



Town of Whitby Policy

Policy Title:	Public Art Policy
Policy Number:	MS 040
Reference:	Resolution #12- 24, Replaced MS 040 Public Art Loan and Donation Policy
Date Approved:	January 29, 2024
Date Revised:	
Approval:	Council
Point of Contact:	Manager, Creative Communities

Policy Statement

The Town of Whitby recognizes and promotes the value of art and culture through the integration of artwork in public places.

Purpose

The purpose of the Public Art Policy is to outline the processes and responsibilities of the Town of Whitby to support new art commissions, art donations and loaned art. The Policy will help to grow the Town's Public Art Collection through projects that reflect Whitby's history and culture. The procurement of Public Art for the Town's Public Art Collection will contribute to the identity of place, social well-being, economic vitality, and civic pride in creative and symbolic ways to support the Town's cultural goals.

Scope

This Policy applies to all current and future Public Art purchased, Commissioned, or Donated to the Town of Whitby for municipally owned Public Spaces. The Policy is intended to provide Town Staff and the community with a clear and consistent framework for decision-making and acquiring pieces of Public Art through a Public Art program.

Guiding Principles

Flexible and Imaginative

- Seek to enliven public spaces and infrastructure to add character, promote discovery and create spaces for connection.

- Be open to new forms of creative expression and embrace unique, challenging, or thought-provoking pieces.
- Foster an environment that promotes creativity and the importance of access to those experiences for everyone.
- Be risk-taking, creative, and innovative.
- Be flexible and find innovative solutions to support action when opportunities arise.
- Be unique to Whitby.

Sustainable and Resilient

- Prioritize sites based on potential impact, both high profile and under-serviced areas.
- Encourage investment in the program from a wide variety of sources.
- Cultivate the local arts sector, including a wide variety of art forms and practices.
- Preserve and enhance cultural identity.
- Follow best practices.
- Be resilient to climate change impacts.

Collaborative and Engaged

- Provide opportunities for emerging, mid-career and established professional artists.
- Seek opportunities to collaborate with artists, communities, municipal departments, other levels of government and the private sector.
- Engage residents in dialogue about their community.
- Be transparent.
- Partner or engage with residents, businesses, community groups and Indigenous communities early into projects, where possible, to understand local priorities and integrate diverse voices and perspectives.
- Respect artists as contributors and value the significant role of artists in our society. We will pursue opportunities to bring artists into the decision-making process.

Diverse and Inclusive

- Be inclusive.
- Showcase local artists as much as possible to reflect the diversity of the community, including marginalized people and groups.
- Encourage participation from First Nations, Inuit, Métis, Francophone, and new Canadian artists.
- Encourage participation from lesbian, gay, bisexual, transgender, queer, and/or questioning (LGBTQ+) and Black, Indigenous, and people of colour (BIPOC) artists.

Accessible and Equitable

- Ensure Cultural Equity.
- Ensure that art is accessible to all.
- Be responsive to community needs.
- Leverage strengths and knowledge to identify opportunities and advance public art and creative placemaking initiatives.
- Pay artists fairly.

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1. Definitions

- 1.1. **Art /Artwork** means artwork that includes but is not limited to original sculptures, murals, monuments, mosaics, photography, paintings, graphic arts, landscaping/earthworks, tableaux, vignettes, kinetic works, or creative displays and exist on publicly accessible property (indoor or outdoor).
- 1.2. **Artist** means an individual who is the designer or creator of Art/Artwork and includes but is not limited to emerging, mid-career and established professional artists, graphic designers, collaborative teams, architects and landscape professionals.
- 1.3. **Call for Artists** means an issued notice of opportunity to Artists that contains the selection criteria and information about an upcoming project and describes the selection and award process.
- 1.4. **Commissioned** means an artwork created by artist(s), or in collaboration with artist(s), through a public process and existing in a publicly accessible Town-owned or managed location.
- 1.5. **Council** means the municipal council, or the governing body of the Town of Whitby made up of the Mayor and Councillors.
- 1.6. **Cultural Equity** means embodying the values, policies, and practices that ensure that all people—including but not limited to those who have been historically underrepresented based on race/ethnicity, age, ability, sexual orientation, gender, socioeconomic status, geography, citizenship status, or religion - are represented in the development of arts policy; the support of artists; the nurturing of accessible, thriving venues for expression; and the fair distribution of programmatic, financial, and informational resources.
- 1.7. **De-accessioning** means the process of permanently removing an artwork from the Town's Public Art Inventory.
- 1.8. **Donation or Donated Art** means the voluntary transfer of ownership of Art or Artwork to the Town, via written agreement, without consideration and where the Town is provided the right, in the Town's sole discretion, to determine whether, where, and how to maintain, display, and store the art, as well as the right to transfer, sell, recycle, or discard the art when it is no longer required, or it has reached end of use.
- 1.9. **Expression of Interest** means a written short document which shows the intention of an artist(s) to apply for a particular announced project. It includes

a brief description of the artist and their work. It is the first stage in the commissioning process.

