

Chapter 5.74 ~~Acquisition of~~ Public Art

5.74.010 Purpose.

It is the purpose of this Chapter and the policy of the City of Portland [to promote and acquire public art and](#) to dedicate two percent of the total Eligible Costs or two percent of the total Eligible Funds of all Improvement Projects (whichever is less) to Public Art. Public Art contributes to experiences that enrich the social, physical and cultural environment of Portland and promotes dialogue among people of all ages and backgrounds. This Chapter shall be implemented in a manner that benefits all Portlanders, including historically underserved communities and neighborhoods.

5.74.020 Definitions.

A. As used in this Chapter:

1. Improvement Project means any project paid for wholly or in part by a Participating Bureau in which the Participating Bureau's contribution of Eligible Funds equals \$50,000 or more for the construction, rehabilitation, remodeling, improvement or purchase for a public use of any building, structure, park, public utility, street, sidewalk or parking facility or any portion thereof within the limits of the City of Portland.
2. Maintenance and repair does not constitute an Improvement Project.
3. Improvement Projects which are developed privately and leased back to the City of Portland are not exempt from the provisions of this Chapter.
4. The purchase of improved or unimproved property by ~~the~~[Prosper](#) Portland ~~Development Commission~~ solely for resale or redevelopment, in which property is not otherwise to be put to a governmental use, shall not constitute an Improvement Project subject to the provisions of this Chapter.

B. Artist-in-Residence means an artist in any discipline who explores new working methods to develop socially engaging, interactive art experiences with City Bureaus through either permanent or temporary artworks.

[C. City Arts Program means the City's internal program and its staff who work with City bureaus, Council offices, and external partners to support the City's vibrant arts and culture ecosystem.](#)

CD. Creative Space means a physical location or a mobile location like a truck that is owned, leased, rented by, donated to, or otherwise made available to the City of Portland that has the exclusive purpose of facilitating the creation or display of visual, performing, cultural or other artworks.

DE. Eligible Costs means the Participating Bureau's capitalized costs for completion of an Improvement Project, including costs for capitalized tenant improvements. Eligible Costs do not include costs for: administration, fees and permits, building demolition, relocation of tenants, environmental testing, environmental remediation, non-construction contingency or indirect costs, such as interest during construction, advertising and legal fees. When an improvement project involves the acquisition of real property, costs attributable to land acquisition are not Eligible Costs, while costs attributable to improvements on the real property are Eligible Costs.

EF. Eligible Funds means a Participating Bureau's monetary contribution to an Improvement Project. The following are not Eligible Funds: private development revenue, federal and state grants that preclude Public Art as an object for expenditure, Local Improvement District revenue, Water Operating Fund revenue, Water Construction Fund revenue, Sewer Systems Operating Fund revenue, Sewer Systems Construction Fund revenue and revenue from any other funding source subject to legal restrictions which preclude Public Art as an object for expenditure.

FG. Public Art means original creative work, which is accessible to the public and/or public employees, and which has been approved as public art by the Regional Arts and Culture Council, acting on behalf of the City of Portland. This definition shall be liberally construed to support this Chapter's purpose, including but not limited to physical art works, Artists-in-Residence and Creative Space.

[H. Public monuments refers to three-dimensional works of art or structures that are publicly displayed with the purpose of memorializing or honoring a specific person, place, or event. In the context of this policy, Public monuments are distinct from other forms of public art, such as two-dimensional murals or three-dimensional plaques located in parks, which are primarily designed to](#)

provoke conversation and provide education. Unlike these other art forms, public monuments specifically serve as commemorative structures, often carrying historical, cultural, or social significance.

GI. Participating Bureau means a City of Portland Bureau or Commission that funds an Improvement Project within the meaning of this Chapter.

HJ. Selection Panel means a group responsible for reviewing proposed Public Art. The Selection Panel will make a recommendation on the selection of Public Art to the Regional Arts & Culture Council. Selection Panels shall include a representative of the Participating Bureau, the Improvement Project architect or engineer, one or more artist(s), and one or more Portland resident.

