

## Chapter 40. Funds

### Article XXIII. Public Art Fund

[Approved 12-21-2017 by Ch. No. 3147]

#### § 40-103. Purpose.

The City of Pawtucket supports R.I.G.L. § 42-75.2 entitled Allocation for Art for Public Facilities Act and feels that the City has a responsibility for expanding the public experience of art. The City of Pawtucket recognizes the necessity of fostering the arts and in developing artists and craftspersons. Art creates a more humane environment; one of distinction, enjoyment, and pride for all citizens. The City of Pawtucket recognizes that public art is also a resource which stimulates the vitality and the economy of the City and provides opportunities for artists and other skilled workers to practice their crafts. The City of Pawtucket declares it to be a matter of public policy that a portion of each capital or subsidized construction project should have an appropriation to be allocated for the acquisition of works of art within the community.

#### § 40-104. Definitions.

As used in this article, the following terms shall have the meanings indicated:

##### **ACQUISITION**

Acquisition by purchase, lease, loan, gift or commission.

##### **ART, ARTWORK, or WORKS OF ART**

Original frescoes, mosaics, sculpture, drawings, paintings, printmaking, stained glass, fiber art, fountains, ornamental gateways, monuments, architectural embellishments, architectural landscaping, earthworks, or any work of mixed media or other creative expressions by a professional artist, artisan or craftsperson. Works of art also include limited edition and signed hand-pulled prints, digital art, and photography, but do not apply to reproductions. Art as defined herein includes both permanent and temporary installations.

##### **ARTIST**

Any practitioner generally recognized by his or her peers or by critics as a professional who produces works of art. This definition does not include the architect of a building nor specifically the building that is to receive the public artwork.

##### **ARTS COMMISSION**

The Advisory Commission on Arts and Culture as established in Chapter 11, Article X.

##### **BOND FUNDS**

The sale proceeds of any general obligation bonds of the City approved by the electors of the

City after July 1, 2017.

### **CAPITAL CONSTRUCTION COSTS**

The costs expended for the actual construction of a given improvement or building, public or private, including remodeling, renovation or reconstruction.

### **CITY**

The City of Pawtucket, Rhode Island.

### **CITY CONSTRUCTION PROJECT**

Any capital project paid for wholly or subsidized by the City of Pawtucket to construct or remodel any building, or any permanent structure together with all grounds and appurtenant structures which are intended to act as offices, workshops, courtrooms, hearing or meeting rooms, public safety facilities, public recreational facilities or other space for carrying on the functions of the City; parking, eating, sleeping, medical, dental, library, museum space for use by the general public; or a facility used to house conventions, trade shows, exhibitions, displays, meetings, banquets, and other events as well as facilities related thereto. This definition does not include: public school facilities, public water facilities, parks, public highways, bridges, sewers, fishponds, fish hatcheries, service and restroom facilities at City parks, or separate buildings not part of a larger construction project, which are intended solely as storage, warehouse, or maintenance and repair facilities.

### **PUBLIC ART**

Any art situated on property owned or under the control of the City, or art which is owned by or on loan to the City, or funded primarily by the City.

### **PUBLIC ARTS COMMITTEE**

The Committee of the Advisory Commission on Arts and Culture that manages and makes recommendations to the City Planning Department regarding the Pawtucket Percent for Public Art Program and advises on all other public art projects for the City.

### **SUBSIDY**

Any real estate tax treaty or stabilization agreement between a property owner and the City for a project that is greater than \$1,000,000 in value, which results in a tax bill lower than that which would be rendered by the Assessor's office; or any City-paid improvements for a project greater than \$1,000,000 in value, which would otherwise be borne by the applicant; or any City-owned land sold for a project, which land has an assessed value of greater than \$1,000,000 and is sold at a price that is lower than the current assessed value. A City-backed loan is not considered a subsidy.

