

## PERCENT FOR ART POLICY EXAMPLES

### Atlanta, GA

#### ARTICLE III. WORKS OF ART IN PUBLIC PLACES\*

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**\*Cross references:** Procurement of construction, architect, engineer and land surveying services, § 2-1266 et seq.

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#### **Sec. 46-76. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Construction project* means any capital project, including but not limited to those paid wholly or in part by the city with voter non-school general obligation bonds, annual general obligation non-school bonds, public grants except where prohibited, park improvement funds, revenue bonds and general funds, for the purpose of constructing or remodeling any building, decorative or commemorative structure, park, street, sidewalk, parking facility or utility or any portion thereof within the city.

*Eligible funds* means funds which pay for actual construction costs. This excludes funds which pay for engineering, architecture, acquisition, land acquisition and interest costs, as well as any incidental costs not associated with construction. Further, it refers only to that portion of public funds, which come from sources other than general obligation school bonds, private grants (except where expressly stated in the conditions of the grant itself) and assessment programs.

*Municipal art account* means the account within each eligible fund in which one and one-half percent of all eligible funds for construction projects are deposited each year, and of which 80 percent shall be expended on the selection, design and development of works of public art, and 20 percent reserved for maintenance of works of public art and **arts** administration by the bureau of cultural affairs (BCA). BCA shall be the administrator of all municipal **arts** accounts and have sole expenditure authority on said accounts.

*Municipal art plan* means an annual plan developed and administered by the bureau of cultural affairs for the aesthetic enhancement of all capital construction projects paid for by eligible funds in a particular year.

(Code 1977, § 10-4005; Ord. No. 2001-55, § 4, 7-24-01)

**Cross references:** Definitions generally, § 1-2.

**Sec. 46-77. Policy.**

A policy is established to direct the inclusion of works of art in the public works projects of the city and to place art on municipally owned or rented property. The city's public art master plan shall guide the development, administration and maintenance of public art in Atlanta.

(Code 1977, § 10-4004; Ord. No. 2001-55, § 3, 7-24-01)

**Sec. 46-78. Funds for works of art.**

All request for appropriations for construction projects from eligible funds as defined in section 46-76 shall include the encumbrance of an amount equal to one and one-half percent of the estimated cost of such projects for public works of art and shall be accompanied by contractual requirements authorizing the bureau of cultural affairs to expend such funds after the same have been deposited in a municipal **arts** account. When any such request for construction projects is approved, the appropriation for such construction projects shall be made and shall include an appropriation of funds for works of art, at the rate of one and one-half percent of project costs to be deposited into the municipal **arts** account as a line item in each fund. Money identified by each bureau, or agency for its public art percentage program shall be expended for payees as prescribed by the municipal **arts** plan, as provided in section 46-79(2).

(Code 1977, § 10-4006; Ord. No. 2001-55, § 5, 7-24-01)

**Sec. 46-79. Authority of bureau of cultural affairs.**

To carry out its responsibilities under this article, the bureau of cultural affairs shall:

- (1) Prepare for review by the mayor and council, a municipal **arts** plan which shall outline the expenditure of funds from the municipal **arts** account(s). Such plan shall include, but not be limited to, the method(s) of commissioning artists, specific locations and expenditures for specific works of art, and maintenance and administration of the public **arts** program;
- (2) Cause the municipal **arts** plan to be an integral part of the office's recommendations with regard to the city's comprehensive development plan and the capital improvement plan;
- (3) Bring to the attention of the city council any proposed work of art requiring extraordinary operation or maintenance expenses;
- (4) Recommend the placement of works of art consistent with section 46-81;
- (5) Make recommendations regarding artist(s) selections without regard to an individual's or the perception of an individual's race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or the use of a trained dog guide by a blind, deaf or otherwise physically disabled person;
- (6) Make recommendations to the council as to the amount of money required in advance to carry out contracted projects by artist(s); the amount advanced shall not exceed one-third of the total allocable to such artist(s) for the contracted work of art and shall be approved by the council and mayor prior to payment; and
- (7) Review prior to final payment all works in order to report on the conformity of the finished work with the approved plans or other document describing the work of art to be carried out.
- (8) Approve all expenditures from municipal **arts** accounts of which 80 percent shall be expended on the design, selection and development of works of public art, and 20 percent shall be expended on maintenance and administration of the public art program.
- (9) Develop procedures for implementation of the policy governing the acceptance of gifts of public art to the city and the policy governing the process for the de-accessioning of public art.

(10) Establish guidelines for and recommend the appointment of a public art advisory committee comprised of representatives from the business community, the **arts** community and the citizens of the city, to advise and assist the bureau of cultural affairs on matters regarding the implementation of public art policies for Atlanta.

(11) Review and approve all capital construction projects for compliance with the percent for art section of the Code of Ordinances, and determine if said percent for art funds shall be utilized on or about a specific project, or pooled with other funds for larger public **arts** projects located within the city, with the assistance of the public art advisory committee.

(Code 1977, § 10-4007; Ord. No. 2000-70, 12-12-00; Ord. No. 2001-55, § 6, 7-24-01)

#### **Sec. 46-80. Placement of art.**

Works of art selected and implemented pursuant to this article may be placed in, on or about any city construction project or other city-owned, city-leased or city-rented property. They may be attached or detached within or about such property and may be either temporary or permanent. Placement of works of art shall be authorized by the city council after a report of the mayor or the mayor's designee.

(Code 1977, § 10-4008)

#### **Sec. 46-81. Account and payments.**

There is established a special account within each eligible fund designated the "municipal **arts** account into which funds are appropriated as contemplated by section 46-78 and 46-79 hereof shall be deposited. Each disbursement from such account(s) or from other appropriations for works of **arts** shall be approved by the bureau of cultural affairs, as authorized by the city council. Twenty percent of each municipal **arts** account shall be reserved for the administration and maintenance of works of public art by the bureau of cultural affairs.

(Code 1977, § 10-4009; Ord. No. 2001-55, § 7, 7-24-01)

#### **Sec. 46-82. Waiver of article.**

This article may be waived by resolution adopted by the city council and approved by the mayor when the construction project covered under this article is not appropriated for works of art.

## **Charlotte, NC**

### **ARTICLE IX. PUBLIC ART PROGRAM**

#### **Sec. 15-231. Title.**

This article will be known and may be cited as the Charlotte public art program.

(Ord. No. 2308, § 1(15-211), 5-27-2003)

#### **Sec. 15-232. Purpose and intent.**

The city accepts responsibility for expanding the opportunity for its citizens to experience art in public places. The city also recognizes that the inclusion of public art in appropriate capital improvements projects will promote the cultural heritage and artistic development of the city, enhance the city's character and identity, contribute to economic development and tourism, add warmth, dignity, beauty and accessibility to public spaces, and expand the experience and participation of citizens with visual **arts**. A policy is therefore established to direct that funding for the inclusion of works of art in certain capital improvement projects constructed by the city be allocated through this public art program that supercedes and replaces the joint public art program previously operated by the Charlotte-Mecklenburg Public Art Commission that had been established through resolutions duly adopted by the city and the county.

(Ord. No. 2308, § 1(15-212), 5-27-2003)

#### **Sec. 15-233. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Artist* means any professional practitioner in the **arts**, generally recognized by critics and peers as a professional in the field as evidenced by his/her education, experience and artwork production.

*Artwork* means original works, produced by an artist pursuant to this article and approved by the public art commission, in a variety of media. Artwork may be permanent, temporary, or functional, may stand alone or be integrated into the architecture or landscaping and should encompass the broadest range of expression, media and materials. Artwork shall not include reproductions of original works of art.

