

# Town of Moraga - Art in Public Spaces Ad Hoc 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 Town of Moraga to further the education and appreciation of art. The purpose of this Art in Public Spaces Ad Hoc Committee is to oversee a Public Art Policy for art in public spaces including:

- A. selection and acceptance of loaned, commissioned, 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, commissioned, leased or loaned to the Town 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 Town Council, for review by the members of the Art in Public Spaces Ad Hoc 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.

**Artist** means a person who has an established reputation of artistic excellence in the visual, performance, literary and/or media arts, as judged by peers, through a record of exhibitions, public commissions, sale of artworks, and/or educational attainment.

**Artwork** means all forms of art created by an artist and conceived in any discipline or medium, including visual, performance, literary, media and temporary works.

**Deaccession** means the procedure for the removal of an artwork.

**Donor** means an individual, group, organization, or business that proposes a public artwork for donation and placement or installation at a public site under city jurisdiction. When applicable, a donor is the artist(s) who created the proposed gift.

**Gift** means an existing or proposed artwork offered as a donation to the city for placement or installation at a public site under city jurisdiction. Alternatively, a gift is monetary for the purpose of acquiring public art for the city.

**Maintenance** means actions taken to retard or prevent damage to artwork by control of the environment and/or treatment of the artwork on a routine and long-term basis.

**Public art** means artworks of sculpture, murals, photography, and original works of graphic art, waterworks, fiberworks, neon, glass, mosaics, or any combination of forms of visual media, furnishing or fixtures permanently affixed to a structure or its grounds, or a combination thereof displayed at a public place.

**Public Art Ad Hoc Committee** or "committee" means the committee appointed by the Town Council pursuant to Resolution No. \_\_\_\_ - 2016.

**Public place** means any exterior area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area will be clearly visible from adjacent public property, such as a street, sidewalk, park or plaza.

**Public property** means property, including right-of-way, owned and/or under the jurisdiction of the city or other public agency.

**Commissioned** means hiring or payment in advance for the creation of a piece, often on behalf of another. Artwork may be commissioned by private individuals, businesses or the government.

In this policy, there are **Appropriate Bodies** 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 Friends of the Moraga Library would have specific interest for placement of art at Library property. These Commissions will have the opportunity to review the recommendations of the Ad Hoc Committee before approval by the Council.

### **III AD HOC COMMITTEE**

The Art in Public Spaces Ad Hoc Committee (“Committee” or “APSC”) shall be appointed by the Town Council, consistent with Resolution \_\_\_\_ - 2016

### **IV SELECTION / ACCEPTANCE PROCESS**

When reviewing works of art for possible loan, **commission**, **lease** or gift to the Town, the APSC 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 Town
  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 Town of Moraga’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 Town already has on loan, **commissioned**, **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 Town has the facilities and resources necessary to accept the object, knowing that the Town has limited facilities and resources;
- D whether the person wishing to loan, **commission**, **lease** or donate the artwork to the Town is prepared to execute a contract or other document which, in the estimation of the Town Attorney and Town Manager, protects and serves the fiscal and other interests of the Town.
- E whether the artist who created the artwork that will be to loaned, **commissioned**, **leased** or donated to the Town 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 Town’s intention with this policy is to create a limited public forum for the display of artwork that meets the Town’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 Town employees.

### **V SITE SELECTION**

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

- A Town-controlled area of the Hacienda de las Flores and Moraga Library.
- B Town Hall (front landscaped areas, interior lobbies/walls, and parking lot).
- C Town-controlled areas of Town Council Chambers/Community Meeting Room at 335 Rheem Boulevard (front landscaping areas, interior lobby/walls/chambers).
- D Town-controlled street medians
- E Town-controlled areas of the Moraga Commons, Rancho Laguna and Camino Ricardo Park

When recommending sites for works of art for loan, **commissioned**, **lease** or gift to the collection, the APSC 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 Town.

The APSC 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, **commissioned**, **leased** or loaned to the Town and the term of the proposed loan or **lease**.

## **VI FORM OF RECOMMENDATION TO COUNCIL**

Applications to donate, **commissioned**, **lease** or loan artwork to the Town will be made to the Park and Recreation Department and will be routed to the APSC. The documentation of the proposed public art will be available for review through the Parks and Recreation Department.

