

## ANN ARBOR CITY NOTICE

ORDINANCE NO. ORD-13-07

### ORGANIZATION OF BOARDS AND COMMISSIONS PUBLIC ART

An Ordinance to Amend Sections 1:238, 1:831, 1:832, 1:833, 1:834, 1:835, 1:836, 1:837 and Add a New Section, Which New Section Shall Be Designated as Section 1:838.

The City of Ann Arbor Ordains:

Section 1. That Section 1:238 of Chapter 8 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

#### **1:238. - Ann Arbor Public Art Commission.**

(1) *Intent.* The Ann Arbor Public Art Commission is established to serve as the oversight body provided for in Chapter 24, the Public Art Ordinance.

(2) *General.*

(A) The Ann Arbor ~~p~~Public ~~a~~Art ~~e~~Commission shall consist of 9 members nominated by the ~~M~~Mayor and approved by ~~the e~~City ~~e~~Council. Members shall serve for 3-year terms. In making appointments of members of the Ann Arbor ~~p~~Public ~~a~~Art ~~e~~Commission, the ~~m~~Mayor and ~~e~~City ~~e~~Council shall appoint persons who, insofar as possible, have experience and/or an interest in the placement, creation, or design of public art. The terms of office of the first Ann Arbor ~~p~~Public ~~a~~Art ~~e~~Commission members appointed hereunder shall be fixed by the ~~m~~Mayor and ~~e~~City ~~e~~Council so that the terms of 3 members will be for 1 year, 3 members will be for 2 years, and 3 will be for 3 years. After the initial ~~e~~Commission is formed, all members thereafter will be appointed for 3-year terms.

(B) The ~~e~~City ~~a~~Admistrator or her/his designee shall be a nonvoting ex-officio member of the ~~e~~Commission and provided adequate support staffing to the ~~e~~Commission.

(C) The Ann Arbor ~~p~~Public ~~a~~Art ~~e~~Commission may establish subcommittees, as appropriate, to assist it relative to its powers and duties under the provisions of Chapter 24, provided, that all recommendations to ~~the~~ City Council shall be made by the Commission and not by a subcommittee of the Commission. The Commission may, by majority vote of the members, appoint persons who are not members of the Ann Arbor Public Art Commission to be non-voting members of such subcommittees.

(3) *Powers and duties.* The Ann Arbor Public Art Commission shall have the powers and duties as set forth more specifically in Chapter 24

Section 2. That Section 1:831 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:831. - Intent and Purpose.**

The State of Michigan has recognized, through the enactment of The Faxon-McNamee Art in Public Places Act (MCL 18.71 et seq.), the importance of promoting art in government spaces and facilities. City Council has determined that the creation of public art will improve the aesthetic quality of public spaces and structures, provide cultural and recreational opportunities, contribute to the local heritage, stimulate economic activity and promote the general welfare of the community. City Council recognizes the role that government can play and the support that government can offer to foster the development of culture and the arts.

~~City Council recognizes the responsibility of government to foster the development of culture and the arts. It is therefore declared to be municipal policy that a portion of expenditures~~Funding ~~for capital improvement projects be devoted to the purchase and maintenance of public art~~ may come from private donations of cash or collateral (specific objects of art), crowdfunding for specific art projects, as part of a capital improvement project specifically designated as an enhanced project, or other funds that City Council may appropriate.

Section 3. That Section 1:832 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:832. - Definitions.**

The following words are defined for purposes of this chapter:;

Architectural enhancement means the skilled application of artistic elements to the physical embellishment of the publicly visible features of a public project, which may include the placement of works of art, or specially designed plazas, atriums, or other public spaces.

Capital improvement project means any construction or renovation of any public space or facility including buildings, parks, recreation areas, parking facilities, roads, highways, bridges, paths, sidewalks in locations where sidewalks do not already exist or as part of a larger. Capital improvement project, streetscape improvements and utilities. This definition includes only those projects designed to create a permanent improvement or betterment, and does not include projects that are primarily for the purpose of ordinary maintenance or repair. It does not may include, but are not limited to gateway and signature streets, street vistas (including dead ends, roundabouts, and "T" intersections), street medians, sidewalks and sidewalk crack repair, sidewalk cold-patching, sidewalk slab replacement, sidewalk leveling or sidewalk slab grinding. This definition also does not include capital improvement projects that are below-grade stormramps, street furniture, street lights, manhole covers, tree grates, fence railings, paving, water detention facilities features, bridges, overpasses,

parks, squares, plazas, parking structures, signs, and public buildings and building lobbies.

