

Chapter 2.36

ARTS AND CULTURAL COMMISSION

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Article I. General Provisions

2.36.010 Establishment.

There is created a St. Helens arts and cultural commission whose duties and responsibilities are to:

- (1) Encourage opportunities for recognition of art and culture in the city of St. Helens.
- (2) Provide coordination and communication among groups and individuals engaged in art and cultural activities.
- (3) Identify funding sources and help to secure such funding as necessary to promote art and cultural activities in the city of St. Helens.
- (4) Identify groups and organizations which could bring art and cultural activities and enrichment to the city of St. Helens.
- (5) Provide a liaison and recommendations to the city council and other city commissions and boards regarding projects in the five-year plan and other approved visual art projects.
- (6) Development of a five-year plan for art and cultural activities in the city of St. Helens, subject to approval by the city council. The plan shall include, but not be limited to, proposed capital improvement projects for public art. (Ord. 2956 § 2, 2005; Ord. 2921 § 1, 2004)

2.36.020 Definition of arts and cultural.

"Arts" and "cultural" shall include but not be limited to music, drama, dance, creative writing and poetry, architecture and landscape design, painting, sculpture, photography, graphics, craft and folk art, film and video, and such other endeavors as may be designated by the commission. (Ord. 2921 § 2, 2004)

2.36.030 Membership.

The commission shall consist of seven members appointed by the mayor and approved by the city council. (Ord. 2949 § 1, 2005; Ord. 2921 § 3, 2004)

2.36.040 Term of office.

Initially, two members shall serve for two years and three members shall serve for three years. Appointments thereafter shall be made for three years. The sixth and seventh members appointed shall serve until September 30, 2008, and thereafter, the terms will be for three years. (Ord. 2949 § 1, 2005; Ord. 2921 § 4, 2004)

2.36.050 Vacancies and removals.

Any vacancies shall be filled for the unexpired term by appointment by the mayor and approval by the council. Any member may be removed for cause. A member of the commission who is absent from two consecutive meetings without an excuse approved by the commission is presumed to be in nonperformance of duty and the city council shall declare the position vacant and appoint a new member to fill the unexpired term. (Ord. 2921 § 5, 2004)

2.36.060 Responsibilities.

The commission shall adopt its own rules for appointment of officers and the frequency and conduct of its meetings. All meetings are subject to the requirements of the Oregon Public Meetings Law (ORS 192.610 through 192.690). A majority of the members of the commission shall constitute a quorum for the conduct of business and the concurrence of a majority of those members present shall be required to decide any matter. Minutes shall be forwarded to the council after adoption by the commission for acceptance by the city council. (Ord. 2921 § 6, 2004)

Article II. Review of Public Art Proposals

2.36.070 Purpose.

Recommendations from the St. Helens arts and cultural commission regarding the acquisition and placement of public art should be based upon accepted standards and guidelines as opposed to personal opinion. Accordingly, the purpose of this article is to provide assistance to the arts and cultural commission by adoption of standards and guidelines commonly used by other governmental entities when evaluating public art proposals. The arts and cultural commission will commit to making meaningful outreach and public education a part of every public art project. This will ensure that the citizens of St. Helens have full access to the artworks created under this program. (Ord. 2978 § 2, 2006; Ord. 2952 § 1, 2005)

2.36.080 Applicability.

The processes, standards and guidelines of this article concern visual works of art located on real property owned by the city of St. Helens or such other properties made available to the city for public art use by written agreement. For purposes of this article, visual works of art include but are not limited to:

- (1) Sculptures and monuments in any combination of materials that are freestanding, wall-supported, or suspended; kinetic; or electronic.
- (2) Displays, such as murals, drawings, photographs, prints, calligraphy, or paintings in any combination of materials.
- (3) Earthworks, fibers, neon, glass, mosaics; any combination of forms of medias including sound, literary elements, film and video; hybrids of any media and new genres.
- (4) Furnishings and outdoor fixtures created by an artist as unique elements or limited editions. Examples include, but are not limited to: gates, railings, streetlights, signage, and seating.
- (5) Architecture on new city structures or landscape designs created by an artist that use architecture and landscape as an integral part of their artwork.
- (6) Temporary artworks or installations, if such artworks serve the purpose of providing community and educational outreach. (Ord. 3097 § 1, 2008; Ord. 2978 § 3, 2006; Ord. 2952 § 2, 2005)

2.36.090 Definitions.

- (1) "Acquisition" means the inclusion of an artwork in the St. Helens public art collection by any means including direct purchase, commission or acceptance of a gift.
- (2) "Artwork" means visual works of public art as defined herein.

