

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Tom DeCaigny, Director of Cultural Affairs, Arts Commission  
Susan Pontious, Director of Public Art Program, Arts Commission  
Ben Rosenfield, City Controller, Office of the Controller

FROM: *al*  
*br* Alisa Somera, Legislative Deputy Director  
Rules Committee

DATE: July 30, 2018

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Peskin on July 17, 2018:

**File No. 180754**

**Ordinance amending the Administrative Code to modify the Civic Design Review fee from a deposit of \$2,500 plus the time and materials costs to a flat fee of \$12,800 per project, establish a process for an annual cost-of-living fee adjustment, set a timeline for fee payment, describe the method for determining fees for projects involving multiple structures situated together as part of a larger development plan, and describe circumstances that may qualify for fee waiver or reduction.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Rebekah Krell, Arts Commission  
Sharon Page Ritchie, Arts Commission  
Todd Rydstrom, Office of the Controller

1 [Administrative Code - Civic Design Review Fee]

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3 **Ordinance amending the Administrative Code to modify the Civic Design Review fee**  
4 **from a deposit of \$2,500 plus the time and materials costs to a flat fee of \$12,800 per**  
5 **project, establish a process for an annual cost-of-living fee adjustment, set a timeline**  
6 **for fee payment, describe the method for determining fees for projects involving**  
7 **multiple structures situated together as part of a larger development plan, and describe**  
8 **circumstances that may qualify for fee waiver or reduction.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
12 **Board amendment additions** are in double-underlined Arial font.  
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
14 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
15 subsections or parts of tables.

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

17 Section 1. The Administrative Code is hereby amended by revising Section 3.19A, to  
18 read as follows:

19 **SEC. 3.19A. ARTS COMMISSION CIVIC DESIGN REVIEW FEES.**

20 Any entity, public or private, including any office, department, or agency of the City and  
21 County of San Francisco requiring the Arts Commission's civic design review and approval  
22 under Charter Section 5.103(1) ("Applicant") shall pay a fee to the Arts Commission consistent  
23 with the provisions of this ~~s~~Section 3.19A. For purposes of this ~~s~~Section, the Arts  
24 Commission's "Civic Design Review" includes approving the designs for all public structures,  
25 any private structure ~~which that~~ extends over or upon any public property, and any yards,  
courts, set-backs, or usable open spaces ~~which that~~ are an integral part of any such structures.

1 Civic Design Review shall also include review of conceptual designs, site plans, design  
2 development, and construction drawings for any project subject to the Arts Commission's  
3 Civic Design Review under Charter Section 5.103(1). The Arts Commission shall use any  
4 funds collected under this ~~s~~Section solely to defray the costs incurred by the Arts Commission  
5 ~~staff~~ in performing its Civic Design Review functions.

6 (a) **Civic Design Review Deposit Base Fee.** ~~Effective July 1, 2006~~As of the effective  
7 date of the ordinance in Board of Supervisors File No. \_\_\_\_\_, an Applicant shall submit ~~a deposit~~  
8 of \$2,500 ("Deposit") a fee of \$12,800 to the Arts Commission for each project requiring ~~such~~  
9 Civic Design Rreview under ~~San Francisco~~-Charter Section 5.103(1).

10 (b) **Annual Adjustment of Fee.** Beginning with fiscal year 2019-2020, the fee set forth in  
11 subsection (a) may be adjusted each year by the Controller, without further action by the Board of  
12 Supervisors, as set forth in the following process.

13 (1) No later than April 1 of each year, the Director of Cultural Affairs shall report  
14 to the Controller:

15 (A) the revenues generated by the fee for the prior fiscal year;

16 (B) the costs incurred by the Arts Commission in performance of its Civic Design  
17 Review functions for the prior fiscal year; and

18 (C) any other information that the Controller or the Director of Cultural Affairs  
19 determines appropriate to the performance of the functions set forth in this Section 3.19A.

20 (2) No later than May 15 of each year, the Controller shall determine whether the  
21 current fee has produced or is projected to produce sufficient revenue to support the costs of providing  
22 the services for which the fee is assessed and that the fee does not or will not produce revenue that  
23 exceeds the costs of providing the services for which the fee is assessed.

24 (3) No later than May 15 of each year, the Controller shall, if necessary, adjust the  
25 fee upward or downward for the upcoming fiscal year as appropriate to ensure that the Arts

1 Commission recovers the costs incurred in performing its Civic Design Review functions without  
2 producing revenue that exceeds such costs. The adjusted fee shall become operative on July 1 of that  
3 same year.

