

CHAPTER 30

PUBLIC ART

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Article I. In General

Sec. 30-101 Purpose.

The purpose of this Chapter is to establish a public art program for City of Hutchinson funded capital improvement projects and to provide for the funding, selection, creation and maintenance of public art and establishing responsibilities relating to administering the City's public art program.

The City of Hutchinson recognizes and accepts responsibility for beautification of its public areas. The City Council has found that such enhancement adds greatly to the quality of life of Hutchinson's citizens, attracts tourism, and provides incentives to business to locate in the City, thereby expanding Hutchinson's economic base.

Sec. 30-102 Policy.

It is hereby declared to be the policy of the City of Hutchinson to include works of art within City of Hutchinson public works projects equal to one percent (1%) of construction project funds for public art.

Sec. 30-103 Percent for Art Program established.

There is hereby established a Percent for Art Program. The Mayor shall appoint a Public Art Design Council, with the advice and consent of the City Council, to coordinate and administer the program.

The Percent for Art Program focuses on the outside and the inside of new and remodeled City owned public spaces. The art may serve a function, express a theme, or commemorate an important person. It may underscore or provide a counterpoint to the architecture and surrounding site. It may serve as a landmark that adds definition to the City of Hutchinson.

The Percent for Art Program requires one percent (1%) of eligible construction costs be allocated for public art involving City capital improvement projects paid wholly or in part by the City of Hutchinson, for improvements to or new construction of a building or structure, streetscape, pedestrian mall or plaza, park, trail, or any other project, or any portion thereof, which includes finished space for human occupancy and will be available for public view. No less than eighty percent (80%) of this one percent (1%) will be used for on-site Artwork. No more than twenty percent (20%) will be deposited in a Public Art Trust Fund used to fund additional art projects and provide maintenance for existing works. In cases where the eligible construction costs of a City capital improvement project is less than \$75,000 and, at the discretion of the Public Art Design Council, the project does not lend itself to the inclusion of public art, then one hundred percent (100%) of the one percent (1%) may be deposited in the Public Art Trust Fund.

Sec. 30-104 Exemptions from the Percent for Art Program.

The following categories of projects are exempt from the Percent for Art requirements:

- a. Water, stormwater or wastewater facilities, except for office buildings.
- b. Street construction and repair, inclusive of the public right of way improvements, such as curb, sidewalk and traffic control facilities and landscaping.
- c. Maintenance projects.

These exemptions do not preclude the Department from proposing and including funding for art in a project. Departments are encouraged to include art to some degree in these exempted categories.

Sec. 30-105 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

"Architect" is the person or firm designing the Project to which the one percent (1%) funding applies. Where the architect is a firm, the term Architect shall mean the principal of that firm in charge of designing the Project for which the one percent (1%) funding applies.

"Artist" is a practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and recognized ability who produces Artworks.

"Artwork" includes but is not limited to, paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs or other sculpture, monuments, fountains, arches, or other structures intended for ornament or commemoration. Also included are carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints, crafts, both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials. Landscape items include the artistic placement of natural materials or other functional art objects. Works of art may be portable as well as permanent.

"Capital Improvement Program" (CIP) means the annual Capital Improvement Program adopted for City financed public improvement projects.

"City" is the City of Hutchinson.

"Construction Cost" is the contracted sum for construction of the designated project including any change orders. Construction costs do not include costs such as professional fees, cost of land, rights of way and financing.

"Construction Project" means any capital improvement project paid wholly or in part by the City of Hutchinson for improvements to or new construction of a building or structure, streetscape, pedestrian mall or plaza, park, trail, or any other project, or any portion thereof, which includes finished space for human occupancy and will be available for public view.

"Consultant" is any firm, individual, joint venture or Committee of firms or individuals with which the City contracts for design or other consulting services related to construction projects.

"Public Art Trust Fund" is a funding mechanism which aggregates portions of the Percent for Art requirement and redistributes these funds to promote, finance and maintain public art projects throughout the City.

"Visual Arts Professional" shall mean any of the following who is respected in his/her field and knowledgeable about visual arts: artist, curator, art critic, art historian, or fine arts professional.

"Deaccessioning" is a procedure for the withdrawal of an artwork from the public collection.

"Eligible Construction Cost" is that portion of the construction cost of any construction project paid for by the City of Hutchinson to construct or remodel any building, decorative or commemorative structure, parking facility, recreational facility, or any portion thereof, located on City property, provided that the source of funds for such project(s) is not restricted by law or regulation as to its use for artworks.

"Maintenance" is the periodic work on a facility required to maintain its original functionality.

"Public Art Design Council" is a group created by this ordinance as a standing city committee designated to review, advocate and develop public art projects in the public domain for the City of Hutchinson. It will develop a formal structure in which to create, develop and maintain public art as well as further public accessibility to the arts.

