

AN ORDINANCE TO AMEND SECTIONS 1:832 THROUGH 1:835 OF CHAPTER 24, TITLE I (PUBLIC ART) OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That Sections 1:832 through 1:835 of Chapter 24, 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.

*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 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.

*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 city shall include funds for public art equal to one percent (1%) of the construction costs identified in the initial project estimate, up to a maximum of \$250,000.00 per project; provided that for the period July 1, 2012, through June 30, 2015, the percentage shall be reduced to and be one half

percent (0.5%). Where a capital improvement project is only partly funded by the city, the amount of funds allocated for public art shall be ~~4-one~~ percent (1%) of that portion of the project that is city-funded, up to a maximum of \$250,000 per project; provided that for the period July 1, 2012, through June 30, 2015, the percentage shall be reduced to and be one half percent (0.5%). 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.

**1:834. 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. 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.

#### **1:835. Disbursement of public art funds.**

- (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) Funds for public art that are placed in a pooled public art fund after July 1, 2012 that have not been disbursed or encumbered for an art project for three (3) full fiscal years shall be returned to the fund of origination, provided that Council may extend the foregoing period by resolution for successive periods, each not to exceed six (6) months.

~~(4)~~(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

Section 2. That this Ordinance shall take effect on the tenth day following legal publication.

**As Amended by Ann Arbor City Council on November 21, 2011**