



## Mecklenburg County Public Art Ordinance

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## Mecklenburg County Public Art Ordinance

### Section 1.1 Purpose and Intent

The City of Charlotte and Mecklenburg County have jointly operated a successful public art program since 1981 through the Public Art Commission that has resulted in the creation of numerous original works of art in public places throughout the City and the County. In 1993, the City of Charlotte and Mecklenburg County enacted a joint resolution restructuring the Charlotte-Mecklenburg Public Art Commission and Authorizing the Allocation of Funds for Public Art Programs. This resolution transferred the responsibility for administering the Public Art Program to The Arts & Science Council--Charlotte/Mecklenburg, Inc., under the supervision of the Public Art Commission. In order to further foster cultural activities for public spaces throughout the City and County, the City and County now desire to redefine the public art program and the Public Art Commission through this ordinance. The purpose of this ordinance is to promote the cultural heritage and artistic development of the County, to enhance the County's character and identity, to contribute to economic development and tourism, to add warmth, dignity, beauty and accessibility to public spaces, and to expand the experience and participation of citizens with visual arts, by directing the inclusion of public art in appropriate County capital improvement projects.

### Section 1.2 Definitions

- a. **"Artist"** means any professional practitioner in the arts, generally recognized by critics and peers as a professional in the field as evidence by his/her education, experience and artwork production.
- b. **"Artwork"** means original works, produced by an Artist pursuant to this ordinance 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.
- c. **"ASC"** means the Arts & Science Council--Charlotte/Mecklenburg, Inc. or its affiliated designee approved by the County which manages the public art program described herein under contract with the County and the Public Art Commission.
- d. **"Capital Improvement Program"** means the County's program for advance planning of capital development.

e. **"Eligible Project"** means any capital project paid for, in whole or in part, by the County for the construction, improvement, beautification or Renovation of any building, park, trail, greenway, bikeway, parking facility, or public space. Eligible projects shall include all such projects, however financed, including but not limited to projects in any Capital Improvement Program.

f. **"Eligible Project Costs"** means the total amount appropriated for design, and construction of an Eligible Project (including funding from outside sources which permit the acquisition of Artwork for the Eligible Project with such funds), but excluding the actual costs of: (1) real property acquisition, (2) demolition of existing structures, (3) environmental remediation, and (4) legal and accounting fees.

g. **"Public Art Account"** means a bank account maintained by ASC pursuant to Section 1.3 of this ordinance.

h. **"Public Art Funds"** means the line items in the project budgets for Eligible Projects into which all monies generated under this ordinance or derived from gifts or donations to the County for public art shall be allocated as set forth in Section 1.4 below.

i. **"Renovation"** means any major redesign of a facility or system or portion thereof which is included in the County's Capital Improvement Program budget, including expanding or upgrading the capacity of the facility or system, enlarging the facility or creating a new use for the facility. Renovation does not include routine repairs, maintenance, the installation of mechanical equipment or modifications required solely for the purposes of code compliance.

j. **"Public Art Collection"** means the Artworks owned by the County as a result of this ordinance or the public art resolutions of November 23, 1981 and May 10, 1993 which preceded this ordinance.

k. **"Public Art Commission"** shall mean the Charlotte-Mecklenburg Public Art Commission described in Section 1.5 below.

### **Section 1.3 ASC Art Fund**

a. A Public Art Account shall be established at a national bank located in Charlotte, North Carolina. The account shall be opened in the name of ASC and designated as a "Public Art Account." ASC shall be the sole signatory on such account. Deposits and withdrawals from such account shall be strictly in accordance with this ordinance.

b. ASC shall maintain detailed ledgers of all transactions from the Public Art Account, and shall maintain copies of all account statements. The County shall have the

unlimited right to review such ledgers and statements, and all supporting documentation for expenditures by ASC for Eligible Projects. ASC shall cause the Public Art Account to be audited annually by a certified public accountant. The report of such audit shall promptly be delivered to the County Director of Finance.

