

BY THE COUNCIL:

BISTERFELDT, CLEGG, EBERLE,
JORDAN, SHEALY AND THOMSON

AN ORDINANCE REPEALING ORDINANCE NO. 6042 (“PERCENT FOR PUBLIC ART”) AND ENACTING BOISE CITY CODE TITLE 1, CHAPTER 25 (“PERCENT FOR PUBLIC ART”); ADOPTING A POLICY OF THE CITY OF BOISE CITY PROVIDING THAT 1 PERCENT OF ELIGIBLE CAPITAL EXPENDITURES BE APPROPRIATED FOR ACQUISITION OF PUBLIC ART; PROVIDING DEFINITIONS REGARDING ELIGIBLE CAPITAL IMPROVEMENT PROJECTS; PROVIDING GENERAL REQUIREMENTS FOR PUBLIC ART; PROVIDING THAT UP TO .4 PERCENT OF ELIGIBLE CAPITAL IMPROVEMENT EXPENDITURES FOR CONSERVATION AND MAINTENANCE OF PUBLIC ART AND FOR PROJECT MANAGEMENT AND ASSOCIATED COSTS; REVISING THE PLANNING PROCEDURE FOR PUBLIC ART PROJECTS; PROVIDING FOR THE POOLING OF BOTH GENERAL FUND AND ENTERPRISE FUND PERCENT FOR ART FUNDS; PROVIDING THAT IN COORDINATION WITH THE DEPARTMENT OF ARTS & HISTORY OTHER CITY DEPARTMENTS MAY ASSIST IN THE MAINTENANCE OF PUBLIC ART WITHIN THOSE DEPARTMENTS’ FACILITIES; CORRECTING THE NAME OF THE DEPARTMENT OF ARTS & HISTORY; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted Ordinance No. 6042 known as the “Percent for Public Art” ordinance on March 6, 2001; and,

WHEREAS, upon its passage and approval, Ordinance No. 6042 was codified as Title 2, Chapter 23; and,

WHEREAS, Ordinance No. 6042 was never incorporated into the Boise City Code; and,

WHEREAS, upon establishment of the Foothills Conservation Advisory Committee by Ordinance No. 6088, on June 5, 2001, it likewise was codified as Title 2, Chapter 23 and made a part of the Boise City Code; and,

WHEREAS, there exists a numbering conflict between Ordinance No. 6042 and Ordinance No. 6088, which requires the repeal and re-enactment of the “Percent for Public Art” ordinance.

NOW, THEREFORE, BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BOISE, IDAHO:

Section 1. That Boise City Ordinance No. 6042 is hereby **REPEALED**.

Section 2. That the Boise City Code is hereby amended by the addition thereto of a New Chapter, Title 1, Chapter 25, to read as follows:

1-25-01. Statement of Purpose: “Percent for Public Art” Program:

In order to beautify public areas, enhance the quality of life for Boise citizens, attract tourism, promote City services and the purposes of participating departments through the use of public art, provide a mechanism to meaningfully involve citizens in the design of their environment, educate the public about city departments and public art, and encourage businesses to locate within the City, thus expanding Boise’s economic base, it is the policy of the City of Boise to dedicate one percent (1%) of the total cost of all eligible capital improvement projects to fund art in public places in the City. Associated project management, maintenance and education costs will be funded through the regular City budget process, not to exceed four tenths of a percent (.4%) of the total cost of all eligible capital improvement projects.

