

Art in Public Space Policy

City of Sioux Falls, South Dakota

SIOUX FALLS VISUAL ARTS COMMITTEE OVERVIEW

Mission and Duties

The Visual Arts Committee (hereby referred to as “the VAC”) shall act as an advisory body to the Arts Commission (hereby referred to as “the Commission”) on matters pertaining to visual art in public settings. Its duties may include:

1. Establishing criteria for visual art in city owned property that is compatible with the general, social, and physical environment of the site. Criteria should also contemplate originality, diversity of style, technical mastery of medium, quality, scale, form, material, and durability;
2. Reviewing visual art projects as requested;
3. Identifying sites and recommending the placement of visual art in or on City property, and in the public right-of-way;
4. Encouraging integration of visual art at the inception of City design and building projects;
5. Encouraging the incorporation of visual art into the design of commercial, residential, and public projects;
6. Maintaining an updated directory and inventory of the City's public visual art collection;
7. Providing review and oversight for of the City's annual plan for conservation and maintenance of public owned works of art;
8. Developing and recommending policy for works of art to be acquired by the city, either by purchase, gift, or otherwise;
9. Developing and recommending policy related to any proposed alteration, removal, or dismantling of visual works of art or art projects owned by the City or located on City property.

All proposals for art on City property must be approved by the VAC, regardless of funding sources. The Arts Commission shall have final approval of all policies, guidelines and public art projects recommended by the VAC.

DEFINITIONS

Acquisition: The process of acquiring a work of art for the City's public art collection. This may involve purchase, donation, bequest, exchange, or any other method through which ownership is transferred to the City of Sioux Falls.

Administrators: Refers to the Sioux Falls Arts Commission, the Visual Arts Committee and any representatives authorized by the Commission.

Agreement: Any written instrument related to the planning, design, fabrication, purchase, installation, maintenance, or deaccessioning of a work of art. This includes memoranda of understanding (MOUs), commission agreements, construction contracts, and other legal documents.

Artist(s): An individual or group with sustained practice in creating fine art or craft. For the purposes of this program, "Artist" does not apply to project design architects, landscape architects, or other design professionals.

Artwork: A physical object or artistic design element incorporated into the built environment, that is an original work of creative expression created by an artist(s).

Built Environment: The constructed physical surroundings in the city, including buildings, infrastructure, and public spaces.

Commission: The Sioux Falls Arts Commission, established by the City Council under the relevant city ordinance.

Committee: The Sioux Falls Visual Arts Committee, established by the City Council under the relevant city ordinance.

Deaccession: The formal process of removing or relocating a work of art from the City's public art collection, for any reason including but not limited to public safety, deterioration, damage, freshening the collection, or determining art no longer makes sense at a location.

Public Art: Works of art displayed in public spaces. Public art includes, but is not limited to, murals, sculptures, memorials, architectural elements, community art projects, digital media, and performance art. It excludes landscaping, signage, historical artifacts, and objects of uncertain authorship.

Public Art Collection: The collection of art that has been purchased, commissioned, donated, or otherwise acquired by the City of Sioux Falls for public display.

Public Art Collection Program: The collection of art that has been purchased, commissioned, donated, or otherwise acquired and is currently owned by the City of Sioux Falls for public display.

ENABLING DOCUMENTS

The Sioux Falls Arts Commission was established in alignment with City Ordinances Chapter 154 which was passed by the City Council on September 12th, 2024. These ordinances effectively dissolved the Visual Arts Commission and a committee of the commission, The Visual Arts Committee, was put into place.

This document provides a comprehensive overview of the Sioux Falls Visual Arts Committee, its role, and the mechanisms that ensure the effective stewardship of public art in the city. By fostering a thriving arts community, Sioux Falls seeks to build a more dynamic, creative, and visually appealing environment for all who live, work, and visit the city.

RIGHTS AND RESPONSIBILITIES

Ownership of Artwork

All works of art acquired through the Sioux Falls Public Arts Program will be acquired in the name of, and the title will be held by, the City of Sioux Falls.

