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**ORDINANCE NO 2004 - 004**

**AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, ADDING, AMENDING AND DELETING SECTIONS OF CHAPTER 15.05 OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE HISTORIC PRESERVATION PROGRAM AND SECTIONS OF CHAPTER 15 06 OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE ART IN PUBLIC PLACES PROGRAM**

**WHEREAS**, by Ordinance Nos 2001-013 and 2001-015 the City Council established the Cultural Affairs Commission (CAC) and directed that the Art in Public Places program and Historic Preservation program be primarily implemented by the CAC,

**WHEREAS**, the CAC adopted Resolution No CAC 2002-005 that included changes necessary with the establishment of the CAC and the transfer of the Art in Public Places and Historic Preservation programs from the Community Development Department to the Parks, Recreation & Community Services Department,

**WHEREAS**, the City Council adopted Ordinance No 2002-007 that incorporated the changes adopted by the CAC in Resolution No CAC 2002-005,

**WHEREAS**, in July 2003 the CAC and the Art in Public Places and Historic Preservation programs were transferred to the Community Development Department from the Parks, Recreation & Community Services Department, and

1           **WHEREAS**, staff has determined that certain word processing omissions and  
2 changes shall be corrected in Culver City Municipal Code Section 15 05 et seq and  
3 Section 15 06 et seq in order to proceed with the development of the Art in Public  
4 Places and Historic Preservation programs and that further revisions reflecting the  
5 change in departments are also necessary, and  
6

7           **WHEREAS**, the proposed amendments were unanimously adopted by the CAC in  
8 Resolution No CAC 2003-002 at their meeting on October 14, 2003

9           **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**  
10 **HEREBY ORDAIN**, that the following amendments be made to Chapters 15 05 and  
11 15 06 of the CCMC

12           **SECTION 1** Sections of Chapter 15 05 of the Culver City Municipal Code shall  
13 be added, amended, and deleted, pursuant to the changes set forth in Exhibit "A",  
14 attached hereto and incorporated by reference  
15

16           **SECTION 2** Sections of Chapter 15 06 of the Culver City Municipal Code shall  
17 be added, amended, and deleted, pursuant to the changes set forth in Exhibit "B",  
18 attached hereto and incorporated by reference  
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2           SECTION 3 This Ordinance shall take effect thirty (30) days from the date of its  
3 adoption and, as required by Section 512 of the City Charter, prior to the expiration of  
4 fifteen (15) days from the adoption hereof the City Clerk shall cause this Ordinance or a  
5 summary thereof to be published in The Culver City News Additionally, the City Clerk  
6 shall post this Ordinance or a summary thereof in at least three public places within the  
7 City pursuant to Section 517 of the City Charter  
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11           APPROVED AND ADOPTED this 9th day of February, 2004


12  
13 

14           ALAN CORLIN, Mayor  
15           City of Culver City

16  
17  
18           ATTEST

19   
20  
21           CHRISTOPHER ARMENTA,  
22           City Clerk

23  
24           APPROVED AS TO FORM

25   
26           CAROL A. SCHWAB,  
27           City Attorney  
28

1 **EXHIBIT A**

2 **REVISIONS TO HISTORIC PRESERVATION PROGRAM**

3  
4 **CHAPTER 15 05 HISTORIC PRESERVATION PROGRAM**

5 **Sections**

- 6 15 05 005 Purpose  
7 15 05 010 Definitions  
8 15 05 015 Nomination for cultural resource designation  
9 15 05 020 Cultural resource criteria  
10 15 05 025 Classification of structures and districts  
11 15 05 030 Process for designating, changing or removing designation  
12 15 05 035 Certificate of Appropriateness  
13 15 05 040 Certificate of Exemption  
14 15 05 045 Appeals  
15 15 05 050 Nonconformity  
16 15 05 055 Encroachment into public right-of-way  
17 15 05 060 Fees

18 **§ 15 05 005 PURPOSE**

19 The purpose of this Chapter is to protect the City's unique historical, architectural  
20 and cultural heritage as reflected in the City's architectural history and patterns of  
21 cultural development. It is also intended to encourage and facilitate public knowledge,  
22 understanding and appreciation of the City's historic past and unique cultural resources

23 **§ 15 05 010 DEFINITIONS**

24 Unless the contrary is stated or clearly appears from the context, the following  
25 definitions shall govern the interpretation of this Chapter

26 **ALTERATION** Any work involving the exterior of a designated structure for which  
27 a City permit must be obtained, including the demolition, addition, removal, restoration,  
28 relocation or other modification, in whole or in part, of a structure

**ARCHITECTURAL SIGNIFICANCE** A criterion used in designating a structure  
that is an outstanding or surviving example of period, style, detail, unique craftsmanship  
or method of construction, or represents the work of a locally, statewide or nationally  
significant architect, designer, or builder

**CERTIFICATE OF APPROPRIATENESS** The document verifying that  
alterations proposed to a designated structure complies with the requirements of this  
Chapter

1           **CERTIFICATE OF EXEMPTION** The document authorizing work described in a  
2 disapproved certificate of appropriateness after all alternatives were considered because  
3 it was subsequently determined that such disapproval results in a substantial hardship  
4 on the owner

4           **CULTURAL RESOURCE** A structure that has aesthetic, cultural, architectural or  
5 historical significance to the City, State or nation, and that may have been designed as a  
6 landmark, significant, recognized or historic district under this Chapter

