

AN ORDINANCE TO AMEND SECTIONS 1:832, 1:833, 1:834, 1:836, AND 1:837 OF CHAPTER 24 OF TITLE I OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Sections 1:832, 1:833, 1:834, 1:836, and 1:837 of Chapter 24 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.

*Capital improvement project* means, effective July 1, 2013, any new construction or major renovation of any publicCity space or facility that is intended to be open or visible to the public, 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, and streetscape improvements and utilities.~~ Major renovation means a capital project for which the initial project estimate exceeds \$100,000 and, if the capital project is the renovation of a structure, affects 50% or more of square footage of the structure. This definition does not include projects where the predominant purpose is the construction or renovation of streets, sidewalks, or underground utilities, however streets, sidewalks, and underground utilities shall be included to the extent that they are an ancillary component of a project that otherwise meets this definition. 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 include 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 storm water detention facilities.~~ Funds for public art that were included as part of a capital improvement project pursuant to Section 1:833(1) prior to July 1, 2013, are not impacted by the amendment to this definition that takes effect July 1, 2013.

*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.

*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 works of art created, purchased, produced or otherwise acquired for display 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.

**1:833. - Art funding requirements for capital improvement projects.**

(1) Except as otherwise provided in this section, all capital improvement projects funded wholly or partly by the eCity 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 eCity-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.

**1:834. - Inclusion of public art as part of a capital improvement project; pooling of funds for public art; use of pooled 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~~City's 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 City's 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 eCity 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.

#### **1:836. - Ownership and maintenance of work.**

(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 or such other funds as City Council may appropriate. No extraordinary maintenance, repair, relocation or alteration of public art shall be undertaken without prior ~~written consent of~~ consultation with the oversight body.

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

#### **1:837. - 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) 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, referencing the City Capital Improvements Plan where appropriate;

(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; ~~and~~

(J) For art proposed under this Chapter, seek public input and submit reports to City Council as follows:

(i) Where an art project is proposed, notify the Councilmembers of that ward for their assistance in identifying local organizations, such as neighborhood associations, homeowners' associations, or other groups, that may be especially interested in or affected by the contemplated art, as well as indentifying local history, concerns, and interests that may be considered;

(ii) Directly contact appropriate local organizations concerning the proposed art project;

(iii) After completing the steps described in subsections (J)(i) and (ii) of this section, hold two or more public forums at which interested organizations and individuals shall be provided information and may offer suggestions and opinions on the proposed art project. Forums shall be publicly noticed and held in a publicly accessible building. Forums shall be scheduled to take into account the anticipated timetable of the related capital improvement project. One forum shall be scheduled before commissioning, purchasing, or soliciting art or artists in order to discuss preliminary matters, including the type of art that may be appropriate to the people of the community and appropriate to the location. An additional forum shall be convened after a proposed design or designs become available, but in advance of final acceptance of any design, in order to discuss and solicit community feedback on the proposed design(s).

(iv) After each public forum described in this section, provide a report to City Council summarizing the information provided to the public and the comments received from the public.

(3) ~~On an annual basis, 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 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 2. That this ordinance shall take effect on the tenth day after legal publication.