

City of Burnaby

PUBLIC ART POLICY

October 2023

1.0 Policy Statement

The City of Burnaby Public Art Policy (“the Policy”) provides guidance for the acquisition, installation, interpretation, maintenance and lifecycle planning of artworks in public areas. These areas include City of Burnaby parks, trails, inside and outside of civic facilities, and other public areas and in private sector, publicly-accessible spaces in the City.

2.0 Policy Alignment

The policy aligns with broader City policies and strategies, including:

- The Public Art Policy Framework;
- The Economic Development Strategy;
- The Social Sustainability Strategy, Strategic Priority 2: Celebrating Diversity and Culture; Strategic Priority 5: Enhancing Neighbourhoods; and
- The (1998) Official Community Plan (Revised 2014): Cultural Asset Management and Community Planning and Development.

3.0 Policy Objectives

The objectives of the Public Art Policy are as follows:

- Align with the values and benefits outlined in the Public Art Policy Framework;
- Set forth guidelines and criteria for the planning, financing, selection, creation, presentation, interpretation and long-term maintenance of artworks. This includes establishing procedures for the potential removal and deaccession of artworks in public places;
- Foster integrative planning, design and implementation within relevant areas of development; and
- Ensure a transparent and professional process is employed for the selection of artworks for both civic and private sector development, adhering to specified parameters and conditions.

4.0 Definitions

To ensure clarity in interpreting the public art program the following definitions apply:

Acquisition: The process of accepting an artistic work whether by commissioning, purchase, gift, or other means, into the City's collection of public art.

Artist as Maker: As creator, the artist is a catalyst and manager of a creative process resulting in a finished product. This product is in response to physical and/or social, historical and conceptual issues. The definition of the artist for the purposes of this policy adheres to the Canada Council for the Arts definition of a professional artist, visual and fine craft artist, or practitioner of architecture/landscape architecture. Those involved in the development project team (e.g. architect, landscape architect, engineer) are not permitted to act as the artist as defined above.

Conservation: The broad concept of the care of artworks, encompassing examination of the condition of the art, preservation of the art to avoid deterioration or damage, and restoration.

Deaccession: The process of removing an artistic work from the City's collection of public art.

Donation: Gifts of art which have been given unconditionally and without compensation or non-monetary consideration (e.g. advertising, promotion, services, etc.)

Public Artwork(s):

- Freestanding works such as sculptures and artworks attached to buildings;
- Works integrated into the architecture or landscape at the time of design and construction;
- Other independent artistic expressions in public space, such as digital works, photography or video, multimedia/interactive installations, socially-engaged participatory events; and
- Monuments and commemorative statuary.

Public Art Consultant: A Public Art Consultant is a professional advisor regarding public artwork, its selection, siting, installation, and any artist-related issues. Public Art Consultants must have a broad knowledge of current art-making practices and of artists able to work in public and development contexts.

Public Art Reserve(s): City funds put in place by the Chief Financial Officer which hold in reserve financial contributions from public and private sources for Public Art Program purposes.

Restoration: Treatment of a deteriorated or damaged work of art to restore it as accurately as possible to its original condition.

5.0 Scope

The Public Art Policy applies to existing City of Burnaby public spaces, road rights-of-way and buildings owned and operated by the City of Burnaby, and includes all areas where the public attends or is permitted to attend on a frequent basis, and it includes:

- Public parks and trails, where permanent or temporary installation of works of art conform to park management plan guidelines and City zoning bylaws;
- Parks, Recreation and Culture facilities;
- Spaces inside public buildings or plazas adjacent to buildings;
- Road rights-of-way or public pedestrian statutory rights-of-way; and
- Other City-owned buildings and land suitable for works of art.

The Public Art Policy also encompasses new City-owned facilities, spaces, and privately-owned properties within Town Centres and Urban Villages that are currently under development. Its purpose is to establish a structured approach to funding, acquiring, installing, celebrating, and maintaining significant artworks that are accessible to the public.

Efforts to support, acquire and place public art may be undertaken by various entities, including the City, individuals, independent institutions, and the private sector. This policy addresses all relevant participants interested in acquiring and placing artworks in spaces accessible to the public.

The following are excluded from the scope of this policy:

- Anti-graffiti initiatives on private property, business improvement district initiatives (including murals on privately-owned properties), school initiatives, decorative wraps on service boxes, decorative banners and eco-sculptures; and
- Spaces, developments, and projects solely owned by First Nations.

