

**CITY OF SAND CITY**

**RESOLUTION SC 20-26, 2020**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY  
ADOPTING A PUBLIC ART POLICY**

**WHEREAS**, the Sand City Public Art Policy ("Policy") establishes procedures for the acquisition, removal and maintenance of public art; and

**WHEREAS**, the Policy applies to artwork that is donated, leased or loaned to the City for display for an extended period of time, as well as City-sponsored Artwork such as murals; and

**WHEREAS**, Sand City has already dedicated revenue in its Fiscal Year 2019-2020 budget to be used for a mural festival known as "we."; and

**WHEREAS**, the Policy manual establishes a special reserve account for public art in which funding will be considered in the future through the usual budgetary process; and

**WHEREAS**, the Policy is not a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Sand City as follows:

1. The Council hereby adopts the Sand City Public Art Policy, attached to this resolution as Exhibit A.
2. The City Manager is authorized to establish a special reserve account for public art in which funding will be considered in the future through the usual budgetary process.

**PASSED AND ADOPTED** by the City Council of the City of Sand City on this 5<sup>th</sup> day of May, 2020, by the following vote:

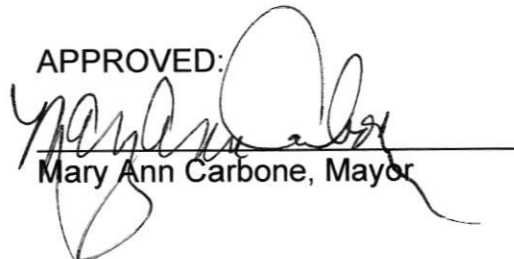
AYES: Council Members Carbone, Cruz, Hawthorne, Sofer  
NOES: None  
ABSENT: None  
ABSTAIN: Council Member Blackwelder

ATTEST:



Connie Horca, Acting City Clerk

APPROVED:

  
Mary Ann Carbone, Mayor



**CITY OF SAND CITY  
PUBLIC ART POLICY  
(May 2020)**

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## **1. PURPOSE OF POLICY**

The City of Sand City is a committed proponent of public art. Public art plays an important role in increasing the understanding and enjoyment of art by creating a shared cultural experience for the community. Public art integrates art into the urban fabric of the city thereby enhancing the physical attractiveness of the City. Public art can transform spaces.

The purpose of this Public Art Policy is to have procedures in place for the acquisition, removal and maintenance of public art in Sand City ("City"). This policy shall apply to artwork that is donated, leased or loaned to the City for display for an extended period of time, as well as City sponsored Artwork such as murals. 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 considered for approval by the City Council of Sand City ("City Council") taking into account any recommendation submitted by the Sand City Arts Committee.

## **2. DEFINITIONS**

"Art" or "artwork" as described in this policy shall include, but not be limited to, sculptures, murals, paintings, graphic arts, mosaics, photography, crafts, mixed media, and environmental works.

## **3. PROCEDURE FOR APPLICATIONS TO DONATE, LEASE OR LOAN ARTWORK**

Applications to donate, lease, or loan artwork to the City shall be made to the City Manager and will be routed to the Sand City Arts Committee appointed by the City Council, consistent with Sand City Municipal Code chapter 2.60 ("Committee"). The documentation of the proposed public art will be available for review through the City Clerk's office.

Any person wishing to loan, lease or donate artwork to the City of Sand City must submit a description of the artwork to the City Manager. The description shall include the following:

- a. Photo, plans, model or other visual representation of proposed artwork.
- b. Proposed location of the artwork.
- c. Statement of reason for donation, loan or lease.
- d. Description of the artwork, including year of creation, medium, dimensions, weight, finish, color, and system for mounting or displaying the artwork.

- e. Any special maintenance, mounting or display requirements.
- f. Name of Artist and, if possible, Artist's biography.
- g. A statement of the approximate value of the artwork.
- h. Whether donation, lease or loan is proposed, and the length of any proposed lease or loan.
- i. Whether the art, if donated, is donated with any restrictions.

The Committee will consider the application based on the criteria set forth below and make a recommendation to the City Council whether to accept the artwork and also recommended a site upon which to display the artwork.

