

ORDINANCE

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AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE AMENDING CHAPTER 2 OF THE KNOXVILLE CITY CODE TO ADD A NEW ARTICLE XI TO ESTABLISH A PUBLIC ART COMMITTEE TO DEAL WITH THE ACCEPTANCE OF AND PLACEMENT OF ART IN PUBLIC SPACES.

ORDINANCE NO.: 0-147-08

REQUESTED BY: _____

PREPARED BY: _____
APPROVED AS TO FORM AND CORRECTNESS: _____

Director of Law
FINANCIAL IMPACT STATEMENT: _____

APPROVED ON 1ST _____
READING: 06-17-2008
APPROVED ON 2ND _____
READING: 07-01-2008
APPROVED AS AN EMERGENCY MEASURE: _____

MINUTE BOOK 72 PAGE _____

WHEREAS, Mayor Haslam appointed a public arts task force to deal with issues surrounding public art, including the acceptance and placement of public art and the encouragement of art in public spaces; and

WHEREAS, the task force recommended that a public art committee be established; and

WHEREAS, a draft ordinance was created based on the recommendations of the task force and presented to a public meeting held on May 22, 2008; and

WHEREAS, the City Council of the City of Knoxville wishes to adopt the proposed ordinance establishing a Public Art Committee; and

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2 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
3 **KNOXVILLE:**

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5 **SECTION 1:** Chapter 2, of the City of Knoxville Code of Ordinances is hereby amended by
6 adding a new Article to be enumerated as Chapter 5, Article XI:

7 **Article XI. City of Knoxville Public Arts Committee.**

8 **Sec. 2-1109. Established.**

9 There is created and established a committee to be legally known as the “City of
10 Knoxville Public Arts Committee,” referred to in this chapter as “committee.”

11 **Sec. 2-1110. Purpose.**

12 The purpose of the committee is to enhance the reputation of the community, contribute
13 to the civic environment, and enrich the lives of citizens and visitors through the involvement of
14 professional artists to integrate public artwork throughout the City of Knoxville.

15 **Sec. 2-1111. Definitions.**

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

- 18 (a) Accessioning. The procedure used to accept and record an artwork as part
19 of the collection.
- 20 (b) Acquisition. The accession of an artwork into the City’s public art
21 collection, whether by commission, purchase, gift or other means.
- 22 (c) Artist. A person who has established a reputation of artistic excellence in
23 the visual, design, performing or literary arts, as judged by peers, through a
24 record of exhibitions, public commissions, sale of works and/or
25 educational attainment.
- 26 (d) Artwork. Original visual art produced by professional artists, using a
27 variety of media; can be free standing, integrated into architecture,
28 functional, non-functional, temporary or permanent.
- (e) Deaccessioning. The procedure followed to remove an artwork from the
 public art collection.

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- 3 (f) Local artist. An artist who has lived or worked within the Knoxville
Metropolitan Statistical Area for five (5) or more years of such artist's
4 career.
- 5 (g) Public art. Artwork that is accessible to the public and created through a
6 public process that considers the social and physical context of the site and
7 addresses the goals of the public art program.
- 8 (h) Public art collection. Artwork on public land or in public facilities owned
9 by the city.
- 10 (i) Public art program. A program of the city established by the public art
11 ordinance and governed by the Public Art Guidelines.
- 12 (j) Public art project. The creation and management of public artwork in
13 accordance with the Public Art Guidelines.
- 14 (k) Temporary public art program. A public art program that lasts no longer
15 than twelve (12) months and includes requirements that any artwork be
16 removed from public property at the termination of the temporary public
17 art program.

18 **Sec. 2-1112. Members of the committee.**

- 19 (a) The committee shall consist of seven (7) members. At least two (2) committee
20 members will be visual artists, and will serve alternate terms. Other members will
21 be individuals with specific professional expertise in public art or the visual arts
22 such as contemporary arts curator, museum director, or professor of art or art
23 history, and design professionals such as architects, landscape architects, or urban
24 planners. At least one (1) member will be a City Council member appointed by
25 the Vice Mayor and confirmed by council. All other members shall be appointed
26 by the Mayor and confirmed by council.
- 27 (b) Initial appointments to the committee shall be made for the following terms:
- 28 (1) Two (2) members of the committee shall be appointed for one-year terms;
- (2) Two (2) members of the committee shall be appointed for two-year terms;
and
- (3) Three (3) members of the committee shall be appointed for three-year
terms.

