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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23 Code are hereby repealed and replaced with new Sections 15.06.100 through 15.06.180 as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 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 enrich 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 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 environment, image and character of the
8 community,
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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.
15

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

21 § 15.06.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION
22 AND THE CULTURAL AFFAIRS DIVISION STAFF.

23 The Cultural Affairs Commission ("CAC"), as established by Section
24 3.03.400 of the Culver City Municipal Code, was created in 2001 and shall
25 implement the duties established in this subchapter in conjunction with staff
26 with specialized qualifications and training in the arts. The City Council may
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1 prescribe, by resolution, other duties and the appointment process for the
2 members of the CAC.

3
4 § 15.06.110. DEFINITIONS.

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

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

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

11 C. "Artwork" includes but is not limited to paintings, drawings,
12 murals in any media, stained glass, statues, bas relief or other sculptures,
13 and any creation under "new genres" as defined herein; environmental
14 artworks or public spaces; monuments, fountains, arches or other structures
15 of a permanent or temporary character intended for ornament or
16 commemoration; integrated and functional architectural, video and other
17 media-based elements designed by a qualified artist. For projects which
18 involve no structures, artwork may include a combination of landscape
19 design, natural and manufactured materials including but not limited to rocks,
20 fountains, reflecting pools, sculptures, screens, benches, and other types of
21 street furniture, provided they have been designed by a qualified artist.

22 D. "Planning and Development Director" shall mean the Planning
23 and Development Director of the City or his/her designee.
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1 E. “Conservation” encompasses actions taken toward the long-
2 term preservation of cultural property and includes examination,
3 documentation, treatment and preventive care, supported by research and
4 education. Restoration is a type of conservation treatment and specifically
5 refers to an attempt to bring cultural property closer to its original appearance
6 and/or function. Stabilization, also a type of conservation, refers to an attempt
7 to maintain the integrity of cultural property and to only minimize deterioration.

8 F. “Cultural Affairs Commission” shall be the Commission
9 established in 2001 pursuant to Section 3.03.400 of this Code. Unless
10 otherwise specified, any reference to “Commission” in this subchapter shall
11 mean the Cultural Affairs Commission.

12 G. “De-accession” refers to the process of permanently removing
13 artwork acquired through the Art in Public Places Program as outlined in this
14 subchapter.

15 H. “Design Fees” include, but are not limited to, those fees which
16 are paid to an artist, architect, structural engineer or an appropriate party for
17 the development of a design concept and the preparation of construction
18 drawings. Design fees are separate and apart from the cost of the fabrication
19 and installation of an artwork.

20 I. “Freely Accessible” is defined to mean the artwork is accessible
21 to the public for viewing or appreciating, in its entirety and in a direct line of
22 sight without hindrances or obstacles, for a period of ten (10) hours per day,
23 seven (7) days per week.

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

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

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

13 M. "Permanent Installation" is defined as artwork designed and
14 fabricated to remain installed for 20 or more years.
15

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

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

24 P. "Qualified Artist" (also referred herein as "Artist") shall be
25 defined as a practicing artist who has demonstrated a high level of
26 accomplishment through a body of work, exhibitions, presentations, or
27 performances. The qualified artist may have a history of strong conceptual
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1 development, as well as possess the ability for skillful execution of tools,
2 materials, and craft. This includes programs rooted in innovative uses of
3 technology, collaborative work, or interdisciplinary projects. The qualified
4 artist may have a BFA, MFA or other comprehensive advanced training in the
5 visual arts and work primarily in the production of art in unique or limited
6 editions and not for purposes of marketing, mass production or advertising.
7

8 Q. "Temporary Installation" is defined as artwork intended to
9 remain installed for 3 years or less.
10

11 § 15.06.115. CULTURAL TRUST FUND CREATED.

