



## REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2604

**CONSENT**  
**November 15, 2011**

Honorable Members of the  
Law and Legislation Committee

**Title:** Ordinance Change to Sacramento Metropolitan Arts Commission, Title 2, Chapter 2.84

**Location/Council District:** Citywide

**Recommendation:** 1) Review an Ordinance Change to Sacramento Metropolitan Arts Commission, Title 2, Chapter 2.84; and 2) forward a recommendation of approval of the Ordinance to City Council.

**Contact:** Rhyena Halpern, Executive Director, 808-3992

**Department:** Convention, Culture and Leisure Department

**Division:** Sacramento Metropolitan Arts Commission

**Organization No:** 17001811

### **Description/Analysis**

**Issue:** The City Clerk's Office has initiated an effort to have all City boards and commissions update their governance documents, find parity and conformity, and create efficiencies.

The Sacramento Metropolitan Arts Commission (SMAC) via its Governance Ad Hoc Committee and Executive Director spent the last two years updating SMAC Bylaws. The Bylaws were last changed in 1995 and in order to meet the Clerk's recommendations regarding commission governance, particularly proper deference to City Code, new Rules of Procedure are needed. Modeled upon the Rules of Procedure for the Parks and Planning Commission as an example of best practices, the new Rules of Procedure were reviewed and approved by the Commission on October 11, 2010.

The SMAC ordinance needs to be updated as a result of these changes prior to implementation of the Rules of Procedure. The SMAC ordinance has not been updated since its inception in 1977.

**Policy Considerations:** Staff recommends an update of ordinance language, along with two key changes:

- 1) Eliminate the seat quotas for practicing artists and arts administrators, in favor of having all 11 seats allocated to a mix of community representatives based on interest, experience and knowledge of the arts.
- 2) Replace the Folsom/Isleton/Galt (FIG) seat with a seat to be filled by a Commission – recommended appointment, subject to City and County approval, similar to the Sports Commission ordinance. The FIG seat is no longer relevant. Folsom is in agreement with this recommended change as they have their own Arts Council. Isleton and Galt have been minimally involved, never having seated a resident. Outreach to new cities, Elk Grove, Rancho Cordova and Citrus Heights was done. The new cities each have a committee that focuses on the arts. They do not have an interest in participation in SMAC, other than possible partnerships.

Because SMAC is a joint agency of the City and County, the County, will provide input and approve the recommended changes in the SMAC ordinance concurrent with this process. Their process for governance change review and approval differs greatly from the City's. The office of the County Executive has approved in concept and briefed Supervisors during the month of January. The County Counsel has approved the proposed changes.

**Environmental Considerations:** None.

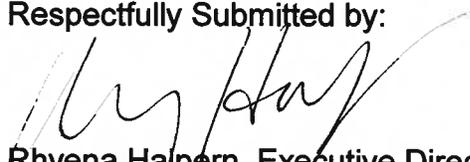
**Rationale for Recommendation:** Staff brought forward to the Committee on February 1, 2010 requesting approval to draft an Ordinance change. Committee Action: Discussed and provided direction on a potential **Ordinance** change to Title 2, Chapter 2.84 to comply with the City Clerk's efforts. SMAC Ordinance has never been changed and is in need of updating. SMAC By-laws are also out of date, not having been changed since 1995.

**Committee Action:** Due to opposition by a few County Supervisors in the reduction in seat numbers, the proposed Ordinance change was brought back to the Sacramento Metropolitan Arts Commission on October 17, 2011 for discussion and recommendation. The Commission agreed that in light of the continuing downturn in the economy, necessitating commissioners' involvement in increased fundraising efforts, maintaining 11 seats would be acceptable. It was a unanimous vote to retain the 11-seat body and move forward with the remaining two key changes eliminating seat quotas and replacing the (FIG) seat.

