

**REVISED LEGISLATIVE DIGEST**  
(01/09/2012, Amended in Committee)

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

**Ordinance: 1) amending San Francisco Planning Code Section 429 to provide that developers currently required to spend one percent (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, and after January 1, 2013, imposing this requirement on any new development project or addition to an existing building over 75,000 square feet located in a zoning district other than C-3; 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 or, if the project is in another zoning district, within a half mile of the project boundary, 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, an option to contribute all or a portion of a fee (the "Public Art Fee") to a newly-established Public Artwork Trust Fund has been added. After January 1, 2013, the public art contribution requirement is extended to new development projects or additions to existing buildings over 75,000 square feet located in a zoning district other than C-3.

Non-residential development projects with public open space requirements greater than 1,499 square feet but less than 3,000 square feet must still comply with the public art requirement by providing on-site public art at a value equivalent to the Public Art Fee unless that Fee exceeds \$500,000, in which case only on-site public art valued at \$500,000 is required to be provided on site. Non-residential buildings with public open space requirements equal to or greater than 3,000 square feet must provide on-site public art at a value equivalent to the Public Art Fee unless that Fee exceeds \$750,000, in which case only on-site public art valued at \$750,000 is required to be provided on site. Where the required Public Art Fee exceeds the on-site requirement, prior to the issuance of a building or site permit the project sponsor must elect whether to expend the remainder of the Fee on site or to deposit the remainder of the Fee into the Public Artwork Trust Fund. For residential development projects, prior to issuance of a building or site permit the project sponsor must elect to either (1) provide on-site public art of a value at least equivalent to the Public Art Fee, (2) deposit 100% of the Fee into the Public Artwork Trust Fund, or (3) expend a portion of the Public Art Fee for on-site public art and deposit the remainder into the Public Artwork Trust Fund.

The Public Artwork Trust is administered by the Arts Commission through a competitive public process and is used to fund: (1) the creation, installation, and exhibition of temporary and permanent public works of art in the public realm, (2) the conservation, preservation, and restoration, but not maintenance of temporary and permanent public works of art in the public realm, (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, and (iv) the reasonable administrative expenses of the Arts Commission staff in administering compliance with the requirements, which shall not exceed 20% of the costs for any one project, as well as the services of the Department of Building Inspection in administering collection of the Public Art Fee.

#### 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 that are currently subject to the public art contribution requirement the option to pay a Public Art Fee instead of providing public art on site; 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 new alternative options.

This legislation will result in no additional costs to developers that are currently subject to the public art contribution requirement. However, after January 1, 2013 the public art contribution requirement will be extended to zoning districts other than C-3. After that date, the public art contribution requirement is extended to new development projects or additions to existing buildings over 75,000 square feet located in all zoning districts other than C-3.