



# POLICY MANUAL

<b>POLICY TITLE:</b> Public Art Policy	<b>POLICY #:</b> 0100-053
<b>AUTHORITY:</b> Administrative	<b>EFFECTIVE DATE:</b> June 15, 2021
<b>ISSUED BY:</b> Director of Corporate Administration	<b>REVIEW SCHEDULE:</b> 5 – 7 years
	<b>APPROVED BY:</b> Council C-73-21
<b>DATE ISSUED:</b> June 15, 2021	<b>DATE APPROVED:</b> June 15, 2021

## 1. PURPOSE

To establish:

- 1.1 a standardized and transparent process for selection, acquisition, maintenance, and de-accessioning of Public Art; and
- 1.2 a funding model for the activities described in 1.1.

## 2. OBJECTIVES

Public Art acquisitions that:

- 2.1 enhance quality of life;
- 2.2 strengthen community pride;
- 2.3 reflect neighbourhood vibrancy;
- 2.4 improve public environment aesthetic;
- 2.5 potentially contribute to economic vitality;
- 2.6 celebrate the area's culture and heritage;
- 2.7 reflect the Town's diversity;
- 2.8 express shared values; and
- 2.9 define the Town's unique identity.

### 3. DEFINITIONS

**Acquisition** refers to the process of accepting permanent or temporary Public Art for the Town's collection.

**Artist** is a global term referring to creators of artistic works and may include, but is not limited to, artists, designers, architects or collaborative teams.

**Borrowed Public Art** refers to an artistic work that is borrowed or rented by the Town through a loan agreement or for a defined period from an Artist or lender who owns and retains ownership of the artistic work.

**De-accession** refers to the process of removing Public Art from the Town's collection.

**Donated Public Art** refers to an artistic work that is provided as a gift, donation, or bequest to the Town; once transferred, the donated item becomes Owned Public Art.

**Owned Public Art** refers to an artistic work that is owned by the Town.

**Project Terms of Reference** is what needs to be achieved and the work that must be done to deliver a project.

**Public Art** refers to tangible artistic works that are created by Artists and acquired by the Town with the specific intention of being sited or staged on Public Land.

**Public Land** means all streets, parks, or any other real property owned, held, or vested in the Town.

**Selection Panel** is an ephemeral body appointed by Council to select Procured Public Art valued at \$50,000 or greater.

### 4. EXEMPTIONS

The following are not subject to this Policy:

- 4.1 temporary or ephemeral artistic works that do not leave a lasting record of their creation;
- 4.2 site furnishing amenities (such as benches, picnic tables, bicycle racks), and other street fixtures such as light standards and signage, even if they contain an integrated artistic component; and
- 4.3 commemorative plaques and memorials.

### 5. ACQUISITION OF PUBLIC ART

- 5.1 General:

**5.1.1** Public Art may be characterized as aesthetic, functional, interactive, or any combination thereof, and created using any material or any combination of media, including but not limited to sculptures, water features, paintings, drawings, murals, textiles, furnishings, installations, and kinetic works.

**5.1.2** The Town may acquire Public Art through procurement, borrowing, or donation.

**5.2** Procured Public Art:

**5.2.1** Public Art to be procured will follow the Town's Purchasing Policy.

**5.2.2** Where required by the Purchasing Policy, Staff will develop a Project Terms of Reference for the Public Art project.

**5.2.3** Depending on the anticipated value of the procurement, Public Art to be procured will be selected through an evaluation process whereby either the Community Development Advisory Committee and Staff make recommendations to Council, or a Selection Panel will determine the successful proponent (see "Selection Panel" outlined in section 6 of this Policy).

**5.2.4** Each artistic work that is being considered for selection as procured Owned Public Art may be evaluated according to the following criteria:

- compliance with the Project Terms of Reference;
- quality of work/artistic merit;
- suitability of the artistic work for display in a Public Space;
- durability of materials used;
- maintenance requirements and costs;
- use of sustainable materials in fabrication;
- relevance to the Town's natural and built environment, and the "Objectives" outlined in section 2 of this Policy; and
- legal considerations regarding ownership and copyright.

**5.2.5** Each acquisition will be accompanied by a maintenance plan supplied by the Artist (see "Maintenance" outlined in section 12 of this Policy).

**5.2.6** Final decisions will be made by Council or, for procured Owned Public Art anticipated to cost \$50,000 or greater, a Selection Panel.

**5.3** Borrowed Public Art:

**5.3.1** The Town may secure Borrowed Public Art for display on a temporary basis.

**5.3.2** Public Art to be borrowed will be considered through an evaluation process whereby the Community Development Advisory Committee and Staff make recommendations to Council.

**5.3.3** Each artistic work that is being considered as Borrowed Public Art may be evaluated against the following criteria:

- quality of the work/artistic merit;
- suitability of the artistic work for display in a Public Space;
- condition of the artistic work;
- duration of installation;
- maintenance requirements and costs;
- use of sustainable materials in fabrication;
- relevance to the Town's natural and built environment, and the "Objectives" outlined in section 2 of this Policy; and
- the Town's ability to safely display the artistic work.