~~Construction costs means all costs necessary to complete a capital improvement project, excluding costs allocated for:~~

- ~~(1) the acquisition of real property;~~
- ~~(2) soil remediation;~~
- ~~(3) demolition;~~
- ~~(4) the issuance of debt;~~
- ~~(5) permits and administrative fees;~~
- ~~(6) fixtures, equipment and furnishings;~~
- ~~(7) contingencies.~~

Crowdfunding means a form of fundraising for a specific purpose, using media as a means of reaching prospective donors, and using those donations to provide some or all of the funds to design, build and maintain public art.

Enhanced project means a capital improvement project that includes public art.

~~Initial project estimate means the amount calculated as the construction costs for a capital improvement project at the time the project is first authorized in a capital project budget.~~

Public art means both temporary and permanent works of art created, purchased, produced or otherwise acquired for display on or in public spaces or facilities. Public art may include artistic design features incorporated into the architecture, layout, design or structural elements of the space or facility. Public art may be any creation, production, conception or design with an aesthetic purpose, including freestanding objets d'art, sculptures, murals, mosaics, ornamentation, paint or decoration schemes, use of particular structural materials for aesthetic effect, or spatial arrangement of structures. means the product of a skilled artist (or group of artists) and includes, but is not limited to, architectural enhancements, material aesthetic design elements, special landscape treatments, paintings, sculpture, engravings, murals, mobiles, photographs, drawings and works in fabric.

Section 4. That Section 1:833 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:833. - Art funding requirements for Capital improvement projects. Capital improvement project planning**

- ~~(1) Except as otherwise provided in this section, all capital improvement projects funded wholly or partly by the city shall include funds for public art equal to 1% of the construction costs identified in the initial project estimate, up to a maximum of \$250,000.00 per project. Where a capital improvement project is~~

~~only partly funded by the City, the amount of funds allocated for public art shall be 1% of that portion of the project that is City-funded, up to a maximum of \$250,000.00 per project. All appropriations for capital improvements falling within the provisions of this chapter shall be deemed to include funding to implement the requirements of this subsection (1).~~

~~(2) Where federal or state grants are to be used to fund a capital improvement project, those grants shall, to the extent possible, be treated as subject to the public art funding requirements of this chapter. Where the terms of the grant do not forbid it, the grant application shall include a request for public art funds in the same amount as for city-funded projects under the terms of this chapter. If a grant does not include funds specifically earmarked for public art, any grant funds received shall be used to fulfill the public art requirements of this chapter, unless such use is prohibited by the terms of the grant.~~

~~(3) A capital improvement project funded by special assessments or improvement charges is not subject to the requirements of subsection (1) of this section.~~

~~(4) The requirements of subsection (1) of this section shall not apply to a capital improvement project or to a portion of a capital improvement project funded with funds that do not permit an expenditure for public art, whether by law or by restrictions placed by the source of the funding, and the requirements of subsection (1) shall be subject to any other restrictions imposed by law or by the source of the funding.~~

(1) The City Administrator shall work with the Public Art Commission to develop written criteria by which City staff shall evaluate whether a capital improvement project should be designated as an enhanced project. Upon completion and/or subsequent modification, these written criteria shall be transmitted to City Council.

(2) The Public Art Commission shall work with City staff to evaluate proposed capital projects from the initial planning stage and make an annual recommendation to City Council as to which projects from the current Capital Improvements Plan are appropriate for designation as enhanced projects. After receiving the recommendation, City Council shall approve the list of designated enhanced projects, with or without modification. City Council may modify the list at any time.

(3) When a capital improvement project is designated as an enhanced project, City staff shall identify the capital improvement project as an enhanced project in the budget and shall, to the extent possible, identify that portion of the project budget attributable to public art.

(4) When City staff determines that an enhanced project should include public art as part of the design of the project (such as architectural enhancements or material aesthetic design elements), such public art shall, as appropriate, be solicited at the design stage and included in any relevant RFQs, RFPs, or contracts for design of the enhanced project. To the extent possible, the

completed design of the enhanced project showing the public art elements shall be transmitted to City Council prior to City Council's consideration of any contract to construct or produce the enhanced project or public art elements.

(5) The City Administrator shall work with the Public Art Commission to implement this section, establish appropriate design requirements for each enhanced project, and evaluate and recommend final designs and contractors for such projects.

Section 5. That Section 1:834 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:834. - ~~Other sources of funding for public art~~~~Inclusion of public art as part of a capital improvement project; pooling of Funds for public art; use of pooled funds.~~**

(1) The City may accept monetary gifts, grants, donations, or awards for public art and may work with nonprofit or other organizations to raise funds for public art.