**Financial Considerations:** None.

**Emerging Small Business Development (ESBD):** None

Respectfully Submitted by:



Rhyena Halpern, Executive Director  
Sacramento Metropolitan Arts Commission

Sacramento Metropolitan Arts Commission Proposed Ordinance Change November 15, 2011

APPROVED:

 FOR  
Barbara E. Bonebrake, Director  
Convention, Culture and Leisure Department

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**ATTACHMENT 1 – REDLINE VERSION OF ORDINANCE**

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 2.84 OF THE SACRAMENTO CITY CODE  
RELATING TO THE SACRAMENTO METROPOLITAN ARTS COMMISSION**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 2.84.020 of the Sacramento City Code is amended to read as follows:

**2.84.020 Definitions.**

As used in this chapter, the following definitions apply:

"Board" means the board of supervisors of Sacramento County.

"Capital Improvement Program" or "CIP" means the annual program for City financed public improvement projects.

"City" means the city of Sacramento.

"Commission" means the Sacramento metropolitan arts commission.

"Council" means the city council of the city of Sacramento.

"County" means the county of Sacramento.

"Division" means the Sacramento Metropolitan Arts Commission Division of the City's Department of Convention, Culture and Leisure.

"Mayor" means the mayor of the city of Sacramento.

"Member" means a person appointed as a member of the commission.

"Public art" means an original work of art or artwork that is accessible to the public and that has been approved as public art by the commission.

~~"Works of art" or "artwork" includes, but is not limited to, all paintings, mural decoration, inscriptions, stained glass, fibre work, statues, reliefs or other sculptures, monuments,~~

~~fountains, arches, or other structures, intended for ornament or commemoration. It also includes, but is not limited to, works in the fields of music, literature, theater, dance and film means all forms of the visual arts conceived in any medium, material, or combination thereof.~~

SECTION 2. Section 2.84.030 of the Sacramento City Code is amended to read as follows:

**2.84.030 Appointment ~~and removal~~ of members and qualifications.**

The commission shall consist of eleven (11) members, who shall be appointed as follows:

A. Five members ~~shall~~ be appointed by the mayor with approval of the council. ~~Of the five members appointed, one member shall be a practicing artist, and one member shall be an arts administrator.~~

B. Five members ~~shall~~ be appointed by the board. ~~Of the five members appointed, one member shall be a practicing artist, and one member shall be an arts administrator.~~

C. One member ~~appointed jointly by the mayors of Folsom, Isleton and Galt~~ shall be jointly appointed by the council and board upon recommendation by the commission.

D. ~~The fields of art which may be considered in the appointment of the practicing artist and arts administrator include architecture, the environmental arts, visual arts, performing arts and the literary arts~~ Each member shall be qualified by reason of the following knowledge, training, and professional experience:-

1. Demonstrated knowledge about the arts;
2. History of involvement with the local arts community;
3. Experience as an arts educator, arts supporter, arts advocate, arts administrator, art curator, art historian, art critic, or practicing artist; and
- 4.4. Basic understanding of the commission's activities.

E. The members should reflect the diversity of the city and county to the maximum extent practicable.

SECTION 3. Section 2.84.040 of the Sacramento City Code is amended to read as follows:

**2.84.040 Term of office ~~—First appointment—~~ Eligibility for reappointment.**

A. Each member shall serve for a term of three years.

~~—B.— Notwithstanding the provisions of subsection A of this section, the members first appointed to the commission shall serve from the date on which the commission holds its first meeting for the following terms:~~

~~—1.— Two members appointed by the council and two members appointed by the board shall each serve for a period of one year.~~

~~—2.— Two members appointed by the council and two members appointed by the board shall each serve for a period of two years.~~

~~—3.— One member appointed by the council and one member appointed by the board shall each serve for a period of three years.~~

~~—4.— That member appointed jointly by the mayors of Folsom, Isleton and Galt shall serve for a term of three years.~~

~~—CB.~~ No member, who has served two consecutive full three-year terms shall be eligible for reappointment to the commission until two years after the last prior date the member served on the commission.

