

MEETING DATE: March 26, 2013

AGENDA ITEM: Adoption of an Ordinance 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

ATTACHMENTS

Pages

1. Proposed Ordinance

1-33

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4 **ORDINANCE NO. 2013 - ____**

5
6 AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA,
7 AMENDING CHAPTER 15.06, NEW DEVELOPMENT FEES, OF
8 THE CULVER CITY MUNICIPAL CODE, BY REPEALING AND
9 REPLACING SECTIONS 15.06.100 THROUGH 15.06.175 WITH
10 NEW SECTIONS 15.06.100 THROUGH 15.06.180, RELATING TO
11 THE ART IN PUBLIC PLACES PROGRAM.

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

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

18 **WHEREAS**, on November 13, 1995, the City Council adopted Ordinance No. 95-
19 016 establishing the criteria and the procedures for approving Architecture as Art; and
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21 **WHEREAS**, by Ordinance Nos. 2001-013 and 2001-015, the City Council
22 established the Cultural Affairs Commission ("CAC") and directed that the Art in Public
23 Places Program be implemented by the CAC; and,

24 **WHEREAS**, the City Council adopted Ordinance No. 2002-007 which incorporated
25 changes made necessary by the establishment of the CAC and the transfer of the Art in
26 Public Places and other Cultural Affairs programs from the Community Development
27 Department to the Parks, Recreation & Community Services Department; and
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1 **WHEREAS**, in July 2003, the CAC and the programs under its purview were
2 transferred to the Community Development Department from the Parks, Recreation &
3 Community Services Department because of the direct effect upon development projects
4 and the need to better coordinate implementation of the APPP and the development
5 process; and

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

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

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

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

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

22 **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**
23 **HEREBY ORDAIN**, as follows:
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SECTION 1. Sections 15.06.100 through 15.06.175 of the Culver City Municipal Code are hereby repealed and replaced with new Sections 15.06.100 through 15.06.180 as 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
- § 15.06.165 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.

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
2 City continues, the opportunity for creation of cultural and artistic resources is
3 diminished. As these opportunities are diminished and urbanization occurs,
4 the need to develop alternative sources for cultural and artistic outlets to
5 improve the environment, image and character of the community is
6 increased.

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

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15 § 15.06.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

16 The Cultural Affairs Commission ("CAC"), as established by Section
17 3.03.400 of the Culver City Municipal Code, was created in 2001 and shall
18 implement the duties established in this subchapter. The City Council may
19 prescribe, by resolution, other duties and the appointment process for the
20 members of the CAC.

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23 § 15.06.110. DEFINITIONS.

24 As used in this subchapter, the following definitions shall apply:

25 A. "Administrative Fees" include art consultant, conservator, legal
26 fees, travel and out-of-pocket expenses.

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

4 C. “Artwork” includes but is not limited to paintings, drawings,
5 murals in any media, stained glass, statues, bas relief or other sculptures,
6 and any creation under “new genres” as defined herein; environmental
7 artworks or public spaces; monuments, fountains, arches or other structures
8 of a permanent or temporary character intended for ornament or
9 commemoration; integrated and functional architectural, video and other
10 media-based elements designed by a qualified artist. For projects which
11 involve no structures, artwork may include a combination of landscape
12 design, natural and manufactured materials including but not limited to rocks,
13 fountains, reflecting pools, sculptures, screens, benches, and other types of
14 street furniture, provided they have been designed by a qualified artist.
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16 D. “Community Development Director” shall mean the Community
17 Development Director of the City or his/her designee.
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19 E. “Conservation” encompasses actions taken toward the long-
20 term preservation of cultural property and includes examination,
21 documentation, treatment and preventative care, supported by research and
22 education. Restoration is a type of conservation treatment and specifically
23 refers to an attempt to bring cultural property closer to its original
24 appearance. Stabilization, also a type of conservation, refers to an attempt to
25 maintain the integrity of cultural property and to only minimize deterioration.
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1 F. "Cultural Affairs Commission" shall be the Commission
2 established in 2001 pursuant to Section 3.03.400 of this Code. Unless
3 otherwise specified, any reference to "Commission" in this subchapter shall
4 mean the Cultural Affairs Commission.

