

Metropolitan Government of Nashville and Davidson County

# Donated Art Guidelines

Administered by



the Metropolitan Nashville Arts Commission

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Administered by the Metropolitan Nashville Arts Commission  
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- Dr. Ruth Ross Edmonds
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## **Public Art Committee**

- Stephanie Pruitt, Chair
- Hope Stringer
- Sheila Dial-Barton
- Katie Delmez
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- Anderson Williams
- Mel Ziegler
- Matt Fischer, Ex-officio
- Stephanie McCullough, Metro Planning, Technical Advisor
- Tim Netsch, Metro Parks, Technical Advisor
- Don Reid, Metro Public Works, Technical Advisor

## **Staff**

- Jennifer Cole, Executive Director
- Caroline Vincent, Director of Public Art
- Van Maravalli, Public Art Project Coordinator
- Anne-Leslie Owens, Public Art Project Coordinator

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## I. Introduction

A city-wide Donated Art policy is provided for in an ordinance signed into law by Mayor Karl Dean on August 10, 2015. The ordinance states the Metropolitan Nashville Arts Commission (“Commission”) will create guidelines to administer a Donated Artwork review process on behalf of the Metropolitan Government of Nashville and Davidson County (“Metro”). These Guidelines apply to Donated Art reviewed after the document's adoption.

A bill creating the Donated Art ordinance was adopted on August 10, 2015, as BL2015-1277 by the Metropolitan Council of Nashville and Davidson County.

## II. Purpose

*Purpose.* The purpose of these guidelines is to codify a process to review Donated Artworks which individuals or entities propose to donate to the Metropolitan Government. This policy and guidelines take into account and plan for the fact that there are limited suitable sites on public property for placement of Donated Artwork and limited public funds for maintenance and conservation of Donated Artwork.

## III. The Metro Nashville Arts Commission

A. *Responsibilities.* The Commission will:

1. Appoint the existing, standing Public Art Committee (“PAC”) to review Donated Artworks.
2. The PAC will apply the same standards of excellence to this process that the Percent for Art/Public Art program adheres to.
3. When reviewing Donated Artwork, the PAC will include, as a voting member, a designee of the Metro Department recommending and accepting the artwork donation.
4. Donated Artwork reviews will be added to regular PAC meeting agendas or called meetings as necessary.
5. The PAC will make donation acceptance recommendations to the Commission.
6. The Commission will review PAC recommendations and make final decisions on whether to accept Donated Artworks.

## IV. Metro Arts staff

A. *Responsibilities.* Metro Arts staff will:

1. Develop an application process for Donated Artworks.
2. Serve as liaison between donor, Metro Departments and the PAC.
3. Preliminarily review donor applications for Donated Artworks.
4. Create staff recommendations for the PAC.
5. Convene the PAC to review potential donations.

## V. Review Process

A. *Donors.* Donors will be required to submit the following information in writing, utilizing a standard online form developed by Metro Arts staff, at least six months prior to the anticipated donation acceptance date:

1. The name, address, phone and e-mail address of the donor, donor organization or donor's agent
2. Purpose of and intent of donor for offering the artwork to the city of Nashville
3. Artist's name, resume, birthplace and date, current address if known, website and/or gallery representation if any, and examples of artist's previous work, if proposed Donated Artwork is a new commission
4. If artwork is existing, donor will provide:
  - a. Artwork title, medium, dimensions, weight if applicable, date created, signature/inscriptions
  - b. Current owner, statement of ownership, absence of liens, copy of bill of sale
  - c. Current location
  - d. Current artwork condition, including conservation history or a conservator's report (The PAC may request a conservation report by a professional conservator if artwork condition is unknown or if artwork has been in storage or not maintained for longer than two years.)
  - e. Photographs of proposed Donated Artwork
  - f. Projected annual maintenance cost estimate (Upon review, the PAC may request a professional conservator maintenance report to verify annual cost of maintenance.)
5. If artwork will be a new commission, donor will provide:
  - a. Concept drawings, renderings, models, or designs of proposed artwork
  - b. Concept description, contextual information and/or background
  - c. Description and samples (if available) of materials and colors
  - d. Projected annual maintenance cost estimate (Upon review, the PAC may request a professional conservator maintenance report to verify annual cost of maintenance.)
6. Site for the artwork, if known. Donor will:
  - a. Describe the site and or any physical features of the proposed site
  - b. Provide photographs and address of proposed site
7. Timeline. Donor will:
  - a. Provide a projected timeline for donation and/or commission, fundraising plan, fabrication and installation of artwork.
8. If donor's application is preliminarily approved by the staff, donor may be required to provide for PAC review:
  - a. Drawings of the proposed site with the Donated Artwork to scale
  - b. Electrical, plumbing, or other utility requirements of Donated Artwork
  - c. Stamped structural engineered drawings of site and artwork, if commissioning a new site-specific sculptural work
  - d. An estimate of any site costs to Metro arising from the donation of the artwork (including such items as surveys, soil condition reports, site preparation costs)
  - e. Fabrication budget, if artwork is being commissioned, and fundraising report and plan if not fully funded
  - f. Installation schedule
  - g. Contact information for who is installing the work and the manner in which the installation will be accomplished, including transportation of the artwork to the site
  - h. Proof of insurance sufficient to meet the requirements of Metro
  - i. Any required permits
  - j. Any additional information required or requested by Metro