C. Notwithstanding subsection (A), above, the term of a member who fills a vacancy pursuant to Section 2.84.070 shall be for the remainder of the predecessor's term. For purposes of calculating the two-consecutive term limit under subsection (B), above, the term of a member filling more than half of a vacant term shall constitute a full term.

SECTION 4. Section 2.84.050 of the Sacramento City Code is amended to read as follows:

**2.84.050 Organization and proceduresal meetings—Officers.**

~~Within fifteen (15) days after the appointment of the members of the commission, they shall meet and organize by electing from their members a~~ Annually, the commission shall elect from its members a chairperson and a vice-chairperson, each of whom shall hold that office for a term of one year. ~~president and secretary who shall hold office at the pleasure of the commission~~ The commission shall fill vacancies in the offices of chairperson and vice-chairperson from among its members. The commission may adopt such lawful rules as it deems necessary, consistent with the provisions of this chapter, for the conduct of its business.

SECTION 5. Section 2.84.060 of the Sacramento City Code is amended to read as follows:

**2.84.060 Regular meetings—Compensation.**

~~The commission shall hold regular meetings once a month, at a time and place selected by majority vote of the entire commission.~~ The commission shall establish a time and place for regular meetings to be held approximately monthly and not less than nine (9) times per year. ~~The members shall not be compensated for attendance at commission or committee meetings. For attendance at noncommission meetings or events, each member shall receive travel and subsistence expenses necessarily incurred in the discharge of his or her official duties as a commission member.~~

SECTION 6. Section 2.84.070 of the Sacramento City Code is amended to read as follows:

**2.84.070 Vacancies—Absences from meetings.**

A. The mayor, with approval of the council, shall fill any vacancy occurring among the members ~~which~~who the mayor appoints, ~~and~~ ~~the~~ ~~board~~ shall fill any vacancy occurring among the members ~~which~~who it appoints. The commission shall make a recommendation to the council and board for filling a vacancy ~~and the mayors of the cities of Folsom, Isleton, and Galt shall fill any vacancy~~ occurring in the position of the jointly appointed member. ~~appointed by said~~

~~B. Vacancies occurring among those members appointed for limited terms pursuant to Section 2.84.040(B)(1) and (2), shall be filled in the manner prescribed by this section, provided that such appointments shall be for the remainder of the limited term being filled.~~

GB. The position of any member who fails to attend three or more regular meetings in one year without the approval of the majority of the members of the commission shall automatically become vacant.

SECTION 7. Section 2.84.080 of the Sacramento City Code is amended to read as follows:

**2.84.080 Powers and duties.**

The powers and duties of the commission shall be as follows:

A. To foster and develop support for the arts;

B. To advise the council and the board on all matters concerning the arts, including pending legislation;

C. To advise the council and the board on the allocation of funds in support of the arts, to establish firm and equitable standards for such allocations, and to evaluate those allocations annually;

D. To develop an awareness in the business community, in local government, and in the general public of the value of the arts and culture to Sacramento;

~~E. To develop programs, subject to budgetary limitations, either alone or in cooperation with other private or public agencies, to provide accessibility to the arts for everyone and to encourage public participation in the arts;~~

FE. Except for works of art given to or purchased by museums, to review and make recommendations upon all works of art to be acquired by the city or county either by purchase or gift ~~and to make recommendations concerning their proposed locations;~~

GF. To review and make recommendations upon the program development and budget, master planning site development and building design of any local government public building project during the preliminary stages. ~~Actions of the council, planning commission, design commission and preservation commission shall not be delayed by such review;~~

~~HG.~~ To work with city and county departments, community organizations, businesses, schools, and colleges to develop arts possibilities ~~within each department~~;

~~IH.~~ To advise the city and county of, and to seek, state, federal, and private funds ~~available~~ in support of the arts;

~~J.~~ To act as a liaison between the city and county, local artists and cultural groups, and the community at large;

