

First Published in *The Wichita Eagle* on January 10, 2020

ORDINANCE NO. 51-165

AN ORDINANCE AMENDING SECTIONS 2.12.1122, 2.12.1124 AND CREATING CHAPTER 2.15 OF THE CODE OF THE CITY OF WICHITA PERTAINING TO THE ESTABLISHMENT OF A PUBLIC ART PROGRAM AND REPEALING SECTIONS 2.12.1122 AND 2.12.1124 OF THE CODE OF THE CITY OF WICHITA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 2.12.1122 of the Code of the City of Wichita is hereby amended to read as follows:

“Design Council Members and terms.

- (a) The Design Council shall consist of 11 members appointed by the Mayor with the approval of the City Council. The City Manager shall appoint an additional member. The Manager’s designee shall sit on the Council as an Ex Officio Member without voting privileges, but will provide technical assistance to the Design Council in performance of its functions as provided for by City ordinance.
- (b) With the exception of the representative designated by the City Manager, the terms of office shall be as set forth in Section 2.12.020(1). All members of the Council shall serve without compensation.
- (c) The Council shall consist of the following persons qualified and interested in the aesthetic quality of the community:

- (1) Two Architects;
- (2) Two Landscape Architects;
- (3) Two Engineers;
- (4) Two Artists;
- (5) One Graphic Designer; ~~and~~
- (6) Two Representatives at-large; and
- (7) One Ex Officio Member appointed by the City Manager.

While it is the intent of the ordinance codified in Sections 2.12.1120—2.12.1128 to insure the above areas of representation on the Design Council, other qualified persons with experience in art/design may be substituted as appointees, from time to time when necessary, so long as the overall composition of the Design Council is consistent with the scope of qualifications in this subsection.”

SECTION 2. Section 2.12.1124 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Design Council—Purpose and objectives.

The purpose of the Design Council is to make recommendations on the incorporation of Public Art and aesthetic design into public projects. The Design Council will make recommendations to develop and define the design criteria for public improvements projects. It shall make recommendations on the appropriateness of the inclusion of Public Art and aesthetic design into a project. The Design Council will serve in an advisory capacity to the City Council and Public Arts Program Staff and as a liaison with private, public persons or entities, and Artists and Art Groups, including the Arts Council, Inc. It shall oversee the administration of the Percent For Art Program as established in Chapter 2.15 of this Code and

the development of all policies and procedures necessary for the administration of such Program.

The Design Council shall make recommendations to the City Council on the selection and promotion of Public Art, the coordination and development of Public Art in the City, and advise the City Council on establishing public participation in and interaction with public space and encourage private contributions and participation in the implementation of the Public Art Program. The Design Council shall advise and make recommendations to the City Council on the expansion of Public Art within the City and encourage private and community support and involvement in the implementation of the Public Art Program.”

SECTION 3. Section 2.15.010 of the Code of the City of Wichita is hereby created to read as follows:

“Purpose - Percent for Art Program.

The purpose of this Chapter is to establish a Percent for Art Program for the City of Wichita funded by the Capital Improvement Program (CIP), to provide for the funding, selection, creation and maintenance of Public Art and establishing responsibilities relating to the administration of the City’s Public Art Program.

The City of Wichita recognizes the necessity and responsibility for beautification of its public areas. The City Council has found that such enhancement adds to the quality of life of Wichita’s citizens, attracts tourism, and provides incentives to business to locate in the City, thereby expanding Wichita’s economic base.”

SECTION 4. Section 2.15.020 of the Code of the City of Wichita is hereby created to read as follows:

“Definitions.

As used in this Chapter the following terms shall have the following meanings:

“Artist” means a practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and recognized ability. Indications of a person’s status as a professional Artist include, but are not limited to: income realized through the sole commission of Artwork, frequent or consistent art exhibitions, placement of Artwork in public institutions, receipt of honors and awards and training in the arts. Such person is selected by the Project Architect/Engineer or the Art Consultant to produce Artwork for Special Considerations Projects as set forth in this Chapter.

“Art Consultant” means an Artist or designer selected by the Project Architect/Engineer to serve as the member of a Project team. This individual is responsible for the hiring and managing of the Artist(s) for the project and acts as their representative as a creative and practical liaison between the Artist(s) and the Project Team. Such individual must meet the qualifications established by this Chapter to complete the Public Art component of the designed project.

