



## City Council Meeting - Final

May 15, 2023  
7:00 PM

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- A. **POL2023-001** Approval of revisions to the City of Smyrna Public Art Policy and authorize the Mayor to sign and execute related documents.



# City of Smyrna

## Issue Sheet

A Max Bacon  
City Hall  
2800 King Street  
Smyrna, GA 30080

File Number: POL2023-001

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**Agenda Date:** 5/15/2023

**In Control:** City Council

**File Type:** Policy

**Agenda Section:**

Formal Business

**Agenda Number:** A.

**Department:** Administration

**Agenda Title:**

Approval of revisions to the City of Smyrna Public Art Policy and authorize the Mayor to sign and execute related documents.

***Citywide***

**ISSUE AND BACKGROUND:**

The purpose of the Public Art Policy is to establish a program for public art in the city. This policy establishes guidelines to ensure a consistent decision-making process related to the acceptance, placement, display, and long-term maintenance of public art in City owned facilities. The Public Art Policy was initially adopted on February 21, 2022 with processes outlined for public art donations. Staff revised the policy to add sections on publicly funded/commissioned art, loans, deaccessioning, and other guidelines for art implementation.

**RECOMMENDATION / REQUESTED ACTION:**

Administrative staff recommends approval of revisions to the City of Smyrna Public Art Policy and authorize the Mayor to sign and execute related documents.

## **PUBLIC ART POLICY**

### **A. PURPOSE**

The purpose of this policy is to establish a program for public art in the City of Smyrna ("City"). This policy establishes guidelines to ensure a consistent decision-making process related to the acceptance, placement, display, and long-term maintenance of public art in City owned facilities. This policy shall have no effect upon the zoning ordinance or any regulation promulgated by the City. The following elements have been considered in developing a public art policy for the City:

- Establish a diverse collection of public artworks for the City and its residents
- Involve artists of diverse backgrounds
- Provide opportunities for artists to advance their art forms with temporary and permanent public artworks
- Consider economic development and cultural tourism as factors
- Foster an understanding of public art and encourage public dialogue
- Incorporate art and projects of the highest quality

### **B. DEFINITIONS**

1. "Public art" is defined as: artwork selected, commissioned, crafted, donated, or loaned for location in the public domain. Artwork may be permanent or transitory, functional, integrated, or discrete to the site. Public art is an essential building block to create engaging, imaginative spaces that foster shared interactions, celebrate unique stories, enliven public spaces, and inspire us to look at the world from different perspectives.
2. "Commissioned/Purchased Public Art" shall mean permanent or temporary public art that is either solicited by the City (such as through a Request for Proposals or Call for Artists) as part of a Council-approved public art program or project or planned as part of another City project (such as a development) and is paid for in whole or in part by City funds or City-obtained grant funding.
3. "Donation" or "gift" shall mean any of the following: monetary (cash) contribution; endowment; personal property; real property; financial securities; equipment; in-kind goods or services; or any other asset the City accepts and for which the donor has received no goods or services in return, other than private acknowledgement of the donation or gift, if desired by the donor, notation of the gift on a City maintained record, which shall not be publicized but which is a public record, and the placement of a small plaque on the donated item, if desired by the donor. The terms "donations" and "gift" shall be synonymous in the context of this policy.
4. "Donor" shall mean an individual, group, organization, or other legal entity that proposes or provides a donation or gift to the City
5. "Deaccession" shall mean the procedure for the permanent removal of artwork from the City's collection and the determination of its future disposition.

6. “Mural” shall mean a singular work of Public Art hand-painted, hand-tiled, or digitally printed (with property owner approval) on a building, structure, fence, or other object within public view. The work shall not contain text, graphics, or symbols which specifically advertise or promote a business, product, or service; and shall not promote a specific political party or candidate.
7. “Relocation” shall mean a procedure for the movement of artwork from one location to another.
8. “Loaned Public Art” shall mean temporary public art that is loaned to the City by a third party for display on public property for an agreed upon period.
9. “Lender” shall mean an individual, group, organization, or other legal entity that proposes or provides a loan of artwork to the City

