

1 [Planning Code and Administrative Code - Public Art Fee and Public Artwork Trust Fund]

2
3 **Ordinance: 1) amending the San Francisco Planning Code Section 429 to provide that**
4 **developers currently required to spend one percent (1%) of construction costs for**
5 **public artwork on any new development project or addition to an existing building over**
6 **25,000 square feet located in a C-3 district have an option to contribute all or a portion**
7 **of that fee to a City fund dedicated to support public art, and after January 1, 2013**
8 **imposing this requirement on any new development project or addition to an existing**
9 **building over 75,000 square feet located in a zoning district other than C-3 to extend**
10 **the fee to all non-residential projects that involve construction of a new building or**
11 **addition of floor area in excess of 25,000 square feet and that have submitted their first**
12 **complete Development Application on or after January 1, 2013, on the following**
13 **parcels: (a) all parcels in RH-DTR, TB-DTR, SB-DTR, SLI, SLR, SSO, C-M, and UMU**
14 **Districts; (b) properties that are zoned MUG, MOU, or MUR and that are north of**
15 **Division/Duboce/13th Streets; and (c) all parcels zoned C-2 except for those on Blocks**
16 **4991 (Executive Park) and 7295 (Stonestown Galleria Mall); 2) amending the San**
17 **Francisco Administrative Code by adding Section 10.200-29 to establish a Public**
18 **Artwork Trust Fund, funded through contributions and Public Art Fees, for the creation,**
19 **installation, exhibition, conservation, preservation, and restoration of temporary and**
20 **permanent public art and capital improvements to nonprofit art facilities within the C-3**
21 **district and within a half mile of the boundary of the C-3 district or, if the project is in**
22 **another zoning district, within a half mile of the project boundary, to be administered**
23 **and expended by the Arts Commission; and 3) making environmental findings,**
24 **Planning Code Section 302 findings, and findings of consistency with the General Plan**
25 **and the Priority Policies of Planning Code Section 101.1.**

1 NOTE: Additions are *single-underline italics Times New Roman*;
2 deletions are *strike-through italics Times New Roman*.
3 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strikethrough normal~~.

4 Be it ordained by the People of the City and County of San Francisco:

5 Section 1. Findings

6 (a) The Planning Department has determined that the actions contemplated in this
7 ordinance are in compliance with the California Environmental Quality Act (California Public
8 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
9 Board of Supervisors in File No. 110853 and is incorporated herein by reference.

10 (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
11 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
12 Planning Commission Resolution No. 18477, and incorporates those reasons herein by
13 reference. A copy of said Planning Commission Resolution is on file with the Clerk of the
14 Board of Supervisors in File No. 110853.

15 (c) The Board of Supervisors finds that this ordinance is in conformity with the
16 General Plan and the Priority Policies of Planning Code Section 101.1 for the reasons set
17 forth in Planning Commission Resolution No. 18477, and hereby incorporates those reasons
18 herein by reference.

19
20 Section 2. The San Francisco Planning Code is hereby amended by amending Section
21 429, to read as follows:

22 **SEC. 429. ARTWORKS, OPTIONS TO MEET PUBLIC ART FEE REQUIREMENT,**
23 **RECOGNITION OF ARCHITECT AND ARTISTS, AND MODEL REQUIREMENTS IN C-3**
24 **DISTRICTS.**

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

4 **SEC. 429.1. DEFINITIONS.** (a) ~~Artworks.~~ *In addition to the definitions set forth in Section 401 of*
5 *this Article, the following definitions shall govern interpretation of Section 429.1 et seq.:*

6 *"Conservation" shall mean the profession devoted to the preservation of cultural property for*
7 *the future.*

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

11 ~~"High capacity nonprofit arts organization" shall mean a nonprofit organization that the~~
12 ~~Arts Commission determines, based on its review of the organization's annual report, certified~~
13 ~~audits, performance attendance, prior track record, critical reviews, and other information, can~~
14 ~~provide the intended programming based on such factors as: the number of years of~~
15 ~~operation; the financial health and stability of the organization; and the quality of~~
16 ~~programming, constituency served, and evidence of community support. The Arts~~
17 ~~Commission may, in its discretion, further refine this definition in rules and regulations.~~

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

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

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

3 **SEC. 429.2. APPLICATION.** This section shall apply to:

4 (a) all projects that involve ~~In the case of~~ construction of a new building or addition of floor
5 area in excess of 25,000 square feet to an existing building in a C-3 District; ~~works of art~~
6 ~~costing~~ and