Exemptions

The following works are exempt from the provisions of this policy:

1. Works of art in the collections of, or on display at, facilities under 3rd party management agreements ; and
2. Works of art displayed in private City offices or areas within City-owned facilities not regularly accessible to the public.

Digital Images

When images of public artwork are displayed on the City's website, appropriate credits will be given. This includes acknowledging the artist, photographer, commissioning agency, date of creation, location, and copyright ©.

Intellectual Property and Copyright

Copyright Ownership:

The artist retains full copyright ownership as outlined in the Copyright Act of 1976 (17 USC § 101). The copyright duration is the life of the artist plus 70 years unless contractually modified.

Transfer of Title:

While the City may "own" the physical artwork, the artist retains the copyright unless contractually modified. Upon written acceptance and payment for the work, title to the artwork passes to the City, but copyright remains with the artist unless contractually modified.

Licensing for Reproduction:

The City may request permission to use images of the artwork for non-commercial, educational, or promotional purposes. Artists will be credited for these reproductions, and copyright notices will be included.

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 client or commissioning agency/organization may ask the artist to waive their VARA rights.

Alteration or Relocation of Artwork:

Due to the evolving nature of public spaces, artwork may need to be relocated or altered. If an artwork is accidentally damaged, the artist has the right to request that their name be removed from the piece until it is restored.

Insurance Requirements:

Artists may be required to maintain appropriate insurance coverage for the duration of the project, including:

- General Liability Insurance: A minimum of \$1,000,000 per incident.
- Automobile Insurance: For artists using vehicles in the course of their work, with minimum state-required coverage.
- Additional Insurance: Artists may also be required to carry Worker's Compensation Insurance if they have employees or provide coverage for potential losses.
- Subcontractors: Any subcontractor employed by the artist (e.g., engineers, architects) must also provide proof of insurance.

Payment Schedule:

The payment schedule will be contractually established between the City and the Artist.

Conservation and Maintenance of Artwork:

The City will assume responsibility for the care and maintenance of public artworks. Each artwork will be evaluated periodically to ensure proper conservation, with a maintenance schedule developed for each piece. The artist is required to provide maintenance instructions and necessary documentation to The City prior to final acceptance of the artwork.

Regular Inventory:

The VAC will maintain an inventory and condition report for all artworks in the City's collection, consulting with conservators as needed.

Maintenance and Conservation Plans:

Artists must submit detailed maintenance plans, including construction documents, site plans, warranties, and instructions on preserving the artwork.

Conflict of Interest:

No Commission member, Committee member, City staff, or elected official may use their position for personal financial gain, or to benefit others connected to the City.

Acquisition Ethics:

No Commission member, Committee member, or City official may acquire artwork for the collection in exchange for personal or financial gain, and no one may offer appraisals of artworks under consideration for acquisition.

Public Disclosure:

All meetings of the VAC are open to the public. Meeting agendas, minutes, and related materials will be posted in accordance with City and state regulations, and can be accessed via the City's official arts and culture website:

[www.siouxfalls.gov/artsandculture]

SIOUX FALLS PUBLIC ART ACQUISITION POLICY

Background:

The Sioux Falls Visual Arts Committee has developed this policy to guide the acquisition of public art for the city. The committee is responsible for overseeing the commission, acquisition, installation, maintenance, and preservation of public art throughout Sioux Falls. The goal is to create a public art collection that reflects the city's cultural vibrancy, celebrates its artistic community, and enriches the experience of residents and visitors alike.

Criteria for Public Art Projects:

All public art projects funded or supported by the City of Sioux Falls and the Sioux Falls Visual Arts Committee must meet the following criteria:

- 1. Collaboration:** Promote meaningful collaboration between the artist, the City, and any other relevant stakeholders, ensuring a shared vision for the project.
- 2. Quality and Durability:** The artwork should be crafted from high-quality materials and constructed using best practices, ensuring that it remains in good condition with minimal maintenance requirements over time.
- 3. Context and Integration:** The artwork should be thoughtfully integrated into the surrounding environment, taking into account the area's history, nearby architectural features, landscape, public pathways, and the expected audience for the piece.
- 4. Accessibility:** The artwork must be accessible to all individuals, including those with disabilities. It must comply with the Americans with Disabilities Act (ADA) and any other applicable accessibility standards.