4 (bc) ~~Deposit and Fee Deadlines~~ **Time for Payment.** The ~~Deposit fee~~ shall be payable at  
5 the time ~~an Applicant submits a~~ of filing an application or request for Civic Design Review of a  
6 project. The balance must be paid in full 10 days in advance of the first scheduled public hearing  
7 before the Civic Design Review Committee to consider the project. The Arts Commission is not  
8 required to schedule review of any project ~~whose~~ for which an Applicant has failed to pay the  
9 fee required by this ~~s~~Section 3.19A.

10 (e) ~~Time and Materials Fees.~~ The Applicant shall pay the Arts Commission for any time  
11 and materials cost, including copying costs, incurred in excess of the Deposit paid under this section.  
12 The Arts Commission is not required to give its final approval for any project until the Applicant has  
13 paid the balance of fees due to the Arts Commission under this section. Within 20 days prior to the Arts  
14 Commission's meeting to consider the final approval of the Applicant's project, the Arts Commission  
15 shall provide the Applicant with a written report summarizing the Arts Commission's actual time and  
16 materials costs associated with the Applicant's project.

17 (d) **Project Review.** Applications or requests for Civic Design Review for multiple  
18 structures situated together as part of a larger development plan (a "Campus") will be considered  
19 distinct projects under this Section 3.19A. The Applicant shall pay the then current fee to the Arts  
20 Commission for each structure within a Campus requiring the Arts Commission's civic design review  
21 and approval under Charter Section 5.103(1).

22 (de) **Refunds.** When an application is withdrawn by the Applicant prior to a public  
23 hearing or deemed canceled by the Arts Commission due to inactivity on the part of the  
24 Applicant, then the Applicant shall be entitled to a refund of the fee paid to the Arts  
25 Commission less the cost of time and materials incurred minus a \$200 processing fee. Refund


1 requests must be submitted within six months of the project closure date. In addition, where the actual  
2 time and materials cost in connection with a project that the Arts Commission has acted on is less than  
3 the Deposit paid under this section, the Arts Commission shall refund the difference between the  
4 Deposit and the actual time and materials cost.

5 (ef) **Waiver.** The Director of Cultural Affairs may waive or reduce the fees required  
6 under this ~~s~~Section 3.19A where the Applicant demonstrates in a written application that  
7 payment of such fees would present an undue financial hardship on the Applicant and would  
8 jeopardize the completion of the project. The Director of Cultural Affairs may also waive or reduce  
9 fees for projects of limited scope or Campus projects that include structures of identical form and  
10 character.

11 Section 2. Effective Date. This ordinance shall become effective 30 days after  
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
14 of Supervisors overrides the Mayor's veto of the ordinance.

15 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
19 additions, and Board amendment deletions in accordance with the "Note" that appears under  
20 the official title of the ordinance.

21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By:   
24 LAUREN CURRY  
25 Deputy City Attorney

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## LEGISLATIVE DIGEST

[Administrative Code - Civic Design Review Fee]

**Ordinance amending the Administrative Code to modify the Civic Design Review fee from a deposit of \$2,500 plus the time and materials costs to a flat fee of \$12,800 per project, establish a process for an annual cost-of-living fee adjustment, set a timeline for fee payment, describe the method for determining fees for projects involving multiple structures situated together as part of a larger development plan, and describe circumstances that may qualify for fee waiver or reduction.**

### Existing Law

Administrative Code Section 3.19A establishes a fee for 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"). The fee is a \$2,500 deposit at the time the Applicant submits a request for civic design review of a project in addition to the Arts Commission's time and materials costs incurred in excess of the deposit. The time and materials fees are due no later than 20 days prior to the Arts Commission's meeting to consider the final approval of the Applicant's project.

There is no distinction between requests for review of a single structure from requests for review of multiple structures situated together as part of a larger development. And there is no provision allowing a fee waiver or reduction for projects of limited scope.

### Amendments to Current Law

The ordinance would replace the \$2,500 deposit and time and materials fees with a flat fee of \$12,800 for each project requiring civic design review under Charter Section 5.103(1). An Applicant would pay the fee upon submitting a request for civic design review of a project. The ordinance would also provide for an annual adjustment of the fee by the Controller.

Requests for review of multiple structures situated together as part of a larger development plan (a "Campus") would be considered distinct projects and the Applicant would pay the then current fee for each structure. The ordinance would also allow the Director of Cultural Affairs to waive or reduce the fees for projects of limited scope or Campus projects that include structures of identical form and character.