7 (b) ~~on or after January 1, 2013, all projects in zoning districts other than a C-3 District~~
8 ~~that involve construction of a new building or addition of floor area in excess of 75,000 square~~
9 ~~feet. all non-residential projects that involve construction of a new building or addition of floor~~
10 ~~area in excess of 25,000 square feet and that have submitted their first complete~~
11 ~~Development Application on or after January 1, 2013 on the following parcels: (1) all parcels~~
12 ~~in RH-DTR, TB-DTR, SB-DTR, SLI, SLR, SSO, C-M, and UMU Districts; (2) properties that~~
13 ~~are zoned MUG, MOU, or MUR and that are north of Division/Duboce/13th Streets; and (3) all~~
14 ~~parcels zoned C-2 except for those on Blocks 4991 (Executive Park) and 7295 (Stonestown~~
15 ~~Galleria Mall). For the purposes of this Section, a "Development Application" shall mean any~~
16 ~~application for a building permit, site permit, environmental review, Preliminary Project~~
17 ~~Assessment (PPA), Conditional Use, or Variance.~~

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

19 (a) **Determination of Requirements.** The Department shall determine the applicability of
20 Section 429.1 et. seq. to any development project requiring a first construction document and, if Section
21 429.1 et seq. is applicable, the number of gross square feet subject to its requirements, and shall
22 impose this requirement as a condition of approval for issuance of the first construction document for
23 the development project to address the need for additional public art in the downtown districts. The
24 project sponsor shall supply any information necessary to assist the Department in this determination.

1 **(b) Amount of Fee.** Upon design approval of the development project from the Planning
2 Department, and except as otherwise provided herein, the project sponsor shall dedicate and expend
3 an amount equal to one percent of the construction cost of the building or addition as
4 determined by the Director of DBI the Department of Building Inspection (the "Public Art Fee") for
5 the purposes described herein and subject to the options set forth below. shall be installed and
6 maintained (i) in areas on the site of the building or addition and clearly visible from the public
7 sidewalk or the open-space feature required by Section 138, or (ii) on the site of the open-space feature
8 provided pursuant to Section 138, or (iii) upon the approval of any relevant public agency, on adjacent
9 public property, or (iv) in a publicly accessible lobby area of a hotel. In lieu of installing and
10 maintaining works of art pursuant to subsections (i) through (iv) above, a project sponsor may elect to
11 contribute a sum of money at least equivalent to the cost of the artwork to finance, in whole or in part,
12 rehabilitation and restoration of the exterior of a publicly-owned building provided that the building is
13 (i) owned by the City and County of San Francisco, and (ii) located in a P District adjacent to a C-3
14 District, and (iii) designated as an historical landmark by Article 10 of this Code or designated as a
15 Category I Significant Building by Article 11 of this Code and listed as a National Historical Landmark
16 on the National Historical Register; provided, however, that the right to elect to use this in-lieu
17 provision to satisfy the obligations of this Section shall terminate five years from the effective date of
18 this provision.

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

24 **(d) Sponsor's Choice Options to Fulfill Requirements.**

1 (1) Non-Residential Development Projects With Large Ground-Floor Public Open
2 Space Requirements. Non-residential buildings with public open space requirements greater
3 than 1,499 square feet but less than 3,000 square feet that provides on the ground floor open
4 space that are over 3,000 square feet shall comply with Section 429.3 by providing on-site
5 public art of a value equivalent to the Public Art Fee; provided, however, that if the required
6 Public Art Fee exceeds \$1,000,000 \$500,000, only on-site public art valued at \$1,000,000
7 \$500,000 is required to be provided on-site. Non-residential buildings with public open space
8 requirements greater than or equal to 3,000 square feet that provide ground floor open space
9 shall comply with Section 429.3 by providing on-site public art of a value equivalent to the
10 Public Art Fee; provided, however, that if the required Public Art Fee exceeds \$750,000, only
11 on-site public art valued at \$750,000 is required to be provided on-site. In any case where the
12 Public Art Fee requirement exceeds the amount required on-site, prior to issuance of a
13 building or site permit the project sponsor may shall elect one of the following options to fulfill
14 any requirements imposed as a condition of approval and to notify the Arts Commission and
15 the Department of their choice: (a) to expend the remainder of the Public Art Fee on-site, or
16 (b) to deposit the remainder of the Public Art Fee into the Public Artwork Trust Fund
17 established in Section 10.100-29 of the San Francisco Administrative Code for the purposes
18 set forth therein and in Section 429.5(b), including the creation, installation, exhibition,
19 conservation, preservation, and restoration of works of public art and for capital improvements
20 to non profit arts facilities (“In-Lieu Fee for Public Artwork Trust”) within the C-3 District or
21 within a half mile of the boundary of the C-3 District or, if the project is within another zoning
22 district, within a half mile of the project boundary, or (c) to expend a portion of the remainder
23 on-site and deposit the rest into the Public Artwork Trust Fund. As provided in Section 402,
24 the project sponsor shall pay the fee to the Development Fee Collection Unit at DBI.
25