5 G. "De-accession" refers to the process of permanently removing
6 artwork acquired through the Art in Public Places Program as outlined in this
7 subchapter.
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9 H. "Design Fees" include, but are not limited to, those fees which
10 are paid to an artist, architect, structural engineer or an appropriate party for
11 the development of a design concept and the preparation of construction
12 drawings. Design fees are separate and apart from the cost of the fabrication
13 and installation of an artwork.
14

15 I. "Freely Accessible" is defined to mean the artwork is accessible
16 to the public for viewing, in its entirety and in a direct line of sight without
17 hindrances or obstacles, for a period of ten (10) hours per day, seven (7)
18 days per week.

19 J. "New Genres" include, but are not limited to, sculpture, sound
20 installation, video, film, audio, digital, hybrid and emerging art forms. These
21 works may be temporary or permanent in nature.
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23 K. "Non-Profit" shall mean those entities deemed to be exempt
24 under Section 501(c)(3) of the Internal Revenue Service Code.

25 L. "Performing Arts" is defined as performances presented by
26 professional or amateur performers including, theatre performance (any form
27 of dramatic presentation, spoken or silent); musical theatre/opera (any
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1 dramatic performance of which music is an integral part); dance (any form of
2 rhythmical movement); music or concert (any musical performance with live
3 musicians and/or singers).

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

6 N. "Project" (also referred herein as "Development Project") is
7 defined as consisting of all physical changes and improvements necessary to
8 complete a development. Such physical changes shall include the
9 construction of new structures or the remodeling of existing structures.
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11 O. "Real Property" shall mean that which consists of land, and of
12 all rights and profits arising from and annexed to land, of a permanent,
13 immovable nature.
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15 P. "Qualified Artist" (also referred herein as "Artist") shall be
16 defined as a practicing artist who has demonstrated a high level of
17 accomplishment through a body of work, exhibitions, presentations, or
18 performances. The qualified artist shall have a history of strong conceptual
19 development, as well as possess the ability for skillful execution of tools,
20 materials, and craft. This includes programs rooted in innovative uses of
21 technology, collaborative work, or interdisciplinary projects. The qualified
22 artist shall have a BFA, MFA or other comprehensive advanced training in the
23 visual arts and work primarily in the production of art in unique or limited
24 editions and not for purposes of marketing, mass production or advertising.
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26 Q. "Temporary Installation" is defined as artwork intended to
27 remain installed for 3 years or less.
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1 § 15.06.115. CULTURAL TRUST FUND CREATED.

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

7 1. For the design, acquisition, commission, installation,
8 improvement, relocation, conservation, utility charges and insurance of
9 artwork acquired by the City through the APPP;
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11 2. For preventative care, maintenance and utility charges
12 related to the artwork and real property purchased pursuant to
13 Subsection 15.06.115.A.1; provided, that the total amount of the
14 appropriation made in any year from the Cultural Trust Fund for the
15 purpose set forth in this Subsection 15.06.115.A.2 shall not exceed
16 fifteen percent (15%) of the total fees deposited into the Cultural Trust
17 Fund, pursuant to this subchapter, during the fiscal year immediately
18 preceding that appropriation. The City Council, with a
19 recommendation by the Cultural Affairs Commission, may appropriate
20 additional funds from the Cultural Trust Fund for the purpose of
21 completing larger conservation efforts, including restoration projects,
22 for one or more artworks;
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24 3. To sponsor or support the performing arts;
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1 4. For the acquisition and improvement of real property for
2 the purpose of displaying artwork, which has been or may be
3 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
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12 6. Other City-produced cultural programs pursuant to the
13 requirements of this subchapter.

14 B. If real property purchased with monies from the Cultural Trust
15 Fund is subsequently sold, the proceeds from the sale shall be returned to
16 the Cultural Trust Fund.
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19 § 15.06.120. DEVELOPMENTS SUBJECT TO PROVISIONS OF
20 SUBCHAPTER.

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

25 B. Including but not limited to exterior and interior modifications
26 and additions, all remodeling of existing residential buildings of five or more
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1 units, and all remodeling of existing commercial, industrial and public
2 buildings, shall be subject to the provisions of this subchapter when such
3 remodeling has a valuation of Two Hundred Fifty Thousand Dollars
4 (\$250,000.00) or more, excluding earthquake rehabilitation required by this
5 Code for seismic safety.