**5.3.4** Final decisions will be made by Council.

#### **5.4** Donated Public Art:

**5.4.1** Public Art to be received as a donation will be considered through an evaluation process whereby the Community Development Advisory Committee and Staff make recommendations to Council.

**5.4.2** Each artistic work that is being considered for receipt as donated Owned Public Art may be evaluated according to the following criteria:

- quality of work/artistic merit;
- condition of work and remaining lifespan;
- monetary and/or appraised value for donated works;
- suitability of the artistic work for display in a Public Space;
- durability of materials used;
- maintenance requirements and costs;
- use of sustainable materials in fabrication;
- relevance to the Town's natural and built environment, and the "Objectives" outlined in section 2 of this Policy; and
- legal considerations regarding ownership and copyright.

**5.4.3** Each acquisition will be accompanied by a maintenance plan supplied by the Donor (see "Maintenance" outlined in section 12 of this Policy).

**5.4.4** The Donor of the artistic work must have legal ownership of the artistic work prior to transference to the Town.

**5.4.5** All donations must be unencumbered.

**5.4.6** If the Donor wishes to receive an Official Receipt for Income Tax Purposes for the donation, the Donor will be responsible for meeting Canada Revenue Agency criteria, including an independent appraisal of the artistic work at the Donor's expense to determine its fair market value. The Donor will require the pre-approval of the Town's Finance Department.

**5.4.7** The Town, at its sole discretion, may decline to consider or accept any Donated Public Art.

**5.4.8** Final decisions will be made by Council.

## **6. SELECTION PANEL**

**6.1** A Selection Panel will be appointed by Council once Project Terms of Reference for an artistic work have been developed.

**6.2** The sole role of the Selection Panel is to select Procured Public Art valued at \$50,000 or greater based on the Project Terms of Reference and evaluation criteria.

**6.3** Membership on the Selection Panel may include, but not be limited to:

- an artist;
- a professional from the visual arts community (e.g., a gallery director or curator, a visual arts faculty member);
- an architect;
- a representative from Esquimalt Nation or Songhees Nation, or both;
- a representative from the community;
- a representative from Council; and
- a representative from staff.

**6.4** The final composition of any Selection Panel will vary based on the requirements for a given project.

## **7. ROLES AND RESPONSIBILITIES**

### **7.1 Council**

Council will:

- advocate for art on Public Land in the Town;
- establish and approve contributions to the Public Art Acquisition Reserve Fund through the annual financial plan;
- authorize expenditures from the Public Art Acquisition Reserve Fund;
- appoint ephemeral Selection Panels for Procured Public Art initiatives as required;

- provide final approval on specific pieces of procured Owned Public Art valued at less than \$50,000, all Borrowed Public Art, and all Donated Public Art; and
- provide final approval on suitable recipient Public Art sites and the siting of specific artistic works to a recipient Public Art site.

## 7.2 Community Development Advisory Committee

The Community Development Advisory Committee will:

- review Project Terms of Reference for each new Public Art acquisition as applicable;
- provide Council with recommendation(s) on Procured Public Art competition submissions for procurements valued at less than \$50,000;
- provide Council with recommendation(s) on Borrowed Public Art initiatives;
- advise and recommend on proposed Public Art donations to the Town as referred by Council; and
- work with Staff to identify suitable recipient Public Art sites, taking into consideration the context for the specific artistic work (if known) and public safety.

## 7.3 Selection Panel

The Selection Panel will:

- select Procured Public Art valued at \$50,000 or greater based on the Project Terms of Reference and evaluation criteria.

## 7.4 Staff

Implementation of this Policy will be coordinated by the Development Services Department with input and assistance from all other Departments as required.

Specifically, Staff will:

- establish and maintain an inventory of completed Town-owned Public Art;
- establish the Project Terms of Reference for individual acquisition projects;
- facilitate and support the Community Development Advisory Committee and the Selection Panel on Public Art matters as required;
- coordinate the acquisition of Public Art in accordance with this Policy and other Town policies and practices;
- develop and promote communication and outreach of the Policy to the community;
- work with the Community Development Advisory Committee to identify suitable recipient Public Art sites, taking into consideration the context for the specific artistic work (if known) and public safety.
- coordinate maintenance of the Town's existing and new Public Art as required; and

- investigate Federal, Provincial, or other sources of funding to promote and support the development of Public Art in the Town.

## **8. FUNDING**

**8.1** Funding to acquire Public Art will be provided through the establishment of a Public Art Acquisition Reserve Fund.

**8.2** Contributions to the Public Art Acquisition Reserve Fund will be made in the following ways:

**8.2.1** Annual budget contribution

An annual contribution equivalent to at least 1% of the current year contribution to the Capital Works and Land Reserve Fund will be transferred to a Public Art Acquisition Reserve Fund.

**8.2.2** Significant Town-Led Projects

For significant Town-led and owned infrastructure projects (that is, capital projects over \$500,000), an equivalent of a minimum of 1% of the total budget will be contributed to the Public Art Acquisition Reserve Fund.

