

ORDINANCE NO. 1546

AN ORDINANCE creating a Friday Harbor Arts Commission and Municipal Arts Fund.

WHEREAS, the Town Council is interested in the promotion of visual, performing and literary arts and maintaining and promoting public art in possession of the Town or sited on public property; and

WHEREAS, there is an interest in acquiring and placing public art and establishing a fund to help support the purposes of this Ordinance and to create a process for creating revenue for that fund; and

WHEREAS, there is a need for a board to advise the Town in matters pertaining to public arts and culture;

NOW, THEREFORE, be it ordained by the Council of the Town of Friday Harbor:

SECTION 1. A new chapter (2.74) of the Friday Harbor Municipal Code is hereby created and shall be titled "Friday Harbor Arts Commission and Municipal Arts Fund".

SECTION 2. Chapter 2.74 FHMC shall read as follows:

Chapter 2.74

FRIDAY HARBOR ARTS COMMISSION AND MUNICIPAL ARTS FUND

Sections:

PART 1 Arts Commission

- 2.74.010 Committee created
- 2.74.020 Appointment, terms, and qualifications
- 2.74.030 Organization
- 2.74.040 Powers and duties
- 2.74.050 Operational support
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Part 2 Municipal Arts Fund

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- 2.74.090 Definitions
- 2.74.100 Works of art and public facilities
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- 2.74.120 Commission responsibilities
- 2.74.130 Municipal arts fund created
- 2.74.140 Reservation of town council approval
- 2.74.150 Public hearing required

PART 1**2.74.010 Committee created.**

The Town of Friday Harbor Arts Commission is hereby created. The Commission shall consist of seven members. In addition to these members, the Commission may include one non-voting member who is age 16 to 19 at time of appointment.

2.74.020 Appointment, terms and qualifications.

Members of the Commission shall be appointed by the Mayor, and shall serve a three year term, or the duration of any vacant and unexpired term. The original appointments will be as follows: Positions 1 and 2: one year; Positions 3 and 4: two years; Positions 5, 6 and 7: three years. Terms shall commence on January 1st and expire on December 31st. The youth member shall serve one year with term to commence October 1st and expire September 30th the following year.

The seven members shall include at least one Town Council member, two representatives of the visual arts, and one representative of the performing arts. "Representatives" shall be those with experience, background, and/or involvement in that particular art form.

2.74.030 Organization.

The Arts Commission shall be organized as follows:

- A. Chairperson. A Councilperson appointed to the commission shall be elected by the members of the commission to serve as chairperson.
- B. Quorum. No business shall be conducted without a quorum. A quorum shall exist when a majority of the members are present.
- C. Voting. All actions of the Commission shall be accomplished by a vote of the membership. A simple majority of the members present at the meeting in which action is taken shall be necessary to approve any action taken. The chairperson is entitled to vote on all matters.

2.74.040 Powers and duties.

The Commission's function shall be to advise the Town Council on support, placement, selection, acquisition, and maintenance of public art. The Commission shall advise on visual, literary and performing arts.

The Commission shall have no independent authority to approve or disapprove the placement, selection, acquisition, or maintenance of public art.

2.74.050 Operational support.

The Arts Commission operational budget will be a sub-category of the Planning Department budget. A separate Municipal Arts Fund will also be established for funds procured through donations, grants, sales, admission fees, or other means including any allocations from the Town's Current Fund or pursuant to section 2.74.130.

2.74.060 Staff assistance.

The Town administrative staff shall provide the Arts Commission with such assistance as is reasonably necessary to enable it to perform its functions and duties. Staff assistance shall include, but not be limited to, record keeping, reporting, research, general planning, and instruction.

2.74.070 Policies and procedures.

The Policies and Procedures attached hereto as Exhibit A shall govern all meetings and activity of the Arts Commission and are hereby adopted by reference.

PART 2**2.74.080 Municipal arts fund purpose.**

The Town of Friday Harbor accepts the responsibility for expanding public experience throughout the broad spectrum of the arts by providing local and cultural artistic services and programs to its citizens. Artists capable of creating for the public in the fields of visual, written and performing arts should be encouraged, and such is hereby declared to be the policy of the Town of Friday Harbor. In harmony with this policy it should be the practice of the Town to require that visual art be included in any public works project, where applicable, and that a portion of the cost of such project, where applicable, be allocated for the acquisition of visual art. It shall also be the policy of the Town to provide an annual allocation from the Town's general revenues to the municipal arts fund as created by this ordinance.

2.74.090 Definitions.

A. "Commission" means the Friday Harbor Arts Commission.

B. "Municipal construction project" means any project paid for wholly or in part by the Town of Friday Harbor to construct or remodel any building, decorative or commemorative structure, park, street, sidewalk, parking facility or utility, or any substantial portion thereof within the limits of the Town. Municipal construction project shall not include routine maintenance, the repair of existing public facilities or the replacement of fixtures in such facilities.

