

**AN ORDINANCE ESTABLISHING THE CITY OF FORT
WAYNE PUBLIC ART PROGRAM INCLUDING THE
ESTABLISHMENT OF THE CITY OF FORT WAYNE
PUBLIC ART COMMISSION.**

WHEREAS, the City of Fort Wayne recognizes the importance of public art as a way to promote the culture and uniqueness of Fort Wayne.

WHEREAS, Fort Wayne's growing collection of public art reflects the dynamic evolution of a community in which people of diverse generations, nationalities, cultures, interests and lifestyles choose to live, work and play.

WHEREAS, the City of Fort Wayne recognizes and accepts responsibility for the beautification of its public areas, finding that such investments add greatly to the enhancement of the quality of life of its citizens, attract tourism, and provide incentives to business to locate in the city, thereby expanding Fort Wayne's economic base.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE
CITY OF FORT, WAYNE, INDIANA:**

SECTION 1. The establishment of the City of Fort Wayne Public Art Program.

CHAPTER 33: DEPARTMENTS, BOARDS AND OTHER ADMINISTRATIVE BODIES

Section

Public Art Program

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PUBLIC ART PROGRAM

§33.180 ESTABLISHMENT

The City of Fort Wayne Public Art Program is hereby created.

§33.181 PURPOSE AND GOALS

- (A) *Purpose.* The primary purpose of the Fort Wayne Public Art Program is to integrate artworks into the public realm and assist with City-led beautification efforts. The secondary purpose of the Fort Wayne Public Art Program is to serve in an advisory role to private property owners who wish to integrate artworks in the development or improvement of publicly accessible private property.
- (B) *Goals.* The goals of the Fort Wayne Public Art Program are as follows:
- a. Enhance the visual environment of public spaces for residents and visitors.
 - b. Strengthen the positive reputation, brand and stature of the City of Fort Wayne and its neighborhoods
 - c. Promote distinctive and diverse artwork that communicates the community's sense of spirit, identity and pride.
 - d. Improve access to the arts for all citizens of the city and advance citizen understanding of public artwork and its civic role.
 - e. Create opportunities for inclusion, engagement and civic dialogue among diverse citizens of the city.
 - f. Commemorate the city's collective memory and history.
 - g. Commemorate the community's cultural and ethnic diversity.
 - h. Promote and support programs for tourism, culture exchange and goodwill.
 - i. Promote and support the economic development and vitality of the community.

- j. Celebrate and advocate for artists and the important role that the arts play in our community.

§33.182 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ARTIST. A practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and recognized ability who produces artworks.

DEACCESSIONING. A procedure for the withdrawal of an artwork from the public collection.

PUBLIC ART. Artwork that is accessible to the public. Public Art may be located on public land, in public facilities, or on private land that is accessible to the general public. Public Art may or may not be City-owned.

PUBLIC ART PROGRAM GUIDELINES. Rules and processes established by the Public Art Commission for the governance of the Public Art Program.

PUBLIC ART PROJECT. Creation, commission or acceptance of a specific work of art for a specific public location.

§33.183 PUBLIC ART COMMISSION ESTABLISHED

The City of Fort Wayne Public Art Commission is hereby created as a standing committee that serves in an advisory capacity to the Mayor of Fort Wayne to govern and oversee the Public Art Program.

§33.184 RESPONSIBILITIES

(A)*Responsibilities.* The Public Art Commission shall develop and maintain a collection of Public Art that is of the highest quality, that encompasses a broad aesthetic range reflecting the City and the minds of its citizens, that improves the quality of life in the area, that is accessible to all individuals and is a source of pride to all residents. Specifically, the Public Art Commission is entrusted with the following responsibilities:

- a. Develop, adopt, and administer policies and procedures pertaining to the planning, selection, placement, maintenance, relocation, and

deaccessioning of Public Art that is located on public or publicly controlled land or in public facilities.