6 C. Covenanted low- and moderate-income and senior citizen
7 housing shall be exempted from the requirements of this subchapter for as
8 long as it is used for that purpose.
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10 1. The APPP allocation for a development project that
11 includes residential units covenanted for low- or moderate-income
12 households or for senior citizens shall be reduced by the value of the
13 square footage of the covenanted units and associated spaces (such
14 as parking).
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16 2. Prior to the date any restrictions regarding residential
17 units covenanted for low- or moderate-income households or for senior
18 citizens terminate, the then current owner of the development shall pay
19 fees to the Cultural Trust Fund in an amount equal to the exemption
20 calculated in Subsection 15.06.120.C.1.
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22 D. Buildings which are designed and dedicated primarily to non-
23 profit performing arts spaces or museum uses shall not be required to meet
24 the Art in Public Places Program Allocation requirement for as long as the
25 performing arts or museum uses are maintained within these buildings.
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§ 15.06.125. ART IN PUBLIC PLACES PROGRAM ALLOCATIONS.

A. The APPP allocation, as used in this subchapter, is the percentage of the construction costs which is set aside for the City's APPP and shall be an amount equal to one percent (1%) of the total building permit construction valuation for an applicable project, excluding land acquisition costs. The total building permit construction valuation used for determining the APPP allocation shall be based on the latest building construction valuation data used by the Building Safety division staff, based on R.S. Means Square Foot Costs, unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.

B. Multiple building permits issued within a three year period for a single project shall be considered in the aggregate in determining the APPP allocation.

C. If the total APPP allocation for a project is less than \$75,000, the applicant shall pay their APPP allocation into the Cultural Trust Fund as the only option for complying with the APPP requirement.

D. Payment of any required APPP allocation shall be received prior to issuance of a City building permit.

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

1. Pay the APPP allocation into the Cultural Trust Fund prior to issuance of a City Building Permit ("in-lieu fee"); or
2. Commission original, site-specific artwork for the applicant's development project, with a valuation equal to or greater

1 than the APPP allocation, in compliance with the guidelines of this
2 subchapter; or

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

6 4. Incorporate a Cultural Facility into the applicant's
7 development project, in compliance with the guidelines of this
8 subchapter; or

9 5. Have the building or a portion thereof designated
10 "Architecture as Art," in compliance with the guidelines of this
11 subchapter.

12 F. Any applicant whose APPP allocation is less than \$75,000 may
13 voluntarily increase their APPP allocation to an amount of \$75,000 or greater,
14 and thereby qualify the applicant to fulfill the APPP requirement pursuant to
15 Subsection 15.06.125.E.

16 G. If the APPP allocation is \$75,000 or greater, the applicant may
17 place an approved artwork, create a Cultural Facility, donate artwork, or
18 designate their building "Architecture as Art" with acquisition and installation
19 costs totaling less than the applicant's APPP allocation; provided that, such
20 costs are at least \$75,000 and that the applicant also pay the difference
21 between its APPP allocation and such costs into the Cultural Trust Fund.

22 H. For the commission of new on-site artwork, applicants are
23 required to use a Request for Proposal ("RFP") process for selecting an artist
24 when the APPP allocation exceeds \$100,000. The applicant shall also hire a
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1 qualified art consultant to assist with the RFP process, proposal
2 development, and project oversight. The art consultant shall be selected from
3 a pre-qualified list provided by the City. The CAC Public Art subcommittee
4 and staff shall review the art consultant and RFP information with the
5 applicant prior to releasing the RFP.

6 The RFP will include the following components:

- 7 1. Deadline for submission of requested information;
- 8 2. Information on development project components,
9 including but not limited to goals for the development project and the
10 artwork, scope of work, physical description of project site and other
11 physical or legal restrictions which may apply;
- 12 3. Proposal review/selection schedule;
- 13 4. Scope of services;
- 14 5. Artwork budget;
- 15 6. Development project and artwork timelines; and,
- 16 7. Evaluation criteria.

