

ORDINANCE NO. 2925

AN ORDINANCE AMENDING SECTIONS 1.40.020, 1.40.050 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO PROVIDE FOR CLARIFICATION OF ELIGIBLE CAPITAL IMPROVEMENT PROJECT AND CLARIFY WHEN THE PUBLIC ART AMOUNT IS DETERMINED; PROVIDING FOR SAVINGS AND SEVERABILITY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

Section 1

That Section 1.40.020, Coeur d'Alene Municipal Code, be and the same is hereby amended to read as follows:

1.40.020 **Definitions:**

A. Capital Improvement Project: "Project" means all capital municipal construction or improvement projects or portions of projects, paid for wholly or in part by the City, including construction, renovation or remodel of any public park, eligible street projects, building, parking facility or any portion thereof within the City limits;

The following shall not be deemed Capital Improvement Projects: maintenance and operation enhancements, equipment, studies or designs which do not result in construction of a physical structure, land acquisition, landscaping, change orders and other similar items.

B. Eligible Capital Improvement Projects:

1. Those capital improvement projects which are developed privately and leased back to the City of Coeur d'Alene.

2. Any capital improvement project paid for wholly or in part by the City of Coeur d'Alene to construct or remodel any municipal building, structure, street, or street overlay where the cost of construction the or remodeling is in excess of Twenty-five Thousand and No/100 Dollars (\$25,000.00)

3. Eligible Capital Improvement Projects do not include streets, sidewalks, curbs, alleys, or right-of-way improvements if the same are part of and funded by a local improvement district.

4. Subsurface improvements, such as storm sewers; sanitary sewers; and water lines, including fire hydrants and other appurtenances, are exempted as are projects undertaken before the effective date of this ordinance.

5. In the event bonds are used to fund capital improvement projects, the capital improvement project shall be an eligible capital improvement project if so approved by:

- a. The bond election ordinance; or
- b. The bond ordinance authorizing revenue bonds; or
- c. Other appropriate laws or regulations; or
- d. An official interpretation by another government entity regarding reliable use for funds which the agency is providing for the project and which includes art as an expenditure of funds.

6. Nothing contained herein shall preclude funding the acquisition of public art for municipal property in other ways. The City encourages matching funds whenever possible.

Section 2

That Section 1.40.050, Coeur d'Alene Municipal Code, be and the same is hereby amended to read as follows:

1.40.050 Source of Funds:

A. From each eligible capital improvement project, the City council shall place in the public art account an amount equal to one and thirty-three hundredths percent (1.33%) of the project's capitalized costs to the City regardless of whether the project is completed. The City's contributions to the public art account pursuant to this chapter shall be funded from the City's current expense fund.

B. Of the one and thirty-three hundredths percent (1.33%) from each eligible capital improvement project allocated to the public art account;

1. No less than one percent (1%) of the eligible capital improvement project costs shall be allocated toward such public art pieces.

2. No more than thirty-three hundredths percent (.33%) of the eligible capital improvement projects costs shall be used for administrative costs including but not limited to actual acquisition siting, costs of selection of public art, and maintenance of public art.

C. In computing the amount to place in the public art account, the project's capitalized costs to the City shall include:

1. The Public Art amount shall be determined at the time of the project budget approval and shall be based on estimated design and construction costs.

2. In computing the amount to place in the public art account, the project's capitalized costs to the City

shall not include any portion of the project's cost which is not funded by the City unless it meets the conditions of 1.40.020.

Section 3

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4

Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

Section 5

The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

