

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

2
3 **Ordinance: 1) amending 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; 2)**
10 **amending the San Francisco Administrative Code by adding Section 10.200-29 to**
11 **establish a Public Artwork Trust Fund, funded through contributions and Public Art**
12 **Fees, for the creation, installation, exhibition, conservation, preservation, and**
13 **restoration of temporary and permanent public art and capital improvements to**
14 **nonprofit art facilities within the C-3 district and within a half mile of the boundary of**
15 **the C-3 district or, if the project is in another zoning district, within a half mile of the**
16 **project boundary, to be administered and expended by the Arts Commission; and 3)**
17 **making environmental findings, Planning Code Section 302 findings, and findings of**
18 **consistency with the General Plan and the Priority Policies of Planning Code Section**
19 **101.1.**

20 NOTE: Additions are *single-underline italics Times New Roman*;
21 deletions are *strike-through italics Times New Roman*.
22 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

24 Section 1. Findings

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

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

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

14
15 Section 2. The San Francisco Planning Code is hereby amended by amending Section
16 429, to read as follows:

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

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

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

1 "Conservation" shall mean the profession devoted to the preservation of cultural property for
2 the future.

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

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

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

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

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

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

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

1 (b) on or after January 1, 2013, all projects in zoning districts other than a C-3 District
2 that involve construction of a new building or addition of floor area in excess of 75,000 square
3 feet.

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

5 (a) Determination of Requirements. The Department shall determine the applicability of
6 Section 429.1 et. seq. to any development project requiring a first construction document and, if Section
7 429.1 et seq. is applicable, the number of gross square feet subject to its requirements, and shall
8 impose this requirement as a condition of approval for issuance of the first construction document for
9 the development project to address the need for additional public art in the downtown districts. The
10 project sponsor shall supply any information necessary to assist the Department in this determination.

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

1 *on the National Historical Register; provided, however, that the right to elect to use this in-lieu*
2 *provision to satisfy the obligations of this Section shall terminate five years from the effective date of*
3 *this provision.*

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

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

10 (1) Non-Residential Development Projects With Large Ground-Floor Public Open
11 Space Requirements. Non-residential buildings with public open space requirements greater
12 than 1,499 square feet but less than 3,000 square feet that provides on the ground floor open
13 space that are over 3,000 square feet shall comply with Section 429.3 by providing on site
14 public art of a value equivalent to the Public Art Fee; provided, however, that if the required
15 Public Art Fee exceeds \$1,000,000 \$500,000, only on-site public art valued at \$1,000,000
16 \$500,000 is required to be provided on-site. Non-residential buildings with public open space
17 requirements greater than or equal to 3,000 square feet that provide ground floor open space
18 shall comply with Section 429.3 by providing on-site public art of a value equivalent to the
19 Public Art Fee; provided, however, that if the required Public Art Fee exceeds \$750,000, only
20 on-site public art valued at \$750,000 is required to be provided on site. In any case where the
21 Public Art Fee requirement exceeds the amount required on-site, prior to issuance of a
22 building or site permit the project sponsor may shall elect one of the following options to fulfill
23 any requirements imposed as a condition of approval and to notify the Arts Commission and
24 the Department of their choice: (a) to expend the remainder of the Public Art Fee on site or
25 (b) to deposit the remainder of the Public Art Fee into the Public Artwork Trust Fund

1 established in Section 10.100-29 of the San Francisco Administrative Code for the purposes
2 set forth therein and in Section 429.5(b), including the creation, installation, exhibition,
3 conservation, preservation, and restoration of works of public art and for capital improvements
4 to non profit arts facilities (“In-Lieu Fee for Public Artwork Trust”) within the C-3 District or
5 within a half mile of the boundary of the C-3 District or, if the project is within another zoning
6 district, within a half mile of the project boundary. As provided in Section 402, the project
7 sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