- 1.10. **Integrated Art** means art in the form of a physical part of a building, structure, or landscape. If the site were to be redeveloped, the art would be as well.
- 1.11. **Lifecycle** means from the initial concept to selection, fabrication, maintenance, and de-accessioning of an artwork.
- 1.12. **Loaned Art** means artwork loaned for a defined period and ownership of the art will remain with the artist/lender of the art.
- 1.13. **Permanent Art** means Public Art including sculptures, monuments, and Integrated Art and are Commissioned by the Town through a formal selection process.
- 1.14. **Private Spaces** means any property, building or structure in the municipality not owned or managed by the Town.
- 1.15. **Public Art** means Artwork that includes but is not limited to original sculptures, murals, monuments, mosaics, photography, paintings, graphic arts, landscaping/earthworks, tableaux, vignettes, kinetic works, or creative displays and exist on publicly accessible property (indoor or outdoor).
- 1.16. **Public Art Collection** means the body of work or collection on display including original art created for, acquired by, or loaned to the Town.
- 1.17. **Public Art Community Group** will be chaired by the Strategic Initiatives (Creative Communities) Department and will be comprised of rotating members of the community with varying areas of expertise and disciplines which may include Artists, curators, art educators and art historians, landscape architects, architects, urban planners, engineers, designers, members of the business community, members of local art councils or art collectives.
- 1.18. **Public Art Inventory** means the processing, documenting, and cataloguing of information that is used to identify and track the Public Art Collection, both archived and on display.
- 1.19. **Public Art Jury Panel** is a group of rotating members that will be comprised of representatives from the Town Working Group and the Public Art Community Group. The composition, duration, and terms of reference of any Public Art Jury Panel will be dependent on the nature of the public art project identified.
- 1.20. **Public Art Procedure** means a description of the operational processes necessary to implement the Public Art Policy which includes step by step instructions and best practices.

- 1.21. **Public Art Program Reserve Fund** means an established fund to support the Public Art Policy and sourced from a designated budget allocation, donations or grants from private sources, community donations, developer fees and other levels of government.
- 1.22. **Public Spaces** means municipally owned public spaces that are available and frequently used by the public including but not limited to, parks, boulevards, trail systems, open spaces, waterways, roads, bridges, gateways, streetscapes, exterior and interior public areas associated with Town-owned buildings and civic squares.
- 1.23. **Request for Proposal** means an open process for any artist to create and submit plans for the production of a specific concept or desired public artwork requested by the Town.
- 1.24. **Strategic Initiatives (Creative Communities)** is the Town staff team responsible for leading special corporate and community projects, serving as an intergovernmental relations advisor and delivering programs and services related to Sustainability, Economic Development, and Creative Communities (i.e., Downtowns, Culture, Events and Tourism).
- 1.25. **Temporary Art** means an Artwork intended to be installed for a limited amount of time.
- 1.26. **Town** means The Corporation of the Town of Whitby.
- 1.27. **Town Staff** means employees of the Town of Whitby.
- 1.28. **Town Working Group** means designated staff from various Town Departments such as Strategic Initiatives, Communications and Creative Services, Community Services, Planning and Development, and other departments as deemed appropriate.

2. Policy Objectives

- 2.1. Establish roles and responsibilities for the administration of the Public Art Policy.
- 2.2. Provide a process for accessing and accumulating the funding necessary to finance future Public Art projects, by way of donation, purchase, or commission.
- 2.3. Establish a standardized and transparent process that outlines the Lifecycle of Public Art for the Town of Whitby from acquisition, consultation, selection, maintenance, de-accessioning, tracking and display of Permanent Art, Donated Art, and Temporary Art.

2.4. Establish guidelines for accepting art donations.

3. Responsibilities

3.1. Council to:

- Act as an advocate for Public Art in the Town.
- Approve the Public Art Policy and updates, as needed.
- Approve any annual budget allocation as needed.

3.2. Strategic Initiatives (Creative Communities) to:

- Oversee and manage the Public Art Policy and updates, as needed.
- Develop and implement the Public Art Procedure related to the Public Art Policy.
- Report to Council on the Public Art Policy, Public Art Inventory, use of all funds to the Public Art Reserve Fund and related initiatives.
- Initiate, implement and over-see the Public Art projects.
- Establish and maintain the Public Art Inventory recording, cataloguing, and tracking, including Donated Art and Loaned Art.
- Develop Public Art maintenance program (e.g., method, timing/frequency, and cost of maintaining Public Art Inventory) and targets for the Public Art Maintenance Reserve.
- Determine appropriate storage of Public Art Inventory, as required.
- Lead and select members of the Town Working Group, Public Art Community Group, and the Public Art Jury Panel.
- Coordinate any Call for Artists or Expression of Interest including liaising with Artists, installation, and agreements.

