

### **San Francisco Charter Section 5.103**

The Arts Commission shall consist of fifteen members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Eleven members shall be practicing arts professionals including two architects, a landscape architect, and representatives of the performing, visual, literary and media arts; and four members shall be lay members. The President of the Planning Commission, or a member of the Commission designated by the President, shall serve ex officio. Members may be removed by the Mayor.

The Commission shall appoint and may remove a director of the department. The Commission shall encourage artistic awareness, participation and expression; education in the arts; assist independent local groups with the development of their own programs; promote the employment of artists and those skilled in crafts, in the public and private sectors; provide liaison with state and federal agencies to ensure increased funding for the arts from these agencies as well as represent arts issues and policy in the respective governmental bodies; promote the continued availability of living and working space for artists within the City and County; and enlist the aid of all City and County governmental units in the task of ensuring the fullest expression of artistic potential by and among the residents of San Francisco.

In furtherance of the foregoing the Arts Commission shall:

1. Approve the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or usable open spaces which are an integral part of any such structures;
2. Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of art owned by the City and County;
3. Promote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural life of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations; and
4. Supervise and control the expenditure of all appropriations made by the Board of Supervisors for the advancement of the visual, performing or literary arts.

Nothing in this section shall be construed to limit or abridge the powers or exclusive jurisdiction of the charitable trust departments or the California Academy of Sciences or the Library Commission over their activities; the land and buildings set aside for their use; or over the other assets entrusted to their care.

**San Francisco Charter Section 16.106**  
**Cultural, Educational and Recreational Appropriations**

The Board of Supervisors shall annually appropriate:

1. To the Arts Commission, the revenue from a tax of one-eighth of one cent (\$0.00125) per one hundred dollars (\$100) of taxable assessed valuation in the City and County for maintaining a symphony orchestra;
2. To the Asian Art Commission, an amount sufficient for the purpose of maintaining, displaying, and providing for the security of the City and County's collection of Asian art;
3. To the California Academy of Sciences, funds necessary for the maintenance, operation and continuance of the Steinhart Aquarium; the Board of Supervisors shall have the power to furnish to the California Academy of Sciences such funds as the Board shall deem proper for the maintenance, operation and continuance of any or all other of the buildings and improvements placed under the control of the California Academy of Sciences;
4. To the Fine Arts Museums Board of Trustees, an amount sufficient for the purpose of maintaining, operating, providing for the security of, expanding and superintending the fine arts museums and for the purchase of objects of art, literary productions and other personal property;
5. To the War Memorial and Performing Arts Center Board of Trustees, an amount sufficient to defray the cost of maintaining, operating and caring for the War Memorial and Performing Arts Center;
6. To the Library Commission, the revenue from a minimum tax of one cent (\$0.01) per hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving the library system of the City and County;
7. To the Recreation and Park Commission, the revenue from a minimum tax of two and one-half cents (\$0.025) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving parks and squares, and the revenue from a minimum tax of one and three quarter cents (\$0.0175) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving playgrounds; and
8. To the Arts Commission, for the City and County-owned Community Cultural Centers, an amount sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds, and for the purchase of objects of art, literary productions, and other property, and for their expansion and continuance in the City and County of San Francisco.

### **Administrative Code Section 3.19**

#### **Appropriation For Art Enrichment Of Proposed Public Buildings, Aboveground Structures, Parks And Transportation Improvement Projects**

(a) **Art Enrichment Allocation.** Before proposing a bond issue or making a request for an appropriation for the construction of any of the projects set forth in Subsection (c) below, the officer, board or commission concerned shall add thereto for the art enrichment of the proposed construction, two percent of the gross estimated construction cost, exclusive of the items proposed for such art enrichment. Where funding eligibility is limited by law or funding agency rules, the art enrichment allocation shall be based upon two percent of eligible construction costs.

If the officer, board or commission concerned determines that two percent of the gross estimated construction cost is inappropriate for art enrichment, such officer, board or commission shall submit its recommendation regarding the art enrichment budget and the basis for its determination to the Arts Commission for the Arts Commission's review. If the officer, board or commission concerned is unable to resolve the matter with the Arts Commission, the matter shall be submitted to the Mayor by the Arts Commission for final determination within 60 days from the date the recommendation is made.

Failure of the Arts Commission to submit the matter to the Mayor for resolution within such time shall be deemed equivalent to the Arts Commission's acceptance of the recommendation made by the officer, board or commission concerned.

(b) **Definitions.** For purposes of this Section:

(1) "Alteration" of a building, aboveground structure, or transportation improvement project shall include substantial changes to elements such as walls, partitions, or ceilings on 2/3 or more of the total floor space, excluding basements. "Substantial changes" shall include additions to, removal of, and modification of such elements.

(2) "Construction cost" shall mean the total estimated construction contract award amount, including the costs of all built-in fixtures, unless otherwise agreed to by the Arts Commission. "Construction cost" shall not include movable or personal property or construction cost contingency.

(3) "Transportation improvement project" refers to Municipal Railway and Department of Public Works projects which include both aboveground and below-ground transportation-related projects; new boarding ramps; new transit platforms; new terminals and transportation systems with their attendant passenger amenities, such as shelters, seating, lighting, landscaping, and signage; new transportation-related structures such as maintenance and operating facilities; power substations; and street/highway-related transit improvements such as bridges and overpasses.

(c) **Application.** This Section shall apply to the construction or alteration of the following: (1) a building; (2) an aboveground structure; (3) a new park; or (4) a transportation improvement project.

The requirements of this Section shall also apply to the alteration of a building, aboveground structure, or transportation improvement project.

(d) **Exemptions.** The following shall be exempt from the requirements of this Section:

- (1) Transportation improvement projects limited to rail replacement, rehabilitation or extension of catenary wiring; sidewalk (including curbs and gutters), street paving, repair or improvements; or transit vehicle purchases;
- (2) All mechanical, plumbing and electrical system upgrades, structural or seismic upgrades, and modifications for disabled access, unless occurring in conjunction with alteration of a building, an aboveground structure or transportation improvement project;
- (3) All park and landscape renovation projects including, but not limited to court resurfacing; landscape renovation or replanting; sewer and water lines; drainage and irrigation systems; wells; erosion control; restrooms; repaving; new paving; stairway repair or replacement; utilities; community gardens; modifications for disabled access; signage; lighting; fence replacement or repair; replacement or repair of existing play structures; natural areas management; modifications to existing parks; and new land uses within existing parks;
- (4) Annual CIP funded capital improvements for security/life safety and health deficiencies when not occurring in conjunction with alteration of existing public buildings, aboveground structures, parks and transportation projects which are supported by the General Fund;
- (5) Aboveground pipelines and their supports, such as trestles, anchor blocks and saddles; valve lots; power transmission lines and towers; switchyards and substations; and dwellings in watershed areas;
- (6) Airfields and Airports Commission equipment;
- (7) Airports Commission signage when not occurring in conjunction with a larger construction contract subject to this Section.

