

DRAFT  
9/3/19

ORDINANCE NO. 1478

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 2: MAYOR, COUNCIL, AND APPOINTED BOARDS AND COMMISSIONS, BY CREATING NEW ARTICLE 2-9: PUBLIC ART COMMISSION; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, public art is a rapidly growing facet of municipal development; and

WHEREAS, on October 15, 2018, a presentation was made to the mayor and city council about public art and the need for a commission; and

WHEREAS, the mayor and city council determined there is a need for an art commission to focus on publicly viewable art, provide funding mechanisms for public art and create policies and a framework for the implementation of a public art program; and

WHEREAS, on December 4, 2018, council directed staff to create a commission and on June 4, 2019, staff presented council with an update on the progress of the commission concept; and

WHEREAS, a work session on September 3, 2019 and a public hearing on September 17, 2019 were held to discuss the proposed art commission amendments to the city code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I                      IN GENERAL

The Apache Junction City Code, Volume I, Chapter 2: Mayor, Council, and Appointed Boards and Commissions, is hereby amended by creating new Article 2-9: Public Art Commission, in its entirety, to read as follows:

ARTICLE 2-9: PUBLIC ART COMMISSION

Section

<u>2-9-1</u>	Creation
<u>2-9-2</u>	Membership and Terms of Office
<u>2-9-3</u>	Duties
<u>2-9-4</u>	Officers
<u>2-9-5</u>	Meetings
<u>2-9-6</u>	Vacancies

<u>2-9-7</u>	Removal of members
<u>2-9-8</u>	Appropriateness of public art
<u>2-9-9</u>	Appeal Procedures

§ 2-9-1 CREATION

The Public Art Commission (hereinafter the "Art Commission") of the City of Apache Junction is hereby created.

§ 2-9-2 MEMBERSHIP AND TERMS OF OFFICE

(A) The Art Commission shall consist of 7 members who shall be appointed and approved by the mayor and city council.

(B) Membership shall be comprised as follows:

(1) Two (2) members: practicing artists (either resident or not) from the visual, public, and performing arts discipline;

(2) Two (2) members: a person (either resident or not) with an interest in visual, performing arts, architecture or urban design;

(3) One (1) member: practicing professional (either resident or not) from the field of design, or architecture. Should an eligible applicant not apply, an additional practicing artist shall fill this seat;

(4) One (1) member: a person (either resident or not) with an interest the history of Apache Junction, the State of Arizona, and/or the surrounding area; and

(5) One (1) member: a regional business representative from an organization that supports the arts and culture;

The Commission shall have, at a minimum, four Apache Junction city residents represented.

(C) The appointments shall be staggered so that the terms of no more than 3 members will expire in any given year. The initial appointments for 3 members shall be terms beginning on November 1, 2019, and expiring on October 31, 2022 and for 4 members with terms beginning on November 1, 2019 and expiring on October 31, 2023.

(D) Upon expiration of the initial terms of office, all new appointments shall be made by the mayor and council for full 3-year terms and all such terms shall expire on October 31<sup>st</sup> of each year, except that in the event of death or resignation of a member, the vacancy shall be filled by appointment by the mayor and council for the unexpired term. The term of all members shall extend until their successors are qualified.

(E) Art Commission members shall receive no salaries or other remuneration for their services in such capacity, and they shall not be entitled to personal expenses incurred by them in the discharge of their official duties, except to the extent that such expenses are authorized and approved in advance by the city manager or his or her designee.

#### § 2-9-3 DUTIES

It shall be the duty of the Art Commission to:

(A) Promote and encourage diverse citizen participation in public art;

(B) Assist corporations, commercial developments, and other private and governmental entities to incorporate public art;

(C) Recommend the operating and capital improvement program budgets for the public art program;

(D) Conduct the request for qualifications process for all public art installations;

(E) Review gifts of art offered to the city for artistic and cultural purposes;

(F) Provide information, recommendations and advise city council and staff on public art policies and initiatives relating to the city's mission and vision statements for all art;

(G1) Serve as recommending body on public art projects relating to art in public places; OR

(G2) Serve as the deciding body on public art projects relating to art in public places;

(H1) Serve as the deciding body on public art projects relating to art in private development; OR

(H2) Serve as the recommending body on public art projects relating to art in private development.

**[COUNCIL NEEDS TO CHOOSE WHICH AUTHORITY THEY WANT TO GRANT]**

#### § 2-9-4 OFFICERS

The Art Commission shall elect a chairperson and a vice chairperson from among its membership to serve for each year of their term. The vice chairperson shall preside at commission meetings in the absence of the chairperson.