c. ASC shall not deposit any funds into the Public Art Account except for appropriations described in Section 1.4.

d. ASC shall not withdraw any funds from the Public Art Account except:

- (1) to pay the expenses for an Artwork pursuant to an Artist Contract;
- (2) to pay to ASC an amount up to fifteen percent (15%) of the 1% of Eligible Project Costs appropriated pursuant to Section 1.4 of this ordinance to be used for program administration of the Eligible Project, including artist selection, design/proposal/maquettes costs, advisor and consultant fees, project management and project documentation. Funds for program administration of the Eligible Project not spent at the close of any fiscal year shall be carried forward into the next year, but if not spent for the Eligible Project for which appropriated within two (2) years after receipt, must be returned to the County.

e. Funds deposited into a Public Art Fund for a specific Eligible Project, but not spent on that Eligible Project may be pooled and used for Artwork approved by the Public Art Commission to be located on other property owned by the County for other Eligible Projects funded from the same capital project ordinance, or another Eligible Project specifically approved in writing by the County Director of Finance as being an Eligible Project on which such funds may be legally expended.

f. All capital project ordinances, resolutions, or grant applications approved after the effective date of this ordinance shall make specific reference to the provisions of this ordinance to facilitate the appropriation and pooling of funds for public art to the extent provided herein and authorized by law.

#### **Section 1.4 Public Art Appropriations**

a. Beginning on the effective date of this ordinance, the County shall allocate to the appropriate Public Art Fund an amount equal to one percent (1%) of the total Eligible Project Costs for all Eligible Projects to be funded from the capital project ordinance to be used for the selection, design, acquisition and display of Artworks, and for the administration of the public art program.

b. All County department heads shall include in every estimate of necessary expenditures, every budget, and every request for authorization or appropriation for Eligible Projects a separate line item in the budget equal to one percent (1%) of the Eligible Project Costs. In addition, all County agencies shall include in all applications for funding for Eligible Projects to outside grant organizations or governmental agencies, if appropriate, a separate line item in the budget equal to one percent (1%) of the Eligible Project Costs. These line items shall be described as “Public Art” in all such estimates, requests or budgets.

c. Within thirty (30) days after the Board of County Commissioners approves any Capital Improvement Program which includes an Eligible Project, the County Manager or his designee shall forward a copy of the approved Capital Improvement Program to ASC.

d. Prior to any installment purchase financing or the sale of any bonds by the County, the Director of Finance shall consult with ASC to determine the cash flow needs of ASC for Artwork and program administration expenses for Eligible Projects to be funded from such financings to make sure that the sizing of such financing will include sufficient funding for such Eligible Projects for the period of time for which the financing is to satisfy necessary cash flow needs.

e. Within twenty (20) days after the Board of County Commissioners adopts a capital project ordinance, the Director of Finance shall determine the total amount budgeted for any Eligible Projects to be funded by that capital project ordinance, establish the appropriate Art Fund line item budget for that Eligible Project, and notify ASC of the amounts appropriated for Eligible Projects. Following that notification, ASC may submit invoices to the Director of Finance to pay the expenses for an Artwork pursuant to an Artist Contract, based on the payment terms of that Artist Contract, and an invoice for amounts up to fifteen percent (15%) of the 1% of Eligible Project Costs for program administration of an Eligible Project.

