

CITIZEN-INITIATED
Public Art Projects

Instructions & Forms | January 2021



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Thank you for your interest in sharing your talents and resources to help make our city more beautiful. This document includes an overview of the guidelines, steps, and criteria for developing citizen-initiated public art projects for placement on City of Hutchinson property or in the City right-of-way. Potential applicants are encouraged to read the instructions thoroughly prior to the application process. These instructions are for public art projects for murals, painted or wrapped utility boxes, and paint the pavement projects.

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About

Purpose

The purpose of this program is to increase connections between artists and neighborhoods, organizations, and residents through placemaking and also to reduce graffiti.

Objectives

- Encourage projects that contribute to the quality of the public realm.
- Support public art initiatives to enhance the community, that come from the community and that have strong community support.
- Build the capacity of groups to develop public art projects that support the City's public art values.
- Involve, support, respect and encourage artists.
- Assist applicants in developing projects within realistic timelines and sufficient budgets.
- Ensure applicants have the capacity for maintenance and removal.
- Comply with all codes and statutes.
- Ensure public safety.

CONTACT

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Eligibility

Eligible Projects and Applicants

- Neighborhoods and community organizations.
- Individual artists, community members and business owners sponsored by one of these organizations.
- Applicants who are compliant with existing permits for art, and who have completed projects for previous art permit requests and submitted the final documentation for those requests.
- Projects that comply with all City of Hutchinson codes.

Eligible Designs

- Designs developed by *artists* who are paid a fair stipend for the project. (See definition of *Artist* in Chapter 30 of City Code on Public Art.)
- This project is not intended to support advertising or community signage.
- Designs that do not mimic traffic control devices or street signage.
- Designs with sufficient blank space (non-painted areas) to ensure that the area is not slippery when wet.

Eligible Sites

- Murals on City properties or City public rights of way (e.g., buildings, street intersections and adjacent sidewalks, and bridge underpasses), as designated by the City.
- City-owned utility boxes or traffic control boxes.

Frequently Asked Questions

1. What is the application process like for a project like this?

There are three main steps to the application process:

- 1) Pre-application: How you determine if the project you are proposing is eligible.*
- 2) Design Council Application: To obtain approval for the design, artist, and community engagement for the project.*
- 3) Encroachment Permit Application: This is when you submit insurance and other requirements and pay your permit fee.*

Staff is available to answer questions you might have along the way. (See contact info on page 3)

2. I'm an artist, how do I get my work installed?

In most cases, individual artists cannot apply to have their works or designs installed on City property or City Rights of Way (ROW). We suggest that you contact a neighborhood organization or a local arts group to see if they will sponsor you.

3. How long does it take to make a project like this happen?

It depends on the scope of the project. Your project will involve selecting artists, identifying possible locations, developing the designs, acquiring the necessary approvals, and then carrying out the project. Please read these instructions to ensure you have developed a realistic timeline for your project. In order to address your project's unique issues, we suggest that you allow at least two months for approvals.

4. What type of paint should be used?

Latex, unless you obtain approval from the City for another type. The lifespan of painting depends on the location and the quality of the paint and could possibly be longer than 5 years; however, touch up by the artist may be required in the case of graffiti. With painting, much of the budget goes to the artist.

5. What about using wraps for boxes?

For utility/traffic signal boxes, you may want to consider using an artist-designed wrap, which generally has a guarantee by the manufacturer for about 5 years. Vendors of the wraps will acquire all of the necessary permits for being on location and parking their equipment. Wraps are generally believed to be easier to maintain, and much of the budget goes to the vendor. The City cannot recommend vendors.

6. Is a special electronic format needed for wrap images?

Image formats for the review process are outlined in the above instructions. For the purpose of installation, contact your selected vendor for more details.

7. Can we wrap boxes in photographs?

You can engage an artist in one or more of the following ways: a) Curating the project; b) Working with the local photographers to take and edit their images; 3) Transforming the 2-dimensional images into a 5-sided box. Note that the applicants are required to pay the artist a stipend.

8. How do we wrap/paint boxes not owned by the City?

Contact the owner of those boxes, which may include other utility companies or the railroad, or a private company.

