

ARTICLE 5: ART IN MUNICIPAL PLACES

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§ 10-5-1 PURPOSE.

The intent of this article is to promote and encourage private and public programs to further the development and public awareness of, and interest in, the visual arts and fine crafts to increase employment opportunities in the arts, and to encourage the integration of art into the architecture of municipal structures. Except as specifically provided for herein, this article does not intend to establish any policies or procedures relative to the Museum of Albuquerque.

('74 Code, § 11-14-1) (Ord. 89-1978; Am. Ord. 24-1992)

§ 10-5-2 DEFINITIONS.

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

BOARD. The Albuquerque Arts Board established by this article.

CAPITAL IMPROVEMENTS PROGRAM. All capital projects of the city.

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

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

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

('74 Code, § 11-14-2) (Ord. 89- 1978; Am. Ord. 24-1992; Am. Ord. [O-2022-035](#))

§ 10-5-3 ALBUQUERQUE ARTS BOARD.

(A) The Albuquerque Arts Board is hereby established. It shall consist of eleven members. There shall be one member of the Albuquerque Arts Board from each City Council District and two members appointed by the Mayor who serve at large. When a vacancy on the Albuquerque Arts Board occurs, the Councilor representing the District in which the vacating member of the Albuquerque Arts Board resides, shall nominate two members to the Albuquerque Arts Board who reside in his or her respective Council District and the Mayor shall appoint one of these recommended members; provided, however, if a member is eligible for reappointment to the Arts Board and the Councilor in whose District that member resides desires to reappoint the member, the Councilor shall so notify the Council and the member shall be reappointed subject to the advice and consent of the Council. If a member is not being reappointed, the Mayor shall deliver to the Council the Mayor's recommendation from the two names submitted within 30 days of delivery of the two names to the Mayor. If the Mayor fails to timely make a recommendation from the two names submitted, the Councilor may appoint one of the two recommended members subject to the advice and consent of the Council. The Mayor shall appoint the two at large members to the Albuquerque Arts Board with the advice and consent of the Council. The term of each member shall be three years. The terms of the members shall be staggered so that three members are eligible for reappointment or replacement each year.

(B) The Mayor may notify a Councilor in writing that his or her District member's term has expired or the position is otherwise vacant and the Councilor shall have 60 days to submit two recommended appointments to fill that position. If the Councilor fails to submit two names within 60 days of notification, the Mayor shall have the right to make the appointment subject to the advice and consent of the City Council.

(C) Except as provided in this article, the qualifications, appointment and conduct of the members of the Board and any of its subcommittees and the organizational structure of the Board and its subcommittees shall be governed by §§ 2-6-1-1 et seq.

(D) Members of the Board shall be broadly representative of all fields of the visual arts and fine crafts. They shall include persons who are widely known for their professional competence and experience in the arts and knowledgeable lay persons.

(E) *Conflict of Interest.* This division (E) supplements § 2-6-1-4. A Board or a subcommittee member having a financial interest in the outcome of any policy, decision, or determination before the Board or subcommittee on which he serves shall, as soon as possible after such interest becomes apparent, disclose to each of the other members voting on the matter the nature of his financial interest in the issue, and shall be disqualified from participating in any debate, decision or vote relating thereto.

(74 Code, § 11-14-3) (Ord. 89- 1978; Am. Ord. 47-1982; Am. Ord. 24-1992; Am. Ord. 3-2000; Am. Ord. 43-2006; Am. Ord. 1-2008; Am. Ord. 14-2008; Am. Ord. 8-2009; Am. Ord. 19-2009; Am. Ord. 2012-014; Am. [Ord. 2020-039](#))

§ 10-5-4 POWERS AND DUTIES.

The Board shall promote and encourage private and public programs to further the development and public awareness of, and interest in the visual arts and fine crafts and cultural properties. In carrying out its duties and powers the Board shall:

(A) Make recommendations to the Mayor on the acquisition of works of art for city-owned facilities.

(B) Make recommendations to the Mayor for any work of art to be funded from the Capital Improvements Program as provided for in § 10-5-5(A) with regard to an artist, a design proposal and/or a work of art to be approved.

(C) Make recommendations to the Mayor for any work of art which will be a part of the public art

collection and which will be funded, or partially funded by non-Capital Improvement Program sources including the public site for the display of such art and establish criteria for the selection of the artist and/or the work of art or make recommendations regarding the proposed artist and/or work of art.

(D) Advise the Mayor on the proposed removal, relocation or alteration of any public arts project or works of art in the possession of the city but which are not collections or exhibitions of other city departments.

(E) Make recommendations to the Mayor on any arts program to be supported by the city other than the programs operated by other city departments.

(F) Recommend to the Mayor programs and facilities to further the development and public awareness of the visual arts and fine crafts.

(G) Seek private donations to the public art program. Advise the Mayor regarding additional sources of public funds for the program.

(H) Establish such guidelines as are necessary to carry out the purpose of §§ 10-5-1 et seq. The guidelines shall include but not be limited to criteria for selection of artists and art work, maintenance of a file of interested artists, payment practices, procedures for artistic competitions, and requirements for the maintenance of art works. The guidelines shall be promulgated by the Mayor.

(I) Establish a system of active coordination with the City's Capital Improvement Program and other building activities to insure that works of art are properly integrated into the built environment.

(J) Establish subcommittees or ad hoc task forces to advise and assist the Board. Art Selection Committees may be established as subcommittees to the Board to recommend to the Board an artist or a work of art to be funded from the Capital Improvements Program as provided for in § 10-5-5(A). Subcommittee and task force members shall be appointed by the Board for terms to be specified by the Board.

(K) Serve as an advisory board for such city arts or cultural properties and programs as directed by the Mayor.

(*74 Code, § 11-14-4) (Ord. 89-1978; Am. Ord. 24-1992)

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

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

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

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

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

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

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

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

('74 Code, § 11-14-5) (Ord. 89- 1978; Am. Ord. 24-1992; Am. Ord. [O-2022-035](#))

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

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

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

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

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

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

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

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

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

('74 Code, § 11-14-6) (Ord. 89- 1978; Am. Ord. 24-1992; Am. [Ord. 2014-025](#))

§ 10-5-7 ADMINISTRATIVE RESPONSIBILITIES.

(A) The Chief Administrative Officer shall provide adequate staffing and administrative support for

enabling the Arts Board and any of its subcommittees to carry out their duties.

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

('74 Code, § 11-14-7) (Ord. 89-1978; Am. Ord. 24-1992; Am. Ord. [O-2022-035](#))

§ 10-5-8 APPLICABILITY.

This article is not intended to amend any bond question submitted to the voters or any bond ordinance authorizing revenue bonds.

('74 Code, § 11-14-8) (Ord. 89-1978)