#### **4. ART COMMITTEE SELECTION/ACCEPTANCE PROCESS OF DONATED, LEASED OR LOANED ARTWORK**

When reviewing works of art for possible loan, lease or gift to the City, the Committee shall determine the following:

- a. is the art thought-provoking, memorable or enduring and reflects the diverse social, cultural, or historic values of the City;
- b. is the art appropriate in terms of scale, form, content, and the environment;
- c. is the art durable relative to theft, vandalism and the environment;
- d. whether the art acknowledges and is sensitive to the importance of the contributions by local and regional artists to the City;
- e. whether the art is not religious iconography which might be perceived as government endorsement of religion in violation of the Establishment Clause of the Federal and State Constitutions;
- f. ensure that the art would not, when displayed, create a hostile work environment for public employees;
- g. ensure that the art does not depict graphic violence or overt sexual activity;
- h. is the art repetitive in that the City already has sufficient examples or better examples of the same type of object;
- i. whether the City has the facilities and resources necessary to accept the object, knowing that the City has limited facilities and resources;
- j. whether the person wishing to loan, lease or donate the artwork to the City is prepared to execute a contract or other document which, in the estimation of the City Attorney and City Manager, protects and serves the fiscal and other interests of the City;
- k. whether the artist who created the artwork that will be to loaned, leased or donated to the City 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.

## 5. SITE SELECTION

When recommending sites for works of art for loan, lease, or gift to the collection, the Committee shall consider:

- a. whether the artwork can be properly installed, placed to be seen, and displayed with patron safety in mind;
- b. the compatibility of design and location within unified design, environmental or historical character of the site;
- c. landscaping, drainage, grading, lighting, and seating considerations;
- d. environmental impacts such as noise, sound and light;
- e. public accessibility to the artwork;
- f. impact on adjacent property owner's views; and
- g. impact on operational functions of the City.

Any site chosen for display of art shall not, however, be eligible for art display if the Director of Public Works and/or City Engineer determines that the use of the location for display of public art would interfere with use by pedestrians or vehicles, would create a safety hazard, or would otherwise be inappropriate.

## 6. PROCESS AFTER COUNCIL APPROVAL

The City Manager will notify applicants of the City Council's decision and ensure that the donor fill out the **Art Donation Agreement**, attached as Appendix 1. The offer to donate, lease or loan artwork may be withdrawn at any time up until execution of the agreement between the City and the donor(s). In addition, the artist must execute the **Waiver of Proprietary Rights** form attached as Appendix 2.

City shall not accept the artwork without the executed Art Donation Agreement and Waiver of Rights forms.

## 7. MAINTENANCE OF ART IN PUBLIC PLACES:

The City Clerk shall maintain detailed records of all artworks currently owned by the City and all artworks accepted by the City.

Upon receipt of the work of art pursuant to this policy, the City Manager will insure the work of art under its Insurance Coverage. The estimated value of the artwork will be the value provided on the Art Donation Agreement.

Maintenance of City-owned artwork shall be the responsibility of the City. The Public Works Director shall consider the condition of City-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 or leased artwork shall be the responsibility of the person loaning or leasing the art to the City. Prior to undertaking any such maintenance on City property, the person loaning or leasing the art to the City shall obtain the approval of the City.

## **8. REMOVING (DEACCESSIONING) ARTWORK**

Leased or loaned art shall be removed at the end of the prescribed term, unless the Committee determines that early removal is appropriate under the criteria described below. Any artwork may be removed from public display following review by the Committee 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 City has continued unabated over an extended period of time;
- g. the artwork violates the selection criteria in section 4 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 City shall comply with sections 987 and 989 of the California Civil Code.

Prior to removal of an artwork, the Committee shall prepare a full condition report, including any repair rendered, and shall make arrangements for removal. The City shall determine the estimated cost of removal. It shall be the responsibility of the person loaning or leasing artwork to the City to pay the cost of removing the loaned or leased artwork.

In addition, staff shall prepare a statement of reasons for the removal of (1) any leased or loaned artwork that is proposed to be removed before the end of its predetermined term, and (2) any City-owned artwork that is proposed to be removed. Staff shall also fill out the **Deaccessioning Request Form** attached as Appendix 3. A copy of the form and the statement of reasons shall be distributed to each member of the Committee for review at least one week prior to the meeting at which the removal of the work will be considered. Each member of the Committee shall physically inspect the work and the Committee shall vote on whether or not to remove the artwork. Prior to the Committee meeting, staff shall make a reasonable effort to locate the donor or his/her heirs to advise them of the City's consideration to remove the artwork and reasons for the decision.