9. Artwork donation information will be provided by Metro Arts staff to the PAC for review. Donors may be required to make an in person presentation to the committee.
- B. *Review Criteria.* Acceptance of donations will be decided by the PAC based on the following criteria and considerations:
1. *Artistic Merit* - The inherent quality and excellence of a proposed artwork by a professional artist.
  2. *Context* - Artwork must be compatible in scale, material, form, and content with its surroundings. Consideration should also be given to the architectural, historical, geographical and social/cultural context of the site or community, as well as the way people may interact with the artwork. Artwork should be compatible with the intent of surrounding civic space and/or Metro buildings, facilities and sites.
  3. *Permanence/maintenance* - Due consideration will be given to the structural and surface soundness, annual maintenance costs and inherent resistance to theft, vandalism, weathering and excessive maintenance.
  4. *Diversity* – PAC will consider diversity when reviewing Donated Artworks. Diverse ethnic and cultural identities should be represented within the public art collection and throughout Metro.
  5. *Budget* – Whether sufficient funds are available to fund transportation of artwork, storage, siting, site work, site design costs, insurance, installation and maintenance, plus reasonable unforeseen circumstances.
  6. *New artwork commissions* will also be reviewed for:
    - a. *Artist’s relevant experience* - Experience and professional record of the artist(s) should provide convincing evidence of ability to successfully complete the project as proposed.
    - b. *Technical feasibility* – Donor must show that appropriate professionals have examined the proposed artwork and confirmed feasibility of construction and installation.
    - c. *Design and Fabrication Budget* – In addition to the budget items listed above (IV.B.5), a commissioned artwork should also provide a budget adequate to cover all costs for the artwork design and fabrication.
    - d. *Fabrication and installation schedules* - The Donor’s proposal should include a project timeline that incorporates PAC review, fabrication, site work, delivery and installation.
- C. *Other review considerations.* Consideration of the proposed donation may include the following:
1. *Associated Costs.* Donations of artwork that require the city to pay for costs such as installation, transportation, site preparation or repair are not encouraged. Artwork requiring high or excessive maintenance may be declined.
  2. *Existing Donated Artworks.* Donated Artworks currently in the Public Art Collection requiring excessive maintenance or undergoing major restoration or modifications will be reviewed by the PAC and must meet all conditions of this policy for approval. Resiting or deaccessioning of existing artworks will follow policies set forth in the existing Public Art Guidelines Section XII. Upon approval by the PAC, new acceptance agreement documents will be required for such existing donated artworks.
  3. *Placement/Site Considerations.* The artwork should significantly contribute to the setting, from a functional or design standpoint, and significantly enhance the chosen location in a way meaningful to the public. The following factors will be considered:
    - a. Visibility
    - b. Traffic patterns (both interior and exterior)

- c. Public safety
- d. Relationship to existing planned architectural and natural features
- e. Users of the site
- f. Future development plans for the site/area (if known)
- g. Landscape design
- h. Existing artwork within the proposed site vicinity
- i. Environmental concerns
- j. Public accessibility to the work, including ADA requirements
- k. Social context (intended use of the work if any)
- l. Significance of the proposed artwork
- m. *Adherence to Existing Plans.* Artworks should adhere to any existing master plans, community plans, historic overlays and/or land use policies of the proposed site.

