

City of Saratoga Springs Public Art Policy



**SARATOGA
SPRINGS
ARTS
COMMISSION**

MOVING ART FORWARD

November 2016

CITY OF SARATOGA SPRINGS
PUBLIC ART POLICY
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I. **PURPOSE & INTENT OF THIS POLICY:** The purpose of this policy is to enrich this community by means of public art by providing a civic planning process for community participation in the provision of public art in the City of Saratoga Springs.

II. **DEFINITIONS:**

Artist: a person who produces creative work or expresses creative ideas in the visual, design, performing, or literary arts, through study, experience, exhibitions, public commissions, sale of works and/or educational attainment.

Arts Professional: an arts administrator, art historian, curator, writer, or other professional who works in visual, design, performing, literary, or other creative arts.

Artwork—all forms of original creations or works designed by an artist, team of artists, or design team, using a variety of media; can be free standing, integrated into architecture, functional, nonfunctional, temporary or permanent.

De-accessioning: The procedure followed to remove an artwork from ownership by the City of Saratoga Springs.

Public Art: Publicly accessible artwork that enriches the City through its aesthetic qualities, considers the social and physical context of the site, and addresses the goals of the City. Artworks may be permanent, semi-permanent, functional, or temporary, and may take a variety of forms, including sculpture, murals, paintings, ceramics, mosaics, architectural site elements, photography, fiberworks, land art, multimedia works, digital technologies, and mixed or other media.

Public art projects are categorized and defined as follows:

- i. Site-specific art: public art that gets its inspiration from its site and could not exist elsewhere.
- ii. Semi-integrated art: public art that gets its inspiration, to a certain degree, from some aspect of the site. These works can exist in a number of locations provided that all have similar physical and conceptual conditions.
- iii. Discrete art: public art that is not integrated with the site either in physical or conceptual manner and, therefore, is not at all dependent on the location. Usually this type of public artwork only relates to the site in location and scale, and is created off site and moved into place.
- iv. Community art: has a community-based design and can allow people to express their concerns and goals or create community participation.
- v. Ephemeral Art: art projects that are temporary or short lived, are based on a specific occasion or event, and are transitory in nature.

III. ADMINISTRATION:

The Saratoga Springs Arts Commission, hereinafter the ‘Commission’ shall be an advisory committee formed by the Mayor. The Commission will follow its approved bylaws. The Commission shall be composed of no less than 5 and no more than 11 members. All members shall be Saratoga Springs City residents or reside within the bounds of the Saratoga Springs City School District. Each of the four City Commissioners will be invited to appoint one person to the Commission. Additional advisory members and specialists may be included as needed for specific tasks and purposes. It shall have the responsibility of issuing recommendations on matters relative to the procurement and placement of public art in Saratoga Springs. All recommendations from the Commission will be presented at regular City Council meetings through existing processes and will be placed on the agenda by the Mayor.

- a. Responsibilities of the Commission include:
 - i. Recommending program policy and general oversight for the Public Art Program.
 - ii. Recommending guidelines, policies and procedures for the selection, implementation and conservation of public art in Saratoga Springs.
 - iii. Reviewing and recommending all public art selections for the City.
 - iv. Making recommendations regarding the care and maintenance of the public art collection to the City, appropriate parties and/or site agencies.
 - v. Providing a report documenting the selection of works.
- b. Committees: The Commission may form committees from time to time, and may seek advice from persons as may be reasonably needed to supply technical and/or specialized information.
- c. Conflict of Interest: All members of the Commission must abide by the laws and policies of the City of Saratoga Springs. Each member represents that he or she has no conflict, actual or perceived, that would prevent him or her from performing his or her duties and responsibilities.

Any member of the Commission who has a financial interest in the outcome of any matter before the Commission shall, as soon as possible after such interest becomes apparent, disclose on the record the nature of his or her financial interest in the matter, and shall thereafter refrain from any further participation in the matter.

IV. OVERVIEW OF PROCESS:

- a. The Arts Commission shall review submissions using artwork and site selection criteria in Sections VI and VII.
- b. Upon consideration of the criteria, the Commission may recommend to accept or reject an artwork

V. ACQUISITION OF ARTWORK:

The Commission shall have the authority to review any artwork proposed as an acquisition for the City. It is the responsibility of the Commission to review such proposals for consistency with the City's goals and, where appropriate recommend acceptance or rejection of such acquisitions for the City.

VI. ARTWORK SELECTION CRITERIA:

The following criteria shall be utilized by the Commission during the process of review, selection and recommendation of public art.

