

Chapter 5.74 Public Art

(Chapter replaced by Ordinance 161537; amended by Ordinances 168591, 179869 and 191649, effective April 5, 2024.)

5.74.010 Purpose.

(Amended by Ordinances 189611 and 191649, effective April 5, 2024.)

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 ~~E~~eligible ~~C~~costs or two percent of the total ~~E~~eligible ~~F~~funds of all ~~I~~improvement ~~P~~projects (whichever is less) to ~~P~~public ~~A~~art. Public ~~A~~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~~will be implemented in a manner that benefits all Portlanders, including historically underserved communities and neighborhoods.

5.74.020 Definitions.

(Amended by Ordinances 178946, 189611 and 191649, effective April 5, 2024.)

~~A.~~ As used in this Chapter:

~~1A.~~ **Improvement ~~P~~project** means any project paid for wholly or in part by a ~~P~~participating ~~B~~bureau in which the ~~P~~participating ~~B~~bureau's contribution of ~~E~~eligible ~~F~~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~~.

21. Maintenance and repair does not constitute an ~~I~~improvement ~~P~~project.

32. Improvement ~~P~~projects which are developed privately and leased back to the City ~~of Portland~~ are not exempt from the provisions of this Chapter.

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43. The purchase of improved or unimproved property by Prosper Portland solely for resale or redevelopment, in which property is not otherwise to be put to a governmental use, ~~shall~~does not constitute an ~~improvement P~~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 ~~B~~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.~~

DC. Creative Sspace 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.

ED. Eligible Costs means the ~~P~~participating ~~B~~bureau's capitalized costs for completion of an ~~I~~improvement ~~P~~project, including costs for capitalized tenant improvements. Eligible ~~C~~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 ~~E~~eligible ~~C~~costs, while costs attributable to improvements on the real property are ~~E~~eligible ~~C~~costs.

FE. Eligible Funds means a ~~P~~participating ~~B~~bureau's monetary contribution to an Improvement Project. The following are not ~~E~~eligible ~~F~~funds: private development revenue, federal and state grants that preclude ~~P~~public ~~A~~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 ~~P~~public ~~A~~art as an object for expenditure.

F. Office of Arts & Culture 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.

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G. 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~~ [Office of Arts & Culture](#). This definition ~~shall~~ will 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.

I. Participating Bureau means a ~~City of Portland~~ [Bureau](#) or [Commission](#) that funds an ~~Improvement Project~~ [Project](#) within the meaning of this Chapter.

J. Selection Panel means a group responsible for reviewing proposed ~~Public Art~~ [Public Art](#). The ~~Selection Panel~~ [Panel](#) will make a recommendation on the selection of ~~Public Art~~ [Public Art](#) to the ~~Regional Arts & Culture Council~~ [Office of Arts & Culture](#). Selection ~~Panels~~ [Panels](#) ~~shall~~ must 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.

(Amended by Ordinances 187570 and 189611, effective August 23, 2019.)

Any ~~City of Portland~~ official or employee acting on behalf of a ~~Participating Bureau~~ who authorizes or appropriates expenditures for an ~~Improvement Project~~ [Project](#) ~~shall~~ will 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~~ [Office of Arts & Culture](#), 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~~

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~~those funds to the Regional Arts & Culture Council; rather, those funds used to generate Creative Space will stay with the Improvement Project.~~

A. The ~~P~~participating ~~B~~bureau representative ~~shall~~will authorize using the contribution of ~~E~~eligible ~~C~~costs or ~~E~~eligible ~~F~~funds for:

1. Public ~~A~~art sited in, on or about the subject ~~I~~improvement ~~P~~project; or
2. Public ~~A~~art on another property owned, leased, rented by, donated to or otherwise made available to the City~~-of Portland~~; or
3. Artists-in-~~R~~esidence; or
4. Creative ~~S~~space; or
5. Any combination of Subsections 1. through 4.

B. The Office of ~~Management and Finance~~Arts & Culture ~~shall~~will adopt administrative rules and procedures to implement this section, which to the greatest extent practicable ~~shall~~will set forth the same procedures to be followed by all ~~P~~participating ~~B~~bureaus.

C. The ~~Regional Arts & Culture Council~~Office of Arts & Culture or designee ~~shall~~will develop project plans for ~~E~~eligible ~~C~~costs or ~~E~~eligible ~~F~~funds that take into account the views of the ~~P~~participating ~~B~~bureau, with final approval of the project plans from the ~~Commissioner-in-Charge of the Participating Bureau~~City Administrator.

5.74.040 Public Art Trust Fund.

(Amended by Ordinance 189611, effective August 23, 2019.)