9. What is the cost of an encroachment permit?

\$50.

10. Do I need an encroachment permit for every location?

Yes.

11. Is liability insurance needed on an ongoing basis?

No, only for the duration of the installation.

Applicant Responsibility

Overall

- Developing projects within your capacity, including working within a realistic timeline and scale.
- Covering any costs that may arise as part of the permit, including special signage, insurance, mailings, etc.
- Thoroughly documenting the artwork and providing images to the City upon completion.

Artists and Copyright

- Obtaining permission for all artwork and imagery, including a waiver from each artist to the Visual Artists Rights Act (VARA) if needed. This includes permission to use photos of people, all copy written material and text, and images of artwork. Allow ample time to acquire these permissions.
- Obtaining permission from each artist for the City to use images of the artwork in brochures, on websites, etc.

Community Involvement

- Engaging the community in planning and other aspects of the project.
- Notifying the community through meetings, newsletter, social media or other means.
- Obtaining approval from adjacent property owners through visits to nearby homes and businesses.
- Providing appropriately scaled educational signage with basic information about the project and crediting the artist. The applicant organization may be credited, but this signage should not advertise the organization or other sponsors. QR codes may be used for the purpose of providing education information about the artwork only.

Materials and Clean-up

- Using all materials in compliance with all State and Federal regulations according to manufacturer's specifications.
- Using caution and materials, equipment and safety procedures when working with youth. See the Art and Craft Safety Guide of the U. S. Consumer Product Safety Commission: <http://www.cpsc.gov/pagefiles/112284/5015.pdf>

- Applying paint and working on site in a quality manner and cleaning up accidental spills, drips, and messy edges.
- Not covering up and maintaining access to any identifying information, windows, meters, vents, key holes, or any other aspects necessary for ongoing City operations or maintenance.
- Notifying vendors of limitations in the application methods that may be imposed by the City.
- Cleaning up and disposing of paint in an appropriate manner. (No paint or contaminated water may be poured into City sewers or waste containers.)
- Removing all materials and equipment at the site after installation is complete.

Public Safety

- Obtaining all permits or other permissions that the City may require for the project.
- Educating participants about necessary safety precautions, particularly youth.

Maintenance

- Being responsible for all ongoing maintenance of the painted work, including touch-ups, graffiti removal and any repainting needed due to City maintenance.
- In the case of vinyl wraps for utility/traffic signal boxes: completely removing the vinyl, thoroughly cleaning the box and repainting after significant wear or at the end of the permit period. This includes sanding chipped paint and repainting in a color approved by the City.

Application Instructions

Three Phases of the Application Process

1. Pre-application: How you determine if the project you are proposing is eligible.
2. Design Council Application: To obtain approval for the design, artist, and community engagement for the project.
3. Encroachment Permit Application: This is when you submit insurance and other requirements and pay your permit fee.

Pre-application

Email a completed application form describing the proposed project along with supplementary materials as required in the application (e.g., map, photos, image listing, etc.). Pre-applications forms and supplementary materials listings required may vary depending on the type of project. Send all materials to rebekah.keasling@hutchgov.com. (A cloud-based file sharing service such as Dropbox is best advised.)

Design Council Application

Upon approval of pre-application, complete and submit the materials listed below in *one single PDF file* to rebekah.keasling@hutchgov.com.

1. Completed Application Form (see FORMS SECTION)
2. Images:
 - A final and legible, color design for each location in 8.5 x 11" format. (One page per location.) Include the site dimensions, the imagery, names of streets, and the name of the artist.
 - Early design review: The City may accept proposals without final designs or that have not yet selected artists from applications and artists with experience in developing a public art project of a similar scale and quality. In lieu of final designs you may submit images of previous artworks by the applicant and the artist, or information on the process and criteria used to select the artist.
3. Letter of support from the neighborhood organization(s) where the project is occurring.
4. Resumes of each artist.
5. A waiver signed by each artist of their rights under the Visual Artists Rights Act (VARA). (See FORMS SECTION).

6. For applicants who have previous permits for art: For each artwork, submit one electronic photo, date stamped, documenting the condition of all sides of the artwork.

