

Town of Yucca Valley

Public Art Policy

Recommended for approval by the Parks, Recreation & Cultural Commission 10/02

Adopted by the Town Council 10/17/02

Amended by the Town Council 9/11/08

Amended by the Town Council 4/5/11

POLICY STATEMENT

The Town of Yucca Valley desires to enhance its identity as an artistic community. It is intended that the Town of Yucca Valley, through its Public Arts Program, will celebrate its artistic heritage and vital art community, embrace cultural responsibilities, and guarantee future generations a rich artistic legacy through the acquisition and exhibition of quality works of art.

POLICY OBJECTIVE

The Public Art Policy is directed, in part, towards developing a high-quality permanent art collection for the community. Art in public places is hereby defined as:

Any work of art displayed for two weeks or more in an open Town-controlled area, on the exterior of any Town-maintained facility, within any Town-owned facility, and/or in areas designated or commonly regarded as public areas, lobbies, and public assembly areas. The work of art may include, but not be limited to murals, sculptures, monuments, lighting, frescoes, fountains, paintings, stained glass, and ceramics.

POLICY GOALS

The principal goals for acquiring and displaying works of art in public areas are:

- To enrich the public environment for both residents and visitors through the incorporation of the arts.
- To nurture, enhance, and encourage the community's awareness of the value of art.
- To enable Yucca Valley to enhance its recognition as a center for the arts.
- To increase public access to works of art and to promote an understanding and awareness of the arts in the public environment.
- To promote diversity through a variety of styles, designs and media.
- To create an environment for the pursuit of funding for public art initiatives.

POLICY PROCEDURES

1. Public Art Advisory Committee

The Parks, Recreation and Cultural Commission and, when applicable, the Planning Commission shall select, review, and make recommendations for the acquisition and placement of public art; and shall make every effort to recommend a broad variety of artistic disciplines and acknowledge the wealth of artists within the local community.

2. Public Review Period

Prior to forwarding a recommendation to the Town Council to take action regarding a piece of art for loan, or acquisition by purchase or donation, there shall be a minimum 30-day public review period. During the public review period, the work itself, a copy of the work, or a photograph, videotape, slide, drawing, model or other representation of the artwork must be available for inspection by the public during regular hours at Town Hall or at a place reasonably close to Town Hall, and at other appropriate Town locations. In addition to any other method, notice of the public review period shall be published in the local newspaper. Public comments shall be forwarded to the Parks, Recreation and Cultural Commission for consideration.

3. Criteria

The PAAC Parks, Recreation and Cultural Commission and, when applicable, the Planning Commission shall consider the following criteria when reviewing and recommending works of art for purchase, gift, or loan to the Town collection . The Town Council shall utilize the same criteria when considering whether to accept or reject the recommendation.

- A. The artistic or historical significance of the object.
- B. The object's physical condition and whether the object is of exhibition quality.
- C. Whether the Town already owns sufficient examples or better examples of this type of object or objects by a particular artist in a particular style.
- D. Whether the Town has the facilities necessary to properly care for and keep the object safe. (The Town has limited storage space and must consider the cost of processing, insuring, maintaining, or storing artwork). If there are any special costs or special methods associated with maintaining or storing the artwork, such cost and methods must be made known to the Town Council prior to a vote to acquire the artwork.
- E. Compliance with signage protocol. (Signage for artwork to be displayed in public areas 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.)

- F. Whether sufficient funds are available.
- G. Appropriateness of the proposed display site (working well within the scale and nature of the site).
- H. Whether, in the judgment of a majority of the full Town Council, the artwork is appropriate for display to the general public in Yucca Valley.