(2) Crowdfunding may be used to solicit donations that are intended to fund wholly or in part a specific piece of public art.

~~(1) Prior to July 1, 2012, funds for public art that are included as part of a capital improvement project financed from the City's general fund may be used as part of that capital improvement project for the creation, purchase, production or other acquisition of art incorporated as a part of the capital improvement project, including art located on the site where the project is located. New capital improvement projects financed on or after July 1, 2012, from the City's general fund shall not be subject to the requirements of this subsection (1).~~

~~(2) Prior to July 1, 2012, funds for public art that are included as part of a capital improvement project financed from the City's general fund may instead be pooled in a separate public art fund within the general fund. New capital improvement projects financed on or after July 1, 2012, from the City's general fund shall not be subject to the requirements of this subsection (2). Any funds in this pooled public art fund as of June 30, 2012, that are not allocated on or before June 30, 2015, shall be returned to general fund.~~

~~(3) Funds for public art that are included as part of a capital improvement project financed from a City fund other than the City's general fund shall be accounted for within that fund and may be used as part of that capital improvement project for the creation, purchase, production or other acquisition of art incorporated as a part of the capital improvement project, including art located on the site where the project is located.~~

~~(4) Funds for public art that are included as part of a capital improvement project financed from a City fund other than the City's general fund may instead be pooled in a separate public art fund within that fund. Public art funds that are held within a city fund other than the general fund shall be expended only on projects that are related to the purposes of that fund.~~

~~(5) Funds in pooled public art funds may be used for the creation, purchase, production or other acquisition of art for display in public spaces or facilities; for extraordinary maintenance, repair or refurbishment, including structural reconstruction, and for relocation, alteration and removal of public art.~~

Section 6. That Section 1:835 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:835. - Funds for public art appropriated prior to July 1, 2013.**~~Disbursement of public art funds.~~

~~(1) Prior to July 1, 2012, funds for public art that are included as part of a capital improvement project financed from the City's general fund may be used as part of that capital improvement project for the creation, purchase, production or other acquisition of art incorporated as a part of the capital improvement project, including art located on the site where the project is located. New capital improvement projects financed on or after July 1, 2012, from the City's general fund shall not be subject to the requirements of this subsection (1).~~

~~(2) Prior to July 1, 2012, funds for public art that are included as part of a capital improvement project financed from the City's general fund may instead be pooled in a separate public art fund within the general fund. New capital improvement projects financed on or after July 1, 2012, from the City's general fund shall not be subject to the requirements of this subsection (2). Any funds in this pooled public art fund as of June 30, 2012, that are not allocated on or before June 30, 2015, shall be returned to the general fund.~~

~~(3) Funds for public art that are included as part of a capital improvement project financed from a City fund other than the City's general fund shall be accounted for within that fund and may be used as part of that capital improvement project for the creation, purchase, production or other acquisition of art incorporated as a part of the capital improvement project, including art located on the site where the project is located.~~

~~(4) Funds for public art that are included as part of a capital improvement project financed from a City fund other than the City's general fund may instead be pooled in a separate public art fund within that fund. Public art funds that are held within a city fund other than the general fund shall be expended only on projects that are related to the purposes of that fund.~~

~~(5) Funds in pooled public art funds may be used for the creation, purchase, production or other acquisition of art for display in public spaces or facilities; for extraordinary maintenance, repair or refurbishment, including structural reconstruction, and for relocation, alteration and removal of public art.~~

~~(6) Funds appropriated for public art as part of a budget that is effective prior to July 1, 2013, including pooled funds and funds appropriated for art components of specific capital improvement projects, shall be expended according to the provisions of this section. Funds appropriated for public art as~~

part of a budget that is effective on or after July 1, 2013 shall not be subject to the provisions of this section.

(7) City Council may, at its discretion, amend the Fiscal Year 2014 budget to return to their respective funds of origin some or all of the funds required to be allocated for public art in Fiscal Year 2014 under the prior ordinance Section 1:833.