12 A. There is hereby created a fund to be known as the "Culver City
13 Cultural Trust Fund" (hereinafter "Cultural Trust Fund") to account for fees
14 paid pursuant to this subchapter. This fund, maintained by the Chief
15 Financial Officer, and subject to Sections 15.06.040 and 15.06.050, shall be
16 used solely:
17

18 1. For the design, acquisition, commission, installation,
19 improvement, relocation, conservation, utility charges and insurance of
20 artwork acquired by the City through the APPP;
21

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

7
8 3. To sponsor or support the performing arts in Culver City;

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

12 5. For costs associated with administering The Art in Public
13 Places Program and associated cultural programs, in an amount not to
14 exceed fifteen percent (15%) of the total fees deposited into the
15 Cultural Trust Fund, pursuant to this subchapter, during the fiscal year
16 immediately preceding that appropriation; however, in the event the
17 City Council determines that a special circumstance exists, the City
18 Council may set a higher amount by a majority vote; and
19

20 6. Other City-produced cultural programs and projects
21 pursuant to the requirements of this subchapter.
22

23 7. For peer review panelist honoraria for the performing
24 arts, commission or acquisition of artworks by the City, or other
25 Cultural Affairs projects or programs where such panels are
26 incorporated into the review process.
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28

1 8. For artist stipends or other professionals submitting a
2 proposal in conjunction with an RFP for an artwork or other Cultural
3 Affairs project or program.

4 B. If real property purchased with monies from the Cultural Trust
5 Fund is subsequently sold, the proceeds from the sale shall be returned to the
6 Cultural Trust Fund.

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9 § 15.06.120. DEVELOPMENTS SUBJECT TO PROVISIONS OF
10 SUBCHAPTER.

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

15 B. Including but not limited to exterior and interior modifications
16 and additions, all remodeling of existing residential buildings of five or more
17 units, and all remodeling of existing commercial, industrial and public
18 buildings, shall be subject to the provisions of this subchapter when such
19 remodeling has a valuation of Two Hundred Fifty Thousand Dollars
20 (\$250,000.00) or more, excluding earthquake rehabilitation required by this
21 Code for seismic safety.

22
23 D. Buildings which are designed and dedicated primarily to non-
24 profit performing arts spaces or museum uses shall not be required to meet
25 the Art in Public Places Program Allocation requirement for as long as the
26 performing arts or museum uses are maintained within these building
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2 §15.06.125. ART IN PUBLIC PLACES PROGRAM ALLOCATIONS.

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

14 B. Multiple building permits issued within a three year period for a
15 single project shall be considered in the aggregate in determining the APPP
16 allocation.
17

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

26 D. Payment of any required APPP allocation shall be received prior to
27 issuance of a City building permit.
28

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

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

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

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

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

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

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

10 The RFP will include the following components:

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

23
24 I. If the APPP allocation is \$75,000 or greater, the applicant may
25 opt to fulfill the APPP requirement by incorporating a Cultural Facility within
26 the development project. In order to ensure integrated projects, applicants
27 shall submit plans to the Community Development Director during Preliminary
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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 sound and lighting systems, audience seating, 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 shall be approved by the Cultural Affairs Commission, monitored by designated City staff, and subject to all applicable federal, state and local laws and regulations. Review and approval of Cultural Facilities shall include review by a CAC subcommittee with a recommendation to the full CAC. Cultural Facilities are required to display a permanent plaque as outlined in Subsection 15.06.155.F.3 and are subject to the covenant and maintenance requirements of Section 15.06.150.