6           **HISTORICAL OR CULTURAL SIGNIFICANCE** A criterion used to designate a  
7 structure or district in which events occurred that made a significant contribution to City,  
8 State or national history or culture, or that involved a close association with the lives of  
9 people who made a significant contribution to the history and development of the City,  
10 State or nation

9           **HISTORIC DISTRICT** A designated area consisting of one (1) or more  
10 contiguous parcels improved with structures at which events occurred that made a  
11 significant contribution to the City, State or national history or culture, or an area that  
12 contains structures that are collectively significant examples of period, style, or method  
13 of construction that provide distinguishing characteristics of the architectural type or  
14 period represented. An historic district may be either a landmark district or a significant  
15 district

14           **INCIDENTAL EXTERIOR MAINTENANCE** The repair or replacement of building  
15 features in like kind, or paint up/clean up work, that does not change either the exterior  
16 appearance of the building envelope of a designated structure

16           **LANDMARK STRUCTURE** A structure designated as an exceptional example of  
17 the highest architectural, historical, or cultural significance to the community

18           **MAJOR EXTERIOR ALTERATION** An alteration resulting in an addition,  
19 demolition, or other significant modification to the existing envelope, or a substantial  
20 change in the exterior appearance of any structure designated landmark, significant or  
21 historic district

21           **MINOR EXTERIOR ALTERATION** An alteration resulting in a noticeable but less  
22 than substantial change in the exterior appearance, but no change in the existing  
23 envelope of a structure designated landmark, significant or historic district

23           **OWNER** The fee title owner of real property on which there is a designated  
24 structure, or which is part of a historic district, or any person who applies for any  
25 certificate under this Chapter

25           **RECOGNIZED STRUCTURE** A structure designated as being of architectural,  
26 historical, or cultural interest

1           **SIGNIFICANT STRUCTURE** A structure designated as being of substantial  
2 architectural, historical, or cultural significance to the community

3           **STRUCTURE** A building, sign or other constructed feature, improvement or  
4 appurtenance

5           **§ 15 05 015 NOMINATION FOR CULTURAL RESOURCE DESIGNATION**

6           **A** A structure or a district may be nominated to be considered by the Cultural  
7 Affairs Commission and City Council for designation as a cultural resource as follows

8                   1 A resident of the City may nominate a structure or district to be  
9 considered for designation as a cultural resource

10                   2 An owner may nominate his or her structure, or his or her property  
11 within a district

12                   3 The Cultural Affairs Commission may nominate a structure or  
13 district

14                   4 The Cultural Affairs Commission or the City Council may nominate a  
15 structure or district on its own motion

16                   5 Applications for nomination shall be properly completed and filed  
17 with the City on a form provided by the Community Development Department

18           **B** If the City Council disapproves the designation of a structure or district, that  
19 same structure or substantially the same district shall not be renominated by any person  
20 within one (1) year after the date of disapproval Furthermore, only the owner, the City  
21 Council, or the Cultural Affairs Commission may renominate the same structure or  
22 substantially the same district more than one (1) year after the City Council has  
23 disapproved its designation

24           **C** The Community Development Director shall prepare an evaluation of the  
25 proposed designation and shall make a recommendation to the Cultural Affairs  
26 Commission within forty-five (45) working days after the proper filing of the application as  
27 to the appropriateness and qualifications of the application for consideration by the  
28 Commission The Cultural Affairs Commission shall follow the procedures in §  
15 05 030 in considering a designation application

29           **§ 15 05 020 CULTURAL RESOURCE CRITERIA**

30           After the City receives an application for designation of a structure or district, the  
31 following criteria will be applied in evaluating the appropriateness of such a designation

32           **A** **Threshold criteria** To be considered for designation, the structure(s) must  
33 meet one of the following criteria

1  
2           1     The structure(s) is at least fifty (50) years old and the exterior of the  
structure is accessible or visible to the public, or

3           2     The structure or district has special importance to the City

4           B     Assessment criteria After satisfying the threshold criteria, a structure or  
5     district shall be reviewed for compliance with one or more of the following criteria, as  
6     defined under § 15 05 010 of this Chapter

7           1     Is the structure(s) of “architectural significance”?

8           2     Is the structure(s) of “historical or cultural significance”?

9           3     Do the structures in the district collectively meet 1 or 2 above?

10   § 15 05 025   CLASSIFICATION OF STRUCTURES AND DISTRICTS

11           Structures and districts which meet the requirements of § 15 05 020, above, shall  
12     be classified as “recognized,” “significant,” or “landmark ” Each structure or district shall  
13     be so classified by applying a ranking system which shall be adopted by resolution of the  
City Council

14   § 15 05 030   PROCESS FOR DESIGNATING, CHANGING OR REMOVING  
15     DESIGNATION

16           The following process shall be used to designate, or to change or remove the  
17     designation (hereinafter “designate”) of a structure or district as a cultural resource

18           A     Classifications

19           1     “Landmark” structures or districts These structures or districts

20           a     May be designated without owner consent

21           b     Shall be required to display a plaque, provided by the City  
22     and placed at a location approved by the City, which indicates that the structure or  
23     district is designated “landmark ” Prior to the installation of the plaque, the City Council  
shall take a formal action to authorize the expenditure of funds required to fabricate and  
install the plaque