~~(1) Funds for public art that are included as part of a capital improvement project or that are in a pooled public art fund may be used for the purposes identified in Section 1:834~~

~~(2) Funds for public art that are included as part of a capital improvement project or that are in a pooled public art fund also may be used to fund the administration of the City's public art program and projects, including staff time.~~

~~(3) Funds for public art that are included as part of a capital improvement project or that are part of a pooled public art fund may be not be transferred to any other fund, encumbered or utilized for any purpose except the purposes specifically set forth in this chapter.~~

~~(4) Contracts, including but not limited to those for the creation, production, purchase or other acquisition of public art, and to install, maintain, alter, repair, refurbish, relocate or remove public art, shall be processed and approved in accordance with all applicable City requirements~~

Section 7. That Section 1:836 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:836. ~~--Disbursement of public art funds~~Ownership and maintenance of work.**

(1) Funds for public art that are in a pooled public art fund may be used for the purposes identified in Section 1:835.

(2) Funds for public art that are in a pooled public art fund also may be used to fund the administration of the City's public art program and projects, including staff time.

(3) Funds for public art that are part of a pooled public art fund may be not be transferred to any other fund, encumbered or utilized for any purpose except the purposes specifically set forth in this chapter.

(4) Funds for public art that are included as part of an enhanced project or otherwise allocated for public art, and which are financed from a City fund other than the City's general fund, shall be expended only on projects that are related to the purposes of that City fund.

(5) Contracts, including but not limited to those for the creation, production, purchase or other acquisition of public art, and to install, maintain, alter, repair, refurbish, relocate or remove public art, shall be processed and approved in accordance with all applicable City requirements.

~~(1) No work of art shall be considered for acquisition under this chapter without an estimate for future maintenance costs.~~

~~(2) Routine maintenance of public art shall be provided for and funded by the service area responsible for maintenance of the facility or space where the art is located. Routine maintenance shall include periodic cleaning, regular mechanical maintenance, operational costs and other necessary upkeep resulting from normal use. Funds for extraordinary maintenance or refurbishment, including structural reconstruction, shall be drawn from the public art funds. No extraordinary maintenance, repair, relocation or alteration of public art shall be undertaken without prior written consent of the oversight body.~~

~~(3) All art acquired pursuant to this chapter shall be the sole property of the city unless an alternative arrangement is recommended by the Oversight Body and approved by City Council.~~

Section 8. That Section 1:837 of Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:837. - Ownership and maintenance of workOversight body.**

(1) No work of art shall be considered for acquisition under this chapter without an estimate for future maintenance costs.

(2) Routine maintenance of public art shall be provided for and funded by the service area responsible for maintenance of the facility or space where the art is located. Routine maintenance shall include periodic cleaning, regular mechanical maintenance, operational costs, and other necessary upkeep resulting from normal use. Funds for extraordinary maintenance or refurbishment, including structural reconstruction, shall be drawn from pooled art funds, donations, grants, or such other funds as City Council may appropriate. No extraordinary maintenance, repair, relocation or alteration of public art shall be undertaken without prior recommendation by or consultation with the oversight body.

(3) All art acquired pursuant to this chapter shall be the sole property of the City unless an alternative arrangement is recommended by the oversight body and approved by City Council.

(4) All temporary art shall remain the property of that person or those persons who have created the art or offered it for display.

~~(1) The oversight body shall be the Ann Arbor Public Art Commission as established by Section 1:238 of Chapter 8.~~

~~(2) The oversight body shall:~~

~~(A) Promulgate guidelines, subject to the approval of City Council, to implement the provisions of this chapter, including procedures for soliciting and selecting public art and for determining suitable locations for public art;~~

~~(B) — By April 1 of each year, submit to City Council a plan detailing potential projects and desirable goals to be pursued in the next fiscal year;~~

~~(C) — Make determinations, subject to the approval of the City Administrator, for each proposed project in the capital improvement program as to whether it is eligible for public art funding under this chapter and, if so, calculate the total construction costs of the project and the total amount of art funding required;~~

~~(D) — Make recommendations, subject to the approval of the City Administrator, regarding disbursement of public art funds to acquire, produce, install, maintain, alter, relocate or remove public art;~~

~~(E) — Raise funds above and beyond the funds for public art that are included as part of a capital improvement project or that are in a pooled public art fund, interact with donors of funds or art works on behalf of the City, and foster public/private partnerships to support public art;~~

~~(F) — Promote awareness of public art;~~

~~(G) — Present an annual report to City Council within 60 days after the end of each fiscal year containing:~~

~~(i) — A report on the status of all public art incorporated into or funded by capital improvement projects in progress or completed during the preceding fiscal year;~~

~~(ii) — A maintenance report on each work of public art presently under City management detailing maintenance costs for the preceding fiscal year, anticipated maintenance costs for the next fiscal year, and any significant future maintenance concerns, including prioritized recommendations for the maintenance, repair or renovation of particular works;~~

~~(iii) — A review of the City's public art with regard to the purposes stated in this chapter;~~