(e) **Administrative Fees.** The Arts Commission shall supervise and control the expenditure of all funds appropriated for art enrichment and shall allocate up to 20 percent of said funds for all necessary and reasonable administrative costs incurred in connection therewith, unless the Arts Commission agrees to a lesser amount on projects with art enrichment budgets in excess of \$750,000, or unless such administrative fee is limited or prohibited by the funding source.

(f) **Aggregation of Funds.** When mutually agreed upon by the Arts Commission and the City department from whose capital project the art enrichment allocation was obtained, and

where permitted by the funding source, the Arts Commission shall have the authority to aggregate art enrichment funds for use at a more publicly accessible facility under the jurisdiction of the participating City department.

(g) **Maintenance and Conservation Funds.** When permitted by the funding source, the Arts Commission may set aside and expend up to five percent of the total art enrichment allocation for each project for maintenance and conservation purposes. Funds set aside pursuant to this Section shall be invested in an interest-bearing account when the total of such funds set aside exceeds \$10,000.

(h) **Miscellaneous Provisions**

(1) When a client department suggests a mitigation measure to address any perceived safety concerns relative to any element of the art enrichment, the Arts Commission shall work with the client department to ensure that such mitigation is implemented to the satisfaction of the client, the Arts Commission and the artist, if such safety concern is raised by the client department within 30 days after the element has been presented for review to the client department.

(2) If a City department can sufficiently demonstrate to the Arts Commission that a project is not appropriate for public access, the Arts Commission shall waive the art enrichment allocation for such project provided that the art enrichment funding cannot be aggregated for use at a more publicly accessible facility under the jurisdiction of the participating City department.

(3) Construction and installation of art enrichment shall comply with the requirements of all applicable building codes, laws, ordinances, rules and regulations.

(4) Nothing in this Section contained shall be construed to limit or abridge the legal powers of the governing boards of the War Memorial, the Fine Arts Museums, the Asian Art Museum or the Port of San Francisco.

(5) Nothing in this Section shall be construed to limit or abridge the jurisdiction of the officer, board or commission of the participating City department to supervise and control the expenditure of project funds other than the two percent allocation for art enrichment.

(6) This amendment shall not be applied retroactively to projects for which an art enrichment allocation previously would not have been required, nor to those projects for which project funding has been approved either by prior voter action or by airport revenue bond sales, but not yet appropriated or expended. Nor shall this ordinance be construed to allow for an increase in the total art enrichment allocation for a project that is already underway or for which the art enrichment allocation has already been established.

(Added by Ord. 223-97, App. 6/6/97)

**Administrative Code Section 3.19A**  
**Arts Commission Civic Design Review Fees**

Any entity, public or private, including any office, department or agency of the City and County of San Francisco requiring the Arts Commission's civic design review and approval under Charter Section 5.103(1) ("Applicant") shall pay a fee to the Arts Commission consistent with the provisions of this section. For purposes of this section, the Arts Commission's "Civic Design Review" includes approving the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or usable open spaces which are an integral part of any such structures. Civic Design Review shall also include review of conceptual designs, site plans, design development and construction drawings for any project subject to the Arts Commission's Civic Design Review under Charter Section 5.103(1). The Arts Commission shall use any funds collected under this section solely to defray the costs incurred by the Arts Commission staff in performing its Civic Design Review functions.

- (a) **Civic Design Review Deposit Fee.** Effective July 1, 2006, an Applicant shall submit a deposit of \$2,500 ("Deposit") to the Arts Commission for each project requiring such review under San Francisco Charter Section 5.103(1).
- (b) **Deposit and Fee Deadlines.** The Deposit shall be payable at the time an Applicant submits a request for Civic Design Review of a project. The Arts Commission is not required to schedule review of any project whose Applicant has failed to pay the Deposit required by this section.
- (c) **Time and Materials Fees.** The Applicant shall pay the Arts Commission for any time and materials cost, including copying costs, incurred in excess of the Deposit paid under this section. The Arts Commission is not required to give its final approval for any project until the Applicant has paid the balance of fees due to the Arts Commission under this section. Within 20 days prior to the Arts Commission's meeting to consider the final approval of the Applicant's project, the Arts Commission shall provide the Applicant with a written report summarizing the Arts Commission's actual time and materials costs associated with the Applicant's project.
- (d) **Refunds.** When an application is withdrawn by the Applicant prior to a public hearing, or deemed canceled by the Arts Commission due to inactivity on the part of the Applicant then the Applicant shall be entitled to a refund of the fee paid to the Arts Commission less the cost of time and materials incurred minus a \$200 processing fee. In addition, where the actual time and materials cost in connection with a project that the Arts Commission has acted on is less than the Deposit paid under this section, the Arts Commission shall refund the difference between the Deposit and the actual time and materials cost.
- (e) **Waiver.** The Director of Cultural Affairs may waive the fees required under this section where the Applicant demonstrates in a written application that payment of such

fees would present an undue financial hardship on the Applicant and would jeopardize the completion of the project.

(Added by Ord. 173-04, File No. 040730, 7/22/2004; Ord. 187-06, File No. 060769, App. 7/21/2006)

## **Administrative Code Chapter 68: Cultural Equity Endowment Fund**

- Sec. 68.1. Purposes.
- Sec. 68.2. Principles for Cultural Equity Endowment Fund.
- Sec. 68.3. Establishment of Cultural Equity Endowment Fund.
- Sec. 68.4. Cultural Equity Initiatives Program.
- Sec. 68.5. Commissions to Individual Artists.
- Sec. 68.6. Project Grants to Small and Mid-Size Organizations.
- Sec. 68.7. Facilities Fund.
- Sec. 68.8. Administration of the Fund.

### **Sec. 68.1. Purposes**

The Cultural Equity Endowment Fund (“Fund”) is established to move San Francisco arts funding toward cultural equity. The goal of cultural equity will be achieved when all the people that make up the City have fair access to the information, financial resources and opportunities vital to full cultural expression, and the opportunity to be represented in the development of arts policy and the distribution of arts resources; when all the cultures and subcultures of the City are expressed in thriving, visible arts organizations of all sizes; when new large-budget arts institutions flourish whose programming reflects the experiences of historically underserved communities, such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women.

(Added by Ord. 354-93, App. 11/12/93)

### **Sec. 68.2. Principles for Cultural Equity Endowment Fund**

The Fund is established upon the following principles:

- (a) It is the City’s goal to achieve cultural equity, where every art form, from all segments of the population, has the opportunity to develop to its maximum potential.
- (b) The Fund programs should be implemented through a public process.
- (c) A healthy arts environment thrives at all levels. The productive vitality of individual artists, small and mid-size arts organizations, and grassroots cultural groups is as important to the City as the strength of the large-budget arts institutions.
- (d) The arts play a vital economic role in San Francisco. The Fund is established to assist in keeping all the arts healthy.
- (e) The Fund is established in the belief that the many cultural traditions which meet in San Francisco can thrive side by side and enrich each other.

(Added by Ord. 354-93, App. 11/12/93)

### **Sec. 68.3. Establishment of Cultural Equity Endowment Fund**

There is hereby established a Cultural Equity Endowment Fund to be funded with monies collected and allocated pursuant to San Francisco Municipal Code, Part III, Section 515.