## **§ 40-105. Establishment of fund.**

A separate fund is established within the City Treasury designated and maintained as the Public Art Fund into which funds appropriated, except for bond funds, shall be deposited. Within, the Public Art Fund two accounts shall be established: the Art Acquisition Account and the Art Maintenance Account. The Director of Finance shall be the custodian of all funds collected under this section and he or she shall invest such funds in accordance with prudent investment procedure. Funds may be derived and shall be retained from the following:

- A. Appropriations made as provided for in this article;
- B. Bond funds, to be maintained in a separate account, as provided for in this article;

- C. Grants, from governmental or other sources;
- D. Gifts, if the terms of the gift are consistent with the purposes of this article and other lawful requirements.

## § 40-106. City-bond financed projects.

This article shall apply to construction projects financed with general obligation bonds of the City approved by the electors of the City after July 1, 2017. This article shall not apply to the proceeds of any refunding bonds. Any funding for art, artwork, or works of art derived from bond funds must be maintained in a separate account established by the City Finance Department for bond accounting purposes, and shall be allocated and accounted for in accordance with state and federal law applicable to bonds. Any art, artwork, or works of art purchased with bond funds must constitute a capital expenditure for permanent art, shall not be rented art, and shall have a use life of at least five years.

## § 40-107. Funding; allocation; disbursements.

### A. Funding and allocation.

#### (1) City construction projects.

- (a) For all City construction projects that exceed a cost of \$500,000, the City should allocate an amount equal to 1% of the construction costs to be expended on works of art. The amount shall be capped at \$150,000 per project. This allocation shall be deposited into the Public Art Fund. The Public Arts Committee is to be notified of any eligible construction projects by the Department of Planning and Redevelopment.
- (b) Of the 1% appropriated for public art, 90% shall be deposited in the Art Acquisition Account of the Public Art Fund and 10% will be deposited in the Maintenance Account of the Public Art Fund used for maintenance of public art. This requirement shall not be applicable to projects financed by bond funds. For construction projects funded with bond funds, 100% of the 1% for art shall be applied to the acquisition of public art, and not to maintenance costs.

#### (2) City-subsidized construction projects.

- (a) For City-subsidized construction projects that exceed a cost of \$1,000,000, the developers shall be required to submit an estimate of the construction costs of their projects to the Planning Department with a budget of no less than 1% to be expended on works of art by for-profit developers and 0.5% by nonprofit developers. The tax stabilization application shall require that the contribution for public art be included in the budget that is submitted for review. The funding for public art on for-profit projects will be capped at \$200,000 and on nonprofit projects at \$100,000. The money for these art expenditures shall be deposited into the Public Art Fund or the fund established for bond proceeds for art, as necessary.
- (b) All City-subsidized project developers may use their 1% or 0.5% either to purchase art for their projects, as reviewed and meeting the criteria of the Public Art Committee, or as a contribution to the Public Art Fund.
- (c) No certificate of occupancy for any City-subsidized construction project shall be

issued until the 1% of the construction costs is deposited into the Public Art Fund. Developers of projects that receive a tax stabilization may apply to the Finance Committee for a one-year extension from the date that they receive their certificate of occupancy. If funds are not deposited in the Public Art Fund by the extended date, the tax stabilization will be null and void.

B. Disbursements.

- (1) Art for subsidized projects. Subsidized developers who elect to utilize their deposit to the Public Art Fund for art on their property shall so notify the Public Art Committee. Funds received from the developer shall then be held in escrow, to be disbursed by the City Planning Department. Any balance remaining in escrow after the art project is complete will revert to the Public Art Fund.
- (2) Public art. No call for public art by the Public Art Committee shall be made without prior authority of the City Council's Finance Committee for expenditure of funds from the Public Art Fund.

## § 40-108. Annual report.

The City Council shall receive an annual written report from the Public Arts Committee outlining the revenue, expenditures and projects of the Public Art Fund.

## § 40-109. Public Arts Committee.

The Public Arts Committee shall be comprised of five members appointed by the Mayor with confirmation by the City Council, who shall serve without compensation. One member shall be from the Advisory Commission on Arts and Culture; one member shall be from the Pawtucket Foundation; one member shall be an artist or member of an art organization; one member shall be an architect, designer or landscape architect; one member shall be a member of the community who lives, works and/or owns a business in Pawtucket.

