

ORDINANCE #68793
Board Bill No. 2
Committee Substitute As Amended

An ordinance pertaining to public art; with legislative findings and definitions of terms; establishing a Public Art Trust Fund; providing for funds to be administered by the Regional Arts Commission; providing for the use of funds; defining the powers and duties of the Regional Arts Commission; defining other personnel duties; providing for disbursements from such fund; providing that certain Art-Qualified Projects as herein defined and certain grant requests or applications shall include in their budgets an allocation for Public Art as herein defined; providing for the application of funds; providing for review procedures; and with a severability provision.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Legislative Findings and Declarations. The Board of Aldermen hereby finds and declares as follows:

1. The presence of works of art and decorative elements in public places in the City enhances the quality of life, promotes the general welfare, maintains the quality of the environment and property values, and enhances the attractiveness of the City for residents and visitors.
2. Identifying locations for public works of art and decorative elements and participating in the building of a public art collection of high quality can be stimulating and unifying for the City and contribute to civic pride reflective of the City's diversity.
3. The encouragement of public art and decorative elements and providing for their funding and maintenance promote the general welfare.
4. Because works of art and decorative elements improve communities and neighborhoods, they should be initiated by community groups as well as being components of projects initiated by the City.
5. The expenditure of public funds for the acquisition and maintenance of works of art and decorative elements as herein provided is for a public purpose.

SECTION TWO. Definitions. As used in this ordinance the following terms have the following meanings:

"Acquisition" means the acquisition of a work of art by the City by completed commission, donation, or loan for five years or longer.

"Agency" means any public commission, authority or corporation established or authorized under State law to perform one or more functions on behalf of the City and funded in whole or part with City revenues or funds applied for, granted, or allocated by, to, or on behalf of the City. The terms "Agency" and "City" as used in this ordinance do not include the Police Department or Fire Department.

"Artist" means a person who creates an Artwork.

"Art-Qualified Project" means:

- i) a construction, renovation or site improvement project of the City or of any Agency intended to preserve or enhance the value of Capital Assets of the City or of any Agency;

"Art-Qualified Project" does not include: "50-50" sidewalk work pursuant to ordinance 67077; any work, including "St. Louis Works" projects, funded by the Street Improvement Fund established by Ordinances 55852, 55964, 55965 and 55966 as amended; any applications of proceeds of the 1/2 cent capital improvements sales tax authorized by Ordinance 62885; emergency repairs immediately necessary to preserve public safety; demolitions by the Building Division or ordered by the Building Commissioner to protect the public safety or by the Land Reutilization Authority; lateral sewer line repairs pursuant to Ch. 23.40 of the City Code, 1994; or any project or work which would otherwise be an Art-Qualified Project which is approved by ordinance, or for which a Project Budget is approved by an Agency, or for which a grant application or request which would otherwise be subject to Section Eight (c) (b) hereof is made, before July 1, 2011.

"Artwork" or "Work of Art" means all forms of tangible works of visual art executed in one or more media or materials including but not limited to paintings, sculpture, stained glass, lightworks, fiberworks, reliefs, monuments, fountains, frescoes, murals, collages, statues, photographs, drawings, mobiles, craftworks, kinetic, electronic or functional furnishings, lighting, and artist-designed landscaping.

"Capital Asset" means land, structures thereon, and permanent objects in public places. For purposes of this ordinance Capital Asset does not include vehicles or heavy equipment.

"City" means The City of St. Louis and any office, department, division, bureau, board, or agency thereof, and any corporation, institute, commission or other entity organized by or acting on behalf of the City or any office, department, division, bureau board or agency thereof.

"Commission" means the Regional Arts Commission.

"Deaccession" means the sale or other disposition of an Artwork by the City.

"Eligible Private Property" means property which is not a Public Place, whose owner has consented to installation thereon of Artworks and/or Infrastructure Decorations, and which is either open to the public without charge during business hours or from which Artworks located thereon are conveniently and fully visible.

"Infrastructure Decoration" means an object which is part of the urban infrastructure, such as, by way of example, bridges, street signs, park benches or manhole covers, the appearance of which is enhanced by incorporation of decorative visual elements.

"Project Budget" means a projection of cost of an Art-Qualified Project which includes all actual construction, demolition and site work costs including surveys; architectural and engineering fees; contingency allowances, acquisition costs for real property or interests therein; and financing costs including costs of issuance.

"Public Art Funds" means all money received from any source by the Public Art Trust Fund established by Section Three.

"Public Place" means areas upon, above, or below municipal buildings, parks, plazas, squares, parkways, rights-of-way, and any space, indoors or outdoors, which is owned or leased or which is being lease-purchased by the City or an Agency and which is generally accessible to the public; and any space not on private property which is visible to the public from a sidewalk or street.