- (a) Any unexpended balances remaining in the allocation to the Fund at the close of any fiscal year shall be deemed to be provided for a specific purpose within the meaning of Charter Section 6.306 and shall be carried forward and accumulated in the Fund for the purposes set forth in this Chapter 68.
- (b) The San Francisco Art Commission is hereby authorized and directed to expend the monies allocated to the Fund and to implement and administer the Fund programs.
- (c) The monies in the Fund shall be expended for the following four programs:
- (1) Cultural Equity Initiatives Program;
  - (2) The Program for Commissions to Individual Artists;
  - (3) Project Grants to Small and Mid-size Organizations; and
  - (4) The Facilities Fund.
- (d) The Art Commission may evaluate and review the demands for and by cultural and artistic programs and the level of resources available for such programs, and may determine the percentage of Fund monies allocated to each of the four programs. The Art Commission shall not be required to fund all four programs every year if the Art Commission determines, after review and evaluation, that demand for and by the program does not warrant expenditure.

(Added by Ord. 354-93, App. 11/12/93)

**Sec. 68.4. Cultural Equity Initiatives Program**

The Cultural Equity Initiatives Program shall be used to support arts organizations which are deeply rooted in and able to express the experiences of historically underserved communities such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women. Awards may be made for the following types of projects:

- (1) Creation of new programs;
- (2) Expansion of existing programs;
- (3) Technical assistance to improve an arts organization's management and artistic effectiveness;
- (4) Training programs;
- (5) Development of artistic projects;
- (6) Marketing;
- (7) Acquisition of equipment necessary for the arts organization's artistic services; and,
- (8) Cross-cultural collaborations among individual artists or arts organizations.

(Added by Ord. 354-93, App. 11/12/93)

**Sec. 68.5. Commissions to Individual Artists**

The Commissions to Individual Artists Program shall provide support to individual artists to stimulate production and dissemination of works of art in all disciplines and all neighborhoods of San Francisco. The majority of Commissions to Individual Artists in any year shall be to artists who are deeply rooted in and able to express the experiences of historically underserved communities such as African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women.

(Added by Ord. 354-93, App. 11/12/93)

**Sec. 68.6. Project Grants to Small and Mid-Size Organizations**

Project Grants shall be awarded to small and mid-size arts organizations to stimulate the production and dissemination of works of art in all disciplines in the City and County of San Francisco. The majority of grants in any program year shall be made to arts organizations fostering artistic expression that is deeply rooted in and reflective of historically underserved communities such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women.

(Added by Ord. 354-93, App. 11/12/93)

**Sec. 68.7. Facilities Fund**

The Facilities Fund Program shall provide grants, loans and technical assistance to tax-exempt organizations for projects which provide appropriate and affordable facilities for artists and arts organizations. The majority of grants or loans in any program year shall be made to arts organizations fostering artistic expression which is deeply rooted in and reflective of historically underserved communities, such as African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander, and, women, or tax-exempt organizations which provide live/work units to low- and moderate-income artists.

(Added by Ord. 354-93, App. 11/12/93)

**Sec. 68.8. Administration of the Fund**

(a) **Art Commission Administrative Costs.** The Art Commission shall be provided monies necessary to pay for the costs of implementing and administering the Fund. In the first year of implementation of the Fund programs, no more than 16 percent of the total monies allocated to the Fund pursuant to San Francisco Municipal Code, Part III, Section 515 shall be allocated to the Art Commission for administrative costs. In the second year of implementation of the Fund programs, no more than 14 percent of the total amount allocated to the Fund shall be used to cover administrative costs of the Art Commission. In the third and following years of implementation of the Fund programs, the Art Commission shall be allocated no more than 12.5 percent of the total monies allocated to the Fund. Any unexpended balances remaining in the administrative allocations set forth in this Section 68.8(a) shall be carried forward and accumulated for the purposes recited herein.

(b) **Authority of the Art Commission.** The Art Commission is hereby authorized to implement and administer the Fund programs, subject to the budget and fiscal provisions of the Charter. Such implementation and administration may include, but not be limited to, the following actions by the Art Commission:

- (1) Adoption of guidelines and regulations for implementation, review and expenditure of the Fund in each of the four programs;
- (2) Appointment of review panels and establish qualifications for members of the review panels and procedures for the review panel to advise the Art Commission on such expenditures;
- (3) Determination of appropriate levels of funding each year for each of the Fund programs;
- (4) Establishment of criteria and eligibility standards for applicants of Fund programs;
- (5) Establishment of criteria for awarding, granting or lending monies from Fund programs; and,
- (6) Execution of loan agreements, approved as to form by the City Attorney, made pursuant to Facilities Funds awards. The Art Commission may employ one or more administrators of the Fund as necessary to administer and implement the Fund programs.

(c) **Appeals Process.** The Art Commission may, at its discretion, establish an appeals process for any decisions regarding allocations of the fund.

(d) **Annual Review.** The Art Commission may appoint an Advisory Committee to conduct an annual review of implementation of the Fund.

(Added by Ord. 354-93, App. 11/12/93)

## **Planning Code Section 429**

### **Artworks, Options to Meet Public Art Fee Requirement, Recognition of Architect and Artists, and Requirements in C-3 Districts**

(The effective date of these requirements shall be either September 17, 1985, the date that they originally became effective, or the date a subsequent modification, if any, became effective.)

(Formerly codified as Sec. 149 (see that section for prior legislative history); amended and redesignated as Sec. 429 by Ord. 108-10, File No. 091275, App. 5/25/2010; amended by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

#### Amendment History

Section amended in its entirety and divided into Secs. 429.1 through 429.7; Ord. 62-12, Eff. 5/19/2012.

#### **SEC. 429.1. DEFINITIONS.**

In addition to the definitions set forth in Section 401 of this Article, the following definitions shall govern interpretation of Section 429.1 *et seq.*:

“Conservation” shall mean the profession devoted to the preservation of cultural property for the future.

“Construction Cost” shall be determined by the Department of Building Inspection in accordance with established industry standards or in the manner used to determine the valuation of work as set forth in Section 107.2 of the Building Code.

“Maintenance” shall mean a minimally invasive, routine and regularly scheduled activity that may involve the removal of superficial dirt or debris build-up on the surface of the artwork or the cleaning and repair of non-art support material such as a pedestal or plaque.

“Preservation” shall mean the protection of cultural property through activities that minimize chemical and physical deterioration and damage, and that prevent loss of informational content. The primary goal of preservation is to prolong the existence of cultural property, and should be undertaken or overseen by a professional conservator.

“Restoration” shall mean a treatment procedure intended to return cultural property to a known or assumed state, often through the addition of non-original material.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

#### **SEC. 429.2. APPLICATION.**

This section shall apply to:

- (a) all projects that involve construction of a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District; and

(b) all non-residential projects that involve construction of a new building or addition of floor area in excess of 25,000 square feet and that have submitted their first complete Development Application on or after January 1, 2013 on the following parcels:

- (1) all parcels in RH-DTR, TB-DTR, SB-DTR, SLI, SLR, SSO, C-M, and UMU Districts;
- (2) properties that are zoned MUG, MOU, or MUR and that are north of Division/Duboce/13th Streets; and
- (3) all parcels zoned C-2 except for those on Blocks 4991 (Executive Park) and 7295 (Stonestown Galleria Mall).

