

ORDINANCE No. 14.46

AN ORDINANCE FOR PUBLIC ART WORK

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION I. Whitewater Municipal Code Chapter 14.46 is hereby created to read as follows:

14.46.010	Declaration of Purpose Permitted Use
14.46.020	Site Selection Accession
14.46.030	Selection Processes
14.46.040	Maintenance
14.46.050	Deaccession / Relocation
14.46.060	Community Initiated Public Art

**14.46.010 Declaration of Purpose**

These regulations relating to Community Art in the City of Whitewater (here after referred to as the "City") further the following purposes:

- A. Public artwork is meant to be seen, but more so experienced, as a work of art can help inspire and provide perspective no matter what the subject at hand. Artwork should be proposed in the following areas and ways:
  - a. Integrating public artwork into parks, greenbelts and other public locations.
  - b. Building cohesion through projects that engage the Public.
  - c. Using art as a way to celebrate, reflect and enhance the character and history of a space.
  - d. To add interest to public spaces.
- B. In developing its vision for the future of the city, the city council believes that planning and development decisions should give aesthetic and social value equal weight with any project's functional and economic value. Community art strengthens public places and enhances and promotes Whitewater's identity as a livable and creative city and a desirable place to live, work and visit. Therefore, the council wishes to implement a process and provide opportunities to involve artists in the design, implementation and integration of art in community projects.
- C. The presence of works of art and decorative elements in public places in the City enhances the quality of life, promotes the general welfare, maintains the quality of the environment and property values, and enhances the attractiveness of the City for residents and visitors.
- D. Identifying locations for public works of art and decorative elements and participating in the building of a community art collection of high quality can be stimulating and unifying for the City and contribute to civic pride reflective of the City's diversity.
- E. The artwork is intended for public owned spaces and the following zoning districts: B-1, B-1A, B-2, B-3, M-1, M-2 and WUTP.
- F. Public Artwork is defined as art in any media that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all. Public artwork is significant within the art world, amongst curators, commissioning bodies

and practitioners of public art, to whom it signifies a working practice of site specifically, community involvement and collaboration.

### **12.46.020 Permitted Use**

#### **A. Creative Building Art**

1. A non-commercial message, picture, scene, sculpture, or diagram exhibited on the outside wall of a building or structure through the application of paint, canvas, tile, panels, clay, wire, plaster or similar materials such that the wall becomes the background surface or platform for the Creative Building Art.
2. A one-of-a-kind, hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message.
3. For definition purposes, a commercial message is any message that advertises a business conducted, services rendered, or goods produced or sold.
4. May be considered a wall sign or commercial message if it contains words, logos, trademarks, or graphic representations of any person, product, or service for the purpose of advertising or identifying a business.

#### **B. Vintage Building Art**

1. Must be at least twenty-five (25) years old or an exact duplicate of an original work of art where the combined age of the exact duplicate and original work of art is at least twenty-five (25) years.
2. Possess unique physical design characteristics, such as size, configuration, message, color, texture, etc.
3. Be of extraordinary significance to the City, regardless of the use identified by the work of art.

#### **C. Public Art Installation**

1. The Art location may be a facility, amenity, or project that does not contain any commercial message and which is an “approved public arts project”
2. Consisting of:
  - acquisition or placement of publicly accessible works of art;
  - provision of arts or cultural services; or
  - restoration or preservation of existing works of art.
3. Additionally, Public Art Installations are included in the proposed ordinance to ensure that all community art (whether a mural or other object) is treated similarly and does not conflict with the City’s regulations pertaining to commercial messages and signage.

### **12.46.030 Site Selection**

The site must be public property or private property with written permission. Sites must be situated so that the art is visible and accessible to all members of the community. Additionally, the artwork must not seriously disrupt the flow of pedestrian or vehicular traffic or adversely alter the environmental conditions of the selected site. Structural and maintenance issues of the prospective artwork will also be considered when selecting a site, as some areas will be prone to public interactions with the art. In selection of a site the Public Works Department should be notified to insure that any existing utilities will not be affected. A work installed in these areas must be structurally sound to ensure the safety of the community as well as the longevity of the work.

### **12.46.040 Accession**

All works of art purchased, commissioned or accepted as donations become property of the City of Whitewater. All City artwork is maintained by the City and included in an inventory kept by the Public Art Committee.

People wishing to donate artwork to the City must submit slides, a written description of the work, and a rationale for the gift. The Public Art Committee will review the submitted piece for quality, maintenance requirements, donor stipulations, safety issues of the piece, availability of an appropriate site, and advice of the administrators at that site. Based on this review the Public Art Committee will either accept or decline the donation.

### **12.46.050 Selection Processes**

There are three (3) standard ways of purchasing a piece of art. In addition to these, the City may acquire artwork through gifts. For each of the processes outlined, the Public Art Committee and City's Acquisition Procedures will be used.

