

ORDINANCE NUMBER O- 21878 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 14 2024

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 18, SECTION 22.1801 TO ADD THE CULTURAL AFFAIRS DEPARTMENT AS A CITY DEPARTMENT, AND BY ADDING NEW DIVISION 59, SECTIONS 22.5901, 22.5902, 22.5903, 22.5904, 22.5905, 22.5906, 22.5907, 22.5908, 22.5909, 22.5910, 22.5911, 22.5912, 22.5913, 22.5914, AND 22.5915 RELATING TO THE RESPONSIBILITIES AND DUTIES OF THE CULTURAL AFFAIRS DEPARTMENT; AND AMENDING CHAPTER 2, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 26.0701, 26.0702, 26.0704, AND 26.0705, AND BY REPEALING SECTIONS 26.0712, 26.0713, 26.0714, 26.0715, 26.0716, 26.0717, 26.0718, 26.0719, 26.0720, 26.0721, 26.0722, 26.0723, 26.0724, 26.0725, 26.0726, 26.0727, AND 26.0728, RELATING TO THE COMMISSION FOR ARTS AND CULTURE.

WHEREAS, since Fiscal Year 2021, the Council of the City of San Diego has adopted a budget which includes appropriated funds for a Cultural Affairs Department; and

WHEREAS, San Diego Charter section 26 requires an Administrative Code, which has been codified in Chapter 2, Article 2 of the San Diego Municipal Code (Municipal Code), and explains the powers and duties of all City of San Diego (City) administrative offices and departments; and

WHEREAS, the Mayor seeks to establish the Cultural Affairs Department as a City department which will be included in the list of City departments set forth in Chapter 2, Article 2, Division 18 of the Municipal Code; and

WHEREAS, the Cultural Affairs Department will advance arts, culture, creativity, and related events and industries in the City, and also provide City staff support for the Commission for Arts and Culture as an advisory body in the new Chapter 2, Article 2, Division 59 of the Municipal Code; and

WHEREAS, the Cultural Affairs Department will include the existing functions of City employees who are currently assigned to support the Commission for Arts and Culture; and

WHEREAS, City staff handling arts and culture matters and the advisory body are commonly referred to as the Commission for Arts and Culture, and both are referenced in Chapter 2, Article 6, Division 7 of the Municipal Code, which has led to confusion; and

WHEREAS, the Municipal Code will no longer include the functions of the Cultural Affairs Department and the Commission for Arts and Culture in the same section; and

WHEREAS, this Ordinance will transfer the functions of the Cultural Affairs Department from Chapter 2, Article 2, Division 7 of the Municipal Code to Chapter 2, Article 2, Division 59 of the Municipal Code; and

WHEREAS, under Charter section 26, the Council must approve an ordinance to establish new departments or combine existing departments in the Administrative Code by a two-thirds vote; and

WHEREAS, this Ordinance will slightly revise the functions and duties of the Commission for Arts and Culture in Chapter 2, Article 6, Division 7 of the Municipal Code to reflect the duties and functions more accurately being carried out by the commission; and

WHEREAS, the Office of the City Attorney has drafted this Ordinance based on the information provided by City staff with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 18 of the San Diego Municipal Code is amended by amending section 22.1801, to read as follows:

§22.1801 City Departments

- (a) [No change in text.]

- (b) The following are the departments of the City of San Diego within the meaning of the Charter and ordinances of the City:

Chief Financial Officer through Compliance [No change in text.]

Cultural Affairs Department

Debt Management through Transportation [No change in text.]

- (c) [No change in text.]

Section 2. That Chapter 2, Article 2 of the San Diego Municipal Code is amended by adding new Division 59 and sections 22.5901, 22.5902, 22.5903, 22.5904, 22.5905, 22.5906, 22.5907, 22.5908, 22.5909, 22.5910, 22.5911, 22.5912, 22.5913, 22.5914, and 22.5915, to read as follows:

Article 2: Administrative Code

Division 59: Cultural Affairs Department

§22.5901 Cultural Affairs Department

- (a) The Cultural Affairs Department is a City department. The department is responsible for advancing arts, culture, creativity, and related activities and industries in the City; supporting cultural tourism and innovative arts and cultural programming; and undertaking initiatives that drive an equitable and inclusive creative economy and cultural ecosystem, cultivating local participation and access, and advancing San Diego as a global city.
- (b) The Director of the Cultural Affairs Department is the administrative head of the department and is appointed by, and may be removed by, the City Manager. The Director is the appointing authority of all personnel in the department.

- (c) The Cultural Affairs Department will operate under the direction of the City Manager. The department is responsible for performing those duties and functions assigned and directed by the City Manager, including developing, implementing, evaluating, and recommending changes to public policy, legislation, programs, services, and advocacy strategies related to cultural affairs; overseeing the City's investments in new and artistic media, creative industries, and cultural production; administering funding allocations in support of nonprofit arts and culture organizations, *artists*, neighborhood arts programs, festivals, and *artworks* in public development; administering the arts and culture programmatic allocations within the transient occupancy tax funds; administering allocations to and from the *Public Art Fund*; ensuring the inclusion of art in private development; overseeing *public art project management activities* for *artworks* included in *Capital Improvement Program projects*, *Redevelopment Agency projects*, and other projects in *public places*; managing *artworks* owned and controlled by the City or contracted for, erected on, or exhibited on *public places*, including entering into and administering contracts related to the acquisition, loan, or licensing of such *artworks*; *accessioning* and *deaccessioning artworks* into the *Civic Art Collection*; and supporting the Commission for Arts and Culture in carrying out its duties as established in Chapter 2, Article 6, Division 7, and any other board or commission assigned by the City Manager.

§22.5902 Definitions

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Accession means the formal process used to accept and record an *artwork* as a *Civic Art Collection* item.

Acquisition means the transfer of title to the City of valuable property, including *artwork* by purchase, donation, bequest, transfer, or exchange.

Applicant has the same meaning as stated in San Diego Municipal Code section 113.0103.

Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, or a combination thereof, based on that professional practitioner's body of work, educational background, experience, past commissions, exhibition/performance record, publications, and production of *artworks*.

Artwork(s) must be specified or designed by an *artist* and include:

Public art as defined herein;

Sculpture: may be made of any material or combination of materials; may be free standing, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical;

Murals or paintings: may be made of any material or combination of materials; may be made with traditional or non-traditional means;

Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, linguistic expressions, calligraphy,

ephemera, textiles, found objects, and any media or combination of media including audio, video, film, holographic or computer-generated technologies, or other art genres currently known, or which may come to be known; and

Tangible manifestations (i.e., CDs, DVDs, scripts, photographs, videos, films, scores, etc.) of choreography, theatrical performances, performance art, happenings, music, television, and film, or other performing or language art genres currently known, or which may come to be known.

Artworks may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.

The following, unless specified or designed by an *artist*, are not considered *artworks*:

Reproductions, by mechanical or other means, of original *artworks*.

However, limited editions controlled by the *artist* or original prints, cast sculptures, or photographs, may be considered *artworks*;

Decorative, ornamental, or functional elements not specified or designed by an *artist*;

Elements generally considered as being components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc.

Art objects that are mass-produced, ordered from a catalog, or of standard design (such as benches or fountains); and

Wayfinding or other functional elements, such as graphics, signage, advertising, or maps.

Capital Improvements Program project means any permanent public improvement project, or portion or phase thereof, set forth in the Capital Improvements Program budget as adopted by City Council.

Civic Art Collection means *artworks* which have been *accessioned* and are publicly owned, possessed, or controlled by the City and administered by the Cultural Affairs Department. Incoming loans of *artwork* shall be incorporated into the *Civic Art Collection* for the duration of the loan but are not considered *acquisitions*.

Civic Enhancement allocation means the percentage of the *total building permit valuation* for a qualifying *development*, in accordance with the requirements set forth herein, which is set aside for *artwork* on the *premises*, areas dedicated for *cultural use* on the *premises*, or an in-lieu contribution to the *Public Art Fund*.

Collections management activities include the *acquisition*, incoming loan, outgoing loan, interdepartmental loan, *deaccession*, *disposal*, relocation, removal, exhibition, operation, maintenance, conservation, *extraordinary maintenance*, documentation, storage, reproduction, and adaptation of *artworks*.

Commission means the City of San Diego Commission for Arts and Culture established in Chapter 2, Article 6, Division 7.

Cultural use means *open and accessible* programming for the presentation of visual, performing, and language arts, or a combination thereof.

Deaccession means the formal process used to permanently remove an *artwork* from the *Civic Art Collection*.

Development has the same meaning as stated in San Diego Municipal Code section 113.0103.

Disposal or *dispose* means the permanent exchange, sale, destruction, or transfer of an *artwork* in the *Civic Art Collection*.