The ~~Regional Arts & Culture Council~~Office of Arts & Culture ~~shall~~will maintain a special fund called the Public Art Trust Fund into which funds dedicated to ~~P~~public ~~A~~art, excluding ~~C~~creative ~~S~~space, pursuant to Section 5.74.030 shall be deposited.

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

1. For all ~~P~~public ~~A~~art that is not ~~C~~creative ~~S~~space, as follows:

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- a. 63 percent ~~shall~~will be used ~~by the Regional Arts & Culture Council~~ for costs associated with acquisition and production of ~~P~~ublic ~~A~~rt including, but not limited to the procurement, creation, fabrication, and installation of ~~P~~ublic ~~A~~rt.
- b. 27 percent ~~shall~~will be used ~~by the Regional Arts & Culture Council~~ for costs of administration and management associated with ~~P~~ublic ~~A~~rt, including, but not limited to costs of selection, project management, community education and registration of ~~P~~ublic ~~A~~rt.
- c. 10 percent ~~shall~~will be used ~~by the Regional Arts & Culture Council~~ for the maintenance, conservation and deaccessioning of ~~P~~ublic ~~A~~rt.

B. Such funds ~~shall~~will 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~~will be made by the ~~Regional Arts & Culture Council~~Office of Arts & Culture.

1. Disbursements ~~shall~~will be made according to the terms of this Chapter and any guidelines adopted hereunder ~~by the Regional Arts & Culture Council~~.
2. If an ~~i~~mprovement ~~P~~roject is funded by revenue sources whose expenditure is restricted by the City Charter or other law, the ~~Regional Arts & Culture Council~~Office of Arts & Culture or its designee, prior to making a disbursement for ~~P~~ublic ~~A~~rt from such a restricted account in the Public Art Trust Fund, ~~shall~~will 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.

(Amended by Ordinance 189611, effective August 23, 2019.)

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Participating **B**ureaus wishing to dedicate **E**ligible **C**osts or **E**ligible **F**unds towards the creation or improvement of **C**reative **S**pace must obtain written approval from the ~~Bureau's Commissioner-in-Charge~~**City Administrator**. Requests must be submitted to the ~~City Arts Manager at the Office of Management and Finance~~**Office of Arts & Culture**. Funds may not be used for programming or staffing.

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

If any part of an **I**mprovement **P**roject is a **C**reative **S**pace, the **P**articipating **B**ureau may, after obtaining written approval from the ~~Bureau's Commissioner-in-Charge~~**City Administrator**, opt to dedicate its **E**ligible **C**osts or **E**ligible **F**unds for future maintenance of the **C**reative **S**pace.

The Office of ~~Management and Finance~~**Arts & Culture** ~~shall~~**will** adopt administrative rules and procedures to implement this section, which to the greatest extent practicable ~~shall~~**will** set forth the same procedures to be followed by all **P**articipating **B**ureaus.

5.74.050 Siting.

Public **A**rt selected pursuant to this Chapter may be sited in, on or about any **I**mprovement **P**roject 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 **P**articipating **B**ureau.

5.74.060 Guidelines.

~~(Amended by Ordinance 189611, effective August 23, 2019.)~~

~~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;~~

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~~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 Ppublic Aart acquired pursuant to this Chapter shallwill be acquired in the name of the City ~~of Portland~~, and title shallwill vest in the City ~~of Portland~~.

5.74.080 Decisions.

(Amended by Ordinance 189611, effective August 23, 2019.)

Except as limited by other sections of this Chapter, the ~~Regional Arts & Culture Council~~Office of Arts & Culture shallwill make decisions as to the management and registration of Ppublic Aart, 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.

(Added by Ordinance 191649, effective April 5, 2024.)

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.

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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~~[Office of Arts & Culture](#) or its designee as requiring further review, the ~~City Arts Program~~[Office of Arts & Culture](#) 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~~[Office of Arts & Culture](#), or its designee, to review the public monument in question and provide a

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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 [the](#) 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.

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(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 ~~P~~ublic ~~M~~onument does meet criteria outlined in Subsection A., but is not considered for further review, the ~~City Arts Program~~[Office of Arts & Culture](#) or designee will issue a response to the complainant within 90 days.

5.74.090 Implementation.

(Amended by Ordinances 187570 and 189611, effective August 23, 2019.)

The ~~Regional Arts & Culture Council~~[Office of Arts & Culture](#), or its designee, ~~shall~~[will](#) implement ~~and be held accountable for~~ the provisions of this Chapter, in cooperation with ~~the Office of Management and Finance and~~ all ~~P~~articipating ~~B~~ureaus.