



**CITY OF
Burlington**

Corporate Policy

Culture

Private Sector Public Art Policy

Approved by Council on: July 16, 2018

Report Number: PB-25-18

Wards Affected: All

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Policy Statement:

The City of Burlington through the Private Sector Public Art Policy will encourage the inclusion of public art in all significant private sector development across the City.

Scope:

This policy applies to the Arts and Culture section and PADIT (Public Art Development Implementation Team) to provide a flexible set of options to private sector developers to contribute to public art development as well as the opportunity to voluntarily participate in the Private Sector Public Art Program.

Vision

Public art will contribute to Burlington's unique and vibrant community identity by affirming a sense of place, strengthening connections between people and place, and celebrating the social, historical, cultural, and natural environment. Through the creative vision of artists, public spaces will become focal points for dialogue and delight, attracting visitors and residents, and creating a sense of civic pride. Burlington's Public Art Program will be realized through processes that engage the community, foster neighbourhood sustainability, and stimulate excellence in the built environment.

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Part 1: Objective, Background, Definitions and Exclusions

1.1 Objective

The Private Sector Public Art Policy guides the integration of public art into privately owned public places in Burlington. This policy is intended to provide Council, staff, developers, the arts community, and public with a mechanism through which the City of Burlington will encourage the inclusion of public art in all significant private sector development across the City.

Developers see the benefits inherent to public art as a means to enhance their project by adding interest and character to their developments. Public art can improve the public realm, whether publicly or privately owned, and create a destination for residents and visitors alike.

This policy provides a flexible set of options to private sector developers as well as the opportunity to voluntarily participate in the Private Sector Public Art Program.

1.2 Background

In 2009, the City of Burlington approved a Public Art Policy that defines its own commitment to public art in the public realm. This policy does not include art on private lands. Section 37 of the Planning Act authorizes municipalities to grant increases in height and density of development, in exchange for community benefits in the provision of facilities, services or matters. The City of Burlington has used Section 37 provisions for community benefit contributions toward the Public Art Program. Chapter 3 of the Official Plan (Complete Communities - 3.4.3 d) states: "The City will encourage the inclusion of public art in all significant private sector development across the city, using applicable planning tools and processes. Private sector developers will be encouraged to follow the best practices established by the City for the acquisition and selection of public art. The City will provide assistance in the application of these practices."

Similarly, the City of Burlington's Strategic Plan 2015 - 2040 states: "the city will expand the Public Art Program by developing policies and programs such as public art on private property" (Section 4.2, Public Engagement through Culture and Community Activities). As such it is necessary to develop a companion policy to the Public Art Policy that guides the site selection and commissioning process of art on private property.

1.3 Definitions

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- **Artist**

A person who is critically recognized (i.e. by the artist's peers, curators, professional arts organizations) as an artist, possesses skill, training and/or experience in their artistic discipline; is active in and committed to their art practice, has a history of public presentation; and who is not exempted by the Conflict of Interest provision included in the Public Art Policy.
- **Community Public Art Jury**

The role of the Community Public Art Jury is to evaluate public art proposals in Options 1, 3 and 4 (Part 2 - Implementation Options). Jury members shall be independent of the City and Council.
- **Public Art**
 - An original work of art,
 - In a publicly accessible location,
 - Created with the intention of reflecting and/or engaging the community,
 - Works may be permanent, temporary or mobile.
- **Public Space - Civic**

Municipally owned areas available and frequently used by the public that can include, but are not limited to, parks, open space, trail systems, waterways, road allowances, tunnels, boulevards, streets, sidewalks, courtyards, squares, bridges, building exteriors, foyers, and publicly accessible interior areas.
- **Public Space - Private**

Public Space - Private are those spaces that remain in private ownership such as entrances, building facades, private open space and other features that are privately owned but are accessed by the general public. The governing principle for public art is that it must be freely available to be viewed and experienced by the public. Where public art is located on private space, it must be clearly visible at all times from the publicly accessible areas.
- **Public Art Inventory**

Original art created for, or located in, public space including; permanent, temporary or mobile works acquired by the City of Burlington. The Public Art Inventory may include;

 - Sculptures;
 - Murals;
 - Memorials or Monuments;
 - Fountains or water features that contribute aesthetically to their surroundings;
 - Hard and soft landscaping components; which are not a mere extension of the landscape architecture and;

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- Special engineering or architectural features of existing capital projects that contribute aesthetically to their surroundings.
- **Public Art Consultant**
A consultant hired by the private developer to provide qualified advice on the development and installation of a public art project on private property.

1.4 Exclusions

This policy does not include the following:

- Directional elements such as signage, except where these elements are integral parts of the original artwork or public art project;
- Landscape architecture, except where these elements are an integral part of the original artwork or public art project;
- Architectural or design enhancements, such as stamped or coloured concrete, lighting treatments, fencing, etc. except where these elements are integral parts of the original artwork or public art project;
- Easily moveable artwork such as paintings, drawings, models and books.

Part 2: Implementation Options

This policy provides 4 options to encourage participation of the private sector to the voluntary Private Sector Public Art Program.

2.1 Option 1: On-site contribution – City Managed

The applicant makes a financial contribution to Burlington's Public Art Reserve Fund in trust for the commissioning of public art on the site of the private property. The applicant uses the expertise of the City of Burlington to produce the work through the Public Art Policy process. On-site public artworks remain in the ownership of the property owner and the maintenance and conservation costs of the artwork remain with the property owner.

The placement of public art that is on private property will be considered in the pre-consultation phase of the Development Review process. The City of Burlington will be responsible for managing the production on behalf of the property owner following the Public Art Policy.

Prior to the issuance of the first Building Permit for the Development, the applicant shall deliver to the City a certified cheque in the amount of the Public Art Contribution.

The artwork will remain under the ownership of the property owner and thus, will not become part of the Public Art Inventory but will be considered part of the

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private public art inventory. As such, the property owner will be responsible for all long-term costs associated with insurance, maintenance and/or de-installation of the artwork.

2.2 Option 2: On-site contribution – Privately Managed

If the applicant wishes to undertake its own public art project, then the process would require the input and agreement of PADIT for it to be considered a public art project for negotiated benefits. The City of Burlington will work cooperatively with the property owner to achieve mutual benefits.

Prior to Site Plan Approval for the Development, the applicant shall prepare a Public Art Plan for the provision of public art upon the site and submit the Public Art Plan to PADIT for approval. The public art plan must include the degree of collaboration, the proposed location of the public artwork, the jury composition, the budget, the distribution of the budget, the proposed timing of each part of the public art plan in relation to the development of the site, and if the call for proposals is to be by invitation, a draft proposal call and a list of the artists to whom the proposal call is intended to be sent. The applicant should consider site potential in terms of public use, scale, coherence, visibility, safety, accessibility and urban design objectives.

As demonstrated in other successful public art programs, the City expects these projects to be developed professionally and through accountable processes that offer opportunities for artists to collaborate with architects and landscape architects in the creation of high quality public spaces.

The property owner may wish to hire an independent Public Art Consultant to assist with the project.

The artwork will remain under the ownership of the property owner and thus, will not become part of the Public Art Inventory but will be considered part of the private public art inventory. As such, the property owner will be responsible for all long-term costs associated with insurance, maintenance and/or de-installation of the artwork.

2.3 Option 3: Off-site contribution – Public Property

The applicant makes a financial contribution to Burlington's Public Art Reserve Fund. The resulting off-site public art project becomes municipal property and is accessioned into the Public Art Inventory. The project will be undertaken by the City of Burlington following the Public Art Policy. The funds can be earmarked for a specific project in a specific location or can be placed in reserve for the undertaking of a major public art project. Site location is negotiated, with the City of Burlington having final approval.

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For development projects unable to identify suitable on-site locations for public art or where the public art contribution is an amount too small to be effectively used to create on-site public art installations, the applicant's contribution may be pooled to Public Art Reserve Fund.

Prior to the issuance of the first Building Permit for the Development, the applicant shall deliver to the City a certified cheque in the amount of the Public Art Contribution.

Ownership of the artwork will be transferred to the City of Burlington. At the point of transfer, the City of Burlington will become responsible for all long-term costs associated with insurance, maintenance and/or de-installation of the artwork.

2.4 Option 4: Combination on/off-site contribution – Public and Private Property

Public art is commissioned on the subject property or publicly owned lands adjacent thereto and the remaining portion of the public art contribution is allocated to the City's Public Art Reserve Fund.

The applicant makes a financial contribution to Burlington's Public Art Reserve Fund in trust for the commissioning of public artworks to be located both on site and off site. The City of Burlington will execute the project following the Public Art Policy. Agreement with the property owner and City of Burlington will occur on the placement of the public art. The nature of the artwork and ongoing operating and maintenance costs may be negotiated.

If the public art is situated within the development area and spills over on the public right of way, the ownership and maintenance obligations will be negotiated.

Prior to the issuance of the first Building Permit for the Development, the applicant shall deliver to the City a certified cheque in the amount of the Public Art Contribution.

Part 3: Roles and Responsibilities

Council

- Approves the Public Art Master Plan and all related public art policies.

Development Review – City Building

- The City of Burlington, when reviewing new developments, will encourage developers to incorporate public art in their projects. The possible financial contribution for public art from the private sector will be

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negotiated through Burlington's Development and Planning Section and encouraged in all other development application types in collaboration with the Arts and Culture Section.

The negotiation will be fair and equitable in its application and based on best practices. Developer benefits may include incentives as part of the negotiated process with Burlington.

Arts and Culture Section – City Building

- The Arts and Culture Section is responsible for the development and management of all public art projects in Burlington. Arts and Culture Staff will work with Development Review Staff in the negotiation of the financial contribution from the private sector for public art. Following the accepted negotiation, Arts and Culture Staff will be the primary point of contact for ongoing project coordination and administration.

Community Jury

- In the case of Options 1, 3 and 4 (Part 2 - Implementation Options), a community jury will be convened by the Arts and Culture Section to review and select the winning artwork proposal. The community jury will consider: aesthetic and artistic excellence, public feedback, technical feasibility, maintenance plan and safety considerations. The jury will be selected based on the project-specific expertise that is required. The property owner or a designated representative selected by the property owner may participate as a voting member of the jury.

PADIT (Public Art Development and Implementation Team)

- PADIT provides expertise from various city departments, including technical review of public art projects. PADIT is the body responsible for final approval of all public art projects. Proposals received or referred to PADIT from private property owners will be reviewed and approved by PADIT. PADIT will consider: project alignment with Public Art Policy and Master Plan, technical feasibility, financial feasibility, legal considerations, environmental impact, maintenance plan, and safety considerations.

Accountable:

Director of City Building

Responsible:

Manager of Arts and Culture

References:

Public Art Master Plan,
Public Art Policy