



PUBLIC ART POLICY

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City of Independence, Missouri

I. GENERAL

1. Purpose. Art enhances the City of Independence’s identity as a community that values creative and diverse expressions. It builds a sense of pride and enriches lives. Public art supports the creative industries providing opportunities for artists, designers and makers. This Public Art Policy is established in recognition of the value of integrating public art into the daily lives of the citizens, employees and visitors of Independence for the purpose of displaying public art to create and enhance stimulating and attractive public spaces. The goal of this policy is to manage, guide and ensure that the city, citizens and artists may all have confidence in inclusive opportunity and with the highest integrity and a clear understanding of processes:
 - a. To ensure that artwork and the creative concepts of Artists and designated Art Districts are supported.
 - b. To serve as an act of public trust and stewardship for Public Art.
 - c. To increase public awareness and enjoyment of the Visual and Performing Arts
 - d. To provide a process for selecting and exhibiting art on city-owned property and when city funds are used.
 - e. To provide the groundwork for development and implementation of a comprehensive Public Art Program.
2. Scope. These regulations shall apply to all public art as defined by this policy that is visually accessible to the public and financially supported in whole or in part with City funds, donated to the City, borrowed or on-loan to the City and/or placed on city-owned property. Though perhaps broadly falling within the definition of Public Art, this policy is not intended to apply to and shall not apply with respect to pictures, decorations, or other displays placed or allowed by City or other government officials or employees on public property; the control of such displays shall be solely within the discretion of the City based on City policies, procedures, agreements and customs as well as any applicable laws.

II. THE MAYOR’S COMMISSION ON THE ARTS

1. Authority. The Mayor’s Advisory Commission on the Arts (“The Commission” or “MACA”) was established by Resolution No. 5916, passed on May 19, 2014. The role of the Commission was expanded with the adoption of Resolution 6218 on June 5, 2017, which created the “One Percent For The Arts” Program. The passage of Resolution 6366 on September 17, 2018, further expanded the mission of the Commission by adding Performing Art as well as Virtual Art.

The purpose of the Commission is to: plan, promote and encourage public awareness of, accessibility to, participation in, and support for the artistic and cultural development of the City of Independence; forge partnerships with private and/or public organizations, to promote and support the arts; and serve as an advisory body to the Mayor and make recommendations to the City Council regarding the establishment and implementation of arts and cultural policies and programs.

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2. Membership. The nine-member commission is comprised of the following: four members having significant knowledge and demonstrated experience in one or more areas of the visual arts including drawing, painting, ceramics, sculpture, printmaking, design, crafts photograph, video, filmmaking and architecture; one member having significant knowledge and demonstrated experience in one or more areas of the applied arts including industrial design, graphic design, fashion design, interior design and decorative art; two members from the business and professional community; and two members representing performing arts including theatre, music, and spoken word. Members serve three-year terms.
3. Mission. MACA shall work to advance the goals of this Public Art policy and to encourage artistic awareness, participation and expression; promote the employment of artists and makers; provide liaison with local organizations and state and federal agencies to share arts and policy issues and to encourage increased arts funding; to promote the continued availability of affordable quality living and working space for artists and makers to grow a culturally and artistically exuberant city.
4. Meetings. The commission shall meet at least quarterly.
5. Staff Support. The City Manager will designate at least one city staff to provide support to the MACA, including but limited to record and file meeting Minutes, post meeting notices, prepare and distribute to meeting Agendas, Minutes and documents and other support tasks.
6. Responsibilities
 - a. Serve as an advisory body to the Mayor and make recommendations regarding the establishment and implementation of arts and cultural policies and programs.
 - b. Review and advise on art related projects and/or placement of artworks on city owned and/or maintained property, making comment and recommendations regarding suitability of content, appropriateness, fabrication, installation, anticipated maintenance and/or acquisition.
 - c. Assist in cataloguing the City's public art inventory including geographic location and condition for use in making recommendations for public art maintenance.
 - d. Assist and advise with the development of a comprehensive Public Art Program including recommendations pertaining to conservation, maintenance, site selection and placement of Public Art; pooling and appropriation of funds; selection of projects and acquisition of artworks.
 - e. Make recommendations relating to the One Percent for the Arts Program.
 - f. Serve as a jury for artwork competitions, creating Calls for Artists utilizing recognized solicitation platforms and programs when appropriate and making recommendations of finalists using the following criteria reviewing works of art:

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1. Artistic Quality and Merit: Due consideration will be given to the strength of the artist's concept, vision, innovation, execution and craftsmanship. ART IS SUBJECTIVE and should be judged on criteria set forth in specific project guidelines with consideration to appropriateness, soundness of material and skill level;
 2. Context: Consideration should be given to the architectural, historical, geographical and socio-culture of the location and may also take into considerations the theme and context of the display in terms of scale, form, content and materials;
 3. Original Works: All works of art except Performance Art in certain instances, including filmmaking, on temporary display on city-owned property shall be original works of art and not a reproductive print or copy of another artist's work. (d) any work of art deemed obscene (as defined by RSMo Section 573.100. (c)) or in violation any other city, state or federal laws will be rejected without appeal.
- g. Research best practices such as recommended by the Americans for the Arts, (AFTA).
 - h. Advocate for designated Art Districts.
 - i. Make recommendations regarding the management of Public Art, including but not limited to the approval to deaccession artwork through sale or exchange or authorize the removal, alteration, relocation or destruction of artwork.
 - j. Periodically review Public Art Policy and make recommendations as needed.

III. DEFINITIONS

For the purpose of this Policy, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

1. **“Accession”** is a collections management tool for the acquisition of art or acceptance of gifted/donated art based on the principals of an organization's stated selection & acceptance criteria.
2. **“Administrator”** includes public art administrators, public art program representatives, art consultants, developers and any other person or team working on behalf of a commissioning body or entity.
3. **“Agreement”** includes any written agreement pertaining to the planning, design, development, fabrication, delivery and/or installation of an Artwork, including but not limited to letters of intent (LOIs), memoranda of understanding (MOUs), commission agreements, contracts and construction agreements.

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4. **"Architect"** is the person or firm designing the Project to which the one percent (1%) funding applies. Where the architect is a firm, the term Architect shall mean the principal of that firm in charge of designing the Project for which the one percent (1%) funding applies.
5. **"Artist"** is a practitioner in the arts, generally recognized by critics and peers as a professional of serious intent and recognized ability who produces Artworks.
6. **"Artwork"** includes but is not limited to, paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs or other sculpture, monuments, fountains, arches, or other structures intended for ornament or commemoration. Also included are carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints, crafts, both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials. Landscape items include the artistic placement of natural materials or other functional art objects. Works of art may be portable as well as permanent.
7. **"City"** is the City of Independence.
8. **"Construction Cost"** is the contracted sum for construction of the designated project including any change orders. Construction costs do not include costs such as professional fees, cost of land, rights of way and financing.
9. **"Construction Project"** means any capital improvement project paid wholly or in part by the City of Independence for improvements to or new construction of a building or structure, streetscape, pedestrian mall or plaza, park, trail, or any other project, or any portion thereof, which includes finished space for human occupancy and will be available for public view.
10. **"Consultant"** is any firm, individual, joint venture or Committee of firms or individuals with which the City contracts for design or other consulting services related to construction projects.
11. **"Deaccessioning"** is a procedure for the withdrawal of an artwork from the public collection.
12. **"Eligible Construction Cost"** is that portion of the construction cost of any construction project paid for by the City of Independence to construct or remodel any building, decorative or commemorative structure, parking facility, recreational facility, or any portion thereof, located on City property, provided that the source of funds for such project(s) is not restricted by law or regulation as to its use for artworks.
13. **"Maintenance"** is regular review and any necessary work on public art required to maintain its original functionality.

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14. **"Mayor's Advisory Commission on the Arts", (The Commission) or (MACA)** is a group created to plan, promote, and encourage public awareness of, accessibility to, participation in, and support for the artistic and cultural development of the City of Independence; forge partnerships with private and/or public organizations in and around Jackson County to promote and support the visual and performance arts; and serve as an advisory body to the Mayor and make recommendations to the City Council regarding the establishment and implementation of arts and cultural policies and programs.
15. **"Public Art"** is any media that has been planned or executed with the intention of being accessible to the public.
16. **"Remodel"** is work required to substantially change or enhance the functionality of a facility.
17. **"Selection Committee (Jury)"** The Selection Committee oversees the process for artist selection as well as the selection of the public art design and the integration of the public art into the capital improvement project. A jury may be used when the public art selection process involves an open or invited competition. A jury is not involved in the management of the public art project.
18. **"Staff Representative"** is the staff liaison designated by the City Manager responsible to advise and assist the City of Independence and the Mayor's Commission on the Arts.
19. **"Temporary Art Installations"** refers to duration, not to the material with which a piece is constructed.