2.74.100 Works of art and public facilities.

A. All authorizations and/or appropriations for municipal construction projects, excluding water, sewer and storm water projects or any portion thereof, shall include an amount equal to at least one percent of the total project cost (as estimated by the Town in the year in which the project is actually initiated) to be used for the selection, acquisition and/or installation of works of art to be placed in, on or about public facilities unless specifically excluded from the project by the Town Council; provided, however, if applicable laws establishing a source of funds for a particular project exclude art as one of the items for which such funds may be expended, the amount of funds from that source shall be excluded from the "total project cost" in making said calculation; provided further, that in the event applicable law requires that all such funds for art in a municipal construction project are required to be expended solely for that project, such funds thus appropriated shall only be used for that project and in the event such funds are not expended by the time of completion of said project, such appropriation shall lapse and the total cost of the project be reduced by that amount.

B. The funds authorized and/or appropriated pursuant to this section shall be held in the public art acquisition fund; provided, however, that if at the end of any budget year, the said fund has an accumulated balance from all sources of \$75,000 or more representing funds which remain unexpended and which have not been encumbered or otherwise committed for the purchase of municipal art, no further annual appropriation shall be made under this section until all or that part in excess of \$75,000 has been expended. Out of such funds, the Town Council, after seeking the advice of the Commission, shall approve the amount to be allocated for selection, acquisition, and/or installation of individual works of art to be placed either as an integral part of the municipal construction project in connection with which the funds are appropriated, or attached thereto, or detached within or outside such project, or to be placed in, on or about other public facilities as permitted by law.

C. The preceding cap shall not apply to encumbered funds donated by the public.

2.74.110 General revenues to the municipal arts fund.

In addition to such funds as may be appropriated pursuant to 2.74.100, the Town Council shall make provision by appropriation to the municipal arts fund for the purposes enumerated in FPMC 2.74.080. The Council hereby states its commitment to provide general revenue funding at a level of at least \$10,000 per year, in addition to such monies as may be appropriated or expended for staff support services.

2.74.120 Commission responsibilities.

The Commission, with the consent of the Town Council, may, either alone or in conjunction with other public or private agencies, initiate or sponsor public programs designed to heighten public awareness in any of the aforementioned arts.

2.74.130 Municipal arts fund created.

There is hereby created a special fund entitled the "Municipal Arts Fund" into which all funds shall be paid that are received by the Town from whatever source for the purpose of: 1) providing for the advancement of local cultural and artistic programs and services within the Town, including federal, state or other funds to which the Town may be entitled now or in the future, other funds as the Town may from time to time transfer into said fund, revenues from performances or projects sponsored by the arts commission or funds from private parties or agencies and 2) financing those expenditures identified in FPMC 2.74.100.

2.74.140 Reservation of town council approval.

The Town Council specifically reserves to itself final decision making authority regarding the purchase, erection, siting and installation of works of public art. The Town Council indicates its intention to use a selection process and public hearing procedures which incorporate members of the Friday Harbor Arts Commission. In the event of conflict with any other section of the code, this section shall prevail.

2.74.150 Public hearing required.

Prior to the expenditure of funds from the municipal arts fund for the purchase of a public art work utilizing funds in excess of \$500, whether freestanding or incorporated into the design of a public building, which is visible from a public way or adjacent private properties, a public hearing shall be held and noticed as provided by law.

SECTION 3. This Ordinance shall become effective following publication in accordance with State law.

ADOPTED this 6th day of November 2014.

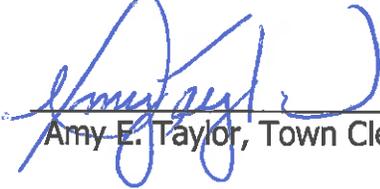
TOWN OF FRIDAY HARBOR



Carrie Lacher, Mayor

SEAL of the
Town of Friday Harbor

ATTEST:



Amy E. Taylor, Town Clerk

EXHIBIT A
Friday Harbor Arts Commission
POLICIES AND PROCEDURES

MISSION STATEMENT

The Friday Harbor Arts Commission (FHAC) exists to support excellence, vitality, diversity, and accessibility of the arts as essential to the quality of life and cultural enrichment for town residents and visitors. The commission should foster the community's vision through the acquisition, placement, and maintenance of public art and by promoting participation, innovation, and partnership in the visual, performing, and literary arts.

