

CITY OF NEWPORT

RESOLUTION NO. 3589

A RESOLUTION ADOPTING A PUBLIC ARTS POLICY TO INCLUDE A PUBLIC ARTS COMMITTEE AND A PERCENT FOR ART PROGRAM

WHEREAS, Resolution No. 3528 created a Public Arts Task Force to develop recommendations on issues of public arts programs and policies; and

WHEREAS, the Public Arts Task Force completed its work and reported to the Council its recommendations; and

WHEREAS, the Council wishes to implement recommendations of the Public Arts Task Force by establishing a City public arts policy as set forth in this Resolution.

Now, therefore, the City of Newport resolves as follows:

Section 1. The Council determines that the work of the Public Arts Task Force is complete and as a result there is no longer a need for the Task Force. The Public Arts Task Force is hereby disbanded and Resolution No. 3528 is repealed.

Section 2. The Public Arts Committee created by Newport Municipal Code (NMC) 2.05.060 shall be governed by the policies set out in this Section. The Council adopts the policies set out in this Section, which shall be known as the City of Newport Public Arts Policies.

A. Purpose of the Public Arts Committee. The Public Arts Committee is responsible for making recommendations to the City Council on public art and art object decisions as set out in these policies. The Public Arts Committee is directed to advance public understanding of visual arts, enhance the aesthetic quality of public places, and help stimulate the vitality and economy of the city. Public art within this policy is art located on public property or property controlled by the city and includes sculptures, architectural accents two-dimensional art, multimedia, temporary art, and other visual art.

B. Duties of the Public Arts Committee. The Public Arts Committee shall comply with committee operational requirements of NMC 2.05.003. In addition, it shall be the duty of the Public Arts Committee to encourage:

1. Public dialogue to increase public understanding and the enjoyment of visual art through appropriate public education forums and programs;
2. Human interaction in public places and areas of public ownership and accessibility, via the placement of works of art;
3. Collaborative efforts between artists, architects, engineers, and landscape artists;

4. Artists to reach creative solutions to the aesthetic problems they have been employed to solve; and
5. Stimulation of the vitality and economy of the city by creating works of art in public places.

The Public Arts Committee will be used by the City Council to recommend artists and artwork; recommend expenditure of funds on public artworks and art projects; recommend requests for proposal requirements when such a process is used to make public art selection decisions; and recommend sites for placement of public art.

C. Public Arts Selection Panel. When the City Council has reason to seek a recommendation on the selection and placement of public art for a particular project, the Public Arts Committee shall form a "Selection Panel" to make the recommendation to the City Council. The Selection Panel shall consist of:

1. Seven voting members:
 - a. Two members of the Public Arts Committee;
 - b. One recognized art professional, such as a museum curator, art historian, conservator, or gallery director;
 - c. One professional visual artist;
 - d. Two ad hoc Newport citizens at large; and
 - e. The Executive Director of the Oregon Coast Council for the Arts.
2. Two non-voting members:
 - a. Director of Parks & Recreation or designee; and
 - b. One City Council liaison.

Voting members of the Selection Panel shall not include anyone with a professional or personal relationship with the considered artist, or a business interest in selling the art.

D. Artist Selection Criteria. Artists may be chosen using some or all of the following criteria:

1. Meeting the requirements of a request for proposals or request for qualifications;
2. Vision and concept of the artwork;
3. Warrant that the artwork is unique and an edition of one or part of a limited edition;
4. Ability for a successful likelihood of completion as proposed by the artist;
5. Qualifications as demonstrated by past work (e.g., public art);
6. A willingness to fully participate in a collaborative process; and
7. Representation of a broad distribution of commissions among artists.

The following artists will not be considered: members of the Public Arts Committee; members of the Selection Panel; employees of the city; and art students.

Section processes and procedures shall not discriminate against any person on the basis of race, color, national origin, disability, or age.

