



City of Fayetteville

Planning Staff's Proposed Donated Public Art Policy

I. Purpose

The City of Fayetteville is committed to the aesthetic development of the community. The City strives to promote community involvement and provide opportunities for the community to participate in the public display of art on City property, parks and rights of way, as the City determines appropriate, on a case by case basis. In order to accomplish these objectives and provide guidelines and procedures for governing the acquisition, display, maintenance, potential deaccessioning and lending of Public Art for public display, the City has developed this policy.

II. Fayetteville Arts Commission

The Fayetteville City Council will appoint a Fayetteville Art Commission which will be comprised of the following representatives:

1. One member of the Fayetteville Parks and Recreation Board;
2. One member of the Walton Arts Center;
3. One member of the City Council; and
4. Four at large community members two of which must be working artists.

A majority of the Fayetteville Arts Commission shall constitute a quorum for the transaction of business. A simple quorum majority is required to accept artwork and conduct other business of the Fayetteville Arts Commission.

III. Acquisition

A. Offers of Donation

All offers to donate an item to the City for public display shall be in writing and accompanied by information adequate to evaluate the proposed donation, including but not limited to the following:

1. Drawings, photos or written descriptions of the item(s) to be donated (including size, colors, weight, materials, and any information which will establish that the item has the requisite physical integrity to withstand public display and withstand exposure to the natural elements);

2. Proposed site and method of display, including any necessary hardscaping, landscaping, buildings, utilities, security devices, anchoring or other information necessary to insure public safety;
3. An explanation of why the item(s) should be displayed on public property and how the display of such serves a purpose appropriate to the interests of the public and the City;
4. Estimates of the costs of installing the item(s) for public display, including but not limited to: physical anchoring of structures for display, retrofit of existing buildings or improvements, landscaping, lighting, security and maintenance and whether the City or donor will pay for such costs;
5. Written explanation of legal issues, including but not limited to, identifying the current legal owner of the items, the existence of any copyrights, patents or other title rights in or to the item(s) - such as any interests to remain with the artist or designer of the item(s), and an explanation of any conditions or limitations on the donation of the item(s) and whether the City or donor will pay for such costs;
6. The estimated value of each item (including appraisals of the item(s) if available);
7. The anticipated date for the donation to occur;
8. Public support for the proposed donation;
9. Anticipated life of the item(s);
10. Environmental effects of the item(s);
11. A written description of the background/historical information associated with any donated art item, including but not limited to, information about the creation of the item(s) and the artist (if applicable) who created it;
12. A warrant of originality (if applicable); and
13. Any additional Information the Fayetteville Arts Commission deems necessary or appropriate to analyze the offer of donation. A failure to provide the information outlined above may result in the City rejecting the offer of donation as insufficiently documented to warrant City staff time to evaluate the offer of donation.

B. Review of Offers of Donation

Once the City receives an adequately documented offer of donation, City staff will submit the application to the Fayetteville Arts Commission, and if

recommended by the Fayetteville Arts Commission, then submitted to the City Council.

C. Fayetteville Art Commission Review

Staff will: (1) provide copies of all information received from the donor to the Fayetteville Art Commission, and (2) make such arrangements as may be practical and possible to provide for display of the actual item(s) to be donated at the Fayetteville Art Commission public hearing. If such display is not practical or possible, photographs and/or drawings may be substituted. Once the Fayetteville Art Commission has completed its review of the proposed donation, they will be responsible for making a written recommendation to accept or reject the offer to the City Council.

The Fayetteville Art Commission will review the written offer and inspect the proposed donated item(s) and drawings or descriptions to determine:

1. If the offer of donation is adequately documented, as outlined above for each item(s);
2. The appropriateness and availability of the requested site for placement of the item(s);
3. Whether the City has sufficient resources to: authenticate, document, research, display, retrofit or add buildings, improvements, lighting or landscaping, interpret, store, protect, conserve, insure and maintain the item(s);
4. Public Safety; and
5. The legal issues, including but not limited to, ability of the current legal owner of the items to deliver unrestricted clear legal title together with all applicable copyrights, patents or other title rights in or to the item(s) without any limitations or conditions on the City's ownership and the time and costs required to acquire the item(s).

