

## ARTICLE IX. - PUBLIC ART PROGRAM

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### **Sec. 15-231. - Title.**

This article will be known and may be cited as the Charlotte public art program.

(Ord. No. 2308, § 1(15-211), 5-27-2003)

### **Sec. 15-232. - Purpose and intent.**

The city accepts responsibility for expanding the opportunity for its citizens to experience art in public places. The city also recognizes that the inclusion of public art in appropriate capital improvements projects will promote the cultural heritage and artistic development of the city, enhance the city's character and identity, contribute to economic development and tourism, add warmth, dignity, beauty and accessibility to public spaces, and expand the experience and participation of citizens with visual arts. A policy is therefore established to direct that funding for the inclusion of works of art in certain capital improvement projects constructed by the city be allocated through this public art program that supercedes and replaces the joint public art program previously operated by the Charlotte-Mecklenburg Public Art Commission that had been established through resolutions duly adopted by the city and the county.

(Ord. No. 2308, § 1(15-212), 5-27-2003)

### **Sec. 15-233. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Artist* means any professional practitioner in the arts, generally recognized by critics and peers as a

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professional in the field as evidenced by his/her education, experience and artwork production.

*Artwork* means original works, produced by an artist pursuant to this article and approved by the public art commission, in a variety of media. Artwork may be permanent, temporary, or functional, may stand alone or be integrated into the architecture or landscaping and should encompass the broadest range of expression, media and materials. Artwork shall not include reproductions of original works of art.

*ASC* means the Arts and Science Council — Charlotte/Mecklenburg, Inc., or its affiliated designee approved by the city, which assists in the administration of the public art program described in this article in accordance with an annual contract with the city and the public art commission.

*Capital improvement program* means the city's program for advance planning of capital development.

*Capital improvement project* means any capital project paid for wholly or in part by the city for the construction or substantial renovation of any building, facility or open space to which the public is generally invited, including projects in the business corridor program that are funded from the capital improvement program. For purposes of this article, a substantial renovation project is one that has been included in the capital improvement program.

*Construction costs* means the total amount appropriated for a capital improvement project (including funding from outside sources which permit the acquisition of artwork for the eligible project with such funds) less the actual costs of: (i) real property acquisition, (ii) demolition of existing structures, (iii) environmental remediation, (iv) equipment costs, (v) change orders to Eligible Projects, and (vi) legal, design and accounting fees.

*Eligible fund* means a source of funds for a capital improvement project from which city expenditures for public art are not prohibited as an object of expenditure.

*Eligible project* means any capital improvement project with the exception of (i) those projects that have statutory, contractual or other legal restrictions that prohibit expenditures for artwork from all portions of the project funds, and (ii) those art in transit projects that are governed by the guidelines established by the metropolitan transit commission for CATS' capital programs. The city council reserves the right to exclude certain projects from consideration as an eligible project or to limit the percentage of construction costs appropriated for artwork on an eligible project on a case-by-case basis.

*Public art account* means a specially designated account or accounts established by the city to fund the public art program as set forth in section 15-244.

*Public art allocation* means the amount of funds identified on a line item in the project budget for an eligible project that shall be allocated to the public art account for use in accordance with this article.

*Public art collection* means the entirety of artwork in city-owned places that have been acquired by the city through the public art program, and its predecessor program as a result of the public art resolutions of November 23, 1981, and May 10, 1993, which preceded the ordinance from which this article is derived.

*Public art commission* and *Commission* mean the Charlotte/Mecklenburg Public Art Commission described in section 15-234.

(Ord. No. 2308, § 1(15-213), 5-27-2003)

**Cross reference—** Definitions generally, § 1-2.

**Sec. 15-234. - Public art commission established; function.**

There is hereby established a commission to be known as the public art commission which shall have the powers and duties as set forth in this article in order to oversee and administer a public art program that will ensure the inclusion of artwork in appropriate capital improvement projects for the city to enhance the artistic and cultural development of the city. The public art commission also administers a public art program for the county pursuant to an ordinance duly adopted by the board of county commissioners on December 17, 2002. This reestablishment of the public art commission shall supercede and replace the Charlotte-Mecklenburg Public Art Commission previously established through resolutions duly adopted by the city and the county.