3.3. Town Working Group to:

- Advocate for Public Art and help to bring forward opportunities and ideas for Public Art projects across the municipality.

- Provide recommendations on matters related to site selection, budget, Artist, insurance and selection process to the Strategic Initiatives (Creative Communities) team.
- Form part of the Public Art Jury Panel to provide feedback and final recommendation for artists and art selection as invited or required related to Call for Artists.

3.4. Public Art Community Group to:

- Provide assistance/expertise to staff as required.
- Advocate for Public Art.
- Meet on a bi-annual basis to provide expert community input on the Public Art Policy, projects and procedures.
- Make recommendations to the Strategic Initiatives (Creative Communities) team regarding Artists who may be considered for Commissioned Art.
- Form part of the Public Art Jury Panel to provide feedback and final recommendation for artists and art selection as invited or required related to Call for Artists.

3.5. Public Art Jury Panel to:

- Evaluate art against criteria which will be outlined within the Public Art Procedure.
- Provide feedback and final recommendation for artists and art selection related to a Call for Artists.
- Ensure there is no conflict of interest through the review and evaluation process.

4. General

4.1. Exclusions

The Town of Whitby Public Art Policy does not pertain to the following:

- Directional elements such as signage, except where these elements are integral parts of the original work of Art or Public Art project and literary artworks and books.
- Work on Private Spaces.

- Graffiti Management.
- Special Event (Public or Private).
- Engineering or architectural features that are extensions of design in architecture, landscape, or development.
- Heritage plaques.
- Interpretive plaques.

4.2. **Call for Artists**

- In all cases, purchasing or commissioning will involve a fair and transparent process, at which time it will be determined if/whether an Expression of Interest or a Request for Proposal will be issued, depending on the nature of the Artwork and project.
- The criteria for selection will be available to all participants prior to the commencement of the acquisition and will be outlined within the Public Art Procedure.
- The procurement or purchasing process for Public Art projects will be conducted in accordance with the Town's Procurement Policy.
- Call for Artist opportunities may also be periodically created and offered exclusively for Whitby's local Artists to amplify local voices and perspectives.

4.3 **Art Selection**

- The selection process will be outlined in the Public Art Procedure and will include assessing the artistic merit of a project, aesthetic response in relation to site and perceived ability of the Artwork to engage the public.
- The selection process as outlined in the Public Art Procedure will also include developing Calls for Artists via Expression of Interest or a Request for Proposal, will take into consideration site suitability, context, durability, and resilience, maintenance requirements, financial implications, public safety, and liability, consistency with the Town's

Urban Design Plan, and other Town policies and initiatives, as appropriate.

- The Strategic Initiatives (Creative Communities) team will lead and develop the Call for Artist and coordinate the selection process for the Public Art Jury Panel.
- The Public Art Jury Panel will be responsible for reviewing artists proposals and making the final selection decision.

4.4 Site Selection

- The site selection of appropriate locations for the installation of Public Art on Public Spaces will be coordinated through Strategic Initiatives (Creative Communities) team with recommendations from the Town Working Group.
- The Town Working Group will identify opportunities for Public Art in architecture, building and/or landscape designs of public infrastructure.
- Public Art sites will be publicly accessible, and consideration given to locate projects in both high traffic/high-profile sites as well as lower traffic/lower profile sites including municipal buildings and sites, parks and open spaces, walking paths, alleyways, streetscapes, right of ways, new or major upgrades to bridges, fences, walls and barriers and gateways/municipal entrances.
- The final decision will be made by the Town Working Group.

4.5 Acquisition

The Town of Whitby may acquire ownership of original Artwork(s) for the Town of Whitby's Public Art Inventory through:

- Purchasing of Artwork directly.
- Purchasing of Artwork through a competition or Call for Artists or Request for Proposal.
- Commissioning of Artwork through an Expression of Interest or a Request for Proposal.
- Accepting donations as defined in this policy and subject to the Town's Art selection procedures.

- Incorporating Integrated Art through the planning and development review process.
- Acquisition of Loaned Art for a defined period of display (i.e., Town Hall Front Lobby).

