

Board of Park Commissioners - 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 expressive displays are not allowed in City of Madison Parks, unless authorized through one of the two procedures in this policy, below. This policy does not apply to the Olbrich Botanical Gardens.

This policy does not address the placement of Public Art (defined below) in a City Park.

Purpose: The purpose of this policy is to define Private Art and other displays that are private expressions of speech, 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 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 accompany visual art) 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.

“Private Expressive Display” means a private installation, tribute, memorial, or other expressive object, expressing a non-commercial message, which may or may not be presented as “art” but is expressive. Private Displays are expressive when the object communicates a message, viewpoint or cause that is noncommercial and the message is inextricably intertwined with the object. This policy is not intended to authorize placement of private commercial messages or non-expressive private objects in a park. Private Expressive displays, express the message, viewpoint or cause of the sponsor of the display and not of the City of Madison.

“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 for, on loan to, or purchased 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 one of the procedures 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.

PROCEDURE FOR PRIVATE ART & EXPRESSIVE DISPLAYS IN PARKS:

1. Private Art and Private Expressive Display with a Special Event Permit.

Private Art and Private Expressive Displays may be displayed in a park with a [Park Special Event permit](#).

Requirements for Private Art/Displays with an approved Special Event permit:

- A. 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.)
- B. Private Art/Displays must be displayed only within the geographical areas defined on the permit.
- C. The art or other display object(s) must be described on the approved permit in detail (such as, location(s) where the item(s) will be displayed, quantity, material, other physical specifications.)
- D. The method of display and its physical features must comply with all ordinances, rules, and requirements for park safety. Displays shall not conflict with other park uses like athletic fields, etc. Trees and vegetation (other than turf grass in approved locations) shall not be used for installation or mounting.
- E. Parks Division reserves the right to determine if the built environment (shelters, fences, buildings, etc.) may be used for installation or mounting of Private Art/Displays.
- F. Not more than three (3) Private Art or Private Expressive Displays may be displayed in any one park at any time (excluding displays as part of contract, under 2. below).
- G. Approving a permit for an event that includes Private Art or a Private Expressive Display is not an endorsement of its message. The body or staff charged with approving the permit shall not consider the content, message, viewpoint, or artistic merit of the Private Art/Display and shall not condition the event permit approval (or denial) on any of those things.

2. Private Art and Private Expressive Display as part of a written contract or agreement with the City for another 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 and Private Expressive Displays may be displayed within the space controlled by a contract/agreement, subject to the following requirements:

- A. The Private Art/Display is part of another use, activity or program that is the primary purpose of the contract.
- B. The method of display and its physical features must comply with all ordinances, rules, and requirements for park safety. Displays shall not conflict with other park uses like athletic fields, etc. Trees and vegetation (other than turf grass in approved locations) shall not be used for installation or mounting.
- C. The Parks Division reserves the right to determine if the built environment (shelters, fences, buildings, etc.) may be used for installation or mounting of Private Art/Displays.
- D. The body or staff charged with negotiating or approving a contract that includes Private Art/Displays shall not consider the content, message, or artistic merit of the art or expressive display and shall not condition the approval of the agreement or contract on any of those things.

The above two procedures are the only options to authorize the display of Private Art and Private Expressive Displays in a City park.

No endorsement of message. The City of Madison and the Board of Park Commissioners make no endorsement of the message or viewpoint of any Private Art or Private Expressive Displays under this policy, and express no opinion about the display one way or the other. The viewpoints expressed through Private Art or Private 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 Board of Park Commissioners.

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/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 Private 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.

Policy Review: The Board of Park Commissioners and its relevant subcommittees shall review this policy and its implementation one (1) year after its adoption and may recommend any needed changes.