

City of Ashland Public Arts Commission
Policies & Procedures

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City of Ashland Public Arts Commission Policies & Procedures

This document is meant to serve as a guideline for the Public Arts Commission for the acquisition, installation and maintenance of public art. It is a fluid document and is subject to change. It is not legally binding.

I. PURPOSE / MISSION STATEMENT

A. Purpose

Throughout history the arts have been instrumental in creating unique public places that have yielded physical, social and economic benefits for a community. The purpose of these policies and procedures is to provide a process for selecting, commissioning, placing, maintaining and deaccessioning art for the benefit of the City of Ashland and its residents. This document is subject to on-going review, revision, and clarification.

B. Intent

Public art projects may occur in, at, or near public buildings, parks, streets and open spaces. These may be sites which are under development or existing sites where construction is complete. It is the stated intent of the Ashland Public Art Commission (PAC) to encourage artists capable of creating works of art in public places in order to stimulate the vitality and economy of the City and enhance Ashland's standing as a regional leader in the arts. Thus, it is the goal of the PAC to expend the available funds on works of art and art projects of redeeming quality which advance public understanding of visual art and enhance the aesthetic quality of public places. This goal shall be realized through:

1. The commission of artists and works of art of the highest quality, which represent an expression of our time, contribute to a sense of the City's identity, and entail some measure of public significance;
2. The nurturing of the artistic vitality of the City of Ashland through the encouragement of local artistic endeavors;
3. The encouragement of public dialogue which increases public understanding and enjoyment of visual art, through appropriate public education forums and programs;
4. The encouragement of human interaction with public places, areas which provide for public ownership and accessibility, via the placement of works of art;
5. The commission of a broad range of works of art, reflective of the overall diversity of current works in the field of visual art;
6. The commission of works of art varying in style, scale, medium, form and intent representative of the local, regional, national, and international arts communities;
7. The encouragement of artists to reach creative solutions to the aesthetic problems they have been employed to solve;
8. The broad distribution of commissions among artists;
9. The broad geographic distribution of works of art in the City of Ashland;
10. The encouragement of true collaborative efforts between artists and architects, engineers, and landscape architects.

II. PROJECT IDENTIFICATION

Public art in Ashland can be (*but is not limited to*) sculptures, murals (*may be limited by City ordinance*), 2D art and/or multimedia. The Public Art Commission uses its Master Plan to identify and prioritize art projects for the community. The PAC routinely discusses the projects based on availability of site(s), budget, and community will.

III. SITE CRITERIA

Site Considerations

Upon the identification of a specific project, criteria for constraints on the placed artwork and the location of such art shall be determined in order to create the Call for Entries or Request for Proposals as to general considerations for determining the acceptability of public art installations in public spaces. All proposed public art projects must respect the primary function of the street and sidewalk, which is to enable the safe and orderly movement of pedestrians and vehicles. Streets also function as utility corridors, and access must be maintained for present and future services above and below ground. The City of Ashland Public Works Director is responsible for making decisions regarding the placement of public art on public streets and rights-of-way. Final site approval is made by the City Council or Parks Commission.

These guidelines outline the City of Ashland Engineering Services' general considerations for determining the acceptability of public art installations on City streets and sidewalks.

1. Traffic Considerations:

Public Art:

- a. Should not be unduly distracting to motorists
- b. Should not interfere with driver to driver, or driver to pedestrian sightings, and should therefore generally avoid corner clearance areas
- c. Should not unduly obstruct sight of the curb
- d. Should not obstruct sighting of signal/pedestrian heads, or of any traffic control device
- e. Should not interfere with the entrance or egress for transit buses
- f. Should not unduly disrupt curb use activities, i.e. loading zones, passenger zones
- g. Should not interfere with the opening of car doors

2. Pedestrian Considerations:

If public art is set in a walking surface:

- a. The leading vertical edge should not exceed 1/8" (to avoid trip hazard)
- b. Interior vertical edges should not exceed 1/4"
- c. Skid resistance properties should be equivalent to concrete sidewalks
- d. Depressions in the surface should not catch the spike heels of women's shoes
- e. Depression in the surface should not cause water to pool
- f. The art must support vehicle weight (*check on the vehicle weight requirements for CoA sidewalks*)
- g. Maintenance of adjacent elements of the streetscape, including the sidewalk itself, should not be interfered with.

