

TOWN OF MORAGA ART IN PUBLIC SPACES POLICY

I PURPOSE

Since public art is a cultural reflection of a community and its people, it is important that procedures be in place for the acquisition and acceptance of art by the Town of Moraga to further the education and appreciation of art. The purpose of this Art in Public Spaces Policy (“Public Art Policy”) is to set forth procedures for the following:

- A. selection and acceptance of loaned, commissioned or donated artwork;
- B. placement or site selection;
- C. funding project installation and maintenance; and
- D. deaccessioning or removal of artwork.

The Town’s intention is to create a limited public forum for the display of artwork that meets the Town’s standards as set forth herein.

The Town Council may modify this Public Art Policy, with review by the members of the APSC.

II DEFINITIONS

Art as described in this policy is art intended to enrich the public environment for both residents and visitors. Art shall include, but not be limited to, sculptures, murals, paintings, graphic arts, mosaics, photography, crafts, mixed media, and environmental works.

APSC means the “Art in Public Spaces Committee” appointed by the Town Council.

Artist means a person who has an established reputation of artistic excellence in the visual, performance, literary and/or media arts, as judged by peers, through a record of exhibitions, public commissions, sale of artworks, and/or educational attainment.

Artwork means all forms of art created by an artist and conceived in any discipline or medium, including visual, performance, literary, media and temporary works.

Deaccession means the procedure for the removal of an artwork.

Donation means an existing or proposed artwork offered as a donation or gift to the Town in perpetuity.

Donor means an individual, group, organization, or business that proposes a public artwork for donation and placement or installation at a public site under city jurisdiction. When applicable, a donor is the artist(s) who created the proposed donation.

Lender means an individual, group, organization, or business that proposes a public artwork for loan and placement or installation at a public site under city jurisdiction. When applicable, a lender is the artist(s) who created the proposed donation.

Loan means the lease or loan of existing or proposed artwork to the Town for a fixed period of time.

Maintenance means actions taken to retard or prevent damage to artwork by control of the environment and/or treatment of the artwork on a routine and long-term basis.

Public art means artworks of sculpture, murals, photography, and original works of graphic art, waterworks, fiberworks, neon, glass, mosaics, or any combination of forms of visual media, furnishing or fixtures permanently affixed to a structure or its grounds, or a combination thereof displayed at a public place.

Commissioned means hiring or payment in advance for the creation of a piece, often on behalf of another. Artwork may be commissioned by private individuals, businesses or the government.

III PUBLIC ART DONATION OR LOAN

Any person wishing to loan or donate artwork, including commissioned artwork, to the Town of Moraga must complete a Public Art Application, available at the Town Parks and Recreation Department. Complete applications will be routed to the APSC.

The Town shall not permit applications for artwork loaned to the Town for less than two months. Further, the Town shall not accept loaned artwork with a value of more than fifty thousand dollars (\$50,000.00).

The application and accompanying materials shall include the following:

- A Photo, plans, model or other representation of proposed artwork
- B Proposed location of the artwork
- C Description of the artwork, including dimensions, weight, finish, and color, and system for mounting or displaying the artwork
- D Any special maintenance, mounting or display requirements
- E Artist biography
- F Statement of the approximate value of the artwork, with supporting documentation
- G Whether donation or loan is proposed, and the length of any proposed loan
- H Signage proposed for the artwork, including size, lettering and material
(Note: signage shall be limited to the artist's name, title, and date of work, and where appropriate, a dedication. The name of the donor or lender may be part of the installation.)

IV PUBLIC SITES ALLOWED FOR DISPLAY

Artwork loaned or donated to the Town pursuant to this policy may be displayed in the following locations:

- A Town-controlled area of the Hacienda de las Flores and Moraga Library.
- B Town Hall (front landscaped areas, interior lobbies/walls, and parking lot).
- C Town-controlled areas of Town Council Chambers/Community Meeting Room at 335 Rheem Boulevard (front landscaping areas, interior lobby/walls/Chambers).
- D Town-controlled street medians.
- E Town-controlled areas of the Moraga Commons, Rancho Laguna and Camino Ricardo Parks.