- A. **Open Competition:** Artists submit proposals in response to a public advertisement. The selection committee then reviews the proposals and recommends an artist or artists for acquisitions or requests more detailed proposals from selected artists.
- B. **Limited, Invitational Competition:** The Public Art Committee recommends a limited number of artists on the basis of an interview or review of work. The artists are then invited to develop a site-specific proposal for a particular project. The artists are given an honorarium and all the necessary information as well as the opportunity to present a model and proposal to the committee. The selection committee then reviews the submitted proposals and recommends acquisitions. This process might be most appropriate for art projects calling for collaboration between an artist and an architect or landscape artist.
- C. **Direct Invitation:** In this process, if there is a majority of the Public Art Committee that feels one artist is particularly well qualified for a project s/he might be invited to submit a proposal and a model thereby bypassing the competition process. This process may be suitable should the appropriate situation arise (skip to D.8. below).
- D. Acquisition Procedures
  1. Public Art Committee defines the project, i.e. location of work or capital project with which art is associated, and the method of selection. Methods of selection may include open competition; invitational competition; or direct selection.
  2. Public Art Committee defines parameters of project to be used in the call for artists or direct selection, develops a budget for the project, and drafts a proposed call for artists or artists selection for City Council approval. Public comment will be invited before the Public Art Committee. For direct selection, proceed to step #8.
  3. City Council considers proposal.
  4. Public Art Committee determines need for panel to work on selection process for project and identifies participants. Panels will include members of the Public Art Committee, design professionals, and representatives of the user group/neighborhood.
  5. Public Art Committee reviews initial submittals, which include the artist's experience and qualifications, references, and preliminary proposal(s) for the project or specific works of art, to determine compliance with the call for artists.

6. The panel, if convened by the Public Art Committee, selects two or three semi-finalists from the group of qualified artists submitted to the panel by the Public Art Committee. The semi-finalists may be asked to submit refined proposal(s). Semi-finalists may be paid a fixed honorarium, costs of travel and a per diem, depending upon the approved budget.
7. The Public Art Committee reviews the submittals of the two to three semi-finalists. The artist(s) may present their work at a public meeting. The artists' work is displayed in a public place for up to one week. Written comments from the public will be invited during this week. A public forum is held for discussion and input to the Public Art Committee on selection of the preferred artist. The Public Art Committee recommends the finalist to the City Council.
8. City Council approves or denies the selection. Denial requires direction to the Public Art Committee from the City Council and beginning the process again at the appropriate step.
9. After an affirmative vote by the Council, the Public Art Committee works with selected artist on refinement of concept, timeframe for completion of work, final budget, and approves the contract for work.
10. The Public Art Committee recommends contract to City Council
11. City Council approves contract.

#### **12.46.060 Maintenance**

Before a work is accepted into the City's collection, the artist must submit:

- A. A detailed list of exact types, brands, and colors of materials used.
- B. A summary of cleaning instructions.
- C. Estimated annual maintenance needs and costs in dollars.

This information will be kept on file with the inventory of the City's collection. Any maintenance or restoration responsibilities that the artist might have must be clearly explained in the contract and agreed upon before the work becomes a part of the City's collection. A maintenance and inspection schedule suitable for the site and the work will be discussed with the artist and implemented upon possession of the work. Complete records of inspections, cleanings, and conditions of the works will be kept on file in the inventory. If a work in the City's possession becomes damaged in any way, the City may contact the artist to see if s/he can make the necessary repairs, or contact the necessary agencies or conservators to repair the work.

#### **12.46.070 Deaccession/Relocation**

After due consideration, the City Council may authorized the removal of a work. To remove a piece one or more of the following situations must exist:

- A. The artwork in its present state poses a safety hazard to the public or the environment.
- B. Restoration of the work aesthetically and/or structurally is not feasible, or the expense of such restoration would be disproportionate to the value of the work
- C. The architectural support (building, wall, streetscape) is to be removed or destroyed if relocation of the work is not feasible.

- D. Prolonged protest of the work persists to the extent that the work detracts rather than enhances the site and the community
- E. The work acts as an encumbrance to the use of public property
- F. The public use of the site has changed or is proposed to change in a manner that is no longer compatible with the artwork.
- G. If a work is to be moved/modified, the artist must be notified before the change, if at all possible. In the instance that a work must be removed from the City's collection, the artist must be notified and given the opportunity to purchase the art from the City. In all situations, the rights of the artist will be respected as defined in the Visual Artists Rights Act of 1990, unless waived by the artist.

### **12.46.080 Community Initiated Public Art**

The **Community Initiated Public Art Application** should be completed and submitted with proposals to the Public Art Committee for their review and possible recommendation to the City Council for final consideration.

Applications can be submitted to Neighborhood Services Department at the City of Whitewater located at 312 W Whitewater St. Applications must be submitted no less than one week prior to the "Public Discussion of any item not on the agenda". Applications presented at "public discussion" cannot be officially discussed or acted upon by the Public Art Advisory Committee until the next meeting when it can be placed on the agenda.

### **12.46.090 Public Art Committee**

This Committee acts in the public interest on all matters relating to the Public Art Ordinance including the selection, placement, and maintenance of works of public art throughout the City. The Committee provides public input in the administration and planning of the Public Art.

Membership:

The membership of this Committee shall be appointed by the procedure set forth in chapter 2.12.011 shall be comprised of five (5) members. Composition is specified as follows:

- 1 member from the Whitewater Arts Alliance
- 1 member from Board of Common Council or their designee
- 1 member of Downtown Whitewater
- 2 members who are private citizens of the City of Whitewater with demonstrated knowledge and appreciation for visual art
- As the need arises, the Committee may appoint non-voting ex-officio members to provide expertise or otherwise represent a particular interest unique to a location or characteristic of a work of art

TERMS:

Members shall serve three (3) year terms.

Ordinance introduced by Council Member \_\_\_\_\_, who moved its adoption.

Seconded by Council Member \_\_\_\_\_.

AYES:  
NOES:  
ABSENT:  
ADOPTED:

\_\_\_\_\_  
Cameron Clapper, City Manager

\_\_\_\_\_  
Michele R. Smith, City Clerk