Extraordinary artwork maintenance means any maintenance or conservation to the sound condition of an *artwork* that requires specialized services.

Open and accessible means available for use by the general public during normal hours of business operation consistent with the operation and use of the *premises*.

Ordinary artwork maintenance means the routine oversight of the operation and cleaning of and around *artworks*.

Premises has the same meaning as stated in San Diego Municipal Code section 113.0103.

Public art means *artwork* acquired or created using funds appropriated by the City and located in *public places*.

Public Art Fund means a separate fund established in the City Treasury into which may be deposited: *Civic Enhancement allocations*; funding for *collections management activities*; funding for *public art project management activities*; monetary bequests and donations for specific or unspecified *cultural use*; grants; grant matching funds; and transient occupancy tax funds.

Public art project management activities include, but are not limited to, *artist* selection process activities; payment of stipends to *artists* and consultant fees; community participation activities; outreach and educational activities; implementation of communication tools such as interpretive plaques; project documentation activities; and staff administration of all of the above activities.

Public places mean lands and buildings owned or controlled by the City.

Redevelopment Agency Project means any undertaking of the City of San Diego Redevelopment Agency in a *Redevelopment Project Area* pursuant to the authority vested in the Redevelopment Agency under California Health and Safety Code sections 33000, *et. seq.*

Redevelopment Project Area means any area formally adopted by the City Council pursuant to Community Redevelopment Law, codified in California Health and Safety Code sections 33000, *et. seq.*, maps of which are on file in the Office of the City Clerk.

Total building permit valuation means the combined total valuation of all new structures, including tenant improvements within those new structures, within the premises, using the latest building valuation data as set forth by the International Code Council and used by the City Building Official in determining valuation.

§22.5903 Control of Artworks

No *artworks* shall be contracted for, exhibited on, or erected on *public places*, or become the property of the City by *acquisition* or otherwise, or be in the custody of the City by loan or otherwise, unless such *artworks* have first been submitted to and accepted by the Cultural Affairs Department following review and

recommendation by the *Commission*. No existing *artworks* owned by or in the custody of the City shall be *deaccessioned*, removed, relocated, conserved, altered, exhibited, or *disposed* of in any way without the approval of the Cultural Affairs Department following review and recommendation by the *Commission*.

§22.5904 Management of Artworks

All *collections management activities* shall be the responsibility of the Cultural Affairs Department and undertaken with the advice of the *Commission*. *Ordinary artwork maintenance of artworks* in the *Civic Art Collection* is the responsibility of the City department at which the *artwork* is located and shall be undertaken at the direction of the Cultural Affairs Department.

§22.5905 Acquisition of Artworks

- (a) The Cultural Affairs Department Director may authorize the purchase of *artworks* for inclusion in the *Civic Art Collection* following the review and recommendation of the *Commission*.
- (b) The Cultural Affairs Department Director shall, on behalf of the City, accept, with or without conditions, or reject donations, bequests, or incoming loans of *artwork*, following the review and recommendation of the *Commission*. Title to all donated and bequeathed *artworks* accepted by the City and *accessioned* into the *Civic Art Collection* shall be vested and held in the name of the City.

§22.5906 Deaccession and Disposal of Artworks

- (a) The Cultural Affairs Department shall conduct *deaccession* and *disposal* of *artworks* from the *Civic Art Collection* following the review and recommendation of the *Commission*.

- (b) When an *artwork* to be *deaccessioned* and *disposed* of through sale has an estimated fair market value of \$250,000 or more, the Cultural Affairs Department shall submit a report on its recommendation for the sale to the City Council and City Manager at least thirty calendar days prior to initiating the sale.
- (c) When an *artwork* is *deaccessioned* and *disposed* of through sale, the *artwork* shall be sold through methods administered or approved by the City Purchasing Agent. When an *artwork* is *deaccessioned* and *disposed* of through sale or exchange, the Cultural Affairs Department Director may accept and execute all deeds of conveyance necessary to affect the sale or exchange.

§22.5907 Proceeds from the Sale, Loan, Reproduction, or Adaptation of Artworks

All monies received from the sale of *artworks* from the *Civic Art Collection* must be expended on new *acquisitions* for the *Civic Art Collection*. Proceeds from the loan of *artworks* from the *Civic Art Collection* or from the licensing of the making of reproductions or adaptations of *artworks* from the *Civic Art Collection*, shall be deposited into the *Public Art Fund*, less any payments due.

§22.5908 Civic Enhancement Allocation Regulations and Calculations

- (a) To ensure that the City's increasing urbanization is offset by the creation of *artworks* and venues dedicated to *cultural use*, no final City approval to occupy any private industrial or commercial *development*, or any portion thereof, with a *total building permit valuation* greater than or equal to \$5,000,000 (revised annually by the percentage increase or decrease in the Los Angeles/San Diego

Construction Cost Index as reported and published by the Engineering News Record or its successor for the twelve-month period ending January 1 of each year), may be granted unless a *Civic Enhancement allocation* in an amount equal to one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(1) or (b)(2)) or one-half of one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(3)) of its *total building permit valuation* has been set aside by the *applicant*, subject to the provisions of section 22.5910.

- (1) For phased *development*, calculation of *total building permit valuation* will be based on the total number of building permits applied for, but not yet issued, for the *premises*, but does not include any withdrawn permit applications.
 - (2) The calculation of *total building permit valuation* shall not include any exempt component of a mixed-use *development*.
 - (3) The calculation of *total building permit valuation* shall not include that portion of new tenant improvements that exceed \$150 per square foot and is an occupancy classification required under the California Building Code to be a Type I fire-rated occupancy classification.
- (b) An *applicant* must comply with the *Civic Enhancement allocation* requirements set forth in this section through one of the following means:

- (1) *Applicant shall place artworks on the premises. The applicant shall ensure that the artworks will be located in an area that is open and accessible. If the value of the artwork, including art consultant fees and the costs for design, fabrication, installation, and documentation, is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the artwork.*
- (2) *Applicant shall maintain a portion of the premises as open and accessible for cultural use. If the value of that portion of the premises which is open and accessible for cultural use is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the premises which is open and accessible for cultural use.*
- (3) *Applicant shall deposit into the Public Art Fund an in-lieu fee payment equal to one-half of one percent of the total building permit valuation for the development.*

§22.5909 Civic Enhancement Allocation Declaration

Upon applying for a building permit, the *applicant* shall:

- (a) declare in writing the means by which the *applicant* will comply with the requirements of section 22.5908; and

- (b) where applicable, enter into a Declaration of Covenants, Conditions, and Restrictions in accordance with section 22.5911.

§22.5910 Compliance with Civic Enhancement Allocation Regulations

- (a) If the *applicant* chooses to pay an in-lieu fee in accordance with the provisions of section 22.5908(b)(3), no building permit for the *development* may be issued without payment of the in-lieu fee to the *City's Public Art Fund*.
- (b) If the *applicant* chooses to install an *artwork* on the *premises* or maintain a portion of the *premises open and accessible for cultural use* in accordance with the requirements of section 22.5908(b)(1) or (b)(2), no building permit for the *development* may be issued until the *applicant* deposits security with the City, either in the form of a surety bond issued by a surety company authorized to do business in the State of California, cash, or the equivalent security approved by the City Manager and City Attorney, equal to one-half of one percent of the *total building permit valuation*. Any costs associated with acquiring the required security are the responsibility of the *applicant*, and are in addition to, and may not be deducted from, the *Civic Enhancement allocation*.
- (c) Prior to issuance of the Certificate of Occupancy for the *development*, the *applicant* shall submit evidence, subject to a written determination of adequacy by the Director of the Cultural Affairs Department, of one or a combination of the following:

- (1) The value of the *artwork* installed on the *premises* is equal to or greater than one percent of the *total building permit valuation* for the *development*. Such evidence may include the costs of art consultant fees, *artist* design fees, fabrication of the *artwork*, installation of the *artwork*, and documentation of the *artwork*.
- (2) The value of the portion of the *premises*, which is maintained *open and accessible* for *cultural use*, is equal to or greater than one percent of the *total building permit valuation* for the *development*. Such evidence may include data establishing the proportional value of the total square footage and all tenant improvements for the *development*.

§22.5911 Declaration of Covenants, Conditions, and Restrictions for Developments Subject to the Civic Enhancement Allocation Regulations

If the *applicant* installs an *artwork* on the *premises* or maintains a portion of the *premises open and accessible* for *cultural use* in accordance with the requirements of section 22.5908(b)(1) or (b)(2), the *development* shall have recorded against it a Declaration of Covenants, Conditions, and Restrictions in favor of the City and in a form approved by the City Attorney, which shall include the following provisions as appropriate:

- (a) The owner of the *development* shall maintain and preserve the *artwork* in good condition to the reasonable satisfaction of the City, and protect the *artwork* against destruction, distortion, mutilation, or other modification. The owner of the *development* may retain ten percent of the *Civic Enhancement allocation* to fund the costs of conservation,

ongoing maintenance, insurance, and security of the *artwork*, as necessary to comply with the requirements set forth in this division.