**8.2.3** Donations

Funding may also be received from private donors designated for public art acquisition which will then be contributed to the Public Art Acquisition Reserve Fund.

**8.3** The Town's contribution to the Public Art Acquisition Reserve Fund will also be used to leverage funding from other governmental and private sources.

**8.4** In addition to the funding provided through the Public Art Acquisition Reserve Fund described in sections 8.1 and 8.2, funding to acquire Public Art may also be provided through Community Amenity Contributions (see Community Amenity Contributions Policy #6400-041).

**8.5** Owned Public Art maintenance, carried out generally in accordance with the maintenance plan for each artistic work, will be funded through the annual operating budget.

## **9. AGREEMENTS**

**9.1** Following the approval of the acquisition of an artistic work, the Artist will enter into a written agreement with the Town.

**9.2** This agreement will address the Artist's obligations, which may include, but are not limited to:

- scope of work;
- materials;
- schedule;
- installation;
- maintenance and repair schedule/requirements;
- warranty;
- copyright to the Town, if applicable;
- payments to sub-contractors; and
- future de-accessioning at the Town's discretion.

**9.3** This agreement would also set out the Town's obligations that may include, but are not limited to:

- payment; and
- Artist recognition.

## **10. INSTALLATION**

**10.1** The installation process will be identified, in advance, through the purchase, commission, donation, or exhibition agreement and may involve participation of the Artist and/or a contracted professional installer and will involve the coordination with the Town of View Royal.

**10.2** The condition of all acquired artistic works will be evaluated upon receipt, and any problems found will be referred to the Artist for resolution, prior to installation or immediately upon installation.

**10.3** All Owned Public Art must be installed on Public Land.

**10.4** Final decisions as to suitable recipient Public Art sites and the siting of specific artistic works to a recipient Public Art site will be made by Council.

## **11. INSURANCE**

**11.1** Owned Public Art is the property of the Town and is insured under the Town's insurance at the discretion of the Town.

**11.2** For all Borrowed Public Art, the Artist will submit proof, satisfactory to the Town, of insurance coverage for the artistic work, and/or a waiver freeing the Town from liability in case of accidental loss, theft, damage, or vandalism. In addition, the Artist will submit a complete list of the displayed artistic work(s) which will include the title(s), dimensions, weight, medium/media, and if applicable, appraised value(s).

## **12. MAINTENANCE**

**12.1** The Artist is required to provide a maintenance plan for their work. The maintenance plan must be submitted to the Town for review and consideration along with the proposal to select the artistic work for acquisition or donation. The complexity of the maintenance plan may vary based on the size, nature and material of the artistic work. Therefore, maintenance plans must also meet the satisfaction of the appropriate Town Department. Maintenance plans will include, but are not limited to, maintenance specifications, budget implications, manufacturer lists, and key contacts, including Artist.

**12.2** The Town is responsible for the care and maintenance of the artistic work, in accordance with the approved maintenance plan, and the specific department responsible will be determined at the time of the installation.

## **13. STORAGE**

**13.1** When storage of Public Art, whether short-term or long-term, is required, the Town will ensure that such storage is appropriate.

**13.2** Whenever possible, existing Town and community resources will be used for the storage and management of Town's Owned Public Art.

## **14. PRIVATE ART**

**14.1** Town staff may work with new and established businesses, agencies, and other levels of government, architects, builders, contractors, and developers to identify opportunities for incorporating private artistic works into architecture, building and/or landscape designs of private infrastructure, or the layout of private open spaces, including private connections to adjacent public features (e.g. streets, bridges, road infrastructure), and related requirements for urban environments and streetscapes (e.g. requirements for light standards).

**14.2** Private sector developers should consider the integration of private artistic works into the design of private sites, including, but not limited to building facades, floors, ceilings, courtyards, or entrances and could include functional and decorative elements including, but not limited to benches and light standards.

## **15. DE-ACCESSION OF OWNED PUBLIC ART**

**15.1** The Town may de-accession Public Art when necessary.

**15.2** Reasons for de-accession include, but are not limited to:

- endangerment of public safety;
- excessive repair, maintenance or faults in design or construction/manufacture and repair or remedy is either impractical or not

- feasible;
- the ongoing good condition or security of the artwork cannot be reasonably guaranteed;
- irreparable damage;
- the quality or authenticity of the artwork is in doubt and that doubt is subsequently justified;
- the public can no longer access the site or the physical setting is to be redeveloped;
- political inappropriateness; and
- expiration of lifespan of the piece.

**15.3** In the event of theft, vandalism or accidental loss, the Town may determine whether replacement or de-accession of the artistic work is appropriate.

**RELATED POLICIES:** See also Purchasing Policy #1600-021 and Community Amenity Contributions Policy #6400-041.

**ATTACHMENTS:** This space intentionally left blank.

**DISTRIBUTION:** Electronic file Y:\Administration\0340 Policies\50 - Final\0100 – Administration and Town of View Royal website.

RECORD OF AMENDMENTS	REVIEW DATE	AMENDED	OUTCOME	MOTION #