cultural Affairs Commission. The Commission shall
24 make a determination whether to approve, approve with conditions or deny
25 the requested revision(s).
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1 § 15.06.140. APPROVAL PROCEDURES FOR FULFILLMENT OF THE ART
2 IN PUBLIC PLACES PROGRAM REQUIREMENT FOR CITY
3 DEVELOPMENT PROJECTS.

4 A. All City-initiated projects subject to the requirements of this
5 subchapter shall follow the same requirements as development projects on
6 private property, with the exception of the requirement to pay an in-lieu fee
7 into the Cultural Trust Fund if the APPP allocation is less than \$75,000. The
8 APPP allocation shall be included in the development project budget and
9 appropriated from the development project funding sources. The APPP
10 allocation may be supplemented with money from the Cultural Trust Fund
11 with a recommendation from the Cultural Affairs Commission and City Council
12 approval.

13 B. Depending on the scope of the development project and/or
14 overall budget, the City may employ a Community Advisory Committee and/or
15 Artist Selection Panel, an RFQ and/or RFP process and/or the services of a
16 qualified art or theatre consultant. Both the Community Advisory Committee
17 and Artist Selection Panel shall include a combination of professional artists,
18 arts and design professionals, community representatives or stakeholders
19 and City department representatives. City may allow for a feestipend for
20 finalists' presentation proposals during the selection process.
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24 § 15.06.145. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED
25 TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES
26 PROGRAM REQUIREMENT.
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1 A. An application for acceptance of artwork to be donated to the
2 City for placement on public property shall be submitted to the Community
3 Development Director and shall include the following information, at minimum:

4 1. Artist biography and object provenance;
5 2. Sketches, photographs, models, or other documentation
6 of sufficient descriptive clarity to indicate the nature of the proposed
7 artwork and installation and siting requirements;

8 3. Acquisition and installation costs;

9 4. An appraisal or other evidence of the value of the
10 proposed artwork. The value of the proposed artwork will be
11 determined by an Accredited Member ~~or Accredited Senior Appraiser~~
12 of the American Society of Appraisers, the Appraisers Association of
13 America, or The International Society of Appraisers; ~~or a member of~~
14 ~~another established national or international organization for~~
15 ~~appraisers;~~

16 5. Information provided by an American Institute for
17 Conservation ("AIC") affiliated conservator about the durability of the
18 proposed materials, recommendations for future maintenance and
19 estimated maintenance costs; and,

20 6. If applicable, a written agreement, in a form approved by
21 the City Attorney, executed by or on behalf of the artist who created
22 the artwork which provides the City necessary protections as permitted
23 under applicable law.

24 B. Review of application:
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1 1. Completed applications shall be submitted to the
2 Community Development Director who, together with the CAC Public
3 Art subcommittee, makes a recommendation to the Cultural Affairs
4 Commission.

5 2. The Cultural Affairs Commission shall in turn make a
6 recommendation to the City Council, which shall have the sole
7 authority to accept or reject or conditionally accept the donation.
8

9 C. All artwork donated to the City in fulfillment of the requirements
10 of this subchapter shall become the property of the City upon acceptance by
11 the City Council.
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1 § 15.06.150. OWNERSHIP AND MAINTENANCE OF ARTWORK.

2 A. All artwork placed on the site of an applicant's project shall
3 become the property of the property owner and his/her successor(s) in
4 interest. Artwork cannot be sold or transferred other than to a subsequent
5 successor in interest. The obligation to provide maintenance and security, as
6 necessary to preserve the artwork in good condition, shall remain with the
7 owner of the site.

8 B. Maintenance of artwork, as used in this section, shall include
9 without limitation: preservation of the artwork and, where applicable, of the
10 lighting and surrounding landscaping, in good condition to the satisfaction of
11 the City; protection of the artwork against physical defacement, mutilation or
12 alteration; and, securing and maintaining fire and extended insurance and
13 vandalism coverage in an amount to be determined on a case-by-case basis
14 by the City.