“Artwork” includes but is not limited to, paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs or other sculpture, monuments, fountains, arches, lighting, or other structures intended for ornament or commemoration. Also included are carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints, crafts, both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials. Landscape items or

elements which are not generally considered to be components of landscape architectural design or landscape.

“Basic Design Standards” means portions of aesthetic enhancements including, but not limited to: brick crosswalks, median pavers, black signal poles, colored handrails, lighting, street furniture (benches, trash cans, bike racks), underground utility lines and other elements generally considered to be components of landscape architectural design or landscape.

“Capital Improvement Program” (CIP) means the annual Capital Improvement Program adopted for City financed public improvement projects.

“City” means the City of Wichita.

“Construction Project” means any Capital Improvement Project paid wholly or in part by the City of Wichita for new construction or the major remodeling or renovation of a building or structure, streetscape, pedestrian mall or plaza, park, trail, or any other project, or any portion thereof, which includes finished space for human occupancy, public access or space which will be available for view by the public.

“Consultant” means any firm, individual, joint venture or committee of firms or individuals with which the City contracts for design or other consulting services related to construction projects.

“Deaccessioning” means the formal process used to permanently remove an Artwork owned by the City from the Public Art Collection, usually through sale or exchange or any other transaction by which title of the outgoing Artwork is transferred from the City to an individual, institution, agency, gallery, vendor or dealer. Under certain conditions, it may also include disposal by internal destruction.

“Design Council” means the board established by Section 2.12.1120 of the Code of the City of Wichita.

“Iconic Project” means a major construction project which is of a significant scale and has high visibility and/or major community impact. Iconic projects shall include projects funded by General Obligation (GO) at large funding, Local Sales Tax (LST), Transit Guest Taxes, Star Bonds, Tax Increment Financing (TIF) or Community Improvement (CID) funds.

“Maintenance” means the periodic or routine work on a facility that are required to maintain its original functionality.

“Major Remodeling or Renovation” means any renovation, rehabilitation or maintenance project which substantially changes or alters the aesthetic or character of the original design or would impact existing Public Art.

“Project Architect/Engineer” means the person or firm designing the Construction Project to which the provisions of this Chapter apply.

“Project Team” means project staff who are necessary to insure that the design, construction and Public Art components for each Construction Project are met. Team members may include, but are not limited to: Project Architect/Engineer, general contractor, member of the Design Council, Artist, Art Consultant, resident in project neighborhood, and City Council Member for the District where the project is located, Representative from the City Manager’s office and Department Director for project and Historical Preservation Board Member, if applicable.

“Public Art” means publicly accessible original art. It may include, but is not limited to the following: permanent visual art, creative restoration or repurposing of unique architectural features, ornamentation or details, artist- designed infrastructure and structures

themselves. Public Art may serve a function, express a theme, or commemorate an important person. It may underscore or provide a counterpoint to the architecture and surrounding site. It may serve as a landmark that adds definition to the City of Wichita. Public Art should consider the site, its context and audience. Public Art may possess functional as well as aesthetic qualities; it may be integrated into the site or building, or presented as a discrete work.

“Public Spaces” means publicly accessible areas both indoor and outdoor which are located on City property. Such spaces shall include, but not be limited to: publically accessible landscapes, structures, infrastructure, public parks, plazas, streets and boulevards, bridges and stairways, buildings and waterworks.

“Public Art Collection” means all works of art which stand alone or are integrated into the built environment and are owned by the City.

“Public Art Fund” means a funding mechanism which aggregates funding from the Percent for Art Program and redistributes these funds to promote, finance and maintain Public Art projects throughout the City.

“Remodel” means work which is required to enhance or maintain the functionality of a facility.

“Special Considerations Project” means Construction Projects that are part of the Capital Improvement Program (CIP) which are designated by the Design Council to have Public Art or enhanced aesthetic requirements.

“Staff Representative” means the professional staff liaison designated by the City Manager responsible to advise and assist the City of Wichita and the Design Council. Such person shall be in addition to the Ex Officio member appointed by the City Manager.

“Temporary Public Art or Temporary Installation” means Public Art which by its nature, structure, purpose or composition is not intended to be permanent. City funding is not available for Temporary Artworks. Temporary Art is not eligible for Capital Improvement Program (CIP) funding. Such Artwork is not part of the permanent Public Art Collection.”

“Visual Arts Professional” shall mean any of the following who is respected in his/her field and knowledgeable about visual arts: Artist, Art Museum Director, Curator, Art Critic, Art Historian, or Fine Arts Professional.”

