

**CARSON CITY CULTURAL COMMISSION
STAFF REPORT**

MEETING DATE: December 18, 2012

AGENDA ITEM NUMBER: 3C

APPLICANT: Vern L. Krahn, Park Planner
Roger Moellendorf, Parks and Recreation Director

REQUEST: **For Possible Action:** To approve a Public Art Program Ordinance and solicit comments on the document from City department heads, the local arts and cultural community, developers, community and business leaders, and the public.

GENERAL DISCUSSION: At the September 18, 2012, meeting of the Cultural Commission, the members voted to approve all proposed "redline" changes to a draft ordinance for a Carson City Public Art Program. Parks and Recreation Department staff is returning at this meeting with a DRAFT document for the Commission to review and approve (Exhibit A).

With the assistance Robin Hodgkin, Nevada Arts Council and Christine Fey, AICP – City of Reno, Resource Development and Cultural Affairs Manager, City staff has continued to research other municipalities Public Art Program Ordinances for language to improve the Carson City's Public Art Program Ordinance. This effort has lead to finding language in the City of Las Vegas – Office of Cultural Affairs Municipal Code that City staff would like the Commission to consider for inclusion into our proposed ordinance. This new language has been identified by staff and is highlighted in yellow (Exhibit B). If the Commission wants to incorporate any of these highlighted yellow sections into the Carson City's Public Art Program Ordinance, please identify which sections need to be included into the document as a part of your approval motion.

Once the Commission has approved the ordinance, Parks and Recreation Department staff will work with the District Attorney's Office to correctly format the document and distribute it in early January, 2013, to all City department heads, the local arts and cultural community, developers, community and business leaders, and the public. It is staff's intention to receive comments on the ordinance through mid-February and provide those comments to the Cultural Commission at the March, 2013 meeting.

RECOMMENDED ACTION:

I move to approve a Public Art Program Ordinance (and if applicable) with the following changes:

- 1) Possible Change
- 2) Possible Change

and solicit comments on the document from City department heads, the local arts and cultural community, developers, community and business leaders, and the public.

CITY OF CARSON CITY PUBLIC ART PROGRAM

ORDINANCE NO. _____

Bill NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE _____, XXXXX, CHAPTER _____, XXXX, SECTION _____, XXXX, TO ALLOW THE BOARD OF SUPERVISORS TO SET ASIDE 1% OF ITS CAPITAL IMPROVEMENT PROGRAM FUNDS FOR THE ESTABLISHMENT OF A PUBLIC ART PROGRAM, ENTITLED "PUBLIC ART PROGRAM", TO PROVIDE FOR THE FUNDING, SELECTION, CREATION, AND MAINTENANCE OF PUBLIC ART WITHIN THE CITY, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

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Section I: Title _____, Chapter _____, Section _____, of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

1 Definitions:

a. "Artist" means any practitioner of the arts, including but not limited to architecture, sculpture, painting, music, literature, drama, and/or dance, generally recognized by critics and peers as a professional in the field as evidenced by his/her education, experience, exhibition record, and artwork production.

b. "Artwork" means any work in a variety of media produced by professional artists. Works may be permanent, temporary, or functional; may be stand-alone or integrated with the architecture or landscaping, if such are designed by an artist as defined above; and should encompass the broadest range of expression, media, and materials.

c. "Capital Improvement Program" means the City's program for capital development.

d. "Cultural Commission" means the Carson City Cultural Commission, established on _____, and that make recommendations to the Board of Supervisors on art and cultural issues for the City.

e. "Eligible Project" means any funds for the construction or renovation of any building, park, street, streetscape or road beautification, bridge, transit facility, trail or bikeway, parking facility, green technology, above-grade utility, or any portion thereof, to which the public has access or which is visible from a public right-of-way. Renovation includes any major redesign of a facility or system, or portion thereof, which is included in capital improvement projects, including

REPLACE WITH INSERT #1

expansion or upgrading the capacity of the facility or system, enlarging the facility, or creating a new use for the facility.

d. "Public Art Collection" means any works of art donated or sold in whole or in part to the City as a result of this ordinance. For example, an artist may donate or sell to the City the right to non-exclusive use of the art while reserving the copyright to the art.

e. "Public Art Program" means any appropriations from the City's general fund set aside program for capital improvement projects shall, from the effective date of this chapter, include an amount equal to one (1) percent (%) of the total eligible project costs, to be used for artist design services and for the selection, acquisition, display, maintenance, and/or performance of public artworks.

f. "Public Art Trust Fund" means a separate account into which all monies generated under this ordinance or derived from gifts or donations for public art shall be deposited.

g. "Public Place" means any area on public property that is accessible and visible to the general public.