~~(iv) — A report on the oversight body's efforts to promote awareness of public art;~~

~~(v) — A report on donations of art and where such art was placed;~~

~~(vi) — A report on additional funds raised and how such funds were used; and~~

~~(vii) — Any other matter of substantial financial or public importance relating to the public art in the City.~~

~~(H) — Perform any related duty delegated by City Council; and~~

~~(I) — Provide advice to and assist both potential donors of art and other governmental entities regarding possible public locations for placement of art when such art cannot be placed on any City property or incorporated into a capital project of the City.~~

~~(3) On an annual basis, the City Administrator shall provide the oversight body with information regarding the authorized capital projects budget for that fiscal year, including information regarding the dollar amounts included in capital improvement projects for public art and information regarding the dollar amounts available in the pooled public art funds. On an annual basis, following the annual audit of City funds and financial report to City Council, the City administrator will provide the oversight body with an update regarding the authorized capital improvement projects and the pooled public art funds, based on the audit.~~

Section 9. That Chapter 24 of Title I of the Code of the City of Ann Arbor be amended to add a new section, designated Section 1:838, to read as follows:

**1:838. - Oversight body.**

(1) The oversight body shall be the Ann Arbor Public Art Commission as established by Section 1:238 of Chapter 8.

(2) The oversight body shall:

(A) Develop guidelines, subject to the approval of City Council, to implement the provisions of this chapter, including procedures for soliciting and selecting public art and for determining suitable locations for public art;

(B) By February 1 of each year, submit to City Council a plan detailing potential projects and desirable goals to be pursued in the next fiscal year, including enhanced projects and any proposed expenditure of donated, grant, or other funds. The plan shall also include a recommendation as to which projects from the current Capital Improvements Plan are appropriate for designation as enhanced projects;

(C) Work with City staff to determine which capital improvement projects are appropriate for designation as an enhanced project and what type and amount of public art may be appropriate for such projects;

(D) Make recommendations, subject to the approval of the City Administrator, regarding disbursement of public art funds to acquire, produce, install, maintain, alter, relocate or remove public art;

(E) Raise funds above and beyond the funds for public art that are included as part of an enhanced project, interact with donors of funds or art works on behalf of the City, and foster public/private partnerships to support public art. Mechanisms for fund raising may include but are not limited to crowdfunding, grants, and gifts from corporations, foundations, and individuals;

(F) Promote awareness of public art;

(G) Present an annual report to City Council within 60 days after the end of each fiscal year containing:

(i) A report on the status of all public art incorporated into or funded by capital improvement projects in progress or completed during the preceding fiscal year;

(ii) A maintenance report on each work of public art presently under City management detailing maintenance costs for the preceding fiscal year, anticipated maintenance costs for the next fiscal year, and any significant future maintenance concerns, including prioritized recommendations for the maintenance, repair or renovation of particular works;

(iii) A review of the City's public art with regard to the purposes stated in this chapter;

(iv) A report on the oversight body's efforts to promote awareness of public art;

(v) A report on donations of art and where such art was placed;

(vi) A report on additional funds raised and how such funds were used; and

(vii) Any other matter of substantial financial or public importance relating to the public art in the City.

(H) Perform any related duty delegated by City Council;

(I) Provide advice to and assist both potential donors of art and other governmental entities regarding possible public locations for placement of art when such art cannot be placed on any City property or incorporated into a capital project of the City;

(J) For art proposed under this chapter, seek public input through the City's public engagement process. This process may include, but is not limited to, electronic messages to registered neighborhood associations, public meetings, forums, workshops online or other surveys, and A2 Open City Hall; and

(K) For architectural enhancements proposed under this chapter, work collaboratively with planning staff, project management staff, systems planning staff, the City Administrator, and the Chief Financial Officer, as appropriate, to develop concepts for those enhancements, which shall be submitted to City Council as part of the Capital Improvement budget process.

(3) Upon request, the City Administrator shall provide the oversight body with information regarding the authorized capital projects budget for that fiscal year, including information regarding the dollar amounts included in enhanced projects for public art; and information regarding the dollar amounts available in any other public art funding source available for City use.

Section 13. That this ordinance shall take effect immediately after legal publication.

Ordinance No. ORD-13-07 Continued

**As Amended by the Ann Arbor City Council on May 13, 2013**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of June 3, 2013.

Jacqueline Beaudry, Ann Arbor City Clerk  
John Hieftje, Mayor

**Published: 6/10/13 on the Ann Arbor City Clerk's Webpage**