15 C. Prior to placement of an approved artwork, the applicant and the
16 owner of the site shall execute and record a covenant reflecting all the
17 owners' obligations under this subchapter, in a form approved by the City.

18 D. The covenant shall include a projected annual cost financial
19 plan for the maintenance of the artwork, a schedule of future condition
20 checks, preventive maintenance and restoration of the artwork necessary to
21 conserve the artwork at an appropriate level, and should be created with input
22 from the artist, the applicant, the Cultural Affairs Commission, and an Art
23 Consultant, if one was hired for the project.
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1 E. Applicants are required to set-aside funds for future
2 conservation and, where possible, in interest bearing accounts. Although
3 preventative maintenance costs may represent approximately from 5% to
4 15% annually of the total APPP allocation, ~~(but shall be~~ based on
5 conservation reports prepared by a professional art conservator working with
6 the artist and the artist's fabricator,) however, --f Funds for maintenance are
7 not part of the APPP allocation.

8
9 F. The City reserves the right to inspect the artwork at any time to
10 ensure it is being maintained as required by any covenant entered into
11 pursuant to the provisions of Subsection 15.06.150.C.

12 G. Failure to maintain the artwork as provided herein is hereby
13 declared to be a public nuisance. The City may pursue remedies to obtain
14 compliance with the provisions of the APPP for maintenance of artwork,
15 including subjecting the property owner to administrative citation and/or
16 misdemeanor prosecution; placing conditions for maintenance of an artwork
17 on the owner's future development project approvals; performing all
18 necessary repairs, maintenance or securing insurance and placing a lien
19 against the involved property for the costs associated with such.

20
21 H. The artwork is to remain freely accessible, as previously
22 defined, and may not otherwise be draped or obscured, except when being
23 conserved or restored.

24
25 I. The siting of the artwork, including the surrounding landscaping
26 or adjacent area, shall not be altered without approval from the City. The City
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reserves the right to implement measures necessary to preserve the design and placement of an artwork as approved by the Cultural Affairs Commission.

J. Artworks commissioned under the APPP shall be appraised at least every 5 years by an accredited member of the American Society of Appraisers, the Appraisers Association of America, or The International Society of Appraisers and a copy of the appraisal furnished to the City;

KJ. Unless an artwork poses imminent danger to life or property, no person or entity shall remove any artwork from the location for which it was selected, and anyone needing to do so shall obtain City approval prior to doing so.

LK. The applicant, its successors, and its assigns, may not destroy, permanently remove, relocate, change, alter, modify, or allow to be defaced, any artwork or portion thereof without the express consent of the City. This requirement will be included in the covenant to be recorded against the property.

ML. If any approved artwork placed on private property pursuant to this subchapter is removed without City approval, the artwork must be replaced with artwork of the same value as that of the removed artwork and be approved by the CAC or the property owner must pay the value of the removed artwork into the Cultural Trust Fund. If these requirements are not met within 180 days, then the Certificate of Occupancy is revoked or a lien is placed against the involved property.

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3 § 15.06.155. FINAL CITY APPROVAL.

4 No final City approval or Certificate of Occupancy for any project
5 subject to this subchapter shall be granted or issued unless and until full
6 compliance with the APPP is achieved as follows:

7 A. In lieu art fees have been paid, if applicable;

8 B. The approved artwork has been fabricated and placed on the
9 project site in a manner consistent with the proposal approved by the
10 Cultural Affairs Commission and inspected by the CAC and/or Cultural
11 Affairs staff, if applicable;

12 C. Donation of an approved artwork has been accepted by the City
13 Council, if applicable;

14 D. A Cultural Facility has been incorporated into the applicant's
15 development project, if applicable;

16 E. The building or a portion thereof has been designated
17 "Architecture as Art," if applicable.

18 F. In cases where approved artwork is placed on private property,
19 a Cultural Facility has been incorporated into the applicant's development
20 project or a building has been designated "Architecture as Art" pursuant to
21 this subchapter, all of the following must occur prior to final City approval or
22 issuance of a Certificate of Occupancy for any project subject to this
23 subchapter:
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1 1. A copy of the maintenance guidelines that include
2 information on materials, parts and fabricator contact information has
3 been submitted to the City;