Section II: Title ____, Chapter ____, Section ____, of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

1. Creation of a Public Art Trust Fund:

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a. The Public Art Trust Fund shall be authorized to accept gifts, grants, and donations made to the City for works of art. These funds can be deposited for a designated purpose, project, or artwork purchase.

b. The Public Art Trust Fund shall be funded through monies collected from the City's general fund set aside program for capital improvement projects and shall be deposited into a separate account by the Carson City Finance Director. The Carson City Finance Director shall establish accounting records sufficient to identify and control these funds in accordance with the provision of this chapter. The account containing these funds shall earn interest and the earned interest shall be used for and subject to the same restrictions established by this section.

c. The Public Art Trust Fund shall be self-perpetuating from year to year, unless specifically terminated by the Board of Supervisors.

Section III: Title ____, Chapter ____, Section ____, of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

1. Funding of a Public Art Trust Fund:

a. During the adoption of the City's annual budget, the Board of Supervisors shall identify and appropriate one (1) percent (%) of the City's general fund set aside program for capital improvement projects for the Public Art Trust Fund. Upon final acceptance of the City's annual budget, an amount equal to one (1) percent (%) of the total for capital improvement projects shall

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be deposited in the Public Art Trust Fund. Appropriations for purposes of acquiring works of art in order to carry out the provisions of this chapter shall be made in accordance with the Nevada Revised Statutes, City policy, and established budgeting procedures.

Section IV: Title ____, Chapter ____, Section ____, of the Carson City Municipal Code (“CCMC”) is hereby amended as follows:

1. Public Art Program Eligible Expenses:

a. Eligible expenses for the public art program are limited to the following categories:

1. The artwork itself, including but not limited to:
 - (a).. Artist design fees
 - (b).. Additional labor and materials required for the production and installation of artwork
 - (c).. Artist’s operating costs
 - (d).. Travel related to the project
 - (e).. Transportation of the artwork to the site and installation
 - (f).. Applicable permit or certificate fees
2. Identification plaques and labels
3. Frames, mats, mountings, anchorages, containments, pedestals, or materials necessary for the installation, location, or security of the artwork
4. Photographs of completed artworks
5. Communication and other indirect costs, including insurance deductibles
6. Expenses for special advisors or consultants
- 7.,,Historical artifacts displaced by construction
8. Public art management and maintenance

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Section V: Title ____, Chapter ____, Section ____, of the Carson City Municipal Code (“CCMC”) is hereby amended as follows:

1. Public Art Selection Criteria:

- a. Each proposed project will be evaluated by the Carson City Cultural Commission as to artistic excellence; appropriateness in terms of scale, material, and content relative to the immediate and general architectural, social, and historic context; and long-term durability against vandalism, weather, theft, and excessive maintenance. A recommendation shall be provided by the Carson City Cultural Commission to the Board of Supervisors for consideration and possible approval.
- b. Artists will be selected on the basis of their qualifications as demonstrated by past work, appropriateness of the proposal to the particular project, and its probability of successful completion as determined by the Carson City Cultural Commission and approved by the Board of Supervisors.
- c. Upon advice from the Carson City Cultural Commission, the Board of Supervisors shall make the final selection of artists and artworks, selecting those artists and artworks of the highest aesthetic quality and those which fulfill the purposes of the public art program.

d. In all cases, consideration will be given to materials, construction, durability, maintenance, public access, and safety.

