

DRAFT Combined Ordinances and Policy related to Public Art:

Additions and removals in Redline, Language from the Policy in Blue. Note that the Public Art Review Committee Ordinance was embedded in the Funding of Public Art Ordinance. A note should be added to the Administrative Ordinance in the Boards, Commissions, and Authorities section referring to the Public Art Review Committee establishment in the Funding of Public Art Section, as was done in similar fashion with the Parking and Traffic Safety Committee. The changes highlighted in yellow came from a final review by the Public Art Review Committee. The last change was highlighted in blue, and will be reviewed on August 5 by the Governance Committee before going to the City Council.

ARTICLE XVII: FUNDING, REVIEW, AND ACQUISITION OF PUBLIC ART

Section 1.1700: STATEMENT OF PURPOSE

It is hereby declared that **ist** shall be the public policy of the City of Portsmouth to assist and encourage the participation of its citizens and visitors in the enjoyment of the many benefits which flow from the arts. **The City of Portsmouth is committed to acquiring public art by donation, acquisition and commission.** Among other activities to this end, the City will allocate a portion of the expense of public building construction and significant building renovation projects to be spent on works of art which shall be available for the benefit of all without additional cost to those persons. Such works of art shall be called public art as defined in more detail herein.

Section 1.1701: DEFINITION OF PUBLIC ART

“Public Art” or “Public artworks” are meant to be enduring original artworks of the highest quality and craftsmanship. The artworks should be an integral part of the landscaping and/or architecture of a building or other site, considering the historical, geographical and social/cultural context of the site and constructed on a scale that is proportional to the scale of the development. “Artwork” – includes but is not limited to, painting, murals, inscriptions, stained glass, fiber work, statues, relief**s** or other sculpture, monuments, fountains, arches, or other structures intended for ornament or commemoration. Also included in this definition are installations that are technological in nature, 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 and other functional art objects. Works of art may be **temporary**, portable, ~~as well as~~ or permanent **in nature**.

This definition shall not include:

Objects that are mass-produced from a standard design or reproductions of original art works; decorative, ornamental or functional elements, which are designed by the building architect; landscape architecture and landscape gardening except where these elements are an integral part of the artwork by the artist; directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original work of art; logos or corporate identity.

Section 1.1702: PUBLIC ART COMMITMENT

One (1%) percent of the bid price or negotiated contract price for the construction of all new municipal buildings or for the renovation of existing municipal buildings, in which the bid price or negotiated price shall be in excess of ~~TwoFive~~ Million (\$25,000,000.00) Dollars up to ~~fifteen thirty~~ Million (\$~~1530~~,000,000.00) Dollars (expressed in terms of actual construction costs exclusive of design and engineering fees), shall be contributed to the Public Art Trust for the purpose of funding public art. Thereafter, such funds shall be expended in accordance with the terms of this ordinance and the Public Art Trust.

Section 1.1703: PUBLIC ART TRUST

There shall be created a Public Art Trust to serve as a repository of all public art ~~financial~~ contributions generated by application of this ordinance ~~or made by private persons or entities~~. Such Trust shall be administered for the purpose of implementation of this ordinance. The terms of the Trust shall be consistent with this ordinance and shall be interpreted by reference to this ordinance.

Section 1.1704: EXEMPTION

By a two-thirds (2/3) vote, the City Council may exempt a municipal building, ~~such as a water or sewer plant~~, from the Public Art Commitment described in Section 1.1701 if the purpose of this ordinance would not be fulfilled due to the building's inaccessibility to the public, location, use or other factors. In those cases, the public art associated with the project should be placed on other publicly owned property within the city, at the determination of the Council. Any Council determination to exempt a building under this provision shall be made no later than the final vote of the Council authorizing the funding for the project. (Amended 06/19/2017; amended 12/05/2022)

Section 1.412-1705: PUBLIC ART REVIEW COMMITTEE

The City Council hereby establishes a Public Art Review Committee (PARC) for the implementation and review of this ordinance, and all matters related to public art within Portsmouth. Whenever from any source an issue relating to Public Art should be brought to the attention of the City Council, that matter will be referred to the standing committee.