4 2. A covenant, complying with Subsection 15.06.150.C and
5 setting forth the applicant's obligations under the APPP, has been
6 executed and recorded with the Los Angeles County Recorder;

7 3. A plaque has been installed adjacent to the artwork
8 measuring no less than 8" x 8" or a proportionate size. The plaque
9 shall be made of cast metal, stainless steel or other durable material
10 and will be placed in an appropriate location near the artwork and shall
11 include the date, title of artwork (if applicable), artist(s) or architect(s)
12 (as applicable), and should indicate that the artwork, building's
13 architecture or Cultural Facility was "~~Ce~~ommissioned in conjunction
14 with ~~the~~ Culver City Art in Public Places Program." Staff shall review
15 and approve plaque text and layout prior to its fabrication and
16 installation at the site; and,
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19 4. Proof of final payment to the artist and/or all members of
20 the design and fabrication/installation team has been furnished to the
21 City.
22

23
24 § 15.06.160. ARTWORK ON PUBLIC PROPERTY, ~~PERFORMING ARTS~~
25 AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

26 A. The Cultural Affairs Commission shall prepare a plan for the Art
27 in Public Places Program and update it annually through the budget process.
28

1 B. The Cultural Affairs Commission may recommend to the City
2 Council the purchase of artwork to be displayed on public property,
3 ~~recommend support for the performing arts,~~ and the purchase and
4 improvement of real property to be used for the display of artwork. A
5 recommendation shall include the following information:

6 1. The type of artwork considered, an analysis of the
7 constraints applicable to placement of the artwork on a site, the need
8 for and practicality of the maintenance of the artwork, and the costs of
9 acquisition and installation of the artwork; or
10

11 2. ~~The type of performance and amount recommended; or~~

12 3. The estimated costs of acquisition and improvements of
13 the real property proposed to be purchased.

14 ~~C. The Cultural Affairs Commission is authorized to review the~~
15 ~~performing arts grant applications and make a recommendation to the City~~
16 ~~Council up to the amount authorized in the City budget for the fiscal year for~~
17 ~~which the projects are being considered.~~

18 ~~D. An expenditure from the Cultural Trust Fund may be made for~~
19 ~~the performing arts provided the City Council approves the performing arts~~
20 ~~event and that the performance occurs at a location in the City, or location~~
21 ~~owned or controlled by the City, or at an alternative site which is located~~
22 ~~within close proximity to the corporate boundaries of the City and which has~~
23 ~~facilities for performing arts that complement or supplement those available~~
24 ~~within the City.~~

1 E. ~~No more than 25% of deposits made in any one year into the~~
2 Cultural Trust Fund may be allocated from the Cultural Trust Fund for
3 performing arts in the subsequent year unless this amount is less than
4 \$25,000, in which case a minimum of \$25,000 may be allocated. Eligible
5 activities include City-produced performing arts events and grants to
6 performing arts organizations as subject to the release of a Notice of Funding
7 Availability (“NOFA”) and review of applications by the Cultural Affairs
8 Commission and approval by the City Council.

9
10 F. ~~In order to attract more cultural users to City-owned and City-~~
11 operated facilities, up to \$10,000 per year may be allocated from the Cultural
12 Trust Fund for capital improvements to enhance the performance area of
13 such facilities.

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16 ~~(NEW SECTION)~~ § 15.06.163. PERFORMING ARTS ~~(NEW SECTION)~~

17 A. The Cultural Affairs Commission shall prepare a work plan, through
18 the budget process, for the Performing Arts Program and update it
19 annually.

20
21 B. The Cultural Affairs Commission may recommend support for the
22 performing arts. A recommendation shall include the type of
23 performance, type of support, and amount of funding, if applicable.