- (3) “Capital improvement program (CIP)” means the city’s program for advance planning of capital improvements.
- (4) “City council” means the city of St. Helens city council, the governing body of the city of St. Helens.
- (5) “City project” or “project” means any capital improvement project in an amount over \$25,000 paid for wholly or in part by the city of St. Helens to purchase, construct, remodel or reconstruct any public building, decorative or commemorative public structure, or any portion thereof, within the limits of the city of St. Helens. “City project” or “project” does not include property acquisition, earthwork, street, sidewalk, pathway or public utility construction, emergency work, minor alterations, rehabilitation, minor or partial replacement, remodeling or ordinary repair or maintenance necessary to preserve a facility. Notwithstanding the above limitation, the city council or responsible contracting officer may include any new city utility project in an amount over \$25,000 (limited to water, sewer and storm water projects – inclusive of new underground lines or new vertical improvements) as a city project under this article, by either vote of the council or inclusion in the contract solicitation documents prepared by the responsible contracting officer.
- (6) “Commission” means the St. Helens arts and cultural commission created by Ordinance 2921, as amended, consisting of seven members appointed by the city council.
- (7) “Eligible funds” means a source of funds for projects from which art is not precluded as an object of expenditure.
- (8) “Participating department” means the department that is subject to this article by its sponsorship of a city project.
- (9) “Percent for art” means the program established by this article to set aside a percentage of the total cost of city projects for public art.
- (10) “Public art” means all forms of original works of art accessible to the public and/or public employees, including:
- (a) Painting of all media, including both portable and permanently fixed works, such as murals;
 - (b) Sculpture which may be in the round, bas-relief, high-relief, mobile, fountain, kinetic, electronic and others, in any material or combination of materials;
 - (c) Artistic or aesthetic elements of overall architecture or landscape design;
 - (d) Other visual media including, but not limited to, prints, drawings, stained glass, calligraphy, glass works, mosaics, photography, film, clay, fiber/textiles, wood, metals, plastics or other materials or combination of materials, or crafts or artifacts;
 - (e) Visual works utilizing a wide range of materials, disciplines and media which are of specific duration, including performance events, and which are documented for public accessibility after the life of the piece has ended;
 - (f) Artworks that possess functional as well as aesthetic qualities, such as unique or limited edition furnishings or fixtures, including but not limited to gates, railings, streetlights, and signage.
- (11) “Public art account” means the city of St. Helens public art account in the city budget established by this article into which all moneys donated, appropriated or derived pursuant to the percent for art program shall be deposited. Funds within the public art account shall be utilized for the purposes outlined in this article.
- (12) “Removal” means the exclusion of an artwork from the St. Helens public art collection by the removal and disposal through any available means, such as relinquishing title through sale, gift or destruction.
- (13) “St. Helens public art collection” means all public art acquired by the city by any means.
- (14) “Total cost” means the entire amount of the city’s contribution toward the price for construction of a project. “Total cost” does not include costs for design and engineering, administration, fees and permits, building demolition, relocation of tenants, contingency funds, change order costs, environmental testing or indirect costs,

such as interest during construction, advertising and legal fees. (Ord. 3097 § 2, 2008; Ord. 2978 § 4, 2006; Ord. 2952 § 3, 2005)

2.36.100 Creation, funding and use of St. Helens public art account.

(1) Establishment. The city council hereby establishes a separate account entitled the St. Helens public art account to be reflected in the city budget. All funds donated, appropriated or generated for the purpose of public art acquisition and education shall be deposited in this account and used solely for such purposes, in accordance with this article and other applicable law.