17 I. If the APPP allocation is \$75,000 or greater, the applicant may
18 opt to fulfill the APPP requirement by incorporating a Cultural Facility within
19 the development project. In order to ensure integrated projects, applicants
20 shall submit plans to the Community Development Director during Preliminary
21 Project Review (PPR) or prior to receiving any discretionary review approvals.
22 The only acceptable Cultural Facilities are: indoor and outdoor performing
23 arts spaces that can accommodate a minimum audience of 50, with a
24 performance area of at least 500 square feet, or exhibition spaces designed
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1 for the visual arts. Cultural Facilities must include all amenities for supporting
2 a performance or art exhibition space, including a sound and lighting system,
3 audience seating, separately designated restrooms, and technical space.
4 Cultural Facilities shall be permanent and must be ADA-compliant. Further,
5 the facility must be made available to the recipients of the Culver City
6 Performing Arts Grant Program and Culver City-based visual and performing
7 arts organizations at rental rates no higher than other local arts venues.
8 Cultural Facilities must be specifically designated as such and cannot be
9 used for any other purpose on an on-going basis. Applicants may receive
10 credit for up to three years of operations, maintenance and programming
11 costs for Cultural Facilities, together with construction costs, toward fulfillment
12 of the minimum APPP allocation for their project. The applicant's proposal for
13 a Cultural Facility shall include a plan that identifies key staff, programming
14 goals and an associated budget for a minimum of three years. The proposal
15 shall be approved by the Cultural Affairs Commission, monitored by
16 designated City staff, and subject to all applicable federal, state and local
17 laws and regulations. Review and approval of Cultural Facilities shall include
18 review by a CAC subcommittee with a recommendation to the full CAC.
19 Cultural Facilities are required to display a permanent plaque as outlined in
20 Subsection 15.06.155.F.3 and are subject to the covenant and maintenance
21 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 Director during Preliminary Project Review (PPR) or prior to
15 receiving any discretionary review approvals. At a minimum, the following
16 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 Director to
23 adequately evaluate the location of the artwork in relation to the
24 proposed development, including compatibility with the character of
25 adjacent conforming developed parcels and the existing neighborhood.
26 Applicants should be involved in the development of the preliminary
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1 plans in order to assist in the proper placement of the artwork in
2 relation to their proposed development environment, and to ensure
3 that the artist that is chosen creates an artwork that fits the needs and
4 requirements of both the applicant's project and the APPP.

5 B. Upon receipt of discretionary review approvals, applicants shall
6 prepare the following in preparation for Cultural Affairs Commission review:
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8 1. A narrative proposal, with the artwork's budget and
9 timeline. Elevations, site plans, line of sight studies, renderings and
10 other descriptive materials, as deemed necessary by the Community
11 Development Director, shall be included to demonstrate that the
12 artwork will be displayed in an area open and freely accessible to the
13 general public.

14 2. Information provided by a conservator affiliated with the
15 American Institute for Conservation ("AIC") about the durability of the
16 proposed materials, recommendations for future maintenance and
17 estimated maintenance costs. In addition, the application shall include
18 information on how the future maintenance costs will be allocated and
19 identify the party responsible for ensuring that maintenance is
20 performed; and,
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22 3. If applicable, an appraisal or other evidence of the value
23 of the proposed artwork, including acquisition and installation costs.
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25 C. The Cultural Affairs Commission shall review the completed
26 application together with the recommendation of the Community
27 Development Director and CAC Public Art subcommittee, and approve,
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1 approve with conditions, or deny the proposed artwork, and its proposed
2 location, considering the aesthetic quality and harmony with the proposed
3 project, and the public accessibility of the artwork.

4 D. Submitted artwork applications shall be assessed on:

- 5 1. Compliance with the general APPP requirements as
6 outlined in this subchapter;
- 7 2. Artistic quality;
- 8 3. Conceptual compatibility of the design with the
9 immediate environment for the site;
- 10 4. Appropriateness of the design to the function of the site;
- 11 5. Creation of a desirable environment for the general
12 community by the design and location of the artwork;
- 13 6. Preservation and integration of natural features with the
14 project;
- 15 7. Appropriateness of the materials, textures, colors, and
16 design to the expression of the design concept;
- 17 8. Ability to convey the artist's intention and underlying
18 themes;
- 19 9. Whether the artwork is representative of a broad variety
20 of tastes within the community and makes a contribution to the
21 provision of a balanced inventory of artworks commissioned through
22 the APPP;
- 23 10. Permanence of structural and surface components
24 including, but not limited to, the structural and surface soundness and
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1 inherent resistance to theft, vandalism, weathering, and excessive
2 maintenance or repair costs.