Encroachment Permit Application

An Encroachment Permit is required for any existing or proposed structure or portion thereof that projects onto, under or over any municipal right-of-way, under the authority of the Hutchinson City Code. The Encroachment Permit gives the permit-holder permission to use a specific portion of the right-of-way until such time as the portion of the right-of-way is needed by the City for public purposes. Encroachment permits are revocable at any time in the interest of public safety.

Permits under this program may be issued for 1-3 years. At the end of the initial permit period, the applicant may request to have the project remain additionally for 1 or more years. The City will consider this request after examining the work for maintenance needs. After you have approval from the Design Council, Justin Combs will notify appropriate City staff that you are ready to apply for your permit. At this phase, submit the following:

1. A completed encroachment permit application (see FORMS SECTION) and a check for \$50 made payable to the City of Hutchinson.
2. A Certificate of Insurance as proof of general liability coverage for \$1,000,000 per occurrence, naming the City of Hutchinson as additional insured as to acts committed by the applicant for which the City could be held responsible.
3. Using the Art Consent Form (see FORMS SECTION), signatures from all of the adjacent property owners.
4. A Letter of Credit naming the City as payee in a dollar amount determined by the City (see FORMS SECTION). The City has the right to present this letter to the issuing bank or other financial institution for payment if the maintenance or removal is not completed by the applicant or is unsatisfactorily completed.
5. Applicants or their vendors must coordinate with designated City staff regarding the blocking of sidewalks, and road and lane closures.

Design Council Review

Approval Criteria

These criteria are used by the Public Art Design Council for evaluating proposed projects. The role of this group is to ensure that community proposals are consistent with City policies. The Design Council is not likely to reject a project but may propose changes that need to be implemented before permits are issued.

- *Stimulate Excellence in Urban Design and Public Arts*
 - Do the designs and the locations provide an opportunity to make an engaging or bold artistic statement?
 - Does the project provide an opportunity for a unique public artwork?
 - Do the proposed artists have a significant or engaging body of work?

- *Enhance Community Identity and Place*
 - Does the project have the support of the neighborhood organization and adjacent property owners?
 - Are the locations good places to showcase a public artwork?
 - Does the project provide an opportunity to reflect on the community and its characteristics, including history, identity, geography, and cultures?

- *Contribute to Community Vitality*
 - Will the project be visible to and attract visitors and residents?
 - Will the project build capacity and cooperation between the private and public sectors, artists, arts organizations, and community members?
 - Has the project engaged the community (or will it)?
 - Does the project provide an opportunity to encourage civic dialogue?
 - Is the design and location safe?

- *Involve a Broad Range of People and Communities*
 - Does the project engage citizens, neighborhoods and organizations in the planning and creation of the artwork?
 - Does the project celebrate one or more of the City's cultural communities?

- *Value Artists and Artistic Processes*
 - Does the project nurture an emerging artist?
 - Has the design process included an artist and artistic process as a central element?
 - Does the project support the artists' right to retain most of their copyrights, except for in the case of sharing information for not-for-profit purposes?

- *Use Resources Wisely*
 - Are the conditions at the proposed site stable enough to support an artwork during the timeframe?
 - Does the applicant have the capacity to implement the project at the proposed scale?
 - Is there a realistic and achievable maintenance plan?
 - Are the appropriate materials being used?

Application Check List

Pre-application (See page 9 of Instructions for more information)

- Email the proposed locations/intersections with addresses of adjacent properties.
- Map of the locations
- Photos and image list of the locations

Design Council Application (See page 9 of Instructions for more information)

- Application Form
- Images of the final design
- Resumes of participating artists
- Letter of support from neighborhood organization(s)
- For applicants with previous permits: Photos documenting current condition of the artwork(s)
- VARA Waiver signed by each artist

Encroachment Permit Application (See page 10 of Instructions for more information)

- Completed Encroachment Permit: (city web address here)
- Certificate of General Liability
- Art Consent Form completed by nearby property owner(s)
- Letter of Credit

Design Council Application Form

(Please type or print legibly. If you need more space, additional pages may be added. Be sure to identify your responses.)

Date Submitted _____ Title of Project _____

Applicant Name _____

Contact Person _____

Address _____

City _____ State _____ Zip _____

Phone (day) _____ Phone (evening) _____

Email Address (required) _____

Short Description of Project

A. Proposed Location: What is the location of the project? If no address, include information on the adjacent address(es). Why was this location chosen? (For Utility/Traffic Signal Box projects, please complete the *Utility Box Submission Form* attached at the end of this application form. Be certain to include it with your application.)

B. Artist Selection: How was/were the artist/artists selected for your project? What criteria did you use for this selection? Who was the selection panel for the project?

C. Design Development: What was the process for developing the design(s)? Was the community involved? If the process involves youth working with the artist(s) to develop the design, how have they been trained or educated? What are the themes and ideas represented in the design(s)? How do these themes relate to the site, design of adjacent sites and the community? (Note: if you have approval to submit this application prior to having a complete design, please submit information on how you plan to do the above.)

D. Connection between Designs & Locations (Utility Boxes): If the project involves more than one utility box, how was the match made between locations and designs? How do the individual boxes connect to their individual surroundings? If any of the boxes are near existing works of public art (including murals), how are the selected designs sensitive to those works of art, both in content and aesthetics? (Note: if you have approval to submit this application prior to having a complete design, please submit information on how you plan to do the above.)

E. Community Involvement: What was the process for notifying and engaging the community, both in planning the project and, if appropriate, creating the artwork?

- F. Who will be doing the painting?** Include information on who will be working with the artist to paint the project (e.g., youth – including ages, neighborhood residents, etc.). How are these participants being identified and selected? What materials will you be using? Include information about why these materials were selected, safety precautions that will be taken and method(s) of safely disposing of materials.
- G. Timeline:** What is your timeline? Include milestones for artist selection, design, fabrication, community engagement, publicity, approvals, installation, and celebration.
- H. Maintenance:** What are your plans for ongoing maintenance and final removal? What is needed for maintenance? Who have you consulted in estimating these needs (i.e., art conservator, fabricator, or artist)? Who will be conducting maintenance and graffiti removal? How often do you estimate that maintenance will need to occur? How quickly can you respond to requests for graffiti removal? (If you have a maintenance plan, please attach it. The City does not fund ongoing maintenance or removal for such projects).
- I. Copyright:** What is your copyright agreement with the artist? (If you do not have a copyright agreement with the artist, an example is attached.)

J. Traffic Management: What are your detailed plans for staffing and logistics for managing traffic during installation? Who is responsible for traffic management during the activity? How will this ensure the safety of the participants?

K. Public Education: How will the public be informed about the project? Will there be a plaque-like acknowledgement near the site? Is their information on your website?

L. Project Budget: What is your project budget? (Note: Although the City does not fund such projects, the City does require a budget submittal as a demonstration that the applicant has the capacity to implement the project, has raised the necessary funds and has budgeted for artist fees, insurance, and ongoing maintenance.) Include the following information and any in-kind contributions for key required items.

Artist Fees: _____

Graphic Designer Fees: _____

Materials/Fabrication: _____

Installation: _____

Liability Insurance: _____

Maintenance: _____

Other: _____

K. Attachments: Be certain to include the other required forms and attachments with your application and to combine them in one PDF document.

- Utility Box Submission Form (if applicable)
- Images of the final design
- Resumes of participating artists
- Letter of support from neighborhood organization(s)
- For applicants with previous permits: Photos documenting current condition of the artwork(s)
- VARA Waiver signed by each artist

I/We understand that the materials we submit are public information under the Kansas Open Records Act (KORA) and may be shared by the City of Hutchinson with members of the public or the media for informational purposes or as otherwise required by KORA.

Signature of Applicant

Date

Utility Box Submission Form

Attach this completed form to your Design Council Application form if project includes artist-designed utility/traffic signal boxes.

	Location (if intersection, note corner)	Color	Approx. Dimensions	Distinguishing Features (meter, side box, etc.)	Area: Commercial, residential or greenspace	Is it within 100 ft of a public artwork?
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

Attach two photos of each box from two different views. Each view should show the box in context of the surrounding streetscape. Each photo should be labeled with a number corresponding to the table. Also attach a map of the locations.