(2) Permitted Purposes of Public Art Account. The public art account shall be used solely for the acquisition, placement and removal of artworks for inclusion in the St. Helens public art collection and for art education purposes, such as community outreach presentations and workshops, in accordance with the provisions of this article and other applicable law.

(3) Requirement for Dedication of a Percent for Art. Except as provided in subsection (3)(e) of this section, any city official or employee who authorizes or appropriates expenditures on behalf of a participating department for a city project shall, to the degree that the funds are eligible, include within the budget for the project a monetary contribution for the public art account equal to one and one-half percent of the total cost of the project.

(a) One and one-half percent of the total cost of a qualifying city project shall be dedicated to the public art account. Such funds shall be deposited into the public art account by the city official or employee acting on behalf of the participating department no earlier than the time that budgeted funds are encumbered for construction of the city project and no later than final inspection of the completed city project.

(b) Of the one and one-half percent dedication noted in subsection (3)(a) of this section, one percent of the total cost of city projects shall be used for costs associated with the acquisition of public art including, but not limited to, the design, purchase and siting of public art.

(c) Of the one and one-half percent dedication noted in subsection (3)(a) of this section, no more than one-half percent of the total cost of city projects shall be used for costs associated with administration of public art programs, including, but not limited to, costs of selection, conservation and maintenance of the collection, community education, removal and registration of public art.

(d) The participating department shall consider the siting of public art as part of the design and engineering phase of any city project. If costs are incurred by the participating department to comply with this article requirement prior to transfer of the one and one-half percent dedication for the city project to the public art account, the participating department may deduct such costs (not to exceed one-half percent) from the one and one-half percent dedication at the time such funds are transferred.

(e) If the city project is a city public utility project, the percent for art shall be one-half percent instead of the normal one and one-half percent established for other projects. Allocations, if any, for administration (subsection (3)(c) of this section) shall be specified in the contract documents or council authorization.

(4) Restricted Funds. If funding for a particular city project is subject to legal restrictions that preclude public art as an object for expenditure, the portion of the city project that is funded with the restricted funds shall be exempt from the dedication requirements of this article.

(5) Phased Projects. As a general rule, where a city project will be constructed in phases, the one and one-half percent dedication shall be applied to the estimated total cost of each phase of the city project at the time that funds for the phase are appropriated and encumbered. However, nothing in this section prevents the city council from deciding to hold or set aside all or part of the entire dedication from the funds of a particular phase, as the council deems appropriate. In determining when to hold or set aside the funds for a phased project, the city will consider an overall public art plan for the project to ensure that art is not located on a piecemeal basis with phase construction.

(6) Monetary contributions for public art shall be deposited in separate accounts within the public art account if separate accounting is deemed appropriate by the city finance officer or is required by law.

(7) Monetary contributions or appropriations made other than through the percent for art program shall be deposited in the public art account and may be dedicated to or earmarked for a specific education program or work of art, subject to acceptance by the city council.

(8) Disbursements from the public art account shall be made only after authorization of the city administrator or the city finance officer, and shall be made according to this article and other applicable city ordinances, including but not limited to the public contracting ordinance (Chapter 2.04 SHMC).

(9) The city council may adopt by resolution case specific waivers or guidelines for administration of the percent for art program, including case-by-case waivers of the required dedication set forth herein based on the availability of public funds, as well as any other matters not specifically addressed herein and appropriate or necessary to the administration of the program. (Ord. 2978 § 5, 2006; Ord. 2952 § 4, 2005)

2.36.110 Review process for public art proposals.

(1) General. Proposals concerning public art may include proposals to acquire or remove art from the St. Helens public art collection. Proposals for acquisition of public art will generally be presented in one of two ways: (a) a work of public art may be offered to the city as a gift or donation; or (b) a work of art will be commissioned or purchased by the city using city funds or donated funds, in accordance with public contracting law. Removal of public art may be by request or owing to some damage or destruction of the artwork.

