

# 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 maintenance.**

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

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

26 **"§ 10-5-2 DEFINITIONS.**

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

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

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

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

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

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

22 SECTION 2. Section 10-5-5, the “Funds for the Acquisition of Art for  
23 Municipal Property” Section of the Art in Municipal Places Ordinance, is  
24 hereby amended as follows:

25 “§ 10-5-5 FUNDS FOR THE ACQUISITION OF ART FOR MUNICIPAL  
26 PROPERTY.

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

- 30 (1) The bond election ordinance; or  
31 (2) The bond ordinance authorizing revenue bonds; or  
32 (3) Other appropriate laws or regulations; or

1 (4) An official interpretation by another governmental entity  
2 regarding allowable uses for funds which it is providing for the project,  
3 precludes art as an expenditure of funds, then the amount of funds so  
4 restricted shall be excluded from the total project cost in calculating the  
5 amount to be committed to works of art.

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

11 (C) The public art program shall expend no less than 25% but no  
12 more than 33% of the total amount allocated to the public art program for the  
13 administrative costs of the program and to restore and conserve public works  
14 of art to protect public investment. The appropriation will be made at the  
15 same time as the appropriation for all projects within the Capital Improvement  
16 Program.

17 (D) Progress payments may be made to the artist for works of art  
18 which have been approved by the Mayor. Such payments may reimburse the  
19 artist for the cost of materials or for services which have already been  
20 performed. At least 15% of the total amount to be paid to the artist shall not  
21 be disbursed to the artist until the work of art is formally accepted by the  
22 Mayor.

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

25 SECTION 3. Section 10-5-6, the "General Requirements for Art Selection"  
26 Section of the Art in Municipal Places Ordinance, is hereby amended as  
27 follows:

28 "§ 10-5-6 GENERAL REQUIREMENTS FOR ART SELECTION.

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

32 (B) In addition to any other placements permitted by law, a work of  
33 art may be placed on a privately-owned freestanding sign or on an exterior

1 wall under a lease - or other written agreement appropriate to the  
2 circumstances - between the city and the owner of the sign or wall. Unless  
3 otherwise prescribed by the terms of a lease or written agreement, the City  
4 Department of Arts and Culture, Public Art Urban Enhancement Division shall  
5 maintain the sign or mural during the contractually established duration of the  
6 art project, and shall remove the work of art immediately upon termination.

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

9 (1) The work of art must be located in a public place with  
10 public visibility and impact.

11 (2) The work of art, or the archival documentation of digital  
12 or temporary works of art, shall have a permanence at least comparable to the  
13 lifetime of the bond funding the work of art and shall be likely to remain a  
14 thing of value for this time period.

15 (3) The work of art shall enhance the environment of the  
16 city.

17 (D) The Board shall recommend an artist, a design proposal  
18 and/or a completed work of art, which shall be selected in a manner consistent  
19 with the guidelines promulgated by the Mayor. The Board may recommend  
20 purchasing a completed work of art, commissioning a work of art, holding a  
21 competition to select a work of art, or creating some other timely and  
22 appropriate mode of selection. The Board through public art program staff  
23 shall consult with the user agency and project design consultants, if  
24 applicable, and involve them in the planning process in the manner that  
25 appears most feasible. The Mayor shall accept or reject the recommendation  
26 of the Board. If the Mayor rejects the recommendation, the Board shall make  
27 another recommendation in accordance with the standards and procedures  
28 outlined in this article.

29 (E) The Board shall make its recommendations in a timely manner  
30 in accordance with the project schedule and timetable provided by the Mayor.  
31 If the Board fails to make a recommendation within the timetable established  
32 by the Mayor, the Mayor may identify another appropriate public procedure to  
33 select an artist or work of art without receiving a recommendation from the

1 Board unless the Board and the Mayor have mutually agreed in writing to an  
2 extension of the time period. The time period shall be extended, if necessary,  
3 if the Mayor rejects the Board's recommendation.”

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

6 “§ 10-5-7 ADMINISTRATIVE RESPONSIBILITIES.

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

10 (B) The Public Art Urban Enhancement Division of the Department  
11 of Arts and Culture and/or user agency shall be responsible for the  
12 conservation and maintenance of all works of art in the public art program.  
13 The Mayor shall cause an annual report to be prepared on the condition and  
14 maintenance requirements of all works of art in the public art program. The  
15 report shall be delivered to the Mayor.”

16 SECTION 5. SEVERABILITY. If any section, paragraph, sentence, clause,  
17 word or phrase of this Ordinance is for any reason held to be invalid or  
18 unenforceable by any court of competent jurisdiction, such decision shall not  
19 affect the validity of the remaining provision of the Ordinance. The Council  
20 hereby declares that it would have passed this Ordinance and each section,  
21 paragraph, sentence, clause, word or phrase thereof irrespective of any  
22 provision being declared unconstitutional or otherwise invalid.

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

26 SECTION 7. EFFECTIVE DATE. This ordinance will become effective five  
27 days after publication by title and general summary.