ASC means the **Arts** and Science Council -- Charlotte/Mecklenburg, Inc., or its affiliated designee approved by the city, which assists in the administration of the public art program described in this article in accordance with an annual contract with the city and the public art commission.

*Capital improvement program* means the city's program for advance planning of capital development.

*Capital improvement project* means any capital project paid for wholly or in part by the city for the construction or substantial renovation of any building, facility or open space to which the public is generally invited, including projects in the business corridor program that are funded from the capital improvement program. For purposes of this article, a substantial renovation project is one that has been included in the capital improvement program.

*Construction costs* means the total amount appropriated for a capital improvement project (including funding from outside sources which permit the acquisition of artwork for the eligible project with such funds) less the actual costs of: (i) real property acquisition, (ii) demolition of existing structures, (iii) environmental remediation, (iv) equipment costs, (v) change orders to Eligible Projects, and (vi) legal, design and accounting fees.

*Eligible fund* means a source of funds for a capital improvement project from which city expenditures for public art are not prohibited as an object of expenditure.

*Eligible project* means any capital improvement project with the exception of (i) those projects that have statutory, contractual or other legal restrictions that prohibit expenditures for artwork from all portions of the project funds, and (ii) those art in transit projects that are governed by the guidelines established by the metropolitan transit commission for CATS' capital programs. The city council reserves the right to exclude certain projects from consideration as an eligible project or to limit the percentage of construction costs appropriated for artwork on an eligible project on a case-by-case basis.

*Public art account* means a specially designated account or accounts established by the city to fund the public art program as set forth in section 15-244.

*Public art allocation* means the amount of funds identified on a line item in the project budget for an eligible project that shall be allocated to the public art account for use in accordance with this article.

*Public art collection* means the entirety of artwork in city-owned places that have been acquired by the city through the public art program, and its predecessor program as a result of the public art resolutions of November 23, 1981, and May 10, 1993, which preceded the ordinance from which this article is derived.

*Public art commission* and *Commission* mean the Charlotte/Mecklenburg Public Art Commission described in section 15-234.

(Ord. No. 2308, § 1(15-213), 5-27-2003)

**Cross references:** Definitions generally, § 1-2.

**Sec. 15-234. Public art commission established; function.**

There is hereby established a commission to be known as the public art commission which shall have the powers and duties as set forth in this article in order to oversee and administer a public art program that will ensure the inclusion of artwork in appropriate capital improvement projects for the city to enhance the artistic and cultural development of the city. The public art commission also administers a public art program for the county pursuant to an ordinance duly adopted by the board of county commissioners on December 17, 2002. This reestablishment of the public art commission shall supercede and replace the Charlotte-Mecklenburg Public Art Commission previously established through resolutions duly adopted by the city and the county.

(Ord. No. 2308, § 1(15-214), 5-27-2003)

**Sec. 15-235. Composition; appointment of members.**

The public art commission shall be composed of no less than nine and no more than 12 members, three of which will be appointed by the city, three of which will be appointed by the board of county commissioners, and the

remainder of which will be appointed by the board of directors of the **arts** and science council. Two of the members appointed by the city shall be appointed by city council and the mayor shall appoint the other member. The members of the commission shall be appointed as follows:

TABLE INSET:

*City*  
*County*  
ASC

Visual **arts** or design professionals

3

Representatives of the business sector

1  
1

Representatives of the education field

1  
1

Representatives of the community

1  
1

(Ord. No. 2308, § 1(15-215), 5-27-2003)

**Sec. 15-236. Terms of members; removal, etc.**

(a) Members of the public art commission shall serve for three-year terms and may serve a maximum of two consecutive full terms, plus any partial term to which they may have been appointed. Member terms shall be appointed on a staggered basis so that no more than three of the minimum nine appointed seats become vacant at one time.



(b) Any member serving in a position for which the term has expired shall continue to serve until the member's successor in that position is appointed and qualified. Any vacancy in a position shall be filled for the unexpired term.

(c) Any member appointed by the city who fails to attend the requisite number of meetings as set out in the boards and commissions attendance policy adopted by the city council shall be automatically removed from the commission. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section. The city clerk will notify the mayor and council if a city-appointed member is absent the requisite number of the meetings, and appointment will be made by the appointing authority to fill that vacancy.

(d) Current members of the previously established Charlotte-Mecklenburg Public Art Commission shall serve out their remaining term and upon the expiration of such term, replacement members shall be appointed by the same entity that appointed the retiring member according to the fields designated in section 15-235.

(Ord. No. 2308, § 1(15-216), 5-27-2003)

#### **Sec. 15-237. Compensation of members.**

Members of the public art commission shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city, provided, however, that a member of the commission, or the firm, company or corporation with whom the member is associated, shall not be precluded from receiving compensation from the city under any contract for services rendered which have no relation to the member's duties as a member of the commission.

(Ord. No. 2308, § 1(15-217), 5-27-2003)

#### **Sec. 15-238. Chairman.**

The chairman of the public art commission shall be elected by a majority of the members of the commission and shall hold such office for one year or until a successor has been elected and qualified. The chairman may serve as a member of the board of directors of the **arts** and science council if so elected.

(Ord. No. 2308, § 1(15-218), 5-27-2003)

**arts**

**Sec. 15-239. Role of arts and science council.**

The **arts** and science council -- Charlotte/Mecklenburg, Inc., is a nonprofit organization that provides services and programs to the city pursuant to an annual agency contract. The public art commission shall utilize the services of the **arts** and science council to administer the public art program.

(Ord. No. 2308, § 1(15-219), 5-27-2003)

**Sec. 15-240. Administrative procedures.**

The public art commission in conjunction with the city's finance department and the **arts** and science council shall prepare guidelines and specifications for the administrative procedures that are necessary to accomplish the purposes set forth in this article.

(Ord. No. 2308, § 1(15-220), 5-27-2003)

**Sec. 15-241. Consultation with city officers and department staffs.**

City officers and staffs of city departments may consult and advise with the public art commission from time to time on matters coming within the scope of this article, and the commission may consult and advise with such city staffs and officers.

(Ord. No. 2308, § 1(15-221), 5-27-2003)

**Sec. 15-242. Solicitation of gifts of art and funds.**

The public art commission shall have the authority to solicit gifts of art on behalf of the city and to encourage public-spirited citizens to contribute funds, as well as permanent works of art, to the city and thereby help to beautify the city and the public buildings and grounds situated therein.

(Ord. No. 2308, § 1(15-222), 5-27-2003)

**Sec. 15-243. Powers and duties.**

(a) Subject to the provisions of this article, the public art commission shall be responsible for administering the city's public art program with the assistance of **arts** and science council, including the establishment of policies and guidelines, the designation of appropriate sites for artwork, the

determination of an art budget for eligible projects, the selection of artists and commissioning works of art, review of the design, execution and placement of artwork and the removal of artwork from the city collection.

(b) The public art commission, with the assistance of **arts** and science council, shall prepare an annual fiscal year work plan for approval by the city council which shall include at least the following: (i) a description of the artwork completed, obtained or commenced in the previous year; (ii) a description of the capital improvement projects designated for inclusion of public art in the upcoming year and of the funding source; (iii) a budget for the income and expenditures for such projects; and (iv) a general description of the public art plan for the upcoming year. The city council shall have final approval of the annual work plan and budget for the public art program. The annual work plan shall be contingent upon the availability of funds for capital projects.

(c) The public art commission shall work together with the city and the **arts** and science council to examine all artwork or a design or model of same which are proposed for permanent or longterm placement on city property or are to become the property of the city by purchase, gift or otherwise, except for those works to be placed in a museum or gallery, to determine an appropriate space for the placement of such artwork. In any case in which the city and the commission cannot agree on the location of placement of such works, the city's determination shall be final.