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

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

18 (2) (ii) Option to Contribute 100% of Public Art Fee Amount to Public Artwork Trust Fund.
19 Effective on the effective date of this Ordinance No. _____ for a project that has not received its
20 first construction document, and except as provided herein, the project sponsor may pay the Public Art
21 Fee for deposit in the Public Artwork Trust Fund defined under established in Section 10.100-29 of
22 the San Francisco Administrative Code for the purposes set forth therein and in Section 429.57(b),
23 including the creation, installation, exhibition, conservation, preservation, and restoration of works of
24 public art and for capital improvements to non profit arts facilities (“In-Lieu Fee for Public Artwork
25 Trust”) within the C-3 District or within a half mile of the boundary of the C-3 District or, if the

1 project is within another zoning district, within a half mile of the project boundary. As provided
2 in Section 402, the project sponsor shall pay the fee to the Development Fee Collection Unit
3 at DBI.

4 (3) (c) Option to **Expend Provide 50% a Portion of the Public Art Fee Amount to On-Site**
5 **Public Artwork with and the Remainder Remaining Discounted Amount to the Public**
6 **Artwork Trust Fund.** Effective on the effective date of this Ordinance No. _____ a project that
7 has not received its first construction document may elect to expend 50% a portion of the Public Art
8 Fee for the acquisition of On-Site Public Artwork that shall be subject to the requirements of subsection
9 (d) (2)(a) (4) above regarding On Site Public Artwork, and deposit 45% of the remaining balance of
10 the Public Art Fee into the Public Artwork Trust Fund. As provided in Section 402, the project
11 sponsor shall pay the fee to the Development Fee Collection Unit at DBI.

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

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

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

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

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

12 Said ~~works of art~~ On-Site Public Artwork shall be installed prior to issuance of the first
13 certificate of occupancy; provided, however, that if the Zoning Administrator concludes that it
14 is not feasible to install the works within that time and that adequate assurance is provided
15 that the works will be installed in a timely manner, the Zoning Administrator may extend the
16 time for installation for a period of not less than 12 months. Said works of art may include
17 sculpture, bas-relief, murals, mosaics, decorative water features, tapestries or other artworks
18 permanently affixed to the building or its grounds, or a combination thereof, but may not
19 include architectural features of the building, nor artwork designed by the architect, except as
20 permitted with respect to the in lieu contribution regarding publicly owned buildings meeting
21 the criteria described above. Artworks shall be displayed in a manner that will enhance their
22 enjoyment by the general public. The type and location of artwork, but not the artistic merits
23 of the specific artwork proposed, shall be approved by the Zoning Administrator ~~following a~~
24 ~~review of the Arts Commission's written report under subsection (b) below~~ in accordance with
25

1 the provisions of Section 309 of this Code. *The term "construction cost" shall be determined in the*
2 *manner used to determine the valuation of work as set forth in Section 107.2 of the Building Code.*

3 ~~(b) Consultation with Arts Commission. Effective on the effective date of this~~
4 ~~Ordinance No. _____, the project sponsor shall provide information to the Arts Commission~~
5 ~~regarding the type, durability, design, artistic merit, and publicly accessible location of the~~
6 ~~project sponsor's proposed On-Site Public Artwork. Following such consultation and prior to~~
7 ~~DBI's issuance of the first construction document, the Arts Commission shall provide the~~
8 ~~project sponsor and Planning Department with a written report summarizing its~~
9 ~~recommendations regarding the type, durability, design, artistic merit, and publicly accessible~~
10 ~~location of the On-Site Public Artwork. The Arts Commission shall conduct its consultation~~
11 ~~with the project sponsor regarding the On-Site Public Artwork proposal within 60 days of~~
12 ~~receiving complete documentation of the On-Site Public Artwork proposal from the project~~
13 ~~sponsor, unless the Zoning Administrator approves a time extension following a written~~
14 ~~request by the Arts Commission setting forth the reasons for the requested extension. The~~
15 ~~Arts Commission recommendation shall be advisory to the Planning Department.~~

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

22 ~~(b) (d) **Removal, Relocation, or Alteration of Artwork.** Once the project sponsor has installed~~
23 ~~and completed the final Artwork, the project sponsor, building owner and any third party, may not~~
24 ~~remove, relocate or alter the Artwork without notifying and consulting with the Arts Commission~~
25 ~~Planning Department at least 120 days prior to the proposed removal, relocation or alteration. The~~

