ORDINANCE NO. 1940

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, AMENDING THE GOLDEN MUNICIPAL CODE TO ADD NEW CHAPTERS 2.60 AND 2.64 ESTABLISHING THE ART IN PUBLIC PLACES PROGRAM, THE ART IN PUBLIC PLACES RESERVE ACCOUNT, AND THE PUBLIC ART COMMISSION

WHEREAS, the City of Golden desires to establish an Art in Public Places program, which will contributes to the quality and cultural identity of the Golden community; and

WHEREAS, the Art in Public Places program is inspired by a variety of goals including encouraging cultural expression, inspiring a sense of civic pride, enhancing the character of the Golden community, and supporting cultural tourism and economic development; and

WHEREAS, artwork enhances design development by providing an aesthetic balance to capital improvement projects and creating memorable spaces for residents, businesses and visitors; and

WHEREAS, the Art in Public Places Program will be partially funded through the City’s capital fund; and

WHEREAS, City Council desires to establish the Public Art Commission, which will be primarily, responsible for the implementation, execution, and management of the City’s Art in Public Places program.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. Title 2 of the Golden Municipal Code is amended to add a new chapter 2.60 regarding “Art in Public Places”, which shall read as follows:

ART IN PUBLIC PLACES

2.60.010 Purpose. The purpose of this chapter is to provide a means to fund the acquisition of artwork by the City for display in public places, to establish guidelines for selection of artwork for the City’s public art collection, to provide for the display of the City’s collection and to provide for the management, maintenance and repair of artwork in the City’s public art collection.

2.60.020 Definitions. As used in this chapter, unless the context otherwise requires, the following words or phrases shall have the meanings ascribed below:

(a) “Artwork” includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving and stained glass, but would not normally include landscaping, paving, architectural ornamentation or signs, unless such elements are an essential component of the artwork itself.

(b) “Commission” means the Public Art Commission created and established in Section 2.64.010 of this code.

(c) “Construction cost” means the actual cost of any construction project, including any contingency reserve, but excluding land acquisition costs, engineering and administrative costs, costs of fees and permits, and indirect costs, such as interest during construction, advertising and legal fees.
(d) "Construction project" means the construction, substantial renovation or addition to any public building, facility, park or other public improvement by the City or its agents, including, without limitation, all landscaping, parking areas and similar areas and facilities associated with such improvement, with an estimated total construction cost of fifty-thousand dollars or more. "Construction project" includes only those projects designed to create a permanent improvement and does not include projects that are primarily for the purpose of ordinary maintenance, repair or replacement. The term "construction project" does not include any improvements made by any special improvement district, and any other improvements exempted by the City Manager from the requirements of Section 2.60.040 of this chapter. If a question arises as to whether a construction project is subject to the provisions of this chapter, the City Manager shall make the final determination.

(e) "Public art" means any artwork displayed for two weeks or more in or on City-owned property in an area open to or viewable by the public, on the exterior of any City-owned facility, or on non-City property open to or viewable by the public, if the artwork is installed or financed, in whole or in part, with City funds or grants procured by the City, or if the artwork is owned by, donated to, or on loan to the City.

(f) "Reserve account" means the Art in Public Places Reserve Account established by this chapter.

2.60.030 Account established. There is hereby established a reserve account within the Sales & Use Tax Capital Fund, to be known as the "Art in Public Places Reserve Account." The funds set aside from construction projects pursuant to Section 2.60.040 of the code, and all funds received by the City for public art, whether donated, earned, or secured through grants or otherwise obtained by the City, shall be deposited in this account. City council may also fund the account in its discretion and subject to appropriation. The funds in this account shall be expended only for acquisition, installation, maintenance, repair or removal of public art and for expenses incurred by the City in the administration of this chapter and chapter 2.64 of this code.

2.60.040 Funds for public art. (a) The City shall cause an amount equal to one-percent (1%) of the construction cost of each construction project for which the total estimated construction cost is fifty-thousand dollars ($50,000) or more to be deposited in the City’s Art in Public Places Reserve Account, and that amount shall be included by the City in all estimates of necessary expenditures and all requests for authorizations or appropriations for such construction projects. If any project is partially funded from any source that precludes art as an object of expenditure of funds, then this section shall apply only to the amount of funds not so restricted. All funds set aside for artwork shall be paid into the reserve account. Alternately, the City may include public art as part of the overall design of a City construction project pursuant to section 2.60.050 of the code.

(b) Funds in the Art in Public Places Reserve Account may be expended as directed by the Public Art Commission consistent with the terms of this chapter and chapter 2.64 of this code, the City’s policies regarding Art in Public Places, and the City’s purchasing policy.