5. **Artistic Integrity:** The artwork should demonstrate artistic merit and originality. It should not serve as an advertisement or be primarily of historical, religious, or commercial significance.

Selection of Artists:

The VAC is responsible for overseeing the selection of artists for public art projects. For each project, the committee will establish an Artist Selection Panel, which may include the following members:

- VAC members
- A representative from the host site or relevant department
- A project architect or landscape architect (if applicable)
- Arts professionals or practicing artists
- Community representation

The primary objective of the selection process is to identify an artist whose experience, artistic vision, and collaborative skills align with the goals and context of the project. The process will be transparent, competitive, and conducted in accordance with established procedures.

Selection Process Model:

The Committee may use one of the following models for selecting artists based on the scope and budget of the project:

1. **Open Call** (required for projects over \$50,000):

The VAC will issue a Call for Art or Request for Qualifications (RFQ) open to all interested artists. Applicants will be asked to submit samples of their past work and qualifications. The Selection Panel will review the applications, and in some cases, narrow the pool to a short list of finalists, and invite these finalists to submit detailed project proposals. An honorarium will be provided for proposal development. After reviewing the proposals, the panel will make a recommendation for the VAC's approval.

2. **Direct Call** (for projects under \$10,000 or for specialized needs):

In cases where the budget is below \$10,000, or when an artist is uniquely qualified for a specific project (e.g., repair or restoration of an existing artwork), the VAC may make a direct call to an artist without a formal selection process as long as state bid laws are followed and as long as the City complies with its purchasing manual.

General Requirements for Submissions:

- All submissions must include evidence of the artist's previous work and credentials.
- The Call for Art should provide clear and sufficient information about the project to help artists assess whether their work aligns with the goals of the project.
- All entrants must agree to the terms and conditions of the selection process, including the permission for the VAC to photograph or reproduce submitted work for promotional purposes, in promotional materials, websites, media, and archives.
- The VAC may request to view the original work (if available) during any phase of the selection process.

Artwork Selection Criteria:

Each artwork will be evaluated based on the following factors:

1. **Quality of Construction:** The technical and aesthetic quality of the work.
2. **Artistic Merit:** The originality, creativity, and technical mastery of the work.
3. **Contribution to the Public Art Collection:** How the work enhances and diversifies the City's public art collection.
4. **Financial Considerations:** The availability of funding, as well as the expected costs for installation, maintenance, and long-term care.
5. **Vandalism Risk:** The susceptibility of the artwork to damage, theft, or vandalism.
6. **Safety:** The potential risk to public safety posed by the artwork's design, placement, or materials.
7. **Technical Feasibility:** The feasibility of executing the project within budget and time constraints.
8. **Timeline:** The availability of the artist and the timeline for project completion.
9. **Donor Restrictions:** Any conditions set by donors (if applicable).
10. **Site Availability:** The availability and appropriateness of the proposed site for the artwork.
11. **Site Appropriateness:** How well the site supports the intended vision for the artwork and integrates into the surrounding environment. The work's scale, materials, and design should complement the proposed location.

Work that includes the following will not be considered for selection:

1. **Incites Violence:** Speech that incites imminent lawless action or violence is not protected.
2. **Is Obscene:** Material that is considered obscene is not protected. Obscenity is defined as material that is sexually offensive and lacks serious literary, artistic, political, or scientific value.

3. **Defamation:** Defamation is a false statement of fact that harms another person's reputation.

Department Input and Collaboration:

The Arts Coordinator seeks input from relevant City departments when selecting artwork or determining installation sites. This input may include considerations of building design, public safety, site accessibility, and departmental operations. Relevant departments may include those responsible for the building or site where the artwork will be placed, as well as departments that may be impacted by the installation.