SECTION 5. Section 2.15.030 of the Code of the City of Wichita is hereby created to read as follows:

“Percent for Art Program Established.

There is hereby established a Percent for Art Program.

1. When preparing the proposed Capital Improvement Program, hereafter CIP, for consideration and adoption by the City Council, City Staff shall include an amount budgeted for Public Art which is not less than 2% of the total amount budgeted (before Expenditures for Public Art are included) for new CIP projects financed from General Obligation (GO) at large funding; Local Sales Tax (LST) and/or Transient Guest Taxes.

In addition to the amount budgeted for Public Art set forth above, Iconic Projects, as defined by this Chapter, shall independently have an amount not to exceed 2% of the project’s budget added to the project cost for art/aesthetic improvements.

The Design Council shall recommend the additional percentage to be allocated to the project budget to the City Council for consideration. The proposed CIP shall include a summary schedule that outlines the amounts included in the proposed

CIP for Public Art by year. These amounts may either be included within budgeted amounts for Special Considerations Projects, or may be unallocated to a specific project. The total amount designated for Public Art shall be distributed, as evenly as possible, in each year of the CIP.

2. As City Staff meets with the Design Council, the Design Council may choose to designate an art budget for Special Considerations Projects. If that is done, that amount will be added to the estimated construction budget for that project during the development of the succeeding CIP.
3. An amount not to exceed ten percent (10%) of the Capital Improvement funds designated for Public Art may be utilized for funding additional art projects, for the purchase and/or development of autonomous Artworks, which are not part of a Construction Project for placement in public spaces, providing maintenance for existing and future Public Artworks and for the administration and operating expenses of the Public Art Program.”

SECTION 6. Section 2.15.040 of the Code of the City of Wichita is hereby created to read as follows:

“Purpose of Public Art Program.

The Program’s purpose is to place Public Art in Public Spaces and incorporated in new City-owned buildings and/or facilities. Specifically, the Percent for Art Program purposes include, but are not limited to the following:

- (a) Development of a Public Art Program that is unique to Wichita.
- (b) Increasing the understanding and enjoyment of Public Art by Wichita residents.

- (c) Inviting public participation in the interaction with public spaces.
- (d) Providing unusual and challenging employment opportunities for Artists.
- (e) Encouraging collaborations between Artists and Architects, and Artists and Engineers.
- (f) Supporting Artist participation on design committees for planning public projects.
- (g) Encouraging a variety of art forms: temporary and permanent, object and event, single or dispersed locations.
- (h) Spreading commissions among a wide number of Artists and strive for overall diversity in style, scale and intent.
- (i) Beautification of public areas to enhance the quality of life of Wichita's citizens, attract tourism, and provide incentives to business to locate in the City, thereby expanding Wichita's economic base."

SECTION 7. Section 2.15.050 of the Code of the City of Wichita is hereby created to read as follows:

“CIP Project Requirements for Public Art Program.

Minimum eligibility conditions for CIP Construction Projects to be designated as Special Considerations Projects are as follows:

- (a) The Construction Project must be capital in nature.
- (b) The Construction Project must be on City-owned property and/or for the construction of, or for the major remodeling or renovation of a City owned building, bridge, roadway or structure.

- (c) The Construction Project must include finished space for human occupancy, public access or space which will be available for view by the public.
- (d) The Construction Project may not be for minor maintenance or improvements of an existing City-owned building, bridge, roadway or structure.”

SECTION 8. Section 2.15.055 of the Code of the City of Wichita is hereby created to read as follows:

“Eligible expenses for the Percent for Art Program.

- (a) Appropriations for Percent for Art Program projects include expenditures for the following:
 - (1) The Artwork itself, including but not limited to:
 - (i) Artist's design fees, including all associated engineering and design fees.
 - (ii) Additional labor and materials required for production and installation of Artwork.
 - (iii) Artist's operating costs.
 - (iv) Travel related to the project.
 - (v) Transportation of the Artwork to the site and installation.
 - (vi) Any required 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.
 - (6) Expenses for special advisors or consultants.
 - (7) Relocation and remedial care of historical artifacts displaced by construction.
 - (8) Operating expenditures of the Public Arts Program.
 - (9) Maintenance of Public Art purchased by funds from the Percent for Art Program.
- (b) Appropriations for Percent for Art Program projects may not be utilized for the following:
- (1) Reproduction, by mechanical or other means, of original Artworks, except in cases of film, video, photography, printmaking or other media arts.
 - (2) Decorative, ornamental, or functional elements which are designed by the Architect or consultants engaged by the Architect/Engineer, as opposed to an Artist commissioned for this purpose.
 - (3) Those elements generally considered to be components of a landscape architectural design or landscape, unless designed by the Artist as an integral part of the Art installation.

