

ORDINANCE NO. 80-803

AN ORDINANCE TO ADD CHAPTER 2, ADMINISTRATION, ARTICLE IV, DIVISION 12 OF THE CODE OF ORDINANCES OF THE CITY OF WARREN, MICHIGAN CREATING A PUBLIC ARTS COMMISSION.

THE CITY OF WARREN ORDAINS:

SECTION 1. That the Code of Ordinances of the City of Warren, Michigan, is hereby amended by adding CHAPTER 2, ARTICLE IV, DIVISION 12, SECTION 2-264 through SECTION 2-280, creating a PUBLIC ARTS COMMISSION for the City of Warren.

IS HEREBY ADDED TO READ AS FOLLOWS:

DIVISION 12. PUBLIC ARTS COMMISSION

Sec. 2-264. Creation and Title.

There is hereby created for the city a commission hereafter to be known as the Public Arts Commission.

Sec. 2-265. 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 facilities and public spaces. The Mayor and City Council have determined that the creation of public art will improve the aesthetic quality of our 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. The Mayor and City Council recognize the role that government can play and the support that it can offer to foster the development of culture and the arts.

Funding for public art may come from private donations of cash or collateral (specific objects of art), crowd-funding, as part of a capital improvement project, or other funds that City Council may appropriate.

Sec. 2-266. 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.

Arts commission means the City of Warren Public Arts Commission.

Capital improvement project means any construction or renovation of any public space or facility. Capital improvement projects may include, but are not limited to gateway and signature streets, street vistas, street medians, sidewalks and sidewalk ramps, street furniture, street lights, manhole covers, tree grates, fence railings, paving, water features, bridges, overpasses, parks, squares, plazas, parking structures, signs, and public buildings and building lobbies.

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.

Public art means both temporary and permanent works of art created, purchased, donated, produced or otherwise acquired for display in places accessible to the general public, visually and/or physically. Public art means works of art purchased through the public art fund that are located in highly visibly public areas that are highly visible from public areas. These are:

- (1) Outdoor areas on public property that are highly visible from public areas.
- (2) Interior areas that are highly traveled public areas in public buildings. Specifically excluded are interior areas not accessible to the general public (e.g., offices, work stations, cafeterias).
- (3) Interior and exterior wall surfaces on or in public buildings when the work of art is attached to the wall surface, such as a mosaic or mural and the wall surface is visible from an area that is highly traveled by the public.

Public art fund means those monies appropriated by City Council pursuant to this division, plus any other funds received by the city specifically designated to be used for the purchase of public art.

Sec. 2-267. Composition.

- (a) The arts commission shall consist of five (5) members who are residents of the city to be appointed by the Mayor pursuant to City Charter §7.6. Members shall serve for three-year terms. In making appointments of members of the arts commission, the Mayor shall appoint, persons who, insofar as possible, have experience and/or an interest in the placement, creation, or design of public art.
- (b) The terms of office of the first arts commission members appointed hereunder shall be fixed by the Mayor so that the terms of two (2) members will be for one (1) year, two (2) members will be for two (2) years, and one (1) will be for three (3) years. After the initial commission is formed, all members thereafter will be appointed for three-year terms.
- (c) One member of council shall serve as an ex-officio member.
- (e) The arts commission may establish committees, as appropriate, to assist it relative to its powers and duties under the provisions of this division, provided, that all recommendations to the Mayor or City Council shall be made by the commission and not by a committee of the commission.
- (f) The commission may, by majority vote of the members, appoint persons who are not members of the arts commission to be members of such committees.
- (g) All members of the arts commission shall serve without compensation.
- (h) All ex-officio members have the right to participate in the proceedings of the commission, and shall have the right to vote.

Sec. 2-268. Chairman, meetings, rules, records.

The arts commission shall elect its chair and secretary from amongst the appointed and ex-officio members and create and fill such other of its offices as it may determine. The terms of officers shall be for one (1) year, with eligibility for reelection. The arts commission shall hold at least one (1) regular meeting in each month unless there is no business to transact or the weather makes travel to the meeting unsafe. It shall adopt rules for transaction of business and shall keep minutes, which record shall be a public record.

Sec. 2-269. Powers and duties as to arts commission.