~~K.~~ To offer assistance to groups or individual artists in developing arts programs and in applying for public or private funds;

~~L.~~ To develop, distribute, and sell publications of local (1) artists, (2) art groups, (3) spaces available for the fine and performing arts, and (4) services available to the arts;

~~M.~~ To work with the fine and performing arts departments in local colleges and universities to encourage their participation in the community;

~~N.~~ To work with school districts in an advocacy capacity to encourage arts and artists in the schools; ~~O.~~ J. To research the needs of artists and the community, and then develop, and regularly update and evaluate progress against a long term five-year plan for the growth of the arts in Sacramento;

~~PK.~~ To ~~establish an advisory committee to~~ explore the future of the aesthetic quality of life in the community, with vision and imagination, and to report and recommend periodically to the council and board ~~emission~~;

~~QL.~~ To recommend to the council and board policies, programs, and services to further the purposes of the commission, ~~and to annually propose the budget and work plan of the commission and periodically review revenues and expenditures thereunder~~;

~~RM.~~ To advise and assist the city and county in other activities as may be referred to it by the council or board.

**SECTION 8.** Section 2.84.090 of the Sacramento City Code is amended to read as follows:

**2.84.090 Joint participation—Funding.**

A. County and city shall, within the limits of available funding, jointly share the cost of maintaining and financing the activities of the commission and the division. ~~The division shall provide administrative staff and fiscal control services to the commission.~~

B. The city and county shall specify in their annual budgets, or through subsequent appropriations during the fiscal year, the amount of money to be expended for the activities of the commission and the division.

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- C. The city as fiscal agent shall provide the initial and ongoing financial outlay for administrative costs and expenditures. Upon receipt of itemized invoice for approved administrative costs and other expenditures, the county shall reimburse the city/~~fiscal agent~~.
- D. The city as fiscal agent shall provide the county with an annual accounting of all income from private, local, state and federal sources, as well as profits earned from any source, ~~including but not limited to the sale of artwork~~.
- E. If the commission goes out of existence, the city and county shall divide equally any unspent funds thatwhich the commission has received from any source whatsoever.

SECTION 9.

This ordinance shall become operative only if a similar ordinance changing the Sacramento Metropolitan Arts Commission is enacted by the Sacramento County Board of Supervisors, and in that case the operative date shall be thirty days after enactment by the City Council or the date on which the County ordinance takes effect, whichever occurs later.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective:

## **ATTACHMENT 2 – CLEAN VERSION OF ORDINANCE**

### **Chapter 2.84 SACRAMENTO METROPOLITAN ARTS COMMISSION**

#### **2.84.010 Established.**

The Sacramento metropolitan arts commission is established. (Prior code § 60.09.060)

#### **2.84.020 Definitions.**

As used in this chapter, the following definitions apply:

“Board” means the board of supervisors of Sacramento County.

“City” means the city of Sacramento.

“Commission” means the Sacramento metropolitan arts commission.

“Council” means the city council of the city of Sacramento.

“County” means the county of Sacramento.

“Mayor” means the mayor of the city of Sacramento.

“Member” means a person appointed as a member of the commission.

“Works of art” or “artwork” includes, but is not limited to, all paintings, mural decoration, inscriptions, stained glass, fibre work, statues, reliefs or other sculptures, monuments, fountains, arches, or other structures, intended for ornament or commemoration. It also includes, but is not limited to, works in the fields of music, literature, theater, dance and film. (Prior code § 60.09.061)

#### **2.84.030 Appointment and removal of members.**

The commission shall consist of eleven (11) members who shall be appointed as follows:

- A. Five members to be appointed by the mayor with approval of the council. Of the five members appointed, one member shall be a practicing artist, and one member shall be an arts administrator.
- B. Five members to be appointed by the board. Of the five members appointed, one member shall be a practicing artist, and one member shall be an arts administrator.
- C. One member appointed jointly by the mayors of Folsom, Isleton and Galt.