(d) Prior to moving or removing any artwork placed in, on or about city property pursuant to the public art program, the city shall submit such proposed change to the public art commission for a report and recommendation about a new space for the artwork or alternatives to moving it. In any case in which the city and the commission cannot agree on issues related to the relocation or removal of the artwork, the city's determination shall be final. The commission shall not be required to make recommendations regarding the temporary placement of artwork on city property.

(e) To encourage broad community participation in the public art program and to ensure artwork of the highest quality, the public art commission may solicit the participation of community representatives and professionals in the visual **arts** and design fields as part of the artist and art work selection process for particular public art projects in accordance with the size and complexity of the projects. These advisors may assist the commission in the selection of artists, project oversight and other related purposes, but shall have no vote on matters coming before the public art commission.

(f) During the design phase of the artwork, the public art commission shall advise the appropriate city departments through the city manager concerning the maintenance requirements of every artwork, recommend to the responsible department the type, frequency and extent of maintenance required to preserve the quality and value of every artwork, and inspect such maintenance work for the guidance of the city departments concerned. It is the responsibility of the site manager or appropriate department head to provide for the maintenance of artwork in their routine site maintenance program. Any proposed artwork which is determined by the commission or demonstrated by an appropriate city department head to require extraordinary operations or maintenance expense shall be reviewed with the city manager and approved by city council prior to proceeding with the fabrication and construction of the artwork.

(Ord. No. 2308, § 1(15-223), 5-27-2003)

**Sec. 15-244. Funds for public artwork.**

(a) All allocations of funds for eligible projects shall include an amount equal to one percent of the projected construction costs at the time the project is included in the city's capital improvement program to be used for the selection, acquisition, commissioning and display of artwork. No allocation shall be made for eligible projects with an estimated expenditure of less than the threshold amount for which formal bidding procedures are required pursuant to G.S. 143-129. If the source of funding, applicable law governing any particular eligible project or the expenditure of such funds precludes art as a permissible expenditure, the amount of funds so restricted shall be excluded from the construction costs in determining the amount to be allocated as provided in this section.

(b) The city's finance director shall establish a special fund designated the public art account into which funds appropriated as set out in subsection (a) of this section (the public art allocations) or derived from gifts or donations to the city for public art shall be deposited. For the budget year that the city council appropriates funding for the eligible project and that the eligible project is instituted, the public art allocations shall be deposited into the public art account in accordance with procedures established by the city's finance director.

(c) Monies collected in the public art account shall be budgeted and expended in the same manner as other city revenues and used for projects commissioned pursuant to this article. Each disbursement from such account or from other appropriations for artwork shall be recommended by the public art commission and authorized in accordance with applicable law and accounting principles governing expenditures from the city's budget. Separate

accounts shall be established whenever funds are required to be used at a designated capital improvement project.

(d) From the effective date of this section, applications for capital improvement projects to granting authorities shall include amounts for artwork as specified in this section, insofar as permissible by the granting authority.

(Ord. No. 2308, § 1(15-224), 5-27-2003)

#### **Sec. 15-245. Uses of funds.**

Funds allocated in accordance with this article may be used for the selection, acquisition, purchase, commissioning, fabrication, placement, installation, exhibition or display of artwork. To the extent practical, artist selection should be concurrent with selection of the architect or designer to ensure integration of the artwork into the project architecture. If a particular eligible project is deemed inappropriate for the placement of artwork by the public art commission or by city council, if not otherwise prohibited by law, the funds appropriated for artwork may be used at other more appropriate public sites.

(Ord. No. 2308, § 1(15-225), 5-27-2003)

#### **Sec. 15-246. Public art acquisition.**

Disbursement of funds from the public art account to pay for artwork acquired pursuant to this article shall be made in accordance with procedures established by the city's finance director, but shall at least include the submission from the public art commission of an accurate and complete invoice resulting from a contract with an artist. The invoice for such artwork may include a commission fee of 15 percent of the cost of the artwork for services rendered in connection with the acquisition and installation of the artwork.

(Ord. No. 2308, § 1(15-226), 5-27-2003)

#### **Sec. 15-247. Ownership of artwork.**

All artwork acquired pursuant to this article shall be acquired in the name of the city and title shall vest in the city.

(Ord. No. 2308, § 1(15-227), 5-27-2003)

## **Sec. 15-248. Decriminalization.**

A violation of this article shall not constitute an infraction or misdemeanor punishable under G.S.

## **King County, WA**

### **Chapter 4.40**

### **FINANCING ART IN COUNTY CONSTRUCTION PROJECTS**

#### **Sections:**

4.40.005 Definitions.

4.40.015 Funding, appropriations, opportunities for pooling funds and use of funds.

4.40.025 Inclusion of public art requirements in grants to other agencies.

4.40.110 General obligation bond proceeds.

4.40.120 Harborview Medical Center capital reserves.

#### **4.40.005 Definitions.**

Words in this chapter have their ordinary and usual meanings except those defined in this

section, which have, in addition, the following meanings. If there is conflict, the specific definitions in this

section shall presumptively, but not conclusively, prevail.

A. "Acquisition" or "county force acquisition" means the purchase of parcels of land, existing

buildings, and structures, and costs incurred by the county for the appraisals or negotiations in

connection with such a purchase.

B. "Arts and cultural development fund" means the special revenue fund established in K.C.C.

4.08.190 to receive and transfer to the cultural development authority a variety of revenues including, but

not limited to, public art revenues.

C. "Client department" means the county department, division or office responsible for

construction or custodial management of a facility or capital improvement project after construction is complete.

D. "County force" means work or services performed by county employees.

E. "Cultural development authority" or "authority" means the cultural development authority of

King County established under K.C.C. chapter 2.49.

F. "Equipment and furnishings" means any equipment or furnishings that are portable and of

standard manufacture. "Equipment" does not mean items that are custom designed or that create a new

use for the facility, whether portable or affixed.

G. "Public art fund" means the fund established in K.C.C. 4.08.185.

H. "Public art program" means the county program administered and

implemented by the cultural development authority that includes the works and thinking of artists in the planning, design and construction of facilities, buildings, infrastructure and public spaces to enhance the physical environment, mitigate the impacts of county construction projects, and enrich the lives of county residents through increased opportunities to interact with art. (Ord. 14482 § 57, 2002).

**4.40.015 Funding, appropriations, opportunities for pooling funds and use of funds.**

A. All capital improvement projects that are publicly accessible and visible, or for which there is a

need for mitigation, shall contribute to the county's public art program.

1. The amount of the annual appropriation for public art shall be equal to one percent of the

eligible project costs of those capital improvement projects that meet the criteria of public visibility and accessibility or need for mitigation. For the purposes of calculation, eligible project categories shall include capital improvement program projects for new construction, reconstruction or remodeling of buildings, parks and trails, commemorative structures, pedestrian and vehicular bridges, surface water management projects, wastewater treatment projects, transit facility construction projects and solid waste transfer stations.

2. The following project categories shall be considered ineligible and may be excluded from the public art program calculation base: roads; airport runways; sewers; and solid waste landfills. This ineligibility shall not preclude a client department, in cooperation with the cultural development authority, from proposing a public art project for a road, airport runway, sewer or solid waste landfill project that presents an opportunity for the inclusion of public art.

(King County 6-2004)

**FINANCING ART IN COUNTY CONSTRUCTION PROJECTS 4.40.015**

3. At a minimum, the amount budgeted for public art in a capital improvement project shall be

equal to one percent of the following project elements: conceptual design, design, contracted design, preliminary engineering, construction, contingency, county force design and project administration and construction engineering. Costs associated with the predesign phase of the county's capital planning projects meeting the above criteria and anticipated to result in construction, shall be included in the calculation for public art.

