



CITY COUNCIL ACTION

Council Meeting Date: 08/08/2022

Item No: 22-268

Responsible Dept: Community & Economic Development

Requested Action: Order

Map/Lot: N/A

Title, Order

Affirming and Adopting the Public Art and Monuments Policy for the City of Bangor

Summary

This Order will affirm the 2016 Public Art and Monuments Policy as the current Public Art and Monuments Policy for the City of Bangor. By ordinance, the policy must be updated every five years. In reviewing the policy adopted in 2016, the Commission on Cultural Development found the policy to be working well and in need of no substantive updates. Therefore the recommendation of the Commission on Cultural Development is to adopt the 2016 policy again in 2022. This item was reviewed and recommended for approval by the Commission on Cultural Development, and by the Business and Economic Development Committee at its meeting on August 1, 2022.

Committee Action

Committee: Business & Economic Development Committee Meeting Date: 08/01/2022

Action: Recommend for passage

For: 5

Against: 0

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: Consent





CITY OF BANGOR ORDER

Date: 08/08/2022

Item No: 22-268

Assigned to Councilor: Leonard

Affirming and Adopting the Public Art and Monuments Policy for the City of Bangor

WHEREAS, the City Council of the City of Bangor adopted the City Policy on Public Art and Monuments on May 23, 2016 by Council Order 16-222; and

WHEREAS, the purpose of this City Policy is to provide guidance in considering and evaluating proposals for public art and monuments placed on public property to ensure that they are of high artistic merit, the thematic material is appropriate for the City, and the monuments treat their subject matter with appropriate dignity; and

WHEREAS, Article III §23-13 of the Code of the City of Bangor established a Commission on Cultural Development for the City of Bangor; and

WHEREAS, § 95-8 of the Code states that the Commission shall review the Public Art and Monuments Policy every five years and make recommendations on amendments to said policy to the Bangor City Council; and

WHEREAS, in reviewing the policy adopted in 2016 the Commission found it to be appropriate and requiring no updates or improvements and the full Commission voted to affirm the 2016 policy; and

WHEREAS, the Business and Economic Development Committee reviewed the Commission's recommendation and recommends its adoption by the City Council;

Be it Ordered by the City Council of the City of Bangor that,

The adopted Public Art and Monuments Policy for the City of Bangor from 2016 is affirmed and adopted as the Public Art and Monuments Policy for the City of Bangor, as attached, with only the date updated.



Commission on Cultural Development

Public Art and Monuments Policy

In accordance with the City of Bangor Code § 95-8, the Commission on Cultural Development is responsible for the review of and adherence to a Public Art and Monuments policy:

§ 95-8 Public Art and Monument Policy.

- A. The Commission shall review the Public Art and Monuments Policy regarding guidelines for accepting, deaccessioning, locating, relocating, commissioning, preserving, and maintaining public art, including monuments.
- B. Proposed changes shall be reported to the Bangor City Council, which shall have the sole authority to adopt, reject, or revise said policy.
- C. In the event any public art or monument is proposed, the Commission shall review the proposal in accordance with the Public Art and Monuments Policy and make a recommendation as appropriate to accept, deaccession, locate, or relocate said proposed art or monument to the Bangor City Council. The Bangor City Council shall have the sole authority to adopt, reject, or revise any such recommendation.
- D. The Commission shall review the Public Art and Monuments Policy at least every five years and may make recommendations on amendments to said policy to the Bangor City Council. The Bangor City Council shall have the sole authority to adopt, reject, or revise any such amendments.

It is the general policy of the City of Bangor to support efforts to increase the City's inventory of public art and monuments. This document establishes policies and procedures for the acquisition, placement, care, and preservation of public art and monuments in Bangor, Maine. Its purpose is to ensure that such works placed on public property are of high artistic merit; that the thematic material is appropriate for the City; that the work treats its subject matter with appropriate dignity; and that the City has information on how to care appropriately for each piece.