3 E. Disqualifying characteristics for artwork:

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

11 3. Art objects which are mass-produced and of standard
12 design such as playground equipment or fountain pieces;

13 4. Reproduction of original artworks, except in cases where
14 incorporated into an original artwork;

15 5. Decorative or functional elements which are designed by
16 the building architect as opposed to a qualified artist;

17 6. Landscape design except where it is designed by a
18 qualified artist and is an integral part of the artwork;

19 7. Architectural rehabilitation, historic preservation and
20 structural building modifications;

21 8. Temporary art exhibitions, unless included with a Cultural
22 Facility as outlined in Subsection 15.06.125.1;

23 9. Educational activities;

24 10. Artwork designed by City elected or appointed officials,
25 City staff or members of their immediate family, members of the
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1 project architect's firm or immediate family members, individuals
2 directly associated with the development team or immediate family
3 members of the property owner/applicant, or any individuals with
4 whom the property owner and/or applicant may have an interest in
5 common; and,

6 11. Artwork designed by an artist who has received a prior
7 permanent public art commission through the City's Art in Public
8 Places Program, if the contract for said commission was executed
9 within the last ten years.

10 F. If the applicant proposes significant revisions to the artwork, a
11 revised application shall be submitted to the Community Development
12 Director for review and recommendation to the Cultural Affairs Commission.
13 The Commission shall make a determination whether to approve, approve
14 with conditions or deny the requested revision(s).

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18 § 15.06.140. APPROVAL PROCEDURES FOR FULFILLMENT OF THE ART
19 IN PUBLIC PLACES PROGRAM REQUIREMENT FOR CITY
20 DEVELOPMENT PROJECTS.

21 A. All City-initiated projects subject to the requirements of this
22 subchapter shall follow the same requirements as development projects on
23 private property, with the exception of the requirement to pay an in-lieu fee
24 into the Cultural Trust Fund if the APPP allocation is less than \$75,000. The
25 APPP allocation shall be included in the development project budget and
26 appropriated from the development project funding sources. The APPP
27 allocation may be supplemented with money from the Cultural Trust Fund
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1 with a recommendation from the Cultural Affairs Commission and City
2 Council approval.

3 B. Depending on the scope of the development project and/or
4 overall budget, the City may employ a Community Advisory Committee and/or
5 Artist Selection Panel, an RFQ and/or RFP process and/or the services of a
6 qualified art or theatre consultant. Both the Community Advisory Committee
7 and Artist Selection Panel shall include a combination of professional artists,
8 arts and design professionals, community representatives or stakeholders
9 and City department representatives.
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12 § 15.06.145. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED
13 TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES
14 PROGRAM REQUIREMENT.

15 A. An application for acceptance of artwork to be donated to the
16 City for placement on public property shall be submitted to the Community
17 Development Director and shall include the following information, at
18 minimum:

- 19 1. Artist biography and object provenance;
- 20 2. Sketches, photographs, models, or other documentation
21 of sufficient descriptive clarity to indicate the nature of the proposed
22 artwork and installation and siting requirements;
- 23 3. Acquisition and installation costs;
- 24 4. An appraisal or other evidence of the value of the
25 proposed artwork. The value of the proposed artwork will be
26 determined by an Accredited Member or Accredited Senior Appraiser
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1 of the American Society of Appraisers, or a member of another
2 established national or international organization for appraisers;

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

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

12 B. Review of application:

13 1. Completed applications shall be submitted to the
14 Community Development Director who, together with the CAC Public
15 Art subcommittee, makes a recommendation to the Cultural Affairs
16 Commission.
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18 2. The Cultural Affairs Commission shall in turn make a
19 recommendation to the City Council, which shall have the sole
20 authority to accept or reject or conditionally accept the donation.

