

**REVISED LEGISLATIVE DIGEST**

(Substituted: 11/22/2011)

[Planning, Administrative Codes - Public Art Fee and Public Artwork Trust Fund]

**Ordinance: 1) amending the San Francisco Planning Code, Section 429, to provide that developers currently required to spend 1% of construction costs for public artwork on any new development project or addition to an existing building over 25,000 square feet located in a C-3 district have an option to contribute all or a portion of that Fee to a City fund dedicated to support public art; 2) amending the San Francisco Administrative Code, by adding Section 10.200-29, to establish a Public Artwork Trust Fund, funded through contributions and Public Art Fees, for the creation, installation, exhibition, conservation, preservation, and restoration of temporary and permanent public art and capital improvements to nonprofit art facilities within the C-3 district and within a half mile of the boundary of the C-3 district to be administered and expended by the Arts Commission; and 3) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

Existing Law

Project sponsors of new development projects or the addition of floor area in excess of 25,000 square feet located in the C-3 District are subject to a public art requirement. Project sponsors currently are required to install on the project site works of art costing an amount equal to 1% of the construction cost of that project. For a five-year period, project sponsors also had the option of contributing a sum of money equivalent to the cost of the artwork to finance the rehabilitation and restoration of certain publicly owned and historically significant buildings, but that provision expired in 2009. The Planning Department approves the on-site public artwork.

Amendments to Current Law

The public art contribution requirement remains equal to 1% of the construction cost of the project. However, the option to contribute a fee to a newly-established Public Artwork Trust Fund instead is added. Non-residential development projects with public open spaces on the ground floor that are over 3,000 square feet must still comply with the requirement by providing on-site public art, but only on-site public art valued at \$1,000,000 is required to be provided on site. If the required Public Art Fee exceeds \$1,000,000, the project sponsor may elect to either (a) expend the remainder of the fee on site or (b) deposit the remainder into the Public Artwork Trust Fund. For residential projects and non-residential projects with public open spaces on the ground floor that are 3,000 square feet or less, the project sponsor may still elect to contribute 100% of the public art fee to provide on-site public artwork. In addition

to the option to use 100% of the public art fee to provide on-site public artwork, a project sponsor of a residential building or a non-residential building without a ground-floor open space of over 3,000 square feet will have two additional options. Project sponsors can contribute 100% of the public art fee to the Public Artwork Trust Fund. Or, project sponsors can expend a portion of the public art fee for the acquisition of on-site public artwork and deposit the remaining balance of the public art fee into the Trust.

Through a competitive public process, the Public Artwork Trust is administered by the Arts Commission and shall be used to fund: (i) 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; (ii) 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; (iii) 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 ; and (iv) the reasonable administrative expenses of the Arts Commission staff.

#### Background Information

The Arts Commission has worked closely with the Mayor's office, City Planning staff, the arts community, as well as civic organizations to revise Section 429 of the Planning Code, originally enacted in 1985 to require developers within the C-3 district to expend 1% of their project construction costs to acquire and place permanent public art at their development site. The impetus for this change is to give developers more options regarding the use of the 1% Public Art Fee, including one that results in a cost savings to the developer; to expand the "Benefits District" by ½ mile in all directions; and to establish a Public Artwork Trust Fund that will allow for greater flexibility in the application of the fee to animate the downtown with art and performance in the parks and public plazas, create new cultural destinations through art-conscious city planning, provide additional public opportunities to showcase the work of San Francisco based artists and arts organizations and to allow for capital improvements to San Francisco nonprofit arts organizations. Developers may elect to continue exactly as they have for the past 25 years and not pursue the two new alternative options. This legislation will result in no additional costs to the developer.