

ORDINANCE

An Ordinance to create Section 11.270 Public Arts Permit.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 11.270 is created to read as follows:

“11.270 Public Arts Permit

1. **Applicability and Intent.** The City of Manitowoc recognizes the value of public art in promoting civic pride, attracting visitors, developing vibrant spaces within the City and showcasing the City’s culture and history. The City seeks to encourage the installation and maintenance of high-quality public artwork by establishing regulations for the location, design and maintenance of temporary and permanent artworks throughout the City.
2. **Definitions.** Except where specifically identified below, the definitions identified in Manitowoc Municipal Code Section 15.030 are incorporated as if fully set forth.

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.

Public Art shall mean 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.

3. **Public Arts Permit Required.** No person shall install, construct or cause to be installed or constructed, public art within the City of Manitowoc without first applying for and obtaining a Public Arts Permit.
4. **Public Art Review Criteria**
 - a. A request for a Public Arts Permit may be made to the Director of Community Development by any organization, club, business, city official or employee, or any individual member of the public, by filing an application with the Director of Community Development who shall review all proposals for conformance with the following criteria:
 - b. **Murals and Similar Art**
 - i. Must be larger than 100 square feet;
 - ii. The surface sought to be painted must be structurally stable;
 - iii. Must be fully funded. Such funding may be private, public, or through a public/private partnership;
 - iv. Must be conceptually compatible with the immediate environment of the site and with the architectural or historical character of the site;
 - v. The materials, textures, colors and design must be appropriate to the expression of the design concept;
 - vi. Must further the following City goals:
 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 community;
 3. Increase public access to the arts;
 4. Promote diversity in public art and reflect a wide range of cultural expression;
 - vii. The owner of property on which the mural is to be painted shall commit to keep the mural unchanged and otherwise maintained for at least five years, and commit that an anti-graffiti coating will be applied to the mural. Such commitment shall be indicated on an Easement which shall be recorded with the Manitowoc County Register of Deeds;
 - viii. Artistic Considerations include but are not limited to:

1. Demonstrated strength of concept, execution and originality;
2. Scale is appropriate to surroundings;
3. Content will be judged first on community-wide relevance, historic value and artistic merit. Content exhibiting short-term relevance, including political campaigning or most forms of advertising, will not be considered. Advertising specific to the history or community importance of the building where the mural is proposed, which meets the above-stated criteria may be considered.

c. **Temporary Art Banners and Similar Art**

- i. Must be larger than 100 square feet;
- ii. Must be fully funded. Such funding may be private, public, or through a public/private partnership;
- iii. Must be conceptually compatible with the immediate environment of the site and with the architectural or historical character of the site;
- iv. The materials, textures, colors and design must be appropriate to the expression of the design concept;
- v. Must further the following City goals:
 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 community;
 3. Increase public access to the arts;
 4. Promote diversity in public art and reflect a wide range of cultural expression;
- vi. The owner of the property on which the temporary art banner is to be located shall ensure the banner is maintained in a safe, presentable, and sound structural condition at all times. The Building Inspector shall cause to be removed any deteriorated or dilapidated banners.

d. **Sculptures, Monuments, Fountains, and Similar Art**

- i. Must be fully funded. Such funding may be private, public, or through a public/private partnership;
- ii. Must be conceptually compatible with the immediate environment of the site and with the architectural or historical character of the site;
- iii. The materials, textures, colors and design must be appropriate to the expression of the design concept;
- iv. Must further the following City goals:
 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 community;
 3. Increase public access to the arts;
 4. Promote diversity in public art and reflect a wide range of cultural expression;
- v. The owner of property (excluding City property) on which the public art is to be located shall commit to keep the art unchanged and otherwise maintained for at least five years. Such commitment shall be indicated on an Easement which shall be recorded with the Manitowoc County Register of Deeds.

5. **Process**

- a. Submit application and project proposal to City of Manitowoc Director of Community Development.
- b. Application is reviewed for compliance by the Public Art Committee made up of representatives from the Community Development Department, Public Infrastructure Department, Rahr West Museum, City Attorney's Office, and Life Safety Department.
- c. Building Owner provides notarized Public Art Easement Agreement to Director of Community Development.
- d. Artist agrees in writing to terms of Public Art Easement Agreement.
- e. Applicant notifies Director of Community Development when public art installation is complete and provides City with digital images of completed work.

6. **Public Art Easement Conditions.** Each Public Art Easement Agreement shall contain at least the following conditions:

- a. Duration of agreement shall be not less than five years;
 - b. Termination shall be allowed by either party after the initial five-year term;
 - c. Termination shall be allowed within the initial five-year term upon request of the building/ property owner if for the following reasons:
 - i. Required as a condition of sale or refinance of property;
 - ii. The property will be substantially remodeled or altered in a way that precludes continuance of the public artwork;
 - iii. Circumstances materially change such that continuation of the public artwork impedes the reasonable use and enjoyment of the property.
 - d. City may terminate the easement at any time.
 - e. Grantor of easement, or other approved person, is identified as responsible for maintaining the public artwork and penalties for failure to maintain are provided.
7. **Penalties.** Any public art erected or installed in violation of this section shall subject the property owner to a forfeiture of not less than \$50 nor more than \$1000. Upon notice or observation of noncompliant public art, the Director of Community Development shall issue written notice to the property owner to immediately remove the public art at issue. If the property owner fails to comply with the removal order, the City shall remove or cause to remove the public artwork at the property owner's expense.
- Any public art erected or installed on public property shall be removed by the City. Such art shall be stored by the City for 30 calendar days. Thereafter, if the artwork is unclaimed, the City shall dispose of such art as it deems appropriate. The City is not responsible for damage or loss arising out of the City's removal activities. Any costs incurred by the City for removal and storage of noncompliant public artworks shall be the responsible of the artist or person claiming ownership of such artwork."

Section 2. The bond schedule for violations of 11.270 shall be:

1 st Offense	\$250 + costs
2 nd Offense	\$400 + costs
3 rd Offense	\$1000 + costs

Section 3. This ordinance shall take effect the day after publication.

INTRODUCED _____ ADOPTED _____

 Justin M. Nickels, Mayor

Fiscal Impact: Minimal. Ordinance codifies existing process. Any additional costs will be offset by assessment or citation.
Funding Source: Respective expense and revenue line items in 2021 and future budgets.
Finance Director Approval: SMA
Approved as to form: EMM

This resolution was drafted by Elizabeth Majerus, Assistant City Attorney, and Adam Tegen, Community Development Director.