(2) Presentation of Acquisition Proposals. Regardless of the source of the funding for the proposal for public art, a proposal for acquisition shall be formally presented by the artist to the arts and cultural commission at a public meeting, advertised in accordance with subsection (3) of this section. Proposals shall meet minimum submission requirements as set forth in the standard application form, approved by city council resolution, or as otherwise provided in the public contract solicitation document. Immediately following the presentation of the proposal, or, in the case of multiple competing proposals, after the completion of all presentations, the commission shall conduct a public hearing and shall take public input on the proposal or competing proposals. The commission may make a recommendation without conducting a public hearing only if the project cost, design and construction cost, is less than \$750.00 and the size of the artwork is smaller than two feet in height, two feet in width, and two feet in depth. Presentations shall not be made to city council unless the council specifically makes such request of the artist. Failure of the commission to make a recommendation within 60 days of the formal submission of an artist's proposal, either independently or in response to a city solicitation document (e.g., RFP), shall forfeit the commission's opportunity to submit a recommendation and the matter shall be forwarded to the council for decision.

(3) Published Notice for Acquisition. At least 10 days prior to the presentation of proposals and hearing, notice shall be given by publication in a newspaper of general circulation in the city. The notice shall identify the subject property by address and description reasonably calculated to give notice of the location of the proposed public art site. The notice shall indicate that a public art proposal or multiple competing proposals will be made at a public meeting immediately prior to the public hearing. The public notice shall include the time, place, and date of the presentation or presentations and subsequent public hearing, as well as a statement that both written and oral testimony by the public is invited.

(4) Mailed Notice for Acquisition. At least 10 days prior to the presentation of proposals and hearing, all property owners of record within 300 feet of the location of the proposed public art site shall be sent written notice by regular mail. The notice shall include substantially the same information as required for the published notice.

(5) Conduct of the Public Hearing Regarding Acquisition. The presentation or presentations by the artists to the commission shall be during an advertised public meeting. Presentations shall be uninterrupted by the public; however, commissioners may ask questions during or following the presentations at the discretion of the chair. Following the presentations the public hearing shall be conducted permitting public comment on the proposal or competing proposals. The artists shall not be personally examined or cross-examined by the public; however, the commission may further question the artists following the public hearing. After the close of the hearing, the commission shall deliberate and vote on a recommendation to the council. The record of proceedings, including the reports, exhibits, minutes of the presentation(s), together with the summary of public comment during the hearing shall be forwarded to the council for consideration and decision.

(6) Removal and Disposal Process. Except as provided in SHMC 2.36.130, neither the council nor the commission is bound to follow any particular process for removal and disposal of art in the St. Helens public art collection. (Ord. 3143 § 1, 2011; Ord. 2978 § 6, 2006; Ord. 2952 § 5, 2005)

2.36.120 Guidelines for recommendation by the commission.

(1) Selection Guidelines for Works of Public Art.

- (a) Quality. The work of art should be of exceptional quality and enduring value.
- (b) Site. The work of art should enhance the existing character of the site by taking into account scale, color, material, texture, content, and the social dynamics of the location.
- (c) Initial Cost. The total cost of the artwork including all items related to its installation should be considered.
- (d) Maintenance and Durability. The cost to maintain the artwork should be considered and quantified, particularly if the work is servicing, repainting, repairing or replacement of moving parts.
- (e) Media. All forms of visual media shall be considered, subject to any requirements set forth by city ordinance.
- (f) History and Nature. Works of art should consider the historical, natural features, and the relationship to the existing architecture of the site.
- (g) Public Liability. The works of art should not result in safety hazards, nor cause extraordinary liability to the city.
- (h) Diversity. The works of art in the St. Helens public art collection should encourage cultural diversity.
- (i) Vision. The works of art shall be supportive of the city's vision.

(2) Guidelines for Site Selection.

- (a) Ownership or Control. Public art should be placed on a site owned by the city, or there should be a written agreement for its use.
- (b) Visual Accessibility. Public art should be easily visible and accessible to the public.
- (c) Visual Enhancement. Public art should visually enhance the overall public environment and pedestrian streetscape.
- (d) Pedestrian Accessibility. Public art should experience high levels of pedestrian traffic and be part of the city's circulation paths.
- (e) Circulation. Public art should not block windows, entranceways, or obstruct normal pedestrian circulation.
- (f) Scale. Public art should not be placed in a site where it is overwhelmed or competing with the scale of the site, adjacent architecture, large signage, billboards, etc. (Ord. 2952 § 6, 2005)

2.36.130 Standards for the St. Helens public art collection.

(1) Acquisitions.

