

City of Orinda - Art in Public Places Committee and Policy

I PURPOSE

Since public art is a cultural reflection of a community and its people, it is important that procedures be in place for the acquisition and acceptance of art by the City of Orinda to further the education and appreciation of art. The purpose of this Art in Public Places Committee is to oversee a Public Art Policy for art in public places including:

- A selection and acceptance of loaned, leased or donated artwork;
- B placement or site selection;
- C funding projected installation, maintenance; and
- D de-accessioning or removal of artwork.

This policy shall apply to artwork that is donated, leased or loaned to the City for display for an extended period of time. Artwork displayed for short periods of time (less than 2 months) is not covered by this policy.

Changes to this Public Art Policy shall be directed, by the City Council, for review by the members of the Art in Public Places Committee.

II DEFINITIONS

Art as described in this policy is art intended to enrich the public environment for both residents and visitors. Art shall include, but not be limited to, sculptures, murals, paintings, graphic arts, mosaics, photography, crafts, mixed media, and environmental works.

In this policy, there are *Appropriate Commissions* whose sphere of influence is most closely associated with the facility or site in question. For example, the Parks & Recreation Commission would have a specific interest in the placement of art at recreational buildings and the Library Board would have specific interest for placement of art at Library property. These Commissions will have the opportunity to review the recommendations of the Committee before approval by the Council.

III COMMITTEE

The Art in Public Places Committee (“Committee” or “APPC”) shall be appointed by the City Council, consistent with Resolution 41-07.

IV SELECTION / ACCEPTANCE PROCESS

When reviewing works of art for possible loan, lease or gift to the City, the APPC shall determine whether:

- A the artwork
 1. is thought-provoking, memorable or enduring and shall reflect the diverse social, cultural, or historic values of the City
 2. is appropriate in terms of scale, form, content, and the environment
 3. is durable relative to theft, vandalism and the environment
 4. acknowledges and is sensitive to the importance of the contributions by local and regional artists to the City of Orinda’s art program

- 5. is not religious iconography intended to be perceived as government endorsement of religion in violation of the Establishment Clause of the Federal and State Constitutions
- 6. would not, when displayed, create a hostile work environment for public employees
- 7. does not depict graphic violence or overt sexual activity
- B the City already has on loan, leases, or owns sufficient examples or better examples of this type of object or the objects by a particular artist in a particular style;
- C the City has the facilities and resources necessary to accept the object, knowing that the City has limited facilities and resources;
- D whether the person wishing to loan, lease or donate the artwork to the City is prepared to execute a contract or other document which, in the estimation of the City Attorney and City Manager, protects and serves the fiscal and other interests of the City.
- E whether the artist who created the artwork that will be to loaned, leased or donated to the City is prepared to execute a waiver of their rights under California Art Preservation Act (Civil Code 987 and 989), the Visual Artist Rights Act (17 U.S.C. 106A, 113), and other applicable state and federal laws.

The City's intention with this policy is to create a limited public forum for the display of artwork that meets the City's standards for artwork that is appropriate to be displayed in the community, as set forth above, particularly because such artwork will be viewed by children and City employees.

V SITE SELECTION

Artwork loaned, leased or donated to the City pursuant to this policy may be displayed in the following locations:

- A City-controlled area of the Orinda Community Center and Library.
- B City Hall (lower and upper mezzanine, interior lobbies, and landscape circle in lower parking lot).
- C City-controlled parks including, but not limited to, Orinda Wilder Park, Orinda Oaks Park, Orinda Mini-Park and Pine Grove Park.
- D. City-controlled areas located within the Downtown as designated in the Orinda General Plan. Such City-controlled areas shall not, however, be eligible for art display if the Director of Public Works and Engineering Services determines that such display would interfere with use by pedestrians and/or vehicles, would create a safety hazard, or would otherwise be inappropriate.

When recommending sites for works of art for loan, lease or gift to the collection, the APPC shall consider:

- A whether the artwork can be properly installed, placed to be seen, and displayed with patron safety in mind;
- B compatibility of design and location within unified design character or historical character of site, preservation and integration of natural features;
- C site design including landscaping, drainage, grading, lighting and seating considerations;
- D environmental impacts such as noise, sound and light;
- E public accessibility to the artwork, particularly handicapped areas;
- F impact on adjacent property owner's views; and
- G impact on operational functions of the City.

The APPC shall prepare a written report for each object it recommends to be placed. The report shall include:

- A title, artist medium, dimensions, and intended location of the artwork;
- B the origin/source of the artwork;

- C slide(s) and/or photograph(s) of the artwork;
- D report on the condition of the artwork;
- E estimated value of the artwork; and
- F whether the artwork will be donated, leased or loaned to the City and the term of the proposed loan or lease.

VI FORM OF RECOMMENDATION TO COUNCIL

Applications to donate, lease or loan artwork to the City will be made to the Park and Recreation office and will be routed to the APPC. The documentation of the proposed public art will be available for review through the City Clerk's office.

The APPC will consider the application and then make a recommendation to the City Council for action. The City Manager will notify applicants of the City Council's decision regarding the APPC's recommendation. The notification, if the application is approved, will include a description of the location where the art will be placed.

The offer to donate, lease or loan artwork may be withdrawn at any time up until execution of an agreement between the City and the donor(s).

VII MAINTENANCE OF ART IN PUBLIC PLACES:

The City Clerk shall maintain detailed records of all artworks accepted. The records shall include all items outlined in the application attached to this policy.