1 (2) Residential Development Projects and Non-Residential Development Projects
2 ~~Without Large Ground-Floor Public Open Spaces.~~ Prior to issuance of a building or site permit
3 for a residential development project or a non-residential development project with public open
4 spaces on the ground floor that are 3,000 square feet or less that is subject to the requirements
5 of Section 429.1 et seq., the sponsor shall elect one of the options listed below to fulfill any
6 requirements imposed as a condition of approval and to notify the Arts Commission and the
7 Department of their choice of the following:

8 ~~(1)~~ (i) Option to Use 100% of Public Art Fee to Provide On-Site Public Artwork. Unless
9 otherwise provided below, the project sponsor may elect to provide on-site public art of a value at least
10 equivalent to the Public Art Fee.

11 ~~(2)~~ (ii) Option to Contribute 100% of Public Art Fee Amount to Public Artwork Trust Fund.
12 Effective on the effective date of this Ordinance No. _____ for a project that has not received its
13 first construction document, and except as provided herein, the project sponsor may pay the Public Art
14 Fee for deposit in the Public Artwork Trust Fund defined under established in Section 10.100-29 of
15 the San Francisco Administrative Code for the purposes set forth therein and in Section 429.57(b),
16 including the creation, installation, exhibition, conservation, preservation, and restoration of works of
17 public art and for capital improvements to non profit arts facilities (“In-Lieu Fee for Public Artwork
18 Trust”) within the C-3 District or within a half mile of the boundary of the C-3 District or, if the
19 project is within another zoning district, within a half mile of the project boundary. As provided
20 in Section 402, the project sponsor shall pay the fee to the Development Fee Collection Unit
21 at DBI.

22 ~~(3)~~ (c) Option to Expend Provide 50% a Portion of the Public Art Fee Amount to On-Site
23 Public Artwork with and the Remainder Remaining Discounted Amount to the Public
24 Artwork Trust Fund. Effective on the effective date of this Ordinance No. _____ a project that
25 has not received its first construction document may elect to expend 50% a portion of the Public Art

1 Fee for the acquisition of On-Site Public Artwork that shall be subject to the requirements of subsection
2 (d) ~~(2)(a) (4)~~ above regarding On-site Public Artwork, and deposit 45% of the remaining balance of
3 the Public Art Fee into the Public Artwork Trust Fund. As provided in Section 402, the project
4 sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

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

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

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

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

1 (a) **Installation.** The project sponsor must install the public art in compliance with this Section
2 (1) in areas on the site of the building or addition so that the public art is clearly visible from the public
3 sidewalk or the open-space feature required by Section 138, or (2) on the site of the open-space feature
4 provided pursuant to Section 138, or (3) in a publicly accessible lobby area of a hotel (“On-Site Public
5 Artwork”).

6 Said ~~works of art~~ On-Site Public Artwork shall be installed prior to issuance of the first
7 certificate of occupancy; provided, however, that if the Zoning Administrator concludes that it
8 is not feasible to install the works within that time and that adequate assurance is provided
9 that the works will be installed in a timely manner, the Zoning Administrator may extend the
10 time for installation for a period of not less than 12 months. Said works of art may include
11 sculpture, bas-relief, murals, mosaics, decorative water features, tapestries or other artworks
12 permanently affixed to the building or its grounds, or a combination thereof, but may not
13 include architectural features of the building, nor artwork designed by the architect, except as
14 permitted with respect to the in lieu contribution regarding publicly owned buildings meeting
15 the criteria described above. Artworks shall be displayed in a manner that will enhance their
16 enjoyment by the general public. The type and location of artwork, but not the artistic merits
17 of the specific artwork proposed, shall be approved by the Zoning Administrator ~~following a~~
18 ~~review of the Arts Commission's written report under subsection (b) below~~ in accordance with
19 the provisions of Section 309 of this Code. ~~The term "construction cost" shall be determined in the~~
20 ~~manner used to determine the valuation of work as set forth in Section 107.2 of the Building Code.~~