24           2     “Significant” structures or districts These structures or districts

25           a     If residential, shall be designated “significant” only with a  
26     written consent of the owner, provided that the consent of only a majority of the owners  
27     shall be required for a “significant district” designation Once the designation has been  
made and the designation document has been filed for recondition, owner consent is

1 irrevocable If the required owner consent is not obtained, a residential structure or  
2 district may be designated “recognized ”

3 b If nonresidential, may be designated “significant” without  
4 owner consent

5 c Shall be required to display a plaque, authorized and  
6 provided by the City and placed at a location approved by the City, which indicates that  
7 the structure or district is designated “significant ”

8 3 “Recognized” structures These structures

9 a May be designated “recognized” without the consent of the  
10 owner

11 b No other requirements of this Chapter apply to “recognized”  
12 structures Owners are encouraged to preserve these structures

13 B Cultural Affairs Commission and City Council designation process

14 1 a Structures recommended for designation by the Cultural  
15 Affairs Commission shall be subject to review and approval by the City Council All  
16 owners of such structures shall be notified in writing of the proposed designation at least  
17 ten (10) working days prior to the date of the meeting at which the City Council will make  
18 its decision Each owner shall be given the opportunity to be heard on the proposed  
19 designation of his or her structure The City Council shall either accept, modify or  
20 disapprove the Cultural Affairs Commission’s recommendations for designation of  
21 specific structures Structures shall be designated by resolution of the City Council

22 b Any modification or disapproval by the City Council shall be  
23 supported by a finding that the basis for the Cultural Affairs Commission’s  
24 recommendation, or that designation of the property would impose a substantial  
25 hardship on the property owner that outweighs the benefit to the community

26 C Cultural Affairs Commission designation process Nominations for  
27 designation filed after the initial designation process, and not filed within a time period  
28 during which the Cultural Affairs Commission has been reconvened, shall be reviewed  
by the Community Development Director for compliance with designation criteria  
established in § 15 05 020 The Community Development Director’s review and  
recommendation shall be submitted to the Cultural Affairs Commission The Cultural  
Affairs Commission shall either designate the structure as a cultural resource or  
disapprove the nomination application The owner of record of any nominated structure,  
as well as the applicant and other persons who, in writing, have requested notice, shall  
be notified in writing at least ten (10) calendar days, as observed by the Administrative  
Offices of the City and excluding national holidays, prior to the Cultural Affairs  
Commission’s review

1 § 15 05 035 CERTIFICATE OF APPROPRIATENESS

2 A No person shall demolish, remove or make alterations affecting the exterior  
3 appearance of any designated landmark or significant structure or historic district, in  
4 whole or in part, without first obtaining a Certificate of Appropriateness or a Certificate of  
5 Exemption The requirement and process for obtaining a Certificate of Appropriateness  
shall depend on the category of exterior alteration proposed

6 1 Major exterior alterations Prior to the issuance of any City permit  
7 required for a proposed major exterior alteration, as defined in § 15 05 010, a Certificate  
8 of Appropriateness application, signed by the owner, shall be filed with the Planning  
9 Manager, with a complete copy provided to the Community Development Director The  
10 Planning Manager shall submit the application to the Planning Commission at its next  
11 regularly scheduled meeting, which is not more than sixty (60) working days after receipt  
12 of the completed application The application and analytic materials prepared by the  
13 Planning Manager shall include any input provided by the Cultural Affairs Division staff  
14 The Planning Commission shall approve, conditionally approve or disapprove the  
15 application within thirty (30) working days If the Planning Commission does not  
16 disapprove or conditionally approve the application within thirty (30) working days, or for  
17 good cause does not extend the time for action, the application shall be deemed  
18 approved

19 2 Minor exterior alterations Prior to the issuance of any City permit  
20 required for a proposed minor exterior alteration, as defined in § 15 05 010, a Certificate  
21 of Appropriateness application, signed by the owner, shall be filed with the Planning  
22 Manager The Planning Manager shall submit the application to the Community  
23 Development Director The Community Development Director shall approve,  
24 conditionally approve or disapprove the application within thirty (30) working days If the  
25 Community Development Director does not disapprove or conditionally approve the  
26 application within thirty (30) working days, or for good cause does not extend the time for  
27 action, the application shall be deemed approved

28 3 Incidental exterior maintenance While no Certificate of  
Appropriateness shall be required for incidental exterior maintenance work, as defined in  
§ 15 05 010, the owner is required to notify the Planning Manager of the work proposed  
to be performed prior to commencement The Planning Manager shall verify that such  
work qualifies as incidental exterior maintenance work, and that no further requirements  
of this Chapter apply, as follows

a When the proposed incidental exterior maintenance work  
requires a building permit, the building permit plan check review and approval process  
shall be deemed to constitute the Planning Manager's verification

b When the proposed incidental exterior maintenance work  
does not require a building permit, a written statement describing the proposed work  
shall be submitted by the owner, and the Planning Manager shall indicate the required  
verification thereon

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2           **B**       The approval of a Certificate of Appropriateness shall be conditioned upon  
3 all exterior alterations complying with the U S Secretary of Interior's Standards for  
4 Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as the City Council,  
5 Planning Commission or Community Development Director determines appropriate, and  
6 with the California State Historic Building Code and the California Health & Safety Code  
7 § 18950 et seq , as amended, as applied to the project by the Building Official In  
8 addition, before approving a Certificate of Appropriateness, the Community Development  
9 Director, the Planning Commission or the City Council shall make one or more of the  
10 following findings