Public Art should:

- h. Maintain a minimum sidewalk width on pedestrian volumes
- i. Minimize the potential for concealment and anti-social activities
- j. Maintain clearance from above, and below ground utilities

Public Art should avoid:

- k. Sharp edges, points, projections, or pinch-points which may cut, puncture or cause injury by impact, catch passing pedestrian clothing or entrap limbs
- l. Obstructing the function of benches, bus shelters and crosswalk ramps
- m. Utility access points or valves
- n. Obstructing pedestrian access to traffic signal push buttons
- o. Overhead parts which present a hazard to pedestrian traffic (i.e. as per minimum sign height)
- p. Unsafe climbing opportunities for children/adults

3. Electrical and Mechanical Considerations

- a. All electrical, mechanical and engineering components must be approved by Director of Public Works.
- b. All electrical elements and built up electrical devices must be certified by a professional engineer and upon completion, sealed as-built drawing may be required from the Director of Public Works
- c. Any connections to City street lighting circuit must be approved by the Director of Public Works
- e. No connection will be permitted to City Traffic signal circuits
- f. The junctions of components moving relative to one another must not create such hazards to people as pinch, crush or shear points.

IV. ARTIST / ARTWORK CRITERIA

A. CRITERIA FOR SELECTION OF ARTISTS AND/OR ARTWORK

- 1. Public art projects are open to any professional artist whose residency meets the guidelines set forth in the RFP/RFQ of which he or she is applying. Members of the project consultant's firm or anyone employed thereby, members of the selection panel, or employees of the City of Ashland shall be excluded from consideration.
- 2. Artists shall be selected on the basis of the appropriateness of their proposal to the particular project and its probability of successful completion, as indicated by the merit of their past work. In the case of the design team approach, an artist's willingness to fully participate in a collaborative process shall also be considered criteria for selection. All public art projects are budgeted for a pre-determined amount.
- 3. In making its selection, the selection panel shall bear in mind the purposes of the Public Art Commission, always aiming to achieve the highest aesthetic quality.

4. The selection panel shall, in making its selection, give due consideration to the appropriateness of the proposed design in terms of its scale, form, content and design with respect to its immediate and general, social and physical environment.

5. The selection panel shall also give due consideration to the proposed design its materials and construction for questions of durability, maintenance, public access, appropriateness, safety, and security.

6. The aforementioned criteria are the minimum aesthetic criteria on which the selection panel shall base its selection. Other criteria may be established by the Public Art Commission as dictated by a project's particular requirements. Any additional criteria shall be outlined in the selection panel's written instructions.

B. Selection Considerations

1. Criteria to be used when considering acquisition of artwork by either purchase or commission shall include, but not be limited to the following:

a. **Artistic quality.** Due consideration will be given by members of a selection Panel (see Section V below) and the PAC to the strength of the artist's concept, vision, and craftsmanship of the artwork.

b. **Context.** Consideration should be given to the architectural, historical, geographical and socio-cultural context of the site.

c. **Media.** All art forms including disciplines and media that are of specific duration and which survive only through documentation -after the life of the piece has ended.

d. **Permanence.** Due consideration shall be given to the structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.

e. **Public Safety.** Each work shall be evaluated to ensure that it does not present a hazard to public safety.

f. **Diversity.** The PAC shall actively seek artwork from artists of diverse racial, sexual, and cultural identities. The program shall also strive for diversity in style, scale, media and numbers of artists represented. There shall be encouragement of exploratory types of work as well as established art forms.

g. **Feasibility.** Proposals shall be evaluated relative to their feasibility and convincing evidence of the artist's ability to successfully complete the work as proposed. Factors to be considered include, but are not limited to: project budget, timeline, artist's experience, soundness of materials, city/county zoning/construction/design guidelines.

h. **Duplication.** Artists are required to warrant that artwork is unique and an edition of one or part of a limited edition.