5.74.030 Dedication.

Any City of Portland official or employee acting on behalf of a Participating Bureau who authorizes or appropriates expenditures for an Improvement Project shall include in the capital improvement program of the City's capital budget, and except as provided herein for funds used to generate Creative Space, disburse to the Regional Arts & Culture Council, a monetary contribution for Public Art equal to two percent (2%) of the total Eligible Costs or two percent (2%) of the total Eligible Funds of the Improvement Project, whichever is less. When all or a portion of the funds are used to generate Creative Space, the Participating Bureau will not disburse those funds to the Regional Arts & Culture Council; rather, those funds used to generate Creative Space will stay with the Improvement Project.

A. The Participating Bureau representative shall authorize using the contribution of Eligible Costs or Eligible Funds for:

1. Public Art sited in, on or about the subject Improvement Project; or
2. Public Art on another property owned, leased, rented by, donated to or otherwise made available to the City of Portland; or
3. Artists-in-Residence; or
4. Creative Space; or
5. Any combination of Subsections 1. through 4.

B. The Office of Management and Finance shall adopt administrative rules and procedures to implement this section, which to the greatest extent practicable shall set forth the same procedures to be followed by all Participating Bureaus.

C. The Regional Arts & Culture Council shall develop project plans for Eligible Costs or Eligible Funds that take into account the views of the Participating Bureau, with final approval of the project plans from the Commissioner-in-Charge of the Participating Bureau.

5.74.040 Public Art Trust Fund.

The Regional Arts & Culture Council shall maintain a special fund called the Public Art Trust Fund into which funds dedicated to Public Art, excluding Creative Space, pursuant to Section 5.74.030 shall be deposited.

A. Such funds shall be deposited into the Public Art Trust Fund, and shall be allocated as follows:

1. For all Public Art that is not Creative Space, as follows:

a. 63 percent shall be used by the Regional Arts & Culture Council for costs associated with acquisition and production of Public Art including, but not limited to the procurement, creation, fabrication, and installation of Public Art.

b. 27 percent shall be used by the Regional Arts & Culture Council for costs of administration and management associated with Public Art, including, but not limited to costs of selection, project management, community education and registration of Public Art.

c. 10 percent shall be used by the Regional Arts & Culture Council for the maintenance, conservation and deaccessioning of Public Art.

B. Such funds shall be deposited in separate accounts within the Public Art Trust Fund if separate accounting is requested by the Participating Bureau or required by law.

C. Disbursements from the Public Art Trust Fund shall be made by the Regional Arts & Culture Council.

1. Disbursements shall be made according to the terms of this Chapter and any guidelines adopted hereunder by the Regional Arts & Culture Council.
2. If an Improvement Project is funded by revenue sources whose expenditure is restricted by the City Charter or other law, the Regional Arts & Culture Council, prior to making a disbursement for Public Art from such a restricted account in the Public Art Trust Fund, shall adopt written findings demonstrating that the proposed disbursement complies with all applicable restrictions.
3. The Regional Arts & Culture Council will report annually and as requested to Participating Bureaus on the disbursement of funds from the Public Art Trust Fund.

5.74.045 Funds for Creative Space.

Participating Bureaus wishing to dedicate Eligible Costs or Eligible Funds towards the creation or improvement of Creative Space must obtain written approval from the Bureau's Commissioner-in-Charge. Requests must be submitted to the City Arts Manager at the Office of Management and Finance. Funds may not be used for programming or staffing.

Bureaus are responsible for operations and maintenance of Creative Space generated through this program and must submit an operations plan, 5-year programming plan, estimated annual budget and equity statement for the Creative Space.

If any part of an Improvement Project is a Creative Space, the Participating Bureau may, after obtaining written approval from the Bureau's Commissioner-in-Charge, opt to dedicate its Eligible Costs or Eligible Funds for future maintenance of the Creative Space.

The Office of Management and Finance shall adopt administrative rules and procedures to implement this section, which to the greatest extent practicable shall set forth the same procedures to be followed by all Participating Bureaus.

5.74.050 Siting.

Public Art selected pursuant to this Chapter may be sited in, on or about any Improvement Project or other property owned, leased, or rented by, donated to, or otherwise made available to the City of Portland in accordance with any restrictions placed on siting by the Participating Bureau.