- A Membership and Term: The Public Art Review Committee (PARC) will consist of between seven and eleven members. Members shall include one member of city staff **in a non-voting capacity** to be designated by the City Manager, a City Councilor in a non-voting capacity, and the rest shall be community members. Members shall have demonstrated experience in the fine arts, architecture, art criticism, engineering or structural analysis, art history, graphic arts, interior design, landscape architecture, town planning, or other art and design-related fields, or who have demonstrated a strong interest in the visual arts and civic improvement. Other than the City Manager's appointment, the members shall be appointed by the Mayor, with approval from the Council, to staggered terms varying from two to three years.

The PARC shall be chaired by a member of the local arts community and shall interview or make recommendations to the PARC openings to the Mayor, as they

may determine necessary. The term of the chairperson shall be for one year, with eligibility for reelection for two additional terms.

~~B. — Public Art Defined: For purposes of this Public Art Review Committee, “public art” shall be defined as artwork located in or on a public space such as a municipal facility, park, right of way, or other municipally owned or controlled property. Artwork includes but is not limited to a painting, mural, inscription, stained glass, fiber work, statue, relief or sculpture, monument, fountain, arch or other structures intended for ornament or commemoration. Also include in this definition is any installation that is technological in nature or includes 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 and other function art objects. Works of art may be portable as well as permanent.~~

~~Public art does not include objects that are mass produced from a standard design or reproductions of original art works unless of limited edition; decorative, ornamental or functional elements, which are designed by the building architect; landscape architecture and landscape gardening except where these elements are an integral part of the artwork by the artist; directional elements such as super graphics, signage or color coding except where these elements are integral parts of an original work of art; and logos, corporate identifiers or other forms of branding and advertising.~~

~~C.~~ B. Powers and Duties: The PARC shall have the following responsibilities:

1. To foster development and awareness of public art within the City of Portsmouth, and advise the City Manager, ~~and~~ City Council, ~~and~~ Land Use Boards with respect to matters relating to the development of public art awareness within the City of Portsmouth.
2. To accept referrals from the City Council or any other public body concerning public art and art issues generally.
3. To provide input on masterplans, zoning ordinances, strategic planning documents as they relate to public art and art issues generally.
4. To collaborate with the city on the acquisition, maintenance and marketing of its public art and develop a stewardship policy.
5. Establish Guidelines for review of public art based on the Public Art Acquisition Policy. ~~The guidelines shall be based on the following criteria:~~¹
 - The quality of the artwork; ~~and~~
 - Appropriateness of the size, scale and materials for the site(s); ~~and~~
 - Availability of an appropriate site; ~~and~~
 - Costs of installation and maintenance of artwork; ~~and~~
 - Condition and durability of the artwork; ~~and~~

- Aesthetic merit; and
 - Inclusion of a mandatory maintenance plan (including materials used and proper care for such materials).
6. Initiate public forums where appropriate for determining thematic approaches and location options for public art.
 7. Determine recruitment strategies to attract qualified artists for public art projects.
 8. To review applications for public art following the Public Art Acquisition Policy, select final proposals, and advise the city on issues related to Percent for Art.
 9. Review all applications for sponsored works of public art following the same guidelines as those for the Percent for Art program.
 10. Advise and oversee public art programs established by the City of Portsmouth in accordance with any policies and guidelines either established by the city or established by the Public Art Review Committee at the request of the City Council.
 11. To recommend to the City Council, as requested, replacement members to the PARC when they arise.
 12. Identify and solicit funds to supplement the public art budget.
 13. Perform further duties related to public art within the City of Portsmouth that the City Manager may request.

~~D.C.~~ Meeting Requirements: The PARC shall meet as necessary, but at least quarterly.

~~E.D.~~ Reporting Responsibility: The Public Art Review Committee (PARC) shall include an annual report of their proceedings and programs to City Council. Details of the report include, but are not limited to:

14. Assessing available and potential resources in the Public Art Trust.
15. Assessing possible and/or proposed municipal capital projects and criteria that would benefit from the inclusion of an artist in their design.
16. Assessing the impact of and opportunity for public art projects that advance economic development opportunities.

~~E.E.~~ Revenue Development: The PARC may solicit or receive gifts, money or other to be applied to principal or interest into the Public Art Trust, for either temporary or permanent use for the acquisition, maintenance and/or installation of public art.

