

ORDINANCE NO. 393 -2007

Amending Chapter 4.98 Kitsap County Code, "Establishing A 1% For Art Program."

**BE IT ORDAINED:**

Section 1. Kitsap County Code Chapter 4.98, "Establishing a 1% for Art Program and Adding a New Chapter to the Kitsap County Code", adopted by Ordinance 259-2001 is amended to read as follows:

NEW SECTION. Section 1. A new Chapter 4.98, "1% for Art Program", is added to Title 4 Kitsap County Code, to read as follows:

<b>Sections</b>	
<b>4.98.010</b>	<b>Short title</b>
<b>4.98.020</b>	<b>Purpose</b>
<b>4.98.030</b>	<b>Definitions</b>
<b>4.98.040</b>	<b>Arts board established</b>
<b>4.98.050</b>	<b>Powers and duties of arts board</b>
<b>4.98.060</b>	<b>Funds for acquisition of art</b>
<b>4.98.070</b>	<b>Standards and procedures for selection of art</b>
<b>4.98.080</b>	<b>Acquisition of art through gifts</b>
<b>4.98.090</b>	<b>Administrative responsibilities</b>
<b>4.98.100</b>	<b>Applicability</b>

**Section 4.98.010 Short Title**

This ordinance may be cited as the "1% for Art Program Ordinance."

**Section 4.98.020 Purpose**

The intent of this ordinance is to promote and encourage private and public programs to further the development and public awareness of and interest in the arts and cultural properties, to increase employment opportunities in the arts, and to encourage the integration of art into the architecture of county structures.

**Section 4.98.030 Definitions**

A. "Arts Board" means the arts board established by this ordinance.

B. "Capital Improvements Program" means any publicly accessible and visible capital project, projects, or portions of project(s) paid for wholly or in part by the County from a source of funding that does not preclude expenditures for art, including construction or remodeling of any building, structure, park, sidewalk, or parking facility, or any portion thereof, within Kitsap County.

C. "Administrator" means the Kitsap County Administrator appointed by the board of commissioners to implement its policies.

D. "Work of Art" means any work of visual art, including but not limited to a drawing, tapestry, weaving, painting, mural, fresco, sculpture, mosaic, photograph, work of calligraphy, work of graphic art including a collage, assemblage, or any combination of the foregoing art media. Work of Art may also include artist made or designed building parts including, but not limited to floor, wall or ceiling treatments, railings, corbels, lintels, beams, benches, or other components that are structural or functional elements of a building, structure, park or other facility. Work of Art may also include an area or space specifically designed, constructed and managed as a display area for other works of art.

E. "County Owned Facilities" for the purposes of this ordinance means publicly accessible facilities owned and operated by Kitsap County; this may include buildings, parks, public spaces or public works, which reside physically or are visually accessible to the general public.

F. "1% for the Arts Common Fund" means the common pool for non-expended funds that are generated through this chapter.

G. "Public Site" means any property owned by Kitsap County or any property owned by any public agency or municipality within the county which executes an interlocal agreement with the county to place on their property a work of art funded in whole or in part by the 1% for Art Program Ordinance.

#### **Section 4.98.040 Arts board established**

A. The arts board is established. It shall consist of nine members appointed by the Board of Commissioners, three selected by each commissioner. The term of each member shall be two years. Members may serve no more than two consecutive terms. Members must live within the district they represent at the time they are appointed.

B. Members of the arts board shall be broadly representative of all fields of the arts including architecture and design. They shall include persons who are widely known for their professional competence and experience in the arts and laypersons knowledgeable in the arts.

C. Conflict of Interest. An arts board member having a financial interest in the outcome of any policy, decision, or determination before the arts board on which he or she serves shall, as soon as possible after such interest becomes apparent, disclose to each of the other members voting on the matter the nature of his or her financial interest in the issue, and shall be disqualified from participating in any debate, decision or vote relating to that issue.

#### **Section 4.98.050 Powers and duties of arts board**

The arts board shall promote and encourage private and public programs to further the development and public awareness of and interest in the arts and cultural properties. In carrying out its duties and powers, the arts board:

A. Shall make recommendations to the board of commissioners on the acquisition of works of art for public sites.

B. Shall recommend an artist or a work of art to the board of commissioners for any work of art or artist to be funded by the Capital Improvements Program as provided for in Section 4.98.060(A).

C. Shall recommend the public site for the display of any work of art funded by any 1% for Art Program grant.

D. Shall establish criteria for the selection of any artist or work of art.

E. Shall advise the board of commissioners on the proposed removal, relocation or alteration of any public arts facility or works of art in the possession of Kitsap County.

F. Shall make recommendations to the board of commissioners on any arts program to be supported by the board of commissioners.

G. May seek private monetary donations to the 1% for Arts Program and advise the board of commissioners regarding additional sources of public funds for this program.

H. Shall establish a system of active coordination with the County Capital Improvement Program and other building activities to ensure that works of art are properly integrated into the built environment.

I. Shall serve as an advisory board for such county arts or cultural properties and programs as directed by the board of commissioners.