1-25-02. Definitions: Eligible Capital Improvement Projects:

- A Eligible capital improvement projects include all city projects or portions of projects, including construction, renovation or remodeling expenses that are not specifically excluded. Costs excluded as ineligible for the program are:
- 1) Engineering, architect and other design and planning costs for capital projects, permits paid to another entity, building demolition costs, relocation costs of tenants, environmental testing or “indirect” cost charges, such as interest during construction, advertising, and legal fees,
 - 2) Project costs for which art is not eligible by statute, law or regulation,
 - 3) Major repair, renovation, and maintenance projects that would not be capitalized under the City’s fixed asset policy definition,
 - 4) Any projects or project cost components specifically excluded by Boise City Council.
- B. Eligible capital projects include capital improvement projects that are developed by other entities and leased back to Boise City.
- C. Capital projects that are developed and implemented cooperatively with other public or private entities are eligible projects. The City will encourage public art funding partnerships between Boise and other public and private entities with which the City cooperatively develops capital projects. Boise shall provide funding for public art equivalent to one percent (1%) of the City’s funding of the eligible project budget. The entity partners will be encouraged to provide one percent (1%) public arts funding for the portion of the eligible capital costs for which they are responsible. If the entity partner(s) chooses not to fund the public art associated with their portion of the project funding, the City Council may choose to contribute the funding to achieve one percent (1%) of the

total eligible project costs.

- D. All completed artworks commissioned or purchased through this program will be owned, insured, and maintained by the City of Boise.
- E. The “Percent for Public Art” program does not preclude funding or the acquisition or commission of other public art for municipal property through other sources or mechanisms, including contributions, donations or grants.

1-25-03. Project Management, Planning, Maintenance and Education.

A. Project Management.

- 1) The Boise City Department of Arts & History (“the Department”) shall designate a person or persons to be responsible, in consultation with the respective City Departments, for the artist selection process, accessioning, de-accessioning, maintenance and conservation for all works of art in the public art program under the direction of the Department, the Mayor, and the Boise City Council. The staff person may be a full-time City employee or a temporary contract employee.
- 2) Associated project management costs include but are not limited to the selection process, printing, postage, artist proposal fees, meetings, office supplies, overhead, transportation, and personnel.

B. Planning.

- 1) The Department shall prepare an annual report and plan of all upcoming and in-progress art projects in cooperation with Boise City department heads and shall submit it to the City Council. The plan will be coordinated with the budget planning process. Capital project eligibility will be evaluated and resolved in the budgeting and planning process.
- 2) All general fund Percent for Art allocations shall be pooled and the Department shall prioritize project opportunities based on criteria approved by City Council and incorporated into the administrative guidelines. The City Council shall approve project opportunities prior to implementation.
- 3) All enterprise funded Percent for Art allocations will be pooled within the fund and in the department that generated them (Public Works or Airport) and project opportunities will be prioritized by the relevant department and the Department of Arts & History based on the priorities agreed upon between the two. City Council will approve project opportunities prior to implementation.
- 4) The “Percent for Public Art” program shall be consistent with the City’s strategic plan, comprehensive plan, goals and purposes, zoning and subdivision ordinances, and allowed land uses.

C. Maintenance.

All works commissioned and purchased as part of the “Percent for Public Art” program shall be maintained in perpetuity, unless de-accessioned from the collection. This includes regular care such as, but not limited to, cleaning, re-surfacing, and replacement of parts as well as care in response to vandalism. The City will insure all works. The Department is responsible for the maintenance of the public art collection. Other City Departments may assist in the maintenance for public art located in facilities under their direction such as Boise Airport and Parks and Recreation.

D. Education.

Activities and collateral that support public awareness and understanding of Boise City’s public art collection include, but are not limited to, walking tours, printed materials, lectures, website development, and website maintenance.

1-25-04. General Requirements for Art.

- A. All works of public art will be located in a public place with public visibility and impact.
- B. A professional artist will be selected through a public selection process to consult, conceptualize, and/or design and fabricate an art component for the identified capital project.
- C. The Department shall adopt standards and guidelines for the development and selection of artists and projects. City Departments and relevant boards will be involved in the selection process. Boards and department heads will approve selection panel recommendations of proposed artist or artwork before presentation to the City Council.
- D. Works purchased through the “Percent for Public Art” program may be existing artwork or newly commissioned artwork.
- E. Works of art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it.
- F. If deemed appropriate by the Department and the germane City Department, “Percent for Public Art” funds for a capital improvement project may be used to create professional facilities for the exhibition of public art and the associated costs of changing exhibitions, facilities maintenance, professional curatorial, technical and preparator staff. If this option were utilized, the selection of a professional artist through a public selection process as set forth in section 1-25-04 B. above, would not be required. Instead the Department, in consultation with the germane City Department, would recommend an appropriate selection or bidding process for the facility’s design/fabrication, the method or choice of professional arts management of the changing exhibitions, and artist selection process. The City Council shall approve this option through review of the annual report/plan.