The Arts Coordinator will work with these departments to ensure that the site and artwork are compatible with City operations and goals. The Director of the relevant department will be invited to participate in the selection process and to provide feedback on site considerations.

Conclusion:

This policy ensures that the VAC's acquisition process remains transparent, inclusive, and focused on the long-term success of public art projects. By carefully selecting high-quality artwork and considering the needs of the community, the VAC aims to create a lasting impact on Sioux Falls' cultural landscape.

SIOUX FALLS PUBLIC ART DONATION POLICY:

Background:

The City of Sioux Falls recognizes the value of donations as an essential part of its public art collection. Donations contribute to the cultural richness of the city while allowing the City to expand its collection with works that enhance the community's aesthetic and cultural landscape. However, due to limited resources for staffing, maintenance, and installation, the VAC adheres to a policy of selective acquisition. This policy ensures that only artworks that align with the City's goals, collection priorities, and available resources are accepted.

Criteria for Donations:

The VAC is committed to acquiring works that meet the following criteria:

1. **Artistic Merit:** The artwork must demonstrate significant artistic quality, originality, and relevance to the cultural and artistic goals of The City.

2. **Relevance to Sioux Falls:** The work should align with the city's evolving history, culture, and public art priorities. Preference is given to pieces that reflect or enhance the community's identity.
3. **Quality and Suitability:** The Committee prioritizes works that can be displayed and maintained with minimal risk of deterioration or damage. Artworks must be suitable for the City's available public spaces and meet the City's collection standards.
4. **Feasibility of Maintenance:** Due to limited funds and resources for maintenance, the Committee will only accept donations that do not require extensive upkeep or pose significant maintenance challenges. The Committee will not accept donations that are currently damaged.
5. **Appropriateness of Site:** Suitable locations for public art are limited in Sioux Falls. The Committee will evaluate the availability of appropriate sites for installation before accepting any donation.

Donation Process:

1. **Donation Proposal:** Individuals, organizations, or corporations interested in donating artwork to the City must submit a Donation Proposal to the Sioux Falls Arts Coordinator. The proposal should include detailed information about the artwork, including its artist, dimensions, materials, condition, and any other relevant information. The Donation Proposal Form is available on the City's website.
2. **Review and Evaluation:** Upon receiving a donation proposal, the Committee will review the artwork during its regularly scheduled public meetings. These meetings are announced in advance and open to the public. The Committee will evaluate whether the proposed donation aligns with the City's public art goals, collection priorities, and available resources.
3. **Maintenance Agreement or Endowment:** Due to limited resources for the care of public art, the VAC may require the donor to enter into a Maintenance Agreement or establish a Maintenance Endowment to ensure the artwork is properly cared for over time. This will help ensure that the artwork can be maintained to a high standard without placing undue burden on the City's resources.

Gift Acceptance Policy:

After reviewing a donation proposal, the VAC may take one of the following actions:

1. **Accept the Donation:** If the artwork meets the criteria and is deemed appropriate for inclusion in the City's collection, the VAC will accept the donation and arrange for its installation, maintenance, and care.

2. **Decline the Donation:** If the VAC determines that the artwork does not meet the City's criteria or is not a suitable addition to the collection, the donation will be declined.
3. **Defer the Offer:** In some cases, the VAC may choose to defer the offer for further consideration at a future meeting.
4. **Recommendations:** In some cases, the VAC may provide insights and recommendations to the donor for parties who might be interested in the donation.

Conclusion:

The VAC values the generosity of donors who wish to contribute to the City's public art collection. However, due to limited resources for management, maintenance, and installation, the VAC must carefully evaluate each donation to ensure it aligns with the City's artistic vision and practical limitations. By adhering to this donation policy, the VAC seeks to build a collection that is meaningful, sustainable, and representative of Sioux Falls' culture.

For more information or to submit a donation proposal, please visit www.siouxfalls.gov/artsandculture or contact the Arts Coordinator.