- a. **Quality:** The design capabilities of the artist and the inherent quality of the artwork proposed.
- b. **Appropriateness to Site:** The submission of artwork designs shall be appropriate in scale, material, form and content to the immediate social and physical environments.
- c. **Permanence:** A detailed description of the structural and surface integrity, permanence and protection of the proposed artwork and its resistance to theft, vandalism, weathering, excessive maintenance and repair costs.
- d. **Community Values:** While free artistic expression must be encouraged, consideration must also be given to the appropriateness of artworks in the context of local community standards and values.
- e. **Public Liability:** Safety conditions or factors that may bear on insurability and public liability will be considered in the final acceptance of any art work proposed by the Commission.
- f. **Diversity:** The Public Art Program shall strive for diversity of style, scale, media and artists, including ethnicity and gender of artists selected. The program shall also strive for an equitable distribution of artworks throughout the City.
- g. **Communication:** The willingness of the artist to effectively communicate with and work with others, including other design professionals, public officials and community members.

VII. **SITE SELECTION CRITERIA:**

Proposed sites for public art will be reviewed and approved by Department of Public Works prior to any acceptance by the City Council. In the context of selecting a site for public art installation, the following guidelines will be considered:

- a. The location satisfies the City's objective of distribution of art throughout the community.
- b. The location is regularly visible or accessible to the public.
- c. The location is accessible under the requirements of the American for Disabilities Act, if such access is necessary for the artwork to be viewed.
- d. The location provides or will provide adequate lighting, if appropriate, to view the art.
- e. The location, including the surface or structure upon which the art is to be placed is or will be sound and in good repair.
- f. Reasonable security from vandalism/theft can be provided as a part of the project design.
- g. The location will not obstruct vehicular and pedestrian traffic patterns.
- h. Reasonable protection from the elements is available at the site, or the selection will be limited to materials appropriate for the site.
- i. A maintenance agreement with the property/building owner has been or will be executed.

VIII. **SITE MAINTENANCE:** Artwork must be reviewed by the Department of Public Works with regard to its maintenance prior to any acceptance by the City Council. The Commission may make recommendations at any time relative to the appropriate maintenance and/or conservation of any artwork.

IX. **RE-SITING & DE-ACCESSIONING:**

- a. Re-siting or de-accessioning of artwork may occur if one or more of the following conditions exist during the life of the Artwork:
 - i. The artwork is damaged where repair is impractical or costs exceed the value of the Artwork
 - ii. The artwork has faults that require repeated and excessive maintenance
 - iii. The artwork endangers public safety.

X. **INTELLECTUAL PROPERTY**

- a. **Copyright.** The artist shall retain all rights under the Copyright Act of 1976 (17 USC Section 101) as the sole author of the work for the duration of the copyright. The duration of copyright in the United States is currently the life of the author plus seventy (70) years. Title to the artwork passes to the City of Saratoga Springs upon written acceptance of and payment for the work; copyright belongs to and remains with the artist. Although the client may “own” the work of art, the artist who created the work owns the copyright to the work of art, including all ways in which the work is represented, other than in situ.
- b. **Visual Artists Rights Act (VARA).** The Visual Artists Rights Act of 1990, known as VARA, (17 USC Section 106A) assures an artist’s protection of his/her “visual art” especially as it effects post-sale rights including all drawings, sketches, and prototypes. Under VARA, artists have the right to prevent any intentional distortion, mutilation, or other modification to their work. In some cases where the art is integrated (building, landscape, infrastructure, etc) the City of Saratoga Springs may ask the artist to waive their VARA rights.
- c. **Rights to Reproduce the Work.** The artist and the City must each agree to the right to reproduce the artwork in any and all forms. Typically, the City will request license to make two-dimensional reproductions of the work for non-commercial and educational purposes. The City, in turn, agrees to include a credit to the artist and a notice of copyright on all such reproductions.
- d. **Additional Rights.** In compliance with standard professional practice, the City agrees not to intentionally alter, modify, change, destroy, or damage the work of art without first obtaining permission from the artist. If the artist’s work is accidentally damaged, the artist has the right to request that the work not be attributed to the artist until such time as the work is fully restored.

XII. **OWNERSHIP:**

- a. The Commission shall make recommendations for the acceptance and placement of each artwork to the City Council for review and approval. The recommendation shall include, but not be limited to the following information:
 - 1. Name and full description including pictures, schematics, measurements, and site particulars of the Artwork.
 - 2. A detailed appraisal of the monetary value of the artwork.
 - 3. A detailed description of the upkeep and maintenance which may be required of the artwork.

4. Comprehensive presentation as to why the City should consider the donation and placement of the proposed artwork including its significance to the community with regard to its concept and meaning.
- b. The City Council shall review the proposed art work with the information given taking into consideration:
 1. The artwork's significance to the community;
 2. The cost of maintenance and upkeep; and
 3. The cost of insuring the artwork, and any issues of insurability and/or potential liability as may be identified by the Office of Risk and Safety.
 - c. If the City Council determines the artwork proposed meets all of the criteria established within this policy, it shall schedule the acquisition for a vote.
 - d. If the artist refuses to comply with any requirements placed on it by the City, the acquisition will be declined and the artwork shall be returned to the artist.

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