2.60.050 Site-Integrated Public Art. Artistic elements incorporated into the original designs of buildings and public spaces create opportunities to enhance the aesthetic character of public spaces through site-integrated public art. In lieu of the one-percent (1%) deposit in the Art in Public Places Reserve Account provided for in section 2.60.040 of the code, the City may choose to include site-integrated public art as a part of the overall design and installation of a City construction project. The value of the public art provided must be equal to or greater than one-percent (1%) of the total estimated construction cost of the project. Artwork included as part of a City construction project design must comply with all applicable ordinances, rules, and regulations, and with the City’s policies regarding Art in
Public Places. All proposals for site-integrated public art shall be subject to review and approval by the Public Art Commission.

2.60.060 Public art selection criteria. A proposal for public art may be made to the Public Art Commission by any organization, club or business, any City official or employee, or any individual member of the public, by filing an application with the City Manager to be forwarded to the Public Art Commission for review. The Public Art Commission shall review all artwork proposed for the Art in Public Places program for conformance with the following criteria and the purposes of this chapter:

(a) Conceptual compatibility of the design with the immediate environment of the site;
(b) Appropriateness of the design to the function of the site;
(c) Compatibility of the design and location with the architectural or historical character of the site;
(d) Creation of an internal sense of order and desirable environment for the community by the design and location of the artwork;
(e) Preservation and integration of natural features for the project;
(f) Appropriateness of the materials, textures, colors and design to the expression of the design concept;
(g) Representation of a broad variety of tastes within the community and the provision of a balanced inventory of Art in Public Places to ensure a variety of style, design and media throughout the community;
(h) Anticipated costs and labor to install, maintain, or repair the artwork;
(i) Compliance with all aspects of the City’s Art in Public Places Safety Policy; and
(j) Whether the proposed artwork will further the following goals of the City’s Art in Public Places program:

(1) Enrich the public environment for residents and visitors through the incorporation of the visual arts;
(2) Increase the livability and artistic richness of the Golden community;
(3) Enable the City to attain recognition on state and national levels as a leader in the visual arts;
(4) Increase public access to artwork and to promote understanding and awareness of the visual arts in the public environment;
(5) Make the mundane interesting, fun, playful or inspiring;
(6) Promote diversity and pluralism in public art and to reflect a wide range of multicultural expression; and
(7) Contribute to the economic vitality, quality of life, and civic pride of the Golden community.

2.60.070 Approval and Display of Public Art and Site Selection. All public art installed or relocated in the City after the effective date of this ordinance shall first be reviewed and approved by the Public Art Commission prior to installation or relocation.

(a) Artwork selected by the Public Art Commission for inclusion in the City’s public art collection pursuant to the provisions of this chapter may be placed in, on or about any City property, or on private property by agreement with the owner thereof if the artwork will be visible and exposed to the public on the private property. Placement of public art shall comply with the City’s policies applicable to Art in Public Places, and the name of the artist shall be identified on or near all public art.

(b) Public art owned by the City may also be loaned for exhibition elsewhere, upon
such terms and conditions recommended by the Public Art Commission, and subject to approval by the City Manager.

(c) City officials responsible for the design or construction of construction projects in the City shall make appropriate space available for the placement of public art, in consultation with the Public Art Commission. The Public Art Commission shall advise the department responsible for the particular construction project of the Commission’s decision regarding the design, implementation and placement of public art in connection with such project.

(d) Public art may be installed on privately owned property with a written agreement between the City and the property owner specifying the proprietary interests in the artwork. Any such agreement shall be subject to review and approval as to form by the city attorney before execution by the City, and shall ensure that:

(1) The installation of the public art will be done in a manner that will protect the artwork and the public; and
(2) The public art will be maintained in accordance with the City’s policies concerning Art in Public Places; and
(3) The property owner shall indemnify the city and provide adequate property insurance for the artwork.

(e) Installation, maintenance, alteration, refinishing and relocation of public art shall be done in consultation with the artist whenever feasible.

(f) No public art shall permanently be removed, altered or changed without the review and approval of the Public Art Commission; except that review and approval of the Public Art Commission shall not be required for temporary removal of public art by City personnel for maintenance or repair, or for temporary or permanent removal of public art that, in the sole discretion of the City Manager, poses a public health or safety hazard.

(g) The staff liaison to the Public Art Commission shall maintain a detailed record of all public art, including site drawings, photographs, designs, names of artists and names of architects whenever feasible, shall give appropriate recognition to the artists, and shall appropriately publicize and promote the city’s public art and Art in Public Places program.

(h) All other provisions of this chapter notwithstanding, the placement of public art shall be subject to the City Manager’s authority to issue and adopt rules, orders, and regulations as are reasonably necessary for the administration, protection and maintenance of buildings and property belonging to the city of Golden and any other public buildings and property under the control, management or supervision of the City Manager, as provided in section 2.08.110 of this Code.

2.60.080 Ownership. All artwork donated to the City and all artwork purchased or acquired by the City at the direction of the Public Art Commission and using City funds shall be titled in the name of, and owned by, the City.