"Remodel" is work required to substantially change or enhance the functionality of a facility.

"Selection Committee (Jury)" is comprised of representatives of the department responsible for the capital project, Public Art Program Staff Representative, one or more representatives of the Design Council, project professionals (e.g., engineers or architects), and an arts professional. The Selection Committee oversees the process for artist selection as well as the selection of the public art design and the integration of the public art into the capital improvement project. A jury may be used when the public art selection process involves an open or invited competition. A jury is not involved in the management of the public art project.

"Staff Representative" is the professional staff liaison designated by the City Manager responsible to advise and assist the City of Hutchinson and the Public Art Design Council.

Sec. 30-106 Public Art Design Council established.

The Public Art Design Council shall be made up of seven (7) members to be nominated by the Mayor and confirmed by the City Council. Such members shall be selected because of their expertise in visual arts, architecture, historical preservation, or affiliation with a local business association or public entity. Terms shall be for three (3) years, except that the Mayor may designate shorter terms initially in order to insure that the terms are staggered. Ex-Officio members with unlimited terms and voting privileges shall also be included on the Public Art Design Council, and shall include the Parks/Facilities Director, the Downtown Development Director, the Director of Planning and Development, the Director of the Arts and Humanities Council and the Art Center Director. *(Ord. 2018-10; Adop. 6/05/2018)*

Sec. 30-107 Duties and responsibilities of the Public Art Design Council.

The Public Art Design Council shall endeavor to develop a collection of public art that is of the highest quality, that will encompass a broad aesthetic range reflecting the City and the minds of its citizens, that will improve the quality of life in the area, that will be accessible to all individuals and be a source of pride to all residents. The Public Art Design Council shall seek to develop this Percent for Art Program and the associated collection in such a way so that it is intimately integrated into the fabric of the City of Hutchinson and reflects a broad range of community input and involvement by artists and art professionals. The Public Art Design Council is responsible for reviewing, advocating and developing public art projects in the public domain for the City of Hutchinson. It will develop a formal structure in which to create, develop and maintain public art as well as further public accessibility to the arts.

Specifically, the Percent for Art Program objectives include:

- a. Develop a public art program that is unique to Hutchinson.
- b. Increase the understanding and enjoyment of public art by Hutchinson residents.
- c. Invite public participation in the interaction with public spaces.
- d. Provide unusual and challenging employment opportunities for artists.
- e. Encourage collaborations between artists and architects, and artists and engineers.
- f. Support artist participation on design Committees for planning public projects.
- g. Encourage variety of art forms: temporary and permanent, object and event, single or dispersed locations.
- h. Spread commissions among a wide number of artists and strive for overall diversity in style, scale and intent.

In addition to overseeing the Percent for Art Program, the Public Art Design Council may also administer other public art programs such as temporary public art programs, public art mural programs, public art loan programs or exhibits, donations of artwork to the public collection, and memorials for public parks.

All Public Art Design Council meetings shall be conducted in accordance with the Kansas Open Meetings Act.

Sec. 30-108 Procedure to commission public art for eligible projects.

a. Upon adoption of the Capital Improvement Plan the Public Art Design Council shall review and recommend all projects for which the Percent for Art Ordinance applies. This should be done in a timely fashion in order to develop particular project requirements and/or bond language.

b. Architects/Engineers invited to submit a proposal for construction or renovation project which includes the Percent for Art should be advised of requirements and guidelines. The Architect shall work closely with the Public Art Design Council and the Selection Committee on the designation of appropriate sites and shall incorporate the Artist's or Artwork's special requirements within the construction documents, including the time of delivery and installation of the Artwork.

c. Upon the designation of an Artist or an Artwork by the Public Art Design Council, the Artist shall enter into a contract with the City for the Artist's services or for the purchase and installation of the Artwork. This contract shall require the Artist to produce or deliver the Artwork for a price guaranteed to be no greater than the maximum contracted cost.

Sec. 30-109 Eligible expenses for the Percent for Art Program.

- a. Appropriations for Percent for Art Program projects may be spent for:
1. The Artwork itself, including but not limited to:
 - A. Artist's design fees.
 - B. Additional labor and materials required for production and installation of Artwork.
 - C. Artist's operating costs.
 - D. Travel related to the Project.
 - E. Transportation of the Artwork to the site and installation.
 - F. Any required permit or certificate fees.
 2. Identification plaques and labels.
 3. Frames, mats, mountings, anchorages, containments, pedestals, or materials necessary for the installation, location or security of the Artwork.
 4. Photographs of completed Artworks.
 5. Communication and other indirect costs including insurance.
 6. Expenses for special advisors or consultants.