The APSC will consider the application and then make a recommendation to the Town Council for action. The Town Manager (or her/his designee) will notify applicants of the Town Council's decision regarding the APSC'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, **commissioned**, **lease** or loan artwork may be withdrawn at any time up until execution of an agreement between the Town and the donor(s).

## **VII MAINTENANCE OF ART IN PUBLIC PLACES:**

The Parks and Recreation Department 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 Town 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 Town-owned artwork shall be the responsibility of the Town. Town Staff should consider the condition of Town-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, **commissioned**, or **leased** artwork shall be the responsibility of the person loaning, **commissioning** or **leasing** the art to the Town. Prior to undertaking any such maintenance on Town property, the person loaning, **commissioning**, or **leasing** the art to the Town shall obtain the approval of the Town.

## **VIII REMOVING (DEACCESSIONING) ARTWORK**

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

Any artwork may be removed from public display following review by the APSC 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 Town 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 Town shall comply with sections 987 and 989 of the Civil Code.

Prior to removal of an artwork, the APSC shall prepare a full condition report, including any repair rendered, and shall make arrangements for removal. The Town shall determine the estimated cost of removal. It shall be the responsibility of the person loaning, **commissioning**, or **leasing** artwork to the Town to pay the cost of removing the loaned, **commissioned**, or **leased** artwork. In addition, staff shall prepare a statement of reasons for the removal of (1) any leased, **commissioned**, or **loaned** artwork that is proposed to be removed before the end of its predetermined term, and (2) any Town-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 APSC for review at least one month prior to the meeting at which the removal of the work will be considered. Each member of the APSC shall physically inspect the work and the APSC shall vote on whether or not to remove the artwork. Prior to the APSC meeting, staff shall make a reasonable effort to locate the donor or his/her heirs to advise them of the Town'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 Town Council. The decision of the APSC will be deemed final, unless a member of the Town Council, within thirty (30) days of the Council's receipt of the report, makes a successful motion, during the matters initiated portion of a Town Council meeting, to

place review the APSC'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 Town procedures for disposition of surplus property as appropriate.

#### **IX POLICY REGARDING LOANED, COMMISSIONED AND LEASED ARTWORK**

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

#### **X FUNDING FOR ART IN PUBLIC PLACES**

The Town of Moraga shall establish a special reserve account designated as the *Art in Public Spaces Fund*. This reserve account shall be credited annually, with any funds allocated by the Town through the budgetary process and monies received through donations or grants or otherwise obtained. The fund is to be maintained and administered by the Town's Administrative Services 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, **commissioning**, **lease**, transportation, installation, insurance, maintenance, repair, removal or restoration of artwork, and any costs to administer the Art in Public Spaces 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 Spaces Program, the funds shall be deposited into the *Art in Public Spaces Fund*. The APSC may make recommendations to the Town Council regarding the use of such funds.

#### **XI PUBLIC ART PROPOSAL**

Any person wishing to loan, **commission**, **lease** or donate artwork to the Town of Moraga must complete a Public Art Application, available at the Town Parks and Recreation Department.

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, **commission**, 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, **commission**, **lease** or loan is proposed, and the length of any proposed **commission**, **lease** or loan
- I Signage proposed for the artwork, including size, lettering and material  
(Note: signage shall be limited to the artist's name, title, and date of work, and where appropriate, a dedication. The name of the donor, **commissioner**, **lessor** or lender may be part of the installation)

# Town of Moraga Public Art Application

*(Please complete this application as fully as possible)*

Date: \_\_\_\_\_

**Project Name** \_\_\_\_\_

**Proposed Location/Address** \_\_\_\_\_

\_\_\_\_\_

**Proposed by** \_\_\_\_\_

**Phone** \_\_\_\_\_ **Email** \_\_\_\_\_

**Address** \_\_\_\_\_ **Town** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Reason for application** \_\_\_\_\_

**Artist Name** \_\_\_\_\_

**Phone** \_\_\_\_\_ **Email** \_\_\_\_\_

**Address** \_\_\_\_\_ **Town** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Description of Artwork (Include finish and color)**

\_\_\_\_\_

\_\_\_\_\_

**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**   **commission**   **lease**

**Term of Commission/Lease/Loan** \_\_\_\_\_ **years/months**

Please attach

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

- Artist biography
- Signage proposed for the artwork, including size, lettering and material

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