- A. Term of office. Each Committee member shall serve a three-year term, except that the original five committee members will have staggered terms, one member for one year, two members for two years and two members for three years. All future appointments will serve three-year terms.
- B. Appointments. The Committee and members of the community at large shall be invited to submit nominations to the Mayor for any upcoming appointments.

## § 40-110. Administration.

- A. The City Planning Department will administer the Pawtucket Public Art Program and will provide a designated staff member to provide administrative help to the Public Art Committee as it would to other City boards or commissions.
- B. Public Arts Committee.
  - (1) The Public Arts Committees shall:
    - (a) Make periodic reviews, at least annually, of all eligible City-sponsored or -subsidized

capital improvement projects with appropriate City department heads or designees.

- (b) Recommend a set geography for the placement of works of art within the City, and a specific location for an individual art work, either at the location of the building or facility providing funding or as otherwise determined by the Public Arts Committee.
  - (c) Recommend the scope of work and the specific allocation and/or amount to be expended for the works of art.
  - (d) Encourage Rhode Island artists to submit applications to all calls for art.
  - (e) Manage and recommend the selection of public art works.
  - (f) Recommend rules and responsibilities for formal contractual agreement with each artist.
  - (g) Recommend standards and requirements for artists with respect to the installation and maintenance of the works of art, both ordinary and extraordinary.
  - (h) Select and appoint a panel to select each work of art to be acquired and placed on public lands. Selection panel composition:
    - [1] Each panel shall consist of a minimum of five and no more than seven voting members, to include:
      - [a] A member of the Public Arts Committee who shall serve as Chair and a nonvoting member of the panel.
      - [b] Two artists.
      - [c] One art professional with experience with public art.
      - [d] One engineer professional with experience with public spaces.
    - [2] The panel may also include:
      - [a] An architect, landscape architect, designer or engineer associated with the construction or location for the artwork, or his or her designee.
      - [b] A representative of the City, as determined by the Mayor; a user of the project; or a member of the public.
- (2) The Public Arts Committee may recommend contracting with professionals to carry out certain aspects of its responsibilities, but administrative expenses paid from the Public Art Fund will be limited to \$5,000 per fiscal year unless otherwise authorized by the City Council's Finance Committee.

C. The City Planning Department will provide a designated staff member to provide administrative help to this Committee as it would to other City boards or commissions.

## § 40-111. Selection of works of art.

Artists and their works of art to be acquired under this article shall be selected by the City Planning Department with recommendations from the Public Arts Committee chosen pursuant to § 40-

**110B(1)(h)** for each project.

## § 40-112. Artist's rights.

A. The City receives the rights to sole ownership and public display of all art on public land acquired under this article, subject to the following intangible rights retained by the artist:

- (1) The right to claim authorship of the work of art;
- (2) The right to reproduce the work of art, including all rights to which the work of art may be subject under copyright laws, including, but not limited to, derivative and publishing rights, but excluding the right to public display and to photographic reproduction for purposes of publicity by the City;
- (3) If provided by written contract, the right to receive a specified percentage of the proceeds if the work of art is subsequently sold by the City to a third party other than as a part of the sale of the building or property at which the work of art is located; and
- (4) If agreed between the City and the artist, the artist may extend to his or her heirs, assignees or personal representatives any of the above rights until the end of the twentieth year following the death of the artist.

B. The artist retains as absolute the following rights:

- (1) The right to have the artist's name associated with the work; and
- (2) The right to prevent degradation, mutilation, or aesthetic ruining of the work.

## § 40-113. Tax stabilization agreements.

For projects subject to the provisions of this article, tax stabilization agreements authorized by Article **XX** of Chapter **363** of the Pawtucket Code of Ordinances may be extended to six years for an administrative tax stabilization agreement pursuant to § **363-76** of Article **XX** and to 11 years for a City Council approved tax stabilization agreement pursuant to § **363-79** of Article **XX**.