24
25 C. An expenditure from the Cultural Trust Fund may be made for the
26 performing arts provided the City Council approves the performing arts
27 event and that the performance occurs at a location in the City, or
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1 location owned or controlled by the City, or at an alternative site which
2 is located within close proximity to the corporate boundaries of the City
3 and which has facilities for performing arts that complement or
4 supplement those available within the City. Performing arts locations
5 must be ADA-compliant and accessible to the public.

6
7 D. No more than twenty-five percent (25%) of deposits made in any one
8 year into the Cultural Trust Fund may be allocated from the Cultural
9 Trust Fund for performing arts in the subsequent year unless this
10 amount is less than twenty-five thousand dollars (\$25,000), in which
11 case a minimum of twenty-five thousand dollars (\$25,000) may be
12 allocated. The Cultural Affairs Commission has the discretion not to
13 expend all the monies allocated for the performing arts and may
14 recommend that they be carried over and applied to the performing
15 arts in the future fiscal year. The Cultural Affairs Commission may
16 accept additional contributions from external sources to supplement
17 the performing arts.

18
19 E. Eligible activities include City-produced performing arts events and
20 grants to performing arts organizations as subject to the release of a
21 Notice of Funding Availability ("NOFA") and review of applications by
22 the Cultural Affairs Commission and approval by the City Council.

23 F. The Cultural Affairs Commission is authorized to review the City's
24 Performing Arts Grant Program applications and make a
25 recommendation to the City Council up to the amount authorized in the
26 City budget for the fiscal year for which the projects are being
27 considered.

1 G. In order to attract more cultural users to City-owned and City-operated
2 facilities, up to \$10,000 per year may be allocated from the Cultural
3 Trust Fund for capital improvements to enhance the performance area
4 of such facilities.

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9 § 15.06.165. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

10 The following criteria shall be used to determine, on a case-by-case
11 basis, whether architecture can be considered art for purposes of fulfilling the
12 City's APPP requirement:

13 A. The architect shall be internationally recognized and have
14 earned a respectable reputation in both the design and visual art communities
15 and have exhibited their work in major regional, national or international
16 museums.

17
18 B. When reviewing architecture as art, the underlying concept of
19 the architecture shall be expressive as more than mere utilitarian architecture.
20 The architecture as a whole, or certain architectural features, shall express
21 ideas or meaning and have cultural significance or conceptual complexity in
22 relation to the totality of the object.

23
24 C. The applicant must be able to demonstrate how the APPP
25 allocation enhances the design of their project.

26
27 § 15.06.170. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.
28

1 The following procedure must be followed by the applicant to fulfill the
2 APPP requirement with the building's architecture:

3 A. An applicant shall make an initial presentation to the CAC Public
4 Art sub-committee and staff prior to the development application being
5 deemed complete. The applicant must submit a maquette and/or other
6 materials which satisfactorily illustrate the proposed conceptual development.
7 The applicant and architect must submit a conceptual statement expressing
8 why the architecture should be considered art, including an explanation of the
9 ideas, meaning, cultural significance or conceptual complexity expressed in
10 the architecture.
11

12 B. A second presentation shall be made at the completion of the
13 City's review and approval process for the project to a panel comprising two
14 commercial architects, one visual artist, one visual arts administrator, and one
15 general design professional such as a landscape architect or commercial
16 interior designer. At least one of the panel members shall be a Culver City
17 business owner or resident. The panel shall make a recommendation to the
18 CAC Public Art subcommittee whether to accept the project under
19 Architecture as Art and the subcommittee will then make a recommendation
20 to the Cultural Affairs Commission for consideration.
21

22 C. The applicant and architect shall demonstrate that high quality
23 materials and craftsmanship will be used in the execution of the construction.
24

25 D. If all of the foregoing criteria are met, the Cultural Affairs
26 Commission shall approve the Architecture as Art, only if, in its judgment, the
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1 architectural work is of extremely high artistic merit and would make a
2 substantial cultural contribution to Culver City.

3 E. The applicant and/or architect shall have the responsibility to
4 demonstrate that all of the foregoing criteria are met.

5
6 § 15.06.175. DE-ACCESSIONING OF ARTWORK.