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 Planning
14 and 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;
20

21 2. Preliminary plans containing such detailed information as
22 may be required by the Planning and 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 that
3 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:
7

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 Planning and
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. It is recommended that the artist's
18 materials, fabrication, and electronic technology be warrantied for two
19 years. In addition, the application shall include information on how the
20 future maintenance will be assured; 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.
24

25 C. The Cultural Affairs Commission shall review the completed
26 application together with the recommendation of the Planning and
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. This encompasses original art that is of
8 the highest quality, both in terms of concept, process and execution;
9 that enriches the City and evokes meaning to the broadest range of
10 people. Consideration of artistic quality includes: discerning between
11 true quality and mere novelty or decoration; art concepts that advance
12 the practice and understanding of visual arts and demonstrate a
13 mastery of materials and techniques; and, strong and original
14 conceptual skills with innovative and effective approaches that are
15 related to or an expansion of the artist's studio practice.
16

17 3. Conceptual compatibility of the design with the immediate
18 environment of the site and appropriateness of the design to the
19 function of the site. Considerations include: local character and
20 history, increasing cultural awareness, encouraging public dialogue,
21 social dynamics, physical dimensions, and the surrounding context of
22 the site. Artworks should stand on their own within the site, and not be
23 designed primarily to serve as disguising a physical feature of the site.
24 Artworks shall not compete with the character-defining features of
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1 structures or sites that are considered to be of cultural or historical
2 significance.

3 4. Creation of a desirable environment for the benefit and
4 better understanding of the general community, by the design and
5 location of the artwork;

6 5. Preservation and integration of natural features with the
7 project site;

8 6. Appropriateness of the materials, textures, colors, and
9 design to the expression of the art concept;

10 7. Ability to convey the artist's authentic intention and
11 underlying themes, while providing new experiences that evoke some
12 aspect of social, environmental, cultural, physical, political, economical
13 or historical context of the site and its locale;

14 8. Whether the artwork is representative of a broad variety
15 of tastes and cultures within the community, including minority
16 populations, and encourages public dialogue and interaction, thereby
17 transforming public spaces into areas of community interest, pride and
18 enjoyment, and making a contribution to the provision of a balanced
19 inventory of artworks commissioned through the APPP;

20 9. Permanence of structural and surface components
21 including, but not limited to, the structural and surface soundness and
22 inherent resistance to theft, vandalism, weathering, and excessive
23 maintenance or repair costs.

24 E. Disqualifying characteristics for artwork:
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1 1. Directional elements such as super graphics, signage, or
2 color coding except where these elements are integral parts of the
3 original artwork or executed by the artist in unique or limited editions;

4 2. Artwork that incorporates logos, images, text or other
5 elements that relate directly to a specific business's or organization's
6 branding or marketing themes;

7 3. Art objects that are mass-produced and of standard
8 design such as playground equipment or fountain pieces;

9 4. Reproduction of original artworks, except in cases where
10 incorporated into an original artwork;5. Decorative or functional
11 elements designed by the building architect as opposed to a qualified
12 artist;

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

15 7. Architectural rehabilitation, historic preservation and
16 structural building modifications;

17 8. Temporary art exhibitions, unless included with a Cultural
18 Facility as outlined in Subsection 15.06.125.I;

19 9. Educational activities (e.g., fine art classes);

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

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

7
8 F. If the applicant proposes significant revisions to the artwork, a
9 revised application shall be submitted to the Planning and Development
10 Director for review and recommendation to the Cultural Affairs Commission.
11 The Commission shall make a determination whether to approve, approve
12 with conditions or deny the requested revision(s).

13
14 § 15.06.140. APPROVAL PROCEDURES FOR FULFILLMENT OF THE ART
15 IN PUBLIC PLACES PROGRAM REQUIREMENT FOR CITY
16 DEVELOPMENT PROJECTS

17 A. All City-initiated projects subject to the requirements of this
18 subchapter shall follow the same requirements as development projects on
19 private property, with the exception of the requirement to pay an in-lieu fee
20 into the Cultural Trust Fund if the APPP allocation is less than \$75,000. The
21 APPP allocation shall be included in the development project budget and
22 appropriated from the development project funding sources. The APPP
23 allocation may be supplemented with money from the Cultural Trust Fund
24 with a recommendation from the Cultural Affairs Commission and City Council
25 approval.
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1 B. Depending on the scope of the development project and/or
2 overall budget, the City may employ a Community Advisory Committee and/or
3 Artist Selection Panel, an RFQ and/or RFP process and/or the services of a
4 qualified art or theatre consultant. Both the Community Advisory Committee
5 and Artist Selection Panel shall include a combination of professional artists,
6 arts and design professionals, community representatives or stakeholders
7 and City department representatives. City may allow for a stipend for finalists'
8 presentation proposals during the selection process.
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11 § 15.06.145. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED
12 TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES
13 PROGRAM REQUIREMENT.