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

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

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

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

D. The covenant shall include a financial plan for the maintenance of the artwork, a schedule of future condition checks, preventative maintenance and restoration of the artwork necessary to conserve the artwork at an appropriate level, and should be created with input from the artist, the applicant, the Cultural Affairs Commission, and an Art Consultant, if one was hired for the project.

1 E. Applicants are required to set-aside funds for future
2 conservation and, where possible, in interest bearing accounts. Preventative
3 maintenance costs may represent from 5% to 15% annually of the total APPP
4 allocation but shall be based on conservation reports prepared by a
5 professional art conservator working with the artist and the artist's fabricator.
6 Funds for maintenance are not part of the APPP allocation.

7
8 F. The City reserves the right to inspect the artwork at any time to
9 ensure it is being maintained as required by any covenant entered into
10 pursuant to the provisions of Subsection 15.06.150.C.

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

19
20 H. The artwork is to remain freely accessible, as previously
21 defined, and may not otherwise be draped or obscured.

22
23 I. The siting of the artwork, including the surrounding landscaping
24 or adjacent area, shall not be altered without approval from the City. The City
25 reserves the right to implement measures necessary to preserve the design
26 and placement of an artwork as approved by the Cultural Affairs Commission.

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

5 K. The applicant, its successors, and its assigns, may not destroy,
6 permanently remove, relocate, change, alter, modify, or allow to be defaced,
7 any artwork or portion thereof without the express consent of the City. This
8 requirement will be included in the covenant to be recorded against the
9 property.
10

11 L. If any approved artwork placed on private property pursuant to
12 this subchapter is removed without City approval, the artwork must be
13 replaced with artwork of the same value as that of the removed artwork and
14 be approved by the CAC or the property owner must pay the value of the
15 removed artwork into the Cultural Trust Fund. If these requirements are not
16 met within 180 days, then the Certificate of Occupancy is revoked or a lien is
17 placed against the involved property.
18

19
20 § 15.06.155. FINAL CITY APPROVAL.
21

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

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

26 B. The approved artwork has been fabricated and placed on the
27 project site in a manner consistent with the proposal approved by the
28

1 Cultural Affairs Commission and inspected by the CAC and/or Cultural
2 Affairs staff, if applicable;

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

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

7 E. The building or a portion thereof has been designated
8 "Architecture as Art," if applicable.
9

10 F. In cases where approved artwork is placed on private property,
11 a Cultural Facility has been incorporated into the applicant's development
12 project or a building has been designated "Architecture as Art" pursuant to
13 this subchapter, all of the following must occur prior to final City approval or
14 issuance of a Certificate of Occupancy for any project subject to this
15 subchapter:
16

17 1. A copy of the maintenance guidelines that include
18 information on materials, parts and fabricator contact information has
19 been submitted to the City;

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

23 3. A plaque has been installed adjacent to the artwork
24 measuring no less than 8" x 8" or a proportionate size. The plaque
25 shall be made of cast metal, stainless steel or other durable material
26 and will be placed in an appropriate location near the artwork and shall
27
28

1 include the date, title of artwork (if applicable), artist(s) or architect(s)
2 (as applicable), and should indicate that the artwork, building's
3 architecture or Cultural Facility was commissioned in conjunction with
4 the Culver City Art in Public Places Program. Staff shall review and
5 approve plaque text and layout prior to its fabrication and installation at
6 the site; and,

7
8 4. Proof of final payment to the artist and/or all members of
9 the design and fabrication/installation team has been furnished to the
10 City.

11
12 § 15.06.160. ARTWORK ON PUBLIC PROPERTY, PERFORMING ARTS
13 AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

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

16 B. The Cultural Affairs Commission may recommend to the City
17 Council the purchase of artwork to be displayed on public property,
18 recommend support for the performing arts, and the purchase and
19 improvement of real property to be used for the display of artwork. A
20 recommendation shall include the following information:

21
22 1. The type of artwork considered, an analysis of the
23 constraints applicable to placement of the artwork on a site, the need
24 for and practicality of the maintenance of the artwork, and the costs of
25 acquisition and installation of the artwork; or

26
27 2. The type of performance and amount recommended; or
28

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

3 C. The Cultural Affairs Commission is authorized to review the
4 performing arts grant applications and make a recommendation to the City
5 Council up to the amount authorized in the City budget for the fiscal year for
6 which the projects are being considered.