A report of the decision to remove the artwork will be provided to the City Council. The decision of the Committee will be deemed final, unless a member of the City Council, within thirty (30) days of the Council's receipt of the report, makes a successful motion, during the matters initiated portion of a City Council meeting, to place review the Committee's decision on a future Council agenda for consideration. Disposition of artwork shall be handled in accordance with the requirements of California Civil Code sections 987 and 989 and shall follow City procedures for disposition of surplus property as appropriate.

## **9. POLICY REGARDING LOANED AND LEASED ARTWORK**

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

## **10. FUNDING FOR ART IN PUBLIC PLACES**

The City of Sand City shall establish a special reserve account designated as the Art in Public Places Fund. This reserve account shall be credited annually, with any funds allocated by the City through the budgetary process and monies received through donations or grants or otherwise obtained. The fund is to be maintained and administered by the City Manager.

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, lease, transportation, installation, insurance, maintenance, repair, removal or restoration of artwork, and any costs to administer the Art in Public Places 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 Places Program, the funds shall be deposited into the Art in Public Places Fund. The Committee may make recommendations to the City Council regarding the use of such funds.

Expenditures of funds may include the following uses:

- The cost of the public art itself including the artist's fee for design, structural engineering, and fabrication, the transportation and installation of the work at the site, identification signs, if any, mountings, anchorages, containments, pedestals, bases, or materials necessary for the property presentation and installation of the art.
- Water works, lighting, and other objects which are an integral part of the artwork.
- Walls, pools, landscaping, or other architectural elements necessary for the proper aesthetic and structural placement if the artwork.
- Maintenance and repair of the art through the Art in Public Places Fund.
- The design, construction, operation, and maintenance of art gallery space or cultural arts' display, demonstration, and performance space to be utilized by individuals and non-profit arts organizations.
- Developing and sponsoring artistic programs and events for the enjoyment and appreciation of art, heritage, and culture within the Sand City community. Funding the design,

construction, operation, and/or maintenance of cultural and/or arts facilities, either at the development or off-site.

## **11. SPECIFIC POLICY REGARDING MURALS**

### **A. Murals on Public and Private Property, sponsored by City**

It is of great importance to the City to integrate art into its urban fabric. A collection of murals on buildings in Sand City would improve the resident and visitor experience while in the City, and enhance Sand City's distinct character.

#### **i. The we. Mural Festival.**

For the Fiscal year 2019-2020 Sand City has already dedicated revenue in its budget to be used for a mural festival called "we.". The process for selection of artists and sites for that festival is already underway. Many of the procedures set forth in this policy will therefore apply only to future City Sponsored murals. However, the City Manager should ensure all agreements required under this policy in place for all public murals including the "we." festival, and should further ensure that all finalists' renderings receive City Council approval prior to installation.

#### **ii. Procedure for selection of Sites for murals**

The Art committee will consider proposed sites and make a recommendation based on extent to which: the site is situated in a prominent location that can easily be viewed from the public right-of-way, safety considerations, the extent of interest of the property owner, landscaping, and any existing murals in surrounding area.

#### **iii. Procedure for selection of Artists for City-sponsored murals**

The City encourages the commission of works by artists from the Monterey County arts community. Sand City residents are especially to be considered to contribute to the unique identity of the City. However, this policy does not preclude consideration given to commissioning of regional, national, and international artists where appropriate.

Methods of selecting artists for public artwork may be based on the following:

- Open Competition – Publicly advertised calls for entry; any artist may submit proposals and/or qualifications.
- Limited Competition – Between invited parties.
- Specific Commission or Acquisition by the Arts Committee – This method would apply where limited or open competition would be impractical or inappropriate.