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

- 17 1. Artist biography and object provenance;
- 18 2. Sketches, photographs, models, or other documentation
19 of sufficient descriptive clarity to indicate the nature of the proposed
20 artwork and installation and siting requirements;
- 21 3. Acquisition and installation costs;
- 22 4. An appraisal or other evidence of the value of the
23 proposed artwork. The value of the proposed artwork will be
24 determined by an Accredited Member of the American Society of
25 Appraisers, the Appraisers Association of America, or The International
26 Society of Appraisers;
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1 5. Information provided by an American Institute for
2 Conservation (“AIC”) affiliated conservator about the durability of the
3 proposed materials, recommendations for future maintenance and
4 estimated maintenance costs; and,

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

9
10 B. Review of application:

11 1. Completed applications shall be submitted to the
12 Community Development Director who, together with the CAC Public
13 Art subcommittee, makes a recommendation to the Cultural Affairs
14 Commission.

15 2. The Cultural Affairs Commission shall in turn make a
16 recommendation to the City Council, which shall have the sole
17 authority to accept or reject or conditionally accept the donation.

18 C. All artwork donated to the City in fulfillment of the requirements
19 of this subchapter shall become the property of the City upon acceptance by
20 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

9 B. Maintenance of artwork, as used in this section, shall include
10 without limitation: preservation of the artwork and, where applicable, of the
11 lighting and surrounding landscaping, in good condition to the satisfaction of
12 the City; protection of the artwork against physical defacement, mutilation or
13 alteration; and, securing and maintaining fire and extended insurance and
14 vandalism coverage in an amount to be determined on a case-by-case basis
15 by the City.
16

17 C. Prior to placement of an approved artwork, the applicant and the
18 owner of the site shall execute and record a covenant reflecting all the
19 owners' obligations under this subchapter, in a form approved by the City.
20

21 D. The covenant shall include a projected annual cost for the
22 maintenance of the artwork, a schedule of future condition checks, preventive
23 maintenance and restoration of the artwork necessary to conserve the
24 artwork at an appropriate level, and should be created with input from the
25 artist, the applicant, and an Art Consultant, if one was hired for the project.
26

27 E. Applicants are required to set-aside funds for future
28 conservation and, where possible, in interest bearing accounts. Although

1 preventive maintenance costs may represent approximately 5% to 15%
2 annually of the total APPP allocation, (based on conservation reports
3 prepared by a professional art conservator working with the artist and the
4 artist's fabricator,) however, funds for maintenance are not part of the APPP
5 allocation.

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

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

19 H. The artwork is to remain freely accessible, as previously
20 defined, and may not otherwise be draped or obscured, except when being
21 conserved or restored.
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.
27
28

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

5 K. Unless an artwork poses imminent danger to life or property, no
6 person or entity shall remove any artwork from the location for which it was
7 selected, and anyone needing to do so shall obtain City approval prior to
8 doing so.
9

10 L. The applicant, its successors, and its assigns, may not destroy,
11 permanently remove, relocate, change, alter, modify, or allow to be defaced,
12 any artwork or portion thereof without the express consent of the City. This
13 requirement will be included in the covenant to be recorded against the
14 property.
15

16 M. If any approved artwork placed on private property pursuant to
17 this subchapter is removed without City approval, the artwork must be
18 replaced with artwork of the same value as that of the removed artwork and
19 be approved by the CAC or the property owner must pay the value of the
20 removed artwork into the Cultural Trust Fund. If these requirements are not
21 met within 180 days, then the Certificate of Occupancy is revoked or a lien is
22 placed against the involved property.
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1 § 15.06.155. FINAL CITY APPROVAL.