- b. Develop, adopt, and administer policies and procedures regarding the use of funds, selection of artists, review of design, installation of artwork, and the adoption of protocols and other policies as may be deemed necessary.
- c. Serve as a resource for private entities for the commission, selection, placement, construction or relocation of Public Art on private property within the city. The Commission shall not provide services or resources to private property owners who wish to commission or select art that is not accessible to the general public.
- d. Integrate public art concepts, artwork and artists into community and neighborhood planning processes.
- e. Ensure the effective collaboration on Public Art Projects among artists, architects, landscape architects, engineers and other design professionals.
- f. Initiate public forums to determine concepts, thematic approaches and location options for public artwork as needed.
- g. With input and feedback from the public, create and maintain a Public Art Master Plan, updating and amending as necessary.
- h. Establish qualified Selection Committees to direct the recruitment, review, selection, conceptual, schematic, design and construction for Public Art Projects. A current member of the Commission will serve as chair for each Selection Committee and report regularly to the Commission on the status of the Public Art Project.
- i. Establish qualified committees for the purposes of community education, engagement, programming, and/or advocacy related to Public Art as necessary and appropriate.
- j. Establish qualified committees to oversee the removal, relocation or deaccessioning of Public Art.
- k. Solicit and distribute funds for the planning, fabrication, placement, and maintenance of Public Art, in accordance with the applicable provisions of this ordinance.

§33.185 MEMBERSHIP; TERMS

(A) *Membership.* The Public Art Commission will consist of thirteen (13) members.

Members serve without compensation. Members shall consist of the following representatives:

- a. One appointment each by the governing bodies of Arts United of Greater Fort Wayne, Fort Wayne Museum of Art, Artlink, University of Saint Francis School of Creative Arts, Indiana University-Purdue University Fort Wayne College of Visual and Performing Arts, Fort Wayne Parks and Recreation, and the City of Fort Wayne Department of Planning and Policy, for a total of seven (7) members. These appointments shall be the executive director of each organization or his/her appointee.
- b. Two (2) residents appointed by the Fort Wayne City Council.
Representatives must be residents of Fort Wayne.
- c. Two (2) representatives appointed by the Mayor of Fort Wayne.
Representatives must be residents of Fort Wayne.
- d. Two (2) practicing artists or design professionals appointed by the other members of the Commission. Representatives must be residents of Fort Wayne.
- e. Additional individuals may be included on the Commission in an advisory role and may not vote. Advisory members may include, but not be limited to individuals with specialized expertise such as City staff representatives, public relations professionals, and members or other city boards or commissions.

(B) *Terms.* Members will serve for four-year terms and may be reappointed for one consecutive four-year term. No member may serve more than two (2) consecutive four-year terms, but he or she is eligible to be elected to the PAC again after at least a one-year absence. A member may resign at any time by delivering written notice to the chair of the Public Art Commission and the chair of the body that originally appointed the member. The term of a member who fills a vacancy pursuant to this section shall be for the remainder of the predecessor's term. Initially, terms will be staggered as follows:

- a. Five (5) members serving four-year terms

- b. Four (4) members serving three-year terms
- c. Four (4) members serving two-year terms

(C) *Chair*. The Chair of the Public Art Commission is a current member of the Public Art Commission. The Chair of the Commission will be elected by the members of the Commission. The Chair will serve a term of two (2) years and shall be eligible for re-election to a second consecutive term. The Chair may not serve more than two (2) consecutive terms as Chair.

§ 33.186 MEETINGS

The Commission shall meet at least once in each calendar quarter with frequency determined by the members. Meetings shall comply with Indiana Open Door Law IC-5-14-1.5.

§33.187 FUNDING SOURCES AND USES FOR THE PUBLIC ART PROGRAM

- (A) There is hereby created a special fund, to be designated as the “Public Art Fund.” This fund shall be a continuing, non-reverting fund, with all balances remaining therein at the end of the year, and such balances shall not revert to the City general funds. The fund shall be contained within the City of Fort Wayne Department of Community Development.
- (B) *Sources of Funding*. With oversight from the Public Art Commission, in consultation with the Public Art Program Manager, the primary sources of the Public Art Fund may include, but are not limited to, the following:
 - a. *Private Grants and Donations*. Arts United may act as a fiscal agent for the receipt of private grants and donations to the Public Art Program.
 - b. *Public Art Giveback Program*. The Public Art Giveback Program is a funding instrument for the Public Art Program based upon contributions from certain City-supported Eligible Redevelopment Projects, as described in Section 33.188.
 - c. *Other municipal contributions or funds*. The City of Fort Wayne may choose to dedicate other sources of funds for projects and administration. Such contributions are subject to the standard processes and policies that govern the City of Fort Wayne’s budgeting and expenditures.

(C) *Uses of Funding.* The primary uses of the Public Art Fund shall be consistent with the purposes and goals of the Public Art Program as stated in Section 33.181.