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2 All subsequent appointments, except to fill vacancies, shall be for three-year terms.
3 Vacancies occurring other than through the expiration of terms shall be filled for the
4 remainder of the term of the member being replaced. No member may serve more than
5 two (2) consecutive terms. Upon making the initial appointments to the committee, the
6 Mayor shall designate one (1) member of the committee to convene the first regular
7 meeting of the committee. At its first regular meeting, the committee shall elect one of its
8 members to serve as chairman. The chairman shall serve a term of one year or until a
9 successor is elected. The chairman may appoint such other officers as deemed
10 appropriate.

11 (c) Upon the recommendation of the majority of the committee or upon his own
12 volition, the Mayor, with approval of the City Council, may remove any member of the
13 committee for official misconduct or neglect of duty. In addition, members who fail to attend
14 three (3) consecutive regular meetings may be considered to have vacated their positions and may
15 be replaced, as provided for herein.

16 (d) No member of the committee shall receive compensation for services performed.

17 (e) In addition to voting members, designated City staff members will serve as ex-
18 officio, non-voting members of the committee.

19 **Sec. 2-1113. Powers and duties of the committee.**

20 The committee shall:

- 21 (a) Develop a plan of potential locations for public art throughout the City;
22 (b) Create an inventory of local public artworks;
23 (c) Establish policies for collection management, maintenance and conservation of
24 local public art, subject to approval by the Mayor;
25 (d) Review project briefings organized by City staff that describe proposed public art
26 projects, including the social and physical context of the proposed site, the project
27 timeline and funding;
28 (e) Initiate public forums where appropriate for determining thematic approaches and
location options for public art;
(f) Determine recruitment strategy to establish a pool of artists for each project it
supports
(g) Periodically review and recommend changes to the Public Art Guidelines, and
other public art policies and procedures;
(h) Review the inventory of public art, including an assessment of the status of
maintenance

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- (i) Prepare recommendations to the Mayor regarding the location, relocation, and deaccessioning of the City's inventory of public art
 - (j) Develop criteria for selection panelists to be chosen for each project
 - (k) Develop policies for temporary public art programs and Artist in Residency programs.

6 City of Knoxville staff will manage the public art program and facilitate communication among
7 the City, the committee and selection panels.

8 **Sec. 2-1114. Public Art Committee Guidelines.**

9 (a) Artwork Considered. The following may be considered in implementing the
10 City's Public Art Program.

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1. Sculpture. Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials.
 2. Murals or portable paintings. In any materials or variety of materials, with or without collage or the addition of nontraditional materials or means.
 3. Earthworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media, including sound, film, holographic, and video systems, hybrids or any media and new genres.
 4. Standardized fixtures such as grates, street lights, signage, and other design enhancements, as are rendered by an artist for unique or limited editions.
 5. Artwork created through an Artist in Residency program.
 6. Restoration or replication of original decorative ornament and public art as part of the rehabilitation of historic, cultural and architectural landmarks.
 7. Similar amenities as determined by the committee.

19 The committee will apply the following criteria when selecting artists, considering
20 acquisitions or siting artwork:

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1. Artistic Merit. The inherent quality and excellence of a proposed artwork together with the strength of the artist's concept and design capabilities are the highest priorities of the Public Art Program.
 2. Context. Artwork must be compatible in scale, material, form and content with its surroundings. When serving a functional purpose, artwork may establish focal points; modify, enhance, or define specific spaces; establish identity or address specific issues of civic design. Consideration should also be given to the architectural, historical, geographical and

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2 social/cultural context of the site or community, as well as the way people
3 interact with the artwork.