- (b) The owner of the *development* shall ensure that the *artwork* will be in an area that is *open and accessible*.
- (c) A description of that portion of the *premises* will be included, which will be maintained *open and accessible*, that specifies its designated *cultural use*.
- (d) Any other reasonable terms necessary shall be included to implement the provisions set forth in this division.

§22.5912 Return of Civic Enhancement Allocations

- (a) *Civic Enhancement allocations* paid into the City's *Public Art Fund* that are unexpended within five years from the date of payment may be returned to the then-current owner(s) of the *development*, with all interest actually earned thereon, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of the *Civic Enhancement allocations* is approved by the City Council. The request for return shall be verified by City staff, and it shall include the date of payment, the amount paid and method of payment, the location of the *development* for which the *Civic Enhancement allocation* was paid, and a statement that the person making the request is the current owner of the *development*.
- (b) The City Council shall determine if return of the unexpended portion of the *Civic Enhancement allocation* and interest is appropriate under subsection (c) below and, if so, the method of refund.

- (c) Provided that notice of a public hearing consistent with State law regarding the City Council's consideration of a *Civic Enhancement allocation* and interest refund has been published and posted by the City on the site of the *development* in not less than three places, the City Council may decide that no refund shall be appropriate if the City Council determines any one of the following conditions applies:
- (1) The City Council finds that the funds are needed for *artwork* or *cultural use* for a similar purpose.
 - (2) The *Civic Enhancement allocation* requirements were satisfied by letter of credit, bond, or other instrument taken to secure payment at a future date.
 - (3) The administrative cost of refunding unexpended *Civic Enhancement allocations* exceeds the amount to be refunded.

§22.5913 Failure to Maintain Artwork Created Through Civic Enhancement Allocations

Failure to maintain *artworks* created through *Civic Enhancement allocations* may be a public nuisance under California Civil Code section 3479.

§22.5914 Civic Enhancement Allocation Appeal

- (a) Any *applicant* may seek review of a decision by the Director of the Cultural Affairs Department under section 22.5910(c) by filing a written application for an appeal hearing with the Director of the Cultural Affairs Department no later than ten business days after the date of the written notification to the applicant of the Director's decision.

- (b) Within ten business days of an application for appeal being filed, the Director of the Cultural Affairs Department shall schedule a date for an appeal hearing before the City Manager or the City Manager's designee, which shall generally be held within sixty business days, but no later than ninety business days, following the filing of the application for the hearing. The Certificate of Occupancy for the *development* may be withheld pending resolution of the appeal.
- (c) At the conclusion of the appeal hearing, the City Manager or the City Manager's designee may affirm, reverse, or modify the Director's decision. The decision of the City Manager or the City Manager's designee is final.

§22.5915 Civic Enhancement Allocation Exemptions

The *Civic Enhancement allocation* requirements do not apply to the following:

- (a) industrial and commercial *development* with a *total building permit valuation* of less than \$5,000,000 or current threshold pursuant to section 22.5908;
- (b) any *premises* that has an institutional use, such as churches, hospitals, and schools;
- (c) any *premises* that is used solely for residential *development*;
- (d) any *premises* that is owned or leased solely by a non-profit entity and used in furtherance of the owner's or lessee's non-profit purpose;
- (e) industrial and commercial *development* that is not *open and accessible*, in its entirety, to the general public due to security reasons; or

- (f) industrial and commercial *development* that is not *open and accessible*, in its entirety, to the general public due to the storage and use of hazardous, radiological, or infectious materials that may jeopardize the public's safety.

Section 3. That Chapter 2, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 26.0701, 26.0702, 26.0704, and 26.0705, and by repealing sections 26.0712, 26.0713, 26.0714, 26.0715, 26.0716, 26.0717, 26.0718, 26.0719, 26.0720, 26.0721, 26.0722, 26.0723, 26.0724, 26.0725, 26.0726, 26.0727, and 26.0728, to read as follows:

Article 6: Boards and Commissions

Division 7: Commission for Arts and Culture

§26.0701 Purpose and Intent

It is the purpose and intent of the City Council to establish a Commission for Arts and Culture, supported by City staff as delegated by the City Manager, to serve in an advisory capacity to the City Council and City Manager on promoting, encouraging, and increasing support for the region's artistic and cultural assets, integrating arts and culture into community life, and showcasing San Diego as an international tourist destination.

§26.0702 Definitions

For purposes of this Division, defined terms appear in italics and have the meaning set forth in section 22.5902.

§26.0704 Duties and Functions – Commission for Arts and Culture

The *Commission* shall:

- (a) advocate for the role and value of arts and culture in civic life;

- (b) promote greater public participation in, and access to, arts and culture;
- (c) evaluate the City's programmatic allocation of transient occupancy tax funds for arts and culture and strongly advocate for increasing arts and culture funding to levels which measurably support the vitality and stability of established arts and cultural organizations, and which foster an environment attractive to and nurturing of emerging arts and cultural organizations;
- (d) advocate for and explore alternate sources of arts and culture funding including grants, donations, and corporate sponsorships;
- (e) advise on the development, implementation, evaluation, or change of the City's arts and culture public policy, legislation, programs, and services;
- (f) advocate for City public policy, legislation, programs, and services that foster a wide range of arts and cultural offerings which engage a diverse public audience;
- (g) review the annual proposed arts and culture funding allocations related to *Commission* business in the budget for transient occupancy tax funds for the Arts, Culture, and Community Festivals priority area and provide recommendations to such budget allocations;
- (h) advise on the administration of the arts and culture funding allocations within transient occupancy tax funds for the Arts, Culture, and Community Festivals priority area;
- (i) oversee and, when appropriate, participate in an open and impartial process for evaluating transient occupancy tax funding applications from local, non-profit arts and culture organizations;

- (j) recommend to the City Council and City Manager the fair distribution of transient occupancy tax funds to non-profit arts and culture organizations and *artists*, to support local arts and culture programming;
- (k) advise on *collections management activities* and *public art project management activities* pertaining to existing and proposed *artworks* for the *Civic Art Collection*, or contracted for, exhibited on, or erected on *public places*;
- (l) advise on allocations to and from the *Public Art Fund*;
- (m) advise on the policies and processes whereby *artworks* are included in *Capital Improvements Program projects* and *Redevelopment Agency projects* and ensure that *artists* are involved as early as possible in the pre-design or design phases for each project;
- (n) advocate for the fair distribution of arts and culture amenities across each City Council district and throughout the City's neighborhoods and communities;
- (o) participate in the initiation, implementation, or sponsorship, alone or in partnership with other public agencies or private organizations, of programs and services to support local arts and culture organizations and individual *artists*;
- (p) serve as the City's advocates for arts and culture within the City Council, as well as the private sector, local, regional, state, and federal governments, and international entities, such as Mexico, Canada, Japan, and other Pacific Rim countries;

- (q) advise on other arts and culture issues as directed by the City Council or City Manager;
- (r) hold regular public meetings and keep written records of the proceedings which shall be public records; and
- (s) adopt rules consistent with laws for the governance of its business and procedures.

§26.0705 Qualification of Commissioners

- (a) Commissioners shall be persons who represent the following: individual arts and culture patrons, *artists*, educators, the business and professional community, those with professional qualifications and experience or knowledge of a particular arts and culture field, and the general public. Efforts should be made to include Commissioners who represent diverse backgrounds including race, gender, age, socio-economic class, geographic location, religion, gender expression, gender identity, sexual orientation, skills and abilities, ethnicity, political affiliation, and professional background. Commissioners also shall be persons who will commit to volunteering time to serve on the *Commission*, which meets monthly, as well as on at least one *Commission* committee on an annual basis.
- (b) Board Chairs, Presidents, or other officers of the board of directors of an organization funded by the City through the *Commission* may not be considered for an appointment to the *Commission* or accept such a position while a Commissioner. A high-level, full-time employee of an organization funded by the *Commission* may not be considered for

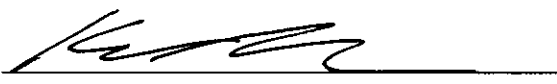
appointment to the *Commission* or accept such a position while a Commissioner. In selecting Commissioners, the City Manager or the City Manager's designee shall consider whether candidates would be able to effectively and ethically serve in light of any foreseeable conflicts of interest.