D. Legal Department Review and Documentation

If the Fayetteville Art Commission should recommend to accept an offer of donation, the matter will be forwarded to the City's Legal Department for review and/or preparation of title transfer documents acceptable to the City ("Title Transfer Documents"). A recommendation may, however, be forwarded directly to the City Council for "conceptual approval" before being submitted to the City's Legal Department.

E. City Council Approval

Once items are reviewed and a recommendation is determined, the Fayetteville Art Commission will submit the matter for consideration at the next available meeting of the City Council. The City Council will, if it votes to accept an offer of donation, execute a formal resolution, including any conditions to be placed on its acceptance of the offer of donation. The decision of the City Council is final. No offer to donate an item to the City will be deemed accepted without adoption and recording of a formal resolution by the City Council, duly executed and expressly accepting title to the donated item(s).

F. No Obligation to Accept an Offered Item(s) for Donation

The City Council has no obligation to accept, display, or maintain any item(s) donated to the City. The City Council has the right to determine, in its sole and absolute discretion, what item(s) offered to it for public display will be accepted, displayed or maintained by the City. Once an item(s) is accepted by the City Council, the City shall be the sole owner of the donated item(s) and will have the right, in its sole and absolute discretion, except as limited by written title documents, to deaccession any donated item(s) without notice to or obtaining the consent of the donor.

III. Deaccessioning

In order to maintain growing collections of Public Art it may be necessary, from time to time, to deaccession donated item(s).

A. Retention Policy

Generally, donated item(s) will be retained in the City's Public Art Collection, so long as, they continue to be relevant and useful to the purposes and activities of the City, an appropriate site for public display is available, they do not create a public safety problem, they have no adverse environmental effects, they are authentic and original, they can withstand exposure to the natural elements and they can be properly and cost-effectively stored, maintained, preserved, and/or used.

B. Deaccessioning

Deaccessioning of donated item(s) may be considered when the conditions identified in the Retention Policy no longer prevail, or in the interest of improving the quality of the Public Art Collection. Examples of situations where deaccessioning would be considered include:

1. The item(s) has deteriorated beyond a reasonable means of conservation or in deteriorating has lost its usefulness.
2. The authenticity, attribution, or genuineness of the item(s) is determined to be false or fraudulent.

3. The item(s) is redundant or is a duplicate that has no value as part of a series.
4. The item(s) is located in an area where jurisdiction will be transferred to another entity or is made inaccessible to the public.

C. Consensus

Donated items which have been accepted into the City's Public Art Collection will be deaccessioned only at the direction of the City Council, which shall consider the recommendations and comments of the Fayetteville Art Commission, City Staff and any public comment received.

D. Deaccessioning Donated Items

The City will comply with all applicable laws pertaining to deaccessioning of art items, including contacting the donor and artist (if known). If the Title Transfer Documents provide for deaccessioning, such documents will determine the method and manner of the deaccessioning. Otherwise, the City will select from one of the deaccessioning methods outlined below. Generally, preference will be given to public sale, unless the City's analysis determines that another method would yield advantages or better serve the interests of the public or the City. In appropriate instances, appraisals of the item(s) to be deaccessioned will be sought from outside sources. Deaccessioned item(s) may be disposed of by means of private sale; exchange for another work; gifting the item(s) to a tax-exempt public institution; donating the item for recycling or destruction. In each case, the applicable laws will be followed before an item(s) is deaccessioned. Destruction of the item(s) may be considered where the physical condition of the work is severely deteriorated or will be irreparably damaged by the deaccessioning process.

IV. Records of Public Art and Other Property:

The City will be responsible for maintaining a data base of all Public Art Collection items which has been acquired by the City under this Policy. The database and/or files will include the following information:

- A.** Copies of all correspondence and submittals from the donor(s);
- B.** Copies of all correspondence and submittals to the donor(s) from the City;
- C.** Copies of all executed title documents;
- D.** Copies of all other documentation associated with a particular item(s), including but not limited to: drawings, photos, written descriptions, estimates of costs associated with acquiring, maintaining, providing security and legal expenses, etc.; any agreements between the City and donor(s) regarding the item(s); all estimates of value and appraisals, any public comment on the item(s);

environmental impact reports or studies, if applicable; all written descriptions of the background/historical information associated with the item, including, information about the creation of the item(s) and the artist (if applicable) who created it; any warrant of originality; and any other information acquired by the City pertaining to the item(s);

E. Copies of the Title Transfer Documents and any other written agreements

F. Records of maintenance; and

G. Records of any deaccessioning.