E. Public Artwork Selection Criteria. The Public Arts Committee shall select artwork using the following criteria, as applicable:

1. Esthetics

- a. Contribute to the city's art collection as a whole;
- b. Provide diversity in style, scale, media, form or intent;
- c. May represent the local, regional, national or international communities;
- d. May enhance the city's identity; and
- e. Shall meet the context of the site (i.e., architectural, historical, geographical and socio-cultural).

2. Craftsmanship

- a. High construction quality with structural and surface soundness;
- b. Resistant to theft, vandalism, weathering and excessive maintenance or repair costs; and
- c. Of no hazard to public health.

3. Other considerations

- a. Artwork that is intentionally temporary;
- b. Compliance with budget and timeline constraints;
- c. Compliance with zoning, construction and design guidelines; and
- d. Additional criteria as determined by the Public Arts Committee for the particular project at issue.

F. Site Selection Criteria

1. Public art shall be placed where:

- a. The relationship and scale of the artwork is appropriate to the proposed site, surroundings, and collection as a whole;
- b. It is immediately visible to the public;
- c. Clearance is maintained from above- and below- ground utilities; and
- d. It allows for easy passage to both drivers and pedestrians.

2. Public art shall not:

- a. Obstruct the greater view, such as the ocean, windows, doors, or street signs or traffic;
- b. Interfere with utility access points, benches, crosswalk ramps, sight of the curb, or unduly disrupt curb use activities, loading zones ingresses and egresses for transit buses or opening of car doors;
- c. Be placed where it could cause distractions for drivers or pedestrians that might cause accidents or tripping (e.g., catching spike heels or causing water to pool); and
- d. Have moving parts or edges that could cause injury.

G. Accepting Public Art Donations

Recommendations on accepting public art donations will be made by the Public Arts Committee. When deemed necessary, a Selection Panel will be assembled to assist with the decision. Meetings should be held with the donor to discuss the commissioning process. Documentation of existing artwork (or the actual artwork) will be necessary in order to evaluate the concept and placement.

Conceptualized artworks not yet materialized will be presented with schematic renderings and/or three-dimensional models (maquettes) and will undergo the same process of evaluation and discussion. Newly commissioned artworks will be subject to the same process of evaluation and discussions in order to become public art. The artwork concept will be evaluated to make a recommendation to accept or reject further processing. If the concept is acceptable, the potential usability of the artwork will be evaluated utilizing applicable criteria in this public arts policy.

- H. Accepting Cash Donations. The city may accept monetary donations for the benefit of public art. The city will honor donor wishes in the expenditure of such donations.
- I. Art Education. One of the duties of the Public Arts Committee shall be the education of the public to the public art in the community with the purpose of raising the public's awareness of its environment by expanding the public's knowledge, understanding and appreciation of the arts. A means of public education should include the creation of art education programs covering topics such as the City's art collection and other art-related subjects and events.

Upon selection of a topic or event, a curriculum will be developed or education planed in concert with community requests to include: timelines, resources (people and funding), key requirements (goals and objectives) for successful implementation and outcome, and alignment with the mission and values of the Public Arts Committee.

The Public Arts Committee may participate directly by recommending partnerships between the city and community partners to accomplish the educational goals. These partnerships may result in but not be limited to:

1. Walking tours of public art;
2. Driving tours of historical or artistic significance;
3. Brochures regarding public art and historical sites;
4. Events with the Parks and Recreation Department and the library's youth programs;
5. Artist's talks; and
6. Art dedications, openings or ceremonies.

The Public Arts Committee may also recommend outsourcing an education program through community providers, and working with the community to generate funds, if funding is required. After completion of each educational program, the Public Arts Committee will ensure the utilization of a proper evaluation process to measure the success of the program in relationship to the goals and objectives.

J. De-accession Criteria for Public Art. The term “de-accession” denotes the formal process used to permanently remove an object from the collection. Public Arts Committee recommendations on de-accessioning will be based on the following criteria:

1. Has the work physically or organically deteriorated;
2. Is the work damaged or stolen beyond hope of recovery;
3. The work cannot be properly exhibited or stored by the city;
4. The work endangers public safety;
5. The work’s relationship to its site is no longer appropriate due to significant changes in the use, character or actual design of the site; and
6. The work will be replaced by a more significant work created by the same artist.