Section 4. That the Ordinance related to the California Coastal Commission modifications to the 2021 Land Development Code/Municipal Code Update will be considered by the City Council concurrently or in the near future which amend a San Diego Municipal Code section also amended by this Ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text within these sections upon the final passage of these ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

Section 5. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Ken So
Deputy City Attorney

KRS:cc:cm
12/01/2023
Or.Dept: Commission for Arts and Culture
Doc. No. 3418544_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 08 2024.

DIANA J.S. FUENTES
City Clerk

By Krystle Medina
Deputy City Clerk

Approved: 10/11/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note: The date of final passage is October 14, 2024, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 18, SECTION 22.1801 TO ADD THE CULTURAL AFFAIRS DEPARTMENT AS A CITY DEPARTMENT, AND BY ADDING NEW DIVISION 59, SECTIONS 22.5901, 22.5902, 22.5903, 22.5904, 22.5905, 22.5906, 22.5907, 22.5908, 22.5909, 22.5910, 22.5911, 22.5912, 22.5913, 22.5914, AND 22.5915 RELATING TO THE RESPONSIBILITIES AND DUTIES OF THE CULTURAL AFFAIRS DEPARTMENT; AND AMENDING CHAPTER 2, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 26.0701, 26.0702, 26.0704, AND 26.0705, AND BY REPEALING SECTIONS 26.0712, 26.0713, 26.0714, 26.0715, 26.0716, 26.0717, 26.0718, 26.0719, 26.0720, 26.0721, 26.0722, 26.0723, 26.0724, 26.0725, 26.0726, 26.0727, AND 26.0728, RELATING TO THE COMMISSION FOR ARTS AND CULTURE.

§22.1801 City Departments

- (a) [No change in text.]
- (b) The following are the departments of the City of San Diego within the meaning of the Charter and ordinances of the City:

Chief Financial Officer through Compliance [No change in text.]

Cultural Affairs Department

Debt Management through Transportation [No change in text.]
- (c) [No change in text.]

Article 2: Administrative Code

Division 59: Cultural Affairs Department

§22,5901 Cultural Affairs Department

- (a) The Cultural Affairs Department is a City department. The department is responsible for advancing arts, culture, creativity, and related activities and industries in the City; supporting cultural tourism and innovative arts and cultural programming; and undertaking initiatives that drive an equitable and inclusive creative economy and cultural ecosystem, cultivating local participation and access, and advancing San Diego as a global city.
- (b) The Director of the Cultural Affairs Department is the administrative head of the department and is appointed by, and may be removed by, the City Manager. The Director is the appointing authority of all personnel in the department.
- (c) The Cultural Affairs Department will operate under the direction of the City Manager. The department is responsible for performing those duties and functions assigned and directed by the City Manager, including developing, implementing, evaluating, and recommending changes to public policy, legislation, programs, services, and advocacy strategies related to cultural affairs; overseeing the City's investments in new and artistic media, creative industries, and cultural production; administering funding allocations in support of nonprofit arts and culture organizations, artists, neighborhood arts programs, festivals, and artworks in public

development; administering the arts and culture programmatic allocations within the transient occupancy tax funds; administering allocations to and from the *Public Art Fund*; ensuring the inclusion of art in private development; overseeing *public art project management activities for artworks included in Capital Improvement Program projects, Redevelopment Agency projects, and other projects in public places; managing artworks owned and controlled by the City or contracted for, erected on, or exhibited on public places, including entering into and administering contracts related to the acquisition, loan, or licensing of such artworks; accessioning and deaccessioning artworks into the Civic Art Collection; and supporting the Commission for Arts and Culture in carrying out its duties as established in Chapter 2, Article 6, Division 7, and any other board or commission assigned by the City Manager.*

§22.5902

Definitions

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Accession means the formal process used to accept and record an *artwork* as a *Civic Art Collection* item.

Acquisition means the transfer of title to the City of valuable property, including *artwork* by purchase, donation, bequest, transfer, or exchange.

Applicant has the same meaning as stated in San Diego Municipal Code section 113.0103.

Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, or a combination thereof, based on that professional practitioner's body of work, educational background, experience, past commissions, exhibition/performance record, publications, and production of artworks.

Artwork(s) must be specified or designed by an artist and include:

Public art as defined herein;

Sculpture: may be made of any material or combination of materials; may be free standing, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical;

Murals or paintings: may be made of any material or combination of materials; may be made with traditional or non-traditional means;

Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, linguistic expressions, calligraphy, ephemera, textiles, found objects, and any media or combination of media including audio, video, film, holographic or computer-generated technologies, or other art genres currently known or which may come to be known; and

Tangible manifestations (i.e., CDs, DVDs, scripts, photographs, videos, films, scores, etc.) of choreography, theatrical performances, performance art, happenings, music, television, and film, or other

performing or language art genres currently known, or which may come to be known.

Artworks may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.

The following, unless specified or designed by an *artist*, are not considered *artworks*:

Reproductions, by mechanical or other means, of original *artworks*.

However, limited editions controlled by the *artist* or original prints, cast sculptures, or photographs, may be considered *artworks*;

Decorative, ornamental, or functional elements not specified or designed by an *artist*;

Elements generally considered as being components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc.;

Art objects that are mass-produced, ordered from a catalog, or of standard design (such as benches or fountains); and

Wayfinding or other functional elements, such as graphics, signage, advertising, or maps.

Capital Improvements Program project means any permanent public improvement project, or portion or phase thereof, set forth in the Capital Improvements Program budget as adopted by City Council.

Civic Art Collection means artworks which have been accessioned and are publicly owned, possessed, or controlled by the City and administered by the Cultural Affairs Department. Incoming loans of artwork shall be incorporated into the Civic Art Collection for the duration of the loan, but are not considered acquisitions.

Civic Enhancement allocation means the percentage of the total building permit valuation for a qualifying development, in accordance with the requirements set forth herein, which is set aside for artwork on the premises, areas dedicated for cultural use on the premises, or an in-lieu contribution to the Public Art Fund.

Collections management activities include the acquisition, incoming loan, outgoing loan, interdepartmental loan, deaccession, disposal, relocation, removal, exhibition, operation, maintenance, conservation, extraordinary maintenance, documentation, storage, reproduction, and adaptation of artworks.

Commission means the City of San Diego Commission for Arts and Culture established in Chapter 2, Article 6, Division 7.

Cultural use means open and accessible programming for the presentation of visual, performing, and language arts, or a combination thereof.

Deaccession means the formal process used to permanently remove an artwork from the Civic Art Collection.

Development has the same meaning as stated in San Diego Municipal Code section 113.0103.

Disposal or dispose means the permanent exchange, sale, destruction, or transfer of an *artwork* in the *Civic Art Collection*.

Extraordinary artwork maintenance means any maintenance or conservation to the sound condition of an *artwork* that requires specialized services.

Open and accessible means available for use by the public during normal hours of business operation consistent with the operation and use of the *premises*.

Ordinary artwork maintenance means the routine oversight of the operation and cleaning of and around *artworks*.

Premises has the same meaning as stated in San Diego Municipal Code section 113.0103.

Public art means *artwork* acquired or created using funds appropriated by the City and located in *public places*.

Public Art Fund means a separate fund established in the City Treasury into which may be deposited: *Civic Enhancement allocations*; funding for *collections management activities*; funding for *public art project management activities*; monetary bequests and donations for specific or unspecified *cultural use*; grants; grant matching funds; and transient occupancy tax funds.

Public art project management activities include, but are not limited to, *artist selection process activities*; payment of stipends to *artists* and consultant fees; *community participation activities*; outreach and educational activities;

implementation of communication tools such as interpretive plaques; project documentation activities; and staff administration of all the above activities.

Public places means lands and buildings owned or controlled by the City.

Redevelopment Agency Project means any undertaking of the City of San Diego

Redevelopment Agency in a Redevelopment Project Area pursuant to the authority vested in the Redevelopment Agency under California Health and Safety Code sections 33000, et. seq.

Redevelopment Project Area means any area formally adopted by the City Council pursuant to Community Redevelopment Law, codified in California Health and Safety Code sections 33000, et. seq., maps of which are on file in the Office of the City Clerk.

Total building permit valuation means the combined total valuation of all new structures, including tenant improvements within those new structures, within the premises, using the latest building valuation data as set forth by the International Code Council and used by the City Building Official in determining valuation.

§22.5903

Control of Artworks

No artworks shall be contracted for, exhibited on, or erected on public places, or become the property of the City by acquisition or otherwise, or be in the custody of the City by loan or otherwise, unless such artworks have first been submitted to and accepted by the Cultural Affairs Department following review and recommendation by the Commission. No existing artworks owned by or in the custody of the City shall be deaccessioned, removed, relocated, conserved,

altered, exhibited, or disposed of in any way without the approval of the Cultural Affairs Department following review and recommendation by the Commission.