C. Design Team Projects Considerations

In addition to the above Selection Criteria, additional criteria to be considered for selecting artists for design teams shall include but not be limited to the following:

1. Proven ability to work effectively in collaborative situations

2. Experience in architecture or landscape-based projects

3. Experience working with design professionals and integrating artistic concepts into construction documents

V. SELECTION PROCESS

Once a decision is made to add artwork to a building or site, consideration of the appropriate media (sculpture, landscape design, painting, etc.) should be developed along with criteria (environmental, structural, aesthetic, etc.) for the work. This might be very specific or left open for the artist to develop ideas. Once this phase is completed, the process for selecting an artist begins. There are two primary ways to select artists:

Request for Proposal (RFP) - Once a new project has been defined and the criteria set, requests for proposals are sent to artists regionally, nationally or globally or a combination of the three. These requests specify the information and format the artist must follow to submit his or her proposal. Generally, background information (resume, slides of earlier work, newspaper articles, etc.) is requested along with sketches and a written description of the project. *Cost range for selecting artists: \$500 - \$50,000* In addition to artist's fees, material costs, construction and installation costs, and housing when applicable, there are also expenses related to the selection process. Selection committee members are sometimes paid an honorarium for their efforts. If artists are selected nationally there may be airfare and hotel costs, and finalists (3-5) receive an honorarium for final proposals.

Invitational - The RFP process (above) is time consuming. In some cases, rather than reviewing a large number of proposals, a smaller number of artists can be invited to submit proposals. These artists can be located through a variety of means including review of current public works, contacting local arts organizations, speaking with local arts professionals and/or contacting national organizations. Although this is the same basic selection process as the RFP, it reduces the office work and time needed to interview a large number of artists. *Cost range for selecting artists: \$1,000 - \$75,000* Invitational projects often include artists with established careers, which usually means they come at a higher expense. Cost also reflects miscellaneous expenses like daily stipends for visiting finalists, hotel costs, airfare, etc.

A. Selection Panel

The selection panel will consist of art professionals and enthusiasts, neighborhood residents of proposed site, general community members, city administrators (e.g., public works department members), etc., and the makeup of the panel will be chosen on merit of value provided to the selection of each specific project.

B. Call for Entries

The commission will issue either an RFP (request for proposal) or an RFQ (request for qualifications) as the call for entries. The process for public awareness of each public art project shall be developed and tailored for that project. Methods for communication of the public art opportunity may be internet, print, public service announcements, and/or other appropriate channels to ensure the right population becomes aware of the

opportunity. Enough time must be planned for public awareness to allow for timely distribution of the call for entry message(s).

VI. FUNDING

Strategies

Success for any public art program is determined, in a large part, to the reliability and depth of funding. In Ashland, funding for the public art will be a blend of private and public funding systems. The mechanism to offer that sustained level of monetary resources will be a portfolio of sources which, in aggregate, will create viable and long-term resources to fund and proliferate public art in the Ashland community.

Some of the sources of funding for the Ashland Public Arts Commission may include:

1. A percentage of the City's budget that is spent on construction and renovation of public facilities, parks, and selected capital improvement projects in already "built environment" – streets, bridges, sidewalks, etc. It should also be considered in the price of purchased facilities and remodeling costs.
2. A line item in the City's budget approved by the City Council each year.
3. Initiatives to encourage private development projects to dedicate a percentage of overall budgets to public art.
4. Other contributions and gifts by corporations, foundations or private individuals.

Fiscal Management

The Ashland Public Arts Commission must have the authority to "pool" public arts funds to ensure it is directed toward projects with greatest visibility, or to projects with the greatest need for aesthetic design treatment. The direction of funds toward specific projects will result in a program that truly addresses both the public art and the larger goals of the community. The Public Arts Commission will accept funding from the variety of sources listed above. The fiduciary responsibility of the fund will be held by the City of Ashland.

VII. ARTIST CONTRACTS

The City of Ashland adheres to the ORS 279ABC which refers to all public contracting, goods and services, public improvements.