Guidelines for Public Art and Monuments

Many factors are taken into account when the City and the Commission consider accepting permanent or temporary works of art, including monuments. Guidelines are outlined for each type of work. According to the Maine Arts Commission, public art refers to artwork that has been planned and executed with the specific intention of exhibition in the public environment. The City of Bangor and the Commission finds this applicable to public monuments as well. Not only do artists of art and monuments consider the physical placement of their work in public space, they also just as critically take into consideration the social, cultural, and historical contexts in which the piece is situated. As society and its modes of expression evolve, so will the definitions of such public works; the Commission embraces these definitions as guideposts.

The Commission bases recommendations on certain guidelines specific to each type of public piece, as well as the site's appropriateness and compatibility with the artwork or monument, the merit of the proposed work, public safety, and maintenance needs. These aspects are critical to any proposed or existing work.

Guidelines for Public Art

Public art enhances the cultural and aesthetic quality of life and adds interest and excitement to the community's public spaces. Artwork selected shall reflect high standards and artistic excellence. Artwork may be:

- The works of local, regional, national, and/or international talent;
- Permanent, temporary, or temporal (e.g. purposefully degrade over time);
- Exhibited on a permanent or on a temporary (e.g. loan) basis;
- Intended for interior and/or exterior spaces.

In the selection of artists and artwork, criteria include:

- Code compliance
- The extent to which the work would encourage repeat viewings
- Avoidance of clutter and excess

The following work will be considered ineligible:

- Art objects that are mass-produced from a standard design such as site furnishings, fountains, statuary elements, flags, or banners
- Reproductions, by mechanical or other means, of original works of art, such as in posters, digital prints, or straight photography of the work of art

Guidelines for Public Monuments

Public monuments recognize and memorialize people, events, and social trends important to the history of Bangor and its residents' sense of place as a community. When considering whether a public monument proposal is appropriate, the following criteria, in addition to the three criteria listed above for all public art, should be applied:

- The monument relates to persons or events recognized by the public as of sufficient significance to the community or its history to warrant a public presence

UPDATED AND AFFIRMED July 2022

- The monument honors an individual, group of individuals, or event that has a direct relationship to Bangor, and recognizes a social trend, idea, or symbol, which has been seminal in changing the preconceptions, attitudes, and outlook of the citizens of Bangor
- In the case of individuals, persons to be honored should have died a sufficient length of time in the past, generally at least twenty years, for their ideas, service, and accomplishments to be placed in an accurate and meaningfully interpreted historical perspective
- The piece must contribute to our sense of place as a community
- The subject is relevant to the community as a whole, not solely to a distinct segment or subset of the community
- The proposed location is an appropriate setting with geographic justification for recommended placement, if relevant
- If the subject is portrayed elsewhere in a public space, the proposal will present a different facet of the subject and/or not detract from the existing monument
- Documentation provided is adequate to support the factual background on which the case has been built for erecting the monument
- The memorial has timeless qualities that will ensure meaning for future generations

Site Appropriateness and Compatibility

Public art and monuments are typically sited in spaces that are relevant to the work. The Commission will take into account the long-term relevance and compatibility of permanent art at the proposed site, and may also consider historical or thematic associations between the depicted subject and a particular location. Some site selection factors may include:

- Integration with the natural environment
- Potential effect of weather, snow removal, and environmental hazards
- Visibility
- Public accessibility
- Motor and pedestrian traffic patterns
- How the artwork relates to any public facility near the artwork, including public parks
- Future development plans for area
- Landscape design, including how aspects of the landscape that change over time may affect the work and viewing of the work in the future
- Relationship of proposed work to existing public art or monuments within the site vicinity
- Environmental impact

Merit

The Commission is composed of advisors who determine artistic merit based on the following criteria:

- Adherence to the mission and goals of the Commission on Cultural Development as identified in the Commission's Arts and Cultural Policy
- Inherent artistic quality, i.e. the assessed aesthetic merit of the piece as a work of art, independent of other considerations
- Context of the proposed piece within the overall public art and monuments collection, taking into account both the desire to hold to the general aesthetic of public art in the City, particularly existing public monuments, and the desire for diversity in the landscape of public art
- Durability, e.g. structural and surface soundness and inherent resistance to theft, vandalism, and weathering
- Feasibility as determined by the project budget, timeline, artist's experience, soundness of materials, and City approval requirements, among other factors