1 ~~Arts Commission Planning Department shall not approve any removal, relocation, or alteration~~
2 ~~unless it finds that such removal any removed Artwork will be replaced with Artwork of equal of~~
3 ~~greater value, or that any relocation, or alteration is only a minor modification of equal or~~
4 ~~greater value. If a project sponsor does remove, relocate, or alter the Artwork without notification~~
5 ~~and approval of the Planning Department Arts Commission, the Planning Department is authorized~~
6 ~~to pursue enforcement of this Section under Section 176 or 176.1 of this Code or to pursue any other~~
7 ~~remedy permitted by law.~~

8 **~~SEC. 429.5. COMPLIANCE BY CONTRIBUTION OF 100% OF PUBLIC ART FEE~~**
9 **~~AMOUNT TO PUBLIC ARTWORK TRUST.~~**

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

17 **~~SEC. 429.6. COMPLIANCE BY PROVIDING 50% OF PUBLIC ART FEE AMOUNT TO ON-~~**
18 **~~SITE PUBLIC ARTWORK WITH REMAINING DISCOUNTED AMOUNT TO PUBLIC ART~~**
19 **~~TRUST.~~**

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

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

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

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

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

20 ~~*(b) With the above objective, through a competitive public process the Public Artwork Trust*~~
21 ~~*Fund shall be overseen by the Arts Commission and used to fund: (i) the creation, installation, and*~~
22 ~~*exhibition of temporary and permanent public works of art in the public realm and within the C-3*~~
23 ~~*District or within a half mile of the boundary of the C-3 District or, if the project is within another*~~
24 ~~*zoning district, within a half mile of the project boundary; (ii) the conservation, preservation, and*~~
25 ~~*restoration, but not maintenance of temporary and permanent public works of art in the public realm*~~

1 and within the C-3 District or within a half-mile of the boundary of the C-3 District or, if the project is
2 within another zoning district, within a half mile of the project boundary subject to a 15%
3 maximum allocation per single project; (iii) a competitive public process overseen by the Arts
4 Commission for distribution of funds to San Francisco nonprofit arts entities and artists to fund
5 temporary public art projects, performance, film and video screenings, and capital improvements for
6 publicly accessible cultural facilities within the C-3 District or within a half-mile of the boundary of the
7 C-3 District or, if the project is within another zoning district, within a half mile of the project
8 boundary; (iv) with the approval of the Arts Commission and the designation of the project
9 sponsor, to a high capacity private, non profit arts organization to provide exterior public
10 artistic programming in the C-3 district or within a half mile of the boundary of the C-3 District;
11 and (v) (iv) the reasonable administrative expenses of the Arts Commission staff in connection with
12 administering compliance with the requirements of this Section on a time and materials basis for
13 managing projects funded through the Public Artworks Trust, not to exceed 20% of the costs for
14 any one project, as well as the services of the Department of Building Inspection in
15 administering collection of the Public Art Fee pursuant to Chapter 107A.13 of the San
16 Francisco Building Code.

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

22 **SEC.429.68. (b) Recognition of Architects and Artists.** In the case of construction of a new
23 building or an addition of floor area in excess of 25,000 square feet to an existing building in a
24 C-3 District, an ADA compliant plaque or cornerstone identifying the project architect and the
25 creator of the On-Site Public Artwork artwork provided pursuant to Subsection (a) this Section 429

1 and the erection date of the On-Site Public Artwork shall be placed at a publicly conspicuous
2 location on or in the building prior to the issuance of the first certificate of occupancy. ~~Prior to~~
3 ~~the issuance of the First Certificate of Occupancy, the project sponsor shall also send a~~
4 ~~written notice to the Arts Commission for the Commission's records containing the name of~~
5 ~~the artist(s), the title, date and medium of the artwork, a photograph of the artwork, and the~~
6 ~~location of the Artwork and address of the building. The Commission staff shall make this~~
7 ~~information available to the public in an accessible format, such as through the publication of~~
8 ~~a public art map or on its website, and shall update the information regularly.~~