For the purposes of this Section, a “Development Application” shall mean any application for a building permit, site permit, environmental review, Preliminary Project Assessment (PPA), Conditional Use, or Variance.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

**SEC. 429.3. IMPOSITION OF PUBLIC ART FEE REQUIREMENT.**

(a) **Determination of Requirements.** The Department shall determine the applicability of Section 429.1 *et seq.* to any development project requiring a first construction document and, if Section 429.1 *et seq.* is applicable, the number of gross square feet subject to its requirements, and shall impose this requirement as a condition of approval for issuance of the first construction document for the development project to address the need for additional public art in the downtown districts. The project sponsor shall supply any information necessary to assist the Department in this determination.

(b) **Amount of Fee.** Upon design approval of the development project from the Planning Department, and except as otherwise provided herein, the project sponsor shall dedicate and expend an amount equal to one percent of the construction cost of the building or addition as determined by the Director of DBI (the “Public Art Fee”) for the purposes described herein and subject to the options set forth below.

(c) **Department Notice to Development Fee Collection Unit at DBI.** After the Department has made its final determination of the net addition of gross floor area subject to Section 429.1 *et seq.* and the dollar amount of the Public Art Fee required, the Department shall immediately notify the Development Fee Collection Unit at DBI of its determination, in addition to the other information required by Section 402(b) of this Article.

(d) **Options to Fulfill Requirements.**

- (1) **Non-Residential Development Projects.** Non-residential buildings with public open space requirements greater than 1,499 square feet but less than 3,000 square feet that provide ground floor open space shall comply with Section 429.3 by providing on-site public art of a value equivalent to the Public Art Fee; provided, however, that if the required Public Art Fee exceeds \$500,000, only on-site public art valued at \$500,000 is required to be provided on-site. Non-residential buildings with

public open space requirements greater than or equal to 3,000 square feet that provide ground floor open space shall comply with Section 429.3 by providing on-site public art of a value equivalent to the Public Art Fee; provided, however, that if the required Public Art Fee exceeds \$750,000, only on-site public art valued at \$750,000 is required to be provided on-site. In any case where the Public Art Fee requirement exceeds the amount required on-site, prior to issuance of a building or site permit the project sponsor shall elect one of the following options to fulfill any requirements imposed as a condition of approval and to notify the Arts Commission and the Department of their choice:

- (A)<sup>1</sup> to expend the remainder of the Public Art Fee on-site, or
- (B) to deposit the remainder of the Public Art Fee into the Public Artwork Trust Fund established in Section 10.100-29 of the San Francisco Administrative Code for the purposes set forth therein and in Section 429.5(b), including the creation, installation, exhibition, conservation, preservation, and restoration of works of public art and for capital improvements to non profit arts facilities (“In-Lieu Fee for Public Artwork Trust”) within the C-3 District or within a half mile of the boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary, or
- (C) to expend a portion of the remainder on-site and deposit the rest into the Public Artwork Trust Fund.

As provided in Section 402, the project sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

(2) **Residential Development Projects.** Prior to issuance of a building or site permit for a residential development project subject to the requirements of Section 429.1 *et seq.*, the sponsor shall elect one of the options listed below to fulfill any requirements imposed as a condition of approval and to notify the Arts Commission and the Department of their choice of the following:

- (A)<sup>2</sup> **Option to Use 100% of Public Art Fee to Provide On-Site Public Artwork.** Unless otherwise provided below, the project sponsor may elect to provide on-site public art of a value at least equivalent to the Public Art Fee.
- (B) **Option to Contribute 100% of Public Art Fee Amount to Public Artwork Trust Fund.** Effective on the effective date of Ordinance No. 62-12 for a project that has not received its first construction document, and except as provided herein, the project sponsor may pay the Public Art Fee for deposit in the Public Artwork Trust Fund established in Section 10.100-29 of the San Francisco Administrative Code for the purposes set forth therein and in Section 429.5(b), including the creation, installation, exhibition, conservation, preservation, and restoration of works of public art and for capital improvements to nonprofit arts facilities (“In-Lieu Fee for Public Artwork

Trust”) within the C-3 District or within a half mile of the boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary. As provided in Section 402, the project sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

(C) **Option to Expend a Portion of the Public Art Fee Amount to On-Site Public Artwork and the Remainder to the Public Artwork Trust Fund.**

Effective on the effective date of Ordinance No. 62-12 a project that has not received its first construction document may elect to expend a portion of the Public Art Fee for the acquisition of On-Site Public Artwork that shall be subject to the requirements of subsection (d)(2)(a)<sup>3</sup> above regarding On-Site Public Artwork, and deposit the remaining balance of the Public Art Fee into the Public Artwork Trust Fund. As provided in Section 402, the project sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

(e) **Department’s Notice to Development Fee Collection Unit of Sponsor’s Choice.** After the project sponsor has notified the Arts Commission and the Department of the choice to fulfill the requirements of Section 429.1 *et seq.*, as required by Section (d)(1) or (2) above, the Department shall immediately notify the Development Fee Collection Unit at DBI of the project sponsor’s choice.

(f) **Development Fee Collection Unit Notice to Arts Commission and Department Prior to Issuance of the First Certificate of Occupancy.** The Development Fee Collection Unit at DBI shall provide notice in writing or electronically to the Arts Commission and to the Department prior to issuing the first certificate of occupancy for any development project subject to Section 429.1 *et seq.* that will fulfill all or part of the requirements with an option other than the project sponsor’s payment of an in-lieu fee to verify that the artwork was placed in the agreed upon location with the appropriate ADA compliant signage. If the Arts Commission or the Department notifies the Unit at such time that the sponsor has not satisfied the requirements, the Director of DBI shall deny any and all certificates of occupancy until the subject project is brought into compliance with the requirements of Section 429.1 *et seq.*

(g) **Process for Revisions of Determination Requirement.** In the event that the Department or the Planning Commission takes action affecting any development project subject to Section 429.1 *et seq.*, and such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section 402(c) of this Article shall be followed.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

#### CODIFICATION NOTES

1. Divisions (d)(1)(A), (B), and (C) were designated (a), (b), and (c) when enacted by Ord. 62-12; they have been redesignated by the codifier for clarity and consistency.

2. Divisions (d)(2)(A), (B), and (C) were designated (i), (ii), and (c) when enacted by Ord. 62-12; they have been redesignated by the codifier for clarity and consistency.
3. So in Ord. 62-12.