Public Safety

Works of art and monuments should be safe to passersby, spectators, and the environment as a whole. Any potential hazard, including but not limited to sharp projecting elements, loose parts, and other public hazards, may prevent acceptance of a proposal. The position of the work or monument shall also be considered, including its effect on sight lines for traffic and pedestrians. City staff will be consulted on each work. Works, including finished and sited works, presenting a public safety hazard may be modified or removed as further discussed in the removal section of this policy.

Maintenance

All works require maintenance in some form during its life. Significant consideration shall be given to the cost and amount of ongoing maintenance and/or repair anticipated, and to the City's ability to provide it adequately. To this end, the Commission shall consult with City staff and departments to fully review maintenance expectations.

For each work, a maintenance endowment must accompany new public art and monuments. This endowment will be required for any donated or commissioned work and accompanying signage before it is approved for installation. New works will not be accepted unless the donor or sponsor can provide financial means for perpetual care, instructions for preservation techniques, and a list of supplies so that suitable, ongoing maintenance may be conducted by the artist, supporting organizations, or the City. Contact information for the artist or artist's estate must be included for citation for future maintenance. The Commission will not recommend permanent works that fail to include these items within a proposal, and the City cannot accept permanent works of art that present an unreasonable maintenance burden.

Acquisition of Public Art and Monuments

Permanent public art and monuments may be commissioned by, or donated to, the City. Temporary works may be loaned for a fixed length of time. Whether a piece of art or a monument is commissioned or donated, the work must follow the “Guidelines” section of this policy, and it must adhere to the approval process outlined in the “Approval” section of this policy.

Commissioned Works

When commissioning an artwork or monument, artists shall be selected in one of the following ways. No work shall be commissioned, and none of these methods of commissioning shall be selected, without the approval of the Council.

1. **Open Competition**: The Commission may solicit, through public advertisement, requests for proposals (RFP) including samples from the artists’ current portfolios, renderings or designs for proposed work, resumes, resumes, and letters of interest, which Commissioners will review; Commissioners will then recommend an artist that meets the defined requirements
2. **Invitational or Limited Competition**: The Commission may invite a limited number of artists to submit applications or prepare proposals for a particular project; from this limited pool, the Commission in cooperation with City staff may recommend an artist based upon criteria established for that project
3. **Direct Selection**: The Commission may recommend that a specific artist be invited to submit a proposal for art at a specific site; upon acceptance of the proposal, the artist would be commissioned for the project

Donated Works

Each donated artwork or monument requires:

1. **Donor’s Written Proposal**: The prospective donor of a gift must submit a written proposal to the City and the Commission on Cultural Development. Proposals should include:
 - A. **Provenance**: Documentation is required with all proposals detailing artist, materials present in the artwork, and the date and location of its creation. If the artwork is not to be gifted directly after its creation, the history of prior locations and ownership must be stated
 - B. **Design**: The work must adhere to the “Approval” process detailed in this policy, which requires a three-dimensional scale model or a complete drawing of a two-dimensional work. Note that works of art accepted based on scale models or drawings will be subject to Commission review throughout design, fabrication, and installation. The completed artwork may not deviate in any way from the proposal approved by the Commission unless the Commission approves the change in consultation with City staff
 - C. **Site plan**: A map and photographs of the proposed installation site(s) and surrounding environment(s) that demonstrate the relationship of the artwork to site
 - D. **Material**: Samples for the work and any relevant construction materials, if applicable
 - E. **Costs**: All costs associated with the gift must be borne by the donor. Costs may include, but are not limited to, the costs associated with design, engineering, building permits, fabrication, installation, general insurance and maintenance. The donor or sponsor will also be responsible for the design and cost of a pedestal, identification plaque, base, structural support, and landscaping of site, all as determined to be necessary by the Commission in consultation with City staff, and must provide a maintenance endowment for the artwork. The Commission may also recommend that the Council require an administrative fee to cover costs associated with staff coordination and oversight of the project