4. The following project elements may be excluded from the budget calculation for public art:

acquisition equipment and furnishings; and county force acquisition. Asbestos

abatement may also be excluded from the budget calculation for art when the costs for asbestos abatement have been calculated and a line item budgeted for asbestos abatement as been established within the project budget.

5. In all cases, where a capital improvement project has a scope of work that includes both eligible and ineligible project elements and eligible and ineligible project categories, the budget for public art shall be calculated, at a minimum, in the eligible portions of the project.

B. At the time a capital improvement project is proposed, the client department shall calculate and include a budgeted line item for public art in each eligible project described in this section. The executive's budget representative shall confirm the calculations with the cultural development authority and include the agreed-upon appropriations for public art in the executive's proposed budget. The amounts budgeted for public art in particular projects may be adjusted to reflect council changes to the county capital improvement program budget or supplemental budgets. The appropriation for public art shall be transferred to the arts and cultural development fund and from there to the cultural development authority as soon as the appropriation is made for the capital improvement project, and as soon as funds are available.

C. The source of the funds shall not affect the calculation for public art for a capital improvement project unless the conditions under which the revenue is made available prevent its use for artistic purposes. In this case, the revenue shall be excluded from the eligible project costs on which the one percent calculation for art is based.

D. A policy is hereby established to direct the pooling of all public art program revenues on a departmental basis. Interest generated by public art revenues shall not be pooled on a departmental basis. However, interest from all revenues shall be pooled collectively and used for the purposes established in this section.

Pooling affords the opportunity to look at the needs of the county as a whole and use the public art revenues only in those projects that may have the greatest impact on communities or offer the best opportunities for artist involvement. Pooling on a departmental basis affords the opportunity for the cultural development authority and client departments to work collaboratively on projects that reflect the missions and goals of individual departments and to ensure that public art projects are adequately funded. It is not the



executive's or council's intent that every capital improvement project which contributes to the public art fund revenues shall include a public art project. The decision regarding capital improvement projects that will include a public art project shall be determined jointly by the cultural development authority and the client department according to the procedures and criteria in this section and K.C.C. 2.46.150.

E. Revenues shall support the following uses:

1. The selection, acquisition and display of works of art, that may be an integral part of the project or placed in, on or about the project or other public space;
2. Artist fees, design, planning and predesign service contracts and commissions;
3. Expenses for technical assistance provided by either architects or engineers, or both, and to artists in order to design, document or certify the artwork;
4. Repair and maintenance of public artworks accessioned into the county's public art collection to the extent permissible under generally accepted accounting principles, grants, contracts and law;
5. Public art program administrative expenses relating to acquiring, developing or maintaining public art to the extent permissible under generally accepted accounting principles, grants, contracts and law;
6. Participation by citizens or costs of communicating with and receiving input from citizens, working with professional artists, introduction of public art to children, and education of the public about the county's rich cultural and artistic heritage;
7. Documentation and public education material for the public art program;
8. Liability insurance for artists; and
9. Pilot projects approved by the cultural development authority. (Ord. 14482 § 58, 2002: Ord. 12089 § 9, 1995. Formerly K.C.C. 2.46.070).

(King County 6-2004)

#### 4.40.025 - 4.40.120 REVENUE AND FINANCIAL REGULATIONS

##### **4.40.025 Inclusion of public art requirements in grants to other agencies.**

Funds that are distributed by the county to another agency for eligible capital improvement project with an estimated construction budget of two hundred fifty thousand dollars or more shall include a requirement for inclusion of public art. The public art shall be identified by the receiving agency and evaluated by the cultural development authority during the planning process to assure compliance by the receiving agency. (Ord. 14482 § 59, 2002: Ord. 12089 § 12, 1995. Formerly K.C.C. 2.46.100).

**4.40.110 General obligation bond proceeds.** In the case of any county

construction project that meets the eligibility criteria for public art established in K.C.C. 4.40.015 that involves the use of general obligation bond proceeds, the resolution, resolutions, ordinance or ordinances submitted to the voters or the council shall include an allocation for public art equal to one percent of the eligible project cost. Bond revenues for public art shall be transferred to the cultural development authority as described in K.C.C. 4.40.015 to the extent consistent with arbitrage requirements and other legal restrictions. Bond revenues for public art not transferred to the cultural development authority shall be accounted for separately within the public art fund and managed according to K.C.C. chapter 2.46. (Ord. 14482 § 61, 2002: Ord. 12989 § 15, 1995: Ord. 9538 § 4, 1990: Ord. 9134 § 12, 1989: Ord. 6111 § 8, 1982).

**4.40.120 Harborview Medical Center capital reserves.** For any public art funds which involve the use of Harborview Medical Center's capital reserves (Fund 396), amounts for works of art described in this chapter shall be used for art projects at Harborview Medical Center. These funds shall be accounted for separately by the cultural development authority if necessary to comply with this requirement. (Ord. 14482 § 62, 2002: Ord. 12089 § 16, 1995: Ord. 9538 § 5, 1990: Ord. 9134 § 13, 1989).

## **Los Angeles, CA**

### **91.107.4.6. Arts Development Fee.**

**91.107.4.6.1. Arts Fee.** The owner of a development project for a commercial or industrial building shall be required to pay an arts fee in accordance with the requirements of this section.

**91.107.4.6.2. Fee Amount.** The Department of Building and Safety shall collect an arts fee in the following amount:

1. **Office or research and development.** For an office or research and development building, the arts fee shall be \$1.57 per square foot.
2. **Retail.** All retail establishments shall pay an arts fee of \$1.31 per square foot.
3. **Manufacturing.** For a manufacturing building, the arts fee shall be \$0.51 per square foot.
4. **Warehouse.** For a warehouse building, the arts fee shall be \$0.39 per square foot.

5. **Hotel.** For a hotel building, the arts fee shall be \$0.52 per square foot.

In no event shall the required arts fee exceed either \$1.57 per gross square foot of any structure authorized by the permit or one percent of the valuation of the project designated on the permit, whichever is lower, as determined by the Department of Building and Safety. Where there are combined uses within a development project or portion thereof, the arts fee shall be the sum of the fee requirements of the various uses listed above. The Cultural Affairs Department shall revise the arts fee annually by an amount equal to the Consumer Price Index for Los Angeles as published by the United States Department of Labor. The revised amount shall be submitted to Council for adoption by ordinance.

**91.107.4.6.3. Time of Collection.** Except as provided in Section 91.107.4.6, the Department of Building and Safety shall collect an arts fee before issuance of a building permit for commercial and industrial buildings required by this code.

**91.107.4.6.4. EXCEPTIONS:** The arts fee required by Section 91.107.4.6 shall not be assessed for the following projects or portions thereof:

1. Any project for which the total value of all construction or work for which the permit is issued is \$500,000 or less.
2. The repair, renovation or rehabilitation of a building or structure that does not alter the size or occupancy load of the building.
3. The repair, renovation or rehabilitation of a building or structure for the installation of fire sprinklers pursuant to Division 9.
4. The repair, renovation or rehabilitation of a building or structure that has been made to comply with Division 88 (Earthquake Hazard Reduction in Existing Buildings) subsequent to a citation of noncompliance with Division 88.
5. The repair, renovation or rehabilitation of a building or structure for any handicapped facilities pursuant to this code.
6. All residential buildings or portion thereof. This exception does not include hotels.