#### C. ARTS AND CULTURE TASK FORCE

1. Responsibilities: The Arts and Culture Task Force serves as a recommending body to the City Council. General responsibilities include:
  - i. Promote the City’s public art to residents and visitors.
  - ii. Propose public art projects for the City to consider.
  - iii. Recommend sites for public art projects.
  - iv. Review and make recommendations on city-commissioned or purchased artwork, donations, or loan submissions.
  - v. Review and make recommendations for artwork relocation or removal.
  - vi. Provide input on public art policies and procedures.
  - vii. Develop an annual public art work plan, in consultation with the Mayor and staff, that outlines what projects will be initiated in the coming fiscal year.
  - viii. Develop and maintain an inventory and documentation of the City’s collection of public art.
  - ix. Assist with periodically surveying public art to determine if works require maintenance or other attention.
2. Membership: The Mayor appoints members to the task force that include arts organizations representatives, artists, art advocates, residents, and business owners. Members serve on a volunteer basis. Membership may be terminated by either the Mayor or member at any time.
3. City Staff Oversight: The Mayor designates staff to oversee the task force, organize meetings, and prepare agenda items for review.
4. Conflict of Interest: While serving on the task force, no member may participate in a discussion, decision, or recommendation on any matter affecting a person, entity, or property in which that member has an interest, including situations where the member is reasonably likely to receive a direct or indirect economic effect or consequence. Any member with a conflict of interest relating to any public art proposals, submissions, or inquiries will declare such a conflict and recuse themselves from any discussion on the

subject including discussions outside of scheduled meetings.

#### D. PUBLIC ART PROGRAMS

The City has identified the following public art programs as official components for the implementation of art within public spaces:

1. City Facility Galleries and Properties: Provides artist temporary display opportunities within City facilities. Components of this program include:
  - i. Smyrna Library Gallery and Exhibit Cases: Artwork and artists are selected by the Friends of Smyrna Library Arts Committee.
  - ii. A. Max Bacon City Hall Gallery: Artwork and artists are selected by the Smyrna Arts Council.
  - iii. Smyrna Community Center Gallery: Artwork and artists are selected by the Smyrna Arts Council.
2. ARTery: Provides outdoor artist display opportunities within the City.
  - i. Management: The City's Administration Department will oversee implementation of the program with input from the Smyrna Arts and Culture Task Force, an appointed task force of the City.

#### E. CONSIDERATIONS AND EVALUATION CRITERIA FOR PUBLIC ART

- i. Design:
  - a. The art contributes to and enhances the City's public realm
  - b. Works of art should be an original design unless it is decided that the work will enhance and complement the character of the surrounding area.
  - c. Proposed artwork should feature no copy, lettering, symbols, or any references directly promoting any product, business, or service unless such images are discreet and do not detract from the artwork. Sponsor and artist names may be incorporated in murals but should be discreet and not exceed 5% of the design.
- ii. Compatibility with site context in scale, material, form, and content with the surroundings
- iii. Project costs: The City's preference is for donors and loaners to provide financial support for public art projects. Donations and loans are an important tool for growing the public arts in Smyrna and they foster civic pride by providing people and businesses the opportunity to shape the public environment. Projects should identify sponsorship. All requests for use of City funds for production, siting, installation or ongoing operations and maintenance of the work must be approved by City Council.
- iv. Quality: Meets a high standard of quality and is appropriate for public display, void of obscenities, and meaningful to the community.
- v. Installation and Maintenance: Any applicant for public art should present a reasonable plan to install and remove (or preserve) the work.

The maintenance plan agreed upon between the artist, business owner, and/or property owner should adequately make arrangements to preserve and, if necessary, restore the quality of work during its exhibition. Elements of a thorough maintenance plan would include:

- a. Lifespan of artwork and prognosis of durability in consideration of that lifespan.
  - b. Routine cleaning protocols, methods, cleaning agents, and frequency.
  - c. Itemization of long-range considerations and care, highlighting maintenance and the anticipated need for periodic conservation treatment or repairs.
  - d. Specifications of materials used in fabrication.
  - e. Guarantee against failures of workmanship over an agreed upon period of time.
  - f. Assignment of manufacturers or fabricators warranties to the owner of the artwork.
- vi. Public liability issues
  - vii. Public safety concerns

#### F. DONATIONS OF PUBLIC ART

Requests to donate artwork to the City may be considered on a case-by-case basis where the City has established in advance, and publicized, a need, project, or location in which an art donation may be included. Requests for consideration shall be made through the City's Administration Department.

##### 1. General Principles for Acceptance

- i. The City has no obligation to accept any donation proposed by a donor. Donations do not become the property of the City until accepted by the City consistent with this policy.
- ii. All donations will be evaluated by the entity designated in Section C, which will make a written recommendation to the City Council regarding whether the donation is appropriate for the City. The City will then determine whether the donation is in the City's best interest and is consistent with the City's goals and applicable City laws, policies, ordinances, and resolutions.
- iii. The City shall determine whether an expenditure of City funds, either a direct outlay of City funds or the use of City sources and materials, is associated with or required by acceptance of the donation prior to acceptance.
- iv. The City may accept donations of art from organizations and residents outside of the city.