- F. Installation details: Construction documents, including descriptions of utility connections, site modifications, structural reinforcements or other engineering requirements or site modifications as well as engineering and architectural plans
 - G. Preservation techniques and materials: Thorough documentation is required to instruct the City on the proper maintenance processes for the artwork, including steps for optimal preservation and a list of supplies appropriate for each of the artwork's materials used in the object and any display base
 - H. Plan for maintenance: All proposals should account for future maintenance and costs for preservation materials and signage. An endowment fund adequate to ensure the continued care of gifts of art or monuments shall be required for all works to maintain the gift in a condition satisfactory to the donor and the City. The amount of the maintenance endowment shall be negotiated with the donor based on factors such as scale, material, location, value of the work, and potential for vandalism
 - I. Gift criteria: The proposal should include proposed language for recognition signage and any additional stipulations accompanying the gift. Nothing in the acceptance of a gift of artwork or monument shall prevent the City from approving subsequent removal, relocation, or deaccessioning of such gifts if it serves the City's best interest to do so
2. Commission approval: The Commission will review the proposal using the guidelines presented in this policy and make a recommendation regarding acceptance of the work to the Council. This review may or may not include a period for public comment
 3. City Council approval: City Council may accept or decline the proposed gift after receiving the Commission's recommendation

Approval of Public Art and Monuments

All works must go through a three-step design approval process to ensure the work stays true to its original proposal: conceptual design, a detailed design, and final design. Permits and construction are also necessary elements to any work under consideration by the City. If the artwork or monument is to depart from its original design, the Commission must be informed of the changes, consult with City staff, and grant approval before the work may depart from the original proposal. For any modification that is not minor, the Council must grant approval as well.

The Commission recommends approval or disapproval of an artwork or monument proposal after review and consultation with City departments. Proposals for large scale artworks or public monuments demand careful consideration and may require several meetings and a public comment period before a final decision can be made.

Approval Process—Conceptual Design

When the City or a group within the community proposes to erect a monument or artwork on public property owned or controlled by the City, the following review and approval process should be implemented:

1. The organization or individual seeking approval for the monument or artwork shall submit an application to the City Manager or his or her designee, which shall include a general description or depiction of the work, a statement of the purpose of the work, the artistic format or medium to be employed, and the proposed location while specifically addressing elements discussed in the “Guidelines” section of this policy
2. The City Manager or his or her designee shall refer the application to the Commission and to appropriate staff for review and comment, and those staff members will participate with the Commission in a review of the application
3. The Commission shall review the proposal and make a recommendation to City Council as to whether the general concept presented should be approved or denied based on the criteria described in this policy
4. Upon receipt of the Commission’s recommendations, City Council shall take formal action to approve or deny the concept as presented

Approval Process—Detailed Design

Once conceptual design approval is granted, the organization or individual promoting the project shall submit a proposal to the Commission including a detailed description of the artwork or monument (accompanied by perspective drawings where appropriate), and the location, budget, funding plan (including plans for a maintenance endowment), and plan for implementing the project, including a projected timeline. The detailed design must include a three-dimensional model or a complete drawing of a two-dimensional work and photographs that demonstrate the relationship of the artwork to the site.

The Commission and City staff shall then review the design and the proposed location to confirm criteria outlined in the “Guidelines” section of this policy. In making this decision, the Commission shall take into account:

1. Whether the work still maintains the quality of work and purpose that it did when it was first proposed
2. The extent to which the work is consistent with the public location selected and the surrounding natural and human landscape
3. Public safety and security
4. The nature and expense of ongoing maintenance including signage

Upon completion of this review, the Commission shall report its recommendations to City Council, and the Commission may recommend that the project be approved, be approved with modifications, or be denied. City Council may then take the necessary action to formally approve or deny the proposal, including adopting the necessary Council Order to accept ownership of the monument or artwork once completed and establishing the amount required, if any, for a maintenance endowment.