§22.5904 **Management of Artworks**

All collections management activities shall be the responsibility of the Cultural Affairs Department and undertaken with the advice of the Commission. Ordinary artwork maintenance of artworks in the Civic Art Collection is the responsibility of the City department at which the artwork is located and shall be undertaken at the direction of the Cultural Affairs Department.

§22.5905 **Acquisition of Artworks**

(a) The Cultural Affairs Department Director may authorize the purchase of artworks for inclusion in the Civic Art Collection following the review and recommendation of the Commission.

(b) The Cultural Affairs Department Director shall, on behalf of the City, accept, with or without conditions, or reject donations, bequests, or incoming loans of artwork, following the review and recommendation of the Commission. Title to all donated and bequeathed artworks accepted by the City and accessioned into the Civic Art Collection shall be vested and held in the name of the City.

§22.5906 **Deaccession and Disposal of Artworks**

(a) The Cultural Affairs Department shall conduct deaccession and disposal of artworks from the Civic Art Collection following the review and recommendation of the Commission.

(b) When an artwork to be deaccessioned and disposed of through sale has an estimated fair market value of \$250,000 or more, the Cultural Affairs Department shall submit a report on its recommendation for the sale to the City Council and City Manager at least thirty calendar days prior to initiating the sale.

(c) When an artwork is deaccessioned and disposed of through sale, the artwork shall be sold through methods administered or approved by the City Purchasing Agent. When an artwork is deaccessioned and disposed of through sale or exchange, the Cultural Affairs Department Director may accept and execute all deeds of conveyance necessary to affect the sale or exchange.

§22.5907 Proceeds from the Sale, Loan, Reproduction, or Adaptation of Artworks

All monies received from the sale of artworks from the Civic Art Collection must be expended on new acquisitions for the Civic Art Collection. Proceeds from the loan of artworks from the Civic Art Collection or from the licensing of the making of reproductions or adaptations of artworks from the Civic Art Collection, shall be deposited into the Public Art Fund, less any payments due.

§22.5908 Civic Enhancement Allocation Regulations and Calculations

(a) To ensure that the City's increasing urbanization is offset by the creation of artworks and venues dedicated to cultural use, no final City approval to occupy any private industrial or commercial development, or any portion thereof, with a total building permit valuation greater than or equal to \$5,000,000 (revised annually by the

percentage increase or decrease in the Los Angeles/San Diego Construction Cost Index as reported and published by the Engineering News Record or its successor for the twelve-month period ending January 1 of each year), may be granted unless a *Civic Enhancement allocation* in an amount equal to one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(1) or (b)(2)) or one-half of one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(3)) of its *total building permit valuation* has been set aside by the *applicant*, subject to the provisions of section 22.5910.

(1) For phased *development*, calculation of *total building permit valuation* will be based on the total number of building permits applied for, but not yet issued, for the *premises*, but does not include any withdrawn permit applications.

(2) The calculation of *total building permit valuation* shall not include any exempt component of a mixed-use *development*.

(3) The calculation of *total building permit valuation* shall not include that portion of new tenant improvements that exceed \$150 per square foot and is an occupancy classification required under the California Building Code to be a Type I fire-rated occupancy classification.

(b) An applicant must comply with the Civic Enhancement allocation requirements set forth in this section through one of the following means:

- (1) Applicant shall place artworks on the premises. The applicant shall ensure that the artworks will be in an area of the premises that is open and accessible. If the value of the artwork, including art consultant fees and the costs for design, fabrication, installation, and documentation, is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the artwork.
- (2) Applicant shall maintain a portion of the premises as open and accessible for cultural use. If the value of that portion of the premises which is open and accessible for cultural use is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the premises which is open and accessible for cultural use.
- (3) Applicant shall deposit into the Public Art Fund an in-lieu fee payment equal to one-half of one percent of the total building permit valuation for the development.

§22.5909 **Civic Enhancement Allocation Declaration**

Upon applying for a building permit, the *applicant* shall:

- (a) declare in writing how the *applicant* will comply with the requirements of section 22.5908; and
- (b) where applicable, enter a Declaration of Covenants, Conditions, and Restrictions in accordance with section 22.5911.

§22.5910 **Compliance with Civic Enhancement Allocation Regulations**

- (a) If the *applicant* chooses to pay an in-lieu fee under section 22.5908(b)(3), no building permit for the *development* may be issued without payment of the in-lieu fee to the City's *Public Art Fund*.
- (b) If the *applicant* chooses to install an *artwork* on the *premises* or maintain a portion of the *premises open and accessible for cultural use* in accordance with the requirements of section 22.5908(b)(1) or (b)(2), no building permit for the *development* may be issued until the *applicant* deposits security with the City, either in the form of a surety bond issued by a surety company authorized to do business in the State of California, cash, or the equivalent security approved by the City Manager and City Attorney, equal to one-half of one percent of the *total building permit valuation*. Any costs associated with acquiring the required security are the responsibility of the *applicant*, and are in addition to, and may not be deducted from, the *Civic Enhancement allocation*.

- (c) Prior to issuance of the Certificate of Occupancy for the development, the applicant shall submit evidence, subject to a written determination of adequacy by the Director of the Cultural Affairs Department, of one or a combination of the following:
- (1) The value of the artwork installed on the premises is equal to or greater than one percent of the total building permit valuation for the development. Such evidence may include the costs of art consultant fees, artist design fees, fabrication of the artwork, installation of the artwork, and documentation of the artwork.
 - (2) The value of the portion of the premises, which is maintained open and accessible for cultural use, is equal to or greater than one percent of the total building permit valuation for the development. Such evidence may include data establishing the proportional value of the total square footage and all tenant improvements for the development.

§22.5911 Declaration of Covenants, Conditions, and Restrictions for Developments Subject to the Civic Enhancement Allocation Regulations

If the applicant installs an artwork on the premises or maintains a portion of the premises open and accessible for cultural use in accordance with the requirements of section 22.5908(b)(1) or (b)(2), the development shall have recorded against it a Declaration of Covenants, Conditions, and Restrictions in favor of the City and in a form approved by the City Attorney, which shall include the following provisions as appropriate:

- (a) The owner of the *development* shall maintain and preserve the *artwork* in good condition to the reasonable satisfaction of the City, and protect the *artwork* against destruction, distortion, mutilation, or other modification. The owner of the *development* may retain ten percent of the *Civic Enhancement allocation* to fund the costs of conservation, ongoing maintenance, insurance, and security of the *artwork*, as necessary to comply with the requirements set forth in this division.
- (b) The owner of the *development* shall ensure that the *artwork* will be in an area that is *open and accessible*.
- (c) A description of that portion of the *premises* will be included, which will be maintained *open and accessible*, that specifies its designated *cultural use*.
- (d) Any other reasonable terms necessary shall be included to implement the provisions set forth in this division.

§22.5912 **Return of Civic Enhancement Allocations**

- (a) *Civic Enhancement allocations* paid into the City's *Public Art Fund* that are unexpended within five years from the date of payment may be returned to the then-current owner(s) of the *development*, with all interest actually earned thereon, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of the *Civic Enhancement allocations* is approved by the City Council. The request for return shall be verified by City staff, and it shall include the date of payment, the amount paid and method of payment, the location of

the development for which the Civic Enhancement allocation was paid, and a statement that the person making the request is the current owner of the development.

(b) The City Council shall determine if return of the unexpended portion of the Civic Enhancement allocation and interest is appropriate under subsection (c) below and, if so, the method of refund.

(c) Provided that notice of a public hearing consistent with State law regarding the City Council's consideration of a Civic Enhancement allocation and interest refund has been published and posted by the City on the site of the development in not less than three places, the City Council may decide that no refund shall be appropriate if the City Council determines any one of the following conditions applies:

(1) The City Council finds that the funds are needed for artwork or cultural use for a similar purpose.

(2) The Civic Enhancement allocation requirements were satisfied by letter of credit, bond, or other instrument taken to secure payment at a future date.

(3) The administrative cost of refunding unexpended Civic Enhancement allocations exceeds the amount to be refunded.

§22.5913 **Failure to Maintain Artwork Created Through Civic Enhancement Allocations**

Failure to maintain artworks created through Civic Enhancement allocations may be a public nuisance under California Civil Code section 3479.

§22.5914 **Civic Enhancement Allocation Appeal**

- (a) Any applicant may seek review of a decision by the Director of the Cultural Affairs Department under section 22.5910(c) by filing a written application for an appeal hearing with the Director of the Cultural Affairs Department no later than ten business days after the date of the written notification to the applicant of the Director's decision.