21 ~~(b) Consultation with Arts Commission. Effective on the effective date of this~~
22 ~~Ordinance No. _____, the project sponsor shall provide information to the Arts Commission~~
23 ~~regarding the type, durability, design, artistic merit, and publicly accessible location of the~~
24 ~~project sponsor's proposed On-Site Public Artwork. Following such consultation and prior to~~
25 ~~DBI's issuance of the first construction document, the Arts Commission shall provide the~~

1 project sponsor and Planning Department with a written report summarizing its
2 recommendations regarding the type, durability, design, artistic merit, and publicly accessible
3 location of the On-Site Public Artwork. The Arts Commission shall conduct its consultation
4 with the project sponsor regarding the On-Site Public Artwork proposal within 60 days of
5 receiving complete documentation of the On-Site Public Artwork proposal from the project
6 sponsor, unless the Zoning Administrator approves a time extension following a written
7 request by the Arts Commission setting forth the reasons for the requested extension. The
8 Arts Commission recommendation shall be advisory to the Planning Department.

9 (c) Administrative Fee. The Arts Commission is authorized to collect an administrative
10 fee from the project sponsor of \$2,500 for administration of this option and, if justified, an
11 additional amount based on a time and materials basis. The administrative fee shall be taken
12 out of the Public Art Fee, not calculated in addition to the Fee. The Arts Commission may
13 adjust the administrative fee annually based on a cost-of-living or similar index. Any such
14 adjustment shall be published on the Arts Commission and Department of Planning websites.

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

1 **SEC. 429.5. COMPLIANCE BY CONTRIBUTION OF 100% OF PUBLIC ART FEE**
2 **AMOUNT TO PUBLIC ARTWORK TRUST.**

3 With the approval of the Arts Commission, the project sponsor may designate the use
4 of her or his contribution to the Trust to a high capacity private, non-profit arts organization to
5 provide exterior public artistic programming in the C-3 district or within a half mile of the
6 boundary of the C-3 District. As provided in Section 402, the project sponsor shall pay the fee
7 to the Development Fee Collection Unit at DBI. DBI shall not issue a first construction
8 document for a project subject to this Section unless and until the project sponsor has paid
9 the fee in full.

10 **SEC. 429.6. COMPLIANCE BY PROVIDING 50% OF PUBLIC ART FEE AMOUNT TO ON-**
11 **SITE PUBLIC ARTWORK WITH REMAINING DISCOUNTED AMOUNT TO PUBLIC ART**
12 **TRUST.**

13 (a) Installation. The project sponsor must install and complete the final Artwork as
14 provided in Section 429.4(a) and 45% of the remaining amount to the Public Art Trust. These
15 two actions will fulfill the project sponsor's Public Art Fee Requirement under this Section 42.9
16 and the project sponsor may retain the balance of 5% of the Public Art Fee.

17 (b) Consultation with Arts Commission. Effective on the effective date of this
18 Ordinance No. _____, the project sponsor shall provide information to and consult with the
19 Arts Commission pursuant to the provisions of Section 429.4(b).

20 (c) Administrative Fee. The Arts Commission is authorized to collect an administrative
21 fee from the project sponsor of \$2,500 for administration of this option and, if justified, an
22 additional amount based on a time and materials basis. The administrative fee shall be taken
23 out of the Public Art Fee Requirement, not calculated in addition to the Fee. The Arts
24 Commission may adjust the administrative fee annually based on a cost-of-living or similar
25

1 index. Any such adjustment shall be published on the Arts Commission and Department of
2 Planning websites.

3 **SEC. 429.57. ARTS COMMISSION PUBLIC ARTWORK TRUST FUND.**

4 (a) All monies contributed to the Public Artwork Trust Fund pursuant to this Section 429 shall
5 be deposited in the special fund maintained by the Controller called the Public Artwork Trust under
6 Section 10.100-29 of the Administrative Code, as may be amended from time to time. The receipts in
7 the Trust are hereby appropriated in accordance with law to be used by the Arts Commission within the
8 C-3 District or within a half-mile of the boundary of the C-3 District or, if the project is within
9 another zoning district, within a half mile of the project boundary to enhance the visibility and
10 quality of artworks in the public realm and to improve the public's access and enjoyment of the
11 artworks in the public realm.