7. Historical artifacts displaced by construction.
- b. Appropriations for Percent for Art Program projects may not be spent for:
1. Reproduction, by mechanical or other means, of original Artworks, except in cases of film, video, photography, printmaking or other media arts.
 2. Decorative, ornamental, or functional elements which are designed by the Architect or consultants engaged by the Architect, as opposed to an Artist commissioned for this purpose.
 3. Those elements generally considered to be components of a landscape architectural design or landscape gardening.
 4. "Art Objects" which are mass produced of standard design, such as playground sculpture.
 5. Directional or other functional elements, such as supergraphics, signs, color coding, maps, etc., except where a recognized Artist is employed.
 6. Those items which are required to fulfill the basic purpose of a Department/Division. Examples would be Artworks fulfilling an interpretive or educational role in a City facility or park.

Sec. 30-110 Selection of artwork(s).

All Percent for Art Program projects, whether they are permanent or temporary Artworks, will be developed to respond to a specific site or building location, with the exception of Artworks that are conceptually intended to circulate among various sites or facilities within the Project Area.

The Public Art Design Council may establish a Public Art Artists Registry to allow artists interested in public art opportunities to participate in selection processes by maintaining a record of their work with the Public Art Program.

The Public Art Design Council in conjunction with the representative of the Department responsible for the capital project and the Project Architect shall analyze and discuss appropriate locations, amount to be spent for purchased or commissioned Artworks, suitable art forms, Artists' prerequisites, specifics of Artist/Artwork selection process which includes open competition, limited/invitational competition and direct purchase.

A prospectus will be prepared and advertised by the Public Art Design Council. The competitions may be in stages, with the final selection chosen from a group of finalists. In making the final selection, the Selection Committee shall be guided by the goals and

purposes of this ordinance and the criteria set forth in this document and any regulations promulgated to fulfill the criteria. The Committee shall select Artworks which will be technically feasible to produce and display; the selection of Artist(s) who will provide art integral to the project will be made as early in the conceptual design stage as practical, so Artist(s) will be able to work with the Architect from the beginning of the project.

If necessary, the Public Art Design Council may advertise nationally for proposals. The Selection Committee has the option of making no selection. If no proposal is accepted, the Committee has the right to reopen the competition or to propose other methods of selection.

Each proposed Percent for Art project will also be evaluated as to: its artistic excellence, appropriateness in terms of scale, material and content relative to the immediate and general architectural, social and historic context; and long term durability against vandalism, weather, theft and excessive maintenance.

Acting on behalf of the City of Hutchinson and the advice of the Selection Committee, the Public Art Design Council will make the final determination of selected work(s).

Sec. 30-111 Criteria to be used in selecting public art.

a. Artists will be selected on the basis of their qualifications as demonstrated by past work, appropriateness of the proposal to the particular project, and its probability of successful completion as determined by the Selection Committee.

b. In selecting Artists and Artworks, the Selection Committee shall select those Artists and Artworks of the highest aesthetic quality, and those which fulfill the purposes of the Percent for Art Program.

c. In all cases, consideration will be given to materials, construction, durability, maintenance, public access and safety.

Sec. 30-112 Selection Processes for public art.

Selections of Artworks will be made by one of the following methods:

a. Open Competition: Site and program advertised; proposals accepted from all artists; no proposal fee is paid to artist unless stipulated.

b. Limited/Invitational Competition: One or more artists is invited to submit proposals; no proposal fee is paid to artists unless stipulated.

c. Direct Purchase: A completed Artwork is purchased.

Sec. 30-113 Public Art Management/Maintenance.

- a. All Artworks remain under ownership by the City of Hutchinson.
- b. City of Hutchinson departments must notify the Public Art Design Council if an Artwork is damaged or stolen.
- c. Monies to maintain works of art shall come from the Public Art Trust fund, established at up to twenty percent (20%) of the initial one percent (1%).

Sec. 30-114 Deaccessioning.

Deaccessioning will be considered only after a careful and impartial evaluation of the artwork within the context of the collection as a whole. At the beginning of the process, the Public Art Design Council will make a reasonable effort to notify any living artist whose work is being considered for deaccessioning.

The Public Art Design Council may consider the deaccession of artwork in the event that it cannot be re-sited. The Public Art Design Council shall establish in written guidelines the reasons for deaccessioning artwork which shall include, but not be limited to, the following:

- a. The artwork has been damaged or has deteriorated and repair is impractical or unfeasible.
- b. The artwork endangers public safety.
- c. In the case of site-specific artwork, the artwork is destroyed by severely altering its relationship to the site.
- d. The artwork requires excessive maintenance or has faults of design or workmanship.

(Ord. 2015-17; Adop. 5/19/2015)