**91.107.4.6.5. Use of Arts Fees Acquired Pursuant to Section 91.107.4.6.** Any arts fee collected by the Department of Building and Safety shall be deposited in the Arts Development Fee Trust Fund. Any fee paid into this fund may be used only for the purpose of providing cultural and artistic facilities, services and community amenities which will be available to the development project and its future employees. Any cultural and artistic facilities, services and community amenities provided shall comply with the principles and standards set forth in the Cultural Master Plan when adopted.

At or about the time of collection of any fee imposed by this section, the Cultural Affairs Department shall identify the use to which the arts fee is to be put, and if the use is financing public facilities, the facilities shall be identified.

**91.107.4.6.6. Projects Covered by Ordinance 164,243. (Ord. No. 173,300, Eff. 6/30/00, Oper. 7/1/00.)** In 1988, the City enacted Ordinance 164,243 which states in part:

“This ordinance is an interim measure while the City of Los Angeles is giving consideration to the enactment of an Arts Development Fee Ordinance. The owners of a development project shall be obligated to pay an Arts Development Fee if such fee is adopted in the future by the city. The fee will not exceed one percent (1%) of the total value of work and construction authorized by the building permit issued to a development project. This fee would be used to provide adequate cultural and artistic facilities, services and community amenities for the project.”

By enacting Section 91.107.4.6 (previously Section 91.0304(b)(11)), the City has adopted the Arts Development Fee referred to by Ordinance 164,243. Accordingly, an arts fee shall be paid to the City of Los Angeles by owners of development projects which received building permits between and including January 15, 1989, and the effective date of this section. This arts fee described in this section shall be paid within 60 days of receipt of a request for payment of an arts fee. All exceptions listed in Section 91.107.4.6.4 shall apply to owners of development projects subject to Ordinance 164,243.

The Office of Finance shall bill and collect the Arts Development Fee owed by those persons to whom notice was given pursuant to this paragraph for the period January 15, 1989, through May 7, 1991. The amount due shall be paid in full within 60 days of the billing date unless an agreement to pay in installments pursuant to this paragraph is approved by the Office of Finance. Persons indebted to the City of Los Angeles for Arts Development Fees may, upon approval by the Office of Finance, enter into an agreement with the City of Los Angeles to pay such fees in installments over a period not to exceed one year. The Office of Finance shall collect a service fee of \$10.00 on each monthly installment to recover the cost to the city of processing installment payments. The Cultural Affairs Department is hereby authorized to negotiate and accept payment in kind for the Arts Development Fee owed by those persons to whom notice was given pursuant to this paragraph for the period January 15, 1989, through May 7, 1991. The Cultural Affairs Department shall provide notice to the Office of Finance of the name of the person on whose account such in kind payment was accepted, and whether the in kind payment constitutes payment in full or only a specified portion of the Arts Development Fee owed.

The Office of Finance is authorized to record payment in full, without further notification to the person billed, for cash or in kind Arts Development Fee payments received that are within \$3.00 of the amount owed.

**91.107.4.7. Affordable Housing Mitigation Fee Notice.** Before issuance of a building permit for any project or structure, the Department of Building and Safety shall affix to the permit an Affordable Housing Mitigation Fee Notice to read as follows:

**Affordable Housing Mitigation Fee Notice:** The City of Los Angeles is considering the enactment of an Affordable Housing Mitigation Fee Ordinance. The owner of the project designated in this permit shall be obligated to comply with an Affordable Housing Mitigation Fee Ordinance, if such an ordinance is adopted in the future by the city. In no event shall the required fee exceed either \$5.00 per square foot of the structure(s) authorized by the permit or 3.5 percent of the valuation of the project designated on the permit, as determined by the Department of Building and Safety, whichever is lower. This fee shall be used to mitigate any affordable housing needs created by the project.

**91.107.4.6.6. Projects Covered by Ordinance 164,243. (Ord. No. 173,300, Eff. 6/30/00, Oper. 7/1/00.)** In 1988, the City enacted Ordinance 164,243 which states in part:

“This ordinance is an interim measure while the City of Los Angeles is giving consideration to the enactment of an Arts Development Fee Ordinance. The owners of a development project shall be obligated to pay an Arts Development Fee if such fee is adopted in the future by the city. The fee will not exceed one percent (1%) of the total value of work and construction authorized by the building permit issued to a development project. This fee would be used to provide adequate cultural and artistic facilities, services and community amenities for the project.”

By enacting Section 91.107.4.6 (previously Section 91.0304(b)(11)), the City has adopted the Arts Development Fee referred to by Ordinance 164,243. Accordingly, an arts fee shall be paid to the City of Los Angeles by owners of development projects which received building permits between and including January 15, 1989, and the effective date of this section. This arts fee described in this section shall be paid within 60 days of receipt of a request for payment of an arts fee. All exceptions listed in Section 91.107.4.6.4 shall apply to owners of development projects subject to Ordinance 164,243.

The Office of Finance shall bill and collect the Arts Development Fee owed by those persons to whom notice was given pursuant to this paragraph for the period January 15, 1989, through May 7, 1991. The amount due shall be paid in full within 60 days of the billing date unless an agreement to pay in installments pursuant to this paragraph is approved by the Office of Finance. Persons indebted to the City of Los Angeles for Arts Development Fees may, upon approval by the Office of Finance, enter into an agreement with the City of Los Angeles to pay such fees in installments over a period not to exceed one year. The Office of Finance shall collect a service fee of \$10.00 on each

monthly installment to recover the cost to the city of processing installment payments. The Cultural Affairs Department is hereby authorized to negotiate and accept payment in kind for the Arts Development Fee owed by those persons to whom notice was given pursuant to this paragraph for the period January 15, 1989, through May 7, 1991. The Cultural Affairs Department shall provide notice to the Office of Finance of the name of the person on whose account such in kind payment was accepted, and whether the in kind payment constitutes payment in full or only a specified portion of the Arts Development Fee owed.

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## **Oklahoma City**

### **ARTSARTS**

### **ARTICLE VII. ARTS COMMISSION AND THE ARTS**

#### **DIVISION 1. GENERALLY**

#### **§ 38-487. Purposes.**

The Council hereby declares that the artists, performers and various artistic and cultural institutions of the City enhance the public welfare by providing education, recreation, entertainment and culture to the citizens of the City. The Council therefore declares that the purposes of this article are as follows:

- (1) to provide a continuing source of advice concerning artistic, cultural or aesthetic matters to insure that the City will be an attractive and culturally enriched City.
- (2) to promote and encourage programs to further the development of and public awareness and interest in the City in connection with the artistic and cultural development of the City.
- (3) to provide advice to the Council concerning works of art to be placed on municipal property.
- (4) to provide advice and assistance to the City in connection with other artistic and cultural activities.

(Ord. No. 15652, § 1(7A-2), 1-3-80; Code 1980, § 38-487)

**§ 38-488. Policy for works of art; budgeting of public funds; selection and placement; definitions.**

The policy for budgeting of public funds for works of art and for the selection and placement of works of art upon property owned or leased by the City shall be as follows:

- (1) Not less than one percent of the total cost of any new buildings or major revisions to existing buildings to be constructed or erected on property owned or leased by the City utilizing public funds may be budgeted for works of art.
- (2) Works of art which are to be incorporated as integral parts of the structural or landscape design of a building or structure shall appear as separate items in the bid specifications for the proposed construction or erection of the public improvements in question which shall comply with Subsection (1) above.
- (3) Except as provided in Subsection (2) above, the funds for works of art as provided for by Subsection (1) above may be set aside at the time of the award of the contract for the construction or erection of the public improvements in question.
- (4) All funds appropriated pursuant to the provisions of this section shall be placed in a separate account to be established by the City Treasurer and such funds shall be used exclusively for the purchase of works of art.
- (5) All works of art to be incorporated into the building, structure or grounds, or to be purchased with funds set aside pursuant to the provisions of this section, shall be reviewed, selected and recommended by the **Arts** Commission, with the final approval for such purchases to be given by the Council pursuant to Subsection 38-499(2) of this chapter.
- (6) Works of art purchased with funds set aside pursuant to the provisions of this section may be placed upon any property owned or leased by the City, with the placement of such works of art to be made upon the recommendation of the **Arts** Commission and the final approval of the Council.
- (7) For the purposes of this section, the following terms shall have the meanings indicated:

- a. *Building* means any structure.
  