- (a) The arts commission shall have the following powers and duties:
 - (1) Develop guidelines to implement the provisions of this division, including procedures for soliciting and selecting public art and for determining suitable locations for public art;
 - (2) Assure, in the overall public art program, reasonable diversity is attained in style, scale, media, and materials represented.
 - (3) By April 1 of each year, submit to the Mayor and 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 capital improvements projects are appropriate for designation as enhanced projects;
- (4) 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;
 - (5) Make recommendations regarding disbursement of public art funds to acquire, produce, install, maintain, alter, relocate or remove public art;
 - (6) Pursue opportunities for the donation of 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;
 - (7) Promote awareness of public art;
 - (8) Implement and oversee a Public Art Mural Program including but not limited to:
 - a. Identifying ideal buildings with highly visible walls for a public mural;
 - b. Soliciting local business owners to participate in the program;
 - c. Commission artists to complete the mural.
 - (9) Present an annual report to the Mayor and City Council within sixty (60) days after the end of each fiscal year containing:
 - a. 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;
 - b. 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;
 - c. A review of the city's public art with regard to the purposes stated in this chapter;
 - d. A report on the commission's efforts to promote awareness of public art;
 - e. A report on donations of art and where such art was placed;
 - f. A report on additional funds raised and how such funds were used; and
 - g. Any other matter of substantial financial or public importance relating to the public art in the city.
 - (10) 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;

- (11) For art proposed under this division, 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;
 - (12) For architectural enhancements proposed under this division, work collaboratively with planning staff, project management staff, the planning director as appropriate, to develop concepts for those enhancements;
- (b) The city will provide support for commission activities including:
- (1) The planning director shall provide the arts commission with information regarding capital projects for that fiscal year on a frequent basis, 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.
 - (2) The purchasing agent will assist with the procurement of qualified contractors and/or design professionals, when deemed necessary, for administrative and design services to be rendered in connection with the commissioning of works of art who shall:
 - a. Be available to consult with the arts commission in cases of new construction or remodeling, about specific areas for works of art and the appropriate scale.
 - b. Where public art is purchased or commissioned by the city in connection with a capital project, consult with the artist, review the execution of the work of art at periodic intervals, provide engineering and technical assistance to the artist, if required, and supervise the delivery and installation of the work under contract.
 - (4) Be responsible for maintenance of the site.
- (c) Any artist retained by the city to provide any work of art shall:
- (1) Be commissioned by the city to complete the work of art in a timely and professional manner or transfer title, in the case of an existing work of art, to the city.
 - (2) Hold no rights to any work of art commissioned or purchased under this division, including reproduction, access, modification, resale, etc., unless such rights are specifically allowed in a formal written agreement between the city and the artist.
 - (3) If necessary, consult with the appropriate design professional, in cases of new construction and/or remodeling, regarding execution of the work of art, engineering and technical needs, and oversee installation of the work.

Sec. 2-270. Public art fund established.

- (a) *Public funding.* There is further hereby established a "public art fund" to which shall be appropriated each year by the City Council. All such funds as are appropriated to the public art fund may be accumulated and expended for such public art, from time to time, as hereinafter provided. Provided, however, that any unexpended or un-appropriated fund balance in the public art fund may, from time to time, be re-appropriated by the City Council for any such other public purposes as permitted by law which the City Council shall deem necessary or proper. No public art from public funding may be placed on private property unless a public easement is granted for the location of the public art by the owner(s) of that property.
- (b) *Private funding of public art.* All funds placed into the public art fund through private donations shall be expended for only public art as hereafter provided.

Sec. 2-271. Other sources of funding for public art.

- (a) The arts commission may work with nonprofit or other organizations to raise funds for public art. Crowdfunding, and other fundraising mechanisms, may be used to encourage donations that are intended to fund wholly or in part a specific piece of public art.

Sec. 2-272. Inclusions and exclusions relative to disbursement of public art funds.

- (a) *Inclusions.* Upon the recommendation of the commission and approval of City Council the portion of the public art fund reserved for works of art may be expended for the following:
 - (1) The cost of the work of art and its installation.
 - (2) Identification plaques and labels.
 - (3) Waterworks, electrical and mechanical devices and equipment which are an integral part of the work of art.
 - (4) Frames, mats, and simple pedestals necessary for the proper presentation of the works of art.
 - (5) Maintenance and repair of the surface of the public art works.
 - (6) Fees to artists for the execution of final proposals for the arts commission to select from.
 - (7) 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.
 - (8) 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.
 - (9) Leases for the public art murals.

- (b) *Exclusions.* The portion of the public art fund reserved for works of art may not be expended for the following:
 - (1) Permanent reproductions by mechanical or other means of original works of art, however, limited editions controlled by the artist may be included.
 - (2) Art objects which are mass produced or of standard designs, such as playground sculpture or fountains.

Sec. 2-273. Ownership and maintenance of work.

- (a) No work of art shall be considered for acquisition under this chapter without an estimate for future maintenance costs.
- (b) 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 arts commission.
- (c) All art acquired pursuant to this chapter shall be the sole property of the City of Warren.
- (d) All temporary art shall remain the property of that person or those persons who have created the art or offered it for display. Maintenance and insurance costs shall be the responsibility of those persons who have created the art or offered it for display, and all necessary permits or licensing shall be secured before installation.

Sec. 2-274. Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter.

Secs. 2-275—2-280. Reserved.

SECTION 2. This Ordinance shall take effect on April 3, 2023.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-803 was adopted by the Council of the City of Warren at its meeting held on March 14, 2023.

SONJA BUFFA
City Clerk

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