- (b) Within ten business days of an application for appeal being filed, the Director of the Cultural Affairs Department shall schedule a date for an appeal hearing before the City Manager or the City Manager's designee, which shall generally be held within sixty business days, but no later than ninety business days, following the filing of the application for the hearing. The Certificate of Occupancy for the development may be withheld pending resolution of the appeal.

- (c) At the conclusion of the appeal hearing, the City Manager or the City Manager's designee may affirm, reverse, or modify the Director's decision. The decision of the City Manager or the City Manager's designee is final.

§22.5915 **Civic Enhancement Allocation Exemptions**

The Civic Enhancement allocation requirements do not apply to the following:

- (a) industrial and commercial development with a total building permit valuation of less than \$5,000,000 or current threshold pursuant to section 22.5908;

- (b) any premises that has an institutional use, such as churches, hospitals, and schools;
- (c) any premises that is used solely for residential development;
- (d) any premises that is owned or leased solely by a non-profit entity and used in furtherance of the owner's or lessee's non-profit purpose;
- (e) industrial and commercial development that is not open and accessible, in its entirety, to the general public due to security reasons; or
- (f) industrial and commercial development that is not open and accessible, in its entirety, to the general public due to the storage and use of hazardous, radiological, or infectious materials that may jeopardize the public's safety.

Article 6: ~~Board~~ Boards and Commissions

Division 7: Commission for Arts and Culture

§26.0701 Purpose and Intent

It is the purpose and intent of the City Council to establish a Commission for Arts and Culture, supported by City staff as delegated by the City Manager, to serve in an advisory capacity to the ~~Mayor,~~ City Council and City Manager on promoting, encouraging, and increasing support for the region's artistic and cultural assets, integrating arts and culture into community life, and showcasing San Diego as an international tourist destination.

~~It is also the purpose and intent of the City Council to set forth the duties and functions of the Executive Director and staff that support the Commission for Arts and Culture, which include: developing, implementing, evaluating and/or recommending changes to public policy, legislation, programs, services and~~

advocacy strategies; overseeing funding allocations in support of non-profit arts and culture organizations, artists, neighborhood arts programs, festivals, and artworks in public development; ensuring the inclusion of art in private development; managing artworks owned and controlled by the City; supporting cultural tourism and innovative arts and culture programming; and undertaking other initiatives that contribute to the quality of life, the economic vitality, and the vibrancy of San Diego.

§26.0702 Definitions

Except as otherwise provided, the following definitions apply to the terms italicized in this division: For purposes of this Division, defined terms appear in italics and have the meaning set forth in section 22.5902.

Applicant has the same meaning as stated in Land Development Code section 113.0103.

Accession means the formal process used to accept and record an *artwork* as a *Civic Art Collection* item.

Acquisition means the transfer of title to the City of valuable property including *artwork* by purchase, donation, bequest, transfer, or exchange.

Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or language arts, or a combination thereof, based on that professional practitioner's body of work, educational background, experience, past commissions, exhibition/performance record, publications, and production of *artworks*.

~~Artwork(s) must be specified or designed by an artist and include:~~

~~Public art as defined herein;~~

~~Sculpture: may be made of any material or combination of materials; may be free-standing, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical;~~

~~Murals or paintings: may be made of any material or combination of materials; may be made with traditional or non-traditional means;~~

~~Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, linguistic expressions, calligraphy, ephemera, textiles, found objects, and any media or combination of media including audio, video, film, holographic or computer-generated technologies, or other art genres currently known, or which may come to be known; and~~

~~Tangible manifestations (i.e., CDs, DVDs, scripts, photographs, videos, films, scores, etc.) of choreography, theatrical performances, performance art, happenings, music, television, and film or other performing or language art genres currently known, or which may come to be known.~~

~~Artworks may be permanent, temporary, fixed, or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.~~

~~The following, unless specified or designed by an *artist*, are not considered *artworks*:~~

~~Reproductions, by mechanical or other means, of original *artworks*.~~

~~However, limited editions controlled by the *artist* or original prints, cast sculptures, or photographs, may be considered *artworks*;~~

~~Decorative, ornamental, or functional elements not specified or designed by an *artist*;~~

~~Elements generally considered as being components of architecture or landscape design such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc.~~

~~Art objects which are mass produced, ordered from a catalog, or of standard design (such as benches or fountains); wayfinding or other functional elements, such as graphics, signage, advertising, or maps.~~

~~*Capital Improvements Program project* means any permanent public improvement project, or portion or phase thereof, set forth in the Capital Improvements Program budget as adopted by City Council.~~

~~*Civic Art Collection* means *artworks* which have been *accessioned* and are publicly owned, possessed, or controlled by the City and administered by the *Commission*. Incoming loans of *artwork* shall be incorporated into the *Civic Art Collection* for the duration of the loan but are not considered *acquisitions*.~~

~~*Civic Enhancement allocation* means the percentage of the *total building permit valuation* for a qualifying *development* in accordance with the requirements set forth herein which is set aside for *artwork* on the *premises*, venues for *cultural*~~

~~use on the premises and/or an in-lieu contribution to the Public Art Fund.~~

~~Collections management activities include, but are not limited to, the acquisition, incoming loan, outgoing loan, interdepartmental loan, deaccession, disposal, relocation, removal, exhibition, operation, maintenance, conservation, documentation, storage, reproduction and/or adaptation of artworks.~~

~~Commission means the City of San Diego Commission for Arts and Culture.~~

~~Cultural use means open and accessible programming for the presentation of visual, performing and/or language arts.~~

~~Deaccession means the formal process used to permanently remove an artwork from the Civic Art Collection.~~

~~Development has the same meaning as stated in Land Development Code section 113.0103.~~

~~Disposal means the permanent exchange, sale, destruction or transfer of an artwork in the Civic Art Collection.~~

~~Extraordinary artwork maintenance means any maintenance or conservation to the sound condition of an artwork that requires specialized services.~~

~~Open and accessible means available for use by the general public during normal hours of business operation consistent with the operation and use of the premises.~~

~~Ordinary artwork maintenance means the routine oversight of the operation and cleaning of and around artworks.~~

~~Premises has the same meaning as stated in Land Development Code section 113.0103.~~

~~*Public art* means artwork acquired or created using funds appropriated by the City and located in public places.~~

~~*Public Art Fund* means a separate fund established in the City Treasury into which Civic Enhancement allocations; funding for collections management activities; funding for public art project management activities; monetary bequests and donations for specific or unspecified cultural use; grants; grant matching funds; and Transient Occupancy Tax [TOT] funds may be deposited.~~

~~*Public art project management activities* include, but are not limited to, artist selection process activities, payment of stipends to artists and consultant fees, community participation activities, outreach and educational activities, and implementation of communication tools such as interpretive plaques, project documentation, and staff administration of all of the above.~~

~~*Public places* means land and buildings owned or controlled by the City.~~

~~*Redevelopment Project Area* means any area formally adopted by the City Council pursuant to Community Redevelopment Law, California Health, and Safety Code sections 33000 et. seq., maps of which are on file in the Office of the City Clerk.~~

~~*Redevelopment Agency Project* means any undertaking of the City of San Diego Redevelopment Agency in a Redevelopment Project Area pursuant to the authority vested in the Redevelopment Agency under California Health and Safety Code sections 33000 et. seq.~~

~~*Total building permit valuation* means the combined total valuation of all new structures, including tenant improvements within those new structures, within the~~

~~premises, using the latest building valuation data as set forth by the International Code Council [ICC] and utilized by the City of San Diego Building Official in determining valuation.~~

§26.0704 Duties and Functions – Commission for Arts and Culture

The *Commission* shall:

- (a) ~~Advocate~~advocate for the role and value of arts and culture in civic life;₂
- (b) ~~Promote~~promote greater public participation in, and access to, arts and culture;₂
- (c) ~~Evaluate~~evaluate the City's programmatic allocation of ~~TOT~~transient occupancy tax funds for arts and culture and strongly advocate for increasing arts and culture funding to levels which measurably support the vitality and stability of established arts and cultural organizations,₂ and which foster an environment attractive to and nurturing of emerging arts and cultural organizations;₂
- (d) ~~Advocate~~advocate for and explore alternate sources of arts and culture funding including, ~~but not limited to,~~ grants, donations,₂ and corporate sponsorships;₂
- (e) ~~Advise~~advise on the development, implementation, evaluation,₂ ~~and/or~~ change of the City's arts and culture public policy, legislation, programs,₂ and services;₂
- (f) ~~Advocate~~advocate for City public policy, legislation, programs,₂ and services that foster a wide range of arts and cultural offerings which engage a diverse public audience;₂