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D. The fields of art which may be considered in the appointment of the practicing artist and arts administrator include architecture, the environmental arts, visual arts, performing arts and the literary arts. (Prior code § 60.09.062)

**2.84.040 Term of office—First appointment—Eligibility for reappointment.**

A. Each member shall serve for a term of three years.

B. Notwithstanding the provisions of subsection A of this section, the members first appointed to the commission shall serve from the date on which the commission holds its first meeting for the following terms:

1. Two members appointed by the council and two members appointed by the board shall each serve for a period of one year.

2. Two members appointed by the council and two members appointed by the board shall each serve for a period of two years.

3. One member appointed by the council and one member appointed by the board shall each serve for a period of three years.

4. That member appointed jointly by the mayors of Folsom, Isleton and Galt shall serve for a term of three years.

C. No member, who has served two consecutive full three-year terms shall be eligible for reappointment to the commission until two years after the last prior date the member served on the commission. (Prior code § 60.09.063)

**2.84.050 Organizational meetings—Officers.**

Within fifteen (15) days after the appointment of the members of the commission, they shall meet and organize by electing from their members a president and secretary who shall hold office at the pleasure of the commission. (Prior code § 60.09.064)

**2.84.060 Regular meetings—Compensation.**

The commission shall hold regular meetings at least once a month, at a time and place selected by majority vote of the entire commission. The members shall not be compensated for attendance at commission or committee meetings. For attendance at noncommission meetings or events, each member shall receive travel and subsistence expenses necessarily incurred in the discharge of his or her official duties as a commission member. (Prior code § 60.09.065)

**2.84.070 Vacancies—Absences from meetings.**

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A. The mayor, with approval of the council, shall fill any vacancy occurring among the members which the mayor appoints, and the board shall fill any vacancy occurring among the members which it appoints, and the mayors of the cities of Folsom, Isleton, and Galt shall fill any vacancy occurring in the position of the member appointed by said mayors.

B. Vacancies occurring among those members appointed for limited terms pursuant to Section 2.84.040(B)(1) and (2), shall be filled in the manner prescribed by this section, provided that such appointments shall be for the remainder of the limited term being filled.

C. The position of any member who fails to attend three or more regular meetings in one year without the approval of the majority of the members of the commission shall automatically become vacant. (Prior code § 60.09.066)

**2.84.080 Powers and duties.**

The powers and duties of the commission shall be as follows:

A. To foster and develop support for the arts;

B. To advise the council and the board on all matters concerning the arts, including pending legislation;

C. To advise the council and the board on the allocation of funds in support of the arts, to establish firm and equitable standards for such allocations, and to evaluate those allocations annually;

D. To develop an awareness in the business community, in local government, and in the general public of the value of the arts to Sacramento;

E. To develop programs, subject to budgetary limitations, either alone or in cooperation with other private or public agencies, to provide accessibility to the arts for everyone and to encourage public participation in the arts;

F. Except for works of art given to or purchased by museums, to review and make recommendations upon all works of art to be acquired by the city or county either by purchase or gift and to make recommendations concerning their proposed locations;

G. To review and make recommendations upon the program development and budget, master planning site development and building design of any local government public building project during the preliminary stages. Actions of the council, planning commission, design commission and preservation commission shall not be delayed by such review;