**Section 1.5 The Public Art Commission (creation, purpose, composition, administration, responsibilities)**

a. The County hereby appoints the Charlotte/Mecklenburg Public Art Commission as a joint commission of the Board of County Commissioners and the Charlotte City Council to carry out this ordinance. The Public Art Commission shall be composed of nine (9) members, three (3) appointed by the City Council, three (3) appointed by the Board of County Commissioners, and three (3) appointed by the Board of Directors of ASC.

b. Members of the Public Art Commission shall serve staggered, three-year terms and may serve a maximum of two consecutive terms plus any partial term to which they may have been appointed.

c. The members of the Public Art Commission shall be appointed by the City, the County and the ASC Board, as designated below:

	City	County	ASC
Three from visual arts or design professions			3
Two from the business sector	1	1	
Two from the education field	1	1	
Two at-large, community representatives	1	1	

The current members of the Public Art Commission shall serve out their remaining terms.

d. Any replacement member shall be appointed by the same entity which appointed the retiring member according to the fields designated above.

e. The Chairman of the Public Art Commission shall be elected by a majority of the members of the Public Art Commission annually and shall serve as a member of the Board of Directors of ASC.

f. The Public Art Commission may, from time to time, select advisors for particular public art projects in accordance with the size and complexity of the projects. These advisors shall assist the Public Art Commission on artist selection, project oversight and other related purposes, but shall have no vote at Public Art Commission meetings. The Public Art Commission shall encourage broad community participation in the public art program, including naming a community representative on artist selection panels.

g. The Public Art Commission shall engage ASC by contract to administer the public art program pursuant to an agreement between the County, the Public Art Commission and ASC. The Public Art Commission shall establish policies and procedures for the operation of the program.

h. The Public Art Commission, assisted by ASC staff, shall annually review the capital projects proposed by the County, including those in the Capital Improvement Program, to determine which are Eligible Projects. Based upon such information, the Public Art Commission shall prepare an annual work plan for approval by the Board of County Commissioners. The annual work plan shall include at least the following: (1) a description of the projects completed or commenced in the previous year; (2) a budget for the income and expenditures of the Public Art Funds for the upcoming year; (3) a description of the Eligible Projects and the Eligible Project Costs for such projects; and

(4) a general description of the public art plan for the upcoming year. The Board of County Commissioners shall have final approval of the annual workplan and budget for the Public Art Funds. The annual workplan shall be contingent upon the availability of funds for Eligible Projects.

i. Once an Eligible Project is included in the approved public art workplan, the Public Art Commission shall be responsible for the selection of Artists and Artworks. Over time, the Public Art Commission should achieve an appropriate balance among local, regional and national artists in the program. The enduring quality of the Artworks should be a primary consideration during Artists Selection. ASC shall be responsible for contracting with Artists for the Artworks selected by the Public Art Commission on terms acceptable to ASC and approved by the Public Art Commission. Funds for the payment of contracts with Artists for Artworks shall be paid from the ASC Art Fund.

j. The County department which is responsible for maintaining the property upon which any Artwork is located shall provide routine maintenance for such Artwork according to the approved maintenance plan submitted by the Artist. Any non-routine maintenance must be approved in advance by the Public Art Commission.

k. The Public Art Commission may encourage and help obtain additional grants and gifts of public art from outside sources.

### **Section 1.6 Placement of Artwork**

Artwork selected and implemented pursuant to the provisions of this ordinance may be placed in, on or about County property. They may be attached or detached, within or about such property, and may be either temporary or permanent. County officials responsible for the construction oversight and real estate management of capital development projects shall make appropriate spaces available for the placement of Artwork.

### **Section 1.7 Ownership of Artwork**

All Artwork acquired pursuant to this ordinance shall be acquired in the name of the Mecklenburg County, and title shall vest in the Mecklenburg County.

### **Section 1.8 Repeal of Previous Resolution**

The resolution approved by the Board of County Commissioners on February 15, 1993 in Resolution Book 34A page 330 public art program is hereby superceded. All

existing and unspent Public Art appropriations shall be transferred to the appropriate Public Art Fund.

**Section 1.9 Severability**

If any section, sentence, clause or phrase in this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**Section 1.10 Effective Date**

This ordinance shall be effective upon its approval by the Mecklenburg County Board of Commissioners and shall remain effective thereafter until repealed by the Board.

ADOPTED on the 17th day of December, 2002.

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