2. Public Art Selection Process:

a. Selection of artwork will be made by one of the following methods:

1. Open Competition: Site and program advertised; proposals accepted from all artists; no proposal fee is paid to artist unless otherwise stipulated.
2. Limited/Invitational Competition: One or more artists are invited to submit proposals; no proposal fee is paid to artists unless otherwise stipulated.
3. Direct Purchase: A completed artwork is purchased in accordance with the City purchasing policy and/or Nevada Revised Statutes.
4. City Staff Recommendation: With the assistance of local artists and community representatives, City staff can provide recommendations related to the donation or purchase of artwork.

Add INSERT #5 Public Display

Section VI: Title _____, Chapter _____, Section _____, of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

1. Private Developer / Donations:

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a. If the City enters into an agreement with a private developer for a capital improvement project which would otherwise be deemed an eligible project under this chapter, wherein the City provides financing, loan guarantees, tax abatement, land, or other significant in-kind support, the private development shall deposit into the Public Art Trust Fund an amount as identified in the chart below.

Percentage	City Support to Private Developer
1 %	Less than \$500,000
2%	\$500,001 to \$1,000,000
3%	Greater than \$1,000,000

Add INSERT #6 Dissolution

b. If the City receives a private donation either in cash, land, or material goods, it shall be exempt from this ordinance unless specifically designated for a donation to the Public Art Trust Fund.

Section VII: Title _____, Chapter _____, Section _____, of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

1. That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2013.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2013.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

DRAFT

ALAN GLOVER
CLERK/RECORDER.

_____ This ordinance shall be in force and effect from and after the day of the month of _____ of the year, 2013.

Vern Krahn

From: Robin Hodgkin <Rhodgkin@nevadaculture.org>
Sent: Tuesday, November 27, 2012 10:09 AM
To: Vern Krahn
Cc: Robin Hodgkin
Subject: FYI - LVAC Municipal Code - Public Art

Vern

Here are the ordinances from the City of Las Vegas – Office of Cultural Affairs.

Cheers,

Robin

Robin Hodgkin
Nevada Arts Council
Community Arts Development Program
Direct: (775) 687-7109
Email: rhodgkin@NevadaCulture.org

For discussion with Commission members
to include the yellow highlighted language
into the Carson City
Public Art Program Ordinance

From: Lisa Stamanis [mailto:LStamanis@LasVegasNevada.GOV]
Sent: Tuesday, November 27, 2012 9:15 AM
To: Robin Hodgkin
Subject: LVAC Municipal Code

Robin,

I just emailed it to you, let me know if you received it.

[2.34.010 - Established—Purpose.](#)

[2.34.015 - Definitions.](#)

[2.34.020 - Composition—Qualifications—Voting restrictions.](#)

[2.34.030 - Composition—Appointments.](#)

[2.34.050 - Term.](#)

[2.34.060 - Removal—Resignation—Vacancies—Reappointment.](#)

[2.34.070 - Absence from meetings.](#)

[2.34.080 - Operational rules and procedures.](#)

[2.34.090 - Operational budget.](#)

[2.34.100 - Administrative cost sharing—Fiscal agent.](#)

[2.34.110 - Staffing assistance.](#)

[2.34.120 - Powers and duties.](#)

[2.34.130 - Establishment of Arts Fund—Appropriations.](#)

[2.34.140 - Percent for the Arts Program—Created.](#)

[2.34.150 - Percent for the Arts Fund—Eligibility.](#)

[2.34.160 - Works of art at capital improvements projects—Display.](#)

2.34.170 - Municipal Arts Plan—Submission requirements.

2.34.180 - Municipal Arts Fund—Account provisions.

2.34.190 - Arts Commission—Dissolution.

2.34.010 - Established—Purpose.

(A)

There is created an Arts Commission.

(B)

The purpose of the Arts Commission shall be to serve as an advisory body to the City Council with respect to matters pertaining to the arts.

(Ord. 3288 § 3, 1987)

2.34.015 - Definitions.

As used in this Chapter, unless the context otherwise requires, the words and terms defined in this Section have the meanings ascribed to them herein as follows:

"Administrative Cost" means all costs associated with the operations of the Art Commission, including those costs incurred in connection with artistic programs and projects and the selection, acquisition, installation and exhibition of, and publicity about, City-owned works of art.