- (4) Art Objects which are mass-produced of standard design, such as playground sculpture.
- (5) Directional or other functional elements, such as super graphics, signs, color-coding, maps, etc., except where a recognized Artist is employed.
- (6) Items which are required to fulfill the basic purpose of a Department/Division. Examples would be fulfilling an interpretive or educational role in a City facility or park.
- (7) Items which are considered to be part of Base Design Standards, as defined by this Chapter, for the Construction Project.”

SECTION 9. Section 2.15.060 of the Code of the City of Wichita is hereby created to read as follows:

“Purpose of Design Council.

The Design Council shall endeavor to develop a collection of Public Art that is of the highest quality that will encompass a broad aesthetic range reflecting the City and the minds of its citizens; that will improve the quality of life in the area; that will be accessible to all individuals and will be a source of pride to residents. It shall seek to develop the Percent for Art Program and the associated Public Art Collection in such a way so it is intimately integrated into the fabric of the City of Wichita and reflects a broad range of community input and involvement by Artists and Art Professionals.”

SECTION 10. Section 2.15.070 of the Code of the City of Wichita is hereby created to read as follows:

“Responsibilities of Design Council.

In addition to those responsibilities set forth in Section 2.12.1124, the duties and responsibilities of the Design Council include, but are not limited to the following:

- (a) Oversee and implement the provisions of the Percent for Art Program as set forth in this Chapter.
- (b) Make recommendations on the incorporation of Art and aesthetic design into public projects.
- (c) Make recommendations to develop and define the design criteria for public improvements projects.
- (d) Make recommendations on the appropriateness of the inclusion of Public Art and aesthetic design into a CIP project.
- (e) Serve in an advisory capacity to the City Council and Public Arts Program Staff and as a liaison with private, public persons or entities, and Artists and Art Groups, including the Arts Council, Inc.
- (f) Make recommendations to the City Council on the selection and promotion of Public Art, the coordination and development of Public Art in the City.
- (g) Advise the City Council on establishing public participation in and interaction with public space and encourage private contributions and participation in the implementation of the Public Art Program.

- (h) Advise and make recommendations to the City Council on the expansion of Public Art within the City and encourage private and community support and involvement in the implementation of the Public Art Program.
- (i) Review and develop Public Art projects in the public domain for the City of Wichita.
- (j) Develop a formal structure in which to create, develop and maintain Public Art as well as further public accessibility to the arts.
- (k) Establish all necessary policies, procedures and guidelines to administer the Public Art and Percent for Art Programs.

In addition to overseeing the Percent for Art Program, the Design Council may also administer other Public Art Programs such as temporary Public Art Programs, Public Art Mural Programs, Public Art Loan Programs or exhibits, donations of Artwork to the Public Art Collection, and memorials for public parks.”

SECTION 11. Section 2.15.080 of the Code of the City of Wichita is hereby created to read as follows:

“Procedure to Commission Public Art for CIP Projects.

- (a) City departments will present Construction Projects, which are proposed as part of the upcoming CIP, to the Design Council in order for the Design Council to recommend those Projects which should be designated as Special Consideration Projects. This review should be done in a timely manner so that the appropriate recommendations for funding for each proposed Construction Project may be included within the draft CIP to be recommended to the City Council by City Staff.

- (b) Construction Projects that are not presented to Design Council at the normal CIP review to determine Special Consideration Projects must be presented to the Design Council before the issuance of a Request for Proposal or Request for Qualifications for the Construction Project.
- (c) Following preparation of the draft CIP, City Staff shall work with the Design Council to produce a spreadsheet that details those projects that have been designated as Special Consideration Projects. After approval of the CIP by the City Council, the City Manager's CIP administrative Committee, in collaboration with the Design Council, shall produce a spreadsheet that details Adopted Capital Improvement Projects, in a Summary of Public Art Eligibility Master List.
- (d) Iconic projects, as defined by this Chapter, will be brought by City Staff to the Design Council to determine if additional funding, in excess of the amount allocated for the project by the provisions of this ordinance, is needed for art or aesthetic improvements. Additional funding, not to exceed two percent of the project's budget, may be recommended by the Design Council. Such recommendation will be presented by City Staff to the City Council for consideration.
- (e) At the time of the CIP review, the Design Council will designate certain Construction Projects as Special Considerations Projects. The Design Council will designate whether such Special Considerations Project should require an Art Consultant or Artist. For projects requiring only an Artist, the Project Architect/Engineer will select the Artist(s) for any Public Art