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

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

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

18 ~~(d) Procedure Regarding Certificate of Occupancy. The Director of DBI shall provide notice~~
19 ~~in writing to the Zoning Administrator at least five business days prior to issuing the first certificate of~~
20 ~~occupancy for any building subject to the provisions of this Section. If the Zoning Administrator notifies~~
21 ~~the Director of DBI within such time that the provisions of this Section have not been complied with,~~
22 ~~the Director of DBI shall deny the permit. If the Zoning Administrator notifies the Director of DBI that~~
23 ~~the provisions of this Section have been complied with or fails to respond within five business days, the~~
24 ~~permit of occupancy shall not be disapproved pursuant to this Section. The procedure set forth in this~~
25

1 ~~subsection is not intended to preclude enforcement of the requirements of this Section through any~~
2 ~~means otherwise authorized.~~

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

8
9 Section 3. The San Francisco Administrative Code is hereby amended by adding a
10 new section 10.100-29 to read as follows:

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

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

19 *(b) **Use of Fund.** Unless otherwise provided by Charter, municipal code, contract or funding*
20 *source, the monies in said fund shall be expended only for the (i) the creation, installation, and*
21 *exhibition of temporary and permanent public works of art in the public realm and within the C-3*
22 *District or within a half mile of the boundary of the C-3 District or, if the project is within another*
23 *zoning district, within a half mile of the project boundary; (ii) the conservation, preservation, and*
24 *restoration, but not maintenance of temporary and permanent public works of art in the public realm*
25 *and within the C-3 District or within a half-mile of the boundary of the C-3 District or, if the project is*

1 within another zoning district, within a half mile of the project boundary subject to a 15%
2 maximum allocation per single project; (iii) a competitive public process overseen by the Arts
3 Commission for distribution of funds to San Francisco nonprofit arts entities and artists to fund
4 temporary public art projects, performance, film and video screenings, and capital improvements for
5 publicly accessible cultural facilities within the C-3 District or within a half-mile of the boundary of the
6 C-3 District or, if the project is within another zoning district, within a half mile of the project
7 boundary; (iv) with the approval of the Arts Commission and the designation of the project
8 sponsor, to a high capacity private, non profit arts organization to provide exterior public
9 artistic programming in the C-3 district or within a half mile of the boundary of the C-3 District;
10 and (v) the reasonable administrative expenses of the Arts Commission staff in connection with
11 administering compliance with the requirements of this Section on a time and materials basis for
12 managing projects funded through the Public Artworks Trust, not to exceed 20% of the costs for
13 any one project, as well as the services of the Department of Building Inspection in
14 administering collection of the Public Art Fee pursuant to Chapter 107A.13 of the San
15 Francisco Building Code.

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

18
19 Section 4. The Board of Supervisors urges the Arts Commission, in consultation with
20 the Planning Department and the public, to engage in a strategic planning process as to how
21 the Public Artwork Trust Fund shall be expended. The Board of Supervisors also urges the
22 Arts Commission to recommend an updated set of "Fine Arts Guidelines" to the Planning
23 Department for review and approval by the Planning Commission.

1 Section 5. Effective Date. This ordinance shall become effective 30 days from the
2 date of passage.

3
4 Section 6. This Section is uncodified.

5 In enacting this Ordinance, the Board intends to amend only those words, phrases,
6 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any
7 other constituent part of the Planning Code that are explicitly shown in this legislation as
8 additions, deletions, Board amendments additions, and Board amendment deletions in
9 accordance with the "Note" that appears under the official title of the legislation. This
10 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
11 deletions not explicitly shown as described above, omissions, or other technical and non-
12 substantive differences between this Ordinance and the Planning Code that are contained in
13 this legislation are purely accidental and shall not effectuate an amendment to the Planning
14 Code. The Board hereby authorizes the City Attorney, in consultation with affected City
15 departments, to make those necessary adjustments to the published Planning Code, including
16 non-substantive changes such as renumbering or relettering, to ensure that the published
17 version of the Planning Code is consistent with the laws that this Board enacts.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 JUDITH A. BOYAJIAN
23 Deputy City Attorney
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