§ 2-9-5 MEETINGS

The Art Commission shall establish a regular meeting day and time to be convened in the City of Apache Junction council chambers in compliance with the Arizona open meeting laws. Special meetings may be called as required.

§ 2-9-6 VACANCIES

Vacancies shall be filled by the council in accordance to Apache Junction City Code, Vol. I, § 2-9-2 for the unexpired term of the member affected.

§ 2-9-7 REMOVAL OF MEMBERS

Art Commission members shall serve at the pleasure of the council and may be removed by council without the necessity of notice or a public hearing. A member shall not be absent from Art Commission meetings for more than 3 consecutive times without a reasonable excuse. After the absence of 3 consecutive meetings, the senior staff person designated by the city manager to manage the commission shall formally recommend to council that the member be relieved of his or her duties.

§ 2-9-8 APPROPRIATENESS OF PUBLIC ART

Public art shall:

- (A) Infuse art, culture, and creativity through a community-engaged design which plays on the community's heritage;
- (B) Build on the community's built environment and distinctive attributes which will highlight the community and provide a sense of place;
- (C) Collaborate and create partners with the local government, arts groups, artists, and the community;
- (D) Create city and neighborhood landmarks which connects people to place;
- (E) Address cultural and environmental appropriateness;
- (F) Preserve archaeological, historical, and cultural resources;  
and
- (G) Consider design principles, materials, and maintenance.

§ 2-9-9 APPEAL PROCEDURES

[THIS SECTION IS ONLY NEEDED IF COUNCIL DECIDES THE ART COMMISSION HAS FINAL SAY ON ART MATTERS]

(A) *Legal standing for appeals.* Appeals may be made to the city council by persons affected by a decision of the Public Art Commission, by filing with the Development Services Department a notice of appeal and required complete application within 30 calendar days of the decision being communicated to the applicant.

(B) *Information required for filing an appeal:*

(1) Completed application form filed with the Development Services Department at 300 E. Superstition Blvd., Apache Junction, Arizona 85119, with date of appeal, name and contact information of person filing the appeal (i.e., appellant), and any individual representing the appellant.

(2) List of address to which notices must be sent inclusive of bidders on the project, or artists selected for the project.

(3) Description of requested decision being appealed.

(4) Date of the Commission's decision being appealed.

(5) Description of requested outcome.

(6) Description of grounds for appeal.

(7) Scaled and properly dimensioned public art and relevant property information.

(8) Payment of application fees shall be the same as an appeal to the Board of Adjustment and Appeals established in Apache Junction City Code, Vol. I, Chapter 4.

(9) Other items and materials required by the application form and/or necessary for the appeal.

(C) *Legal effect of appeal.* An appeal to the city council stays all proceedings in the matter appealed from.

(D) *Public hearing.* The city council shall fix a reasonable time to conduct a public hearing for the appeal. Public notice of the hearing shall be administered by the development services department and shall comply with the following:

(1) *Posting and mailed notice.* The notice of public hearing shall be posted by the applicant in accordance with the

instructions provided in the application materials and shall be mailed to any affected bidders or artists.

(2) *Website notice.* The notice shall be placed on the city's website and shall include the proposed hearing date, time, location and information regarding the case.

(F) *City council review.* The city council shall conduct a public hearing (i.e., *de novo*), and shall review all relevant information, including but not limited to the application, design, related project materials that were submitted by city staff and the appellant, the original decision being appealed, any additional materials as may be presented at the appeal hearing, any written correspondence submitted prior to or during the hearing.

(G) *City council's decision.* The city council may approve, reverse, or modify the decision of the Art Commission and may prescribe reasonable conditions in connection with its decision.

## SECTION II                      REPEALING ANY CONFLICTING PROVISIONS

All other ordinances and parts of ordinances in conflict with the provisions of this ordinance or in conflict with any part of the code adopted herein by reference are also hereby repealed.

## SECTION III                      PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance, or any part of the code adopted herein by reference is for any reason held to be invalid, pre-empted or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions thereof.

## SECTION IV                      ESTABLISHING AN EFFECTIVE DATE

The provisions of this ordinance shall take effect on November 1, 2019.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

SIGNED AND ATTESTED TO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
JEFF SERDY  
Mayor

ATTEST:

\_\_\_\_\_  
KATHLEEN CONNELLY  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
R. JOEL STERN  
City Attorney