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

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

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

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

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

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

16 F. In cases where approved artwork is placed on private property,
17 a Cultural Facility has been incorporated into the applicant's development
18 project or a building has been designated "Architecture as Art" pursuant to
19 this subchapter, all of the following must occur prior to final City approval or
20 issuance of a Certificate of Occupancy for any project subject to this
21 subchapter:
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23
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25 1. A copy of the maintenance guidelines that include
26 information on materials, parts and fabricator contact information has
27 been submitted to the City;
28

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

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

15 4. Proof of final payment to the artist and/or all members of
16 the design and fabrication/installation team has been furnished to the
17 City.
18

19
20 § 15.06.160. ARTWORK ON PUBLIC PROPERTY AND PURCHASE OF
21 REAL PROPERTY FOR PUBLIC ART.

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

24 B. The Cultural Affairs Commission may recommend to the City
25 Council the purchase of artwork to be displayed on public property, and the
26
27
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1 purchase and improvement of real property to be used for the display of
2 artwork. A recommendation shall include the following information:

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

7
8 2.

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

11
12 § 15.06.163. PERFORMING ARTS (**NEW SECTION**)

13
14 A. The Cultural Affairs Commission shall prepare a work plan, through
15 the budget process, for the Performing Arts and update it annually.

16
17 B. The Cultural Affairs Commission may recommend support for the
18 performing arts. A recommendation shall include the type of
19 performance, type of support, and amount of funding, if applicable.

20
21 C. An expenditure from the Cultural Trust Fund may be made for the
22 performing arts provided the City Council approves the performing arts
23 event and that the performance occurs at a location in the City, or
24 location owned or controlled by the City, or at an alternative site which
25 is located within close proximity to the corporate boundaries of the City
26 and which has facilities for performing arts that complement or
27
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1 supplement those available within the City. Performing arts locations
2 must be ADA-compliant and accessible to the public.

3
4 D. No more than twenty-five percent (25%) of deposits made in any one
5 year into the Cultural Trust Fund may be allocated from the Cultural
6 Trust Fund for performing arts in the subsequent year unless this
7 amount is less than twenty-five thousand dollars (\$25,000), in which
8 case a minimum of twenty-five thousand dollars (\$25,000) may be
9 allocated. The Cultural Affairs Commission has the discretion not to
10 expend all the monies allocated for the performing arts and may
11 recommend that they be carried over and applied to the performing
12 arts in the future fiscal year. The Cultural Affairs Commission may
13 accept additional contributions from external sources to supplement
14 the performing arts.

15
16 E. Eligible activities include City-produced performing arts events and
17 grants to performing arts organizations as subject to the release of a
18 Notice of Funding Availability ("NOFA") and review of applications by
19 the Cultural Affairs Commission and approval by the City Council.

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

25 G. In order to attract more cultural users to City-owned and City-operated
26 facilities, up to \$10,000 per year may be allocated from the Cultural
27
28

1 Trust Fund for capital improvements to enhance the performance area
2 of 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 A. The architect shall be internationally recognized and have
9 earned a respectable reputation in both the design and visual art communities
10 and have exhibited their work in major regional, national or international
11 museums.
12

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

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

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

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 one
11 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
26 E. The applicant and/or architect shall have the responsibility to
27 demonstrate that all of the foregoing criteria are met.
28

§ 15.06.175. DE-ACCESSIONING OF ARTWORK.

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

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

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

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

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

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

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

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

5. The artwork is a forgery;

6. No suitable site for the artwork is available;

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

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

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

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

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

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

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.

APPROVED AND ADOPTED this _____ day of _____, 2024.

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, Mayor

ATTEST:

APPROVED AS TO FORM:

, City Clerk

, City Attorney