

Effective Date January 24, 2015

11/25/2014

12/2/2014

151-O-14

AN ORDINANCE

**Amending City Code Title 2, Chapter 1 “Arts Council” And
Amending City Code Title 7, Chapter 16 “Works of Art”**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS THAT:

SECTION 1: Title 2, Chapter 1 of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

CHAPTER 1. ARTS COUNCIL

2-1-1. ESTABLISHMENT.

There is hereby established the Evanston Arts Council which shall be composed of twelve (12) members to be appointed by the Mayor with the advice and consent of the City Council. No person shall be eligible for appointment to the Arts Council unless such person be a resident of the City or is employed within the City in a position other than Alderman, officer or employee of the City.

2-1-2. RATIONALE.

The Arts Council shall encourage the involvement of citizens in artistic expression and aid in the coordination of private and public artistic and cultural endeavors in order to increase public support of such activities.

2-1-3. TERMS OF OFFICE.

All appointees to the Arts Council shall serve terms of three (3) years or until their successors are appointed and confirmed; provided, however, that initially, three (3) members shall be appointed for terms of one year; three (3) members shall be appointed for terms of two (2) years; and three (3) members shall be appointed for terms of three (3) years. The six (6) members appointed pursuant to Ordinance 36-0-00 shall be appointed as follows:

2-1-4. POWERS.

The Evanston Arts Council shall be vested with the following powers.

- (A) To maintain an office properly equipped to discharge its functions.
- (B) To have a director and suitable staff appointed by the City Manager in consultation with the Arts Council.
- (C) To recommend to the City Council, annually and at such other times as it deems advisable, municipal assistance for artists, art organizations and cultural organizations located within the City; provided, however, that such recommendation shall not impinge upon nor limit the powers of such organizations to conduct private fundraising activities among the citizens of the City.
- (D) To review requests for and to grant financial and services support to individuals and organizations for arts and cultural purposes.
- (E) To coordinate, insofar as the individual organizations choose to participate, the activities of all artistic and cultural organizations within the City.
- (F) To sponsor and conduct, with or without admission charge, all types of exhibitions, shows, productions, displays and facilities pertaining to the visual and performing arts and related cultural activities.
- (G) To advise the Mayor, the City Council and the appropriate boards and commissions as to the adequacy and availability of space for the presentation of artistic and cultural activities and as to possible means of satisfying such unmet needs.
- (H) To adopt rules for meetings, the transaction of its business and to keep a record of its transactions, findings and determinations.
- (I) To perform any other acts or engage in other transactions prescribed by the ordinances of the City as to subsequent action of the City Council, and to have all powers necessary to or incidental to the foregoing.
- (J) To prepare and recommend to the City Council a comprehensive plan of cultural improvements looking to the present and future. The Arts Council shall make an annual report of its objectives and accomplishments.
- (K) To administer the City's Public Art Program, including the following:
 1. Administer the public art program and public art plan, with assistance and guidance from the Public Works Department and other departments responsible for specific construction projects. The public art plan, reviewed and revised annually, will include a plan for the development of a public art project or projects for each construction project.
 2. Recommend specific guidelines for public art projects to include:
 - a. Process for community participation in all phases of the public art project including, but not limited to, site selection, artist selection and dedication.
 - b. Contractual details for the commissioning or purchase of works of art.
 - c. Projected time line for each public art project.
 3. Review design, execution and installation of works of art for public art projects.

4. Advise private developers in the selection of works of art for settings accessible to the public.
5. Oversee the process as part of the public art program for the removal and deaccessioning of works of art from the City art collection.

2-1-5. FUNDING PROVISIONS.

The City Council shall determine its annual level of funding of the Evanston Arts Council. The Evanston Arts Council programs shall be funded, as much as possible, from funds other than those from the general fund of the City. None of the above sections, without prior approval by the City Council, shall include the power to obligate the City for compensation to any person, organization or agency.