4.6 Installation

- All Art installations will be coordinated and agreed upon as set out in the contractual agreement with the Artist, donor or lender, and the Town. The Town of Whitby will make all final decisions.
- The Town of Whitby is responsible for the coordination and installation of all donated and loaned works of art, however, in some circumstances, the Artist, donor or lender (ex. The Station Gallery) may be asked to participate in the installation, or a professional installer may be contracted. This would be identified, in advance, through the agreement of purchase, donation or exhibition contract.
- The condition of all acquired Artwork will be reported upon receipt, and any problems found will be addressed in consultation with the Artist, donor, or lender for resolution.

4.7 Maintenance

- It is the responsibility of the Town of Whitby to maintain all Permanent Art within the Public Art Inventory in accordance with the approved maintenance plan and/or conservation plan. Development of the maintenance plan and/or conservation plan, in consultation with the Town Working Group, is the responsibility of the Artist, donor or lender and must be submitted prior to the Town accessioning each piece, at the time it is being reviewed and considered.
- Maintenance and/or conservation plans will include, but not be limited to maintenance and/or conservation specifications; shop drawings; and key elements, including Artist, donor or lender contact information and maintenance budget.
- The Strategic Initiatives (Creative Communities) team will monitor the existing Public Art Inventory for maintenance requirements. The appropriate Town Department will undertake an inspection of the artwork according to a predetermined schedule. The Town may choose to retain a qualified professional to undertake the inspection, where deemed necessary.

- The Strategic Initiatives (Creative Communities) team in consultation with the Town Working Group will oversee the maintenance, conservation, and restoration of Artwork in Public Spaces.
- Public Art maintenance guidelines will be developed by the Strategic Initiatives (Creative Communities) team as part of the Public Art Procedure.

4.8 Storage

- The Town will ensure appropriate short-term or long-term storage, as needed for all Artworks within the Public Art Inventory by working with stakeholders such as Town facility managers and with the Station Gallery.

4.9 Insurance

- All Permanent Art or Temporary Art owned by the Town through purchase, commission and/or donation are the property of the Town and are insured under the Town's Insurance Policy.
- For Loaned Art, the Town of Whitby will be responsible for insurance coverage of the Artwork while it is in the care of the Town.

4.10 Relocating and De-accessioning

- When appropriate or necessary, the Strategic Initiatives (Creative Communities) team along with the Town Working Group will consider candidates for relocating or De-Accessioning of Permanent Art and Temporary Art and will report findings and staff recommendations to the Public Art Community Group and Council for their information. The Art may be moved, sold, returned to the Artist, or destroyed with any net proceeds from the sale of Public Art to be transferred to the Public Art Program Reserve Fund.
- Art may be De-Accessioned under any of the following circumstances or as otherwise determined by the Town:
 - the Art is deteriorating, and restoration is not feasible;
 - the Art is no longer relevant to the Town's Public Art Inventory;
 - the Art endangers public safety;
 - the art is too costly to insure or maintain;
 - the site is no longer accessible to the public and an alternative location cannot be found;

- the art is discovered to have been stolen or was offered to the Town using fraudulent means.

5. Funding

- The funding necessary to support Public Art in the Town under this Policy shall be subject to Council approval and as part of the budget process.
- A Public Art Program Reserve Fund will be established and used to acquire Public Art and support the Public Art Policy. Subject to Council approval, on-going property-tax based funding will be allocated to this program reserve to accumulate funds for future Public Art acquisitions and Public Art projects. This reserve may also be funded from the net proceeds from fundraising events, net proceeds from the sale of Public Art items, financial donations, or grants.
- When the balance of the Public Art Program Reserve Fund is sufficient, Public Art projects will be initiated.
- A Public Art Maintenance Reserve will be established through the annual operating budget and/or a dedicated number of new projects, set aside for maintenance of the Public Art Inventory.

6. Donations

- Donations of Public Art considered for the Public Art Inventory will be subject to a selection process. All donations will have an accompanied maintenance plan provided by the donor that must meet the satisfaction of the Town as listed in the Public Art Procedure. All donations must be unencumbered. No Art will be accepted if the donor requires the Town to locate the Art in a specific location in perpetuity.
- The Town is not required to accept donations of Public Art that are offered.
- Donations of Public Art could include a donation of funds for the maintenance and conservation, or restoration of the work being donated.
- The donor and the Town shall be responsible for meeting Government of Canada criteria to receive a tax credit/issue a tax receipt for the Public Art. All donations of Public Art should be appraised by a certified appraiser at the time the donation is being considered to determine fair market value. The donor will be responsible for obtaining and paying

for the appraisal. An official receipt for income tax purposes will be issued by the Town as per regulations of the Canada Revenue Agency.

7. Policy Review

- It is the responsibility of the Strategic Initiatives (Creative Communities) team to regularly monitor the effectiveness of this Policy.

This Policy is hereby approved by Council Resolution #12-24 on this 29th day of January, 2024.