"Arts Fund" means the fund designated in Subsection (A) of Section 2.34.130.

"Capital Improvements" means any City capital project including, but not limited to, those paid for wholly or in part by the City to construct, remodel, renovate, or repair any building, park, street, sidewalk, parking facility or utility or any portion thereof within the limits of the City boundaries.

"Municipal Arts Fund" means the fund described in Section 2.34.180.

"Municipal Arts Plan" means an annual plan approved by the City Council for works of art and other artistic programs and projects in the City.

"Percent for the Arts" means a program whereby a percentage of the City's annual capital improvements budget is appropriated by the City Council to the Municipal Arts Fund.

Works of Art.

(1)

"Works of Art" means:

(a)

Two or three dimensional art that may be integrated into the structure of a public works project, building, landscape, other fixture or element, in any material or media or combination thereof;

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- (b) Two or three dimensional art of any material or media or combination thereof;
 - (c) Enhancements to public works projects, buildings, landscapes or any standardized fixtures and elements that are designed by an artist or by a design team which includes an artist member; and
 - (d) New genres including video, electronic and digital art, holography, video and additional technologically based forms as they evolve.
- (2) For the purposes of this Section the term "works of art" does not mean:
- (a) Commercially mass produced objects of standard designs, except where these elements are integral parts of an original artwork;
 - (b) Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts;
 - (c) Directional elements such as supergraphics, signage or color coding, except where these elements are integral parts of an artwork;
 - (d) Decorative, ornamental or functional elements which are not designed by an artist; and
 - (e) Landscape architecture and landscape gardening, except where these elements are designed by an artist or are an integral part of an artwork, or are both designed by an artist and an integral part of an artwork.

(Ord. 5654 § 1, 2003)

2.34.020 - Composition—Qualifications—Voting restrictions.

- (A) The Arts Commission shall consist of twelve voting members to be appointed in the manner provided for in [Section 2.34.030](#) of this Chapter.
- (B) No member of the Arts Commission shall hold an elected public office.
- (C) The members of the Arts Commission shall consider the total cultural well-being of the City and shall be persons who have diverse interests in, and knowledge about, the various artistic disciplines.
- (D)

As an individual, a member of the Arts Commission shall not serve as an advocate for a single arts discipline or for a particular arts organization. The Arts Commission as a whole shall serve as an advocacy body for all the arts disciplines.

(E)

A member of the Arts Commission who serves as a board member or an officer of an arts organization shall abstain from the discussion with respect to and voting on that organization's applications to the Arts Commission for funding.

(F)

The membership of the Arts Commission shall include at least one but not more than three arts professionals and at least one but not more than three practicing artists.

(G)

For the purpose of this Section, the term "arts professional" means a person who is employed full-time in the profession of arts administration, and the term "practicing artist" means a person whose major profession is the practice of an artistic discipline.

(Ord. 5392 § 1, 2001: Ord. 3288 § 4, 1987)

2.34.030 - Composition—Appointments.

The membership of the Arts Commission shall be as follows:

(A)

Three members appointed by the Mayor;

(B)

One member appointed by each of the City Councilmen;

(C)

Two members appointed by the members who are appointed pursuant to Subsections (A) and (B) of this Section; and

(D)

One member representative of City staff, appointed by the City Manager, or a designee, who shall serve ex officio.

(Ord. 6016 § 1, 2008: Ord. 5392 § 2, 2001: Ord. 3288 § 5, 1987)

2.34.050 - Term.

Except with respect to the ex officio member:

(A)

The term of each member of the Arts Commission shall be four years or until his or her successor is appointed and qualifies.

(B)

No member shall be reappointed more than once.

(Ord. 5392 § 4, 2001: Ord. 3571 § 1, 1991: Ord. 3288 § 7, 1987)

2.34.060 - Removal—Resignation—Vacancies—Reappointment.

(A)

Any member may discontinue his or her membership by resignation and may be removed after a public hearing upon a showing of good cause, by the majority vote of the City Council.