4. Town Responsibility

In acquiring works of art by purchase or gift, or accepting a loan of artwork, the Town has the responsibility to:

- A. Determine optimum locations and display methods for pieces of public art in the Town's collection.
- B. Preserve, conserve and maintain the objects in the collection. If there are any special costs or methods associated with preserving, conserving or maintaining the artwork, those costs and methods shall be made known to the Town Council prior to acquiring the artwork.
- C. Catalogue the objects in the collection. Complete records shall be made and maintained of all artworks acquired.
- D. Make the objects in the collection known to the public through display, publication and/or other educational means.
- E. Ensure that the interests of all concerned parties are represented, including the public, the artist, and the Town.
- F. Ensure that a loan agreement or legal instrument of conveyance, necessary waiver, and documents transferring title and ownership of the artwork and clearly defining the rights and responsibilities of all parties accompany all acquisitions.

5. Acquisition Procedures

- A. Acquisition is hereby defined as the inclusion of new works of art into the Town's permanent collection by purchase or gift. Permanent collection refers to work intended to remain two years or longer.
- B. Members of the Parks, Recreation and Cultural Commission or Planning Commission may submit a work of art for consideration for acquisition or loan, but that member must

abstain from voting on the decision whether or not to recommend the object for acquisition or loan.

- C. Any individuals having business with or desiring to request a particular work of art be considered through the acquisition procedure must submit a written request or offer to the Town of Yucca Valley. The artist or the artist's representative must acknowledge in writing that he or she has received a copy of the Public Arts Policy and has reviewed and understood it. The rules of loans and acquisitions are as follows:
1. The work itself, a copy of the work, or a photograph, videotape, slide, drawing, model or other representation of the artwork must be available at a regular meeting of appointed Commission for examination.
 2. Members of the appointed Commission(s) must make every attempt to inspect the actual/physical artwork being considered for acquisition or loan. When objects being considered cannot be directly examined by the Committee, the vendor shall provide one or more photographs, videotapes, slides, drawings, models or other representations of the artwork.
 3. The Public Art Fund or the Town's general fund must have funds available to cover all costs associated with the purchase, transportation, installation, and insurance of the art.
 4. The recommendation(s) of the appointed Commission(s) will be forwarded to the Town Council for final determination regarding acceptance and/or placement.
 5. Subsequent to the Town Council's decision, staff and the appointed Commissions shall act in accordance with the provisions herein.
 6. Staff shall notify the artist/vendor of the Town Council's determination and initiate all appropriate acquisition or loan procedures.
 7. Once all appropriate loan or acquisition documents have been signed and received the Town shall initiate payment if applicable for the art, transportation, installation and all expenses pertaining to the loan or acquisition. Insurance responsibility for both parties will be established before shipping and installation of loaned or acquired artwork.
 8. The object shall be cataloged into the Town's collection and photographed and documented accordingly.
- D. For all acquisitions to its collections, the Town must obtain free and clear title to the acquired artwork. Acquisitions will be free of limiting conditions and restrictions concerning their fair use. Items acquired may be exhibited, preserved, conserved, stored, or otherwise utilized in the best interests of the Town, at the Town's sole discretion

1. The artist shall retain all rights and interest in the artwork under the Copyright Act of 1976 except for rights of ownership and possession, which shall be passed to the Town. The artist shall warrant that the artwork is his/her sole and original creation which does not infringe upon any copyright or trademark. The artist shall grant the Town the irrevocable license to make reproductions of the artwork for archival or promotional purposes. An artist credit line shall be utilized for images of the artwork in published materials.
 2. Town staff shall ensure that the artwork is properly installed. The artist or the artist's agent must guarantee reasonable durability of materials, and shall agree to consult with Town staff on the installation method and site preparation prior to installation of the artwork.
 3. The artist shall submit maintenance guidelines for the artwork to the Town. In turn, the Town shall make every effort to maintain the artwork and make any decisions regarding repairs and restoration based on the maintenance guidelines submitted by the artist and in consultation with the artist when feasible (as per the Visual Artists Rights Act of 1990).
- E. Acquisition by Purchase. Documents of ownership transfer for purchased artwork shall contain the following minimum information: Name and address of the owner from which title will pass to the Town via sale, date of sale, description of the artwork, and purchase price of the acquisition.
- F. Acquisition by Gift or Donation. The donation of works of art is a major source of enrichment for the Town's collection. Although a far greater range of possible acquisitions is likely to be offered to the Town as gifts than would be considered for purchase, equally high artistic standard should be applied.
1. Title to donated acquisitions shall be passed to the Town via a Deed of Gift form or other Town-approved document which contains explicit language regarding the outright and unconditional nature of the gift.
 2. Donations to the Town of Yucca Valley are tax deductible to the extent allowed by law. The Town, however, assumes no responsibility for appraisals. No acquisition shall be appraised by a Town employee, Commission member, or Town Council member or any other Town-affiliated person associated with the donation.