Encroachment Permit Application - Public Art Projects

Property Information

Property Owner _____
Property Address _____
Property ID _____
Legal Description (if applicable)

Applicant Information

Name _____
Contact Person _____
Address _____
Phone Number _____ Email (required) _____
Applicant Signature _____ Date _____

Encroachment Description

Please identify the type of encroachment being requested, and describe the materials to be used:

PROVIDE A SURVEY/SITE PLAN WHICH SHOWS THE DETAILS AND DIMENSIONS OF THE ENCROACHMENT. THE DRAWING MUST SHOW ACCURATE PROPERTY LINES AND THE LOCATION OF ELEMENTS OF THE RIGHT-OF-WAY, SUCH AS STREETS, SIDEWALKS, CURBS-CUTS, TREES, HYDRANTS, LIGHTS AND SIGNS, BUS STOPS, UTILITIES. PHOTOS OF THE SITE SHOWING CURRENT CONDITIONS ARE REQUESTED (DIGITAL JPG FORMAT BY EMAIL IS BEST)

Waiver of Rights Pursuant to the Visual Artists Rights Act

I, _____, have prepared designs for the following artwork: (specifically identify the work)

The above-described work may be considered to be a “work of visual art” subject to the provisions of the federal Visual Artists Rights Act of 1990, specifically the rights of certain authors to attribution and integrity, as codified at 17 U.S.C. §106A(a). I am an author of the work(s) described herein, and am authorized to waive the rights conferred by §106A(a), in accordance with the waiver provision of 17 U.S.C. §106A(e)(1).

STATUTORY PROVISIONS

17 U.S.C. §106A – Rights of certain authors to attribution and integrity.

(a) Rights of Attribution and Integrity –

Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art –

- (1) shall have the right –
 - (A) to claim authorship of that work, and
 - (B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;
- (2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his or her honor or reputation; and
- (3) subject to the limitations set for in section 113(d), shall have the right –
 - (A) to prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and any intentional distortion, mutilation, or modification of that work is a violation of that right, and
 - (B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

17 U.S.C. §106A(e)(1) – Transfer and waiver.

The rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all authors.

WAIVER

As author of the above-described work, I hereby permanently waive my rights pursuant to 17 U.S.C. §106A(a)(3) to prevent any distortion, mutilation, modification or destruction of that work, for whatever reason and for whatever use of the work such distortion, mutilation or destruction of the work is undertaken. This waiver does not extend to the rights of attribution conferred by 17 U.S.C. §106A(a)(1) or §106A(a)(2).

Date _____ Artist _____

Art Consent Form for Public Art

The following Organization has requested that the City of Hutchinson approve a Public Art Project and be subsequently issued a City Encroachment Permit. The Organization has requested that the Public Art be installed adjacent to your property.

Name of Organization _____

Address _____

Telephone No. _____

Contact Person _____

By signing in the space below, the property owner agrees and consents to allow the Organization to apply artwork adjacent to their property.

Property Owner (print): _____

Property Address _____

Signature: _____ Date: _____

Property Owner (print): _____

Property Address _____

Signature: _____ Date: _____

Property Owner (print): _____

Property Address _____

Signature: _____ Date: _____

Property Owner (print): _____

Property Address _____

Signature: _____ Date: _____

Sample Irrevocable Letter of Credit

No. _____

Date: _____

TO: City of Hutchinson, KS
City Clerk

Dear Sir or Madam:

We hereby issue, for the account of (Name) and in your favor, our Irrevocable Letter of Credit in the amount of \$ _____, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under the Letter of Credit No. _____, dated _____, 2 _____, of (Name of Bank) ";
- b) Be signed by the Mayor or City Manager of the City of Hutchinson, KS.
- c) Be presented for payment at (Address of Bank), on or before **FILL IN TIME AND DATE**.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be December 31 of each year), the Bank delivers written notice to the Hutchinson City Clerk that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date and is actually received by the City Clerk at least thirty (30) days prior to the renewal date.

This letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500.

We hereby agree that a draft drawn under and in compliance with the letter of Credit shall be duly honored upon presentation.

BY: _____

Its: _____