11                   1       The proposed alteration would not detrimentally change, destroy, or  
12 adversely affect any exterior feature or appurtenance of the landmark or significant  
13 structure upon which the work would be done

14                   2       In the case of the proposed alteration to a structure within an historic  
15 district, the proposed work would not be incompatible with the exterior features or other  
16 improvements within the historic district, and would not adversely affect the character of  
17 the historic district

18                   3       In the case of any proposed alteration that includes construction of  
19 new improvements on the site of a designated structure or district, the exterior features  
20 of such new improvements would not adversely affect or be incompatible with the  
21 exterior features of the designated cultural resource

22                   4       In the case of an application to demolish a structure, that there has  
23 been compliance with the waiting period and good faith efforts prescribed by the  
24 provisions of this Code

25           **C**       In the event the Planning Commission or Community Development Director  
26 determines that the proposed alterations would have an adverse impact, one of the  
27 following two courses of action shall be taken

28                   1       Either the Certificate of Appropriateness shall be disapproved, or

                  2       Up to a six (6) month waiting period shall be imposed during which  
the owner shall try to identify, and the Planning Commission or Community Development  
Director shall evaluate, ways to accomplish the owner's goals and to preserve the  
designated structure If at the end of the waiting period, the Planning Commission or  
Community Development Director determines that the owner has acted in good faith but  
no acceptable way to meet the owner's goals and preserve the structure has been  
found, one of the following shall occur

                  a       If the structure is designated significant, the Certificate of  
Appropriateness shall be approved, but

1                   b     If the structure is designated landmark, the Certificate of  
2     Appropriateness shall be disapproved

3                   D     No permits for alterations to a nominated landmark or significant structure  
4     shall be issued, nor shall any alteration be done, until a final designation decision has  
   been made and a certificate of appropriateness, where required, has been approved

5     § 15 05 040    CERTIFICATE OF EXEMPTION

6                   A     A Certificate of Exemption application may be filed by an owner where, in  
7     the owner's opinion, there has been or will be a deprivation of all reasonable use or  
   economic return on the property because of any one of the following

- 8                             1     Designation of a structure as landmark or significant,  
9                             2     Imposition of the maximum waiting period set forth in § 15 05 035  
10    C 2 relating to the waiting period for a Certificate of Appropriateness, or  
11                             3     Disapproval of a Certificate of Appropriateness

12                   B     A Certificate of Exemption application shall be signed by the owner and  
13     filed with the Planning Manager. The Planning Manager shall submit the application to  
14     the Planning Commission at its next regularly scheduled meeting which is not more than  
15     sixty (60) working days after receipt of the completed application. The owner shall have  
16     the burden of proof to present evidence supporting the exemption request. The  
   Planning Commission shall review all the evidence presented and, within thirty (30)  
   working days after the date of it's hearing, make its determination on the application

17                   C     A Certificate of Exemption shall not be approved unless the Planning  
18     Commission finds that the designation, maximum waiting period, or Certificate of  
19     Appropriateness disapproval has deprived or will deprive the owner of a reasonable  
20     economic return on the property or of any reasonable use of the property. In the case of  
   a proposed demolition of a designated structure, the Planning Commission shall also  
   make one or more of the following findings

- 21                             1     Conversion of the use of the structure to a different allowable use is  
   not feasible  
22                             2     Rehabilitation of the structure or some other alternative method of  
23     preserving the structure, including relocation within the City, is not feasible  
24                             3     All means involving City-sponsored incentives, such as transfer of  
25     development rights, tax abatements, and financial assistance, have been explored and  
   found infeasible  
26                             4     Disapproval of the certificate of exemption would damage the owner  
27     unreasonably in comparison to the benefit conferred on the community  
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2           D       Where a Certificate of Exemption is approved, the owner of a landmark  
3 structure shall be required to prepare and file with the Community Development Director  
4 a photographic or videotape documentary of the structure prior to making any exterior  
5 changes to, or demolition of, the structure. A complete copy of these materials shall be  
6 submitted to the Community Development Director for his or her files

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16       § 15 05 045   APPEALS

17           A       Appeals of Designation of Historic Structure or Cultural Resource, Decision  
18 regarding Certificate of Appropriateness, or Decision regarding Certificate of Exemption  
19 The applicant, the owner, or any Culver City resident may appeal an action of the  
20 Cultural Affairs Commission, the Community Development Director, the Planning  
21 Manager, or the Planning Commission, by filing a notice of appeal not later than ten (10)  
22 working days after the date of a notice of decision. The ten (10) working days shall be  
23 based on the work schedule maintained by the Administrative Offices of the City and  
24 shall exclude national holidays. The City Council, Planning Commission, or Cultural  
25 Affairs Commission, as appropriate, shall review the appeal at its next regularly  
26 scheduled meeting which is no more than sixty (60) working days after City receipt of the  
27 notice of appeal, and shall render a decision on the appeal on or before its next regularly  
28 scheduled meeting after the date the appeal is heard

          B       No decision that is subject to appeal shall become final until the time for  
filing an appeal has run and no timely appeal has been filed, or until the date upon which  
the decision on a timely appeal is made, whichever is later