7
8 A. The City will allow the de-accessioning of artwork acquired or
9 commissioned through the Art in Public Places Program only when it is in the
10 public interest and serves as a means of improving the quality of the overall
11 APPP collection;

12 B. De-accessioning should be considered only after 5 years
13 following the acceptance of artwork donated to the City or the installation of
14 permanent art commissioned through the APPP. The need for temporary
15 removal from public display does not necessitate de-accession. In instances
16 where the artwork considered for de-accession is on private property, the
17 Cultural Affairs Commission shall make the final decision. When the artwork
18 is installed on public property or is City-owned, the Cultural Affairs
19 Commission shall make a recommendation to the City Council which will
20 make the final decision.

21
22 C. After de-accession has been approved by the Cultural Affairs
23 Commission or the City Council, if the artwork is sold, all proceeds from sale
24 of artwork, minus payment to the artist under California Resale Royalties Act,
25 will be used for the exclusive purpose of acquiring replacement artwork for
26 the site or be paid into the Cultural Trust Fund. If the artwork was on private
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1 property, the then property owner shall replace the de-accessioned artwork
2 with an artwork of equal or greater value or pay an in-lieu fee equivalent to
3 the cost of the artwork to the Cultural Trust Fund.

4 D. Circumstances that may cause review of artwork for de-
5 accessioning:

6 1. The artwork is a threat to public safety, or the
7 condition/security of the work cannot be guaranteed;

8 2. The owner cannot properly care for the artwork, or the
9 artwork requires an excessive or unreasonable amount of
10 maintenance;

11 3. The artwork has serious or dangerous faults in design or
12 workmanship, the condition of the artwork requires restoration costs in
13 gross excess of its monetary value or is in such a deteriorated state
14 that restoration is either unfeasible, impractical, or would render the
15 artwork to be false;

16 4. A similar but superior example exists in the collection;

17 5. The artwork is a forgery;

18 6. No suitable site for the artwork is available;

19 7. A significant adverse reaction to the artwork is
20 documented over 5 years or more;

21 8. The artwork is judged to have no aesthetic, historical or
22 cultural value;

23 9. The owner wishes to replace an artwork with a more
24 appropriate work by the same artist;

1 10. The artwork can be sold to finance, or can be traded for,
2 an artwork of greater importance;

3 11. A written request from the artist to remove the artwork
4 from public display has been received and approved by the City;

5 12. The artwork is not or is rarely displayed; or

6 13. The artwork is incompatible with the rest of the collection.
7

8
9 § 15.06.180. APPEAL.

10 Any person may seek review of a decision of the Cultural Affairs
11 Commission by filing a written appeal with the City Clerk's Office within ten
12 (10) working days of the decision by the Commission. The City Clerk's Office
13 shall coordinate with the Community Development Director to schedule the
14 appeal hearing before the City Council.
15

16 SECTION 2. In any case where a development project has an approved entitlement
17 and/or been issued a City building permit prior to the effective date of this Ordinance,
18 compliance with Subsections 15.06.125.C, 15.06.125.F, 15.06.125.G and 15.06.125.H of
19 this Ordinance shall be voluntary.

20 SECTION 3. Pursuant to Section 619 of the City Charter, this Ordinance shall take
21 effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of
22 the City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall
23 cause this Ordinance, or a summary thereof, to be published in the Culver City News and
24 shall post this Ordinance or a summary thereof in at least three places within the City.
25

26 SECTION 4. The City Council hereby declares that, if any provision, section,
27 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
28

1 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
2 reason of any preemptive legislation, then the City Council would have independently
3 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
4 or words of this ordinance and as such they shall remain in full force and effect.

5 APPROVED AND ADOPTED this _____ day of _____, 20~~24~~¹³.

6
7
8
9 _____
~~Andrew Weissman~~, Mayor

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11
12 ATTEST:

12 APPROVED AS TO FORM:

13
14 _____
15 ~~Martin Cole~~, City Clerk

14 _____
15 ~~Carol A. Schwab~~, City Attorney