

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING TITLE III “ADMINISTRATION” OF THE CODE OF MANSFIELD, TEXAS; CREATING A NEW CHAPTER 39 ESTABLISHING THE POLICY AND ADMINISTRATION OF PUBLIC ART; ESTABLISHING A PUBLIC ART ADVISORY COMMITTEE; ESTABLISHING THE PUBLIC ART FUND; AUTHORIZING THE ALLOCATION OF UP TO TWO PERCENT (2%) OF THE CONSTRUCTION COSTS OF ELIGIBLE CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ART; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Mansfield is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City Council recognizes that public art can promote economic development by increasing tourism, business and tax revenues, and property values; and,

WHEREAS, the City Council recognizes that public art aids in the beautification of the City and promotes community pride; and,

WHEREAS, the City Council also recognizes that the allocation of a percentage of the construction cost from appropriate capital improvement plan projects for public art will promote the artistic development of the City, enhance the City’s character and identity, and expand the experience and participation of citizens with visual arts; and,

WHEREAS, the City Council wished to establish an advisory committee that can make recommendations to the City Council regarding public art to be integrated in public spaces around the City; and,

WHEREAS, the City Council desires to formally establish a public art program which will provide for the funding, acquisition, and conservation of public art in the City of Mansfield.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THAT:

SECTION 1.

Title III, “Administration,” of the Code of Mansfield, Texas is hereby amended by creating a new Chapter 39, “Public Art” to read as follows:

“CHAPTER 39: PUBLIC ART

§39.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly

indicates or requires a different meaning.

ACCESSION: a process for the acceptance of artwork into the City's Public Art Collection.

ANNUAL PUBLIC ART PROGRAM PLAN: an annual plan developed by the Public Art Manager in conjunction with relevant staff, the Interdepartmental Public Art Coordination Committee, and the Public Art Advisory Committee that outlines projects currently in process and those anticipated to be initiated in the upcoming fiscal year.

ARTIST: an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, public performances, past public commissions, sale of works, exhibition record, publications, and production of artwork. The members of the architectural, engineering, design or landscaping firms retained for the design and construction of a development project covered by this Policy shall not be considered artists for the purposes of this Policy.

ARTWORK: an aesthetic creation of permanent or temporary medium or combination of media resulting from the skill and creativity of an Artist or Artists.

CAPITAL IMPROVEMENT PROGRAM: section of the City of Mansfield Adopted Budget that outlines the Capital Project Funds and associated Capital Projects for the coming fiscal year.

CAPITAL PROJECTS: projects outlined in the Capital Improvement Program.

CITY: the City of Mansfield, Texas.

DEACCESSION: a process for the permanent removal of Artwork from the Public Art Collection and the determination of its future disposition.

MURAL: a large-scale artwork, painting, or mosaic applied to or mounted directly to an exterior surface of a building, fence or other structure, and that is visible from the public right-of-way. Its primary intent is to be artistic in nature, rather than purely information, creative signage, or commercial signage. The emphasis of the Mural will be on artistic expression. Mural proposals shall not include designs that would be considered inappropriate and/or indecent by community standards. A Mural shall not indicate or describe in narrative, the form of commercial activity that happens inside a building. All Mural proposals containing any signage elements, as defined in the Code of Mansfield, will be redirected to submit an application through the Planning Division.

PUBLIC ART: elements of a Public Space that are designed by a professional Artist or Artist Team and include sculpture, statues or monuments in any material or combination of materials; painting; Murals; graphic arts including printmaking and drawing; photography; crafts in clay, fiber and textiles, wood, metal, plastics, glass and other materials; mixed-media, any combination of forms or media, including collage; functional art such as street furniture, as determined in the City's sole discretion; environmental art consisting of landforms and artistic landscape composition. Public Art can be permanent or temporary.

PUBLIC ART COLLECTION: Public Art owned by the City that is installed in public, accessible locations. Public Art which is a part of this collection must be located in a Public Space with public visibility and impact.

PUBLIC ART FUND: the fund created by this Chapter which holds funds designated by the City Council for use on and for Public Art.

PUBLIC ART MANAGER: the Manager of Arts and Event Services, or other designee appointed by the City Manager.

PUBLIC ART PROGRAM: the program guided by the Public Art Program Policy and this Chapter for the City's Public Art Collection.