          § 15 05 050   NONCONFORMITY

          Notwithstanding any other provision of this Code, improvements made to a  
structure prior to its original designation, and improvements made under the  
requirements of this Chapter shall not require correction of other nonconforming  
conditions that do not, in the Building Official's determination, cause unsafe conditions,  
provided that, the extent of any such nonconforming conditions shall not be worsened by  
the improvements

          § 15 05 055   ENCROACHMENT INTO PUBLIC RIGHT-OF-WAY

          The City Engineer may grant permission for an encroachment into the public right-  
of-way for an improvement made pursuant to a Certificate of Appropriateness under  
§ 15 05 035, if the improvement cannot be made in any other feasible manner and  
subject to all conditions deemed appropriate by the City Engineer

          § 15 05 060   FEES

          The City Council, by resolution, may adopt fees for the costs of processing  
applications and appeals pursuant to this Chapter

**EXHIBIT B**

**REVISIONS TO THE ART IN PUBLIC PLACES PROGRAM**

**§ 15 06 100 PURPOSE**

The City Council finds and declares

A Cultural and artistic resources, including Art Works and the performing arts, enhance the quality of life for individuals living in, working in and visiting the City

B Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values

C As development and revitalization of the real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished As this development and revitalization continues as a result of market forces, urbanization of the community results As these opportunities are diminished and this urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased

D Development of cultural and artistic assets should be financed by those whose development and revitalization diminishes the availability of the community's resources for those opportunities and contributes to community urbanization

E Establishment of this Art in Public Places Program (APPP) will promote the general welfare through balancing the community's physical growth with revitalization and its cultural and artistic resources

**§ 15 06 105 IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION**

The Cultural Affairs Commission, as established in Sections 3 03 400 et seq of the Culver City Municipal Code, shall implement the duties established in this Subchapter The City Council may prescribe, by resolution, other duties, and the appointment process for the members of the Commission

**§ 15 06 106 DEFINITIONS**

As used in this Subchapter, the following definitions shall apply

A "Art Work" is a sculpture, mural or portable painting, earthwork, firework, neon, glass mosaic, photograph, print, calligraphy, or other form of physical hard media

B "Cultural Affairs Commission" shall be the Commission as established in Sections 3 03 400 et seq of this Code Unless otherwise specified, any reference to "Commission" in this Subchapter shall mean the Cultural Affairs Commission

1           C     "Community Development Director" shall mean the Community  
2 Development Director of the City or his/her designee

3           D     "Performing Arts" is defined as performances presented by professional or  
4 amateur performers, including theater performance (any form of dramatic presentation,  
5 spoken or silent), musical theater/opera (any dramatic performances of which music is  
6 an integral part), dance (any form of rhythmical movement), music/concert (any musical  
7 form whether classical or popular), and children's theater (any theater for young  
8 audiences, for or by children)

9           E     "Project" is defined as consisting of all physical changes and improvements  
10 necessary to complete a development. Such physical changes shall include the  
11 construction of new structures or the remodeling of existing structures

12           F     "Freely Available" is defined to mean the Art Work is accessible to the  
13 public for viewing, in a direct line of sight, for a period of ten (10) hours per day, seven  
14 (7) days per week, with the option of excluding national holidays

15 § 15 06 110 CITY ART FUND CREATED

16           A     There is hereby created a fund to be known as the "City Art Fund" to  
17 account for fees paid pursuant to this Subchapter. This fund shall be maintained by the  
18 City Treasurer and, subject to §§ 15 06 040 and 15 06 050, shall be used solely

19           1     For the design, acquisition, commission, installation, improvement,  
20 maintenance and insurance of an Art Work. "Design Fees" may include those fees  
21 which are paid to an appropriate party for the development of a design concept and the  
22 preparation of construction drawings, which are separate and apart from the cost of the  
23 fabrication and installation of an Art Work,

24           2     To sponsor or support performing arts,

25           3     For the acquisition and improvement of real property for the purpose  
26 of displaying Art Work, which has been or may be subsequently approved by the City, or

27           4     During a fiscal year, for maintenance of and utility charges related to  
28 the Art Work and real property purchased pursuant to Section A 1 above, provided, that  
the total amount of expenditures made in any year from the City Art Fund for the purpose  
set forth in this Section A 4 shall not exceed five percent (5%) of the total available  
amount of fees deposited, pursuant to this Subsection, during the City's fiscal year  
immediately preceding that expenditure

          5     For costs associated with administering the Art in Public Places  
Program, in an amount not to exceed fifteen percent (15%) of the Program allocation as  
set forth in Section 15 06 125, however, in the event the City Council determines that a  
special circumstance exists, the City Council may set a higher amount by a four-fifths  
vote

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2           **B**     If real property purchased with monies from the City Art Fund is  
subsequently sold, the proceeds from the sale shall be returned to the City Art Fund

3     **§ 15 06 115 DEVELOPMENTS SUBJECT TO PROVISIONS OF SUBCHAPTER**  
4

5           **A**     All new residential development projects of more than four (4) units, and all  
commercial, industrial, and public building development projects, with a building  
6 valuation exceeding Five Hundred Thousand Dollars (\$500,000 00) shall be subject to  
the provisions of this Subchapter, provided that the value of a residential unit  
7 covenanted for low- or moderate-income households, or for senior citizens shall not be  
included when determining the value of a residential development