##### 2. Procedures

- i. Formal requests to donate artwork to the City of Smyrna are made through the Administration Department. The donor shall complete an

Art Donation Application and submit it to the City's Administration Department.

- ii. Following a positive initial review by a City employee designated by the City Administrator, the City will contact the entity designated in Section C, which will evaluate the donation request to determine the appropriateness of the donation as measured by approval criteria and provide a written recommendation to the City Council.
  - iii. The City Council will then determine whether to accept the donation. The City will notify the donor, in writing, identifying any final conditions if approval is granted.
3. Ownership: Once a gift is accepted by the City, the City shall be the sole owner of the donated item and will have the right, in its sole and absolute discretion, to deaccession of any donated item without providing notice to or obtaining the consent of the donor.

#### G. LOANED PUBLIC ART

The City, on occasion, may wish to display loaned public art on city property. Requests for consideration shall be made through the City's Administration Department. All works of art will be on formal loan to the City and will be displayed at the sole discretion of the City.

1. General Principles for Acceptance
  - i. The City has no obligation to accept any public art loans.
  - ii. All loans will be evaluated by the Arts and Culture Task Force which will make a written recommendation to the City Council regarding whether the City should accept the loan. The City will then determine whether to accept the loan.
  - iii. The City shall determine whether an expenditure of City funds, either a direct outlay of City funds or the use of City sources and materials, is associated with or required by acceptance of the loan prior to acceptance.
  - iv. The City may accept loaned public art from organizations and residents outside of the city.
2. Procedures
  - i. Formal requests to loan artwork to the City of Smyrna are made through the Administration Department. The lender shall complete an Art Loan Application and submit it to the City's Administration Department.
  - ii. Following a positive initial review by a City employee designated by the City Administrator, the City will contact the Arts and Culture Task Force, which will evaluate submissions and provide a written recommendation to the City Council.

- iii. The City Council will then determine whether to accept the loan. The City will notify the lender, in writing, identifying any final conditions if approval is granted.
- 3. Agreement: The lender must sign an Art Loan Agreement with the City. The agreement should include:
  - i. Term of Loans
    - a. Loan agreements shall be for a minimum of six months and a maximum of two years, with a provision for up to one year extension with written approval from the lender and the City.
    - b. At the end of the term of loan, the lender will be granted up to six additional weeks for the removal of the artwork from the site on which it resides.
  - ii. Costs
    - a. The lender will be responsible for all costs associated with the loaned artwork, including but not limited to costs of transportation, installation, maintenance, removal, and repair (if needed).
    - b. The City will provide site maintenance as well as assistance with installation and removal, under the supervision of the lender or lender's representative. The City shall not be held responsible for any damage to the artwork while it is on loan.
  - iii. Installation: Artwork must be installed in accordance with requirements from city staff.
  - iv. Insurance
    - a. The City will not assume responsibility for damage or theft of artwork that is on display in accordance with this policy.
    - b. The lender will acknowledge that a risk of damage, loss, vandalism, or theft is inherent in a public display.
    - c. The lender must furnish satisfactory evidence of liability insurance by submitting a Certificate of Insurance and an Additional Insured Endorsement listing the City. With approval from City Administration, the liability insurance requirement can be waived if the lender signed an Art Loan Release of Liability form.
  - v. Removal
    - a. Lenders are required to remove artwork by the agreed termination date. The City does not accept responsibility for artwork not removed within the designated time frame. Any piece of art that is not removed by the deadline shall be treated as abandoned property.
    - b. Artwork may be removed from City property in accordance with the Relocating or Deaccessioning Public Art section of this



policy.

## H. PUBLICLY FUNDED ART

### 1. General Principles for Acceptance

- i. The City may accept submissions for commissioned public art projects from organizations and residents outside of the city.
- ii. Commissioned public art projects may be in part or wholly funded using City funds. It is encouraged that interested parties in public art projects seek sponsorships, donations, or grant funds to offset costs.
- iii. Commissioned public art projects may be proposed on City-owned property or privately-owned property. If on privately-owned property, the property owner must be involved in the process.
- iv. The City has the right to change commissioned art opportunities at any time.

### 2. Funding: Funding for publicly funded art projects will be decided by the Mayor and Council during the annual fiscal year budgeting process.