(Ord. No. 2308, § 1(15-214), 5-27-2003)

**Sec. 15-235. - Composition; appointment of members.**

The public art commission shall be composed of no less than nine and no more than 12 members, three of which will be appointed by the city, three of which will be appointed by the board of county commissioners, and the remainder of which will be appointed by the board of directors of the arts and science council. Two of the members appointed by the city shall be appointed by city council and the mayor shall appoint the other member. The members of the commission shall be appointed as follows:

	<i>City</i>	<i>County</i>	<i>ASC</i>
Visual arts or design professionals			3
Representatives of the business sector	1	1	
Representatives of the education field	1	1	
Representatives of the community	1	1	

(Ord. No. 2308, § 1(15-215), 5-27-2003)

**Sec. 15-236. - Terms of members; removal, etc.**

(a) Members of the public art commission shall serve for three-year terms and may serve a maximum of two consecutive full terms, plus any partial term to which they may have been appointed. Member terms shall be appointed on a staggered basis so that no more than three of the minimum nine appointed seats become vacant at one time.

(b) Any member serving in a position for which the term has expired shall continue to serve until the member's successor in that position is appointed and qualified. Any vacancy in a position shall be filled for the unexpired term.

(c) Any member appointed by the city who fails to attend the requisite number of meetings as set out in the boards and commissions attendance policy adopted by the city council shall be automatically removed from the commission. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section. The city clerk will notify the mayor and council if a city-appointed member is absent the requisite number of the meetings, and appointment will be made by the appointing authority to fill that vacancy.

(d) Current members of the previously established Charlotte-Mecklenburg Public Art Commission shall serve out their remaining term and upon the expiration of such term, replacement members shall

be appointed by the same entity that appointed the retiring member according to the fields designated in section 15-235

(Ord. No. 2308, § 1(15-216), 5-27-2003)

**Sec. 15-237. - Compensation of members.**

Members of the public art commission shall serve without compensation from the city or any firm, trust, donation or legacy to or on behalf of the city, provided, however, that a member of the commission, or the firm, company or corporation with whom the member is associated, shall not be precluded from receiving compensation from the city under any contract for services rendered which have no relation to the member's duties as a member of the commission.

(Ord. No. 2308, § 1(15-217), 5-27-2003)

**Sec. 15-238. - Chairman.**

The chairman of the public art commission shall be elected by a majority of the members of the commission and shall hold such office for one year or until a successor has been elected and qualified. The chairman may serve as a member of the board of directors of the arts and science council if so elected.

(Ord. No. 2308, § 1(15-218), 5-27-2003)

**Sec. 15-239. - Role of arts and science council.**

The arts and science council — Charlotte/Mecklenburg, Inc., is a nonprofit organization that provides services and programs to the city pursuant to an annual agency contract. The public art commission shall utilize the services of the arts and science council to administer the public art program.

(Ord. No. 2308, § 1(15-219), 5-27-2003)

**Sec. 15-240. - Administrative procedures.**

The public art commission in conjunction with the city's finance department and the arts and science council shall prepare guidelines and specifications for the administrative procedures that are necessary to accomplish the purposes set forth in this article.

(Ord. No. 2308, § 1(15-220), 5-27-2003)

**Sec. 15-241. - Consultation with city officers and department staffs.**

City officers and staffs of city departments may consult and advise with the public art commission from time to time on matters coming within the scope of this article, and the commission may consult and advise with such city staffs and officers.

(Ord. No. 2308, § 1(15-221), 5-27-2003)

**Sec. 15-242. - Solicitation of gifts of art and funds.**

The public art commission shall have the authority to solicit gifts of art on behalf of the city and to encourage public-spirited citizens to contribute funds, as well as permanent works of art, to the city and thereby help to beautify the city and the public buildings and grounds situated therein.

(Ord. No. 2308, § 1(15-222), 5-27-2003)

**Sec. 15-243. - Powers and duties.**

(a) Subject to the provisions of this article, the public art commission shall be responsible for administering the city's public art program with the assistance of arts and science council, including the establishment of policies and guidelines, the designation of appropriate sites for artwork, the determination of an art budget for eligible projects, the selection of artists and commissioning works of art, review of the design, execution and placement of artwork and the removal of artwork from the city collection.

(b) The public art commission, with the assistance of arts and science council, shall prepare an annual fiscal year work plan for approval by the city council which shall include at least the following: (i) a description of the artwork completed, obtained or commenced in the previous year; (ii) a description of the capital improvement projects designated for inclusion of public art in the upcoming year and of the funding source; (iii) a budget for the income and expenditures for such projects; and (iv) a general description of the public art plan for the upcoming year. The city council shall have final approval of the annual work plan and budget for the public art program. The annual work plan shall be contingent upon the availability of funds for capital projects.

(c) The public art commission shall work together with the city and the arts and science council to examine all artwork or a design or model of same which are proposed for permanent or longterm placement on city property or are to become the property of the city by purchase, gift or otherwise, except for those works to be placed in a museum or gallery, to determine an appropriate space for the placement of such artwork. In any case in which the city and the commission cannot agree on the location of placement of such works, the city's determination shall be final.

