

Dropped

Ord. # 5488

ORDINANCE TO AMEND NO. 4934 OF THE CITY CODE OF ORDINANCES
CHAPTER 2, ARTICLE III, DIVISION 4, PUBLIC ART – PUBLIC ART PROGRAM FOR
THE CITY OF MEMPHIS

WHEREAS, It is acknowledged that the application of public art sited or staged in the physical public domain of the City can advance the City economically and culturally, improve the quality of the public environment, and increase the value of public assets; and

WHEREAS, Including works of art in any media that have been planned and executed with the specific intention of being sited or staged in the physical public domain accessible to all will create sustainable development improving environmental, economic, and social aspects of our City; and

WHEREAS, the public art program is necessary to assure that public resources are invested in both the physical and cultural infrastructure of the city; and

WHEREAS, a public art program recognizes the importance of the artist as a cultural asset for the City and is another means for the City to encourage artists to live and work in Memphis.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 2, Article III, Division 4 of the City Code of Ordinances is amended to read as follows:

Section 2-86. Purpose. The purpose of the Public Art Program, as defined herein, is to provide a dedicated funding source for art enhancements of various mediums to be implemented in selected city capital improvement projects constructed by the city or with city funds, and to provide, through the Public Art Oversight Committee, guidance and support to the city in implementing such art enhancements and to thereby foster public projects of art sited or staged in city buildings, and/or the physical public domain accessible to all with a minimal impact on existing procedures, practices and capital improvement project budgets. Collective Memphis (CM) shall also be eligible to execute visual arts projects as well as works of art in any media that have been planned and executed with the specific intention of being sited, or staged in the physical public domain and accessible to all. Urban Art Commission (UAC) shall continue to manage visual arts associated with this ordinance.

Section 2-87. Definitions. The following words, terms, and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

“Art Percentage” shall mean that percent defined in Section 2 (A) hereof, to be allocated to the Public Art Fund out of eligible general fund capital improvement project (“CIP”) funds (excluding Public Works project, PW 156) and used hereunder to enhance public buildings and domains with sited or staged Artwork.

“Artwork” shall mean all forms of original creations or works designed by a professional artist, team of artists, or design team.

“Local Artist” shall mean an artist who has lived or worked within the Memphis Metropolitan Statistical Area for two (2) or more years of such artist’s career.

“Minority” shall mean those persons, citizens of the United States and lawfully admitted resident aliens who are African American (persons whose origins are in one of the Black regional groups of Africa), Hispanic or Latino, Native American, and Asian.

“Participating Bureaus” shall mean departments of the city that either construct or fund CIP Projects in which Artwork is to be installed and Public Art Funds are to be expended hereunder.

“Public Art Oversight Committee” shall consist of seven members composed of the Chair of Collective Memphis and/or UrbanArt Commission (CM AND/OR UAC) or his/her designee, two members nominated by CM AND/OR UAC and approved by the city council (one of which must be a practicing visual artist), three members appointed by the City Mayor with the approval of the city council, (one of which must be a practicing visual artist) and one city councilperson appointed by the chair of the city council. The seven members shall also include as ex-officio members of the CM AND/OR UAC Executive Director and the Director or designee of any Participating Bureau.

“Public Art Fund” shall mean the special fund established as a separate account pursuant to Section 2(A) hereof with funds allocated to the Public Art Fund and administered by the city. All interest and investment earnings attributable to the Public Art Fund shall accrue therein. The city shall establish procedures for reporting activity of the Public Art Fund. The city shall periodically provide the city council with reports reflecting all amounts allocated to the Public Art Fund, encumbered to specific projects, and expended from the Public Art Fund for Artwork.

“Public Art Maintenance Fund” shall mean the special fund established as a separate account pursuant to Section 2(B) hereof with funds allocated to the Public Art Maintenance Fund, and administered by the city. All interest and investment earnings attributable to the Public Art Maintenance Fund shall accrue therein. The city shall establish procedures for reporting activity of the Public Art Maintenance Fund.

“Public Art Program” shall mean the activities and art enhancements generated pursuant to this ordinance.

“CM” is Collective Memphis, an independent 501(c) (3) organization established in 2012.

“Women” shall mean those persons, citizens of the United States and lawfully admitted resident aliens, who are of the female gender and not otherwise included in one of the specific ethnic minority groups.

Section 2-88. Funding Source, Use and Disbursement of the Public Art Program.