required as part of the project budget. Any selected Artist shall contract directly with the Project Architect/Engineer for the design phase of the project. Any selected Artist may contract with the general contractor or Architect/Engineer for the fabrication and installation of the Artwork or Artistic component of the project. Artists and Art Consultants should be chosen according to the criteria and considerations set forth in this Chapter.

- (f) The Art Consultant will hire and manage the Artist(s) and act as their representative(s) and/or advocate(s) during the Construction Project. Such individual must meet the qualifications established by this Chapter to complete the Public Art component of the designed project.
- (g) The Art Consultant will also act as a creative and practical liaison between the Artist(s) and the Project Team. Such Art Consultant is not eligible to be contracted with for the Public Art Component of the Construction project.
- (h) Art Consultant(s) will be contracted directly with the Project Architect.
- (i) Architects/Engineers invited to submit a proposal for Special Consideration Projects should be advised by City Staff of the ordinances requirements and guidelines as part of the selection process.
- (j) The Design Council, with the assistance of and in conjunction with Public Art Staff, may establish a Public Art Artists Registry to allow Artists interested in Public Art opportunities to participate in selection processes by maintaining a record of their work with the Public Art Program. Such

registry may be utilized by Architects/Engineers and Art Consultants to select qualified Artists for Public Art.

- (k) In determining what Artwork is appropriate, Architects/Engineers, and Art Consultants should give consideration to materials, construction, durability, maintenance, public access and safety, ADA issues/conflicts, history of vandalism in neighborhood, unique weather/environmental conditions, social sensitivities, historical preservation requirements, historical context, adjacent compatible amenities or related development, community needs, etc.
- (l) Artists and Art Consultants should 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. Each proposed project should be evaluated as to: its 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.
- (m) The City will strive to balance the Artist's rights with the City's needs in order to meet the intention of the ordinance to sustain an innovative Public Art and design program that is distinguished by its high quality. Agreements with Public Artists and Designers for their services, and authorizing them to produce Artwork for the City, differ from other types of contracts that the City may use to procure services or goods. Works of

Public Art are original and unique products and the services and the products provided by Public Artists are not generally under the rubric of work made for hire. Artist agreements must address federal copyright law and the Visual Artist Rights Act of 1990 and any amendments thereto.

- (n) The Design Council reserves the right to question any choice of Art Consultant or Artist if qualification criteria are not fulfilled. Identification of a new candidate may be required, if conventionally-acknowledged professional standards are not met.
- (o) Records should be maintained to ensure transparency in selection process of Artists or Artist Consultants. Records include, but are not limited to: evidence of RFQs, RFPs, interviews, correspondence, a list of other applicants/nominations considered, a short paragraph describing why the Artist was selected, specifically referencing the scope of work established by the Architect/Engineer or Project Team.”

SECTION 12. Section 2.15.090 of the Code of the City of Wichita is hereby created to read as follows:

“Special Procedures for Historic Sites and Properties.

When Public Art is part of a designated local historic site or Public Art is considered for a designated local historic site or property, the following tasks and procedures are necessary:

- (a) The Scope of Work for Public Artists shall be developed with the input of Historical Preservation Board, hereafter HPB.
- (b) The HPB shall participate as appropriate in concept development with the design team including the Public Artist.

- (c) The Artist shall research the historical, architectural, cultural and social character of the district, site or property to develop an understanding of the historical context.
- (d) The Artist shall work with the HPB, as necessary, to identify principles that balance preserving and reinforcing the prominent features of a district, site or property with the addition of the new Public Art and/or value-added design component.
- (e) If HPB approval is required for the realization of the project, schematic design and/or design development materials will be included as part of an overall HPB pre-application process.”

SECTION 13. Section 2.15.100 of the Code of the City of Wichita is hereby created to read as follows:

(a) “Public Art Management/Maintenance:

- (1) All Public Artworks are under the control and ownership by the City of Wichita.
- (2) City of Wichita departments must notify Public Arts Program Staff if an Artwork is damaged, stolen, conditions are deteriorating or that alterations are deemed necessary. Public Arts Program staff will bring such reports to the attention of the Design Council.
- (3) Funding to maintain Public Artworks shall come from funds designated by the Design Council for such purpose pursuant to the provisions of Section 2.15.030(3).