8           **B**     Including but not limited to exterior and interior modifications and additions,  
9 all remodeling of existing residential buildings of more than four (4) units, and all  
remodeling of existing commercial, industrial and public buildings, shall be subject to the  
10 provisions of this Subchapter when such remodeling has a valuation exceeding Two  
Hundred Fifty Thousand Dollars (\$250,000 00), excluding earthquake rehabilitation  
11 required by this Code for seismic safety As used herein, the value of a residential unit  
covenanted for low- or moderate-income households or for senior citizens shall not be  
12 included when determining the value of a residential development

13     **§ 15 06 120 FINAL CITY APPROVAL**  
14

15           **A**     No final City approval for any project subject to this Subchapter shall be  
16 granted or issued unless and until full compliance with the Art in Public Places Program  
is achieved as follows

17                   1     The approved Art Work has been placed in a manner satisfactory to  
18 the Cultural Affairs Commission Placement of Art Work shall be completed prior to final  
inspection and issuance of a Certificate of Occupancy

19                   2     In lieu art fees have been paid, if applicable

20                   3     Financial security in an amount equal to the acquisition and  
21 installation costs of an approved Art Work, in a form approved by the City Attorney, has  
been posted In cases where an applicant is not certain whether to contribute to the City  
22 Art Fund or to obtain approval of an Art Work, the Community Development Director  
shall have the authority to negotiate an agreement with the applicant for the deposit of  
23 the amount of funds for the project into the Art Fund for a period of time not to exceed  
one (1) year after the issuance of any construction permit This option will allow an  
24 applicant additional time to determine the desired alternative for compliance with the  
Program requirements  
25

26                   4     Donation of an approved Art Work has been accepted by the City  
27 Council  
28

1           5       In cases where approved Art Work is placed on private property  
2 pursuant to this Subchapter, the Applicant shall execute and record a covenant with the  
3 Los Angeles County Recorder, which sets forth the Applicant's obligations to comply with  
4 this Program. The covenant shall be recorded prior to the request for final construction  
5 inspections and the issuance of a Certificate of Occupancy

6           B       For the purposes of Subsection A above, "full compliance with the Art in  
7 Public Places Program" shall not be found until the entire program allocation required by  
8 § 15 06 125 for the project has been satisfied

9           C       If any approved Art Work placed on private property pursuant to this  
10 Subchapter is removed without City approval, the Certificate of Occupancy may be  
11 revoked

12           D       A maximum of 25% of funding received in any one year for the City Art  
13 Fund shall be allocated for Performing Arts in the subsequent years, subject to the  
14 release of a notice of funding availability and review of applications by the Cultural  
15 Affairs Commission and approval by the City Council

#### 16 § 15 06 125 PROGRAM ALLOCATIONS

17           A       The APPP allocation, as used in this Subchapter, is the percentage of the  
18 construction costs which are set aside for the City's APPP and shall be an amount equal  
19 to one percent (1%) of the total building valuation for an applicable project, excluding  
20 land acquisition and off-site improvement costs as defined in § 15 06 106 (E). The total  
21 building valuation shall consist of the dollar amount of all construction permits using the  
22 latest Building Valuation Data as set forth by the International Conference of Building  
23 Officials (ICBO) unless, in the opinion of the Building Official, a different valuation  
24 methodology is more appropriate for a particular project

25           B       In lieu of placement of an approved Art Work, the applicant may pay to the  
26 City Art Fund an amount equal to the program allocation set forth in Subsection A above.  
27 In lieu fees are due at the prior to issuance of a Building Permit

28           C       Nothing in this Section shall prohibit the applicant from placing an  
approved Art Work with acquisition and installation costs in an amount less than the  
program allocations, provided that the applicant shall also pay to the City Art Fund an  
amount equal to the difference between the program allocation and the costs of  
acquisition and installation of such Art Work

#### § 15 06 130 APPLICATION AND APPROVAL PROCEDURES FOR PLACING ART WORK ON PRIVATE PROPERTY

A       Application procedures. An application for placement of Art Work on  
private property shall be submitted to the Community Development Director, and shall  
include the following information, at minimum

1  
2           1       Preliminary sketches, photographs or other documentation of  
sufficient descriptive clarity to indicate the nature of the proposed Art Work,

3           2       An appraisal or other evidence of the value of the proposed Art  
4 Work, including acquisition and installation costs,

5           3       Preliminary plans containing such detailed information as may be  
6 required by the Community Development Director and the Planning Manager to  
adequately evaluate the location of the Art Work in relation to the proposed  
7 development, and its compatibility with the proposed development, including  
8 compatibility with the character of adjacent conforming developed parcels and existing  
neighborhood if necessary to evaluate the proposal, and

9           4       A narrative proposal with elevations, site plans, lines of sight  
10 studies, renderings and other descriptive materials, as deemed necessary by the  
Community Development Director, to be submitted to the Cultural Affairs Commission to  
11 demonstrate that the Art Work will be displayed in an area open and freely available to  
the general public at least ten (10) hours each day, seven (7) days per week, or  
12 otherwise provide public accessibility in an equivalent manner based on the  
characteristics of the Art Work or its placement on the site (Refer to § 15 06 106 (F) for  
13 a definition of "Freely Accessible ")