AUTHORITY

Town of Friday Harbor Municipal Code Chapter 2.74 regulates the FHAC. These rules are adopted to supplement the municipal code. Where in conflict, the municipal code shall prevail

RESPONSIBILITIES

1. Serve as the central commission to whom individuals and groups may bring their concerns and ideas with regard to the arts within the Town of Friday Harbor.
2. Represent the interests of the Town in matters of art, and the interest of the arts in matters of the Town, and inform the Mayor and Town Council of all said matters.
3. Identify and recommend potential locations for public art; prescribe procedures for the selection, acquisition, and display of such art; oversee the process of selection and placement of public art; and provide advice for its oversight and maintenance.
4. Review and submit recommendations to the Town Council for any and all new artwork that shall be contracted for or placed on Town property or become the property of the city by purchase, gift, or otherwise.
5. Review and submit recommendations to the Town Council for any and all existing Town artwork to be removed, relocated, or altered in any way.
6. Develop a long range plan for integrating the arts into the community that is to be reviewed and updated every three years.
7. Encourage and recognize education, innovation, and community participation in visual, literary, and performing arts. This includes exploring and promoting arts related projects, events and businesses that provide an economic benefit and/or beautify and enhance the image of the Town.
8. Actively work to promote fundraising and coordination of donations for public art projects.

MEETINGS AND RECORDS

The commission shall meet at least quarterly at a time, date and place to be established by the commission. Meetings are subject to the Washington Open Public Meetings Act. Written meeting minutes shall be maintained and made available to the public upon approval of the minutes by the commission. The commission will report to the Town Council at least annually.

SUB-COMMITTEES

The commission may appoint subcommittees or ad hoc committees in order to meet the functions and responsibilities of the commission. Any ad hoc committee appointed by the commission will be advisory to the commission only.

MUNICIPAL ARTS FUND

In addition to an operational budget, there will be established a special Town fund entitled "The Municipal Arts Fund" into which all funds will be deposited that are appropriated by or received by the Town from whatever source for the purpose of acquisition of or otherwise providing for the advancement of visual, literary, and performing arts within the town, including federal, state, and municipal funds, or funds from private individuals or agencies, or any other funds which the Town may receive or come into possession of from time to time including revenues from performances or projects sponsored by the FHAC and any allocations from the Town.

The Town may make a provision by appropriation to the Municipal Arts Fund from the Current Fund each year, in addition to such monies as may be appropriated or expended for the commission's operational budget.

SITING AND DISPLAY

"Siting" is the permanent installation of a work of art.

"Display" refers to the temporary showing of a work of art.

The commission shall establish and maintain an Artwork Site Plan, to be approved by the Town Council.

Site priorities will be based on the following:

1. Maximum visibility and public benefit
2. Public safety
3. Integration with formal Town plans
4. Permanence
5. Appropriateness to the type, scale and scope of potential projects
6. Security and ease of maintenance
7. Integration and coordination with proposed or potential private sector projects

PLACEMENT ON PRIVATE PROPERTY

No work of art financed or installed either wholly or in part with the Municipal Arts Funds or grants procured by the Town shall be installed on privately owned property without a written agreement between the Town and the owner specifying the proprietary interests in the work of art, and specifying other provisions deemed necessary or desirable by the Town's attorney. In addition, such written agreements shall specify that the private property owner shall assure:

1. That the installation of the work of art will be done in a manner which will protect the work of art and the public;
2. That the work of art will be maintained in good condition; and
3. That insurance and indemnification will be provided as is appropriate.

ACQUISITION OF ART BY DONATION

"Acquisition" refers to the procurement of works of art through open competition, limited competition, invitation, donation, loan, direct purchase or any other means. Art shall be acquired without legal restrictions about use and disposition except with respect to copyrights or other specifically defined rights as part of the contract negotiated with the artist.

"Works of art" include, without limitations, paintings, murals, stained glass, sculptures, bas-reliefs, monuments, fountains, arches, or other structures of a permanent or temporary character intended for ornament or commemoration.

A donation is initiated by the public, and may be artwork or funds for public art. Potential art donors will be referred to the commission to discuss the nature of the gift, and for review and approval. After review, the commission will consider the offer and make a site recommendation if applicable. Generally, donations are not accepted unless sufficient funds are available from the donor for installation, display needs, and identification plaque. Required documents include a release form from the donor, written acknowledgement of acceptance from the Mayor, and a completed Deed of Gift transferring title to the Town. All financial gifts, bequests and artwork donations accepted by the commission are subject to the approval of the Council. All gifts shall generally be accepted without restrictions as to the future use or disposition, unless specifically authorized by Council.

TEMPORARY ACQUISITION

"Temporary works of art" have an intended or anticipated life span, or are on short-term loan, of less than five years. Artwork may be loaned to the Town long term (one year or more) or short term (less than one year). Loaned artwork shall go through the same review process as permanent acquisitions with terms and conditions to be set forth in an agreement signed by the artist and the Mayor. Temporary Art may also display information regarding an ability to purchase, provided such information shall be appropriate in size and location.