- (a) Artworks may be acquired by direct purchase, commission, gift or any other means.
- (b) Acquisition, whether by direct purchase, commission, gift, or otherwise, shall occur by a legal instrument of conveyance or other writing transferring title of the artwork to the city and clearly defining the rights and responsibilities of all parties.

(c) All legal rights to artwork shall be acquired by the city without legal or ethical restrictions on the future use of said artworks, except where expressly provided in the contract with the artist as to any other clearly defined residual rights incorporated into the contract.

(d) Complete records shall be created and maintained for all artworks in the St. Helens public art collection.

(2) Removal.

(a) Arts and cultural commission may recommend removal and/or disposal based on one or more of the following conditions. No public hearing is required for a removal recommendation.

(i) The site for an artwork has become inappropriate because the site is no longer accessible to the public or the physical site is to be destroyed or significantly altered.

(ii) The artwork is found to be forged or counterfeit.

(iii) The artwork possesses substantial demonstrated faults of design or workmanship.

(iv) The artwork causes excessive or unreasonable maintenance.

(v) The artwork is damaged irreparably, or so severely that repair is impractical.

(vi) The artwork presents a physical threat to public safety.

(vii) The artwork is rarely displayed.

(viii) A written request for removal has been received from the artist.

(b) Council Removal Process.

(i) Following receipt of a recommendation for the arts and cultural commission the city council may remove and dispose of any artwork previously accepted into the St. Helens public art collection in their sole discretion.

(ii) Acceptance or placement of donated art by the city does not guarantee continuous public display of the artwork regardless of physical integrity, identity, authenticity, or physical condition of the site.

(iii) Removal officially deletes the work from the city of St. Helens public art collection by a relinquishment of title to the artwork; thus, eliminating the city's obligation to maintain and preserve the artwork.

(c) Removal and Disposal.

(i) The city may donate the artwork to another governmental entity or a nonprofit organization.

(ii) A work that is deemed to have retained sufficient monetary value to warrant resale, shall be disposed of through a public sale, auction, or any other means as established in city ordinance.

(iii) Artworks removed from the St. Helens public art collection may be disposed of through any appropriate means, including the city's procedures for the disposition of surplus property.

(3) Borrowing of Artworks.

(a) The arts and cultural commission may also recommend artworks be borrowed.

(b) With the exception of ownership, the eligibility, review criteria, and procedure for borrowed works shall be the same as those established in this article for acquisition.

(c) The borrowing of artworks shall be pursuant to written agreement between the city and the artist.

(d) Nothing herein prohibits the city from securing other works of art or art exhibitions for display inside its facilities. (Ord. 2952 § 7, 2005)

2.36.140 Maintenance of the city's public art collection.

(1) Except where expressly provided in a contract or warranty for public art the city shall be responsible for all maintenance of all artworks acquired into the St. Helens public art collection.

(2) Within the limitation of the city budget the city shall provide necessary and appropriate maintenance of the St. Helens public art collection, including, but not limited to, regular custodial care and landscape maintenance. Maintenance shall be performed in accordance with any special instructions or procedures necessary for the preservation of the work.

(3) Any evidence of damage, deterioration, vandalism or theft of artworks in the St. Helens public art collection shall be immediately reported to the city and the arts and cultural commission. (Ord. 2952 § 8, 2005)

2.36.150 Parks and trails commission.

The standards and procedures in this article are in addition to, not in derogation of, the St. Helens parks and trails commission review responsibilities for projects proposed in city parks or on city trails. Nothing herein exempts public art projects from compliance with all applicable federal, state, and local laws including, but not limited to, land development regulations and building code compliance. (Ord. 3229 § 3, 2018; Ord. 2952 § 9, 2005)