Section 1.17056: EXPENDITURE OF PUBLIC ART FUNDS

Expenditure of public arts funds shall be determined by the City Council. In authorizing such expenditures the Council shall apply the following protocol and criteria:

- ~~A. No less than Up to ninety (90%) percent of the principal amount of public art contribution generated by any particular building project shall be expended on the site of that project, unless the City Council votes specifically otherwise to redirect the funds for other public art purposes. Unless the City Council votes specifically otherwise to redirect funds for other public art purposes, a~~ At least 75% of the principal amount of the public art contribution generated by any particular building project shall be expended for public art on the site of the project, unless subject to the exemption in section 1.1704, with remaining funds placed in the Public Art Trust for maintenance as described in 1.1708, or for other public art purposes. The remaining funds should be kept in the general Public Art Trust without designation for a particular project, to be disbursed at the direction of the City Council with advice from the PARC.
- ~~B.~~ In determining the selection of any public art project, the City Council will consider the recommendations of the Public Art Review Committee (PARC), may:

 - ~~1. Refer the question to any agency of a public, non-profit or private nature which might be selected by the City Council for an advisory report, or;~~
 - ~~2. Refer the question to a standing committee for public art which may be created by the City Council under such terms and conditions as it may establish, or;~~
 - ~~3. Create an ad hoc committee for any particular public art project under such terms as the Council may establish, or;~~
 - 4. or seek such other advisory recommendation as the City Council deems appropriate.
- C. Upon the authorization by the City Council of a public arts project, the administrative and financial implementation of that authorization shall be performed by the administrative officials of the City.
- D. The Trustees of Trust Funds shall disburse funds from the Public Art Trust in amounts and at times as shall be specified in one or more written requests from the City Manager acting pursuant to authorization of the City Council. Each request shall identify the amount(s) requested, the purpose of the expenditure, and the public art project or public art concerning which the expenditure pertains and be accompanied by a copy of the Council authorization.

Section 1.1707: ACQUISITION OF PUBLIC ART THROUGH DONATION

In addition to acquisition of public art through expenditure of funds from the public art commitment and expenditure of funds, other financial contributions from the public art trust, the PARC shall have

the authority to recommend in favor or against acceptance of suitable donations of art to the City Council. These works of art will be accepted unconditionally and free of all obligations and encumbrances. The City reserves the right to relocate donated artwork from time to time; and to not display a donated piece of art.

As pieces of public art are acquired, they will be entered into the City Art and Artifact Index maintained by Portsmouth Public Library staff. Changes of location, whether temporary or permanent will be recorded in the Art and Artifact Index.

Section 1.17068: MAINTENANCE AND REPAIR OF PUBLIC ART

Public art funds under this ordinance and the Public Art Trust to be created in conjunction herewith shall be available for repair and maintenance of public art, regardless of whether the public art work was initially funded by the Public Art Trust or otherwise. Maintenance needs for existing public art will be identified by the Public Works Department, with advice from the PARC, with cost estimates for same. As per instructions in section 1.1706D, The City Manager, with approval of the City Council, will authorize expenditure of funds from the Public Art Trust.

All donated, acquired or commissioned works of *outdoor* art shall include a cash stewardship donation of approximately at least 10% of the cost of the artwork which will be added to the Public Art Trust for ongoing stewardship of public art. *Indoor* art may or may not require a stewardship donation, depending on the type of art. The PARC will determine if a stewardship donation is required for a given piece of indoor art, and if so, the amount of the donation. If the artwork is donated, the committee will determine the value of the artwork.

Works from the collection may be considered for removal if they are in poor condition, damaged or deteriorated beyond reasonable repair or conservation or for other good cause. Should the Public Art Review Committee determine that a work of art be de-accessioned due to maintenance or repair challenges, or for any other reason, the committee shall make that recommendation to the City Council for its consideration and action. The City Council retains the authority to remove a work of art after receiving a recommendation for de-accessioning from the PARC. If a piece is decommissioned, the date and reason for withdrawal will also be so recorded in the City Art and Artifact Index.

Section 1.17078: FUNDING ACCEPTED

This ordinance authorizes and the Public Art Trust shall provide for the acceptance by the City of donations, grants or contributions to public art which might be approved from time to time by the City Council.

This ordinance also authorizes the Council to accept donations with a designated purpose to commission works of public art to be placed on public property. The commissioning process shall follow the same procedures outlined in the ordinance for public art associated with capital expenditures by the City.

(Adopted 9/18/2006 to become effective August 21, 2007; amended 12/05/2022)

¹ The Trustees of the Portsmouth Public Library have their own policy for art acquisition. PARC will defer to the Trustees of the Library for art acquisition at the Library.