SIOUX FALLS PUBLIC ART DEACCESSIONING POLICY:

Background:

Deaccessioning refers to the formal process of removing a work of art from the City of Sioux Falls' public art collection. As part of the ongoing management of the City's public art collection, the Visual Arts Committee conducts periodic reviews of the collection to ensure its relevance, integrity, and sustainability. This policy provides the criteria and procedures for deaccessioning artworks, ensuring that each decision is made with careful consideration and adherence to established guidelines.

The Committee may deaccession any artwork, regardless of its acquisition date, in accordance with the procedures outlined in this policy.

Criteria for Deaccessioning:

An artwork may be considered for deaccessioning:

1. **Deterioration or Damage:** The artwork has significantly deteriorated or been damaged in a way that restoration is impractical, infeasible, or would compromise the integrity of the work.
2. **Loss or Destruction:** The artwork is no longer in the City's possession due to theft, accident, or natural disaster.

3. **Excessive Maintenance Needs:** The artwork requires excessive maintenance or repair that is beyond reasonable means, or it is found to be of inferior workmanship.
4. **Fraudulence or Inauthenticity:** The artwork is determined to be fraudulent, a reproduction, or in violation of copyright laws.
5. **Safety Concerns:** The artwork presents a threat to public safety or security, posing a liability to the City or the public.
6. **Incompatibility with the Site:** Significant changes to the artwork's location (such as environmental, architectural, or community changes) prevent it from being displayed in its original site, and no suitable alternative site is available.
7. **Security Concerns:** The artwork cannot be reasonably secured, and there is a risk of damage, theft, or vandalism.
8. **Lack of Display or Future Plans:** The artwork is rarely displayed, and no plans exist for its future display or integration into public space.
9. **Incompatibility with the Collection:** The artwork is deemed incompatible in the context of the City's broader public art collection.
10. **Any Other Lawful Reason:** Any lawful reason not already discussed.

Deaccessioning Procedure:

Deaccession of any artwork will be carried out after careful and impartial evaluation by the Visual Arts Committee. The process includes the following steps:

1. **Artist or Estate Notification:** A good faith effort will be made to inform the artist or their estate that the artwork is under consideration for deaccessioning.
2. **Review of Documentation:** The Committee will review all pertinent accession documents, including legal and financial records, with the assistance of the City Attorney as necessary.
3. **Independent Evaluation:** The Committee will seek a written recommendation from an independent art professional (such as a curator, conservator, historian, or architect) to evaluate the artwork's condition and its appropriateness for deaccessioning.
4. **Public Opinion Consideration:** The VAC will review relevant public feedback, including media coverage and any written correspondence, to assess the artwork's public value or impact.

Disposal Options for Deaccessioned Artwork:

If the Visual Arts Committee deems deaccessioning appropriate, the artwork will be disposed of in the following manner:

1. **Artist or Estate First Option:** The artist or their estate will be given the first option to acquire the work through purchase, exchange, or other terms negotiated by the Commission.
2. **Sale:** The artwork may be sold in accordance with all relevant laws governing the disposal of public property.
3. **Loan:** The artwork may be loaned to a gallery, museum, or similar institution for temporary or permanent display.
4. **Donation:** The artwork may be donated to a gallery, museum, or cultural institution that is equipped to care for and display it appropriately.

The City of Sioux Falls will be responsible for the costs associated with the removal or relocation of the artwork, unless another party assumes these costs.

A permanent record of all deaccessioned artwork will be maintained as part of the City's public art collection documentation. This record will include detailed information about the artwork, its original acquisition, and the reason for deaccessioning.