**SEC. 429.4. COMPLIANCE BY PROVIDING ON-SITE PUBLIC ARTWORK.**

(a) **Installation.** The project sponsor must install the public art in compliance with this Section (1) in areas on the site of the building or addition so that the public art is clearly visible from the public sidewalk or the open-space feature required by Section 138, or (2) on the site of the open-space feature provided pursuant to Section 138, or (3) in a publicly accessible lobby area of a hotel (“On-Site Public Artwork”). Said On-Site Public Artwork shall be installed prior to issuance of the first certificate of occupancy; provided, however, that if the Zoning Administrator concludes that it is not feasible to install the works within that time and that adequate assurance is provided that the works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not less than 12 months. Said works of art may include sculpture, bas-relief, murals, mosaics, decorative water features, tapestries or other artworks permanently affixed to the building or its grounds, or a combination thereof, but may not include architectural features of the building, nor artwork designed by the architect, except as permitted with respect to the in lieu contribution regarding publicly owner buildings meeting the criteria described above. Artworks shall be displayed in a manner that will enhance their enjoyment by the general public. The type and location of artwork, but not the artistic merits of the specific artwork proposed, shall be approved by the Zoning Administrator in accordance with the provisions of Section 309 of this Code.

(b) **Removal, Relocation, or Alteration of Artwork.** Once the project sponsor has installed and completed the final Artwork, the project sponsor, building owner and any third party may not remove, relocate or alter the Artwork without notifying and consulting with the Planning Department at least 120 days prior to the proposed removal, relocation or alteration. The Planning Department shall not approve any removal, relocation, or alteration unless it finds any removed Artwork will be replaced with Artwork of equal or greater value or that any relocation or alteration is only a minor modification. If a project sponsor does remove, relocate, or alter the Artwork without notification and approval of the Planning Department, the Planning Department is authorized to pursue enforcement of this Section under Section 176 or 176.1 of this Code or to pursue any other remedy permitted by law.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

**SEC. 429.5. ARTS COMMISSION PUBLIC ARTWORK TRUST FUND.**

(a) All monies contributed to the Public Artwork Trust Fund pursuant to this Section 429 shall be deposited in the special fund maintained by the Controller called the Public Artwork Trust under Section 10.100-29 of the Administrative Code, as may be amended from time to time. The receipts in the Trust are hereby appropriated in accordance with law to be used by the Arts Commission within the C-3 District or within a half mile of the



boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary to enhance the visibility and quality of artworks in the public realm and to improve the public’s access and enjoyment of the artworks in the public realm.

(b) With the above objective, through a competitive public process the Public Artwork Trust Fund shall be overseen by the Arts Commission and used to fund:

- (1)<sup>1</sup> the creation, installation, and exhibition of temporary and permanent public works of art in the public realm and within the C-3 District or within a half mile of the boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary;
- (2) the conservation, preservation, and restoration, but not maintenance of temporary and permanent public works of art in the public realm and within the C-3 District or within a half mile of the boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary;
- (3) distribution of funds to San Francisco nonprofit arts entities and artists to fund temporary public art projects, performance, film and video screenings, and capital improvements for publicly accessible cultural facilities within the C-3 District or within a half mile of the boundary of the C-3 District or, if the project is within another zoning district, within a half mile of the project boundary; and
- (4) the reasonable administrative expenses of the Arts Commission staff in connection with administering compliance with the requirements of this Section on a time and materials basis for managing projects funded through the Public Artworks Trust, not to exceed 20% of the costs for any one project.

(c) The Arts Commission shall administer and expend the Public Artwork Trust Fund, and shall have the authority to prescribe rules and regulations governing the Fund that are consistent with this Section.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

**CODIFICATION NOTE**

1. Divisions (b)(1) through (4) were designated (i) through (iv) when enacted by Ord. 62-12; they have been redesignated by the codifier for clarity and consistency.

**SEC. 429.6. RECOGNITION OF ARCHITECTS AND ARTISTS.**

In the case of construction of a new building or an addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District, an ADA compliant plaque or cornerstone identifying the project architect and the creator of the On-Site Public Artwork provided pursuant to this Section 429 and the erection date of the On-Site Public Artwork shall be placed at a publicly conspicuous location on or in the building prior to the issuance of the first certificate of occupancy.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

**SEC. 429.7. LIEN PROCEEDINGS.**

A project sponsor's failure to comply with the requirements of Section 429.3(d)(2)(B) or (C)<sup>1</sup> shall be cause for the Development Fee Collection Unit at DBI to institute lien proceedings to make the in-lieu fee, plus interest and any deferral surcharge, a lien against all parcels used for the development project in accordance with Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

(Added by Ord. 62-12, File No. 110853, App. 4/19/2012, Eff. 5/19/2012)

CODIFICATION NOTE

1. Ord. 62-12 references "Section 429.3(d)(2)(b) or (c)." The codifier has redesignated the three subdivisions of Sec. 429.3(d)(2) as (A) through (C). Accordingly, the reference in this section has been altered as shown.

## **San Francisco Police Code Article 24**

### **Section 2400. Statement of Purpose and Text of Street Artist Ordinance.**

This ordinance is enacted to implement an initiative ordinance approved by the electors of San Francisco as Proposition “L” at the election held on November 4, 1975. The provisions of Proposition “L” are set forth herein for convenience and may only be amended by the electors of San Francisco. Proposition “L” reads as follows:

#### **REGULATING STREET ARTISTS AND CRAFTSPERSONS.**

<a href="#">SEC. 1</a>	Definitions
<a href="#">SEC. 2</a>	Advisory Committee of Street Artists and Crafts Examiners; Establishment; Appointments; Compensation; Terms; Chairperson; Secretary
<a href="#">SEC. 3</a>	Application
<a href="#">SEC. 4</a>	Examination
<a href="#">SEC. 5</a>	Issuance of Certificate
<a href="#">SEC. 6</a>	Certificate Fee; Period
<a href="#">SEC. 7</a>	Regulating Street Artists and Craftspersons
<a href="#">SEC. 8</a>	Designation of Sales Areas
<a href="#">SEC. 9</a>	Repeal

#### **SEC. 1. DEFINITIONS.**

For the purposes of this ordinance the following words or phrases shall mean or include:

- (a) “Art Commission.” The Art Commission of the City and County.
- (b) “Advisory Committee.” The Advisory Committee of Street Artists and Crafts Examiners of the City and County.
- (c) “City and County.” The City and County of San Francisco.
- (d) “Family Unit.” Two or more persons jointly engaged in the creation or production of an art or craft item, no one of whom stands in an employer-employee relationship to any of the other members thereof, or, two or more physically or mentally handicapped persons participating in a formal rehabilitation program a part of which includes activities for the creation of arts and crafts by said persons.
- (e) “Person.” Any individual, copartnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character; provided, however, that whenever a right, privilege, or power is conferred upon a person by the provisions of this ordinance, the term “person” shall mean an individual natural person.