SECTION THREE. Public Art Trust Fund. There is hereby established a Public Art Trust Fund of the City, wherein all Public Art Funds shall be held.

The Comptroller shall maintain the Public Art Trust Fund for the receipt of allocations, appropriations, grants and contributions pursuant to this ordinance. Allocations for Public Art Funds from Art-Qualified Projects shall be paid to the Public Art Trust Fund at the time of closing of financing for such Projects or, if there is no such closing, before any expenditure for construction, renovation or demolition is made. Upon receipt of capital grant funds described in Section Eight (b) of this ordinance the portion of such grant funds allocated for Public Art Funds shall be paid immediately by the recipient to the Public Art Trust Fund. Money in the Public Art Trust Fund shall be held in separate Art Qualified Project, City-wide Neighborhood Project, and Administration accounts. Appropriate sub-accounts may be created, and, if required to do so by law or the terms of grants the Comptroller may maintain separate accounts or funds for Public Art Funds which are proceeds of specific bond issues or grants.

Public Art Trust Fund monies are not subject to reversion at the end of fiscal years and shall only be appropriated and expended for public art purposes pursuant to this ordinance. Funds held in the Public Art Trust Fund may be appropriated and expended only for specific projects and programs of or affirmatively recommended by the Commission.

SECTION FOUR. Fund to be administered by The Commission. The Regional Arts Commission, as established in Chapter 67 of the Missouri Revised Statutes, shall administer the Public Arts Trust Fund as described in this ordinance.

SECTION FIVE. Use of Funds. The Public Arts Trust Fund shall only be used for projects within the City of St. Louis or at Lambert Airport. The annual budget for the Fund shall be submitted by the Commission every year and shall be approved by resolution of the Board of Aldermen.

SECTION SIX. The Regional Arts Commission - Powers and Duties.

The Commission shall:

1. Devise programs and plans and determine policies and guidelines for their implementation and cause the implementation thereof, to increase installation of Artworks in Public Places and on Eligible Private Property.
2. Determine and cause to be implemented policies and procedures consistent herewith for the City's art collection including policies and procedures for placement and purchase of Artworks and infrastructure decorations, acceptance of gifts or loans, conservation and maintenance programs, and deaccession of Artworks.
3. Develop and administer a comprehensive management program of the City's art collection which shall include:
 - (i) Establish an accession plan for logging in/accepting works of art into the City-owned collection and an archive system to include factual and legal information about each piece.
 - (ii) A regular procedure to assess the condition of Artworks and need for repairs and maintenance to ensure that Artworks shall be maintained in the best possible condition and, when appropriate, to coordinate with appropriate City departments for responsible maintenance and renovation of the Artworks and art sites. Such maintenance shall be paid for out the Public Arts Trust Fund.
 - (iii) A plan for removing, relocating and altering artwork. The Commission shall submit such a management program to the City by July 1, 2012.
4. Develop policies for relations with Artists concerning the respective rights and duties of the City and Artists with respect to Artworks created by the Artist which become part of the City art collection. Such policies and standard contract provisions shall be developed in consultation with the City Counselor.
5. Develop and maintain a city-wide site inventory for potential permanent and temporary Artwork projects;
6. Make recommendations concerning the acceptance of gifts of Artworks by the City;
7. Recommend public art and aesthetic enhancement projects for consideration in any project or plan being considered by the City;
8. Devise and oversee public art education programs;
9. Prepare and adopt regulations or standard policies from time to time, consistent with this ordinance, for the administration of programs authorized hereby, including but not limited to regulations or standard policies for development, review and approval of art projects and Artists.

SECTION SEVEN. Other personnel-duties.

- (a) All City and Agency personnel shall advise the Commission at the earliest possible time concerning:
 - (i) Existing or planned sites under the informing person's office, department or agency's jurisdiction which may be appropriate for public Artworks and aesthetic enhancement projects;
 - (ii) Proposed or planned projects involving construction, renovation, or development of any site or facility so as to permit adequate review of the project's potential for incorporation of public Artworks or Infrastructure Decorations;
 - (iii) Any advisory, neighborhood or other groups which may be affected by or interested in the development of public art projects;
 - (iv) Any ordinances, resolutions or regulations which might be relevant to any public art projects; and
 - (v) Planning processes for neighborhood improvement projects, area development projects, private or public planning studies and/or long-range policy recommendations, which could incorporate or address public art projects.