**Section 4.98.060 Funds for acquisition of art**

A. Projects in the capital improvement program shall include an amount for works of art equal to one percent of the total bid amount of the lowest responsive bid for the project. If a bond election ordinance, a bond ordinance authorizing revenue bonds, or other applicable laws or regulations, or an official interpretation by the board of commissioners or another governmental entity regarding allowable uses of funds which will be used for the project precludes art as an expenditure of funds, the amount of funds required for works of art shall be appropriated from a source of funds that does not preclude art as an expenditure of such funds.

B. A 1% for Art Common Fund is established. If the 1% amount authorized for a given project under the 1% for Art Program is not expended, or if a surplus is available due to the work of art costing less than 1% of the total project cost, then the non-expended amount shall be deposited into the 1% for Art Common Fund for use on projects recommended by the arts board and approved by the board of commissioners.

C. Funds generated as described in Section 4.98.060(A) above shall be budgeted as part of the capital improvements program budget. Additional private or public contributions and appropriations for works of art may be added to these funds and shall be deposited in the 1% for Art Common Fund. At the request of the donor, such contributions may be earmarked for particular projects.

D. No more than ten percent of the total amount budgeted for works of art may be expended for the administrative costs of the program.

**Section 4.98.070 Standards and procedures for selection of art**

A. The work of art may be an integral part of a structure, attached to a structure or detached from the structure or within or outside of it. It may also be located on Kitsap County land where there are not structures.

B. Any work of art that is chosen must comply with the following standards in addition to any guidelines established by the board of commissioners.

1. The work of art must be located in a public place with public visibility and impact.
2. The work of art shall have permanence at least equal to the lifetime of the project and shall be likely to remain a thing of value for this time period.
3. The work of art shall enhance the environment of the county.

C. The arts board shall recommend an artist or a work of art to the board of commissioners for each capital improvements project for which a work of art is to be chosen. The arts board may recommend purchasing a completed work of art, commissioning a work of art, or holding a competition as the appropriate mode of selection. The arts board shall consult with the user agency and the project architect (if any) and involve them in the selection process in the manner that appears most feasible. The board of commissioners shall accept or reject the recommendation of the arts board. If the board of commissioners rejects the recommendation, the arts board shall make another recommendation in accordance with the standards and procedures outlined in this chapter.

D. The arts board shall make its recommendations in a timely manner in accordance with the project schedule and timetable provided by the board of commissioners. The arts board and the board of commissioners may agree in writing to an extension of the time period. If the board of commissioners rejects the arts board's recommendation, the time period shall be extended, if necessary, for a period of time to be established by the board of commissioners. If the arts board fails to make a recommendation within the timetable established by the board of commissioners, including any extensions, the board of commissioners may choose an artist or work of art without receiving a recommendation from the arts board.

**Section 4.98.080 Acquisition of art through gifts**

In accordance with the following procedures, the county may accept gifts of works of art for display in or on property owned or occupied by the county:

A. Before accepting a gift of a work of art the board of commissioners will consult with the head of the county department or departments responsible for the premises where such work of art will be displayed and shall also obtain from the arts board, or a duly designated committee, its recommendation as to whether such gift of work of art should be accepted.

B. No gift shall be accepted which will require substantial expenditures for protection from theft or damage, or for maintenance or operation.

C. Any gift accepted must be offered to the county unconditionally, except that the donor may impose any or all of the following conditions:

1. Specify the location where the work of art shall be displayed and /or specify reasonable conditions for the display of such work of art;
2. Specify reasonable conditions as to the care and protection of the work of art, provided such conditions do not require the expenditure of substantial funds in order to comply with them; and
3. Specify that a sign or placard be placed near the work of art identifying the donor and/or the person or persons or event which such work of art commemorates, or in whose memory such work was donated.

D. The board of commissioners shall accept a gift of a work of art by passing a resolution which includes issuing a certificate of acceptance to the donor and is filed with the auditor.

**Section 4.98.090 Administrative Responsibilities.**

A. The county administrator shall recommend adequate staffing levels and administrative support for the arts board to carry out its duties.

B. The arts board shall oversee the conservation and maintenance of any works of art which are purchased with 1% for Art Common Funds. The arts board shall prepare an annual report for submittal to the county administrator on the condition and maintenance requirements of all works of art purchased with 1% for Art Common Funds.

**Section 4.98.100 Applicability**

This ordinance shall not amend any bond questions submitted to the voters or any bond ordinance authorizing revenue bonds.

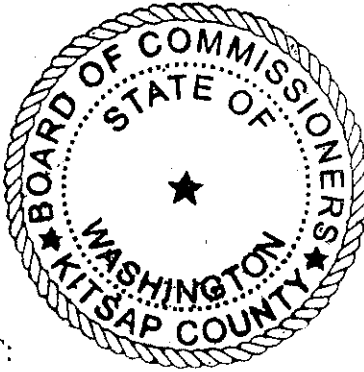
Severability. If any section, subsection, sentence, clause, word or phase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, words, or phrases be held unconstitutional or otherwise invalid.

Effective Date. This ordinance shall take effect immediately.

ENACTED this 31<sup>th</sup> day of August, 2007.

**BOARD OF COUNTY COMMISSIONERS**

**KITSAP COUNTY, WASHINGTON**



*J. W. Brown*  
JOSH BROWN, Chair

*Jan Angel*  
JAN ANGEL, Commissioner

*Stephen Bauer*  
STEPHEN BAUER, Commissioner

ATTEST:

*Opal Robertson*  
Opal Robertson, Clerk of the Board