

DRAFT FOR May 15, 2024 LONG RANGE PLANNING SUBCOMMITTEE

Board of Park Commissions - Policy for Private Art and Expressive Displays in Parks

Approved by the Board of Parks Commissioners on (date) through (File ID number)

Policy:

Private Art and other private displays are not allowed in City of Madison Parks, unless authorized through one of the two procedures below. This policy does not apply to the Olbrich Botanical Gardens.

This policy does not address how Public Art (defined below) is placed in a City Park.

Purpose: The purpose of this policy is to explain what is meant by Private Art and other expressive displays, and explain when and how they can be displayed in a City park.

Definitions: The following definitions are for use in this Parks policy only:

**“Private Expressive Displays”** means signs, memorials, banners, or other expressive objects, including Private Art, that are not owned by the City, not authorized to be placed in a park with a permit, not Public Art, and not MAC Approved Art as defined below. **Private Displays are expressive when the object communicates a message, viewpoint or cause and the message is inextricably intertwined with the object. (add examples?)** Expressive private displays, including Private Art, express the message, viewpoint or cause of the sponsor of the display and not of the City of Madison.

**“Private Art”** means any artwork (such as painting, sculpture, photos, other forms of visual art, interpretive signs, signs that explain or relate to the art, music or auditory features) that is not owned by the City or is not MAC Approved Art as defined below. Private Art also includes artwork that receives funding through MAC’s Annual Grant Program.

**“Public Art”** means artwork that is owned by the City of Madison, or MAC Approved Art defined below and therefore government speech.

**“MAC Approved Art”** means art selected or funded through one of the following City of Madison Arts Commission (MAC) [Public Art programs](#):

- BLINK projects approved by the Madison Arts Commission (MAC)
- AIPP (Art in Public Places) art which becomes part of the Municipal Art Collection
- Municipal Art Collection – art commissioned and paid for by the City and approved by MAC
- Percent for the Arts

For purposes of this policy, artwork that receives funding through [MAC’s Annual Grant Program](#), and not under one of the 4 programs listed above, is considered Private Art subject to the procedures below. This is because art funded through the Annual Grant Program does not become part of the City’s public art collection and remains owned by the grantee/artist. This does not mean it can never be placed in a City park, but it must go through the Private Art / Private Display procedure below.

**MAC Approved Art** is Public Art and can be approved for placement in a Park through other procedures that are not addressed in this policy.

See next page for approval procedures.

## REQUESTS FOR PRIVATE ART & EXPRESSIVE DISPLAYS IN PARKS:

### 1. Private Art/Expressive Displays as part of a permitted Special Event.

Private Art or Private Displays may be displayed in a park as part of an approved event that receives a permit through one of the Parks Division's [Special Event permits](#).

Requirements for display during an approved Special Event:

- A. Private Art or other Private Display installations must be displayed in conjunction with an attended event, the installation of the art or display cannot be the event itself. For purposes of this requirement, an event is "attended" if at least one person is present and remains at the event site for not less than 4 hours each day of the permitted event.
- B. Private Art/Displays must be displayed only during the dates and time periods approved on the permit (including approved set up and tear down times.)
- C. Private Art/Displays must be displayed only within the geographical areas defined on the permit.
- D. The art or other display object(s) should be described on the approved permit (such as, location(s) where the items will be displayed, quantity, material, other physical specifications.)
- E. The method of display and physical features of the display must comply with all ordinances, rules and requirements for park safety. (For example, no open flames, must have approval to dig or place footings, etc.)
- F. Approving a permit for an event that includes Private Displays or Private Art is not an endorsement of the message. The body or staff charged with approving the permit shall not consider the content, message, viewpoint, or artistic merit of the display and shall not condition the event permit approval (or denial) on any of those things.

### 2. Private Art/Expressive Displays as part of a written contract or agreement with the City for use of park space or facilities.

(Examples: contract for the ballpark at Warner Park, contracts to operate boat rentals, contracts for complex annual events, MOUs with the Parks Foundation pursuant to its Cooperative Agreement with the City.)

Private Art may be displayed within the space controlled by a contract/agreement, if:

- a. The Private Art or Display installation is part of a use, activity or program authorized in the contract.
- b. The method of display and physical features must comply with all ordinances, rules and requirements for safety in a Park. (For example, no open flames, must have approval to dig or place footings, etc.)
- c. The body or staff charged with negotiating or approving a contract that includes Private Displays or Art shall not consider the content, message, or artistic merit of the art/expressive display and shall not condition the approval of such agreement/contract on any of those things.

The above two procedures are the only options for the Parks Division to authorize Private Art and Expressive Displays in a park under this Policy.

**No endorsement of message.** The City of Madison and Park Commission make no endorsement of the message or viewpoint of any Private Art or Expressive Displays under this policy, and express no opinion about the display one way or the other. The viewpoints expressed through Private Art or Expressive Displays permitted by this policy are those of the artists, event sponsors or contract holders, and not of the City of Madison or the Park Commission.

**Unauthorized Art or Displays.** Any art or display found in a City park that is not authorized by this policy or another applicable procedure will be considered lost property under section 8.44 of the Madison General Ordinances and the City's Lost Property Policy. If the art/display is able to be saved, the Parks Division will hold it for a period of 45 days. Unauthorized private art or displays installed in a manner that is not removable (e.g., painted on a wall or fence) will be managed in accordance with MGO 23.06, Damage to Property, and the Parks Division has the right to restore the Park property to its original condition. The City shall not be responsible for any damage to unauthorized items of any kind.

**Other Park Amenities:** Signs and other amenities, objects, displays, or installations owned and placed by the City that include elements of art or speech are expressions of government speech of the City of Madison and not considered Private Art or Expressive Displays. For example, interpretive signs donated to or purchased by the City that provide factual information related to the park, or its use, or directly related to Parks' mission, with content approved by Parks staff, are government speech and not subject to this policy. Staff are responsible for ensuring compliance with applicable city ordinances.