PUBLIC ART PROGRAM POLICY: the policies, recommended by the Public Art Manager, for the administration of the Public Art Program.

PUBLIC SPACE: any area or property (public or private) which is accessible or visible to the general public.

§39.02 PUBLIC ART ADVISORY COMMITTEE.

- (A) Pursuant to Section 6.02 of the City Charter, there is hereby created a committee known as the Public Art Advisory Committee.
- (B) The purpose of the committee shall be to advise City staff and the City Council on matters related to Public Art and the Public Art Collection of the City.
- (C) The committee shall be made up of up to seven (7) residents of the City, appointed by the City Council. The composition of the committee shall be as follows:
 - i. Five (5) members shall have expertise in the field of art or architecture, and
 - ii. Two (2) members of the community at large.
- (D) Members of the committee shall serve two (2) year terms, with a limit of three (3) terms, with appointments staggered so they do not all expire at once.
- (E) Any member serving on the committee is ineligible for consideration of a Public Art project by the City during their membership and for an entire year following the expiration of their term.
- (F) Members may be removed at any time by the City Council, whether their terms have expired or not. Vacancies on the committee will be filled by the City Council for the duration of an unexpired term, whether made vacant by removal, resignation or for any other reason.
- (G) The committee shall use the guidelines of the Public Art Program Policy and work with City staff on the following:
 - i. Establishing criteria and eligibility standards for applicants of Public Art projects,
 - ii. Establishing criteria for awarding Public Art projects,
 - iii. Evaluating proposed donations, Accession and Deaccession of Public Art, and
 - iv. Act principally in an advisory capacity on any matter pertaining to Public Art.

§39.03 PUBLIC ART FUND

A fund will be established within the Community Engagement department of the City for the

Public Art Program. The Public Art Fund will be administered by the Public Art Manager.

§39.04 PERCENT FOR ART

- (A) A portion of the funding for the Public Art Program shall be accomplished by designating up to two percent (2%) of the total construction cost of qualifying Capital Projects scheduled to be completed during that fiscal year to the Public Art Fund. The allocation shall be calculated based on the total construction project, excluding all costs for demolition and real property acquisition for any given Capital Project.
- (B) The appropriation for the Public Art Program from Capital Projects will be calculated only on the original appropriation, excluding any subsequent amounts appropriated for amendments and change orders.
- (C) All Capital Projects shall qualify for up to the two percent (2%) Public Art Program allocation except the following:
 - i. Roadway Capital Projects on roads not within a designated TIRZ,
 - ii. Regular road maintenance, or
 - iii. Underground infrastructure and underground utility projects with no above-ground components other than roads.
- (D) Appropriations for Artwork shall be made through the approval of the Annual Public Art Program Plan as submitted during the annual budget process. Any funds not expended at the conclusion of the fiscal year will rollover into the following fiscal year.
- (E) For all grants sought by the City for Capital Projects, the respective City department shall include, when allowable by the funding entity, a request that up to two percent (2%) of the grant amount be authorized for Art in accordance with this Chapter. All Capital Projects financed with grants and/or contributions from private entities are subject to this provision unless Art expenditures are not authorized by the granting or contributing entity. If Public Art is expressly excluded, then the Public Art allocation shall apply only to the City's portion of the project cost.
- (F) If the percentage allocation stated herein would, in the opinion of the City, negatively affect the overall construction of the Capital Project, then such Capital Project may be subject to an allocation less than the allowable up to two percent (2%), including an exclusion of the allocation altogether as deemed appropriate. Such a reduction in allocation or exclusion is subject to final approval by the City Council.
- (G) In order to ensure that Artwork funded by this section has sufficient public visibility and impact, funds generated from the various Capital Projects, as allowed by law, may be pooled or aggregated together and utilized for one (1) or more large Artwork and/or Artwork at Public Spaces with greater general public visibility, as recommended by the Public Art Advisory Committee and upon final approval of the City Council.

SECTION 2.

All ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, such voiding, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections hereof, since the same would have been enacted by the City Council without the incorporation of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

The caption of this ordinance shall be published in compliance with Section 3.13 of the City Charter.

SECTION 5.

This ordinance shall take effect immediately from and after its passage on the first and final reading.

DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 13TH DAY OF NOVEMBER, 2023.

Michael Evans, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Bradley Anderle, City Attorney