#### **SEC. 2. ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTS EXAMINERS; ESTABLISHMENT; APPOINTMENTS; COMPENSATION; TERMS; CHAIRPERSON; SECRETARY.**

There is hereby established an Advisory Committee of Street Artists and Crafts Examiners, who shall advise the Art Commission on matters relating to the wares produced by street artists and to perform such other functions as shall from time to time be deemed

appropriate by the Commission. The Advisory Committee shall consist of five members to be appointed by the Mayor. Four of said members shall be experienced artists or craftspersons and each such member shall be appointed from among three persons whose names shall have been submitted to the Mayor for appointment by the Art Commission, and one of the members shall be an art educator. Each member shall be compensated for the time he or she spends in this capacity as assigned by the Chairperson at a rate of pay to be established from time to time by the Board of Supervisors. The term of each member shall be two years, provided that the five members first appointed by the Mayor shall, by lot, classify their terms so that the terms of two members shall be for a period of one year and the terms of three members shall be for a period of two years, and upon the expiration of these and successive terms, the Mayor shall appoint their successors for a two-year term in a manner similar to that described herein for the initial members. In the event a vacancy occurs during the term of office of any member, the Mayor shall appoint for the unexpired term of the office vacated, a successor in a manner similar to that described herein for the initial members. The Advisory Committee shall elect from its members a Chairperson and a Secretary to hold office for one year, or until their successors are duly elected and qualified. The Secretary shall keep an accurate record of all proceedings of the Advisory Committee which shall be open to inspection by the public at all times.

### **SEC. 3. APPLICATION.**

Every person desiring certification as a street artist or craftsperson pursuant to this ordinance shall file an application with the Art Commission upon a form provided by said Commission. Except as otherwise provided herein, said application shall specify:

- (a) The applicant's residence address, place of employment where the work of art is produced and the mailing address of a person through whom the applicant may always be reached shall appear on the application.
- (b) A description of the art or craft item for which the applicant seeks certification.
- (c) A declaration under penalty of perjury that the art or craft item for which applicant seeks certification is of the applicant's own creation or the creation of the applicant's family unit, and that the applicant neither employs other persons nor is employed by another person in the production of the art or craft item for which applicant seeks certification.

### **SEC. 4. EXAMINATION.**

Upon receipt of an application filed pursuant to this ordinance, the Executive Director of the Art Commission shall fix a date for Advisory Committee consideration and action upon said application and shall notify the applicant of said date. In its consideration of an application, the Art Commission shall examine representative samples of the applicant's work for the purposes of verifying the information set forth in the application. After such examination, and for the purposes of further investigation, the Art Commission may designate one or more of its members to visit the studio or workshop of the applicant to view the applicant's facilities and to further verify that the art or craft item for which the applicant seeks certification is his or her own creation or those of his or her family unit.

**SEC. 5. ISSUANCE OF CERTIFICATE.**

If the applicant's examination is satisfactory, and if no charges of deception resorted to in obtaining the certificate, or any other violation of the applicable provisions of the San Francisco Municipal Code, have been filed with the Commission, upon payment of the certificate fee fixed by this ordinance, the Executive Director of the Art Commission shall issue a certificate to the applicant, duly signed, and shall show therein that the person named therein passed the examination and is entitled to engage in the display and sale of the specific art or craft item set forth in said certificate in accordance with the provisions of this ordinance.

**SEC. 6. CERTIFICATE FEE; PERIOD.**

The fee for any certificate issued pursuant to the provisions of this ordinance shall be \$20 and said certificate shall be valid for a period of three months from the date of issuance; except that any person certified pursuant to the provisions of this ordinance shall have the option of purchasing for \$80.00 a certificate valid for a period of one year from the date of issuance. The Board of Supervisors may increase the certificate fee when necessary in order to finance the costs of the Art Commission in administering and enforcing the provisions of this ordinance.

**SEC. 7. REGULATING STREET ARTISTS AND CRAFTSPERSONS.**

(a) It shall be unlawful for any person to sell, offer for sale, expose for sale, or solicit offers to purchase, any art or craft work of the person's own creation on any public street or public place where such activities are permitted, unless duly certified as a street artist or craftsman pursuant to the provisions of this ordinance, or duly licensed as a peddler pursuant to the provisions of Section [869](#) of Part II, Chapter VIII of the San Francisco Municipal Code (Police Code).

(b) It shall be unlawful for any person certified as a street artist or craftsman pursuant to the provisions of this ordinance to sell, offer for sale, expose for sale, or solicit offers to purchase, any art or craft work of the person's own creation on any public street or public place where such activities are not permitted, unless duly licensed as a peddler pursuant to the provisions of Section [869](#) of Part II, Chapter VIII of the San Francisco Municipal Code (Police Code).

(c) All or part of funds derived from the fees paid by street artists and craftsmen may be assigned by the Board of Supervisors to the Art Commission for use in paying members of the Advisory Committee as set forth in Section 2 above and to the San Francisco Police Department for enforcement of this proposition.

**SEC. 8. DESIGNATION OF SALES AREAS.**

The Board of Supervisors, by resolution after public hearings thereon, may designate areas in or on any public street or public place where any street artist or craftsman certified pursuant to the provisions of this ordinance may sell, offer for sale, expose for sale, or solicit offers to purchase any art or craft item of his or her own creation, provided, however, that

any designation of an area in a public place under the jurisdiction of an officer, board or commission of the City and County shall be subject to the approval of such officer, board or commission. In designating such areas, the Board of Supervisors may impose such conditions and limitations as, in its discretion, are necessary to prevent any undue interference with normal pedestrian or vehicular traffic, or any damage to surrounding property, including interference with use, view or enjoyment of public parks.

**SEC. 9. REPEAL.**

The initiative ordinance relative to permits and licenses for street artists, approved by the electorate as proposition “L,” on the ballot for the election held in the City and County of San Francisco on June 4, 1974, is hereby repealed.”

**SEC. 2401. ADDITIONAL DEFINITIONS.**

For the purpose of administering Proposition “L,” the following words or phrases shall mean or include:

- (a) “Art” or “Craft.” The terms “art” or “craft” do not include any item intended or suitable for human consumption.
- (b) “Handcrafted Item.” An item predominantly created or significantly altered in form by the street artist.
- (c) “Proposition ‘L.’” Proposition “L” on the November 4, 1975 ballot in San Francisco, an initiative ordinance.
- (d) “Street Artist.” Any person who has been certified as a street artist or craftsman pursuant to the provisions of Proposition “L.”
- (e) “Street Artist Certificate.” A certificate issued by the Art Commission pursuant to the provisions of Proposition “L” and this Article.
- (f) “Street Artist Program.” A program of the Art Commission which implements the provisions of Proposition “L” and this Article.
- (g) “Street Artist Program Committee.” A committee appointed by the Art Commission and consisting solely of Commission members. The Committee shall have responsibility for oversight of the Street Artist Program.
- (h) “Program Director.” The director of the Street Artist Program, responsible for administering the provisions of Proposition “L” and this Article, on behalf of the Executive Director of the Art Commission.

(Amended by Ord. 41-83, App. 2/4/83; Ord. 291-94, App. 8/4/94)

**SEC. 2402. COMPENSATION OF ADVISORY COMMITTEE.**

Pursuant to the provisions of Section 2 of Proposition “L,” the compensation of the appointive members of the Advisory Committee of Street Artists and Crafts Examiners shall be as follows:

(a) A member shall receive \$100.00 plus reasonable travel expenses for each meeting of the Advisory Committee actually attended by said member for 50 percent of each meeting of four or more hours.