(B)

If any position becomes vacant, the Mayor, City Councilman or Arts Commission, as the case may be, who appointed the former holder of such position shall appoint a member to serve the balance of the unexpired term.

(Ord. 3571 § 2, 1991; Ord. 3288 § 8, 1987)

2.34.070 - Absence from meetings.

Any member who is absent from three consecutive meetings of the Arts Commission without a satisfactory excuse shall be removed from office by the City Council.

(Ord. 3288 § 9, 1987)

2.34.080 - Operational rules and procedures.

(A)

The Arts Commission shall adopt operational rules and procedures for the conduct of its duties which shall be ratified by the City Council. The rules and procedures shall provide for annual election of officers, the conduct of regular and special meetings, and the appointment of subcommittees.

(B)

The affirmative vote of two-thirds of the entire membership of the Arts Commission shall be required to amend such operational rules and procedures, and any such amendment must be ratified by the City Council.

(Ord. 3288 § 10, 1987)

2.34.090 - Operational budget.

The Arts Commission shall prepare annually an operational budget which shall be submitted to the City Council for approval. The budget shall provide for the costs necessary for the conduct of the administrative operation of the Arts Commission, including the staffing assistance that is provided in Section 2.34.110 of this Chapter.

(Ord. 3288 § 11, 1987)

2.34.100 - Administrative cost sharing—Fiscal agent.

The City shall provide for the administrative costs for the Arts Commission and shall serve as its fiscal agent.

(Ord. 3288 § 12, 1987)

2.34.110 - Staffing assistance.

The City shall provide professional arts administrative staff, clerical and staff resource assistance to the Arts Commission.

(Ord. 3288 § 13, 1987)

2.34.120 - Powers and duties.

The purpose of the Arts Commission shall be to serve as an advisory body to the City Council as follows:

- (A) Make recommendations with respect to the Municipal Arts Plan, with annual updating of such recommendations;
- (B) Advise with respect to all matters concerning the arts, including suggested legislation and the allocation of funds in support of the arts;
- (C) Propose methods to encourage private initiative in the fields of art;
- (D) Develop plans and proposals for submission to the City for the purpose of encouraging the City Council to seek State, Federal and private funds for the support of the arts;
- (E) Make recommendations to the City Council with respect to the establishment of and appropriations to the Arts Fund for artistic programs and projects and the granting of funds therefrom;
- (F) Encourage the highest possible standards in the development and presentation of artistic programs;
- (G) Encourage an awareness of the value of the arts to the quality of life in the City and its residents and visitors;
- (H) Serve as liaison between the arts community, the general public and the City Council with respect to matters concerning the arts;
- (I) Strengthen, support and collaborate with new and existing cultural organizations, projects and programs;
- (J) Consult with, support and advise arts organizations, individuals, local colleges, universities, libraries and the Clark County School District with respect to the coordination and development of the arts in the City and the arts in education;
- (K) Review and make recommendations with respect to the acquisition, commission or purchase by the City of works of art to be placed on public property or in public works, with the exception of works of art given to or purchased by museums, and to make recommendations with respect to the removal, relocation, upkeep, conservation and alteration of existing works of art in the possession of the City; and

(L)

Engage in such other activities or projects relative to the arts as may be authorized by the City Council.

(Ord. 5654 § 2, 2003; Ord. 3288 § 14, 1987)

2.34.130 - Establishment of Arts Fund—Appropriations.

(A)

A special account shall be established for the purpose of receiving private, local, State and Federal funds obtained by the City for artistic purposes consistent with the function of the Arts Commission. The fund shall be known as the Arts Fund.

(B)

All funds received by the City or the Arts Commission for artistic programs and projects and works of art, and all funds appropriated by the City Council to the Arts Commission shall be deposited in the Arts Fund, with the exception of:

(1)

The Arts Commission's operational funds;

(2)

The budgetary appropriations made by the City to its departments for artistic services; and

(3)

Percent for the Arts Funds.