- b. *Structure* means anything which is constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground.
  
- c. *Works of art* includes by way of illustration and not of limitation: paintings and photographs; mural decorations; stained glass; statues; bas-reliefs or other sculptures; extraordinary landscaping or environmental works, including monuments, fountains, arches or other unusual architectural treatments.

(Code 1980, § 38-488; Ord. No. 18674, § 1, 1-20-87)

§§ 38-489--38-494. Reserved.

**ARTS**  
**DIVISION 2. ARTS COMMISSION\***

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\***Cross references:** Boards and commissions generally, § 2-681 et seq.

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**§ 38-495. Created.**

There is hereby created the **Arts** Commission.

(Ord. No. 15650, § 7A-3, 1-3-80; Code 1980, § 38-495; Ord. No. 20021, § 2, 8-24-93)

**§ 38-496. Status.**

The **Arts** Commission shall be a part of the Division of Public Affairs.

(Code 1980, § 38-496)

**Charter references:** Division of Public Affairs, Art. IV, §§ 5, 6.



**§ 38-497. Members.**

(a) The **Arts** Commission shall be composed of 15 members, who shall be appointed by the Mayor with the approval of the Council. The **Arts** Commission shall have the following composition, with at least 3/4 of the members being residents of the City:

(1) five members at large.

(2) One member shall represent the **Arts** Council of Oklahoma City.

(3) One member shall represent the Oklahoma City Convention and Visitor's Commission.

(4) One member shall represent the Allied **Arts** Foundation.

(5) Three members shall be professional artists, performers and/or architects.

(6) Four members shall be from other **arts** and cultural organizations not specifically referenced herein.

(b) All members of the **Arts** Commission shall serve without compensation. The term of each member shall be three years or until a successor takes office. The term will expire on September 1 in the year in which the term would normally expire. All members shall serve three-year terms after the current term expires or until a successor takes office.

(c) Any incumbent member of the **Arts** Commission shall be eligible for reappointment at the end of his term of office. A member appointed to fill a vacancy shall serve the remainder of the unexpired term. Any member of the **Arts** Commission may be removed from office for neglect of duty or malfeasance. Removal shall be effected by a majority vote of the Council.

(d) All members shall serve without compensation.

(Ord. No. 15652, §§ 7A-3--7A-5, 1-3-80; Ord. No. 15704, § 1, 2-19-80; Code 1980, § 38-497; Ord. No. 19281, § 1, 9-12-89; Ord. No. 20021, § 2, 8-24-93)

**Charter references:** Appointment of members to boards, commissions, etc., in Division of Public Affairs, Art. IV, § 6.

**§ 38-498. Officers.**

The **Arts** Commission shall select one of its members as chairman, another as vice-chairman and another as secretary. The chairman, vice-chairman and secretary shall receive no salary for their services.

(Ord. No. 15652, § 7A-4, 1-3-80; Ord. No. 15704, § 1, 2-19-80; Code 1980, § 38-498; Ord. No. 20021, § 2, 8-24-93)

**§ 38-499. Functions.**

Unless otherwise specified in this Code, the duties of the **Arts** Commission shall be as follows:

- (1) to make regular assessments of the conditions and needs of the City concerning the **arts**;
- (2) to advise the Council concerning works of art to be placed on municipal property;
- (3) to make recommendations to the Council concerning grants from Federal and State agencies, private groups and individuals, and, when so directed by the Council, oversee **arts** and cultural projects and programs;
- (4) to increase public awareness of the value of our **arts** and cultural resources by developing and participating in public information programs;
- (5) to advise and assist the Council in connection with such other **arts** and cultural matters as may be referred to it by the Council;
- (6) to encourage greater **arts** and cultural involvement by departments of the City and to better utilize private **arts** and cultural agencies for services to citizens;

(7) to keep minutes and records of all meetings and proceedings, including voting records, attendance records, resolutions, findings of fact and decisions; and

(8) to perform any other functions imposed by this article or otherwise specified by the Council; and

(9) to advise the Council concerning the promotion of coordination among units of government in their projects and programs which involve the **arts** and cultural matters.

(Ord. No. 15652, § 7A-7, 1-3-80; Code 1980, § 38-500; Ord.No. 20021, § 2, 8-24-93)

§§ 38-500--38-510. Reserved.

### **Philadelphia, PA**

#### **§16-103. Aesthetic Ornamentation of City Structures. [4]**

(1) *Definition.*

(a) *Fine Arts.* Sculpture, monuments, bas reliefs, mosaics, frescoes, stained glass, murals and fountains which either contain sculpture, or are designed to enhance adjacent accompanying sculpture.

(2) *Expenditures for Fine Arts.* An amount not to exceed one per cent of the total dollar amount of any construction contract for a building, bridge and its approaches, arch, gate or other structure or fixture to be paid for either wholly or in part by the City, shall be devoted to the Fine Arts; provided, that the Art Commission certifies in writing that said ornamentation is fitting and appropriate to the function and location of the structure.

### **Phoenix, AZ**

#### **ARTICLE XXII. PERCENT FOR ART FUNDING\***

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\***Editor's note:** Ord. No. G-4547, § 2, adopted October 15, 2003, effective November 14, 2003, amended the title of Ch. 2, Article XXII to read as hereinabove set out. Formerly, said title read as **Arts** Funding.

**Cross references:** Phoenix Office of **Arts** and Culture and Phoenix **Arts** and Culture Commission, § 2-191 et seq.

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**Sec. 2-700. Percent for art funding.**

A. Under the provisions of Section 2-194(B) the Phoenix **Arts** and Culture Commission shall, as part of the annual budgetary process of the City, recommend to the City Manager and City Council, for inclusion in the capital budget pursuant to the Charter, an amount not to exceed one percent of the total capital improvement cost for each eligible capital improvement program, determined on a departmental program basis, to be expended upon art or art services under the provisions of this article and the annual art plan. If the recommended funding for an art project will extend over two or more fiscal years, the total amount expended on such art project over such two or more fiscal years shall not exceed one percent of the total capital improvement cost for the capital improvement program to which the art project is related. The amount of recommended funding up to one percent will be developed in conjunction with the department involved and the Budget and Research Department. For the purposes of the foregoing capital improvement cost determination, land acquisition, personal property and computer costs shall be excluded from the capital improvement cost base.

B. The annual public art project plan shall include art project expenditures proposed for the ensuing fiscal year and projections for art project expenditures for the ensuing five fiscal years and shall be submitted prior to May 1 of each year. The Mayor and City Council will review these plans in a policy session. City Council may amend and approve the final plans to increase or decrease the amount of money allocated for art projects.

C. Capital improvement program projects eligible for percent for art funding shall be those projects in which the inclusion of an art project is a legally permissible expenditure under the laws regulating the expenditure of funds for such capital improvement program projects, and which are identified by the Commission as appropriate for an art project. To the extent legally permissible, percent for art funds within a capital improvement program may be pooled on a departmental basis into one or more art projects.