12 (b) With the above objective, through a competitive public process the Public Artwork Trust
13 Fund shall be overseen by the Arts Commission and used to fund: (i) the creation, installation, and
14 exhibition of temporary and permanent public works of art in the public realm and within the C-3
15 District or within a half mile of the boundary of the C-3 District or, if the project is within another
16 zoning district, within a half mile of the project boundary; (ii) the conservation, preservation, and
17 restoration, but not maintenance of temporary and permanent public works of art in the public realm
18 and within the C-3 District or within a half-mile of the boundary of the C-3 District or, if the project is
19 within another zoning district, within a half mile of the project boundary subject to a 15%
20 maximum allocation per single project; (iii) a competitive public process overseen by the Arts
21 Commission for distribution of funds to San Francisco nonprofit arts entities and artists to fund
22 temporary public art projects, performance, film and video screenings, and capital improvements for
23 publicly accessible cultural facilities within the C-3 District or within a half-mile of the boundary of the
24 C-3 District or, if the project is within another zoning district, within a half mile of the project
25 boundary; (iv) with the approval of the Arts Commission and the designation of the project

1 sponsor, to a high capacity private, non profit arts organization to provide exterior public
2 artistic programming in the C-3 district or within a half mile of the boundary of the C-3 District;
3 and (v) (iv) the reasonable administrative expenses of the Arts Commission staff in connection with
4 administering compliance with the requirements of this Section on a time and materials basis for
5 managing projects funded through the Public Artworks Trust, not to exceed 20% of the costs for
6 any one project as well as the services of the Department of Building Inspection in
7 administering collection of the Public Art Fee pursuant to Chapter 107A.13 of the San
8 Francisco Building Code.

9 (c) The Arts Commission shall administer and expend the Public Artwork Trust Fund, which
10 and shall have the authority to prescribe rules and regulations governing the Fund that are consistent
11 with this Section. The Arts Commission shall prepare and submit an annual report of the
12 expenditures and use of the Public Art Trust to the Director of the Planning Department
13 starting in July 1, 2012 for the prior fiscal year.

14 **SEC.429.68. (b) Recognition of Architects and Artists.** In the case of construction of a new
15 building or an addition of floor area in excess of 25,000 square feet to an existing building in a
16 C-3 District, an ADA compliant plaque or cornerstone identifying the project architect and the
17 creator of the On-Site Public Artwork artwork provided pursuant to Subsection (a) this Section 429
18 and the erection date of the On-Site Public Artwork shall be placed at a publicly conspicuous
19 location on or in the building prior to the issuance of the first certificate of occupancy. ~~Prior to~~
20 ~~the issuance of the First Certificate of Occupancy, the project sponsor shall also send a~~
21 ~~written notice to the Arts Commission for the Commission's records containing the name of~~
22 ~~the artist(s), the title, date and medium of the artwork, a photograph of the artwork, and the~~
23 ~~location of the Artwork and address of the building. The Commission staff shall make this~~
24 ~~information available to the public in an accessible format, such as through the publication of~~
25 ~~a public art map or on its website, and shall update the information regularly.~~

1 ~~(c) Models. In a C-3 District, in the case of construction of a new building, or any addition in~~
2 ~~height in excess of 40 feet to an existing building, two models shall be submitted to the Planning~~
3 ~~Department prior to approval of the project, as follows:~~

4 ~~(1) One model of the building at a scale of 1" = 100'; and~~

5 ~~(2) One model of the block in which the building is located at a scale of 1" = 32', which model~~
6 ~~shall include all the buildings on the block on which the building is located and the streets surrounding~~
7 ~~the block to the centerline of the streets and shall use as its base the land form starting at sea level;~~
8 ~~provided, however, that if the Planning Department determines that it has an up-to-date model of the~~
9 ~~block in which the building is located, only a model of the building shall be submitted.~~

10 ~~(d) Procedure Regarding Certificate of Occupancy. The Director of DBI shall provide notice~~
11 ~~in writing to the Zoning Administrator at least five business days prior to issuing the first certificate of~~
12 ~~occupancy for any building subject to the provisions of this Section. If the Zoning Administrator notifies~~
13 ~~the Director of DBI within such time that the provisions of this Section have not been complied with,~~
14 ~~the Director of DBI shall deny the permit. If the Zoning Administrator notifies the Director of DBI that~~
15 ~~the provisions of this Section have been complied with or fails to respond within five business days, the~~
16 ~~permit of occupancy shall not be disapproved pursuant to this Section. The procedure set forth in this~~
17 ~~subsection is not intended to preclude enforcement of the requirements of this Section through any~~
18 ~~means otherwise authorized.~~