6. Loan Procedures

- A. The review and approval procedures, rules 5.C. 1-8, shall apply to all works of art offered for loan to the Town. Although loaned art will not be included in the Town's permanent collection as is art from gifts or purchases, an equally high artistic standard shall be applied. Members of the appointed Commissions share responsibility to make the

Town's needs and restrictions known to potential public art lenders. The prospective lender shall receive a copy of the Public Art Policy.

1. The lender will be responsible for entering into a loan agreement with the Town upon approval of the loan by Town Council. Loan documentation, signed by both the Town and the lender, will identify the authorized lender, describe the artwork borrowed, state the duration of the loan, specify the credit line for published images of the artwork, assign responsibility for insurance, and state insurance values. Incoming and outgoing condition reports will be completed on each artwork loaned to the Town.
2. Artwork will be loaned for periods up to one year in duration, with renewal negotiations conducted between the Town and lender if both parties desire to extend the loan. The Town will exercise with respect to the artwork the same security precautions and care as the Town does in the case of comparable objects in its own collection.
3. The Town must receive from the lender assurance that the artwork loaned is in such condition as to withstand ordinary strains of packing, shipping, installation, and exhibition. No alteration, restoration, or repair will be undertaken without the written authorization of the lender.
4. Insurance responsibility will be determined at the time of the loan agreement. In the case of the Town insuring the artwork, insurance will cover only those risks against which the Town insures its own property under such policy. The lender agrees that in the event of loss or damage, recovery, if any, shall be limited to such amount as may be paid by the insurer, thereby releasing the Town, its officers, agents, and employees from liability for any and all claims arising out of such loss or damage. If the lender elects to maintain his/her own insurance, the Town must be supplied with a Certificate of Insurance with and endorsement naming the Town as additional insured with respect to the artwork.
5. Unless permission to do so has been specifically refused in writing by the lender, the Town is authorized to photograph or otherwise reproduce in any media images of the artwork on loan for archival or promotional purposes. For published images the credit line specified by the lender in the loan form will be utilized.

7. Public Art Fund

- A. Any appropriations or donations to a Public Art Fund will be maintained by the Town of Yucca Valley with the fund balance identified in the annual budget.
- B. At such a time when deemed necessary and appropriate by the Town Council, the Public Art Fund may receive allocations from the Town for acquisitions, operating expenses, workshops, sponsorships, fund raising events, and other endeavors pertinent to public art.

8. Deaccessioning

- A. Deaccessioning is the process by which the Town, acting in accordance with Town policies and procedures, approves and effectuates the disposal of a work of art from the Town of Yucca Valley's collection.
- B. It is recognized that the deaccessioning of artworks is a very delicate matter, and must be handled with diplomacy, so not to discourage and alienate potential donors and/or artists.
- C. Notwithstanding any other provision in this policy, if, in the judgment of a majority of the Town Council, an artwork is deemed at any time to be detrimental to the public interest due to content or controversy, it may be removed immediately from public display and deaccessioned.
- D. Criteria for selecting works of art for deaccessioning

The Town shall review works of art for deaccession if the artwork meets at least one of the following criteria:

- 1. If the Town cannot properly care for or store the work.
- 2. If the work is found to have little or no artistic and/or historical/cultural value.
- 3. If the work is a duplicate (e.g., prints sculptures, multiples) of other works in the collection.
- 4. If the Town identifies a work of art as a copy or pastiche, a fake or forgery, without significant value.
- 5. A work whose condition requires restoration in excess of its value or a work in such a deteriorated state that restoration would be either unfeasible or misleading.