**VI. Final Acceptance**

- A. *Final acceptance.* Recommendations of Donated Artwork will be made by the PAC and acknowledged through a written statement to the donor or donor’s agent. All artwork appraised at more than \$5,000, or if anticipated maintenance will exceed \$5,000 over a ten year period, must be approved by resolution of the Metro Council.
- B. *Final acceptance agreement.* The agreement will describe the terms and conditions under which the artwork is to be accepted, including, but not limited to, responsibilities for installation, fabrication (if applicable), site design and preparation, insurance, ongoing maintenance, conservation, and informational signage.. Included in the agreement will be a statement that Metro retains full rights of reproduction, filming/photography, removal, relocation, and de-accessioning of the artwork donation.
  - 1. The following are also required for final acceptance:
    - a. Complete records of accession including, but not limited to, a signed deed of gift, acknowledgment of receipt, and a copy of donor’s application.
    - b. Verification that the work is unique and an edition of one (unless stated to the contrary in the agreement and accepted by Metro Arts).
    - c. Donation to existing special purpose fund for maintenance of the artwork.
    - d. In general, artwork will be acquired without legal restrictions as to future use and disposition, except with respect to State or Federal laws on preservation, copyright, and/or resale of works of art.
- C. *Integrity.* The PAC seeks to ensure the ongoing integrity of the artwork and the sites for which they were created, to the greatest extent feasible, in accordance with the artist’s original intentions, and consistent with the rights afforded by the 1990 Visual Artists Rights Act.

**VII. Deaccessioning**

- A. Deaccessioning of Donated Artworks shall fall under the same guidelines as artwork commissioned under the Percent for Art ordinance and process stated in the Public Art Guidelines (BL2000-250).

**VIII. Review and Amendment**

- A. These guidelines are subject to periodic review and revision by the Public Art Committee (PAC) and subsequent approval by the Metropolitan Nashville Arts Commission (MNAC or Metro Arts).

## Appendix A

### Ordinance No. BL2015-1277, Donated Art Ordinance

**An ordinance amending Chapter 2.112 of the Metropolitan Code pertaining to a review process and policy regarding the acceptance and maintenance of artwork donated to the Metropolitan Government.**

WHEREAS, from time to time, individuals and entities propose to donate artwork, property for the placement of artwork, and funds for the acquisition of artwork to the Metropolitan Government; and

WHEREAS, there are limited public funds for maintenance and conservation of donated artwork, and a limited number of suitable sites on public property for the placement of donated artwork; and

WHEREAS, Metropolitan Code §2.112.030 provides that the purpose of the Metropolitan Nashville Arts Commission includes providing recommendations to the metropolitan county council with respect to the aesthetics of public places and property; and

WHEREAS, it is in the best interest of the taxpayers of Metropolitan Nashville and Davidson County that a uniform process be established regarding the review and acceptance of artwork.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

SECTION 1. That Chapter 2.112 of the Metropolitan Code is hereby amended by adding the following new Section 2.112.050:

2.112.050 Review, acceptance, and maintenance of donated artwork.

- A. For purposes of this section, “donated artwork” means artworks, property for placement of artwork, and funds for the acquisition of artwork that may be proposed for donation to the metropolitan government outside of the Percent for Art Program established pursuant to chapter 5.10 of the metropolitan code, provided that artwork accepted by the board of parks and recreation for exhibition at the Parthenon museum shall not be subject to the provisions of this section.
- B. Prior to acceptance by the metropolitan government, all donated artwork shall be submitted to the metropolitan arts commission for review and recommendation in accordance with the arts commission’s adopted policy pertaining to donated artwork. The arts commission shall submit a recommendation to the metropolitan council if council approval is required by applicable law for acceptance of the artwork, or to the metropolitan government department or agency that has the authority to accept the artwork if no council approval is required.
- C. All accepted donated artwork shall be owned by the metropolitan government.
- D. Unless the metropolitan council has appropriated funding specifically for the installation and maintenance costs for the donated artwork, a donor’s proposal shall include funding adequate to cover all costs for the design, fabrication, insurance, transportation, storage, installation, and

maintenance of the proposed artwork for a period of ten years from the date of acceptance, plus contingency funds for reasonable unforeseen circumstances.

- E. Final acceptance recommendations of donated artwork shall be made by the arts commission and acknowledged through a written statement to the donor or donor's agent.
- F. Acceptance agreements. An agreement pertaining to final acceptance of all donated artwork appraised at more than five thousand dollars, or if anticipated maintenance of the artwork will exceed five thousand dollars over a ten year period, must be approved by resolution of the metropolitan council prior to the metropolitan government taking possession and ownership of the donated artwork. Such agreement shall be approved by the department of law as to form and legality, and shall include, at a minimum, the following:
  - 1. A description of the terms and conditions under which the artwork is to be accepted, including responsibilities for installation, fabrication (if applicable), site preparation, insurance, ongoing maintenance, conservation, and informational signage.
  - 2. A statement that the metropolitan arts commission retains full rights of reproduction, filming/photography, removal, relocation, and deaccessioning of the artwork donation.
  - 3. A statement that the artwork will be acquired without legal restrictions as to future use and disposition, except with respect to state or federal laws regarding the preservation, copyright, and/or resale of works of art.
- G. Deaccessioning or alterations of any donated artwork shall be addressed in the same manner as artwork commissioned through the Percent for Art Program established pursuant to chapter 5.10 of the metropolitan code and the process provided in the Public Art Guidelines approved by the arts commission.