V SELECTION / ACCEPTANCE PROCESS

When reviewing works of art for possible loan or donation to the Town, the Town shall determine whether:

- A The artwork
 1. is thought-provoking, memorable or enduring and reflects the diverse social, cultural, or historic values of the Town;
 2. is appropriate for the proposed location in terms of scale, form, design or historical character of site and the preservation and integration of natural features;
 3. is publicly accessible, particularly with respect to handicapped areas;
 4. can be properly installed, placed to be seen, and displayed with patron safety in mind;
 5. can be displayed in such a manner to prevent theft and vandalism;
 6. is not government endorsement of religion in violation of the Establishment Clause of the Federal and State Constitutions;

- 7. would not, when displayed, create a hostile work environment for public employees; and
- 8. does not depict graphic violence or overt sexual activity.
- B The Town already has on loan, commissioned, leases, or owns sufficient examples of this type of object or the objects by a particular artist in a particular style.
- C The Town has the facilities and operational resources necessary to display the artwork, knowing that the Town has limited facilities and resources.
- D The person wishing to loan or donate the artwork to the Town is prepared to execute a contract or other document which, in the estimation of the Town Attorney and Town Manager, protects and serves the fiscal and other interests of the Town.
- E The artist who created the artwork that will be loaned or donated to the Town 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.
- F. There are any environmental impacts, such as noise, sound, light, or impacts on adjacent property owner's views.

VI RECOMMENDATION TO COUNCIL

The APSC will consider each complete Public Art Application and make a recommendation to the Town Council for action.

The APSC shall prepare a written report, which recommends whether the artwork should be accepted for donation or loan and displayed. The report shall include:

- A Title, artist medium, dimensions, and intended location of the artwork;
- B The origin/source of the artwork;
- C Slide(s) and/or photograph(s) of the artwork;
- D Report on the condition of the artwork;
- E Estimated value of the artwork; and
- F Whether the artwork will be donated or loaned to the Town and the term of the proposed loan.

The offer to donate or loan artwork may be withdrawn at any time up until execution of an agreement between the Town and the donor(s) or lender(s).

The Town Council shall consider the report and recommendation of the APSC, in accordance with the requirements of this policy, and determine whether the artwork will be accepted for loan or donation and displayed. Any approved or accepted donation or loan shall be memorialized in an agreement with the donor or lender, as applicable, in a form approved by the Town Manager and Town Attorney, which shall include any required artist waivers in the event the donor or lender is not the artist of the artwork.

VII MAINTENANCE OF ART IN PUBLIC PLACES

Upon receipt of artwork pursuant to this policy, the Town will insure the artwork under its Municipal Pool Authority for Insurance Coverage. The estimated value of the artwork will be the value provided on the Public Art Application. Loaned artwork shall only be insured for the term of the loan.

Maintenance of donated artwork shall be the responsibility of the Town. Town staff should consider the condition of donated 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 artwork shall be the responsibility of the lender. Prior to undertaking any such maintenance on Town property, the lender shall obtain the approval of the Town.

VIII REMOVING (DEACCESSIONING) LOANED ARTWORK

Loaned artwork shall be removed at the end of the prescribed term, unless the Town determines that early removal is appropriate under the criteria described below.

Any artwork may be considered for removal from public display 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 infeasible;
- C The artwork has been damaged and repair or remedy is impractical or infeasible;
- 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; or
- F Removal is requested by the artist, donor, lender or Town.

Prior to removal of an artwork, the Town shall prepare a report on the proposed removal. The report shall include the reasons for the removal, as set forth above, the condition of the artwork and the estimated cost of removal. The APSC shall consider the report and make a recommendation to the Town Council on removal. Staff shall make a reasonable effort to locate the artist, lender or donor or his/her heirs to advise them of the Town's consideration to remove the artwork and reasons for the decision.

The Town Council shall consider the report and the APSC's recommendation and shall make a determination in accordance with the criteria set forth in this section.

Disposition of artwork shall be handled in accordance with the requirements of Civil Code sections 987 and 989 and shall follow Town procedures for disposition of surplus property as appropriate.

Town of Moraga Public Art Application

(Please complete this application as fully as possible)

Date: _____

Project Name

Proposed Location/Address

Proposed by _____

Phone _____ Email _____

Address _____ Town _____ Zip _____

Artist Name

Phone _____ Email _____

Address _____ Town _____ Zip _____

Description of Artwork (Include finish and color)

Approximate Weight _____ **Approximate Dimensions** _____

System for Mounting of Displaying Artwork

Maintenance, Mounting or Display Requirements

Approximate Value: \$ _____ **Approximate Annual Maintenance Costs: \$** _____

Application is for (circle one) donation loan commissioned

Term of Loan _____ years/months

Please attach

- Photo, plans, model or other representation of proposed artwork
- Artist biography
- Signage proposed for the artwork, including size, lettering and material