

AGENDA

Regular Meeting of the
Nichols Hills Public Arts Commission
Friday, May 10, 2024 at 1:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

If special assistance is needed for this meeting by any person wishing to attend, please contact the City Clerk's office no later than 48 hours prior to the meeting, and such assistance will be provided.

Official action may be taken by the Public Arts Commission only on items that appear on this Agenda. The Public Arts Commission may dispose of the business set out on this Agenda by accepting, approving, adopting, rejecting, amending, or postponing action as to each item, as determined by the Public Arts Commission.

1. Call to Order
2. Roll Call
3. Citizens Desiring to Be Heard

The purpose of this time is to allow members of the public to speak to the Public Arts Commission on any matter that is not otherwise set for consideration on this Agenda.

4. Minutes
 - a. January 5, 2024 Minutes
 - b. January 22, 2024 Minutes
 - c. April 5, 2024 Minutes

5. Items for Separate Vote

Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:

- a. Consideration of recommending adoption, approval, acceptance,

rejection, amendment, and/or postponement of the Public Arts Commission Guidelines.

- b. An Ordinance amending Chapter 34 of the Nichols Hills City Code related to Works of Art in the City's parks; repealing all conflicting ordinances or parts of ordinances; providing for severability; and declaring an emergency.

6. Adjournment



City Clerk
City of Nichols Hills, Oklahoma

MINUTES

Special Meeting of the
Nichols Hills Public Arts Commission
Friday, January 5, 2024 at 1:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

I. Call to Order

II. Roll Call

Attendee Name	Title	Status	Arrived
Melissa Scaramucci		Present	
Leigh Ann Albers		Present	
Steve Knox		Absent	

Commissioner Albers reported that the December 12, 2023 Special Meeting was well attended and the majority were in favor of the park plans in the 1800 Block of Westminster Place.

Chair Scaramucci stated that Redbud Park is planning to have an area for potential art to be displayed.

III. Citizens desiring to be heard

The purpose of this time is to allow members of the public to speak to the Nichols Hills Public Arts Commission on any matter that is not otherwise set for consideration on this Agenda.

No one expressed a desire to be heard.

IV. Minutes

a. November 17, 2023 Minutes

b. December 12, 2023 Minutes

MOTION: Albers moved to approve the November 17, 2023 and December 12, 2023 minutes as presented. Scaramucci seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Leigh Ann Albers
SECONDER:	Melissa Scaramucci
AYES:	Scaramucci, Albers
ABSENT:	Knox

V. Items for a Separate Vote

a. Discussion of new commissioners.

The Commissioners reported that they have submitted possible names to the City Council to fill the two open commissioner positions.

b. Discussion regarding Public Arts Commission Guidelines.

Mrs. Carla Sharpe, attorney for the City, presented the proposed Public Arts Commission Guidelines.

Commissioners will review and discuss any changes at the next meeting.

c. An Ordinance amending Chapter 34 of the Nichols Hills City Code related to works of art in the City's parks; repealing all conflicting ordinances or parts of ordinances; providing for severability; and declaring an emergency.

Mrs. Carla Sharpe, attorney for the City, reviewed the proposed ordinance for the Commissioners and staff.

MOTION: Scaramucci moved to recommend approval to the City Council. Albers seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Melissa Scaramucci
SECONDER:	Leigh Ann Albers
AYES:	Scaramucci, Albers
ABSENT:	Knox

d. Discussion regarding scheduling Public Arts Commission meetings.

Commissioners requested they meet on the first Friday of every month at 1:00pm.

VI. Adjournment

MOTION: There being no further business, Albers moved to adjourn the meeting. Scaramucci seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Leigh Ann Albers
SECONDER:	Melissa Scaramucci
AYES:	Scaramucci, Albers
ABSENT:	Knox

 Chair
 Public Arts Commission
 City of Nichols Hills, Oklahoma

 City Manager
 Public Arts Commission
 City of Nichols Hills, Oklahoma

 City Clerk
 City of Nichols Hills, Oklahoma

MINUTES

Special Meeting of the
Nichols Hills Public Arts Commission
Monday, January 22, 2024 at 1:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

I. Call to Order

Nichols Hills Public Arts Commission did not have a quorum; therefore, no business was conducted.

II. Roll Call

Attendee Name	Title	Status	Arrived
Melissa Scaramucci		Absent	
Leigh Ann Albers		Absent	
Steve Knox		Absent	

III. Citizens desiring to be heard

The purpose of this time is to allow members of the public to speak to the Nichols Hills Public Arts Commission on any matter that is not otherwise set for consideration on this Agenda.

IV. Minutes

a. January 5, 2024 Minutes

V. Items for a Separate Vote

a. Consideration of recommending adoption, approval, acceptance, rejection, amendment, and/or postponement of the Public Arts Commission Guidelines.

b. An Ordinance amending Chapter 34 of the Nichols Hills City Code related to works of art in the City's parks; repealing all conflicting ordinances or parts of ordinances; providing for severability; and declaring an emergency.

VI. Adjournment

Chair
Public Arts Commission
City of Nichols Hills, Oklahoma

City Manager
Public Arts Commission
City of Nichols Hills, Oklahoma

City Clerk
City of Nichols Hills, Oklahoma

MINUTES

Special Meeting of the
Nichols Hills Public Arts Commission
Friday, April 5, 2024 at 1:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

I. Call to Order

Nichols Hills Public Arts Commission did not have a quorum; therefore, no business was conducted.

Attendee Name	Title	Status	Arrived
Chip Oppenheim		Absent	
Melissa Scaramucci		Present	
Leigh Ann Albers		Absent	
Amy Dunn		Present	

II. Roll Call

III. Minutes

- a. January 5, 2024 Minutes
- b. January 22, 2024 Minutes

IV. Citizens desiring to be heard

The purpose of this time is to allow members of the public to speak to the Nichols Hills Public Arts Commission on any matter that is not otherwise set for consideration on this Agenda.

V. Items for a Separate Vote

- a. Consideration of recommending adoption, approval, acceptance, rejection, amendment, and/or postponement of the Public Arts Commission Guidelines.
- b. An Ordinance amending Chapter 34 of the Nichols Hills City Code related to Works of Art in the City's parks; repealing all conflicting ordinances or parts of ordinances; providing for severability; and declaring an emergency.

VI. Adjournment

Chair
Public Arts Commission
City of Nichols Hills, Oklahoma

City Manager
Public Arts Commission
City of Nichols Hills, Oklahoma

City Clerk
City of Nichols Hills, Oklahoma

**Nichols Hills Public Arts Commission
Public Art Policies and Guidelines**

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**Nichols Hills Public Arts Commission
Public Art Policies and Guidelines**

Article I – Overview

The Nichols Hills Public Arts Commission. The Nichols Hills Public Arts Commission was created by ordinance in 2023. See Article V, *Public Arts Commission*, of Chapter 34, *Parks and Recreation*, of the Nichols Hills City Code. The Public Arts Commission is comprised of a maximum of five members, each of whom is a resident of Nichols Hills and each with knowledge or expertise in the area of public art.

Purpose of the Public Arts Commission. The purpose of the Public Arts Commission is to facilitate the City’s selection, acquisition, and maintenance of Works of Art to enhance and enrich the lives of the City’s residents and visitors by incorporating high-quality Works of Art into the City’s Parks, whether on a permanent or temporary basis.

Important definitions. The Nichols Hills City Code contains the following relevant definitions:

- *Park* means public real property and public facilities and structures located on that real property designated by and dedicated to the city for the purposes of public rest, play, recreation, and enjoyment.
- *Work of Art* includes sculptures, fountains, monuments, murals, frescos, reliefs, arches, bas-reliefs, paintings, carvings, stained glass installations, and other unusual architectural treatments. For these purposes, Work of Art does not normally include landscaping, paving or signs.

The Public Arts Commission’s duties and responsibilities. The Nichols Hills City Code sets out the Public Arts Commission’s duties and responsibilities as follows:

- (1) Assess the condition of existing Works of Art on display in the City’s Parks and make recommendations first to the Board of Park Commissioners and then to the City Council regarding those Works of Art as deemed necessary from time to time.
- (2) Formulate and recommend policies to the City Council for the display of Works of Art in the City’s Parks.
- (3) Identify suitable Works for Art for display in the City’s Parks and make recommendations and provide advice first to the Board of Park Commissioners and then to the City Council regarding such Works of Art, including recommendations as to how, when, and where each should be displayed.
- (4) If approved in advance by the City Council to do so, solicit submissions for Works of Art.
- (5) Assist the City in contracting with artists for the donation, commission or purchase of Works of Art.

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- (6) When approved by the City Council in advance to do so, retain the services of outside consultants as necessary to assist in the Commission's fulfillment of its duties.
- (7) When requested by the Board of Park Commissioners or the City Council, consider, investigate, report, and recommend upon any special matter or question pertaining to Works of Art in the City. ¹

The Public Arts Commission's standards for the selection and display of Works of Art. The Nichols Hills City Code sets out the Public Arts Commission's standards for selecting Works of Art and determining where within the City's Parks each will be displayed:

- (1) The conceptual compatibility of the Work of Art with the immediate environment of the proposed location;
- (2) The appropriateness of the Work of Art to the function of the proposed location;
- (3) Compatibility of the design of the Work of Art and the proposed location with a unified design character of the general vicinity surrounding the proposed location;
- (4) Creation of an internal sense of order and a desirable environment for the general community by the design and location of the Work of Art;
- (5) Preservation and integration of natural features for the project;
- (6) Appropriateness of the materials, textures, colors, and design to the expression of the design concept; and
- (7) Representation of a broad variety of tastes and the provision of a balanced inventory of Works of Art in the City's Parks to ensure a variety of style, design, and media throughout the Parks. ²

The purpose of these Policies and Guidelines. The Nichols Hills City Code provides that the City may adopt policies and guidelines regarding Works of Art. The following policies and guidelines were recommended by the Public Arts Commission and adopted by the City Council. The purpose of the Public Art Policies (Article II below) is to establish the City's procedures for acquiring and managing Works of Art in the City's Parks. The purpose of the Public Art Guidelines (Article III below) is to provide guidance to the Public Arts Commission in fulfilling its responsibilities and to provide guidance to those persons contemplating donations of Works of Art to the City. ³

¹ See Nichols Hills City Code Sec. 34-165, *Public Arts Commission – duties and responsibilities*.

² See Nichols Hills City Code Sec. 34-166, *Public Arts Commission's standards for the selection and display of Works of Art*.

³ See Nichols Hills City Code Sec. 34-167, *Public Arts Commission guidelines*.

Article II – Public Art Policies

A. Public Artwork Acquisition Processes.

(1) *Means of acquisition of Works of Art.* The Public Arts Commission is responsible for identifying suitable Works of Art and for assisting the City in contracting with artists for the donation, commission or purchase of Works of Art to be displayed in the City’s Parks. When approved in advance by the City Council to do so, the Public Arts Commission may solicit submissions of Works of Art. The Public Arts Commission may also, when approved in advance by the City Council to do so, retain the services of consultants to assist the Public Arts Commission in fulfilling its responsibilities.

All acquisitions of Works of Art must be approved by the City Council at a public hearing after recommendation for approval by the Public Arts Commission. Upon hearing a recommendation by the Public Arts Commission as to a Work of Art, the City Council may approve the recommendation, deny the recommendation or approve it with conditions.

The City may acquire Works of Art by the following means:

- *Purchase of an existing Work of Art.* Specifically, the Public Arts Commission may seek out Works of Art or artists may make offers for the sale of their existing Works of Art to the Public Arts Commission.
- *Commission of a Work of Art from a particular artist or group of artists.*
- *Acceptance of a donation of a Work of Art.* (See Section C below.)
- *Acceptance of a loan of a Work of Art for its temporary display.* (See Section D below.)
- *Invitational or competition.* (See Section E below.)

All Works of Art proposed for acquisition by the City and the sites at which they are proposed for display must conform to the Public Art Guidelines set out in Article III below.

(2) *Documentation Required for Acquired Works of Art.* The Public Arts Commission is responsible to ensure that all Works of Art acquired by the City are properly documented, with such documentation provided to the City to be maintained in the City’s records. Specifically, documentation for each Work of Art acquired by the City must include:

- Past and current certificates of ownership for the Work of Art
- A detailed written description of the Work of Art
- Documentation regarding value, including appraisal(s), if available
- All relevant information regarding the artist
- A Certificate of Authenticity regarding the Work of Art’s originality

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(3) *Budget and Installation Cost Considerations.* As to the acquisition of any Work of Art, the Public Arts Commission is responsible for preparation of a budget for the associated acquisition, installation, and maintenance costs, with assistance from the City Manager and the Director of Public Works.

B. Community Involvement and Public Comment.

Involvement of the citizens of Nichols Hills as to Works of Art in the City's Parks and allowing a time for their public comment is important to the City. Once the Public Arts Commission determines that it will recommend a particular Work of Art to the City Council, the Public Arts Commission will so inform the City Manager. The City Manager will then ensure that information regarding the proposed Work of Art is made available on the City's website. Citizens may then provide feedback regarding the Work of Art at the public meetings to be held by the Public Arts Commission and City Council regarding it.

C. Donations of Works of Art to the City.

Works of Art may be donated to the City pursuant to the process set out in this Section.

(1) *Review of the Work of Art and recommendation to City Council by the Public Arts Commission.* The Public Arts Commission may seek out donations of Works of Art or such donations may be proposed to the Public Arts Commission by owners of Works of Art. In each case, the Public Arts Commission is responsible for reviewing and making recommendations to the City Council as to any Work of Art proposed for donation to the City by a third party.

Specifically, the Public Arts Commission must conclude that any Work of Art proposed for donation meets the guidelines set out in Article III for identification of suitable Works of Art and that a desirable and suitable site for its location is available in the City. Further, the Public Arts Commission must prepare a proposed budget for the City's projected installation and maintenance costs for the Work of Art. The Public Arts Commission is further responsible for verifying the proposed donor's ownership of the Work of Art and right to donate it to the City.

(2) *Transfer of Title.* After the City Council approves a donation of a particular Work of Art, the donor will execute appropriate documentation transferring ownership of it to the City. The City may wish to obtain (or require the donor to provide) a certified formal appraisal of the Work of Art. The donor may also be asked to provide an endowment for the routine maintenance of the Work of Art.

The City Attorney will prepare the documentation transferring ownership of the Work of Art to the City. The transfer of ownership documents must include a warranty by the owner of the originality and authenticity of the Work of Art and protection for the City from any possible copyright infringement and intellectual property right claims. To the extent possible, donations should be accepted without contractual limitations on the future use, display, reproduction or disposal of the Work of Art. Any conditions the City of the donor places on the donation must be stated in writing in the instrument of conveyance.

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(3) *City actions after transfer of title.* The City will perform maintenance of the Work of Art as reasonably required and in compliance with any requirements, if any, of the donor stated in the instrument of conveyance. The City will also report any damage to the donated Work of Art to the donor as soon as reasonably possible.

D. Temporary Loans of Works of Art to the City.

Works of Art may be loaned to the City for the City's temporary custody and care, without transferring ownership of the Work of Art to the City, pursuant to the process set out in this Section.

(1) *Review of the Work of Art and recommendation to City Council by the Public Arts Commission.* The Public Arts Commission may seek out loans of Works of Art or such loans may be proposed to the Public Arts Commission by owners or representatives (such as galleries, museums, nonprofit organizations, and trusts) of Works of Art. In each case, the Public Arts Commission is responsible for reviewing and making recommendations to the City Council as to any Work of Art proposed for loan to the City by a third party.

(2) Specifically, the Public Arts Commission must conclude that any Work of Art proposed for loan meets the guidelines set out in Article III for identification of suitable Works of Art and that a desirable and suitable site for its location is available in the City. Further, the Public Arts Commission must prepare a proposed budget for the City's projected installation and maintenance costs for the Work of Art during the term of the proposed loan. The Public Arts Commission is responsible for verifying the proposed lender's ownership of the Work of Art and right to make the loan of it.

Loan Agreements. After the City Council approves a loan of a Work of Art, the City and the owner of the Work of Art will enter into a binding Loan Agreement which must include a loan expiration date; any restrictions or conditions required by the owner of the Work of Art; a requirement for the owner to provide insurance coverage for the declared value of the Work of Art during the term of the City's custody; and indemnification protection for the City for all actions related to the Work of Art. The lender may also be asked to provide an endowment for the routine maintenance of the Work of Art. The City Attorney will prepare the Loan Agreement.

Before the expiration of the Loan Agreement, the Public Arts Commission and the owner of the Work of Art must determine whether the Work of Art will be returned to the owner (and if so how and by what means); whether the loan period will be extended; or whether the loan will be converted to a gift to the City.

(3) *City actions during the term of the loan.* The City will perform maintenance of the Work of Art as reasonably required and in compliance with any requirements of the lender. The City will also report any damage to the loaned Work of Art to the owner as soon as reasonably possible. The City will provide for appropriate recognition of the lender as agreed to with the lender or otherwise in its discretion.

E. Invitational or Competition for Acquisition of Works of Art.

Works of Art may be acquired by the City through invitationals or competitions sponsored by the City and managed by the Public Arts Commission. Such invitations could be open to all artists who wish to respond or limited to a group of artists selected by the Public Arts Commission. The Public Arts Commission is responsible for creating a process and rules for any such invitationals or competitions.

F. City Contracts with Artists.

Upon approval by the City Council of acquisition of a Work of Art from a particular artist, the City will enter into a binding written contract with the artist. All contracts with Artist must include protection for the City from any possible copyright infringement and intellectual property right claims. The contract should also grant the City the exclusive right to reproducing images of the Work of Art for promotional and other lawful purposes.

If the artist will be on City property for installation or maintenance of the Work of Art, the artist should release the City from any liability or responsibility for any bodily or personal injury or property damage of any nature that may be suffered by the artist or the artist's employees or subcontractors. The artist must also provide appropriate insurance as required by the City.

The form of contract should be prepared by the City Attorney. If the artist insists on using his or her form of contract, the City Attorney should review and approve it in advance of hearing by the City Council. The Public Arts Commission will assist the City Attorney in preparing and securing execution of the contract. The final and executed original of the contract will be retained by the City Clerk.

G. City Management and Maintenance of Works of Art.

(1) *Inventory of Works of Art.* The City will maintain an inventory of Works of Art which inventory will include the date the Work of Art was acquired by the City and all applicable documents related to the acquisition; the title of the Work of Art and its artist; the artist's contact information; information regarding the fabrication, installation, and maintenance requirements for the Work of Art; and all other relevant information regarding the Work of Art.

(2) *Maintenance of Works of Art.* The City's Public Works Department, in consultation with the Public Arts Commission, is responsible for maintenance of Works of Art in the City's Parks. The Public Arts Commission will conduct a periodic survey of the City's existing Works of Art to assess the condition of each existing Work of Art and make recommendations first to the Board of Park Commissioners and then to the City Council regarding any needed maintenance for any Work of Art or whether deaccessioning of any Work of Art is recommended (as provided for in Section H below).

(3) *Relocation.* The City has the right to move a Work of Art if necessary or desirable in the City's sole discretion.

(4) *Emergencies.* Nothing in these Public Art Policies and Guidelines limits the City's ability to take appropriate action to protect public health and safety in the event of an emergency.

H. Deaccessioning Works of Art.

Deaccessioning is the process whereby Works of Art are permanently removed from the City's collection. The Public Arts Commission is responsible for determining whether deaccessioning of a Work of Art is warranted and for making recommendations to the City Council with respect to such action. The City Council makes all final decisions regarding deaccessioning Works of Art.

(1) *When deaccession is warranted.* Works of Art may be considered for deaccession for the following and similar reasons:

- (a) The Work of Art has deteriorated or has been damaged such that restoration and repair is impracticable or not feasible.
- (b) The Work of Art no longer exists due to theft, accident or natural disaster.
- (c) The Work of Art requires excessive and cost-prohibitive maintenance.
- (d) The Work of Art's physical or structural condition poses a threat to public safety.
- (e) The use of the site has changed such that the Work of Art is no longer appropriate or it cannot be reasonably protected or maintained.
- (f) The condition or security of the Work of Art can no longer be reasonably guaranteed.
- (g) The Work of Art has been proved to be inauthentic or in violation of applicable copyright laws.

(2) *The deaccessioning process.* Works of Art may be removed from the City's collection through deaccession only after careful and impartial evaluation of the Work of Art by the Public Arts Commission and decision by the City Council. Review of any Work of Art for possible deaccession may be requested at any time by the City staff, residents of the City, or the Artist or Artist's legal representative. Further, review may be initiated by the Public Arts Commission during its inspections of the City's collection, as set out in Section G.

When review of a Work of Art is requested related to a possible deaccessioning of it or when the Public Arts Commission determines that deaccessioning of a particular Work of Art may be warranted, the Public Arts Commission must review the Work of Art and make a recommendation to the City Council. That evaluation process must include:

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- (a) A good faith effort to inform the artist or the artist's estate that the Work of Art is being considered for deaccession.
- (b) A review of all pertinent accession documentation, including a review of legal documents by the City Attorney.

(3) *Manner of disposition.* Once deaccession is approved by the City Council, the City may dispose of the Work of Art by sale, trade, donation or destruction (allowed only when the Work of Art has been so damaged or has deteriorated such that its repair is not possible). The Work of Art may not be sold or otherwise transferred to any City staff or member of the Public Arts Commission.

(4) *Actions after disposition.* Any proceeds from the sale of a deaccessioned Work of Art belong to the City. The City will retain a record of the deaccessioned Work of Art with its records regarding the City's collection of Works of Art. The City is responsible for all costs associated with the removal or relocation of the Work of Art unless otherwise agreed with a third party.

Article III – Public Art Guidelines

A. Guidelines for Selecting Suitable Works of Art.

As set out in the City Code, the Nichols Hills Public Arts Commission is responsible for identifying suitable Works of Art for display in the City's Parks and for making recommendations and providing advice to the Board of Park Commissioners and the City Council regarding such Works of Art, including recommendations as to how, when, and where each should be displayed. In doing so, the Public Arts Commission should consider the following guidelines.

(1) *Aesthetic quality and artistic merit.* The Work of Art should demonstrate excellence in aesthetic quality, originality, workmanship, innovation, and creativity.

(2) *Quality of construction.* The Work of Art should be composed of the highest quality materials and constructed according to best practices to ensure it will endure without requiring unusual maintenance.

(3) *Appropriateness of scale, materials, and content.* The Work of Art should demonstrate appropriateness in scale and form for placement in the City's Parks, should be constructed of appropriate materials for outdoor display, and should be of an appropriate content for public display.

(4) *Maintenance considerations.* The Work of Art should be constructed of durable materials to ensure a long lifespan, without any built-in obsolescent or inherent weaknesses. Project maintenance costs should be reasonable and within the City's budget. Consideration should be given to the artist's suggestions for maintenance and protection of the Work of Art.

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(5) *Feasibility considerations.* The Work of Art and its installation and maintenance should be feasible in terms of budget, timeline, operation, maintenance, security, storage, and siting.

(6) *Technical feasibility.* Installation of the Work of Art and its maintenance should be technically feasible.

(7) *Accessibility.* The Work of Art should be able to be placed to be accessible to all, with special consideration given to those with special needs. Access to public art must meet all requirements of the Americans with Disabilities Act and other relevant laws.

(8) *Public safety.* The Work of Art should not pose any unreasonable public safety concern. The Work of Art should be capable of meeting all applicable City Code requirements for its construction and installation.

(9) *City liability.* The Work of Art should not pose any unreasonable risk of City liability. Consideration should be given as to whether any portion of the Work of Art (or its installation) requires a professional seal (structural engineer, electrical engineer) which could provide protection to the City.

(10) *Balanced art inventory.* The Work of Art should contribute to a balanced inventory of Works of Art owned by the City to ensure a variety of style, design, and media throughout the Parks.

(11) *Susceptibility to damage, vandalism, and theft.* Consideration should be given as to whether the Work of Art is particularly susceptible to damage, vandalism or theft. Consideration should be given to the artist's suggestions for protecting the Work of Art.

The following types of are generally not acceptable as a Work of Art for the City's Parks:

(1) Artwork that is not original, including reproductions of artwork or unlimited editions of original artwork and art objects that are mass-produced.

(2) Artwork that has faults of design or workmanship that pose a public health or life safety hazard or that otherwise diminish the value of the work.

(3) Artwork that is fraudulent, inauthentic or appears to be of inferior quality relative to the quality of the Works of Art owned by the City.

(4) Artwork that contains faces or words or markings indicative of political views, religious views, advertising, corporate logos, or the like, as prohibited by City Code Sec. 34-3.

B. Guidelines for Selecting Sites for Works of Art.

When considering sites for placement of Works of Art in the City's Parks, the Public Arts Commission should consider the following guidelines and criteria.

(1) *Relationship of the Work of Art to the site.* The relationship of the Work of Art and the proposed site as to the physical dimensions, local character, and surrounding context of the site, whether existing or planned, should be complimentary and properly scaled.

(2) *Visibility.* The site should be reasonably visible to the public.

(3) *Public safety.* There should not be any adverse public safety implications of locating the Work of Art in the proposed site.

(4) *Park design.* Placement of the Work of Art in the particular site should help improve the design of the Park by emphasizing a particular location as a landmark or linkage to other parts of the City. The Work of Art should help to anchor and activate the site and enhance the surrounding area.

(5) *Landscaping, drainage, grading, lighting, and seating.* There should not be any adverse conditions as to existing or necessary landscaping, drainage, grading, lighting, and seating. All such conditions, whether existing or needed, should be carefully considered.

(6) *Environmental impacts.* There should be no adverse environmental impacts that could result from placement of the Work of Art in the site, such as noise, sound, light, and color.

(7) *Accessibility.* The Work of Art should be accessible to the public, including handicap access. The proposed site should provide convenient public access to the site. Consideration should be given as to any additional parking or access accommodations needed.

(8) *Adjacent views.* There should be no negative impacts on adjacent property owner's views.

(9) *Possible theft and vandalism.* The possibility of theft or vandalism of the Work of Art in the proposed location should be minimal.

C. Guidelines for Selecting Artists.

As set out in Article II, artists may be directly selected or chosen via competition or invitational. When selecting an artist, the Public Arts Commission should consider the following guidelines and criteria.

(1) *Experience.* The artist should have experience with public art projects and excellent credentials. The artist should demonstrate experience in successfully completing artwork of similar

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scope, scale, budget, and complexity, or the ability to articulate how the artist would be able to bring the necessary artistic and technical skills to a project for the City.

(2) *Artistic excellence.* The artist should demonstrate artistic excellence, innovation, and originals as represented in past work and any supporting materials submitted to the Public Arts Commission.

(3) *Collaboration.* The artist should demonstrate a commitment to collaboration and cooperation with the Public Arts Commission and the City.

(4) *Capacity.* The artist should demonstrate a capacity for working in the selected media (if any) and with concepts that are appropriate to the City's goals for Works of Art in its Parks.

Published in _____ on _____, 2024

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 34 OF THE NICHOLS HILLS CITY CODE RELATED TO WORKS OF ART IN THE CITY'S PARKS; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY
EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

Section 1. Section 34-1 of the Nichols Hills City Code is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 34-1. Definitions.

Park Amenity means an item of personal property or facility, such as a bench, trash can, drinking fountain, garden, statue, and the like. Park Amenities do not include Works of Art as defined in Section 34-161.

Section 2. Section 34-3 of the Nichols Hills City Code is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 34-3. Naming opportunities and characteristics of Park Amenities and Works of Art.

Parks shall only be named and Park Amenities and Works of Art in Parks shall only be installed in honor of persons who live and/or work (or who lived and/or worked) in Nichols Hills and/or who have made a significant contribution to Nichols Hills. Any words or markings on a Park Amenity, Work of Art in a Park or other Park facility must be approved by, as applicable, by the City Manager, the City Council, or a designee chosen by the City Council. Park Amenities and Works of Art in Parks and other Park facilities may not contain faces or words or markings indicative of political views, religious views, advertising, corporate logos, or the like.

Section 3. Section 34-121 of the Nichols Hills City Code is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 34-121. Donations in general.

(a) *Applicability of this Article.* All donations of Park Amenities, donations for the significant refurbishment of existing Park Amenities, donations of Works of Art for Parks (as defined in Section 34-161), and donations of money for trees and plant and landscape material (each occurring on or after the effective date of this Article) or for Works of Art in a Park(s) shall be subject to the requirements set out in this Article. This Article does not apply to significant donations to Parks that are comprised of large-scale improvements (which

improvements may consist of hardscape and constructed facilities, significant Park Amenities, and/or significant plantings of trees and plant material) of such size, scope, and permanency that a Special Permit from the City is required and engagement of a landscape architect and/or engineer for preparation of professional and detailed landscape plans and engagement of professional contractors for installation are required which donations are deemed to be adoptions of Parks and are subject to Article VII of this Chapter. In the event of any uncertainty, the City Manager and any entity the City Council may designate to have such authority, will determine whether a particular plan for improvement constitutes an adoption subject to Article VII or a donation subject to this Article.

(b) *Donations of money.* The City may accept donations of money for maintenance and enhancement of the Parks in general, including for Works of Art in Parks. Persons wishing to donate money for a specific tree(s) or plant and landscape material to be located in a particular Park or area of a Park may apply to do so as set out in subsections (g) and (h) of this Section. Persons wishing to donate money for a Work of Art(s) to be placed in a particular Park or area of a Park may do so as set out in the process for donations established by the Nichols Hills Public Arts Commission.

(d) *Donations are City property.* After a donation is accepted pursuant to the process set out in this Article or pursuant to the process established by the Nichols Hills Public Arts Commission when applicable, it will be thereafter owned by the City.

(i) *Donations of Works of Art for City Parks.* Only the City, or an entity designated by the City Council may install donated Works of Art in Parks. The donor's wishes as to timing for installation of a Work of Art in a Park will be considered, but the City will not guarantee installation by a particular date. The donor's wishes as to location of a donated Work of Art in a Park will be considered, but the City will make the final determination as to the location. The City will not guarantee the permanency of any donated Work of Art and will not be obligated to replace any donated Work of Art that is stolen or damaged. The City will generally maintain donated Works of Art for up to ten years and may require the donor to pay in advance the City's projected installation, maintenance, and associated administrative costs for a stated period of time. However, in any event, the City may remove any donated Work of Art for the following and like reasons regarding the particular Park and park amenity: safety concerns; deterioration; vandalism; maintenance or construction activities; and the City's inability to fund ongoing maintenance or repair.

Section 4. Section 34-121 of the Nichols Hills City Code is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 34-122. Process for donations.

(a) *Application.* Persons wishing to make a donation to a Park pursuant to this Article shall file a written application with the City on an application form supplied by the City Clerk. Donations of Works of Art for Parks are addressed in subsection (d).

(d) Donations of Works of Art for Parks. Persons wishing to make a donation of a Work of Art for a Park shall do so pursuant to the process and subject to the criteria established by the Nichols Hills Public Arts Commission in its Public Arts Policies and Guidelines. Upon completion of the installation of the donated Work of Art, the City shall accept dedication of such improvement by Resolution.

Section 5. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6. The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 7. EMERGENCY SECTION. WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills, Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2024.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2024.

ATTEST:

Mayor

City Clerk

Reviewed as to Form and Legality:

City Attorney