6.0 Administration

6.1 *Public Art as Part of Civic Development:*

1. Public art projects shall be incorporated into new City capital projects (buildings, parks and structures) with budgets exceeding \$30 million. As part of the allocation for new civic capital projects 1% of construction costs will be assigned to public art. New City capital projects with budgets of \$5 million to \$30 million will allocate 1% of construction budgets to a reserve account designated for the purposes of the Public Art Program. New City capital projects with construction budgets of less than \$5 million are exempt.
2. Budgets will be allocated to cover various aspects, including artists' fees, production, installation, promotion, maintenance costs, as well as project management, selection

committee, and staff costs. These funds will be assigned on an annual basis. Additionally, efforts may be made to secure funds from alternative sources such as donations, grants, and sponsors.

3. For newly initiated civic commissions, a minimum of 10% of the public art project budget will be reserved specifically for ongoing maintenance.
4. To ensure the effective management of public art, dedicated operating reserves will be established. These reserves will serve the purposes of acquisitions, inventory management, maintenance and promotion.

6.2 *Public Art as Part of Private Sector Development:*

This Policy is applicable to private sector development within Burnaby's designated Town Centres (Brentwood, Lougheed, Metrotown, and Edmonds) and Urban Villages, specifically where rezoning is necessary. The following criteria determine the applicability:

- Multi-family, commercial and mixed-use residential developments comprising 50 or more residential units; and
- Commercial and mixed use development with a total floor area equal to or exceeding 1,000 m² (10,765 sq.ft.).

For eligible private sector development projects, a contribution of 1% of the estimated total hard project construction costs related to the market component of the project is required. This contribution excludes any non-market housing components, as well as the value of the land, offsite servicing, permit fees and consultant costs associated with the project. Public art contributions will only be required for new floor space construction, and not for renovations or tenant improvements that do not result in an increase in floor area.

6.3 *Donations of Public Art:*

Donors have the opportunity to enrich the public art program by gifting significant artworks created by prominent artists to the City. To ensure a comprehensive evaluation process, all proposed donations will be thoroughly reviewed by staff from relevant departments and the City's Public Art Advisory Committee before being accepted into the City of Burnaby Public Art Collection. The process for donated public artworks is as follows:

- The owner or authorized representative of the artwork will submit a letter of intent expressing their intention to gift the artwork to the City. This letter will be reviewed by the General Manager, Parks, Recreation and Culture or their delegate;
- In the case of offers involving Indigenous artwork from non-Indigenous donors, a review will be conducted with the Indigenous Relations Manager;
- The artwork must be offered and received free of all conditions;
- Substantiating proof of legal ownership, supported by provenance

- documentation, is required;
- Artworks comprised of impermanent or non-durable materials may not be considered for acceptance;
 - If an offer is accepted as a gift, the City may issue a tax receipt to the donor, provided recent professional arm's-length evidence of the fair market value is presented;
 - As part of the donation, the donor is required to contribute to the Public Art Maintenance Reserve. The specified contribution amount will be determined at the time of the donation, with a minimum requirement of 10% of the project cost or evaluation.

In addition to artworks, financial donations from citizens, businesses and groups, are also welcomed and encouraged as means of community partnership in acquiring new artworks for public places. Cash donations will be held in reserve and dedicated to specific competition projects or City-designated sites. These financial contributions will be utilized for commissioning or competition-based public art projects, as well as ongoing maintenance, but cannot be allocated towards City staffing costs.

6.4 *Community-Led Public Art:*

The City of Burnaby actively participates in various forms of community art initiatives under the purview of the Parks, Recreation and Culture Department. When opportunities arise to collaborate on public art projects, staff will strive to achieve optimal outcomes in terms of process, planning, installation and celebration.

6.5 *Public Art Acquisition:*

Artworks will be carefully acquired to the City's Public Art Collection based on clear parameters and conditions outlined as follows:

- The collection will encompass artworks of special historical, cultural, aesthetic and educational significance, including contemporary art by local, national or international artists;
- Artworks may be acquired by outright purchase, commission, competition or donation;
- Artworks will be constructed from durable and safe materials and will be installed/showcased in spaces that prioritize public enjoyment, safety and proper preservation;
- All individuals involved in the program, including advisors, staff, and others, will declare that they have no conflicts of interest regarding the acquisition and deaccessioning of artworks within the collection. Standards of conduct dictate that all individual must not hold undisclosed financial interests in the artwork work, receive commissions for transactions, issue statements for a fee, or exploit their professional status directly or indirectly during the acquisition or deaccessioning process;

