

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-22-36 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, Renée Grout

1 **ORDINANCE**

2 **AMENDING THE ART IN MUNICIPAL PLACES ORDINANCE TO PROVIDE FOR**
3 **INCREASED CONSERVATION, MAINTENANCE FUNDS, AND DEFINE DIGITAL**
4 **AND TEMPORARY PUBLIC ART.**

5 **WHEREAS, the Public Art Urban Enhancement Division resides within the**
6 **Department of Arts and Culture; and**

7 **WHEREAS, the funding for the City's public art program is a formulaic**
8 **addition to the voter-approved general obligation bond program which has**
9 **purchased or commissioned over 1400 works of public art since 1978; and**

10 **WHEREAS, there are growing numbers of works of art in the 44-year-old**
11 **public art collection that require more complex and ongoing maintenance; and**

12 **WHEREAS, the cap of up to twenty percent of the one percent is no longer**
13 **enough to keep up with the increased needs and costs for maintenance of**
14 **primarily outdoor works of public art; and**

15 **WHEREAS, updating the definition of public art to include digital media**
16 **temporary works of art will help reduce the costs of maintenance while**
17 **building awareness of the arts in our community; and**

18 **WHEREAS, increasing the formula for public art to one- and one-half**
19 **percent will provide additional funds for maintenance and conservation of**
20 **existing and future outdoor sculptures and murals, and support digitally**
21 **interactive temporary public art that would not require long term**
22 **maintenance.**

23 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
24 **ALBUQUERQUE:**

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1 SECTION 1. Section 10-5-2, the "Definitions" Section of the Art in
2 Municipal Places Ordinance, is hereby amended as follows:

3 "§ 10-5-2 DEFINITIONS.

4 For the purpose of this article, the following definitions shall apply
5 unless the context clearly indicates or requires a different meaning.

6 BOARD. The Albuquerque Arts Board established by this article.

7 CAPITAL IMPROVEMENTS PROGRAM. All capital projects of the city.

8 GENERAL PROGRAM CATEGORY. Each separate question or purpose
9 submitted to the voters in a bond election or any purpose for which a bond
10 ordinance authorizing revenue bonds is approved.

11 MAYOR. The Mayor or the Mayor's designated representative.

12 WORK OF ART. Any work of visual art, including but not limited to, a
13 drawing, painting, mural, fresco, sculpture, mosaic, photograph, work of
14 calligraphy, work of graphic art (including an etching), works in clay, textile,
15 fiber, wood, metal, plastic, glass, and like materials, [digital media, temporary
16 installations,] or mixed media (including a collage, assemblage, or any
17 combination of the foregoing art media). For projects which involve no
18 structures, WORK OF ART may include a combination of landscaping and
19 landscape design (including some natural and manufactured materials such as
20 rocks, fountains, reflecting pools, sculpture, screens, benches, and other types
21 of street furniture). Except as provided herein, the term WORK OF ART does
22 not include environmental landscaping or the performing or literary arts such
23 as dance, voice, music or poetry unless expressed in a manner defined
24 above."

25 SECTION 2. Section 10-5-5, the "Funds for the Acquisition of Art for
26 Municipal Property" Section of the Art in Municipal Places Ordinance, is
27 hereby amended as follows:

28 "§ 10-5-5 FUNDS FOR THE ACQUISITION OF ART FOR MUNICIPAL
29 PROPERTY.

1 (A) Projects in the Capital Improvement Program shall include an
2 amount for works of art equal to one and one-half percent of each bond
3 purpose. Provided, however, that if:

4 (1) The bond election ordinance; or
5 (2) The bond ordinance authorizing revenue bonds; or
6 (3) Other appropriate laws or regulations; or
7 (4) An official interpretation by another governmental
8 entity regarding allowable uses for funds which it is providing for the project,
9 precludes art as an expenditure of funds, then the amount of funds so
10 restricted shall be excluded from the total project cost in calculating the
11 amount to be committed to works of art.

12 (B) Funds generated as described in division (A) above shall be
13 budgeted as part of the Capital Improvements Program budget. Additional
14 private or public funds for works of art may be added to these funds and shall
15 be budgeted in a similar manner. Such funds may be earmarked for particular
16 projects.

17 (C) The public art program shall expend no less than ~~[15%]~~ [25%]
18 but no more than ~~[20%]~~ [33%] of the total amount allocated to the public art
19 program for the administrative costs of the program and to restore and
20 conserve public works of art to protect public investment. The appropriation
21 will be made at the same time as the appropriation for all projects within the
22 Capital Improvement Program.