A contract is the formal agreement between the City of Ashland (COA) and the artist that outlines what is required and expected of each party. Contracts include all the information necessary for a clear understanding between the artist and the City. The contract will detail the commission amount, the artist's expected payment date, the party responsible for payment, and the procedure by which the artist's designs and maquette's will be reviewed and approved. Schedules for fabrication, transportation, and installation of the artwork and the responsibility of the City in maintaining the completed work will also be detailed. Though there will be a standard contract, flexibility within its structure will address the particulars of each project. In cases where artists are not familiar with contracts or binding agreements, city administrators will take time to walk the artist through the process ensuring that the requirements and expectations are clear, especially with regard to budgets and timetables.

A. Contract Terms

The following items will be added to the existing COA artist contracts or modified as follows:

B. Title and Ownership

The artist retains all rights and interest in the artwork except for rights of ownership and possession, which are passed to the City upon final acceptance. The artist warrants that the artwork is his/her sole and original creation, does not infringe upon any copyright or trademark. If the commissioned artwork is one of a multiple edition, the warranty will be modified to state this.

C. Reproduction Rights/Copyright

Artist retains all rights under the Copyright Act of 1976. However, the artist agrees not to make an exact duplicate or permit others to do so, except by written permission of the City; the artist also grants the City the irrevocable license to make two-dimensional reproductions for promotional purposes. In turn, the City agrees to give the artist the appropriate credit on all such promotional pieces. The credit will include the copyright symbol, name of artist, title of piece, and date of completion.

D. Warranties/Risk of Loss

Artist warrants that:

1. The artwork is made of quality materials;
2. The artwork is free of defects; and
3. The artwork will remain in good condition for 10 years under normal conditions with routine maintenance.

Additionally, the artist will remedy at his/her own expense any defect that occurs during the first year after installation. Finally, the artist warrants that the artwork will not contain any physical characteristics, which pose a hazard to public safety.

E. Fabrication and Installation

Because no two public art projects are exactly alike, the fabrication and installation stipulations required of artists in their contracts will be fairly general in nature. In terms of fabrication, the contract will stipulate reasonable durability and protection of materials, such as the use of anti-graffiti coatings on all works. The COA call for artists (RFP or RFQ) may outline certain material preferences for maintenance. Artists will supervise fabrication to assure quality control warranties of the contract. Fabrication requirements will include, at minimum, that:

1. Artworks be free from defect,
2. Artworks be made of high quality materials,
3. Craftsmanship be of high quality,
4. The artist, the COA, and the Stakeholders Committee review the fabrication of the work while in progress.

Installation responsibilities between the artist, the City, and the commissioning city agency will be detailed in contracts. For installation, the artist's methods will be approved

by the commissioning city agency and, if necessary, a state licensed engineer (particularly when artists are responsible for paying for the installation, such as with artist-community collaborations). The permanence of installation will be the issue of that approval, and specific requirements will be imposed, such as the use of safety hardware for hanging a suspended artwork. In addition, the following points will be considered:

1. Artist will approve site preparation before installation begins;
2. Artwork is to be installed when it is in no danger of being damaged by on-site construction work;
3. Standards and requirements set forth by the commissioning city agency for installation should be adhered to; and
4. The artist is responsible for loss or damage to artwork prior to its installation on city property.

F. Maintenance

The artist will submit maintenance requirements and guidelines for artwork to the City, developed in conjunction and cooperation with the COA and/or the commissioning city agency. In turn, the City will maintain the artwork and make decisions regarding repairs and restoration based on the maintenance guidelines submitted and in consultation with the artist when necessary (as per the Visual Artists Rights Act of 1990). The City agrees that it will not intentionally destroy, damage, alter, or modify artwork, and that the artist will be informed of any alteration to their artwork.

G. Risk Management

The artist shall provide and maintain policies of comprehensive general liability insurance in specified amounts to be determined by the City covering the period from which the art is being installed until the final acceptance by the City. The City and architect will be named as insured on all insurance policies. Assignment of the insurance responsibility prior to, during, and after installation is clarified in contracts. The more information the Office of Risk Management receives the more helpful it can be.

