

PROPOSED

RESOLUTION NO. 2021-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD CULTURAL COUNCIL; AMENDING SECTIONS 12.9 THROUGH 12.12, REPEALING AND REPLACING SECTION 12.13, AND REPEALING SECTIONS 12.14 THROUGH 12.16 OF THE BROWARD COUNTY ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, Section 11.05 of the Broward County Charter provides for a Broward Cultural Council ("Council") for the purpose of furthering the County's commitment to excellence among its artists and cultural organizations and fostering a strong and vibrant cultural environment for Broward County residents and visitors;

WHEREAS, Sections 12.9 through 12.16 of the Broward County Administrative Code ("Administrative Code") set forth the structure, functions, and responsibilities of the Council; and

WHEREAS, the Broward County Board of County Commissioners desires to amend the Administrative Code to update the structure, functions, and responsibilities of the Council to better serve the purposes for which it is intended, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Sections 12.9 through 12.12 of the Broward County Administrative Code are hereby amended to read as follows:

12.9. Membership and; Term of Office.

(a-) The members of the Council shall be appointed by the Board of County Commissioners ("Board") ~~or the other appointing bodies~~ and nominated as provided in

1 Section 12.9 herein. Each member of the Council shall be selected in such manner as to
2 ensure that the general arts needs of the residents of Broward County may best be
3 served. No more than five (5) individuals salaried ~~by any particular~~ with an arts or cultural
4 organization shall simultaneously serve on the Council.

5 (b-) Except as stated in this section, Mmembers of the Council shall serve
6 pursuant to Section 1-233 of the Broward County Code of Ordinances, as amended (the
7 "Code").

8 (c-) Each Council member shall have the responsibility of serving the best
9 interests of the cultural arts in Broward County. No member shall view ~~his or her~~ their role
10 on the Council as representing any particular interest group, arts institution, community
11 organization, audience, or geographic area of Broward County.

12 (d-) No Council member shall receive compensation for ~~his or her~~ their services
13 as a member of the Council, but each member may be reimbursed for actual expenses
14 necessarily incurred in the performance of ~~his or her~~ their duties ~~upon~~ with prior written
15 approval of the County Administrator, subject to the County's applicable guidelines,
16 requirements, regulations, codes, and applicable laws, as amended.

17 (e-) The Council shall be ~~comprised~~ composed of twenty-four (24) voting
18 members as set forth herein. ~~Eighteen (18) of those voting~~ All members shall be Broward
19 County residents ~~appointed by the Board, with each commissioner having two (2)~~
20 ~~appointees~~. The ~~remaining six (6) voting~~ members of the Council shall be ~~Broward County~~
21 ~~residents and shall be~~ appointed by the Board and nominated as follows:

- 22 (1) Eighteen (18) members shall be at large appointments, with each County
23 Commissioner nominating two (2) members;
24

1 (2) One (1) member of the Board to be appointed, shall be a County
2 Commissioner, nominated by the Board;

3 (3) One (1) member of the School Board of Broward County to be appointed,
4 nominated by the School Board of Broward County;

5 (4) One (1) person member representing Broward's cities to be appointed
6 municipalities, nominated by the Broward League of Cities;

7 (5) One (1) person member representing the tourism industry to be appointed,
8 nominated by the Tourist Development Council;

9 (6) One (1) member to be appointed nominated by The Broward Alliance, Inc.,
10 a Florida non-profit nonprofit corporation, doing business as Greater Fort
11 Lauderdale-Broward Economic Development Alliance; and

12 (7) the Chair of the Cultural Executive Committee One (1) member,
13 recommended by Cultural Division staff, who is a representative of a
14 Broward-based arts and cultural organization that is a recipient of a Grant
15 Award as provided in Section 29.14 of the Administrative Code, nominated
16 by the Council.

17 ~~Each appointee shall serve pursuant to Section 1-233 of the Broward County Code of~~
18 ~~Ordinances, as amended.~~

19 (f-) The terms of Council members are not for fixed periods of time, and shall
20 be governed by Section 1-233(a)(2) of the Code. All members serve at the pleasure of
21 the Board and their nominating authority, provided that no member shall serve on the
22 Council for more than six (6) consecutive years after appointment or reappointment, as
23 applicable, unless renominated and reappointed.