(d) Prior to moving or removing any artwork placed in, on or about city property pursuant to the public art program, the city shall submit such proposed change to the public art commission for a report and recommendation about a new space for the artwork or alternatives to moving it. In any case in which the city and the commission cannot agree on issues related to the relocation or removal of the artwork, the city's determination shall be final. The commission shall not be required to make recommendations regarding the temporary placement of artwork on city property.

(e) To encourage broad community participation in the public art program and to ensure artwork of the highest quality, the public art commission may solicit the participation of community representatives and professionals in the visual arts and design fields as part of the artist and art work selection process for particular public art projects in accordance with the size and complexity of the projects. These advisors may assist the commission in the selection of artists, project oversight and other related purposes, but shall have no vote on matters coming before the public art commission.

(f) During the design phase of the artwork, the public art commission shall advise the appropriate city departments through the city manager concerning the maintenance requirements of every artwork, recommend to the responsible department the type, frequency and extent of maintenance required to preserve the quality and value of every artwork, and inspect such maintenance work for the guidance of the city departments concerned. It is the responsibility of the site manager or appropriate department head to provide for the maintenance of artwork in their routine site maintenance program. Any proposed artwork which is determined by the commission or demonstrated by an appropriate city department head to require extraordinary operations or maintenance expense shall be reviewed with the city manager and approved by city council prior to proceeding with the fabrication and construction

of the artwork.

(Ord. No. 2308, § 1(15-223), 5-27-2003)

**Sec. 15-244. - Funds for public artwork.**

(a) All allocations of funds for eligible projects shall include an amount equal to one percent of the projected construction costs at the time the project is included in the city's capital improvement program to be used for the selection, acquisition, commissioning and display of artwork. No allocation shall be made for eligible projects with an estimated expenditure of less than the threshold amount for which formal bidding procedures are required pursuant to G.S. 143-129. If the source of funding, applicable law governing any particular eligible project or the expenditure of such funds precludes art as a permissible expenditure, the amount of funds so restricted shall be excluded from the construction costs in determining the amount to be allocated as provided in this section.

(b) The city's finance director shall establish a special fund designated the public art account into which funds appropriated as set out in subsection (a) of this section (the public art allocations) or derived from gifts or donations to the city for public art shall be deposited. For the budget year that the city council appropriates funding for the eligible project and that the eligible project is instituted, the public art allocations shall be deposited into the public art account in accordance with procedures established by the city's finance director.

(c) Monies collected in the public art account shall be budgeted and expended in the same manner as other city revenues and used for projects commissioned pursuant to this article. Each disbursement from such account or from other appropriations for artwork shall be recommended by the public art commission and authorized in accordance with applicable law and accounting principles governing expenditures from the city's budget. Separate accounts shall be established whenever funds are required to be used at a designated capital improvement project.

(d) From the effective date of this section, applications for capital improvement projects to granting authorities shall include amounts for artwork as specified in this section, insofar as permissible by the granting authority.

(Ord. No. 2308, § 1(15-224), 5-27-2003)

**Sec. 15-245. - Uses of funds.**

Funds allocated in accordance with this article may be used for the selection, acquisition, purchase, commissioning, fabrication, placement, installation, exhibition or display of artwork. To the extent practical, artist selection should be concurrent with selection of the architect or designer to ensure integration of the artwork into the project architecture. If a particular eligible project is deemed inappropriate for the placement of artwork by the public art commission or by city council, if not otherwise prohibited by law, the funds appropriated for artwork may be used at other more appropriate public sites.

(Ord. No. 2308, § 1(15-225), 5-27-2003)

**Sec. 15-246. - Public art acquisition.**

Disbursement of funds from the public art account to pay for artwork acquired pursuant to this article shall be made in accordance with procedures established by the city's finance director, but shall at least include the submission from the public art commission of an accurate and complete invoice resulting

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from a contract with an artist. The invoice for such artwork may include a commission fee of 15 percent of the cost of the artwork for services rendered in connection with the acquisition and installation of the artwork.

(Ord. No. 2308, § 1(15-226), 5-27-2003)

**Sec. 15-247. - Ownership of artwork.**

All artwork acquired pursuant to this article shall be acquired in the name of the city and title shall vest in the city.

(Ord. No. 2308, § 1(15-227), 5-27-2003)

**Sec. 15-248. - Decriminalization.**

A violation of this article shall not constitute an infraction or misdemeanor punishable under G.S. 14-4.

(Ord. No. 2308, § 1(15-228), 5-27-2003)