

**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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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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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.

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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.

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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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