- (g) ~~Review~~ review the annual proposed ~~budget for the~~ arts and culture funding allocations related to *Commission* as prepared by the Executive Director of the *Commission* ~~business in the budget for transient occupancy tax funds for the Arts, Culture, and Community Festivals priority area~~ and provide recommendations, ~~as appropriate~~ to such budget allocations;
- (h) ~~Advise~~ advise on the administration of the ~~budget for the *Commission*, and the arts and culture~~ funding allocations within *transient occupancy tax* funds including, but not limited to, the *Special Promotional TOT Revenue* and for the Arts, Culture, and Community Festivals category priority area;
- (i) ~~Oversee~~ oversee and, when appropriate, participate in an open and impartial process for evaluating ~~TOT~~ transient occupancy tax funding applications from local, non-profit arts and culture organizations;
- (j) ~~Recommend~~ recommend to the Mayor, City Council and City Manager the fair distribution of ~~TOT~~ transient occupancy tax funds to non-profit arts and culture organizations and *artists*, to support local arts and culture programming;
- (k) ~~Advise~~ advise on *collections management activities* and *public art project management activities* pertaining to existing and proposed *artworks* ~~in/proposed~~ for the *Civic Art Collection*, or contracted for, exhibited on, or erected on *public places*;
- (l) ~~Advise~~ advise on allocations to and from the *Public Art Fund*;
- (m) ~~Advise~~ advise on the policies and processes whereby *artworks* are included in *Capital Improvements Program projects* and *Redevelopment*

Agency projects and ensure that *artists* are involved as early as possible in the pre-design or design phases for each project;

- (n) ~~Advocate~~ advocate for the fair distribution of arts and culture amenities across each City Council district and throughout the City's neighborhoods and communities;
- (o) ~~Participate~~ participate in the initiation, implementation, ~~and/or~~ sponsorship, alone or in partnership with other public agencies or private organizations, of programs and services to support local arts and culture organizations and individual *artists*;
- (p) ~~Serve~~ serve as the City's advocates for arts and culture within the City Council, as well as the private sector, local, regional, state, and federal governments, and international entities, such as Mexico, Canada, Japan, and other Pacific Rim countries;
- (q) ~~Advise~~ advise on other arts and culture issues as directed by the Mayor, City Council or City Manager;
- (r) ~~Hold~~ hold regular public meetings and keep written records of the proceedings which shall be public records; and
- (s) ~~Adopt~~ adopt rules consistent with laws for the governance of its business and procedures.

§26.0705 Qualification of Commissioners

- (a) Commissioners shall be persons who represent the following: individual arts and culture patrons, *artists*, educators, the business and professional community, those with professional qualifications and experience or

knowledge of a particular arts and culture field, and the general public.

Efforts should be made to include Commissioners who represent a diversity of diverse backgrounds including, ~~but not limited to,~~ race, gender, age, socio-economic class, geographic location, religion, gender expression, gender identity, sexual orientation, skills and abilities, ethnicity, political affiliation, and/or professional background.

Commissioners also shall be persons who will commit to volunteering time to serve on the ~~board~~ Commission, which meets monthly, as well as on at least one *Commission* committee and ~~one Commission review panel~~ on an annual basis.

- (b) Board Chairs, Presidents, or other officers of the board of directors of an organization funded by the City through the *Commission* may not be considered for an appointment to the *Commission* or accept such a position while a Commissioner. A high-level, full-time employee of an organization funded by the *Commission* may not be considered for appointment to the *Commission* or accept such a position while a Commissioner. In selecting Commissioners, the Mayor City Manager or the Mayor's City Manager's designee shall consider whether candidates would be able to effectively and ethically serve in light of any foreseeable conflicts of interest.

§26.0712 ~~Commission for Arts and Culture Executive Director and Staff~~

~~The Executive Director of the *Commission* shall be appointed by the City Manager. The Director shall be a management assistant to the City Manager. The~~

~~City Manager shall provide appropriate staff to support the activities of the Commission and Executive Director.~~

§26.0713 Duties and Functions—Executive Director

~~The Executive Director shall:~~

- ~~(a) Serve as the head of and be responsible for the administration of the Commission, Commission staff, and their respective purposes, duties, and functions.~~
- ~~(b) Appoint, direct, and supervise all City employees on the Commission staff with the approval of the City Manager, and subject to Civil Service regulations.~~
- ~~(c) Initiate, administer, and propose modifications to such agreements and instruments as the Executive Director deems reasonably necessary to implement public policy, legislation, programs, and services pertaining to the Commission, Commission staff, and their respective purposes, duties, and functions.~~
- ~~(d) Prepare the annual proposed budget for the Commission and provide recommendations, as appropriate, to the Commission before submitting budget recommendations to the City Manager.~~
- ~~(e) Direct the administration of the budget for the Commission and the arts and culture allocations within TOT funds including, but not limited to, the Special Promotional TOT Revenue and the Arts, Culture and Community Festivals category.~~

- (f) ~~Direct the fair distribution of TOT funds, as approved by City Council, to non-profit arts and culture organizations to support local arts and culture programming.~~
- (g) ~~Serve as the steward of the *Civic Art Collection* and manage any financial transactions related to *collections management activities* and *public art project management activities* pertaining to all existing and proposed *artworks* in/proposed for the *Civic Art Collection*, or contracted for, exhibited on, or erected on *public places*.~~
- (h) ~~Oversee allocations to and from the *Public Art Fund*.~~
- (i) ~~Initiate agreements to provide professional arts administration services to other agencies, corporations, and companies.~~
- (j) ~~Prepare and submit reports to the Mayor, City Council and City Manager pertaining to the purpose, duties and functions of the *Commission* and the *Commission* staff.~~
- (k) ~~Consult with and submit reports to the *Commission* pertaining to the purpose, duties and functions of the *Commission* and the *Commission* staff.~~
- (l) ~~Manage other duties pertaining to arts and culture as assigned by the City Manager.~~

§26.0714 ~~Civic Enhancement Allocation Regulations and Calculations~~

- (a) ~~To ensure that the City's increasing urbanization is offset by the creation of *artworks* and venues dedicated to *cultural use*, no final City approval to occupy any private industrial or commercial *development*, or any portion~~

thereof, with a *total building permit valuation* greater than or equal to \$5,000,000 (revised annually by the percentage increase or decrease in the Los Angeles/San Diego Construction Cost Index as reported and published by the Engineering News Record or its successor for the twelve-month period ending January 1 of each year) may be granted unless a *Civic Enhancement allocation* in an amount equal to one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(1) or (b)(2) or one-half of one percent (when the *applicant* elects to meet the requirements of this section pursuant to Subdivision (b)(3) of its *total building permit valuation* has been set aside by the *applicant*, subject to the provisions of section 26.0716.

- (1) For *phased development*, calculation of *total building permit valuation* will be based on the total number of building permits applied for, but not yet issued, for the *premises*, but does not include any withdrawn permit applications.
- (2) The valuation of any exempt component of a mixed-use *development* shall be deducted from the combined *total building permit valuation*.
- (3) The calculation of *total building permit valuation* shall not include that portion of new tenant improvements that exceed \$150 per square foot and is an occupancy classification required under the California Building Code to be a Type I fire rated occupancy classification.

(b) ~~The Civic Enhancement allocation may be used by the applicant to comply with the requirements set forth herein through one of the following means:~~

(1) ~~Placement of artworks valuing one percent of the total building permit valuation for the development on the premises. If the value of the artwork, including art consultant fees and the costs for design, fabrication, installation, and documentation, is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the artwork.~~

(2) ~~Maintaining a portion of the premises which is open and accessible for cultural use. If the value of that portion of the premises which is open and accessible for cultural use is not equal to or greater than the Civic Enhancement allocation, the applicant shall pay into the Public Art Fund an amount equal to the difference between the amount of the Civic Enhancement allocation and the value of the premises which is open and accessible for cultural use.~~

(3) ~~Depositing into the Public Art Fund, payment of an in-lieu fee equal to one half of one percent of the total building permit valuation for the development.~~

§26.0715 Civic Enhancement Allocation Declaration

Upon applying for a building permit, the applicant shall:

- (a) Declare in writing the means by which the *applicant* will comply with the requirements of section 26.0714; and
- (b) Where applicable, enter into a Declaration of Covenants, Conditions, and Restrictions in accordance with section 26.0717.