De-accession should only be considered after a careful and impartial evaluation to avoid the influence of fluctuations of taste, premature removal, or when exceptions may be made. When the particular artwork is deemed ready for removal, the city will comply with the Visual Artists Rights Act of 1990, 17 U.S.C. § 106A. The city shall also attempt to find a way for the work to be reused, and if not reusable, dispose of it appropriately or prepare it for resale.

If a work is considered for resale, the city shall consider the following:

1. Artwork should normally be sold through a bidding process;
2. Artwork should normally be appraised, and if the artwork is estimated to be worth more than \$10,000, more than one appraisal may be sought; and
3. The city will honor contract conditions with the artist, to the extent applicable.

Section 3. A Percent for Arts Program is created as set out in this Section.

A. Purpose and Creation of Percent for Arts Program. The City of Newport intends to promote the creation and inclusion of works of art in its public buildings and public spaces through the creation of a Percent for Arts Program. The Program is intended to provide cultural leadership to guide the evolution of a distinct and vibrant artistic character for civic public places and ensure a visual legacy. The Program will be a vital ingredient in the cultural fabric and streetscape of a creative city. The Program will become an integral component of the City’s cultural plan.

There is hereby established a Percent for Arts Program. In addition, there is hereby created a special Public Arts Fund to be used to account for the monies dedicated to the Percent for Arts Program. The Public Arts Committee will make recommendations to the City Council on matters related to the Percent for Arts Program.

The Percent for Arts Program is intended to:

1. Increase the livability and artistic richness of the city by making art a permanent part of our environment and a legacy for future generations;
2. Provide opportunities for the public to increase their awareness, appreciation, knowledge and education of public art;
3. Develop a sense of place, community pride and identity through the creation of new works;
4. Integrate art and artists into a variety of public settings;
5. Create art that inspires people and is an expression of the time;
6. Enhance the attractiveness of the city, and promote cultural tourism; and
7. Provide opportunities for artists.

Private developers shall be encouraged by the city to voluntarily participate in the Percent for Arts Program. This Program creates no requirement on private developers.

B. Covered Projects. The Percent for Arts Program requires one percent (1%) of eligible construction costs of capital improvement projects paid wholly or in part by the city to construct or remodel any public or city building, structure, park or any portion thereof to be allocated for public art.

C. Excluded Projects. The following categories of projects are exempt from the Percent for Arts Program:

1. Street construction and repair, inclusive of right-of-way improvements, such as curbs, sidewalks, alleys, bicycle paths, walking paths, and related traffic control facilities and landscaping.
2. Maintenance projects.
3. Real estate purchases.

The exemptions do not preclude the city from proposing and including funding for art in a project. City departments are encouraged to include art in exempt projects.

D. Calculation of Contribution. Eligible construction costs from which the percent for art is calculated shall be the city's contribution toward the price for the completion of the improvement project. The construction costs shall not include costs associated with design and engineering, administration, fees and permits, relocation of tenants, testing services, environmental remediation, contingencies, and indirect costs such as advertising and legal fees.

E. Use of Funds. Unless special circumstances dictate otherwise, no less than eighty percent (80%) of the one percent (1%) should be used for on-site artwork, with the remaining portion deposited in the Public Art Fund to fund additional art projects and provide maintenance for existing works. In cases where the eligible construction costs of a project is less than \$100,000, and with input from the Public Arts Committee, a particular piece of on-site art is not required and one hundred percent (100%) of the one percent (1%) may be deposited in the Public Art Fund.

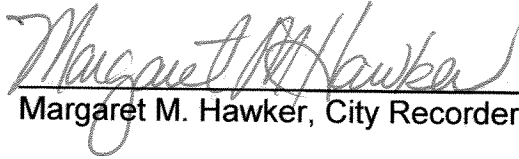
Section 4. This Resolution shall take effect immediately on passage.

Adopted by the City Council on May 7, 2012.



Mark McConnell, Mayor

ATTEST:



Margaret M. Hawker, City Recorder