1-25-05. Source of Funds: “Percent for Public Art” program.

- A. **Public Art Component Budget.** During budget development or during interim budget processes related to individual capital projects, the public art budget for each Boise City capital improvement project shall be identified and transmitted to the City Council. Funds for the public art component will be appropriated from the fund within which the capital improvement project is budgeted.
- B. The public art component budget for each capital improvement project shall be calculated by multiplying one percent (1%) times the project's eligible costs. The budget for the public art component shall be calculated for the budgeted eligible capital improvement project costs at the time of project approval by the City Council. The City Council may modify the public art component budget if during planning or implementation of the project, the eligible capital project costs significantly vary from the budgeted costs at time of approval.
- C. The public art component budget for each project shall be considered during the review and approval process for capital projects. The public art component calculated in this section 1-25-05 A. shall be included in the approved City capital improvement project budget, unless the City Council chooses to modify the amount. Approval of the capital improvement project budget or of the capital improvement program by the City Council shall, by policy, include and entail approval of the public art component associated with the capital improvement project or capital improvement program, unless specifically modified by the City Council. As capital projects may require more than one year to implement, all unexpended project funds will be eligible to be re-budgeted each year, until project completion.
- D. **Associated Project Management, Maintenance and Other Costs.**
- 1) For each eligible capital improvement project, an additional amount to fund projected project management, maintenance and other associated implementation and operating costs ("associated costs") of the public art component, as defined in BCC 2-23-03, shall be identified during the City's budget development or interim budget processes. The total project management and other costs for each project shall not exceed four tenths of a percent (.4%) of the total cost of the eligible capital improvement project.
 - 2) The Department shall prepare a budget request for submission for consideration by the City Council within the two year budget process to appropriately address the maintenance needs of the City public art collection. On-going maintenance costs for public art, beyond that provided by the "associated costs" for new projects, shall be considered for funding within the two year budget as a base municipal cost. The "associated costs" approved for public art projects during a budget year shall not exceed the public arts project's budget for that budget period which is approved by City Council within the City's Two Year Operating and Capital Budget. The City Council may amend the associated project management, maintenance and other costs for public arts projects through the City's interim budget process.

- i) The “associated costs” shall be used for project management to plan and implement the project, for annually required maintenance of City-owned art, and for general administration costs related to arts projects, including but not limited to, costs related to the selection of art, siting, maintenance, de-accessioning, and community education as specified in section 1-25-03 above.
- ii) The “associated costs” for all proposed public art component project budgets will be identified and reviewed within the City’s budget development process and will compete for funding with other budget requests and priorities.

Section 3. That a summary of this ordinance, attached hereto as Exhibit “A”, be approved as to both form and content.

Section 4. This ordinance shall take effect and be in full force on its passage, approval and publication.

PASSED by the Council of the City of Boise, Idaho, this 14th day of December 2010.

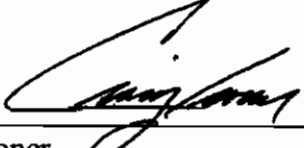
APPROVED by the Mayor of the City of Boise, Idaho this 14th day of December 2010.