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 underscored type are additions.

1 f. (g) Vacancies ~~in the membership of~~ on the Council shall be filled by
2 appointment ~~of~~ by the Board ~~or~~ after nomination by the applicable appointing ~~bodies as~~
3 ~~to five (5) of the members of the Council~~ authority set forth herein and in accordance with
4 Section 1-233 of the ~~Broward County Code of Ordinances, as amended from time to time,~~
5 and ~~Section 1.11 of the Broward County Administrative Code, as amended, regarding~~
6 ~~vacancies on the Broward County boards.~~

7 (h) In addition to the removal provisions of Section 1-233 of the Code, the
8 Council may, by a two-thirds (2/3) vote of its total membership, recommend to the Board
9 the removal of a member of the Council. Upon such recommendation by the Council, the
10 Board may remove a member of the Council by majority vote.

11 **12.10. ~~Removal of Members~~ Reserved.**

12 ~~The Council may, by a two-thirds (2/3) vote of its members, recommend the~~
13 ~~removal of a member of the Council to the Board.~~

14 **12.11. Organization and Meetings.**

15 (a-) The Council shall elect annually one (1) of the members of the Council to
16 be its Chair. No member of the Council may serve as its Chair for more than two (2)
17 consecutive one-year terms. The Council may annually elect such other officers as it
18 deems necessary and appropriate to conduct the business of the Council.

19 (b-) The Director of the Cultural Division shall be the Director of the Council and
20 shall be employed in accordance with County personnel policies and procedures. Upon
21 removal or resignation of the Director of the Cultural Division, the Council shall have the
22 right to interview all prospective candidates to fill ~~the~~ such vacancy ~~of Director of the~~
23 ~~Cultural Division and Director of the Council~~ and make appropriate recommendations to
24 the County Administrator. ~~The Director shall carry out and implement the policies and~~

1 ~~programs established by the Council and file such reports with the Council as it may deem~~
2 ~~advisable to monitor the progress of its various programs and policies.~~

3 (c-) The Council shall meet at least quarterly at such times and places as the
4 Council shall determine are appropriate.

5 (d-) ~~For the purposes of making the Council's work known and investigating and~~
6 ~~assessing the needs and development of the arts in Broward County, the Council shall~~
7 ~~hold at least one (1) open forum annually. Notice shall be given to the residents of~~
8 ~~Broward County of such forum specifying the date and place of the forum and the subjects~~
9 ~~to be considered at the forum.~~

10 e- The Council may establish such working committees of Council members
11 as it deems appropriate to carry out its objectives, duties, and powers.

12 (e) The Council and all committees and advisory panels established by the
13 Council are subject to the Sunshine Law, the Code of Ethics for Public Officers and
14 Employees, Section 1-234 of the Code, and applicable state and County law, as
15 amended.

16 (f-) The Council may establish and convene ~~such~~ advisory panels and may
17 consult with such advisors and volunteer experts as it deems necessary and appropriate
18 for carrying out its duties and responsibilities ~~under the Broward County Administrative~~
19 ~~Code.~~

20 (g-) Public Art and Design Committee.

21 (1-) *Creation.* There is hereby created and established in Broward County a
22 Public Art and Design Committee ("Committee") of the Council whose
23 purpose is to ~~oversee~~ advise Cultural Division staff and the Council
24 regarding the County's Public Art and Design Program.

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1 ~~(2.)~~ *Membership.* The Committee shall consist of at least five ~~(5)~~ members and
2 ~~no more than seven (7) members.~~ be composed of the Chair of the Council,
3 or designee, and Up to six (6) additional members, each of whom shall be
4 appointed at large by the Council and ~~one (1) member shall be the Chair of~~
5 ~~the Council or his/her designee.~~ The Committee shall be chaired by a
6 member of the Council, but in the absence or unavailability of such Chair,
7 another member of the Committee ~~or a non-member of the Council~~ may act
8 as the Chair. The members shall serve without compensation.