7 D. An expenditure from the Cultural Trust Fund may be made for
8 the performing arts provided the City Council approves the performing arts
9 event and that the performance occurs at a location in the City, or location
10 owned or controlled by the City, or at an alternative site which is located
11 within close proximity to the corporate boundaries of the City and which has
12 facilities for performing arts that complement or supplement those available
13 within the City.

14 E. No more than 25% of deposits made in any one year into the
15 Cultural Trust Fund may be allocated from the Cultural Trust Fund for
16 performing arts in the subsequent year unless this amount is less than
17 \$25,000, in which case a minimum of \$25,000 may be allocated. Eligible
18 activities include City-produced performing arts events and grants to
19 performing arts organizations as subject to the release of a Notice of Funding
20 Availability ("NOFA") and review of applications by the Cultural Affairs
21 Commission and approval by the City Council.

22 F. In order to attract more cultural users to City-owned and City-
23 operated facilities, up to \$10,000 per year may be allocated from the Cultural
24 Trust Fund.

1 Trust Fund for capital improvements to enhance the performance area of
2 such facilities.

3
4 § 15.06.165. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

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

8
9 A. The architect shall be internationally recognized and have
10 earned a respectable reputation in both the design and visual art
11 communities and have exhibited their work in major regional, national or
12 international museums.

13
14 B. When reviewing architecture as art, the underlying concept of
15 the architecture shall be expressive as more than mere utilitarian
16 architecture. The architecture as a whole, or certain architectural features,
17 shall express ideas or meaning and have cultural significance or conceptual
18 complexity in relation to the totality of the object.

19
20 C. The applicant must be able to demonstrate how the APPP
21 allocation enhances the design of their project.

22
23 § 15.06.170. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

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

26
27 A. An applicant shall make an initial presentation to the CAC
28 Public Art sub-committee and staff prior to the development application being

1 deemed complete. The applicant must submit a maquette and/or other
2 materials which satisfactorily illustrate the proposed conceptual development.
3 The applicant and architect must submit a conceptual statement expressing
4 why the architecture should be considered art, including an explanation of the
5 ideas, meaning, cultural significance or conceptual complexity expressed in
6 the architecture.

7
8 B. A second presentation shall be made at the completion of the
9 City's review and approval process for the project to a panel comprising two
10 commercial architects, one visual artist, one visual arts administrator, and
11 one general design professional such as a landscape architect or commercial
12 interior designer. At least one of the panel members shall be a Culver City
13 business owner or resident. The panel shall make a recommendation to the
14 CAC Public Art subcommittee whether to accept the project under
15 Architecture as Art and the subcommittee will then make a recommendation
16 to the Cultural Affairs Commission for consideration.

17
18 C. The applicant and architect shall demonstrate that high quality
19 materials and craftsmanship will be used in the execution of the construction.

20
21 D. If all of the foregoing criteria are met, the Cultural Affairs
22 Commission shall approve the Architecture as Art, only if, in its judgment, the
23 architectural work is of extremely high artistic merit and would make a
24 substantial cultural contribution to Culver City.

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

1 § 15.06.175. DE-ACCESSIONING OF ARTWORK.

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

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

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

25 D. Circumstances that may cause review of artwork for de-
26 accessioning:
27
28

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

3 2. The owner cannot properly care for the artwork, or the
4 artwork requires an excessive or unreasonable amount of
5 maintenance;

6 3. The artwork has serious or dangerous faults in design or
7 workmanship, the condition of the artwork requires restoration costs in
8 gross excess of its monetary value or is in such a deteriorated state
9 that restoration is either unfeasible, impractical, or would render the
10 artwork to be false;

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

12 5. The artwork is a forgery;

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

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

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

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

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

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

24 12. The artwork is not or is rarely displayed; or
25
26
27
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13. The artwork is incompatible with the rest of the collection.

§ 15.06.180. APPEAL.

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

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

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

SECTION 4. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

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APPROVED AND ADOPTED this _____ day of _____, 2013.

Andrew Weissman, Mayor

ATTEST:

APPROVED AS TO FORM:

Martin Cole, City Clerk

Carol A. Schwab
for _____
Carol A. Schwab, City Attorney