9. Deaccessioning Procedures

- A. The appointed Commission(s) and/or Town staff shall periodically review the Town's art collection and compile a list of those objects recommended for deaccessioning.
- B. Staff shall prepare a written report for each object recommended for deaccessioning. This report shall include:
 - Title, artist, medium, dimensions, and current location of the work

- Provenance
 - Slide(s) and/or photograph(s) of the work
 - The condition of the work
 - Estimated fair market value
 - Copy of ownership documents for the work
 - Justification for disposal, conforming to the provisions herein (in the case of certain objects of high monetary value, independent consultants may be invited to provide opinions).
 - Recommendation for disposal method of the work
- C. A copy of the report shall be distributed to each member of the PAAC for review prior to the meeting at which the deaccessioning of the work will be considered.
- D. Each member of the appointed Commission(s) shall physically inspect the work before voting to deaccession.
- E. After appropriate discussion, the appointed Commission will recommend approval or disapproval of the deaccessioning by a majority vote. Town staff will forward the recommendation to the Town Council for review and approval. Town Council approval must be obtained for the de-accessioning of any object regardless of its value or intended disposition
- F. Subsequent to approval by the Town Council, staff shall make every reasonable effort to locate the artist or donor/heir advising them in writing of the Town's intention to deaccession the work giving reasons and appropriate assurances that:
1. In the case of sale, the monies realized will be used to purchase other works for collection or to restore works already owned by the Town, and to adhere to the California Resale Royalties Act (Civil Code 986).
 2. A reasonable effort shall be made to honor the wishes of the artist or donors/heirs concerning the sale. Written concurrence of donors/heirs will be solicited.

10. Disposal of Deaccessioned Art Procedures

The Town may take any of the following courses of action. The Town shall not be limited to these, and may suggest other methods as may be decided by a particular set of circumstances.

- A. Sale
1. The artist/donor shall be given the right of first refusal to acquire the work at fair market value, original price, or gratis, depending on the recommendation of the appointed Commission and approval of the Town

Council. The cost of removal of the work may be reflected in the amount set.

2. Sell the work through a dealer.
3. Sell the work through a public auction or a sealed competitive bid process.
4. All revenues shall be designated for the Town's Public Art Fund.

B. Trade or Exchange

1. The Town may negotiate a trade or exchange under special circumstances with a dealer or artist.
2. The Town may trade a deaccessioned work for another piece by the same artist or another artist.
3. In acquiring an object through trade or through monies raised from the sale of deaccessioned objects, the Town shall acknowledge the donor(s) of the original object or objects.
4. In keeping with the California Resale Royalties Act, if a deaccessioned work of art is sold, traded, or exchanged, five percent (5%) of the sale price of any work valued over \$1,000 will be given to the artist who created the work or the artist's heirs as governed by law, provided that the artist can be located by reasonable means. If the artist cannot be found, the Resale Royalty shall revert to the California State Arts Council. It is the obligation of the artist to keep the Town informed of a current address.

C. General Provisions

1. There may be instances in which the artwork has deteriorated to such an extent that it is irreparable and is unsuitable for exhibition and has therefore lost its function within the Town's collection. Once a work of this nature has been fully deaccessioned, a recommendation may be made by the appointed Commission(s) and/or staff to dispose of the object.
2. Staff will negotiate the terms with the agency or agencies for sale or exchange of deaccessioned objects.
3. Staff shall remove acquisition numbers and labels from the deaccessioned work, arrange and coordinate its physical departure from the Town's collection.
4. Staff shall notify Town Council of the removal of the piece from the Town's collection.

5. All proceeds from the sale of deaccessioned works of art will be used to purchase other works for the collection, or to restore works already owned by the Town.
6. All funds from deaccessioning shall be maintained in the Town of Yucca Valley's Public Art Fund.