2-1-6. PUBLIC ART PROGRAM (WORKS OF ART).

The City Council acknowledges that works of art enhance the visual and sensory environment in the City, contributing thereby to the quality of life in the City. Works of art accessible to the public stimulate the economy of the City. The City Council therefore acknowledges and adopts as public policy for the City an undertaking to provide works of art in public places and facilities to an extent which is reasonable and proper using available public and private funds and in accord with a public process. Thus the purpose of this Chapter shall be as follows:

- (A) To provide a process by which the City shall acquire and maintain works of art, including but, not limited to, commissioning works of art;
- (B) To identify and administer a Public Art Fund for acquisition, maintenance and disposition of works of art;
- (C) To establish and administer a Public Art Plan and a public art program;
- (D) To dispose of works of art.

2-1-7. DEFINITIONS.

The following definitions shall pertain to this Chapter:

<i>ARTS COUNCIL.</i>	The Evanston Arts Council.
<i>CITY ART COLLECTION.</i>	All works of art which are owned and maintained by the City of Evanston, pursuant to this Chapter.
<i>COMMITTEE.</i>	The Public Art Committee of the Evanston Arts Council, established as a subcommittee of the Arts Council acting in an advisory capacity to the Arts Council and City Council, with membership appointed by the Mayor.

<i>CONSTRUCTION PROJECT.</i>	Any capital project at least fifty percent (50%) of the cost of which is paid by the City of Evanston which results in the construction of a new building having one or more floors and wherein the cost of construction exceeds one million dollars (\$1,000,000.00).
<i>PUBLIC ART FUND.</i>	A dedicated interest-bearing account within the City General Fund into which shall be deposited all art funding authorized by this Chapter together with other monies as the City Council shall authorize for works of art as well as funds contributed to the City for works of art.
<i>PUBLIC ART PLAN.</i>	The written plan outlining all proposed public art projects coincident with and as an adjunct to the Capital Improvements Plan of the City of Evanston including the location, budget, projected selection process and other factors established by the public art program for each public art project.
<i>PUBLIC ART PROGRAM.</i>	The written policies and procedures which provide for the systematic recommended collection and recommended expenditure of public funds and funds donated to the City for the purchase of works of art; the maintenance of works of art for a public art project; the administration of the Public Art Plan for which designated funds are being deposited into the interest-bearing Public Art Fund; and the disposition of works of art.
<i>PUBLIC ART PROJECT.</i>	Any single project identified in the public art plan and involving the policies and procedures of the public art program which results or may result in the installation of a work of art as part of the City art collection.
<i>WORKS OF ART.</i>	All forms of original, artist-produced creations of visual art, including, but not limited to, sculpture, murals, mosaics, paintings, earthworks, etc. Not included in this definition are reproductions of original works of art; decorative, ornamental or functional elements which are designed by a building architect; mass produced objects; and directional or other functional elements, such as supergraphics, signing, color coding and maps, except where an artist is employed. (Ord. No. 87-0-94)

2-1-8. PUBLIC ART PROJECTS.

The Arts Council shall prepare a Public Art Program and a Public Art Plan which shall include an identification of known, projected and recommended public art projects. All construction projects shall have recommended public art project(s) associated therewith which shall be included in the Public Art Plan. The goal for funds from public revenue sources for each public art project associated with each construction project may be up to but no more than one percent (1%) of the cost of any such construction project as estimated in the most recent Capital Improvements Plan of the City. The total estimated cost of any construction project hereunder shall exclude amounts for real property acquisition, demolition, furniture, financing costs, streets, sewers and infrastructure construction, if any. The total estimated cost of a construction project for which funding is determined for each public art project shall include actual construction costs, design fees, construction management and other related costs of the construction project.

2-1-9. RESPONSIBILITIES.