(C)

All funds deposited in the Arts Fund shall be used exclusively for the purpose or function for which they are appropriated, specified or donated. In the event that funds deposited in the Arts Fund are unspecified, the Arts Commission shall make recommendations to the City Council with respect to the use of these funds for purposes consistent with the function of the Arts Commission.

(Ord. 5654 § 3, 2003; Ord. 3288 § 15, 1987)

2.34.140 - Percent for the Arts Program—Created.

(A)

There is hereby established a program for funding works of art in conjunction with City capital improvement projects, to be known as "Percent for the Arts."

(B)

Under the Percent for the Arts program the City Council shall appropriate not less than one percent of the City's annual capital improvements budget to the Municipal Arts Fund.

(C)

For the purposes of this Section, "capital improvements budget" means only those funds budgeted for transfer to capital project funds from the general fund and proceeds from the sale of bonds whose debt service is paid solely from general fund revenues.

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In addition to the annual Percent for the Arts appropriations, the City Council may make additional annual appropriations to the Municipal Arts Fund which shall be subject to the same terms and conditions applying to expenditure of Percent for the Arts funds.

(Ord. 5654 § 5, 2003)

2.34.150 - Percent for the Arts Fund—Eligibility.

(A)

Only those works of art approved by the City Council for capital improvement projects as part of the Municipal Arts Plan shall be eligible to receive expenditures from Percent for the Arts funds.

(B)

For the purposes of this Chapter the following are permissible works of art expenditures:

(1)

Artists' design services, development of design concepts and models and the selection, acquisition, installation, fabrication and exhibition of works of art;

(2)

Identification plaques and labels;

(3)

Water works, electrical and mechanical devices and equipment which are an integral part of the works of art;

(4)

Frames, mat and single pedestals necessary for the proper presentation of the works of art;

(5)

Walls, bases, pools or other architectural or landscaping elements on or in which the works of art are placed or affixed and which, in the opinion of the Arts Commission, are an integral part of and contribute to the aesthetic and structural support of the works of art;

(6)

Architectural or landscaping elements which themselves constitute some works of art;

(7)

Ongoing operating expenses or maintenance of works of art, architectural elements on or in which the works of art are placed, or sites where works of art are located; or

(8)

Any other expenditures as approved by the City Council in the Municipal Arts Plan.

(Ord. 5654 § 6, 2003)

2.34.160 - Works of art at capital improvements projects—Display.

Works of art at capital improvements projects may be placed on public display, integral or attached to a public building or structure, detached within or outside a public building or

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structure, or as a part of the landscape or a public park, square or other outdoor public site or lands.

(Ord. 5654 § 7, 2003)

2.34.170 - Municipal Arts Plan—Submission requirements.

(A)

A Municipal Arts Plan for the next fiscal year shall be submitted by the Arts Commission not later than February each year for City Council approval, which plan shall include any:

(1)

Proposed works of art for capital improvements projects;

(2)

Proposed works of art for sites and locations not in conjunction with capital improvements projects;

(3)

Progress reports and completion plan regarding the design, selection, acquisition, fabrication and installation of uncompleted works or art previously approved by the City Council; and

(4)

Requested funding from the Arts Fund and Municipal Arts Fund, respectively, for proposed and ongoing works of art projects.

(B)

The Municipal Arts Plan shall be submitted to the City Council in conjunction with the City's capital project plan for the next fiscal year.

(Ord. 5654 § 8, 2003)

2.34.180 - Municipal Arts Fund—Account provisions.

(A)

A special account shall be established for the purpose of receiving funds appropriated by the City Council pursuant to the Percent for the Arts program. The fund shall be known as the Municipal Arts Fund.

(B)

All funds deposited to the Municipal Arts Funds shall be used exclusively for the purpose or function for which they are appropriated.

(C)

Except as otherwise provided in this Section, funds remaining in the Municipal Arts Fund at the end of each fiscal year shall carry over in such fund for the next fiscal year.

(D)

Funds in excess of one million dollars remaining in the Municipal Arts Fund at the end of each fiscal year that are not committed to works of art approved in the Municipal Arts Plan for that year or previous years shall revert to the City general fund.

(Ord. 5654 § 9, 2003)