H. To work with city and county departments to develop arts possibilities within each department;

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- I. To advise the city and county of, and to seek, state, federal, and private funds available in support of the arts;
- J. To act as a liaison between the city and county, local artists and cultural groups, and the community at large;
- K. To offer assistance to groups or individual artists in developing arts programs and in applying for public or private funds;
- L. To develop, distribute, and sell publications of local (1) artists, (2) art groups, (3) spaces available for the fine and performing arts, and (4) services available to the arts;
- M. To work with the fine and performing arts departments in local colleges and universities to encourage their participation in the community;
- N. To work with school districts in an advocacy capacity to encourage arts and artists in the schools;
- O. To research the needs of artists and the community, and then develop, and regularly update and evaluate progress against a five-year plan for the growth of the arts in Sacramento;
- P. To establish an advisory committee to explore the future of the aesthetic quality of life in the community, with vision and imagination, and to report and recommend periodically to the commission;
- Q. To recommend to the council and board policies, programs and services to further the purposes of the commission, and to annually propose the budget and work-plan of the commission and periodically review revenues and expenditures thereunder;
- R. To advise and assist the city and county in other activities as may be referred to it by the council or board. (Ord. 2006-065 § 6; prior code § 60.09.067)

**2.84.090 Joint participation—Funding.**

- A. County and city shall, within the limits of available funding, jointly share the cost of maintaining and financing the activities of the commission. The division shall provide administrative staff and fiscal control services to the commission.
- B. The city and county shall specify in the annual budget or through subsequent appropriations during the fiscal year, the amount of money to be expended.
- C. The city as fiscal agent shall provide the initial financial outlay for administrative costs and expenditures. Upon receipt of itemized invoice for approved administrative costs and other expenditures, the county shall reimburse the city/fiscal agent.

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D. The city as fiscal agent shall provide the county with an annual accounting of all income from private, local, state and federal sources, as well as profits earned from any source, including but not limited to the sale of artwork.

E. If the commission goes out of existence, the city and county shall divide equally any unspent funds which the commission has received from any source whatsoever. (Prior code § 60.09.068)

### **2.84.100 Allocation of funds for art—Purpose.**

The purpose of Sections 2.84.110 through 2.84.130 of this chapter is to establish the procedure for the allocation and expenditure of funds for artworks and projects capable of exhibiting the arts. The city desires to expand public experience with visual arts. A policy is therefore established to direct the inclusion of artworks in public works of the city. (Prior code § 60.09.071)

### **2.84.110 Definitions for Sections 2.84.100 through 2.84.130.**

As used in Sections 2.84.100 through 2.84.130 of this chapter, the words and terms shall mean:

“Artworks” as included in the definitions contained in Section 2.84.020 of this chapter.

“Capital improvement program” means the annual program for city financed public improvement projects.

“Eligible construction project” means any capital project paid for wholly or in part by the city or the parking authority of the city to construct or remodel any building, decorative or commemorative structure, parking facility, recreational facility, or any portion thereof, located on city property within the limits of the city, provided that the source of funds for such project(s) is not restricted by law or regulation as to its use for artworks. (Prior code § 60.09.072)

### **2.84.120 Funds for artworks.**

A. Not less than two percent of the total cost of any eligible construction project shall be expended for artworks. The city shall specify in the annual capital improvement program budget or through subsequent capital improvement appropriations an amount of at least two percent of total construction costs to be expended for works of art. Expenditures for artworks may include an amount for the administrative costs incurred in the process of selection and installation of artwork projects by the metropolitan arts division of the department of parks and community services, and for costs incurred to maintain or repair artworks commissioned by the city pursuant to this chapter.

B. If the source of funding or other applicable law or regulation with respect to any particular project prohibits or restricts the use of funds for artworks, the amount of funds so prohibited or restricted shall be excluded from the total project cost.

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C. All funds involving properties undergoing historic restoration (or portion of those funds for restoration) or located in the Old Sacramento redevelopment areas, or single detached housing as part of a planned unit development, and publicly assisted rehabilitation or private property, shall be excluded as expenditures for artwork or artwork projects. (Prior code § 60.09.073)

### **2.84.130 Responsibilities of commission.**

The arts commission shall provide for the nature, selection, and placement of artwork projects. Such projects may be placed as an integral part of the construction or exhibited in, on, or about public facilities. Such projects may be attached or detached, within or about such property, and may be either temporary or permanent, in order to insure that the commission will be able to select the most appropriate and beneficial artwork project for the site, people, and community for which the artwork project is intended. (Prior code § 60.09.074)