§26.0716 Compliance with Civic Enhancement Allocation Regulations

- (a) If the *applicant* chooses to pay an in-lieu fee to the City's *Public Art Fund* in accordance with section 26.0714 (b)(3), the in-lieu fee shall be paid at the time required building permit fees are paid and no later than the first inspection of the *development* performed by the City.
- (b) If the *applicant* chooses to install an *artwork* on the *premises* or maintain a portion of the *premises open and accessible for cultural use* in accordance with the requirements of section 26.0714 (b)(1) or (b)(2), no building permit for the *development* may be issued until the *applicant* deposits with the City security either in the form of a surety bond issued by a surety company authorized to do business in the State of California, or in cash, or the equivalent amount in other security approved by the City Manager and City Attorney in an amount equal to one-half of one percent of the *total building permit valuation*. Any costs associated with acquiring the required security are the responsibility of the *applicant* and may not be applied to the *Civic Enhancement allocation*.
- (c) Prior to issuance of the Certificate of Occupancy for the *development*, the *applicant* shall submit to *Commission* staff evidence, satisfactory to the Executive Director of the *Commission*, that:

- (1) ~~If applicable, the value of the *artwork* installed on the *premises* is equal to or greater than one percent of the *total building permit valuation* for the *development*. Such evidence may include the costs of art consultant fees, *artist* design fees, fabrication of the *artwork*, installation of the *artwork*, and/or documentation of the *artwork*.~~
- (2) ~~If applicable, the value of the portion of the *premises* which is maintained *open and accessible for cultural use* is equal to or greater than one percent of the *total building permit valuation* for the *development*. Such evidence may include data establishing the proportional value of the total square footage and all tenant improvements for the *development*.~~

§26.0717 Declaration of Covenants, Conditions, and Restrictions for Developments Subject to the Civic Enhancement Allocation Regulations

~~If the *applicant* installs an *artwork* on the *premises* or maintains a portion of the *premises open and accessible for cultural use* in accordance with the requirements of section 26.0714 (b)(1) or (b)(2), the *development* shall have recorded against it a Declaration of Covenants, Conditions, and Restrictions in favor of the City and in a form approved by the City Attorney which shall include the following provisions as appropriate:~~

- (a) ~~The owner of the *development* shall provide all necessary maintenance of the *artwork*, including preservation of the *artwork* in good condition to the reasonable satisfaction of the City and protection of the *artwork* against destruction, distortion, mutilation, or other modification. The owner of the~~

~~*premises* may retain ten percent of the *Civic Enhancement allocation* in order to fund the costs of conservation, ongoing maintenance, insurance, and security of the *artwork*, as necessary to comply with the requirements set forth herein.~~

- (b) ~~The owner of the *development* shall ensure that the *artwork* will be located in an area that is *open and accessible*.~~
- (c) ~~A description of that portion of the *premises* which will be maintained *open and accessible* and its designated *cultural use*.~~
- (d) ~~Any other reasonable terms necessary to implement the provisions set forth herein.~~

§26.0718 ~~Return of Civic Enhancement Allocations~~

- (a) ~~*Civic Enhancement allocations* paid into the City's *Public Art Fund* which are unexpended within five years from the date of payment may be returned to the then current owner(s) of the *development*, with all interest actually earned thereon, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of the *Civic Enhancement allocations* 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 *development* for which the *Civic Enhancement allocation* was paid, and a statement that the person making the request paid the *Civic Enhancement allocation* or is the current owner of the *development*.~~

(b) ~~The City Council shall determine if return of the then-unexpended portion of the *Civic Enhancement allocation* and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the City Council determines any one of the following conditions applies:~~

- ~~(1) The City Council finds that the funds are needed for *artwork* or *cultural use*.~~
- ~~(2) The *Civic Enhancement allocations* were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date.~~
- ~~(3) The administrative cost of refunding unexpended *Civic Enhancement allocations* exceeds the amount to be refunded, provided notice of a public hearing on this issue has been published and posted on the site of the *development* in not less than three places.~~

§26.0719 ~~Failure to Maintain Artwork Created Through Civic Enhancement Allocations~~

~~Failure to maintain *artworks* created through *Civic Enhancement allocations* may be a public nuisance.~~

§26.0720 ~~Civic Enhancement Allocation Appeal~~

~~Any *applicant* may seek review of a decision by the Executive Director of the *Commission* under section 26.0716 (c) by filing an application for an appeal hearing with the Executive Director of the *Commission* no later than ten business days after the Executive Director's decision.~~

~~The Executive Director of the Commission shall coordinate a date for an appeal hearing before the City Manager or the City Manager's designee no later than ten business days after the date on which an application for the appeal hearing is filed with the Executive Director. The appeal hearing shall generally be held within sixty business days following the filing of the application for the hearing. The Certificate of Occupancy may be withheld pending resolution of the appeal. At the conclusion of the appeal hearing, the City Manager or the City Manager's designee may affirm, reverse, or modify the Executive Director's decision. The decision of the City Manager is final.~~

§26.0721 Civic Enhancement Allocation Exemptions

~~The Civic Enhancement allocation requirements do not apply to the following:~~

- ~~(a) Industrial and commercial development with a total building permit valuation of less than \$5,000,000 or current threshold pursuant to section 26.0716.~~
- ~~(b) Any premises which has an institutional use, such as churches, hospitals, and schools.~~
- ~~(c) Any premises which is used solely for residential development.~~
- ~~(d) Any premises which is owned or leased solely by a non-profit entity and used in furtherance of the owner's or lessee's non-profit purpose.~~
- ~~(e) Industrial and commercial development that is not open and accessible, in its entirety, to the general public due to security reasons.~~

- (f) ~~Industrial and commercial development that is not open and accessible, in its entirety, to the general public due to the storage and use of hazardous, radiological, or infectious materials that may jeopardize the public's safety.~~

§26.0722 Control of Artworks

~~No artworks shall be contracted for, exhibited on, or erected on public places, or become the property of the City by acquisition or otherwise, or be in the custody of the City by loan or otherwise, unless such artworks, shall first have been submitted to and accepted by the Commission staff, and following review and recommendation by the Commission. No existing artworks owned by or in the custody of the City shall be deaccessioned, removed, relocated, conserved, altered, exhibited, or disposed of in any way without the approval of Commission staff, and following review and recommendation by the Commission.~~

§26.0723 Management of Artworks

~~All collections management activities shall be the responsibility of the Commission staff and undertaken with the advice of the Commission. Ordinary artwork maintenance of artworks in the Civic Art Collection is the responsibility of the City department at which the artwork is sited and shall be undertaken at the direction of Commission staff.~~

§26.0724 Acquisition of Artworks

- (a) ~~Commission staff may authorize the purchase of artworks for inclusion in the Civic Art Collection following the review and recommendation of the Commission.~~

- (b) ~~Commission staff shall, on behalf of the City, accept, with or without conditions, or reject donations, bequests or incoming loans of artwork following the review and recommendation of the Commission. Title to all donated and bequeathed artworks accepted by the City and accessioned into the Civic Art Collection shall be vested and held in the name of the City.~~

§26.0725 Deaccession and Disposal of Artworks

- (a) ~~Commission staff shall deaccession and dispose of artworks from the Civic Art Collection, following the review and recommendation of the Commission.~~
- (b) ~~When an artwork to be deaccessioned and disposed of through sale has an estimated fair market value of \$250,000 or more, Commission staff shall submit a report on the recommendation for the sale to the Mayor, City Council and City Manager prior to initiating the sale.~~
- (c) ~~When an artwork is deaccessioned and disposed of through sale, the artwork shall be sold through methods either administered by or approved by the Purchasing Agent. When an artwork is deaccessioned and disposed of through sale or exchange, the Executive Director may administer acceptance of all deeds of conveyance necessary and proper to affect a duly authorized sale or exchange.~~

26.0726 ~~Loans from the Civic Art Collection~~

~~Commission staff is authorized to loan artworks from the Civic Art Collection to City departments, agencies, institutions, organizations, or galleries. Loans are made according to the terms and conditions of loan agreements.~~

§26.0727 ~~Reproductions or Adaptations of Artworks~~

~~Commission staff is authorized to negotiate with the copyright holder for each artwork in or proposed for inclusion in the Civic Art Collection for the purpose of acquiring a license to make, or cause to be made reproductions or adaptations of artworks. Reproductions or adaptations of artworks are made according to the terms and conditions of the licensing agreement.~~

§26.0728 ~~Proceeds from the Sale, Loan, Reproduction or Adaptation of Artworks~~

~~All monies received from the sale of artworks from the Civic Art Collection must be expended on new acquisitions for the Civic Art Collection. Proceeds from the loan of artworks from the Civic Art Collection or from the licensing of the making of reproductions or adaptations thereof, less any payments due, shall be deposited into the Public Art Fund.~~

KRS:cc:cm
12/01/2023
Or.Dept: Commission for Arts and Culture
Doc. No. 3418509_2

Passed by the Council of The City of San Diego on OCT 08 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 14 2024.

AUTHENTICATED BY: TODD GLORIA
Mayor of The City of San Diego, California.

(Seal) DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Krystell Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on SEP 24 2024, and on OCT 14 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Krystell Medina, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- **21878**