(D) *Limitations and Exclusions*

- a. In general, privately-owned artworks will be funded by private contributions, insured by the private owner, and maintained by the private owner.
- b. In general, City-owned artworks may be funded by any source listed in Section 33.187(B). City-owned artworks will be insured by the City of Fort Wayne.
- c. In general, the Public Art Fund may not be expended for expenses related to the ongoing operation of the artwork such as electrical, water or mechanical service required to activate or display the artwork(s).
- d. In general, the Public Art Fund may not be spent on land acquisition, professional graphics, mass produced works, works not produced by an artist, artistic details designed by the architect, and reproductions of other works.

§ 33.188 PUBLIC ART GIVEBACK PROGRAM

(A) *Establishment.* This policy establishes the Public Art Giveback Program for the purpose of creating a funding source for Public Art based upon contributions from certain City-supported Eligible Redevelopment Projects.

(B) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

AFFORDABLE HOUSING. A residential rental housing project owned by a governmental entity, a non-profit entity described in Section 501(c)(3) or any other entity which operates the project in compliance with the provisions of Section 142(d)(1)(A) or (B) or Section 42 (g) of the Internal Revenue Code of 1986, as amended, and which serves one or more of the following purposes:

- i. To benefit low-income and moderate-income persons;

- ii. To prevent or eliminate slums or blight; or
- iii. To respond to community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

DEVELOPMENT AGREEMENT. An agreement between the City of Fort Wayne or its authorized agent and a Recipient stipulating the responsibilities and/or requirements that must be fulfilled in order to receive an Economic Incentive for an Eligible Redevelopment Project.

ELIGIBLE REDEVELOPMENT PROJECT. Any project located within the City of Fort Wayne for which the City has provided or agreed to provide an Economic Incentive to a Recipient, provided, however, that the term does not include the portion of a project that consists of Affordable Housing.

ECONOMIC INCENTIVE. Any direct or indirect use of tax increment funds for the benefit of a Recipient, including but not limited to grants, loans, pledges, and bond sale proceeds.

RECIPIENT. Any individual, partnership, association, organization, corporation or other entity, whether public or private, whether for profit or not for profit, which receives an Economic Incentive from the City for an Eligible Redevelopment Project.

(C) *Funds for works of art.* This section applies only to Development Agreements executed on or after the effective date of this ordinance. If the City has provided or agreed to provide an Economic Incentive for an Eligible Redevelopment Project, then as part of the Development Agreement, the Recipient must agree to contribute, from non-incentive funds, an amount equal to one (1) percent of the estimated value of the Economic Incentive to the Public Art Fund, up to a maximum contribution of \$100,000 (one hundred thousand dollars). Terms for the payment of Giveback Program contributions shall be contained in the Development Agreement. To the extent the Recipient agrees to spend funds on Public Art as part of a particular Eligible Redevelopment Project, the Recipient shall receive a dollar for dollar credit up to an amount equal to \$50,000 or one-half (0.5) percent of the estimated value of the Economic Incentive, whichever is less. Public Art proposed at the site of an Eligible Redevelopment Project, as part of the project, shall be

approved by the Public Art Commission and shall be subject to the policies and procedures set forth in the Public Art Program Guidelines. In cases where a Recipient wishes to relocate an existing artwork to the project site, the value of the artwork shall be determined by an appraisal conducted by a certified art appraiser.

(D) *Voluntary Public Art Contributions.* Recipients of real and/or business personal property tax abatement shall be encouraged to make a tax deductible contribution to the Public Art Program of one (1) percent of the total estimated amount of property tax abated for the entire abatement period.

(E) *Use of Public Art Giveback Funds*

- a. Funds received from Recipients shall be deposited into the Public Art Fund.
- b. Funds received from Eligible Redevelopment Projects and from other sources can be combined and used at locations anywhere in the city.
- c. The Public Art Commission's guidelines shall establish protocols to ensure that the Public Art Giveback Program is geographically balanced and provides opportunities for neighborhood-driven Public Art projects. Public Art Projects may be located anywhere within the City of Fort Wayne.
- d. No more than twenty (20) percent of funds collected through the Public Art Giveback Program shall be devoted to the maintenance of Public Art. Maintenance funds are not limited to projects funded through the Public Art Giveback Program.
- e. This Ordinance shall terminate and sunset on March 20, 2022.

(F) *Reporting and oversight.* The Public Art Commission, with support from the Public Art Program Manager, shall provide an annual written report to the City Council on the use of funds received from the Public Art Giveback Program. This report shall be provided to the president of the council and all council members by December 1 of each year that appropriations were made to administer the program.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney