

Chapter 2.97

MONUMENTS TO BE LOCATED IN CITY PARKS AND ON CITY PROPERTY

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2.97.010 Purpose and introduction.

A. The city may, from time to time, decide to install permanent monuments on city property to provide the city's commemoration of persons or events of note, or to otherwise convey the city's position on various topics (referred to as "government speech"). The city retains, in its sole discretion, the rights to control the message of monuments in its city parks and on its public property. An application form shall be available from the city clerk and from the parks department for use by private individuals, groups and entities who wish to request placement of monuments in city parks or on city property.

B. By placing monuments on city property, the city intends only to engage in government speech and does not intend to open a public forum for free speech activity.

C. The purpose of this chapter is to establish criteria and guidelines for the consideration and installation of monuments on city-owned property deemed by the city to be appropriate to serve as the site for a monument. In doing so, the city recognizes the following considerations:

1. Monuments can convey a powerful connection between Auburn and its history, and in some instances its future.

2. It is therefore important that the placement of monuments be limited to circumstances of the highest community-wide importance, both to maintain the significance of such monuments and to minimize conflicts with the active and variable use of public spaces.

Notwithstanding the foregoing, the city may decide, in its sole discretion, to reject a proposal for a monument and/or may determine the appropriate site for any and all city monuments. (Ord. 6480 § 1, 2013.)

2.97.020 Definitions.

A. The following definitions apply to this chapter:

1. “Government speech” means the speech of the city per the doctrine addressed in *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 115 S.Ct. 2510, 132 L.Ed.2d 700 [1995] and cases relying thereon. Under this doctrine, when the city retains the power to control the message conveyed, the statements and expressive actions are government speech of the city even if it uses other persons or entities to communicate its messages.

2. “Monument” means a marker, statue, or other similar permanent structures and installations to express government speech, as described and referenced in this chapter, and which are installed by the city on city property, or which are accepted by the city and installed on city property with city permission, and subject to the following:

a. Monuments may be in various forms including statues, fountains, buildings, or gardens among other forms of monuments as determined by the city.

b. Monuments do not include items dedicated in parks, such as benches, trees, small plaques (plaques not larger than five square feet in size), and other memorials with a dollar value that does not exceed \$5,000, as determined by the estimated or anticipated cost of purchase or construction and installation or placement; provided, however, that if the monument requires a building permit, it shall be included in the definition of monuments.

c. Monuments do not include memorial signs as defined in the city’s memorial sign program (Chapter [12.68](#) ACC).

B. In the event that a question arises as to whether a proposal falls within the scope of this chapter or these definitions, or if a question arises as to how the proposal falls within the scope hereof, the city council shall have the sole discretion to decide such questions and to make determinations relating thereto. (Ord. 6480 § 1, 2013.)

2.97.030 Government speech on monuments.

A. City's Government Speech Topics. The city may install or accept city-approved monuments on city property as a form of "government speech" as city recognition of significant events or people or to provide information from the city on topics approved by the city, as set forth below:

1. The contributions of individuals or groups who made a substantial impact upon the city, the Auburn Community, King County, Pierce County, Washington State, or the United States;
2. The city's position on topics of interest to the community, as determined by the city council;
3. The history of Auburn, the state of Washington, or of the United States;
4. Historical or cultural influences on Auburn;
5. Native flora, fauna and wildlife of Auburn and the greater Auburn Area – the area surrounding Auburn and regionally in the vicinity of Auburn;
6. Local innovation or creativity that has contributed to Auburn's growth and prosperity; or
7. Other criteria selected by the city council and set forth in an amendment to this chapter.

B. The city shall not place monuments on city property which have the purpose of promoting, favoring or inhibiting any religion or which would appear to a reasonable person that the city is promoting, favoring, or opposing a religion. (Ord. 6480 § 1, 2013.)

2.97.040 Administration.

A. The mayor may recommend to city council the approval or denial of monument proposals. The mayor may enact administrative guidelines and procedures to implement this chapter, including procedures for consideration of locations deemed amenable to monuments. The mayor shall also designate the lead department or departments for monuments located on city property depending on the proposed location of the monument and the potential impact to city departments.

B. Notwithstanding that certain city property is operated or managed by a private operator pursuant to an agreement, the evaluator of the monument and the final decision maker shall be the city council and not the private operator or manager.

C. The director of the lead department shall coordinate with the director of parks, art and recreation if there are any questions or issues as to whether a proposed monument is primarily public art, or whether it otherwise fits into the city's public art programs. (Ord. 6480 § 1, 2013.)

2.97.050 Donated and private funding of monuments.

A. In accordance with Chapter [2.87](#) ACC, the city encourages private donations to the city to support various city programs and city operations, which may include without limitation, the cost of acquisition, installation and maintenance of monuments on city property. The city prefers to receive private donations in the form of funds that may be used by the city to review, design, fabricate, acquire, install and/or maintain monuments, rather than the donation of a completed monument.

B. However, the city may from time to time, at city's sole option, consider accepting a completed monument as a form of government speech; provided, that the monument meets the city's approved government speech topics and also meets all of the other criteria set forth in this chapter and in any related administrative guidelines or procedures. After city council's acceptance of a monument, which acceptance shall be through an appropriate process approved by the city council, and subject to city's explicit approval of installation of the monument upon city property, title to the monument shall vest with city and the city may remove, relocate and shall otherwise have sole control over the monument.

C. While the city appreciates donations of monuments to the city, the city is under no obligation to accept any donated monument even if the monument meets, or could be said to meet, all of the criteria set forth in this chapter. The city's decision to accept a donated monument may also depend upon the cost to the city of design, fabrication, installation and maintenance of the monument and site considerations, among other factors.