The following points should be considered:

1. To reduce the City's liability, fabrication will be done off-site whenever possible;
2. The engineer who signs off on the artist's drawings must verify that the final artwork has been built to specifications by inspecting the artwork after installation;
3. The artist is responsible for providing general liability insurance when the artwork is in transit, being delivered, and installed;
4. The artist is responsible for damage to the artwork until installation on city property; and

H. Documentation

The artist must attach a detailed description of the project with approved designs and drawings to the COA upon completion of the work. Under the present agreement, the City also stipulates that the artist is responsible for providing photo documentation. The City may wish to consider assuming the responsibility of photo documentation for

archival and public affairs purposes. (See section 10, Maintenance of Artworks, Conservation of Art Collection.)

I. De-accession

De-accessioning may be addressed by referring to the approved deaccessioning policy or by specifically addressing the issue directly in the contract. De-accessioning public art must consider the federal regulations set forth in the Visual Artists Rights Act of 1990.

J. Signage

The City will prepare and install a plaque at the site that identifies the artist, the title of artwork, copyright symbol, date of completion, size of the work, and medium.

K. Contract Enforcement

Performance requirements identify whether or not artists are in compliance with the stipulations of the contract. There must be set guidelines if an artist is late, over budget, or completes project ahead of schedule. These requirements may be tied to budget allocations. When the artist is under contract to the architect, the architect is responsible for the enforcement of that contract.

L. Termination or Cancellation of Contract

The agreement terminates if the underlying construction project is canceled. The City may also terminate the agreement if the artist willfully or negligently fails to fulfill any of the covenants, agreements, or stipulations of the agreement in a timely manner. If the artist is not able to produce an acceptable design in a timely manner, the body with which the artist has contracted (the architect or the COA) has the right to terminate the contract by giving written notice to the artist of its intent. The artist shall have thirty (30) days to cure the default by producing an acceptable design. If the artist defaults, all finished and unfinished drawings, sketches, photographs, models, and Marquette's of the work shall become the city's property in payment for damages caused to the City by the default on the part of the artist (project cost, overruns, etc.).

The City must pay the artist for any work completed up to the point of termination as stipulated by the payment schedule. The remaining monies revert back to the COA to finance the completion of the artwork when feasible. The City may withhold a reasonable amount of payment to the artist until the exact amount of any damages is determined.

Should an artist's contract be terminated by the City due to negligence or noncompliance on the part of the artist, the City has the right to consider that artist ineligible for any future art projects funded by the City.

M. Project Delays

If the artwork is ready on time, but the construction project is late, the commissioning city agency should pay all maintenance and storage costs for the artwork until it can be safely installed. When an artist completes a work before the completion date agreed upon in the contract, the artist will be responsible for storage charges. Should the construction project be completed on schedule, but, due to conditions beyond reasonable control, the

artist is late producing the finished artwork, it will not be considered a breach of contract, and the City will grant a reasonable extension of time to the artist. If the City incurs costs by such a delay, the contingency fee (see below) will be used to cover these charges.

N. Contingency Fee

10% of the total art project budget will be set aside as a contingency fee to cover unforeseen and unavoidable expenses associated with the artist's completion of the project. If the contingency fee is not adequate to cover such costs, a renegotiation of the budget terms of the contract and/or an option to terminate the contract can be considered. If the contingency fee is not used, it can be either added to the artist's design fee, set aside for emergency conservation of the artwork.

VIII. ACCEPTING GIFTS

A. Donations of Art

There has been in the past and expectedly in the future generosity within our community in the area of donations of artwork. It is inherently the jurisdiction and responsibility of the Ashland Public Arts Commission to accept, care, and manage these important contributions. As the curator of the City's public art, the Commission must be responsible for all art donations. All decisions to accept or decline public art shall rest with the PAC, as the designee of the City Council. The Public Arts Commission will use the same criteria for accepting and or declining donated art it uses for acquiring new pieces of art for Ashland (see Section IV A. and B).