14           B       Approval

15           1       Except as provided in Subsection B 2 below, completed  
16 applications shall be submitted to the Community Development Director for review of the  
Art Work, considering the aesthetic quality and harmony of the Art Work with the existing  
17 on-site improvements, and the proposed location of and public accessibility to the Art  
Work

18           2       The Cultural Affairs Commission shall review the completed  
19 application together with the recommendation of the Community Development Director  
and approve, approve with conditions, or deny the proposed Art Work, and its proposed  
20 location, considering the aesthetic quality and harmony with the proposed project, and  
the public accessibility to the Art Work

21           a       If the applicant proposes significant revisions to the Art Work,  
22 a revised application shall be submitted to the Community Development Director for  
23 review and recommendation to the Cultural Affairs Commission The Commission shall  
make a determination whether to approve, approve with conditions, or deny the  
24 requested revision

25           b       If the applicant proposes or the Cultural Affairs Commission  
26 recommends significant revisions to the architecture or physical design and layout of the  
proposed project subsequent to receipt of the Community Development Director's  
27

1 recommendation, the revised application may be returned to the Commission for further  
2 review and approval

3           3       Any person may seek review of the decision made by the Cultural  
4 Affairs Commission, pursuant to Subsection B 1 by filing an appeal in accordance with  
the CCMC

5 **§ 15 06 135   PROCEDURE FOR ACCEPTANCE OF ART WORK DONATED TO THE**  
6 **CITY**

7           A       Application procedure   An application for acceptance of Art Work to be  
8 donated to the City for placement on public property shall be submitted to the  
Community Development Director and shall include the following information, at  
9 minimum

10           1       Preliminary sketches, photographs, models, site plan, lines of sight  
11 studies, or other documentation of sufficient descriptive clarity to indicate the nature of  
the proposed Art Work,

12           2       An appraisal or other evidence of the value of the proposed Art  
13 Work, including acquisition and installation costs,

14           3       A written agreement, in a form approved by the City Attorney,  
15 executed by or on behalf of the artist who created the Art Work which expressly waives  
his or her rights under the California Art Preservation Act or other applicable law, and

16           4       Other information as may be required by the Cultural Affairs  
17 Commission to adequately evaluate the proposed donation of Art Work

18           B       Review of application

19           1       Completed applications shall be submitted to the Community  
Development Director for review and recommendation to the City Council

20           2       Recommendations shall be forwarded to the City Council, which  
21 shall have the sole authority to accept or reject or conditionally accept the donation

22 **§ 15 06 140   LIMITATION ON FORMS OF ART**

23           A       Private property   Subject to the provisions of §§ 15 06 130 and 15 06 145,  
24 if a person subject to this Subchapter chooses to meet the Art in Public Places allocation  
25 requirement by providing art, the only form of art which can satisfy the requirement is  
26 placement of an approved Art Work on private property   As used in this Subchapter, an  
Art Work is a sculpture, mural or portable painting, earthwork, firework, neon, glass  
27 mosaic, photograph, print, calligraphy, or other form of physical hard media  
28

1           B       Donation of art. Subject to the provisions of §§ 15 06 135 and 15 06 150,  
2 an applicant, subject to this Subsection, chooses to meet the APPP allocation by  
3 donation of art, the only form of art which can be donated to the City is an Art Work, as  
4 described in the definitions contained in Subsection 15 06 106

4   § 15 06 145   OWNERSHIP AND MAINTENANCE OF ART WORK

5           A       All Art Work placed on the site of an Applicant's project shall become the  
6 property of the property owner and his/her successor(s) in interest. The obligation to  
7 provide all maintenance necessary to preserve the Art Work in good condition shall  
8 remain with the owner of the site

8           B       Maintenance of Art Work, as used in this Subsection, shall include without  
9 limitation, preservation of the Art Work in good condition to the satisfaction of the City,  
10 protection of the Art Work against physical defacement, mutilation or alteration, and  
11 securing and maintaining fire and extended coverage insurance and vandalism coverage  
12 in an amount to be determined by the City Attorney. Prior to placement of an approved  
13 Art Work, the applicant and the owner of the site shall execute and record a  
14 covenant in a form approved by the City Attorney for maintenance of the Art Work.  
15 Failure to maintain the Art Work as provided herein is hereby declared to be a public  
16 nuisance. The City also shall pursue additional remedies to obtain compliance with the  
17 provisions of this Program, as appropriate

14           C       In addition to all other available remedies provided by law, in the event the  
15 property owner fails to maintain the Art Work, upon reasonable notice, the City may  
16 perform all necessary repairs, maintenance or secure insurance, and the costs thereof,  
17 shall become a lien against the real property

17           D       All Art Work donated to the City shall become the property of the City upon  
18 acceptance by the City Council

18   § 15 06 150   ART WORK ON PUBLIC PROPERTY, PERFORMING ARTS AND  
19 PURCHASE OF REAL PROPERTY FOR PUBLIC ART

20           A       The Cultural Affairs Commission shall prepare a plan for the APPP

21           B       The Cultural Affairs Commission may recommend to the City Council the  
22 purchase of Art Work to be displayed on public property, support for the performing arts,  
23 and the purchase and improvement of real property to be used for the display of Art  
24 Work. A recommendation shall include the following information

24               1       The type of Art Work considered, an analysis of the constraints  
25 applicable to placement of the Art Work on a site, the need for and practicality of the  
26 maintenance of the Art Work, and the costs of acquisition and installation of the Art  
27 Work, or