Section 2. This Ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Sponsored by: Ronnie Steine

### **Legislative History**

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Passed First Reading: July 7, 2015

Referred to: Budget & Finance Committee

Substitute Introduced: July 21, 2015

Passed Second Reading: July 21, 2015

Passed Third Reading: August 4, 2015

Approved: August 10, 2015

## Appendix B

### Rules and Regulations of the Metro Nashville Arts Commission

#### Summary and Goals

The Metropolitan Nashville Arts Commission ("MNAC") exists to provide leadership that stimulates and advances the arts to enrich the human experience for all Nashville/Davidson County residents. The MNAC's purpose is set forth in Metropolitan Code Section 2.112.030. The MNAC's goals are to promote organizational stability and growth, to foster excellence, to generate awareness, to increase accessibility, to respond to diverse community needs and to facilitate cooperation and partnerships that create a vibrant, vigorous, healthy community where all the arts flourish and grow.

The MNAC has oversight responsibilities for carrying out the department's mission and setting its policies.

Rule 1: The MNAC shall award funds to nonprofit civic and charitable organizations that assist the Arts Commission in carrying out its purposes, as stated in Metropolitan Code Section 2.112.030, and its goals, as stated herein, and provide artistic benefit to the general welfare of the Metropolitan community. These grants shall be made in accordance with Metropolitan Code Section 2.112.040(H).

*(Authority: Tennessee Code Annotated, Section 6-54-111; Metropolitan Code, Section 2.112.040(H).)*

Regulation 1.1: Grants made under the authority of Metropolitan Code Section 2.112.040(H) shall be made in accordance with the following criteria: excellence; need in the community; inclusive planning; community outreach and impact; educational merit; innovation; administration, development and financial management. These criteria shall be set forth in MNAC's Grant Guidelines.

Regulation 1.2: The MNAC shall regularly review its Grant Guidelines.

Rule 2: The MNAC shall provide funding for public art projects to enhance the built environment of the city and to enrich the lives of its citizens.

*(Authority: Tennessee Code Annotated, Section 9-21-105; Metropolitan Code, Section 5.10.020.)*

Regulation 2.1: The MNAC shall adopt Public Art Guidelines consistent with the Metropolitan Code, Section 5.10.030.

Regulation 2.2: The MNAC shall regularly review its Public Art Guidelines.

Rule 3: Organizations that apply for MNAC grants authorized by Metropolitan Code Section 2.112.040(H) must:

- a. Be a not-for-profit organization chartered in the State of Tennessee with 501(c)(3) IRS tax-exempt status;
- b. Serve Nashville/Davidson County citizens and be headquartered in and have a substantial portion of its programming within Nashville/Davidson County;

- c. Produce, present and/or directly support programs, projects and/or works in the arts that enrich the artistic experience of Nashville citizens in a significant way;
- d. Have, or be in the process of creating, a diverse board of directors;
- e. Show a demonstrated and continuing ability to build a base of financial support through earned income plus public and private support as needed.

Rule 4: Projects undertaken by artists or acquisitions of artwork whether by commission, purchase, gift, or other means shall further the purpose and goals of the Metro Arts Commission public art program. The MNAC Public Art Guidelines describe the approved process to be followed to select and administer the public art program on behalf of Metropolitan Nashville and Davidson County Government.

*(Authority: Metropolitan Code, Section 5.10.030.)*

Rule 5: The Metro Nashville Arts Commission establishes guidelines for all grant programs in the Contributions for the Arts program and the Public Art program. These guidelines establish procedures on application, funding criteria, review process, and appeals process. The Arts Commission shall evaluate these programs and revise the guidelines from time to time as set forth in the guidelines and the MNAC by-laws. Copies of the guidelines are available to the public by contacting the Arts Commission.

Rule 6: The Arts Commission staff, including the Executive Director, has powers limited to executing and carrying out MNAC policies, procedures, rules and regulations.

*Approved by the Metro Nashville Arts Commission, November 17, 2011.*