To carry out its responsibilities hereunder, the Arts Council shall:

- (A) Develop and recommend policies, guidelines and processes for the implementation of the public art program. Policy issues shall include but not be limited to the following:
 - 1. Method of selection of artists and art for each public art project;
 - 2. Incentives for the inclusion of works of art in private developments;
 - 3. Maintenance and conservation of works of art;
 - 4. Deaccessioning and removal of works of art where necessary;
 - 5. Acquisition of private funding, gifts, exhibits and loan of works of art.
- (B) Develop a Public Art Plan in concert with the most recent Capital Improvements Plan.
- (C) Review, revise as appropriate, and recommend for adoption by the City Council, the adoption of a public art program and a Public Art Plan; funding of public art projects; selection of artists and/or works of art for public art projects; allocation of payments for the design, execution and placement of works of art and such other acts consistent with this Chapter.

2-1-10. CULTURAL ARTS COORDINATOR.

The City may employ a Cultural Arts Coordinator to work closely with the Arts Council, other originating agencies and departments, private developers, and artists.

2-1-11. CITY COORDINATION.

The Cultural Arts Coordinator will work closely with the Arts Council, other originating agencies and departments, private developers, and artists to manage details of contracts, specifications, time tables, fee schedules, and other aspects of public art projects.

2-1-12. PENALTY.

- (A) It shall be unlawful for any person to remove without authorization, deface, paint over, or otherwise damage any public art in the City. Any person who shall be found to have violated any of the provisions of this Chapter shall be guilty of an offense punishable as follows:
1. The fine for a first violation is two hundred dollars (\$200.00).
 2. The fine for a second violation is five hundred dollars (\$500.00).
 3. The fine for a third or subsequent violation is seven hundred fifty dollars (\$750.00).
- (B) The fines provided for herein shall not be construed as limiting the power of an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation. In addition, to the fines specified above, any person found to have violated this Chapter shall pay for all costs to replace the public art.
- (C) Administration: The Cultural Arts Coordinator or his/her designee is charged with the administration of this Subsection.

SECTION 2: Title 7, Chapter 16 of the Evanston City Code of 2012, as amended, is hereby further amended and deleted in its entirety:

~~CHAPTER 16. WORKS OF ART~~**~~7-16-1. PURPOSE.~~**

~~The City Council acknowledges that works of art enhance the visual and sensory environment in the City, contributing thereby to the quality of life in the City. Works of art accessible to the public also stimulate the economy of the City.~~

~~The City Council therefore acknowledges and adopts as public policy for the City an undertaking to provide works of art in public places and facilities to an extent which is reasonable and proper using available public and private funds and in accord with a public process. Thus the purpose of this Chapter shall be as follows:~~

- ~~(A) To provide a process by which the City shall acquire and maintain works of art, including but, not limited to, commissioning works of art;~~

- (B) ~~To identify and administer a Public Art Fund for acquisition, maintenance and disposition of works of art;~~
- (C) ~~To establish and administer a Public Art Plan and a public art program;~~
- (D) ~~To dispose of works of art.~~

7-16-2. DEFINITIONS.

The following definitions shall pertain to this Chapter:

ARTS COUNCIL.	The Evanston Arts Council.
CITY ART COLLECTION.	All works of art which are owned and maintained by the City of Evanston, pursuant to this Chapter.
COMMITTEE.	The Public Art Committee of the Evanston Arts Council, established as a permanent body of the Arts Council acting in an advisory capacity to the Arts Council and City Council, with membership appointed by the Mayor.
CONSTRUCTION PROJECT.	Any capital project at least fifty percent (50%) of the cost of which is paid by the City of Evanston which results in the construction of a new building having one or more floors and wherein the cost of construction exceeds one million dollars (\$1,000,000.00).
PUBLIC ART FUND.	A dedicated interest bearing account within the City General Fund into which shall be deposited all art funding authorized by this Chapter together with other monies as the City Council shall authorize for works of art as well as funds contributed to the City for works of art.
PUBLIC ART PLAN.	The written plan outlining all proposed public art projects coincident with and as an adjunct to the Capital Improvements Plan of the City of Evanston including the location, budget, projected selection process and other factors established by the public art program for each public art project.
PUBLIC ART PROGRAM.	The written policies and procedures which provide for the systematic recommended collection and recommended expenditure of public funds and funds donated to the City for the purchase of works of art; the maintenance of works of art for a public art project; the administration of the Public Art Plan for which designated funds