27               2       The type of performance and amount recommended, or

1  
2           3     The estimated costs of acquisition and improvements of the real  
property proposed to be purchased

3           C     The Cultural Affairs Commission is authorized to review the performing  
4 arts grant applications and make a recommendation to the City Council up to the amount  
5 authorized in the City budget for the current fiscal year during which the project is being  
considered

6           D     An expenditure from the City Art Fund may be made for the performing  
7 arts, provided, the City Council approves the Performing Arts event and that the  
8 performance occurs at a location in the City of Culver City, or owned or controlled by the  
9 City or the Culver City Redevelopment Agency, or at an alternative site which is located  
10 within close proximity to the corporate boundaries of the City of Culver City and has  
facilities for performing arts which complement or supplement those available within the  
City

11     § 15 06 155    RETURN OF FEES

12           A     Fees paid into the City Art Fund which are not committed within five (5)  
13 years from the date of payment may be returned to the then current owner of the  
14 development project, with all interest actually earned thereon, if a written request for  
15 return is filed with the City Treasurer during the fifth year after payment, and refund of  
16 the fees is approved by the City Council. The request for return shall be verified, and  
include the date of payment, the amount paid and method of payment, the location of the  
new development for which the fee was paid, and a statement that the applicant is the  
payer of the fees or the current owner of the development project

17           B     The City Council shall determine if return of the then uncommitted portion  
18 of the fees and interest is appropriate and, if so, the method of refund. No refund shall  
19 be appropriate if the City Council determines any one (1) of the following conditions  
applies

20                 1     The City Council finds the fee is needed for the Art in Public Places  
Program

21                 2     Moneys were not posted as fees, but were satisfied by letter of  
22 credit, bond or other instrument taken to secure payment at a future date

23                 3     The administrative costs of refunding uncommitted fees pursuant to  
24 this Subchapter exceeds the amount to be refunded, provided notice of a public hearing  
25 on this issue has been published and posted on the site of the development project in  
not less than three (3) places

1  
2 § 15 06 160 CRITERIA FOR APPROVING ARCHITECTURE AS ART

3 The following criteria shall be used to determine, on a case-by-case basis,  
4 whether architecture can be considered art for purposes of fulfilling the City's public art  
5 requirement

6 A The architect shall be substantially recognized by the art world in shows,  
7 museums, and/or publications

8 B When reviewing architecture as art, the underlying concept of the  
9 architecture shall be expressive as more than mere utilitarian architecture The  
10 architecture as a whole or certain architectural features shall express ideas or meaning  
11 and have cultural significance or conceptual complexity in relation to the totality of the  
12 object

13 C In the alternative, architecture can be considered art if it is created as a  
14 collaborative effort with an artist, the artist does a majority of the work, the artist has  
15 major design control of the portions of the architecture to be considered art, and the  
16 artist has been brought in early in the process The artist shall have experience and  
17 knowledge of monumental scale sculpture

18 D The architecture must meet all the general criteria regarding placement of  
19 Art Work on private property as defined in § 15 06 130 A et seq of this Chapter

20 § 15 06 165 PROCEDURE FOR APPROVING ARCHITECTURE AS ART

21 The following procedure must be followed by the developer to fill the public art  
22 requirement with the building's architecture

23 A An applicant must make two (2) presentations to the Cultural Affairs  
24 Commission

25 1 The first presentation shall be made prior to the development  
26 application being deemed complete The applicant must submit a maquette and other  
27 materials which satisfactorily illustrate the proposed conceptual development The  
28 applicant and architect must submit a conceptual statement expressing why the  
architecture should be considered art, including an explanation of the ideas, meaning,  
cultural significance or conceptual complexity expressed in the architecture

2 2 The second presentation shall be made at the completion of  
the City approval process The applicant must then submit a maquette and other  
materials which satisfactorily illustrate the to-be-built development

B The applicant and architect shall demonstrate that there will be high quality  
materials and craftsmanship used in the execution of the construction

1           **C**     If all of the foregoing criteria are met, the Cultural Affairs Commission shall  
2 accept the architecture as art, only if, in its judgment, the architectural work is of  
3 extremely high artistic merit and would make a substantial cultural contribution to Culver  
4 City

5           **D**     The applicant and/or architect shall have the responsibility to demonstrate  
6 that all of the foregoing criteria are met

7           **§ 15 06 170 EXEMPTION**

8           Buildings which are designed and dedicated to performing arts spaces or  
9 museum uses shall not also be required to meet the one percent (1%) set-aside  
10 requirement for as long as the performing arts or museum uses are maintained within  
11 the building

12           **§ 15 06 171 REMOVAL OF ART WORK**

13           The Cultural Affairs Commission shall establish guidelines to address potential  
14 options for the sale, removal and disposal of Art Work in cases where such change  
15 becomes necessary These guidelines shall be adopted by resolution as soon as  
16 reasonably feasible

17           **§ 15 06 175 APPEAL**

18           Any person may seek review of a decision of the Cultural Affairs Commission by  
19 filing a written appeal with the City Clerk's Office within ten (10) working days, as  
20 observed by the Administrative Offices of the City and excluding national holidays, of the  
21 decision by the Commission The City Clerk's Office shall coordinate with the  
22 Community Development Director to schedule the appeal hearing before the City  
23 Council