APPROVED:



David H. Bieter
Mayor

ATTEST:



Craig Croner
Interim City Clerk

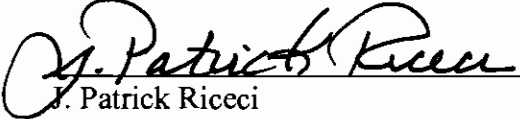


EXHIBIT A

**STATEMENT OF BOISE CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. 6799**

The undersigned, J. Patrick Riceci, in his capacity as Assistant City Attorney of the City of Boise City, Idaho, hereby certifies that he is a legal advisor of the City and has reviewed a copy of the attached Summary of Ordinance No. 6799 of the City of Boise City, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A (3).

DATED this 24th day of November, 2010.



J. Patrick Riceci
Assistant Boise City Attorney

**SUMMARY OF ORDINANCE NO. 6799
OF THE CITY OF BOISE CITY, IDAHO**

PUBLIC NOTICE IS HEREBY GIVEN that the City of Boise City, Idaho, adopted at its regular meeting of December 14th 2010, that Ordinance No. 6799 entitled:

AN ORDINANCE REPEALING ORDINANCE NO. 6042 (“PERCENT FOR PUBLIC ART”) AND ENACTING BOISE CITY CODE TITLE 1, CHAPTER 25 (“PERCENT FOR PUBLIC ART”); ADOPTING A POLICY OF THE CITY OF BOISE CITY PROVIDING THAT 1 PERCENT OF ELIGIBLE CAPITAL EXPENDITURES BE APPROPRIATED FOR ACQUISITION OF PUBLIC ART; PROVIDING DEFINITIONS REGARDING ELIGIBLE CAPITAL IMPROVEMENT PROJECTS; PROVIDING GENERAL REQUIREMENTS FOR PUBLIC ART; PROVIDING THAT UP TO .4 PERCENT OF ELIGIBLE CAPITAL IMPROVEMENT EXPENDITURES FOR CONSERVATION AND MAINTENANCE OF PUBLIC ART AND FOR PROJECT MANAGEMENT AND ASSOCIATED COSTS; REVISING THE PLANNING PROCEDURE FOR PUBLIC ART PROJECTS; PROVIDING FOR THE POOLING OF BOTH GENERAL FUND AND ENTERPRISE FUND PERCENT FOR ART FUNDS; PROVIDING THAT IN COORDINATION WITH THE DEPARTMENT OF ARTS & HISTORY OTHER CITY DEPARTMENTS MAY ASSIST IN THE MAINTENANCE OF

PUBLIC ART WITHIN THOSE DEPARTMENTS' FACILITIES; CORRECTING THE NAME OF THE DEPARTMENT OF ARTS & HISTORY; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

This ordinance repeals and re-enacts Ordinance No. 6042, commonly known as the One Percent for Art ordinance. The ordinance readopts as a policy of the City of Boise that one percent (1%) of eligible capital expenditures be appropriated by the City Council for the acquisition of public art. The ordinance defines "eligible capital improvement projects", certain general requirements for public art and provides that up to four tenths of one percent (0.4%) of eligible capital improvement expenditures be dedicated to the conservation and maintenance of public art and for project maintenance and associated costs.

The ordinance revises the current planning procedure for public arts projects and provides for the pooling of both general fund and enterprise fund percent for art funds. The ordinance provides that the Department of Arts & History may coordinate with other departments of the City to assist with the maintenance of public art within those other departments' facilities.

The ordinance corrects the name of the Department of Arts & History.

The effective date of the Ordinance is the date of its passage, approval and publication. A copy of the full text of the Ordinance is available at the Office of the City Clerk, 150 North Capitol Boulevard, in Boise, Idaho 83701. Examination may be requested in writing or in person during regular business hours of the Clerk's Office, from 8:00 a.m. until 5:00 p.m. pursuant to Section 50-901A (4), Idaho Code.

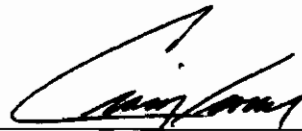
DATED this 14th day of December 2010.

City of Boise City, Idaho

ATTEST:



David H. Bieter
Mayor



City Clerk **Craig Croner**