Final Design

The organization or individual proposing the artwork or monument shall prepare final design documents for submission to the Commission prior to installation.

Final design shall include details regarding materials, scale, site plan, design and construction, specific catalog data for any manufactured and/or purchased items (lighting fixtures, pavers, furnishings, etc.), and other information bearing on the final project including proposed language for signage. The Commission must approve the final design of the project, which will then be submitted to Council for review and approval. Prior to final approval, the Commission shall seek the advice and recommendations of City staff and departmental director with responsibility for the property on which the monument or artwork will be placed. No work may begin until the Commission has approved the project and all required permits have been obtained as outlined in the "Permits and Construction" section of this policy.

Permits and Construction

Prior to construction, the donor organization or individual must:

1. Obtain all necessary licenses and permits for the project
2. Deposit the maintenance endowment with the City
3. Submit to the City all required design documents during the final design process
4. Submit maintenance instructions and proof of an established fund prior to final Commission acceptance and before construction commences

Construction must be done in accordance with approved plans and permits. The Commission in consultation with City staff may approve minor modifications to the original plan by a vote of two-thirds of the Commission members present at an official meeting of the Commission; minor modifications are those which do not materially alter or affect the physical or artistic character of the work. In order to be valid, such approval must be documented in writing. Other modifications must be approved by the Council. All construction and/or installation activities shall be suspended until approval is granted by the Commission or Council as appropriate.

Post-Installation Review

The Commission shall review the work upon completion with necessary City staff and, if deemed appropriate, independent professionals. The completed work shall conform to the approved plans and associated modifications as may have been approved during construction. Should such work or portion thereof not conform to the approved plans and modifications, the petitioner of the work shall be instructed by the Commission to make the necessary corrections to bring the work into conformance. Should the petitioner not correct the nonconformance, or not do so in the time established by the Commission, the Commission may elect, at their discretion, to recommend the work be corrected or removed by the City. The City may use the piece's established maintenance endowment for the corrections or removal.

Dossier and Signage

For the lasting preservation of any public artwork and monument, documentation of the piece and signage are critical for the City and the public. The Commission is required to develop and maintain a

dossier on each public artwork and monument that is to be held by the City, which should include provenance, materials, artist biography, artist statement about the work if possible, news articles, design documents presented in the approval process, and any other documentation mentioned in this policy.

Signage is critical to displaying the work in a public setting. A sign must include the work's name, artist, date of installation, and materials used. Creation and maintenance of the sign must be included in the maintenance endowment.

Deaccession of Public Art and Monuments

Acquisition of public art and monuments by the City implies a commitment to the preservation, protection, and display of the work for the public benefit as long as the work maintains its physical integrity, identity, and authenticity, and as long as it remains useful to the purposes of the people of the City. When any of these conditions no longer prevail, the City may consider removal of the piece from public display and deaccession, the sale or other disposal of the piece. Special attention and care must be made for monuments, which recognize and memorialize Bangor's history.

Relocation

On occasion, it may be necessary to move a piece of art or a monument in order to protect, maintain, or display it more appropriately. It is also permissible to consider relocation if one work interferes with another, in that it reduces, subverts, or conflicts with the first work's intent or impact. If the Council decides that a work should be removed from its original site, and if its condition is such that it can be re-installed, the Commission will attempt to identify another appropriate site. If the work was designed for a specific site, the Commission will assist the Council in attempting to relocate the work to a new site consistent with the artist's intention. If possible, the artist's assistance will be requested to help make this determination. If space is available, and with the approval of Council, the Commission may decide to store an object until a new site has been identified or until the Council decides to deaccession the piece. If no suitable site can be identified, the Commission may recommend pursuing the sale or trade of the object by the City after consultation with City staff and approval by City Council.