REVIEW PROCESS

1. Applicant provides conceptual drawings or photos, site plan showing proposed location of project, and any additional information that may aid the FHAC in their review and recommendation.
2. Staff reviews proposal for compliance with applicable codes and regulations, and forwards to FHAC.
3. FHAC reviews preliminary design and sends written response to applicant, which may include request for more details.
4. Applicant provides final drawings or photos, site plan, and any additional information requested by the FHAC.
5. FHAC and Planning Department review plans, then forward to Town Council for approval.

ART SELECTION

The following criteria should be used by the FHAC when considering acquisition of artwork by purchase, commission or donation:

1. Artistic merit: Concept, design, and craftsmanship.
2. Context: Architectural, historic, geographic, and cultural.
3. Compliance: Compliance with definition of public artwork for both permanent and temporary artworks.
4. Maintainability: Structural and surface soundness, durability and resistance to vandalism, weathering, and excessive maintenance/repair costs.
5. Diversity: Art from artists of cultural diversity, art of varied scale and media, and emerging and well-established art forms.
6. Public safety and appropriate public principles and standards.
7. Accessibility and potential for interaction.
8. Consistency with Request for Proposals (commissioned work).
9. Feasibility: Artist's ability to complete work on time and within budget.
10. Originality.
11. Ability to comply with other criteria as established by the FHAC.

INSTALLATION, MANAGEMENT AND MAINTENANCE OF PUBLIC ARTWORK

The artist shall provide drawings of, and be responsible for, the initial installation of the art piece; Town staff will oversee the installation. The artist shall guarantee the work to be free of defects in materials and workmanship for a period of one year following installation. The artist shall provide detailed instructions for routine maintenance of the work. Regular inspection and maintenance of the artwork is the responsibility of the Town. The maintenance, alteration, refinishing, and moving of art shall be done in consultation with the artist whenever feasible.

Liability associated with ownership of public works of art shall be covered under the Town's applicable insurance programs.

RE-SITING OR REMOVAL OF PUBLIC ARTWORK

While the intent of acquiring public artworks is generally for long-term display, circumstances may arise that dictate that the Town re-site or deaccession a public artwork. The following is meant to ensure this occurs infrequently, thoughtfully, and without undue influence of public controversy.

"Deaccessioning" refers to the removal of art from permanent display

"Disposal" is the cessation of ownership and possession of art work

Art may be considered for deaccessioning or disposal for one or more of the following reasons:

1. Condition or security of work cannot be reasonably assured.
2. Work endangers public safety.
3. Work is damaged and repair is not practicable or feasible.
4. Work requires excessive maintenance.
5. Suitable site for display no longer available (significant change in use, character or design of existing site).
6. Work is not or is rarely displayed.
7. Work received significant adverse public opinion.
8. Quality or authenticity of work called into question.
9. Department that is displaying work requests status be reviewed.
10. Removal requested by the artist.

PROCESS OF DEACCESSIONING

This process is initiated by majority vote of FHAC or specific direction of the Town Council. The commission will prepare a report to include the artist's contract, original acquisition method and cost, correspondence with artist or proof of good faith effort to reach artist, photo of artwork's current condition, reasons for suggesting removal, any evidence of public comment or debate, and recommendation for the Town Council: removal, relocation or deaccession.

Options for deaccessioning, in order of priority:

1. Relocation. (If relocated, artist may prevent use of his/her name per the Visual Arts Rights Act).
2. Trade through artist, gallery, museum, or other institution for art of comparable value by same artist.
3. Long-term/indefinite/permanent loan to museum or governmental agency.
4. Removal to storage with intent to find new site within five years, after which time the work shall be removed from the collection.
5. Sale through auction, gallery, dealer or direct bidding with all proceeds going into the Municipal Arts Fund. Artist should have first right of refusal to purchase at current market value, unless other resale agreement is stated in original contract.
6. Destruction.

ARTWORK ON LOAN FROM THE TOWN

The commission may recommend that the Town Council loan works of art owned by the Town for exhibition elsewhere upon such terms and conditions as deemed necessary.

APPEARANCE OF CONFLICT OF INTEREST

1. Friday Harbor Arts Commissioners, Councilpersons, and their immediate family members, and business partners may not apply for projects administered by the FHAC, or be hired as paid consultants with funds from the public art fund; specific exceptions may be made on a case-by-case basis by majority vote of the Town Council.
2. Art owned by the Town may not be sold or traded to members of the FHAC, Town employees, or Councilpersons.

RESERVATION OF TOWN COUNCIL APPROVAL

The Town Council specifically reserves to itself final decision making authority regarding the selection, acquisition, siting, installation, and removal of works of public art.