Upon receipt of the work of art pursuant to this policy, the City will insure the work of art under its Municipal Pool Authority for Insurance Coverage. The estimated value of the artwork will be the value provided on the Public Art Application.

Maintenance of City-owned artwork shall be the responsibility of the City. City Staff should consider the condition of City-owned artwork each year in time for budget preparation and make recommendations to the Council regarding the estimated cost of appropriate maintenance activities. The Council shall have sole discretion to decide whether to undertake these activities.

Maintenance of loaned or leased artwork shall be the responsibility of the person loaning or leasing the art to the City. Prior to undertaking any such maintenance on City property, the person loaning or leasing the art to the City shall obtain the approval of the City.

VIII REMOVING (DEACCESSIONING) ARTWORK

Leased or loaned art shall be removed at the end of the prescribed term, unless the APPC determines that early removal is appropriate under the criteria described below.

Any artwork may be removed from public display following review by the APPC if:

- A the artwork's physical or structural condition poses a threat to public safety;
- B the artwork requires excessive maintenance, has faulty design or workmanship, and repair or remedy is impractical or unfeasible;
- C the artwork has been damaged and repair or remedy is impractical or unfeasible;
- D the condition or security of the artwork cannot be reasonably protected;

- E significant changes in the use, character or design of the site have occurred and affect the integrity of the artwork;
- F significant, adverse public reaction to artwork owned by the City has continued unabated over an extended period of time;
- G the artwork violates the selection criteria in section IV of this policy; or
- H removal is requested by the artist or donor.

Removal of art should be a seldom-employed action that operates with a strong presumption against removing works from public display. Where removal of the artwork may cause damage to it, the City shall comply with sections 987 and 989 of the Civil Code.

Prior to removal of an artwork, the APPC shall prepare a full condition report, including any repair rendered, and shall make arrangements for removal. The City shall determine the estimated cost of removal. It shall be the responsibility of the person loaning or leasing artwork to the City to pay the cost of removing the loaned or leased artwork. In addition, staff shall prepare a statement of reasons for the removal of (1) any leased or loaned artwork that is proposed to be removed before the end of its predetermined term, and (2) any City-owned artwork that is proposed to be removed. A copy of the condition report and the statement of reasons shall be distributed to each member of the APPC for review at least one month prior to the meeting at which the removal of the work will be considered. Each member of the APPC shall physically inspect the work and the APPC shall vote on whether or not to remove the artwork. Prior to the APPC meeting, staff shall make a reasonable effort to locate the donor or his/her heirs to advise them of the City's consideration to remove the artwork and reasons for the decision.

A report of the decision to remove the artwork will be given to the City Council. The decision of the APPC will be deemed final, unless a member of the City Council, within thirty (30) days of the Council's receipt of the report, makes a successful motion, during the matters initiated portion of a City Council meeting, to place review the APPC's decision on a future Council agenda for consideration. Disposition of artwork shall be handled in accordance with the requirements of Civil Code sections 987 and 989 and shall follow City procedures for disposition of surplus property as appropriate.

IX POLICY REGARDING LOANED AND LEASED ARTWORK

The City shall not accept loaned or leased artwork with a value of more than fifty thousand dollars (\$50,000.00).

X FUNDING FOR ART IN PUBLIC PLACES

The City of Orinda shall establish a special reserve account designated as the *Art in Public Places Fund*. This reserve account shall be credited annually, with any funds allocated by the City through the budgetary process and monies received through donations or grants or otherwise obtained. The fund is to be maintained and administered by the City's Finance Director.

This account shall be used for public art. Expenditures of funds may include, but are not limited to, the following uses: costs associated with the purchase, lease, transportation, installation, insurance, maintenance, repair, removal or restoration of artwork, and any costs to administer the Art in Public Places Program or purchase objects necessary for the proper presentation of the artwork.

If individuals, entities, or groups donate undesignated funds to the Art in Public Places Program, the funds shall be deposited into the *Art in Public Places Fund*. The APPC may make recommendations to the City Council regarding the use of such funds.

XI PUBLIC ART PROPOSAL

Any person wishing to loan, lease or donate artwork to the City of Orinda must complete a Public Art Application, available in the City Parks and Recreation office.

The application and accompanying materials shall include the following:

- A Photo, plans, model or other representation of proposed artwork
- B Proposed location of the artwork
- C Statement of reason for donation, loan or lease
- D Description of the artwork, including dimensions, weight, finish, and color, and system for mounting or displaying the artwork
- E Any special maintenance, mounting or display requirements
- F Artist biography
- G Statement of the approximate value of the artwork
- H Whether donation, lease or loan is proposed, and the length of any proposed lease or loan
- I Signage (to be provided by the City)

City of Orinda Public Art Application

(Please complete this application as fully as possible)

Date: _____

Project Name _____

Proposed Location/Address _____

Artist Name _____

Phone _____ **Email** _____

Address _____ **City** _____ **Zip** _____

Description of Artwork (include list of materials used)

Approximate Weight _____ **Approximate Dimensions** _____

System for Mounting of Displaying Artwork

Maintenance, Mounting or Display Requirements

Approximate Value: \$ _____ **Approximate Annual Maintenance Costs:** \$ _____

Application is for (circle one) donation loan lease **Term of Lease/Loan** _____ years/months

Please attach

- Photo, plans, model or other representation of proposed artwork
- Artist biography