IV. CONTENT & APPROPRIATENESS

1. No obscenity, in accordance with RSMo Section 573.100. (c)
2. Appropriateness & Compatibility. Recognize the audience as well as special zoning districts for compatibility and appropriateness including: (a) the nature of the site's surrounding neighborhood, passersby and the potential impact on residents, businesses, and existing artworks and/or design elements within the vicinity; (b) visibility and public access; (c) public safety; (d) traffic patterns; (e) function and use of the facility or site; (f) any future development plans that may affect the artwork or public art project.

V. ARTIST & CITIZEN RIGHTS

1. The City will act in accordance with the Visual Artist Rights Act of 1990
2. The City will act in accordance with all relevant policies, procedures, agreements and applicable law with respect to non-discrimination and equal opportunity.
3. Whenever possible, works of art should be identified in a permanent manner appropriate to the context of the artwork including at the minimum, the artist's name, name of artwork and date of installation.

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4. Reproductions or Adaptations will be subject to confirmation from the artist/owner who holds the copyright.

VI. MAINTENANCE CONSERVATION & INSTALLATION

1. The City shall be responsible for maintaining artwork as follows:
 - a. The City shall be responsible for maintaining City-owned artwork on City property.
 - b. The City shall be responsible for maintaining City-owned artwork located on private property by permission and subject to a signed agreement with the owner of the property.
 - c. The City may at its discretion assume responsibility for maintaining artwork privately owned and on loan to the City, whether displayed on City property or on private property by permission, subject to the provisions of a signed agreement with the owner of the artwork. If located on private property, a separate signed agreement with the owner of the property will also be required.
 - d. The City is not responsible for the maintenance of artworks privately owned, whether located on private or public property, if not on loan to the City per the terms of an agreement as set forth above.
2. Routine survey of condition will be made by city staff with assistance by MACA. Assessment may refer to photos in the Public Art Catalog for relative condition and original intent. The survey may include a condition report, recommendations for the conservation and maintenance of each artwork and a prioritized list of projects.
3. Artwork needing conservation should be reported to the City, which will take appropriate action to mitigate the situation.
4. Temporary works shall not be conserved.
5. It is the primary responsibility of the City to preserve and protect artworks under its jurisdiction, however, under certain conditions and in accordance with any City contractual agreement with the Artist, the City may authorize actions that would alter, modify or cause the destruction of an artwork.
6. Provisions for emergency removal - In the event that the structural integrity or condition of an artwork presents an imminent threat to public safety, the City may authorize the immediate removal.
7. Deaccessioning, or removal, of art work from the public art collection by the City other than in an emergency shall be based on a process of review, including recommendations from the MACA. In making recommendations, MACA will

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consider a number of factors including the physical condition of the work, facilities for proper exhibition or storage, the works relationship to its site based on significant changes in use, character or site design, whether or not the work will be replaced by a more significant work, history and context.

VII. ONE PERCENT FOR THE ARTS

1. The City's One Percent for the Arts program was established with the passage of Resolution 6218 by the Independence City Council on June 5, 2017. That Resolution declared that an amount equal to one percent (1%) of the estimated cost of construction, reconstruction, or remodeling of any Municipal building shall be set aside for features of aesthetic ornamentation and adornment, including individual works of art, to be placed on or within the building or on the grounds thereof, or on other public property.
2. One Percent funding was subsequently increased by a provision in the City's Economic Development Policy, which states that private projects receiving public incentives must contribute an amount equal to 1% of the abated City tax on real property, to a maximum of \$10,000, to the public art program. Private projects using public funds for the elimination of blight are also encouraged to include in construction plans elements of aesthetic adornment.
3. Expenditure of One Percent funds for public art is to be approved by the Mayor's Commission on the Arts, which will determine how and where these funds shall be spent. If the Commission determines that not all of the funds generated from a public building project are needed or desirable at that location, it may accumulate and expend leftover funds for public art on other public property. The Commission may also supplement One Percent funds through grants and donations.
4. The City Council may at its discretion waive the public art requirements, or supplement the funds generated through other means.
5. City projects exempt from the One Percent requirement include:
 - a. Water, storm water or wastewater facilities, except for office buildings.
 - b. Street construction and repair, inclusive of the public right of way improvements, such as curb, sidewalk, trail and traffic control facilities and landscaping.
 - c. Maintenance projects.
6. These exemptions do not preclude the Department from proposing and including funding for art in a project. Departments are encouraged to include art to some degree in these exempted categories.

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7. Art works obtained through the One Percent For The Arts Program will be deemed City assets, and the City Manager or his/her designee shall manage and maintain them in accordance with the City Charter.