(b) A member shall receive \$100.00 plus reasonable travel expenses for each visit to the studio or workshop of a certified street artist or an applicant for a Street Artist Certificate for the purpose of viewing the applicant's facilities and verifying that the art or craft item for which the applicant seeks certification is his or her own creation or those of his or her family unit, for an assignment of monitoring or inspecting street artist wares being sold in public locations, or for the performance of such other function as shall from time to time be deemed appropriate by the Arts Commission.

(c) In no event shall the aggregate amount paid each member exceed 35 meetings/studio visits or \$3,500.00 per year excluding reimbursement for reasonable travel expenses. For the purposes of this section, the term "reasonable travel expenses" shall include travel to and from a member's office or home.

(Amended by Ord. 418-84, App. 10/5/84; Ord. 345-90, App. 10/12/90; Ord. 451-94, App. 12/30/94; Ord. 63-02, File No. 011788, App. 5/10/2002; Ord. 260-06, File No. 061030, App. 10/13/2006; Ord. 103-08, File No. 080514, App. 6/18/2008)

**SEC. 2403. AGE ELIGIBILITY FOR STREET ARTISTS.**

No person under the age of 16 is eligible for certification as a street artist.

(Amended by Ord. 41-83, App. 2/4/83)

**SEC. 2404. STREET ARTIST CERTIFICATE: DISCLAIMER, TRANSFER, AND DISPLAY.**

(a) Disclaimer. On each Street Artist Certificate the following words shall appear:

"The issuance of this Certificate does not constitute an endorsement by the City and County of San Francisco or the Article sold pursuant to the terms of this Certificate."

(b) Transfer. Any Street Artist Certificate issued pursuant to the terms of this Article cannot be transferred to any other person as defined in Proposition "L."

(c) Display. The Art Commission shall issue to each Street Artist a Certification Card which shall contain a photograph of the Street Artist, the certificate number of all members of the family unit and the number of the certificate in figures plainly discernible. The Art Commission, or its designee, shall determine the manner and form of any other information that may be placed upon this Certification Card. The Certification Card shall be displayed by the Street Artist at all times when said Street Artist is selling or soliciting offers to purchase any art or craft work. The photograph shall be furnished by the Street Artist.

(Amended by Ord. 41-83, App. 2/4/83)

**SEC. 2404.1. STREET ARTIST CERTIFICATE: FEE.**

Pursuant to the provisions of Proposition K, adopted by the voters at an election held on November 8, 1983, the Board of Supervisors hereby establishes the fee for a Street Artist Certificate to be as follows: Beginning July 1, 2010, the fee for a quarterly Street Artist Certificate shall be \$166.02 and said certificate shall be valid for a period of three months from the date of issuance; except that any person certified as a street artist pursuant to the provisions of this Article shall have the option of purchasing for \$664.08 an annual certificate valid for a period of one year from the date of issuance.

(Added by Ord. 511-84, App. 12/21/84; amended by Ord. 295-88, App. 6/29/88; Ord. 216-91, App. 6/12/91; Ord. 240-03, File No. 031333, App. 10/10/2003; Ord. 103-08, File No. 080514, App. 6/18/2008; Ord. 189-10, File No. 100710, App. 7/23/2010)

**SEC. 2404.1.1. STREET ARTIST APPLICATION/EXAMINATION FEE.**

Every person applying for street artist certification, whether for the first time or for reissuance of certification after a lapse in payment of the certificate fee, shall pay a nonrefundable application/examination fee. The fee shall initially be set at \$20 and shall be paid upon filing of an application for certification. The application/examination fee collected shall be equal to, but shall not exceed, the fee necessary to support the costs of processing applications and examinations under the Street Artists Ordinance. As part of the report required by Section 2404.2 of this Article, each year the Arts Commission shall report to the Controller the costs incurred in administering the application and examination process.

The funds credited to the Arts Commission pursuant to this Section, in combination with funds derived from Sections 2404.1 and 2410 of this ordinance, shall not exceed the actual cost to the Arts Commission of administering and enforcing Proposition "L" and this Article.

(Added by Ord. 383-96, App. 10/15/96)

**SEC. 2404.2. FEE SETTING PROCEDURE.**

Each year the Arts Commission shall cause a report to be made of the revenues collected for Street Artist Certificates, the costs incurred in administering and enforcing the provisions of the Street Artist Ordinance (Proposition "L" adopted by the electors of San Francisco at the election held on November 4, 1975), the anticipated costs for the ensuing year, and the fee which would be necessary to support such costs. Said report shall be filed with the Controller no later than April 1st of each year pursuant to the provisions of Section 3.17-2 of the San Francisco Administrative Code. The Controller shall file said report with the Board of Supervisors no later than May 15th of each year and the Board of Supervisors shall, by ordinance, establish or readjust the fee for a Street Artist Certificate. The fee set shall be equal to, but not greater than, the fees necessary to support the costs of administering and enforcing the provisions of the Street Artist Ordinance.



(Added by Ord. 511-84, App. 12/21/84; amended by Ord. 240-03, File No. 031333, App. 10/10/2003)

**SEC. 2404.3. RESERVED.**

(Amended by Ord. 415-86, App. 10/10/86)

**Editor's Note:**

Former Sec. 2404.3 ("Street Artist Certificate: Priority to Veterans") expired on 12/1/1986.

**SEC. 2405. REGULATIONS FOR STREET ARTISTS.**

(a) Street artists shall sell, offer for sale or solicit offers to purchase only for those specific handcrafted art or craft items created personally by the street artist or the street artist's family unit for which the street artist has been certified.

(b) Street artists shall sell, offer for sale or solicit offers to purchase only in those areas designated by the Board of Supervisors by Resolution.

The designation of any area in a public place under the jurisdiction of an officer, board or commission of the City and County is subject to the approval of, and to rule or regulations imposed by, such officer, board or commission.

(c) In areas designated by the Board of Supervisors which are not under the jurisdiction of an officer, board or commission of the City and County, street artists shall sell, offer for sale or solicit offers to purchase subject to the following regulations:

- (1) No more than 4½ feet from the curb line of any sidewalk.
- (2) Not within 18 inches of the curb line of any sidewalk.
- (3) No more than five feet above any sidewalk.
- (4) In an area not more than four feet long.
- (5) Sprinkler inlets, standpipe inlets (both wet and dry) are to be kept clear for 7½ feet on each side, measured from the outer edge of standpipe bank from the building line to the sidewalk edge.
- (6) Not within 10 feet from the outer edge of any entrance to any building including, but not limited to, doors, driveways, emergency exits measured in each direction parallel to the building line and thence at a 90-degree angle to the curb.
- (7) Fire escapes be unobstructed underneath and perpendicular from building to the street five feet from both ends of fire escape.
- (8) Not on any sidewalk adjacent to curb which has been duly designated pursuant to local ordinance or regulation as one of the following:
  1. White zone
  2. Yellow zone
  3. Bus zone