D. Each budget item request shall be accompanied by a general description of the type and nature of art project to be included in such expenditures from the amounts to be appropriated for the capital improvement program projects to which such art project is related. If an art project is not expected to be completed during the fiscal year to which the budget applies, the budget item request shall describe the portion or phase of the art project to be completed during the fiscal year.

E. Upon approval by the City Council as part of the budget process of an appropriation for an art project, such appropriation shall be established within an appropriate account maintained by the Finance Department, Division of Accounts, and designated for the percent for art program. Such appropriations may be expended as normal appropriations are expended, upon the recommendation of the **Arts** and Culture Commission and City Manager and approval by the City Council in accordance with normal City budget and expenditure procedures, for the acquisition, design and construction of art projects. The City Auditor shall periodically review expenditures made in connection with the percent for art program to ensure compliance with all applicable laws, bond and other debt obligations and covenants, and City administrative procedures.

F. The Budget and Research Department, in consultation with the **Arts** and Culture Administrator and affected City departments, shall allocate funds in the City budget for the preservation of art projects purchased with percent for art funds.

G. Costs incurred by the inclusion of an art project in a specific capital improvement project, including, but not limited to, engineering fees, concrete bases and wiring shall be included in the percent for art budget for that specific capital improvement project.

(Ord. No. G-2953, § 3; Ord. No. G-3537, § 5; Ord. No. G-4547, § 2, passed 10-15-2003, eff. 11-14-2003)

### **Sec. 2-701. Placement of percent for art projects.**

Each art project recommended by the **Arts** and Culture Commission and approved by City Council for implementation pursuant to the provision of this Article and any amendment thereto shall be placed at a site which relates substantially to the purpose of the bond, enterprise or other fund from which the percent for art funds are derived. Such art projects may be attached or detached within or about such site, and may be either temporary or permanent. Placement of an art project shall be recommended to the City Council by the **Arts** and Culture Commission, in the annual public art project plan after consultation with the appropriate City department responsible for the funding of the capital improvement project or projects to which the art project is related. The department responsible for the funding of the capital improvement project or projects shall make appropriate space available for the placement of the related art projects. Art projects will be placed in full public view on City owned property unless an exemption is approved by City Council.

(Ord. No. G-2953, § 3; Ord. No. G-3537, § 6; Ord. No. G-4547, § 1, passed 10-15-2003, eff. 11-14-2003)

**Portland, OR**

**5.74.040 Public Art Trust Fund. ([Printable Version](#))**

The Regional Arts and Cultural Council shall maintain a special fund called the Public Art Trust Fund into which monetary contributions for Public Art shall be deposited.

**A.** 1.33 percent of the Total Costs of Improvement Projects shall be dedicated to Public Art and shall be deposited into the Public Art Trust Fund by the City official or employee acting on behalf of the Participating Bureau.

**1.** One percent of the Total Costs of Improvement Projects shall be used by the Regional Arts and Cultural Council for costs associated with Public Art including, but not limited to the acquisition, siting, maintenance and Deaccessioning of Public Art.

**2.** .33 percent of the Total Costs of Improvement Projects shall be used by the Regional Arts and Cultural Council for costs associated with Public Art, including, but not limited to costs of selection, administration, community education and registration of Public Art.

**B.** Monetary contributions shall be deposited in separate accounts within the Public Art Trust Fund if separate accounting is requested by the Participating Bureau or required by law.

**San José, CA**

Title 22 CONVENTION, CULTURAL AND VISITOR SERVICES

Chapter 22.08 ART IN PUBLIC PLACES

**Chapter 22.08  
ART IN PUBLIC PLACES**

**Sections:**

**22.08.005 Purpose.**

**22.08.010 Funds for works of art in public places.**

**22.08.020 Exclusions from and additions to the art in public places program.**

**22.08.030 Approval.**

**22.08.040 Other public agencies.**

**22.08.005 Purpose.**

The city of San José and the redevelopment agency of the city of San José desire to expand the public's experience with works of art and to improve the design of public places by encouraging the involvement of artists on design teams for certain capital projects. The purpose of this chapter is to ensure that not less than two percent of the cost of certain municipal capital improvement projects funded in whole or in part by either the city of San José or the redevelopment agency or both is set aside for the acquisition of works of art to be displayed in or about public places within the city. The procedures and guidelines for implementation of this chapter shall be as set forth in the respective resolutions of the city council and agency board.

(Ords. 21832, 24265, 24663.)

**22.08.010 Funds for works of art in public places.**

A. The city council and the redevelopment agency board shall provide in their respective annual capital improvement budgets for amounts of not less than two percent of the total amount budgeted for each "eligible construction project" to be set aside and identified as sources of funds to be appropriated and expended for acquisition of works of art in accordance with the provisions of this title. Appropriations for purposes of acquiring works of art in order to carry out the provisions of this title shall be made in accordance with law and the budgeting procedures of the city and the redevelopment agency.

B. Appropriations for works of art may be expended to acquire works of art for any public place if the terms of a contract, federal or state grant, law, or regulation do not limit or restrict the funds so appropriated to use for a specific "eligible construction project." Appropriations for works of art shall only be expended for acquisition of works of art to be located on the premises of a specific "eligible construction project" if the terms of a contract, federal or state grant, law, or regulation do limit or restrict the use of funds to a specific "eligible construction project" only.

C. Subject to applicable law, appropriations and expenditures for works of art may include, but are not limited to, the costs and expenses incurred in the process of selecting, installing, and maintaining works of art in public places.

D. The city manager or the city council, as appropriate, shall approve the acquisition of works of art to be funded under the city's capital improvement budget. The redevelopment agency executive director or the redevelopment agency board, as appropriate, shall approve the acquisition of works of art to be funded through the redevelopment agency's capital improvement budget.

(Ords. 21832, 23247, 24265.)

**22.08.020 Exclusions from and additions to the art in public places program.**

A. The city manager and the redevelopment agency executive director in conjunction with the submission of the annual capital budgets of the city and redevelopment agency, respectively, and subject to the provisions of any applicable law, each may:

1. Determine that certain proposed capital improvement projects not be deemed "eligible construction projects" for purposes of this title if the anticipated public visibility and/or public traffic usage of the capital improvement project is too minimal to warrant expenditures of funds for works of art; or

2. Designate funds to be added to the art in public places program, which funds may be utilized to place works of art in existing public places which do not otherwise qualify as "eligible construction projects."

B. In conjunction with submission of the city's and redevelopment agency's proposed annual capital improvement budget to the city council, and to the redevelopment agency board, respectively, the city manager and the redevelopment agency executive director shall notify the arts commission of: (i) those proposed capital improvement projects in said budgets which are not designated "eligible construction projects" for purposes of this title due to low anticipated public visibility and/or public traffic usage; (ii) those capital improvement projects which are designated "eligible construction projects" in said budgets; and (iii) any proposed discretionary funds added to the art in public places program.

C. The following provisions shall apply to the calculation of the not less than two percent to be expended for works of art pursuant to this title only in those circumstances in which the city or the redevelopment agency receives funds from persons, firms, organizations or other agencies which are restricted as to the use of said funds for expenditures for works of art, or which said funds are otherwise restricted by law or regulation:

1. If the terms of a contract, federal or state grant, law, or regulation prohibit or restrict the use of funds in connection with an "eligible construction project" for expenditures upon works of art, then the not less than two percent to be budgeted, appropriated and expended for purposes consistent with this



title shall be calculated so as to exclude from the total cost of said project any funds which are so prohibited or restricted.