	are being deposited into the interest bearing Public Art Fund; and the disposition of works of art.
<i>PUBLIC ART PROJECT.</i>	Any single project identified in the public art plan and involving the policies and procedures of the public art program which results or may result in the installation of a work of art as part of the City art collection.
<i>WORKS OF ART.</i>	All forms of original, artist-produced creations of visual art, including, but not limited to, sculpture, murals, mosaics, paintings, earthworks, etc. Not included in this definition are reproductions of original works of art; decorative, ornamental or functional elements which are designed by a building architect; mass-produced objects; and directional or other functional elements, such as supergraphics, signing, color coding and maps, except where an artist is employed. (Ord. No. 87-0-94)

7-16-3. PUBLIC ART FUND.

There is hereby created and established a dedicated interest bearing account designated the public art fund, within the general fund into which shall be deposited monies described in this Chapter, other monies as the City Council shall designate, and such contributions, gifts and grants from individuals, groups and corporations as may be voluntarily contributed for public art projects.

Contributions, gifts and grants to the City deposited into the public art fund shall be administered according to the public art program and public art plan. Contributions, gifts and grants may be used as part of the total allocation for public art projects associated with specific construction projects. Monies from the public art fund shall be expended for the selection, acquisition, installation, display, maintenance and disposition of works of art for any public art project and for the administration of the public art program and public art plan. Administrative costs associated with the public art program should be budgeted from noncity funds whenever possible.

7-16-4. PUBLIC ART COMMITTEE.

(A) *Composition; Appointment; Qualifications.* The mayor shall appoint, with approval of the City Council, a standing committee of fifteen (15) members. Members of the public art committee shall reside or work in Evanston. The committee shall include at least eight (8) art professionals as well as representatives from the fields of architecture, landscape architecture, City planning, and/or engineering. Appointees shall have knowledge of contemporary public art, architecture, land use and City planning, and the Evanston community. From time to time, department heads from

~~other City departments, agencies, and from other boards and commissions shall be asked to serve as advisors to the public art committee on an interim basis when a public art project involving their particular department or agency is anticipated. A member of the Arts Council shall be appointed as one of the fifteen (15) committee members. In addition, the chair of the public art committee will sit as an ex officio member of the Evanston Arts Council, if not already an appointed member of the Evanston Arts Council. The public art committee will annually elect its own chair.~~

- ~~(B) *Terms Of Office; Vacancies.* All appointees to the committee shall serve terms of three (3) years or until their successors are appointed and confirmed; provided, however, that initially, three (3) members shall be appointed for terms of one year; three (3) members shall be appointed for terms of two (2) years; and three (3) members shall be appointed for terms of three (3) years. The six (6) members appointed pursuant to Ordinance 80-0-00 shall be appointed as follows: three (3) members for terms of three (3) years; and three (3) members for terms of two (2) years. Members of the committee shall not serve for more than two (2) full terms, and vacancies shall be filled for the remaining portion of a vacant term by the mayor with approval of the City Council. All members shall serve as volunteers.~~
- ~~(C) *Functions.* The public art committee will operate as a standing committee of the Arts Council. The primary purpose of the committee is to prepare and administer the public art program, the public art plan and public art projects under the direction of the Arts Council and pursuant to approval of the City Council. Functions further include, but are not limited to:~~
- ~~1. Developing of a public art program and a public art plan, with assistance and guidance from the Public Works Department and other departments responsible for specific construction projects. The public art plan, reviewed and revised annually, will include a plan for the development of a public art project or projects for each construction project.~~
 - ~~2. Recommending specific guidelines for public art projects to include:

 - ~~a. Process for community participation in all phases of the public art project including site selection, artist selection and dedication.~~
 - ~~b. Contractual details for the commissioning or purchase of works of art.~~
 - ~~c. Projected time line for each public art project.~~~~
 - ~~3. Reviewing design, execution and installation of works of art for public art projects.~~
 - ~~4. Advising private developers in the selection of works of art for settings accessible to the public.~~
 - ~~5. Overseeing the process as part of the public art program for the removal and deaccessioning of works of art from the City art collection.~~

~~7-16-5. PUBLIC ART PROJECTS.~~

~~The Public Art Committee, with advice and consent of the Arts Council, shall prepare a public art program and a Public Art Plan which shall include an identification of known, projected and recommended public art projects. All construction projects shall have recommended public art project(s) associated therewith which shall be included in the Public Art Plan. The goal for funds from public revenue sources for each public art project associated with each construction project may be up to but no more than one percent (1%) of the cost of any such construction project as estimated in the most recent Capital Improvements Plan of the City. The total estimated cost of any construction project hereunder shall exclude amounts for real property acquisition, demolition, furniture, financing costs, streets, sewers and infrastructure construction, if any. The total estimated cost of a construction project for which funding is determined for each public art project shall include actual construction costs, design fees, construction management and other related costs of the construction project.~~

~~7-16-6. ARTS COUNCIL AUTHORITY.~~

~~To carry out its responsibilities hereunder, the Arts Council shall:~~

- ~~(A) Administer the Public Art Committee and assist the Committee to develop and recommend policies, guidelines and processes for the implementation of the public art program. Policy issues shall include but not be limited to the following:~~
- ~~1. Additional qualifications for future appointments to the Committee;~~
 - ~~2. Method of selection of artists and art for each public art project;~~
 - ~~3. Incentives for the inclusion of works of art in private developments;~~
 - ~~4. Maintenance and conservation of works of art;~~
 - ~~5. Deaccessioning and removal of works of art where necessary;~~
 - ~~6. Acquisition of private funding, gifts, exhibits and loan of works of art.~~
- ~~(B) Direct the Public Art Committee to develop a Public Art Plan in concert with the most recent Capital Improvements Plan.~~
- ~~(C) Review, revise as appropriate, and recommend for adoption by the City Council, upon receipt from the Committee, the adoption of a public art program and a Public Art Plan; funding of public art projects; selection of artists and/or works of art for public art projects; allocation of payments for the design, execution and placement of works of art and such other acts consistent with this Chapter.~~

~~7-16-7. PUBLIC ART COORDINATOR.~~

~~The City may employ a Public Art Coordinator to work closely with the Committee, other originating agencies and departments, private developers, and artists to manage details of contracts, specifications, time tables, fee schedules, and other aspects of~~

~~public art projects. The Coordinator shall report to the Executive Director of the Arts Council.~~

~~7-16-8. PENALTY.~~

~~(A) It shall be unlawful for any person to remove without authorization, deface, paint over, or otherwise damage any public art in the City. Any person who shall be found to have violated any of the provisions of this Chapter shall be guilty of an offense punishable as follows:~~

~~1. The fine for a first violation is two hundred dollars (\$200.00).~~

~~2. The fine for a second violation is five hundred dollars (\$500.00).~~

~~3. The fine for a third or subsequent violation is seven hundred fifty dollars (\$750.00).~~

~~(B) The fines provided for herein shall not be construed as limiting the power of an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation. In addition, to the fines specified above, any person found to have violated this Chapter shall pay for all costs to replace the public art.~~

~~(C) Administration: The Director of Parks, Recreation and Community Development ("Director") or his/her designee is charged with the administration of this Subsection.~~

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: The findings and recitals herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: December 8, 2014

Approved:

Adopted: January 12, 2015

January 14, 2015

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, Corporation Counsel