- Comprehensive and accurate documentation establishing an ethical and legal provenance is required for all acquisitions. Works will be formally accessioned into the collection once they have been approved in compliance with legal and financial regulations governing inventory management;
- The City of Burnaby will have complete ownership of acquired artworks and will hold copyright and or enter into specific copyright agreements with artists and/or agents;
- The collection is established with the expectation that the artworks will be owned and exhibited by the City for a significant period of time;
- If deemed necessary by qualified City staff, the removal of an artwork from the collection (deaccessioning) may occur under the governing authority, ensuring adherence to the “arm’s length” principle. Deaccessioned works may be returned to the original artist, offered to other municipalities, galleries or collectors for sale, exchange or gifting. Removal may also be warranted if a work is beyond repair or poses a safety hazard. Funds received through deaccessioning, if any, will be held in trust for future artwork acquisitions. Final deaccessioning approval rests with the General Manager, Parks, Recreation and Culture;
- Deaccessioning works with the intention of returning them to the originating First Nation, Métis or Inuit community or territory will be conducted in consultation with the respective Nation or community to ensure proper protocols are established and followed;
- Adequate care and maintenance of all artworks in the collection is mandatory. Conservation and restoration assessments will be carried out by professionals, and regular assessments of artwork conditions will be conducted. Annual funds will be allocated for maintenance and restoration purposes. The artist/maker of the artwork may be involved in the assessment and repair process. In the event that significant alterations are required due to maintenance, an agreed upon alternative repair plan may involve the artist’s removal of their name as the originator; and
- Appropriate insurance coverage is a requirement.

The General Manager, Parks, Recreation and Culture or their delegate will conduct and annual review the Public Art Policy and fiscal resources dedicated to the acquisition, maintenance, management and promotion of public art.

6.6 *Asset Management:*

Public art is considered a cultural asset that may require maintenance and repair due to weathering, damage or material failures. Some artworks may weather in accordance with artistic intention, or Indigenous protocols. Resources will be allocated annually by Council for commissioning, installation and maintenance of all artworks in the City’s public art collection, according to their established maintenance requirements.

Works of public art are not classified as tangible capital assets in accordance with the *City of Burnaby Tangible Capital Asset Policy*. The policy adheres to the Generally Accepted Accounting Principles (GAAP) and the Public Sector Accounting Board (PSAB)

and the Province of British Columbia.

6.7 *Reserve Accounts:*

To ensure compliance with accounting standards, the following reserve accounts have been, or will be established:

- Commission, purchases, exchanges;
- Installations;
- Signage, interpretation, accessioning, promotion;
- Maintenance; and
- Third party trust funds based on specific agreements related to private sector development.

In certain cases, developers may allocate resources for long-term maintenance or programming of public art as part of their rezoning and servicing requirements. In these instances, dedicated reserve accounts will be established to receive and disburse funds solely for the purposes outlined in the specific agreement.

These reserve accounts will be managed and reconciled annually, with a five-year projection provided to determine resource requirements. City of Burnaby funds may be allocated from gaming reserves, operating funds, or other internal sources. Additionally, donations, bequests and private sector contributions will supplement these resources as appropriate.

7.0 **Supporting Documents and Guidelines**

The policy is supported by three administrative documents:

1. *Public Art Policy Framework*: an overview of the Public Art Program in Burnaby
2. *Public Art Program and Procedures*: a detailed document outlining the organizational structure, acquisition and deaccession procedures, and resources for the management of Public Art in Burnaby
3. *Public Art Planning Tool for Site Selection*: a brief guide which provides civic teams structure and tools for the selection of artworks and areas for installation.

Related procedural guidelines for contractors and private sector developers working within the City are available through the Parks, Recreation and Culture Department.

7.1 *Legislation and Governance:*

All works acquired by the City of Burnaby will conform to the provisions of:

- The Canadian *Cultural Export and Import Act*;
- The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing Illicit Import and Transfer of Ownership of Cultural Property; and
- The British Columbia *Heritage Conservation Act*.

The Public Art Policy, Public Art Program and Procedures and Public Art Planning Tool for Site Selection will undergo annual review to determine compliance with any changes made to relevant provincial or federal legislation and regulations governing public art and collections that are altered to come into alignment with the BC *Declaration on the Rights of Indigenous Peoples Act* (2019), and the Federal *United Nations Declaration on the Rights of Indigenous Peoples Act* (2021).