5.74.060 Guidelines.

The Regional Arts & Culture Council shall, after consultation with Participating Bureaus, and after receiving written approval from the Office of Management and Finance and Arts Commissioner, adopt guidelines to:

- A.** Provide for annual reporting to Participating Bureaus;
- B.** Provide a method for the appointment of representatives to Selection Panels;
- C.** Determine a method or methods of selecting and contracting with artists for the design, execution and siting of Public Art;
- D.** Determine the dedication and disbursement process for the Public Art Trust Fund;
- E.** Determine a process for the ongoing care, maintenance and conservation of Public Art;
- F.** Determine a process to deaccession art;
- G.** Set forth any other matter appropriate to the administration of this Chapter.

5.74.070 Ownership.

All Public Art acquired pursuant to this Chapter shall be acquired in the name of the City of Portland, and title shall vest in the City of Portland.

5.74.080 Decisions.

Except as limited by other sections of this Chapter, the Regional Arts & Culture Council shall make decisions as to the management and registration of Public Art, and disbursement of the Public Art Trust Fund. Notwithstanding the above, the Director of the Office of Management and Finance, in consultation with the

Arts Commissioner and Participating Bureau, has exclusive final decision-making authority.

5.74.085 Public Monuments Review Criteria.

A. A public monument may be considered for review based on one or more of the following reasons:

- 1.** There is sustained and significant adverse public reaction or reasonable large-scale community opposition to the public monument.
- 2.** The artist, donor, or subject of a piece of the public monument, or their descendants, provides a written request to the City seeking removal of the monument from public display.
- 3.** Community members most affected by the monument's historical and cultural context have expressed a negative impact on community wellbeing.
- 4.** The subject or impact of a public monument is significantly at odds with the City's values of anti-racism, equity, transparency, communication, collaboration, and fiscal responsibility.
- 5.** The public monument is damaged or requires restoration in gross excess of its value or is in such a deteriorated state that restoration is either not feasible or impractical.
- 6.** The public monument interferes with the practical use of the site or significant changes in the use or character of design of the site affect the integrity of the monument.
- 7.** The location of a site-specific public monument provides an environmental risk or is so severely altered that the work's installation is no longer physically possible or conceptually relevant, or no suitable site for the monument is available.

8. The monument requires excessive repair or unreasonable maintenance or has physical faults in design or workmanship.

9. The work does not fit within the mission, goals, and objectives for the City's public art program.

B. If a public monument meets one or more of the criteria outlined in Subsection A., and is subsequently identified by the City Arts Program or its designee as requiring further review, the City Arts Program or its designee may provide a report to City Council and Historic Landmarks Commission detailing the nature of the issues raised. The report may include the following recommendations:

1. A recommendation for the City Arts Program, or its designee, to review the public monument in question and provide a report and recommendations to the City Council. If review is initiated by the public, the recommendation must include the following elements:

a. Addition of historical context or information related to the public monument designed to enhance public understanding and awareness;

b. Community engagement meetings such as town halls, public forums, and conversations;

c. Evaluation of both historical and current community feedback, utilizing quantitative and qualitative measures as feasible;

d. An analysis of the subject of public monument in relation to the City's core values;

e. Review of the public monument subject, the donor of the piece, the artist, and historical acquisition of the monument;

f. Assessment of the public monument as an ongoing rally point for gatherings centered on racist or bigoted ideology; and

g. Examination of any legal considerations related to the disposition of the public monument.

2. A recommendation to appoint a Monuments Advisory Commission, with a primary purpose of evaluating the public monument(s) in question and providing recommendations to the Mayor and City Council. The commission will, to the extent possible:

a. Represent a diverse body of at least six public members, including a minimum of two artists, one historian, one subject matter expert, and two community members most affected by the artwork's historical and cultural context.

b. Produce a report to the City Council, or designee, and include the following engagement activities:

(1) A series of virtual and/or in-person community forums, listening sessions and town halls.

(2) A minimum six-month public engagement process with artists and community members most affected by the public monument and develop creative responses or engagement activities in response to the public monument in question.

c. If the Public Monument does meet criteria outlined in Subsection A., but is not considered for further review, the City Arts Program or designee will issue a response to the complainant within 90 days.

5.74.090 Implementation.

The Regional Arts & Culture Council, or its designee, shall implement and be held accountable for the provisions of this Chapter, in cooperation with the Office of Management and Finance and all Participating Bureaus.