### 3. Procedures

- i. Formal submissions for commissioned public art projects will be initiated by the City of Smyrna and reviewed by the Administration Department. Project requests will be posted in accordance with the City's purchasing policy through a Request for Proposals, Request for Qualifications, or Call for Artists.
  - ii. Each project solicitation will outline requirements for submission including eligibility, scope of work, qualifications, artist resume, high quality images of proposed and/or previous work, and any other requirements for the project.
  - iii. Following a positive initial review by a City employee designated by the City Administrator, the City will contact the Arts and Culture Task Force, which will provide a written recommendation for a selected submission to the City Council.
  - iv. The City Council will then determine whether to accept the submission.
- ### 2. Agreement: Commissioned public art will be subject to an Art Purchase Agreement between the City and the artist(s). If the public art project is located on private property, then the agreement will also need to be signed by the property owner.

## I. MURALS

In addition to the Considerations and Evaluation Criteria for Public Art set forth herein, the following additional review criteria are applicable to Murals.

### 1. Theme

- i. The content of a mural is protected under the laws of free speech.

- ii. The mural must not contain text, graphics, or symbols which specifically advertise or promote a business, product, or service; nor does it promote a specific political candidate or party.
- iii. The mural must comply with Georgia obscenity laws and cannot depict sexual conduct or sexually explicit nudity, nor advertise any activity illegal under the laws of Georgia or the United States.

## 2. Location

- i. The installation of a Commissioned Mural or a Mural on public property or should complement and enhance the building and be incorporated architecturally into the façade.
- ii. The location of the Mural on the building should not cover or detract from significant or character-defining architectural features.
- iii. Murals should enhance and complement the architectural and design features of the surrounding neighborhood.
- iv. Murals should not be located in an area which may cause undue distraction to drivers thereby creating a safety hazard.
- v. Generally, murals should be located in mixed use and commercial areas.
- vi. Neighborhood support or opposition should be taken into consideration.
- vii. Murals should be limited to one building per block face.
- viii. Murals located on the primary (front) façade should not take up more than 25% of the façade.
- ix. Murals are not permitted on historic materials.

## 3. Design

- i. The scale of the mural should be appropriate to the building and the site.
- ii. The mural should be appropriate within the context of the surrounding neighborhood.
- iii. The mural should be an original design.
- iv. Sponsor and artist names may be incorporated but should be discreet and not exceed 5% of the design.
- v. Paint utilized should be of superior quality and intended for exterior use. Generally, reflective, neon, and fluorescent paints should not be used.
- vi. If intended to be permanent, the mural should have a weatherproof and vandalism-resistant coating.

## 4. Enforcement

- i. Any mural without approval is considered graffiti and enforced accordingly.
- ii. When an official interpretation is deemed necessary, the Community Development Director will determine if a proposal is a mural or a sign.

## 5. Maintenance

- i. The maintenance of the mural will be the responsibility of the property owner on commissioned Murals and the artist on Murals in the public domain.
- ii. The mural must be maintained to ensure that material failure (i.e., peeling paint) is corrected and vandalism removed promptly.

#### J. RELOCATING OR DEACCESSIONING PUBLIC ART

1. The City reserves the right to relocate or remove public art at its sole and absolute discretion. The following may be grounds for the City to relocate or remove public art from City-owned or controlled property:
  - i. The physical or structural condition presents a threat to public safety.
  - ii. Maintenance costs are higher than anticipated.
  - iii. Faults of design or workmanship make repair or remedy is impractical or unfeasible.
  - iv. Damage or quality erosion make repair or remedy is impractical or unfeasible.
  - v. The public art was stolen from its location and cannot be retrieved.
  - vi. The condition or security can no longer be reasonably guaranteed.
  - vii. Significant changes in the use, character, or design of the site have occurred which affects the integrity of the public art.
  - viii. Significant, adverse public reaction has continued unabated over an extended period of time.
  - ix. Removal is requested by the artist or donor.
  - x. The City Council has determined that it is in the best interest of the City to remove the public art.
2. Relocation: The City may, as necessary or appropriate, transfer City-owned public art from one public site to another, transfer public art to storage, or make a temporary loan of public art to another agency or organization.
3. Disposal:
  - i. If an artwork's Agreement specifies terms of deaccession, the City shall dispose of the work accordingly. Otherwise, the City may dispose of deaccessioned works by sale, trade, donation, or destruction.
  - ii. No works may be sold, traded, or transferred to a member of the Arts and Culture Task Force, elected officials, or staff. Once deaccessioned from the City's collection, a work may not be installed on City property.