- 4 3. Relevant experience. Experience and professional record of the artist(s)
5 should provide convincing evidence of ability to successfully complete the
6 project as proposed.
- 7 4. Technical feasibility. An artist must exhibit a successful track record of
8 construction and installation of artwork or show that an appropriate
9 professional has examined the proposed artwork and confirmed feasibility
10 of construction and installation.
- 11 5. Budget. An artist's proposal should provide a budget adequate to cover all
12 costs for the design, fabrication, insurance, transportation, storage, and
13 installation of the proposed artwork, plus reasonable unforeseen
14 circumstances. Artists should have a history of completing projects within
15 budget.
- 16 6. Diversity. Artwork will be sought from artists of diverse ethnic and
17 cultural identities and from local, regional, national, and international
18 artists. The committee encourages applications from artists working in
19 both established and experimental art forms.
- 20 7. Fabrication and installation schedules. The artist's proposal should
21 include a project timeline that incorporates design review, fabrication,
22 delivery and installation in accordance with project schedule. The artist
23 should have a history of completing projects on time.

24 The committee may recommend rejection of all submissions if none are considered satisfactory
25 and a new pool of artists may be established.

26 (b) Gift Proposals. A potential donor of artwork will consult with City of Knoxville
27 staff, and then submit a written proposal or letter of intent to the City for review by the
28 committee. Whenever possible, the donor will present the actual artwork for approval.

(c) Maintenance and Conservation. Prior to acceptance of new artwork by the City,
the artist will submit, in writing, a routine maintenance plan for the department having oversight
responsibility, and provide appropriate training where necessary.

1. Routine maintenance of permanently installed artwork will be the responsibility of
the department having oversight of the Public Art Program and will be done
according to the artist's maintenance plan.
2. Maintenance will be guaranteed by the artist against all defects of material and
workmanship for a minimum of one year following installation or according to the
contract between the artist and the city.

3. The artist will have the opportunity to comment on, and participate in, all repairs and restorations that are made during his/her lifetime.
4. On an annual basis, the committee or city staff will track routine maintenance activities on artwork acquired through the Public Art Program.
5. The department with oversight of the Public Art Program will be responsible for keeping city staff informed about changes in the condition of the artwork and the site.
6. Responsible departments will not clean or repair artwork beyond what is specified in the artist's maintenance plan without the prior written authorization of the committee.
7. Any proposed public art project requiring operation or maintenance expenses shall include a maintenance plan with estimates of annual operating and maintenance expense and be submitted for prior approval.

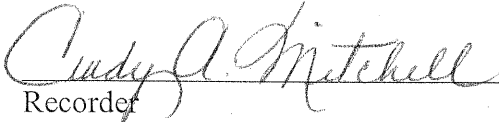
(d) *Resiting and Deaccessioning.* The city will retain the right to resite or deaccession any artwork in accordance with the Visual Artists Rights Act of 1990, 17 U.S.C. §106A. While the intent of the acquisition is for long-term public display, circumstances and/or conditions may arise that make it prudent for the City, on behalf of the public interest, to remove an artwork from public display. The committee will recommend to the City that a specific artwork be resited or deaccessioned only if one or more of the following criteria is/are met:


1. The site is being eliminated.
2. The site is being altered such that the artwork is no longer compatible with the site.
3. The security of the artwork can no longer be reasonably guaranteed at its current site.
4. The artwork has become a danger to public safety.
5. The cost of maintaining or updating the artwork's operating technology is cost prohibitive.
6. Significant adverse reaction to the artwork from the community has continued for an extended period (at least ten years).

Once the committee has determined that an artwork meets one or more of the above criteria and with the approval of the committee and city staff, a good faith attempt will be made to discuss resiting with the artist. If the artist does not agree to the proposed resiting, he/she will have the right to prevent the use of his/her name as the author of the artwork, to buy back the work, or any other alternatives provided in the contract between the city and the artist.

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SECTION 2: This Ordinance shall take effect seventeen (17) days after its passage, the welfare of the city requiring it.


Recorder



Presiding Officer of the Council

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