Artists' proposals or responses to a request for proposals (RFP) will be presented to the Arts Committee. Artists considered should have the credentials and/or track record and the ability to execute works of the scale envisaged, but this does not exclude opportunities for other artists of

merit. Representatives of the City may choose to visit the artist's workspace or request that the artist present their portfolio of commissioned works prior to contract with the City. Applications and background reports prepared by City staff shall be presented to the Arts Committee. If, after careful examination, the Arts Committee determines that the submission meets the required criteria, staff will work with the Committee to prepare a report to present to the City Council at a regularly scheduled City Council meeting.

Before the City funds any City-sponsored art, the following form must be completed by the proposed artist: **Agreement for Public Art**, Attached as Appendix 4.

#### iv. Procedure for approving design of City-sponsored murals

After the Arts Committee has selected an artist and a site for installation of the mural, the Committee must review the design of the mural, and make recommendations to City Council for final approval.

The Arts Committee will review sketches submitted by the artist and select two preferred sketches to be presented to the property owner(s) of the intended site. The City Manager and the Arts committee chair must ensure that the property owner has the opportunity to provide concept input regarding the design of the Mural prior to approval by City Council in the following manner:

- a. Property owner will be allowed to review up to two design sketches.
- b. If desired, property owner may request one revised sketch, then select the design he/she prefers (the "Final Sketch").
- c. If property owner is not satisfied with the Final Sketch, he/she has seven calendar days in which to object in writing.
- d. If no such objection is received by the City Manager within seven days of presenting the Final Sketch to the property owner, the City Manager will present the final design to the City Council.
- e. If the Council rejects the final sketch, the City Manager will ensure that the property owner has input on any redesign of the mural in the same manner as set forth above.

#### v. Procedure for Installation of City-sponsored mural.

Before any City employee or artist begins any preparatory or installation work of the mural on a building, the City Manager shall ensure that the property owner has executed the **Authorization and Release Agreement**, attached as Appendix 5, and will obtain the City Attorney's approval that all required agreements are in place.

The City Manager will coordinate with the property owner, and the artist to find a reasonable time and date for both preparation of the wall and for installation of the mural to occur. The City Manager will confirm the dates in writing and will notify the property owner of his/her obligation to: (1) remove any debris (including advertisements and brackets) from the wall on



which the mural will be installed, and/or the workspace in front of the wall, in order to provide City Staff and/or Artists unobstructed access to a clean surface; and (2) if applicable, to notify all tenants of the property of the date of any work Installation and to distribute to them any literature provided by the City in advance of any work on the wall.

#### **vi. Maintenance of City-sponsored murals**

The property owner is encouraged but not required to maintain the mural after it is installed. The property owner may not however destroy or cover the mural for two years after it is installed. After two years, the property owner may remove the mural at his or her own expense.

For two years after installation of the mural, the City will be responsible for touch-ups of the mural if needed due to graffiti and for removal of graffiti when it is reasonable to do so. If the mural is damaged, defaced, altered or destroyed the City may remove or repair or replace the mural.

No work on the site must be performed by an artist or City staff until and unless access to the building has been obtained in writing from the property's owner.

#### **B. Murals on Private Property, not sponsored by City**

Any Sand City private property owner wishing to create/install a mural at his/her own expense, but which will be visible from any public place within the City, shall submit a written description of the proposed mural to the City Manager, including the following information ("Application"):

- a. Proposed location of the artwork, including which wall on the location.
- b. Photo, plans, model or other visual representation of proposed artwork.
- c. Description of the artwork, including dimensions, and color.
- d. Name of Artist and if possible, Artist's biography.
- e. Documented approval by building owner.

2. The City Manager will forward the Application to the Arts Committee and the City's Planning Department.

3. The City's Planning Department shall review the Application in consideration of any applicable City ordinances (e.g., sign and design review requirements) and forward a recommendation to the City Manager and the Arts Committee.

4. The Arts Committee shall review the Application and any recommendations from City Planning Department to ensure the proposed mural does not include subject matter that is apparent representation of violence, inappropriate nudity, denigration of individuals or cultures, or desecration of significant cultural symbols. The Committee will schedule the application to be reviewed by the City Council.

5. The City Council shall approve, conditionally approve, or deny the request to install the mural based on these guidelines, with consideration of recommendations from the Art Committee, Planning Department and the City Attorney (in the case of any First Amendment implications or other legal issues).

6. The City Manager will notify the applicant of the City Council's decision.