Anyone wishing to donate existing artworks must contact the Public Arts Commission.

The process for donating existing artworks:

1. The Donor contacts the Commission to discuss the potential gift and provides photographs of the work, or the work itself.
2. The Commission then evaluates the potential usability of the artwork according to PAC Master Plan criteria and the criteria in Section IV, or a selection panel may be assembled to determine the suitability of a donated piece of art.
3. An up or down vote will then be conducted to decide acceptance and recorded in commission minutes as per normal procedure.
4. If PAC accepts the gift, the donor is acknowledged (if agreeable) in plaques and promotional materials.
5. If the artwork is declined, the donor will be notified with a formal "thank you" note with reasoning of the decision.

Anyone wishing to donate a newly commissioned piece of artwork will be handled as follows:

1. The donor contacts PAC and is invited to a meeting to discuss the idea for the commission and the process of commissioning.
2. The PAC evaluates the donator's concept and either accepts or rejects the concept for further process work, or a selection panel may be assembled to determine the suitability of a donated piece of art.

3. If accepted, the full spectrum of PAC criteria would still be followed with consideration of site, safety, etc.
4. The donor (or his/her selected artist) will then follow the process for implementing a piece of public art as articulated above.
5. If the donor is indeed commissioned to proceed with the project, full project fees will be deposited for the project with the City Fund to be drawn on by the artist to ensure interrupted completion of the artwork.
6. These funds should also include any monies required for plaques and/or other promotional material needed for commissioning.

B. Donations of Cash

Donations of cash will be an important resource to the work of creating public art in the Ashland community. As a policy, all cash donations will be welcomed—with or without stipulations—and deposited in the Public Art Commission Trust Fund.

All monies donated to the Ashland PAC will be held in the City's general fund without risk of redirection of funds for other City purpose.

All donors will be provided a receipts for their donations and monies will be accounted for using generally accepted accounting procedure.

X. EDUCATION

The Ashland Public Arts Commission may engage in educational activities within the Ashland community to further the appreciation and understanding of the visual arts. This education may be conducted through a variety of methods, but all programs provided through the PAC will follow the following procedure:

1. Topics and events for education will be generated from the community and discussed and prioritized by the PAC.
2. The role of the PAC will be to determine suitability of the education in alignment with
3. the mission and values of the Public Arts Commission.
4. Once a topic is identified and accepted by the PAC, the PAC will develop a project plan in concert with the requesting party(s). The project plan will, at a minimum, determine timelines, resources (people and funding), and key deliverables toward the successful implementation of the education program.
5. The PAC may outsource the education program through community providers, or it may participate directly in the execution of the educational program.
6. If funding is required, the PAC will either use general funds, or work with the community to generate donations or charges at the door to cover the costs of the education program. If the funding should be from the general funds, the PAC must prioritize the spending for education versus for new commissions of public art.
7. After the educational program is conducted, the PAC will ensure there is a proper evaluation process utilized to ensure the program was successful in relationship to its goals.

XI. DEACCESSION

When Public Art in Ashland is considered to have lived its useful life, has become culturally unacceptable, damaged, or in any other way inappropriate for exhibition in Ashland it shall become deaccessioned or removed from the community as sanctioned public art.

The Ashland Public Arts Commission is responsible for managing the deaccession process for the City of Ashland. The process for removing art will be as follows:

When a situation arises where a particular piece of public art is deemed as “ready for removal,” the Public Arts Commission will determine whether a community referendum needs to be generated, or if a simple decision of the City Council would be appropriate for the removal. Once approval is obtained, the Public Arts Committee will commence the removal process.

If the art is reusable, the PAC may determine that a process of donation may be most appropriate for the piece. The PAC may contact other communities, post a notice in Ashland to generate interest within the community, or contact other local agencies, businesses or groups to see if they may be interested in a donation.

If the art has potential resale value, the PAC may initiate a public auction or sale of the piece. When there is a sale of public art, the proceeds will go into the general fund of the PAC for future commissions of art. If the art is any way deemed non-reusable, the PAC will remove the art from the community and dispose of it in an appropriate fashion.