2. If the terms of a contract, federal or state grant, law, or regulation provide that any additional expenditure by the city or the redevelopment agency on works of art for an otherwise “eligible construction project” shall affect the amount of funds received by the city or redevelopment agency for said project, then the cost of said project may be excluded in its entirety from the calculations of the not less than two percent to be budgeted, appropriated and expended for works of art pursuant to this title.

(Ords. 21832, 23247, 24265.)

#### **22.08.030 Approval.**

Contracts for acquisition of works of art or for other purposes authorized by this title, which are in an amount of one hundred thousand dollars or less, may be approved by the city manager or redevelopment executive director, as appropriate. Contracts for acquisition of works of art or for other purposes authorized by this title, which are in an amount exceeding one hundred thousand dollars, shall be submitted for approval to the city council or redevelopment agency board, as appropriate.

(Ords. 21832, 24265, 26386.)

#### **22.08.040 Other public agencies.**

If the city or redevelopment agency enters into an agreement with another public agency, whereby city or agency funds are transferred to such agency for the purpose of performing a capital improvement project which would otherwise be deemed an “eligible construction project” under this title, such agreement shall provide, whenever it is lawful or appropriate to do so, that the recipient agency or its successor in interest shall take appropriate measures to insure that not less than two percent of the city or agency funds so transferred are expended for acquisition of works of art.

(Ords. 21832, 23247, 24265.)

### **Tampa, FL**

## **ARTICLE I. IN GENERAL**

### **Sec. 4-1. Intent.**

The intent of this chapter is to establish a policy for the city, in keeping with the vitality for which it is nationally recognized, and in order to enhance its aesthetic environment, to encourage private developers/owners of commercial properties to commission a piece of art for each new development

or mall or structure or, in lieu thereof, to donate monies to the city for public art. The private developers/owners should be inspired to invest time, effort and money into the art displayed on their sites, recognizing that the art not only will become integral, lasting components of the cityscape but will be of intrinsic value to their developments. Further, the city, desiring to expand public experience and exposure to culture through various art forms and to enhance the appearance of public facilities and improve the environment of the city on behalf of its citizens, intends to provide for the incorporation of visual art in the design and construction of public facilities within the city.

(Code 1971, § 55-1; Ord. No. 8860-A, § 1, 4-18-85; Ord. No. 2000-227, § 2, 8-31-00)

#### **Sec. 4-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial structure* means any building or structure, all or part of which is to be used as an auditorium, private convention center, professional or commercial office, bank, private library (other than school), manufacturing plant, factory, assembly plant, processing plant, mill, warehouse, shopping mall, store, shop, market, hotel, storage building, freight depot, and private automobile parking structure which is not connected to or incorporated in other structures.

(1) "Commercial structure" shall include that developmental project which involves more than one (1) phase of construction.

(2) "Phase" shall mean that portion of a developmental project which represents a completed portion of the entire commercial structure.

*Construction costs* means the total value of the construction of, or reconstruction work on, commercial structures as determined by the chief building inspector in issuing a building permit for the construction or reconstruction. Relative to a municipal construction project, construction costs shall include architectural and engineering fees, site work and contingency allowances. It does not include land acquisition or subsequent changes to the construction contract. All construction costs shall be calculated as of the date the contract is executed.

*Municipal construction project* means any project to be paid for wholly or in part by the city, regardless of the source of the monies, to construct, remodel or reconstruct any public buildings, decorative or commemorative structures, parking facilities and parks, or any portion of any of such buildings, structures, facilities or parks, belonging to the city within its geographical boundaries as they now exist or shall exist in the future.

*Reconstruction* means alterations or repairs made to a commercial or municipal structure within any twelve-month period, which alterations or repairs exceed fifty (50) percent of the value of the existing structure, so that such structure is required to conform to the requirements for new buildings pursuant to chapter 5 of this Code.

*Works of art or artworks* means tangible creations by artists exhibiting the highest quality of skill and aesthetic principles, including but not limited to paintings, sculptures, stained glass, statues, bas reliefs, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, monuments and fountains.

(Code 1971, § 55-2; Ord. No. 8860-A, § 1, 4-18-85; Ord. No. 89-07, § 1(55-2), 1-5-89)

**Cross references:** Definitions and rules of construction generally, § 1-2.

#### **Sec. 4-3. Public art fund.**

(a) There is hereby created a public art fund which shall be a separate account set up by the city to receive monies appropriated for the public art program and shall consist of the following:

(1) One (1) percent of the construction cost of a municipal building project as bid, contracted and accepted by the city. Unexpended monies in this fund may be used for works of art at existing public properties and facilities as deemed appropriate by the public art committee as established in this chapter.

(2) All funds donated to the city by private developers/owners or by others.

(3) Other funds allocated by the city through the budgetary process.

(b) The public art fund shall be used solely for the selection, commissioning, acquisition, installation, maintenance, administration and insurance of the works of art or in relation thereto; and such funds shall be administered by the mayor.

(Ord. No. 89-07, § 2(55-3), 1-5-89; Ord. No. 2000-227, § 3, 8-31-00)

**Cross references:** Finance generally, § 2-231 et seq.

#### **Sec. 4-4. Appropriations of funds.**

(a) All appropriations for municipal construction projects shall include an amount of not less than one (1) percent of the construction cost of a municipal building project as bid, contracted and accepted by the city, but not to exceed the sum of two hundred thousand dollars (\$200,000.00) for any single municipal building project; provided that the public art committee may recommend to the mayor an increased expenditure for those projects of exceptional size or unique function, however, in no event shall the appropriation exceed one (1) percent.

(b) The public art committee shall recommend to the mayor the amount of monies to be allocated for selection, commissioning, acquisition and installation of individual works of art to be incorporated as a part of the municipal construction project for which the monies were appropriated.

(c) Monies appropriated pursuant to this section as part of one (1) such project but not spent in connection with the project may be utilized to supplement other appropriations for the acquisition of works of art or to place works of art in, on or near either city facilities which have already been constructed or city properties.

(Code 1971, § 55-4; Ord. No. 8860-A, § 1, 4-18-85; Ord. No. 89-07, § 3(55-4), 1-5-89; Ord. No. 2000-227, § 4, 8-31-00)

**Cross references:** Finance generally, § 2-231 et seq.

#### **Sec. 4-5. Commercial construction participation.**

(a) Any private developer/owner who applies to the city for building permits to construct or reconstruct a commercial structure shall be encouraged to commit one (1) percent of construction or reconstruction costs up to but not

limited to the sum of two hundred thousand dollars (\$200,000.00) to the provision of fine art in conjunction with such commercial structure.

(b) Those private developers/owners constructing commercial structures, to be accomplished in phases, need contribute only one (1) percent of construction or reconstruction costs up to but not limited to two hundred thousand dollars (\$200,000.00) for the entire phased project.

(c) If the private developer/owner constructing or reconstructing a commercial structure does not wish to have fine art in conjunction therewith, he may donate to the city an amount equal to the percentage of the construction cost of the commercial structure as a charitable donation.

(d) Each building permit issued by the city to any such private developer/owner will include data relative to the private developer/owner participating in the public art program in the city.

(e) Any building permit for construction or reconstruction of a commercial structure shall be reported to the public art committee.

(Ord. No. 89-07, § 8(55-11), 1-5-89; Ord. No. 2000-227, § 5, 8-31-00)

#### **Sec. 4-6. Ownership and maintenance.**

(a) Ownership of all works of art acquired by the city shall be vested in the city which shall obtain title to each work of art.

(b) Artists, as a part of any contractual agreement with the city for the provision of a work of art, shall be required to submit to the public arts committee a "Maintenance and Inventory Sheet," including annual cost projections, which details the maintenance and ongoing care of the artwork.