2.60.090 Exemptions. The following artwork is exempt from the provisions of this chapter:

(a) All artwork in the collections of, or on display at, or under the auspices of, the Golden History Museums; and
(b) All artwork on display in private City offices or other areas of City-owned facilities that are not generally accessible to or frequented by the public.

Section 2. Title 2 of the Golden Municipal Code is amended to add a new chapter 2.64 establishing the “Public Art Commission”, which shall read as follows:

PUBLIC ART COMMISSION
2.64.070 Adoption of policies and guidelines. (a) The Public Art Commission shall adopt policies and guidelines:

1. To identify suitable art objects for City buildings or property;
2. To facilitate the preservation of art objects and artifacts that may be displayed in public places;
3. To prescribe a method or methods for competitive selection of art objects for display;
4. To prescribe procedures for the selection, acquisition, placement, display, rotation and deaccessioning of public art;
5. To address safety and other precautions with respect to the selection, location and maintenance of public art; and
6. To address any other matter necessary for the administration of chapters 2.60 and 2.64 of this code and the City’s Art in Public Places program.

(b) All policies adopted by the Public Art Commission, and any amendments thereto, are subject to review and approval by City Council, and shall be effective upon City Council’s adoption of same by resolution.

Section 3. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Golden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 6. This ordinance is deemed necessary for the protection of health, welfare and safety of the community.

Introduced, read, passed and ordered published the 9th day of May, 2013.

Passed and adopted upon second reading and ordered published the 23rd day of May, 2013.

[Signature]
Marjorie N. Sloan
Mayor
2.64.010 Creation and appointment. (a) There is hereby created a Public Art Commission for the City, which shall be comprised of seven voting members, as follows:

(1) Five (5) of the members shall be residents of the City and appointed by the Mayor, with approval by a majority of the City Council;

(2) One (1) member shall be the Executive Director of the Foothills Art Center or their designee, with approval by a majority of City Council.

(3) One (1) member shall be selected by the board of directors of the Golden Civic Foundation, with approval by a majority of City Council.

(b) All members shall serve without compensation.

(c) Members of the Public Art Commission shall not hold any other municipal office or position on a standing municipal board, commission or authority, except that members of the Commission may serve on other temporary committees, task forces, or similar ad hoc groups.

(d) The city manager shall appoint a staff liaison to provide administrative support and assistance to the Commission as necessary to accomplish the duties of the Commission and the purposes of this chapter.

2.64.020 Terms. The five resident members and the one member selected by the Golden Civic Foundation shall serve terms of four years, and shall be eligible for reappointment for no more than two consecutive terms. Upon initial appointment, three of these members shall be randomly selected to serve initial terms of two years. The term of the executive director of the Foothills Art Center or their designee shall be ex officio, subject to approval by City Council.

2.64.030 Authority to adopt procedures. The Public Art Commission shall have the authority to adopt rules of procedure governing its proceedings consistent with applicable requirements and provisions of the Golden Charter and Municipal Code, and shall conduct all of its proceedings in accordance with such rules. The rules of procedure shall be posted and available to the public.

2.64.040 Meetings. The Rules of Procedure shall include the time and place of regularly scheduled meetings, which shall be open to the public. A record of all meetings will be kept at City Hall. The Commission may call special meetings, as it deems necessary, subject to public notice within reasonable time before the meetings. Such meetings shall be open to the public. In the event there is no business pending before the Commission, the regular monthly meeting may be cancelled.

2.64.050 Officers. The Public Art Commission shall choose one of its members to act as chair and one member to serve as vice-chair. The chair shall preside at all meetings of the board, except that in his/her absence, the vice-chair shall preside. The City shall provide a secretary to the board.

2.64.060 Duties of the Commission. (a) The primary purposes of the Public Art Commission shall be to promote, select, acquire, and maintain public art in fulfillment of the goals of the City’s Art in Public Places program, to administer the provisions of this chapter and chapter 2.60 of this code pertaining to the City’s Art in Public Places program, and to adopt policies and guidelines necessary for such administration.

(b) The Commission shall prepare and submit, not later than March of each year, a report to City Council of its activities and expenditures for the prior year.

(c) The Commission shall prepare and submit an annual plan to City Council describing its goals and plans for the City’s Art in Public Places program for the coming year, and amend such plan as necessary.
Ordinance No. 1940

APPROVED AS TO FORM:

David S Williamson
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular business meeting of the City Council of said city, held on the 9th day of May, 2013, and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held on the 23rd day of May, 2013, and the said proposed ordinance was read on second reading. The ordinance was passed by the City Council and ordered published in the aforesaid newspaper, as the law directs on the 23rd day of May, 2013.

Witness my hand and official seal of the City of Golden, Colorado, this 24th day of May, 2013.

ATTEST: 

Susan M. Brooks, MMC, City Clerk of the City of Golden, Colorado