19 **SEC. 429.79. LIEN PROCEEDINGS.** A project sponsor's failure to comply with the requirements of
20 Sections 429.5 or 429.6 Section 429.3(d)(2)(b) or (c) shall be cause for the Development Fee
21 Collection Unit at DBI to institute lien proceedings to make the in-lieu fee, plus interest and any
22 deferral surcharge, a lien against all parcels used for the development project in accordance with
23 Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

1 Section 3. The San Francisco Administrative Code is hereby amended by adding a
2 new section 10.100-29 to read as follows:

3 **SEC. 10.100-29. ARTS COMMISSION PUBLIC ARTWORK TRUST FUND.**

4 (a) Establishment of Fund. The Arts Commission Public Artwork Trust Fund is established as
5 a category ~~four~~ ~~eight~~ fund to receive any monies collected for the Public Art Fee in accordance with
6 Planning Code Section 429, as may be amended from time to time, and deposited with the City
7 Treasurer for use by the Arts Commission in accordance with Planning Code Section 429 and to
8 receive ~~all~~ revenue from private contributions to the City for the Arts Commission's public art program
9 for use in the C-3 District or within a half mile of the boundary of the C-3 District or, if the
10 project is within another zoning district, within a half mile of the project boundary.

11 (b) Use of Fund. Unless otherwise provided by Charter, municipal code, contract or funding
12 source, the monies in said fund shall be expended only for the (i) the creation, installation, and
13 exhibition of temporary and permanent public works of art in the public realm and within the C-3
14 District or within a half mile of the boundary of the C-3 District or, if the project is within another
15 zoning district, within a half mile of the project boundary; (ii) the conservation, preservation, and
16 restoration, but not maintenance of temporary and permanent public works of art in the public realm
17 and within the C-3 District or within a half-mile of the boundary of the C-3 District or, if the project is
18 within another zoning district, within a half mile of the project boundary subject to a 15%
19 maximum allocation per single project; (iii) a competitive public process overseen by the Arts
20 Commission for distribution of funds to San Francisco nonprofit arts entities and artists to fund
21 temporary public art projects, performance, film and video screenings, and capital improvements for
22 publicly accessible cultural facilities within the C-3 District or within a half-mile of the boundary of the
23 C-3 District or, if the project is within another zoning district, within a half mile of the project
24 boundary; (iv) with the approval of the Arts Commission and the designation of the project
25 sponsor, to a high capacity private, non-profit arts organization to provide exterior public

1 artistic programming in the C-3 district or within a half mile of the boundary of the C-3 District;
2 and (v) the reasonable administrative expenses of the Arts Commission staff in connection with
3 administering compliance with the requirements of this Section on a time and materials basis for
4 managing projects funded through the Public Artworks Trust, not to exceed 20% of the costs for
5 any one project, as well as the services of the Department of Building Inspection in
6 administering collection of the Public Art Fee pursuant to Chapter 107A.13 of the San
7 Francisco Building Code.

8 (c) **Exceptions to Fund Category.** The Arts Commission shall authorize all expenditures from
9 the fund.

10
11 Section 4. The Board of Supervisors urges the Arts Commission, in consultation with
12 the Planning Department and the public, to engage in a strategic planning process as to how
13 the Public Artwork Trust Fund shall be expended. The Board of Supervisors also urges the
14 Arts Commission to recommend an updated set of "Fine Arts Guidelines" to the Planning
15 Department for review and approval by the Planning Commission.

16
17 Section 5. Effective Date. This ordinance shall become effective 30 days from the
18 date of passage.

19
20 Section 6. This Section is uncodified.

21 In enacting this Ordinance, the Board intends to amend only those words, phrases,
22 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any
23 other constituent part of the Planning Code that are explicitly shown in this legislation as
24 additions, deletions, Board amendments additions, and Board amendment deletions in
25 accordance with the "Note" that appears under the official title of the legislation. This

1 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
2 deletions not explicitly shown as described above, omissions, or other technical and non-
3 substantive differences between this Ordinance and the Planning Code that are contained in
4 this legislation are purely accidental and shall not effectuate an amendment to the Planning
5 Code. The Board hereby authorizes the City Attorney, in consultation with affected City
6 departments, to make those necessary adjustments to the published Planning Code, including
7 non-substantive changes such as renumbering or relettering, to ensure that the published
8 version of the Planning Code is consistent with the laws that this Board enacts.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 JUDITH A. BOYAJIAN
14 Deputy City Attorney