9 ~~(3.)~~ *Qualification of appointed members.* Membership of the Committee shall be
10 ~~comprised~~ composed of artists, arts professionals, architects, designers,
11 collectors, and other persons who are qualified to oversee a public art
12 program. ~~Membership on this Committee as well as the Council and any of~~
13 ~~its other committees is subject to the Sunshine Law, the Code of Ethics for~~
14 ~~Public Officers and Employees, Section 1-234, Code of Ordinances, and~~
15 ~~applicable Florida laws or County ordinances, as amended.~~

16 ~~(4.)~~ *Terms of members.* The Committee members shall serve staggered
17 two-year terms. In any five-year period, Nno member of the Committee shall
18 serve more than two (2) consecutive full terms plus any partial term to which
19 the member may be appointed.

20 ~~h.~~ *~~Duties and Functions of the Committee.~~*

21 ~~1.~~ *~~Plan preparation.~~* The Council shall be responsible for preparation of the
22 ~~proposed annual plan in accordance with the "Preparation of Annual Plan"~~
23 ~~Section in Chapter 33, Part V, Public Art and Design Program of the~~
24 ~~Administrative Code.~~

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 underscored type are additions.

- 1 2. ~~Selection of panelists.~~ The Council shall establish a pool of arts selection
2 panelists submitted by the Committee, as set forth in Chapter 33, Part V, of
3 the Administrative Code.
- 4 3. ~~Approval of acquisitions.~~ All art acquisitions shall be approved by the Public
5 Art and Design Committee and the Broward Cultural Council pursuant to
6 and in accordance with the annual plan and the program guidelines.
- 7 4. ~~Program guidelines.~~ All acquisitions with regard to works of art shall be
8 made pursuant to the approved program guidelines contained in Chapter 33
9 of this Administrative Code. The Committee through the Council may
10 propose revisions to the program guidelines in order to effectuate the
11 purposes of this section, and shall submit such revisions to the Board for
12 approval.
- 13 5. The Committee shall develop guidelines for the deaccessioning of artwork
14 from the County's collection. The guidelines must be consistent with state
15 law and with County surplus property procedures. The procedures may be
16 implemented upon approval by the Office of the County Attorney and the
17 Council.
- 18 i. The Committee, through the Cultural Division, may obtain professional art
19 services from an individual or firm with expertise in the field of art, architecture,
20 engineering, appraisal, and conservation of art. The Cultural Division may negotiate for
21 services on a particular project, in accordance with applicable laws. These transactions
22 are exempt from the Procurement Code pursuant to Section 21.18 of the Administrative
23 Code, as amended.
- 24

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 underscored type are additions.

1 j. ~~Staff assistance and appropriate resources to the Committee shall be~~
2 ~~rendered by the Cultural Division.~~

3 **12.12. Cultural Division Budget.**

4 ~~The Council shall prepare and submit an annual budget to the County~~
5 ~~Administrator in accordance with the County's budget procedures and policies. The~~
6 ~~Council will review the proposed Cultural Division annual budget prior to submission for~~
7 ~~Board approval and may make recommendations regarding same to the County~~
8 ~~Administrator.~~

9 Section 2. Section 12.13 of the Broward County Administrative Code is
10 repealed in its entirety, and a new Section 12.13 is hereby created to read as follows:

11 [Underlining omitted]

12 **12.13. Powers and Duties.**

13 (a) *Generally.* Subject to the available budgeted funds, the Council is hereby
14 granted such powers and authority necessary and appropriate to give effect to its
15 purposes and duties as established by the Broward County Charter, the Administrative
16 Code, and the bylaws of the Council. The Council may adopt bylaws enumerating its
17 purposes, duties, powers, and rules of organization and operations, which bylaws shall
18 not be inconsistent with its powers, duties, and responsibilities established by the Broward
19 County Charter or the Administrative Code, as amended.