- (4) In addition to the maintenance of Public Art, those funds designated by the Design Council pursuant to Section 2.15.030(3) may be allocated for the administration and operating expenses of the Public Arts Program.

(b) Accession and Conservation Maintenance:

- (1) Post-Fabrication Inspection Report. Artists must submit:
 - (i) Complete documentation including a written technical description.
 - (ii) An operations and maintenance plan including schedule and cost estimate for addressing the necessary ongoing care for the Artwork.
 - (iii) Ten to twenty digital images of the Public Artwork for archival records.

(2) Post-Installation Inspection Report:

Public Artwork about to be added to the City's collection is inspected after installation is complete as part of the accession process. The Post-Installation Inspection is conducted by relevant Public Arts Program Staff. The Post-Installation Inspection Report provides a baseline for subsequent Survey and Condition Assessments.

(3) Survey and Condition Assessments:

The City's Public Art Collection is inspected annually by relevant Public Arts Program Staff, who produce a brief Condition

Assessment for each work. The Condition Assessment includes: information on the present location; the current condition; the treatment or maintenance needed and cost estimate; and a prioritization for the Annual Public Art Maintenance Plan.

(4) **Annual Public Art Maintenance Plan:**

Public Arts Program Staff, using the Condition Assessment, shall prioritize treatment and maintenance needs and create the Annual Public Art Maintenance Plan to assign the allocation for maintenance as determined by the Design Council to the Public Artworks most in need of conservation.

(5) **Maintenance:**

Maintenance of the Public Artwork includes routine cleaning, protective coatings and minor repairs and an annual inspection. Maintenance and the annual Condition Assessment will be carried out by Public Arts Program Staff, who may delegate specific maintenance tasks to skilled outside consultants.

(6) **Conservation:**

Treatment flaws, neglect, aging, damage or vandalism may affect the condition of Public Artworks. Conservation treatment and specialized care such as restoration or repairs will be performed as needed to return Artwork to a stable condition and its original integrity. Conservation treatment is performed by a qualified professional conservator, sometimes in collaboration with Artists

or other experts, and is funded by the ordinance allocation for maintenance. Often, additional funding is required.

(7) **Emergency Repairs:**

Except in cases of emergency, City departments shall not treat, remove or relocate Artwork without first reporting the need for such actions to relevant Public Arts Program Staff.

City departments are authorized to perform emergency treatment to stabilize damaged Artwork; to move the Public Artwork to prevent further damage to the Artwork; or to facilitate emergency repairs of City infrastructure or to ensure public safety. Any incidence of graffiti on Public Artworks for which City departments are responsible should be reported immediately to Public Arts Program Staff.”

SECTION 14. Section 2.15.110 of the Code of the City of Wichita is hereby created to read as follows:

“Deaccessioning.

Deaccessioning will be considered only after a careful and impartial evaluation of the Artwork within the context of the collection as a whole. At the beginning of the process, the Public Arts Program Staff will make a reasonable effort to notify any Artist(s) or their immediate heirs or relatives whose work is being considered for deaccessioning.

The Design Council may consider the deaccession of Public Artwork in the event that it cannot be re-sited. The Design Council, with the assistance of Public Arts Program Staff, shall

establish written guidelines to define the acceptable reasons for deaccessioning Public Artwork.

Such guidelines shall include, but not be limited to, the following:

- (a) The Artwork has been damaged or has deteriorated and repair is impractical or unfeasible.
- (b) The Artwork endangers public safety.
- (c) In the case of site-specific Artwork, the Artwork is destroyed by severely altering its relationship to the site.
- (d) The Artwork requires excessive maintenance or has faults of design or workmanship.”

SECTION 15. Section 2.15.120 of the Code of the City of Wichita is hereby created to read as follows:

“Severability.

Should any court declare any subsection, clause or provision of this section to be unconstitutional, such decision shall affect only such subsection, clause or provision so declared unconstitutional and shall not affect any other subsection, clause or provision of this section.”

SECTION 16. The originals of Sections 2.12.1122 and 2.12.1124 are hereby repealed.

SECTION 17. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once a week for two consecutive weeks in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of January, 2020.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer L. Magaña
City Attorney and Director of Law