Removal and Deaccession

A work of art may be considered for removal and deaccession from public display if one or more of the following conditions apply:

- The work presents a threat to public safety
- The condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work
- The work requires excessive or unreasonable maintenance
- The work has faults in design or workmanship
- The condition of the work requires restoration, the cost of which is in gross excess of its aesthetic value, or the work is in such a deteriorated state that restoration would prove unfeasible or impractical
- No suitable site for the work is available, or significant changes in the use, character, or design of the site affect the integrity of the work
- The work interferes with the operations of a public facility
- The work is judged to have little or no aesthetic and/or historical or cultural value
- The work is fraudulent or inauthentic
- The work is rarely or never displayed

The following steps shall be followed for works being considered for removal:

1. **Commission and City staff report**: The Commission staff shall prepare a report which includes a staff evaluation and recommendation along with the following information:
 - A. **Rationale**: An analysis of the reasons for deaccessioning and its impact on the City's public art and monument collection, and an evaluation of the work
 - B. **Independent appraisal or other documentation on value**: Prior to disposition of any object valued at \$10,000 or more, the Commission should recommend obtaining an

estimate of the value of the work based on recent documentation of gallery and auction sales, if applicable

- C. Related professional opinions: In cases in which deaccessioning or removal of art is suggested due to deterioration, threat to public safety, or lack of artistic quality, it is recommended that the Commission seek the opinions of independent professionals qualified to comment on the concern prompting review (conservators, engineers, architects, safety experts etc.)
 - D. History: Provide written correspondence, press, and other evidence of public debate, as well as the original acquisition method and purchase price
 - E. Options for disposition
 - F. Replacement costs, if applicable
2. City Solicitor's opinion: The City Solicitor or Assistant City Solicitor shall be consulted regarding any restrictions that may apply to a specific work
 3. Commission recommendation: The recommendation to deaccession a work will be considered in the Commission's regular or special meeting
 4. City Council approval: The Commission's report, along with its recommendation on deaccessioning the work, shall be forwarded to the City Council. City Council may accept or decline to deaccession a work

Once a work has been properly deaccessioned, it may be sold, traded, modified, or destroyed.

Sale or Trade

The City may sell a work after it has been deaccessioned through public auction or by private sale. A work may also be traded with another piece not belonging to the City as long as that replacement work fits the criteria outlined in this policy and is accepted by the City through the approval process outlined above.

A work may be sold at public auction to the highest and best bidder and the City may contract with a licensed auctioneer for the purpose of conducting the sale or sales. The contract shall specify the compensation to be paid for the auctioneer's services and set forth the terms and conditions under which the sale or sales are to be conducted.

If the work is offered at public auction and no bids are received, or if the bids are rejected, or if the Commission determines, by a two-thirds vote of the members, that the work may be sold on terms more advantageous to the City if sold through private sale, then a private sale may be considered. Any contract for the private sale of a work of art is subject to the approval of the Council. A work of art on which public bids have been rejected shall not thereafter be sold through private sale for less than the amount of the highest public bid received.

If a work is sold, all proceeds from any sale shall be credited to a public art fund for the City of Bangor, in which the monies contributed to the fund from the sale, exchange, or exhibition of a work of art under the jurisdiction of the City shall be expended on another work or works for display in the same public structure or space, or in another place within the city if the original public structure or space is not viable for such display.

Modification or Destruction

It is the responsibility of the City to preserve and protect the art collections under its management for the people of the City. However, the Commission may recommend to the Council actions that would alter, modify, or destroy an artwork under certain conditions as follows:

- The work has faults of design or workmanship, or is damaged so that repair or remedy is impractical, unfeasible, or an unjustifiable allocation of resources

- The work poses a threat to public safety or in some other way poses a potential liability for the City
- The Commission deems it necessary in order for the City to construct necessary public works and improvements, or in furtherance of the City's other operations, or for any other good cause
- In cases of alteration, modification or destruction of public art, signage should reflect the alterations

IN CITY COUNCIL

**AUGUST 8, 2022
CO 22-268**

Passed

Lisa J. Goshorn

CITY CLERK