(b) All City and Agency personnel shall assist the Commission in the development and implementation of public Artworks and Infrastructure Decoration projects and installation and maintenance of duly authorized Artworks and Infrastructure Decorations at departmental sites.

SECTION EIGHT. Funding.

(a) Any Art-Qualified Project administered by any City department or any Agency shall include in its Project Budget an allocation of one percent (1%) of the total amount of such Budget prior to such allocation for Public Art Funds unless prohibited by State or Federal law. No City or Agency personnel shall execute any contract pertaining to an Art-Qualified Project, or authorize the expenditure or payment of any City or Agency Funds, including proceeds of any bonds issued for an Art-Qualified Project, unless the Comptroller has certified that the Art-Qualified Project complies in all applicable respects with this section.

(b) Any request or application by or on behalf of the City and/or any Agency including any request or application made jointly with one or more other entities for capital grant funds for Art-Qualified Projects to any public or private body, agency, or federation shall contain a request that one percent (1%) of the total grant funds requested be allocated for Public Art Funds, unless specifically excluded by the granting agency or donor or unless the director or other official in charge of operations of the department or agency applying for the grant certifies in writing to the Commission that a request for an allocation for Public Arts Funds would be detrimental to the application's competitiveness.

SECTION NINE. Application of Funds. Public Art Funds derived from Art-Qualified Projects pursuant to Section Eight (a) and from capital grant funds received pursuant to a request or application described in Section Eight (b) to the extent permitted under the terms of the grant shall be applied as follows as determined by the Commission:

(a) Fifty percent (50%) of such funds shall be allocated for expenses of Artworks and Infrastructure Decorations on Eligible Private Property at the specific project site or in immediately adjacent areas. Eligible expenses are Artist and Artwork selection, design development, purchase, production, installation and fabrication, and insurance. No such funds may be applied for standard directional elements or for traditional landscape treatments. If less than the full allocation permitted under this paragraph is made the amount not allocated under this subparagraph shall be allocated to the City-wide Neighborhood Project account of the Public Art Trust Fund, in addition to amounts allocable under subparagraph (b) of this section.

(b) 25% of such funds shall be allocated to the City-wide Neighborhood Project account within the Public Art Trust Fund established by Section Three hereof, for expenses of Artworks and Infrastructure Decorations as approved by the Commission.

(c) Up to 25% of such funds shall be allocated to a program support and conservation account of the Public Art Trust Fund. Eligible costs for payment from this account include, but are not limited to: administrative costs for the Commission, documentation (slides, transparencies and/or photographs) of Artworks, professional development, educational programs including lectures, workshops and symposia, and conservation and maintenance of the City public art collection.

SECTION TEN. Review Procedures.

(a) Artworks and Infrastructure Decorations funded pursuant to this ordinance shall be reviewed and approved by selection panels established by the Commission prior to their approval for funding by the Commission. Such committees shall include representatives of the Commission, and/or the City department or Agency developing the Project, and members of the public who are residents of the City.

(b) Artworks and Infrastructure Decorations proposed to be funded from the City-wide Neighborhood Project account within the Public Art Trust Fund shall be reviewed and approved by selection panels established by the Commission prior to their approval for funding by the Commission. Such committees shall include representatives of the Commission, of the ward(s) in the City where the Artwork or Infrastructure Decorations are proposed to be located, and of the City department or Agency most directly concerned with the proposed location of the Artwork or Infrastructure Decorations.

(c) All such projects shall be open to artists on a national basis, but must have demonstrated support from the local community or neighborhood in which the artwork or project will occur. Any such Artwork or Infrastructure Decorations may be located in Public Places or on Eligible Private Property.

(d) By July 1, 2012, the Commission shall survey the City on a ward by ward basis and determine the number of Artworks in Public Places and Infrastructure Decorations in each ward.

(e) Artworks and Infrastructure Decorations funded from the City-wide Neighborhood Project account shall be approved by the Commission in a manner, to be determined by the Commission, which emphasizes placement of Artworks in Public Places and Infrastructure Decorations in wards with significantly fewer Artworks in Public Places and Infrastructure Decorations than the ward-by-ward average.

(f) The Commission shall establish a Standing Review Committee to review proposed gifts or long-term loans of Artworks to the City. The Standing Review Committee shall report its recommendation within 60 days after reference to it of any proposal for such a gift or long-term loan. Such report shall be made to the City department with authority to accept or receive such gift or loan. No such gift or loan shall be accepted for the City without the favorable recommendation of the Standing Review Committee.

SECTION ELEVEN. Severability

The provisions of this Ordinance are severable. A determination by a court that one or more provisions of this ordinance is or are invalid shall not affect the validity of the remaining provisions.

Approved: November 18, 2010