- (9) Not within five feet of any crosswalk.
  - (10) Inflammable liquid vents and fill pipes to be kept clear for five feet in both directions on the sidewalk when tanks are not being filled or within 25 feet while tank is being filled.
  - (11) Not within five feet of the display of any other street artist.
  - (12) Fire hydrants to have five feet sidewalk clearance.
  - (13) No street artist shall sell, offer to sell, or solicit offers to purchase between the hours of 12:00 a.m. (midnight) and 6:00 a.m. of the following day.
  - (14) All displays and objects placed in those areas designated by the Board of Supervisors shall be removed by 12:00 a.m. (midnight) and shall not be placed prior to 6:00 a.m. of the following day.
  - (15) No street artist shall sell, offer for sale, or solicit offers to purchase, from any vehicle.
  - (16) Street artists shall engage in their activities on the public sidewalks of the City and County of San Francisco in such a manner that at all times there shall remain open for the passage of pedestrians a space of at least 8 feet in width, as measured on a line perpendicular to the curb line, between the edge of the sidewalk farthest from the curb and the edge of the street artists' activities. No portion of a street artist's activities shall be included in measuring the 8-foot clear pedestrian passageway. Notwithstanding the foregoing, the Board of Supervisors, by resolution, may temporarily permit street artists to engage in their activities in specified locations where 8 feet of clear pedestrian passageway cannot be maintained. Such temporary permission may not be granted by the Board of Supervisors for any period exceeding 18 months.
- (d) In the Resolution designating or redesignating an area where street artists may sell, offer for sale or solicit offers to purchase, the Board of Supervisors may exempt the area from one or more of the regulations set forth in Subsection (c) above if the Board finds that the exemption will not be inconsistent with or interfere with the purposes of the regulation from which the area is exempted.

(Amended by Ord. 388-83, App. 7/14/83; Ord. 199-03, File No. 030909, App. 8/1/2003)

**SEC. 2406. LOTTERY.**

- (a) The Art Commission shall establish and supervise a lottery system whereby those persons certified by the Art Commission as street artists and possessing a valid State Board of Equalization Resale Permit shall be chosen by lot for the available selling areas as designated by the Board of Supervisors by resolution.
- (b) The Art Commission shall specify three days in each week for the holding of a lottery for selling areas which are designated by the Board of Supervisors.

- (c) The Art Commission, at its discretion, may postpone any lottery if sufficient volunteers to conduct the lottery are not available. No fees shall be paid to the volunteers conducting the lottery or collected by the Art Commission to establish or supervise the lottery. Each volunteer conducting the lottery shall be compensated for his or her service with a single sales space of the volunteer's choice selected prior to and from the lottery the volunteer conducts and for the duration of the day in which the volunteer conducts the lottery.
- (d) The Art Commission shall not be liable for any damage, injury or loss occasioned by the lottery.
- (e) The Art Commission may make such reasonable rules and regulations as are necessary to effectuate the lottery.
- (f) The Art Commission shall design and distribute to those chosen in the lottery on each day a lottery is held, a document identifying the person chosen, the craft of the person chosen and the location where the person chosen will be allowed to sell, offer for sale, or solicit offers to purchase.
- (g) The lottery document shall be in the possession of the street artist at all times and shall be displayed to a police officer upon request.
- (h) It shall be unlawful to sell, offer for sale, or solicit offers to purchase goods and crafts in those areas subject to the lottery without first obtaining a document from the Art Commission indicating the seller has been chosen for the area or a document from the Art Commission indicating that no lottery document is necessary for that area.

(Amended by Ord. 41-83, App. 2/4/83)

**SEC. 2407. DIRECTOR OF PUBLIC WORKS TO PROVIDE MARKINGS.**

The Director of Public Works shall place identifying markings in public streets or curbs designated as sales areas by the Board of Supervisors. Said markings shall be consistent with the regulations contained in this Article.

(Amended by Ord. 41-83, App. 2/4/83)

**SEC. 2408. ISSUANCE, DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATE: APPEALS.**

(a) The issuance of Street Artist Certificates is governed by Section 5 of Proposition "L." The violation by a street artist of any provision of Proposition "L," this Article or any rules or regulations issued pursuant to this Article of which the person has been given notice, shall be grounds for denial, suspension or revocation, after a public hearing and for good cause shown, of the Street Artist Certificate.

(b) The Art Commission shall adopt rules and regulations governing appeals from a denial, suspension or revocation of a Street Artist Certificate. A public hearing on the suspension or revocation of a Street Artist Certificate shall be conducted by the Street Artist Program Committee. The findings and recommendations of the Street Artist Program

Committee shall be submitted directly to the Program Director, who shall approve or disapprove such findings and recommendations. The Program Director shall not amend such findings and recommendations. The Program Director may disapprove the findings and recommendations of the Street Artist Program Committee and order a rehearing only if: (1) the Program Director finds that a fair and public hearing has not occurred; (2) evidence critical to the street artist's case was not introduced except that a street artist shall not be relieved of his or her failure to put on evidence unless it was improperly excluded, or it constitutes new evidence which the street artist using reasonable diligence could not have obtained until after the hearing; or (3) the artist failed to appear at the hearing and has, for good cause, subsequently requested another hearing. A street artist shall have five business days following his or her hearing before the Street Artist Program Committee in which to request a rehearing, after which time the Program Director shall render his or her decision on the Program Committee's findings. The decision of the Program Director shall be made in writing, and may only be appealed in accordance with Section 2409. The Program Director's decision concerning the suspension or revocation of a Street Artist Certificate shall not be appealable to any level of the Art Commission.

(Added by Ord. 41-83, App. 2/4/83; amended by Ord. 291-94, App. 8/4/94)

**SEC. 2409. APPEALS TO BOARD OF PERMIT APPEALS.**

Appeals to the Board of Permit Appeals from the final decision of the Art Commission to grant or deny a Street Artist Certificate shall be governed by Article 1, Section 30 of Part III of the Municipal Code and shall be filed not later than 15 days after the final decision of the Art Commission. Appeals to the Board of Permit Appeals from the final decision of the Program Director to suspend or revoke a Street Artist Certificate shall be governed by Article 1, Section 30 of Part III of the Municipal Code and shall be filed not later than 15 days after the Program Director's decision approving or disapproving the Program Committee's findings and recommendations.

(Added by Ord. 41-83, App. 2/4/83; amended by Ord. 255-88, App. 6/22/88; Ord. 291-94, App. 8/4/94)

**SEC. 2410. CRIMINAL VIOLATIONS: PENALTIES.**

(a) Except as provided in Subsection (b), any person violating any provision of Proposition "L," this Article or any rules or regulations issued pursuant to this Article of which the person has been given notice, shall be guilty of an infraction and subject to a fine of not in excess of \$100.

(b) The violation of any provision of Proposition "L" or this Article which would otherwise be an infraction shall be a misdemeanor if the person who has violated such provision has previously been convicted of two or more violations within the 12-month period immediately preceding the current offense and the prior convictions are admitted by the person charged with the violations or are alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged. A person

convicted of a misdemeanor pursuant to this subsection shall be subject to imprisonment in the County Jail for a period not exceeding 30 days or a fine not exceeding \$500, or both.

(Added by Ord. 41-83, App. 2/4/83)

**SEC. 2411. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or ineffective.

(Added by Ord. 41-83, App. 2/4/83)