Alteration, Modification, or Destruction of Artwork

The Visual Arts Committee is committed to preserving the integrity of the City's public art collection. However, in certain circumstances, the VAC may approve the alteration, modification, or destruction of an artwork in accordance with the Visual Artists Rights Act of 1990 (VARA) or with the artist's written consent. These actions will only be considered under the following conditions:

1. **Faults of Design or Workmanship:** The artwork has defects or damage that make repair impractical or infeasible, or where repair would compromise the work's original intent.
2. **Safety or Liability Concerns:** The artwork poses a risk to public safety, the environment, or creates a liability for the City.
3. **Imminent Safety Hazard:** In the case of an emergency, where the artwork poses an immediate risk of harm and cannot be safely removed or relocated, the City may proceed with the necessary action without prior approval, in consultation with the Director of Planning and Development and City Attorney.
4. **Emergency Removal:** In situations where the condition of an artwork presents an immediate safety concern, the Director of Planning and Development may approve the removal, alteration, or destruction of the artwork with the advice of the City Attorney. In such cases, the VAC will be informed as soon as feasible, and any potential long-term plans for the artwork will be discussed.

5. **City Operations or Public Works:** The artwork must be altered or removed to allow for City operations or public improvements.

Artist Notification

If, for any of the above reasons, the City finds it necessary to pursue plans that would modify, remove, destroy or in any way alter an artwork, and the VAC approves such action, then the VAC shall make a reasonable effort to notify the artist by certified mail of the City's intent, and outline possible options, which include, but are not limited to the following:

1. **Transfer of Title to the Artist:** The artist will be given the first option of having the title to the artwork transferred to them. If the artist elects to pursue title transfer, they are responsible for the object's removal and all associated costs.
2. **Disclaim Authorship:** In the case where the City contemplates action which would compromise the integrity of the artwork, the artist shall be given the opportunity to disclaim authorship and request that their name not be used in connection with the given work.
3. **Alteration, Modification or Destruction:** If alteration, modification, or destruction of an artwork protected under the Visual Artists Rights Act of 1990 is contemplated, the VAC must secure a written waiver of the artist's rights under this section. In the case of an emergency removal that may result in destruction or irreparable damage, the Director of Planning and Development will act in accordance with the advice of the City Attorney.

Conclusion

The Sioux Falls Visual Arts Committee is dedicated to the ongoing preservation and enhancement of the City's public art collection. Deaccessioning, while a necessary part of collection management, will be carried out thoughtfully and transparently, with consideration given to the artwork's history, public significance, and the City's resources. All deaccessioned artworks will be disposed of in a manner that best serves the community and adheres to legal and ethical guidelines.

APPEALS PROCESS

Background:

The purpose of this section is to provide a transparent and equitable process for individuals or organizations to appeal official decisions made by any committee of the Sioux Falls Arts Commission regarding public art proposals, donations, deaccessioning, or other related actions.

Committee Decisions Subject to Appeal

Appeals may be filed for Visual Arts Commission (VAC) decisions involving:

- Approval or denial of public art proposals or donations;
- Decisions to relocate, alter, or deaccession, artworks; or
- Procedural or ethical concerns (such as conflict of interest or policy violations).

Decisions that are purely advisory in nature to the Sioux Falls Arts Commission are not subject to appeal, as the Commission serves as the final approving authority for all committee recommendations.

Who May Appeal

Appeals may be submitted by the artist, donor, sponsoring organization, or any party directly affected by the decision.

How to File an Appeal

Appeals must be submitted in writing to the Arts Coordinator within 30 calendar days of the committee's decision. The appeal must include:

1. Contact information;
2. The decision being appealed;
3. Grounds for appeal;
4. Supporting documentation.

Review Process

- The Arts Coordinator reviews the appeal for completeness and eligibility.
- The Sioux Falls Arts Commission serves as the appeal body. The Commission will review the record, hear relevant input, and decide the appeal during a public meeting.
- The Commission may:
 1. **Affirm** the VAC decision,
 2. **Modify** the decision, or
 3. **Return** the matter to the committee for reconsideration.

The Commission's decision is final and will be communicated in writing within 15 business days of the meeting.

Recordkeeping

All appeal materials and decisions will be kept on public record in accordance with City policy.

Conclusion

This Appeals Policy ensures that decisions regarding the City's public art program are transparent, fair, and consistent with established guidelines. By providing a clear process for appeals, the Sioux Falls Arts Commission reaffirms its commitment to responsible stewardship of public art and meaningful engagement with the community.