(A) An Art Percent of one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, not to exceed \$1 million per fiscal year, shall be allocated to the Public Art Fund for use in the development of Artwork hereunder, including but not limited to artist design services, the development of design concepts and models, an Artist in Residence Program, the selection, acquisition, purchase, commissioning, placement, installation, exhibition and display of Artwork, and architectural and engineering design associated with Artwork.

(B) The City of Memphis shall allow a minimum of 18 percent of project budgets be allocated for Collective Memphis and/or UrbanArt Commission's project management duties under the Percent-for-Art program, which will henceforth be included in the overall budget for each, thus allowing CM AND/OR UAC to increase or downsize project management staff as the program's annual caseload requires.

(C) Each fiscal year, the city shall provide operating funds in an amount equal to one-tenth of one percent (0.1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, which funds shall be allocated to the Public Art Maintenance Fund for use for maintenance, curatorial and conservation care for Artwork developed pursuant to the Public Art Program.

(D) Funds in the Public Art Fund and the Public Art Maintenance Fund not expended by the end of the close of any fiscal year shall be carried forward to the next succeeding fiscal year, to the extent that such carried forward funds, when added to the Art Percentage funds for the succeeding fiscal year, do not exceed \$1.5 million dollars.

(E) All Participating Bureaus shall include in their applications for funding for CIP Projects to unrelated governmental agencies and other funding sources that allow for art enhancements in capital improvement projects, amounts up to the limit set by any such agency or other funding source, for artist design services and Artwork. Any grant amounts received by Participating Bureaus for Artwork or art enhancements to capital improvement projects shall be directed to the Public Art Fund and shall not be included for purposes of computing the maximum funding amounts set out in paragraph 2-88 (A) or (B) hereof.

(F) Upon approval of this amendment, Collective Memphis will become eligible to receive CIP funds for all current, open, and unencumbered public art funds.

(G) Public Art Funds shall be used for the creation of Artwork, in, upon, adjacent to or in close proximity to CIP projects.

(H) Disbursements from the Public Art Fund and the Public Art Maintenance Fund shall be made only after authorization by the city, through its City Engineer. Disbursements shall be made according to the terms of this ordinance and any guidelines adopted by the city hereunder.

(I) Sixty (60%) of the Artwork created hereunder during any five year period (“Participation Period”) shall be accomplished by Local Artists. The first Participation Period shall commence upon the effective date of this ordinance and shall end five (5) years from that date, at which time the next Participation Period shall begin.

(J) In an effort to promote equality and diversity in all Artwork undertaken pursuant to this ordinance, the Public Art Program funded hereunder shall include significant Minority and Women participation.

Section 2-89. Administration. The City shall contract annually with CM and/or UAC for the CM and/or UAC to administer the Public Art Program, and shall provide therein for compensation to be paid to CM and/or UAC for all shall administrative services. The CM and/or UAC and the Public Art Oversight Committee shall, after consultation with the city council and participating departments of the city, administer the provisions of this ordinance relating to artwork acquisition and display, and shall adopt guidelines to:

1. Provide for annual meetings with Participating Bureaus.
2. Develop an annual plan for the Public Art Program that takes into account the views of the Participating Bureaus and is consistent with all applicable city budgets.
3. Recommend to the City Engineer for his approval the selection of Artwork to be created with Public Art Funds.
4. Provide a method for the appointment of representatives to ad hoc selection committees, created solely for the purpose of selecting artists and reviewing Artwork proposals.
5. Determined a method or methods of selecting artists for the design, execution and siting of artwork.
6. Provide quarterly reports and reviews to the city council to account for Artwork projects funded from the Public Art Fund.
7. Clarity the responsibilities for maintenance of Artwork, including any extraordinary operations or maintenance costs associated with Artwork, prior to selection.
8. Facilitation the preservation or art objects, ethnic and cultural arts and crafts, and artifacts funded through this ordinance.
9. Determine a process to accession and de-accession Artwork, as necessary.
10. Set forth any other matter appropriate to the administration of this ordinance.

Section 2-90. Ownership. All Artwork acquired pursuant to this ordinance shall be acquired in the name of the city. Insurance coverage for Artwork acquired hereunder shall be provided and maintained by the city.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

Edmund Ford, Jr., Ed.D.
Council Member

Bill Morrison
Council Chairman

Attest:
Patrice Thomas, Comptroller

THE FOREGOING ORDINANCE
5488 PASSED
1st Reading 12-4-12
2nd Reading 12-18-12
3rd Reading 2-5-13

Approved _____
Chairman of Council

Date Signed: _____

Approved: _____
Mayor, City of Memphis

Date Signed: _____

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Dropped
Comptroller