D. The city may, at its option, decide for budgetary reasons to prioritize monuments where the city expects to receive donated funding to cover the cost of design, fabrication, installation and maintenance of the monument. Unless otherwise agreed by city council, the donor of a proposed monument is responsible for providing the city with funds to cover the cost of review, design, fabrication, installation and maintenance to ensure adequate care for the monument. (Ord. 6480 § 1, 2013.)

2.97.060 Review process.

A. The mayor or his or her designee shall provide the initial screening of monument proposals to determine if the proposed monument complies with the provisions of this chapter including without limitation, to evaluate the suitability of the proposed monument site, if any, so that a report and recommendation may be prepared for the city council in advance of its decision on the proposal. If the mayor's decision is to conduct further review of the proposal based upon considerations consistent with this chapter, the proposal shall be referred to the appropriate department, so the report and recommendations to the council can address the considerations and criteria of this chapter.

B. The lead department shall prepare a report for consideration by the city council and such board or commission designated by the city council, if any, and shall coordinate with the mayor and with other affected departments. The lead department shall submit an advisory recommendation to the mayor for the mayor's review regarding the monument based upon the factors set forth in this chapter and the review criteria set forth below. After the mayor's review,

and amendments and modifications (if any) the mayor shall then forward the recommendation to the city council.

C. The city council shall have final approval of a city project to design and construct a monument, or to accept a donated monument.

D. The mayor shall, on at least a quarterly basis, submit a report to the city council informing the city council of any and all monument donations and application proposals received by the city, and the mayor's recommendations regarding each proposal.

E. All required environmental review shall be approved by the city's planning department before the city commits to installing a monument. The monument shall be consistent with adopted city master plans unless those plans are amended as a part of the review process.

F. While a formal building permit is not required, the building official shall review the structure and site plan to ensure conformance with the building code adopted by Washington State.

G. Notwithstanding the foregoing, the city council may decide, in its sole discretion, to reject a proposal for a monument and/or may determine the appropriate site for any and all city monuments.

H. Notwithstanding any other provisions of the Auburn City Code, the process set forth in this chapter shall be the only city process for reviewing the siting or location of monuments. (Ord. 6480 § 1, 2013.)

2.97.070 Review criteria.

A. A proposed monument must:

1. Pass city safety and liability exposure review.
2. Conform to the approved government speech topics.
3. Be made of durable materials, able to withstand the elements for a minimum of 50 years with minimum maintenance.
4. Be made of materials resistant to vandalism and graffiti as much as is reasonably possible.
5. Be of a scale, materials, color and style appropriate and consistent with aesthetics of the proposed location of the monument and such other reasonable factors as the city determines, including but not limited to sight distance, safety, and other applicable requirements for structures as set forth in the Auburn City Code.
6. Conform to the requirements of the Americans with Disability Act (ADA) to ensure that there is a path that allows access to the monument.

7. Conform to the adopted building code to ensure that the footing and monument are structurally adequate.

B. The city shall also consider whether:

1. The person, group or event being memorialized is deemed by the city to have made a significant enough contribution to merit a monument of the scale, cost and visibility of the proposed monument.

2. The monument duplicates existing monument themes. Multiple monuments for similar or related groups are disfavored.

3. The monument proposal has been the subject of one or more public meetings conducted by the monument's proponents. The public meeting shall be conducted in accordance with ACC [18.02.130](#).

4. The proposed monument has the general support of the persons or community that the monument is intended to honor.

5. The proposed site in the park or plaza for the monument is related to the underlying purpose of the monument or the site in the park or plaza has been designated in a master plan or other approval of the city council as a particularly appropriate site for a proposed monument.

6. The monument has been designed by or under the direct supervision of a qualified professional in the art or design field, and provides a quality, scale, and character commensurate with the location, circulation, and use patterns of the city property. Qualified professionals include registered architects, engineers, landscape architects and artists who can demonstrate professional recognition in the form of public commissions or permanent public installations. The city may solicit input from such professionals, and from planners or urban designers in making this determination. Monuments shall not displace the intended function and/or use of said property, as articulated in adopted master plans or similar city documents.

7. There is a committed and verifiable funding source for the review, design, fabrication, installation and maintenance of the monument before proceeding to incur city costs and staff time. The proponents of the monument agree to enter into an agreement to provide the city with funds that cover the cost of review, design, fabrication and installation, and an adequate endowment to cover the cost of the monument's maintenance as determined by city. Alternatively, the city may consider accepting an agreement from a group to maintain a monument in perpetuity and in accordance to city standards rather than a cash endowment. (Ord. 6480 § 1, 2013.)

2.97.080 Public right-of-way.

The public right-of-way shall not be considered as a site for monuments, except as provided for in Chapter [12.68](#) ACC. (Ord. 6480 § 1, 2013.)

2.97.090 Other policies.

A. Nothing in this chapter is intended to supersede or limit any other city code sections or administrative policies, including, but not limited to the city's policies and procedures for its art in public places programs, whether the art is privately or publicly funded, and the provisions of Ordinance No. 6243 (including Chapter [2.85](#) ACC) and Resolution Nos. 4546 (percent for art) and 4323 (integrated artwork), and the Auburn parks, arts and recreation department policies and procedures for gift acceptance and donor recognition.

B. This chapter does not cover temporary installations on city property, nor does it limit the city's ability to place signage or plaques on city property to provide donor or sponsor recognition, public information regarding a city project, or to place historical markers or to provide other information to the public. (Ord. 6480 § 1, 2013.)