23 (D) Progress payments may be made to the artist for works of art
24 which have been approved by the Mayor. Such payments may reimburse the
25 artist for the cost of materials or for services which have already been
26 performed. At least ~~[25%]~~ [15%] of the total amount to be paid to the artist
27 shall not be disbursed to the artist until the work of art is formally accepted
28 by the Mayor.

29 (E) Nothing contained herein shall preclude funding the
30 acquisition of art for municipal property in other ways."

1 **SECTION 3. Section 10-5-6, the “General Requirements for Art Selection”**
2 **Section of the Art in Municipal Places Ordinance, is hereby amended as**
3 **follows:**

4 **“§ 10-5-6 GENERAL REQUIREMENTS FOR ART SELECTION.**

5 **(A) The work of art may be an integral part of a structure,**
6 **attached to a structure or detached from the structure within or outside of it.**
7 **It may also be located on publicly-owned property where there are no**
8 **structures.**

9 **(B) In addition to any other placements permitted by law, a work**
10 **of art may be placed on a privately-owned freestanding sign or on an exterior**
11 **wall under a lease - or other written agreement appropriate to the**
12 **circumstances - between the city and the owner of the sign or wall. Unless**
13 **otherwise prescribed by the terms of a lease or written agreement, the City**
14 **[Cultural Services] Department [of Arts and Culture, Public Art Urban**
15 **Enhancement Division] shall maintain the sign [or mural] during the**
16 **[contractually established] duration of the art project, and shall remove the**
17 **work of art immediately upon termination.**

18 **(C) Any work of art which is chosen must comply with the**
19 **following standards in addition to any guidelines established by the Mayor:**

20 **(1) The work of art must be located in a public place with**
21 **public visibility and impact.**

22 **(2) The work of art, [or the archival documentation of**
23 **digital or temporary works of art,] shall have a permanence at least**
24 **comparable to the lifetime of the bond funding the work of art and shall be**
25 **likely to remain a thing of value for this time period.**

26 **(3) The work of art shall enhance the environment of the**
27 **city.**

28 **(D) The Board shall recommend an artist, a design proposal**
29 **and/or a completed work of art, which shall be selected in a manner**
30 **consistent with the guidelines promulgated by the Mayor. The Board may**
31 **recommend purchasing a completed work of art, commissioning a work of**

1 art, holding a competition to select a work of art, or creating some other
2 timely and appropriate mode of selection. The Board through ~~[Capital~~
3 ~~Improvement Program]~~ [public art program] staff shall consult with the user
4 agency and project design consultants, if applicable, and involve them in the
5 planning process in the manner that appears most feasible. The Mayor shall
6 accept or reject the recommendation of the Board. If the Mayor rejects the
7 recommendation, the Board shall make another recommendation in
8 accordance with the standards and procedures outlined in this article.

9 (E) The Board shall make its recommendations in a timely manner
10 in accordance with the project schedule and timetable provided by the Mayor.
11 If the Board fails to make a recommendation within the timetable established
12 by the Mayor, the Mayor may identify another appropriate public procedure to
13 select an artist or work of art without receiving a recommendation from the
14 Board unless the Board and the Mayor have mutually agreed in writing to an
15 extension of the time period. The time period shall be extended, if necessary,
16 if the Mayor rejects the Board's recommendation."

17 SECTION 4. Section 10-5-7, the "Administrative Responsibilities" Section
18 of the Art in Municipal Places Ordinance, is amended as follows:

19 "§ 10-5-7 ADMINISTRATIVE RESPONSIBILITIES.

20 (A) The Chief Administrative Officer shall provide adequate
21 staffing and administrative support for enabling the Arts Board and any of its
22 subcommittees to carry out their duties.

23 (B) The ~~[Capital Improvement Program]~~ [Public Art Urban
24 Enhancement Division of the Department of Arts and Culture] and/or user
25 agency shall be responsible for the conservation and maintenance of all works
26 of art in the public art program. The Mayor shall cause an annual report to be
27 prepared on the condition and maintenance requirements of all works of art in
28 the public art program. The report shall be delivered to the Mayor."

29 SECTION 5. SEVERABILITY. If any section, paragraph, sentence, clause,
30 word or phrase of this Ordinance is for any reason held to be invalid or
31 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provision of the Ordinance. The Council
2 hereby declares that it would have passed this Ordinance and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provision being declared unconstitutional or otherwise invalid.

5 SECTION 5. COMPILATION. Sections 1, 2, 3 and 4 of this Ordinance shall
6 amend, be incorporated in and compiled as part of the Revised Ordinances of
7 Albuquerque, New Mexico, 1994.

8 SECTION 6. EFFECTIVE DATE This ordinance will become effective five
9 days after publication by title and general summary.

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