20 (b) *Plan preparation.* The Council shall be responsible for reviewing the
21 proposed annual plan in accordance with the "Preparation of Annual Plan" section in
22 Chapter 33, Part V, Public Art and Design Program, of the Administrative Code.

1 (c) *Selection of panelists.* The Council shall utilize a list provided by the
2 Committee to establish a pool of arts selection panelists, as set forth in Chapter 33,
3 Part V, of the Administrative Code.

4 (d) *Art and art services acquisitions.* All art acquisitions shall be approved by
5 the Committee and the Council pursuant to and in accordance with the annual plan. All
6 art acquisitions shall be made pursuant to the Public Art and Design Program Guidelines
7 contained in Chapter 33 of the Administrative Code. The Committee, through the Council,
8 may propose revisions to the Public Art and Design Program Guidelines to effectuate the
9 purposes of this section, and the Cultural Division may submit such proposed revisions
10 to the Board for its consideration. Subject to the available budgeted funds, the Cultural
11 Division may obtain professional art services from individuals or firms with expertise in
12 the field(s) of art, architecture, engineering, appraisal, or conservation of art to assist the
13 Committee and the Council in connection with such matters. The procurement of experts
14 by the Cultural Division pursuant to this section is exempt from the Procurement Code
15 pursuant to Section 21.5 of the Administrative Code, as amended.

16 (e) *Deaccession guidelines.* The Committee shall develop guidelines for the
17 deaccessioning of artwork from the County's collection. The guidelines must be
18 consistent with state law and County surplus property procedures. The procedures shall
19 be implemented upon approval by the Council and written confirmation by the Office of
20 the County Attorney that the guidelines are consistent with applicable law.

21 (f) *Cultural grant programs.* The Council shall participate in the awarding of
22 funds by the County under various cultural grant programs in the manner described in
23 Part II of Chapter 29 of the Administrative Code.

1 (g) *Recognition Program*. The Council shall establish and administer a
2 recognition program for the following purposes and objectives: to recognize the
3 importance of individuals or organizations outside of Broward County government that
4 have made significant contributions to arts and culture in Broward County; and to promote
5 community involvement in arts and culture. The Council shall establish the deadlines for
6 nominations and the eligibility criteria for the recognition program and may amend such
7 criteria from time to time. Nominations shall be submitted to the Council and may be
8 submitted by Council members or members of the public. The Council shall review the
9 nominations and determine awards by majority vote.

10 (h) The Cultural Division shall provide staff assistance and appropriate
11 resources to the Council and the Committee.

12 Section 3. Sections 12.14, 12.15, and 12.16 of the Broward County
13 Administrative Code are hereby repealed in their entirety.

14 Section 4. Severability.

15 If any portion of this Administrative Code Resolution is determined by any court to
16 be invalid, the invalid portion will be stricken, and such striking will not affect the validity
17 of the remainder of this Administrative Code Resolution. If any court determines that this
18 Administrative Code Resolution, in whole or in part, cannot be legally applied to any
19 individual, group, entity, property, or circumstance, such determination will not affect the
20 applicability of this Administrative Code Resolution to any other individual, group, entity,
21 property, or circumstance.

22 Section 5. Inclusion in the Broward County Administrative Code.

23 It is the intention of the Board of County Commissioners that the provisions of this
24 Administrative Code Resolution become part of the Broward County Administrative Code

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1 as of the effective date. The sections of this Administrative Code Resolution may be
2 renumbered or relettered and the word "resolution" may be changed to "section," "article,"
3 or such other appropriate word or phrase to the extent necessary in order to accomplish
4 such intention.

5 Section 6. Effective Date.

6 This Administrative Code Resolution is effective upon adoption.

7
8 ADOPTED this day of , 2021.

9 **PROPOSED**

10 Approved as to form and legal sufficiency:
11 Andrew J. Meyers, County Attorney

12 By /s/ Sara F. Cohen 05/12/2021
13 Sara F. Cohen (date)
14 Assistant County Attorney

15 By /s/ Nathaniel A. Klitsberg 05/12/2021
16 Nathaniel A. Klitsberg (date)
17 Senior Assistant County Attorney

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