



Policy Name: Public Art Policy	Policy No: S100-16
Committee approval date:	-
Council approval date:	-
Revision date(s):	-
Department/Division:	Corporate Wide

1. Purpose

The purpose of this policy is to establish a consistent and transparent process for the selection, acquisition, installation, maintenance, and removal of public art by The Corporation of the Town of Pelham (“the Town”).

2. Policy Statement

The Town recognizes that public art is an asset that enhances quality of life for residents, fosters community pride, improves the aesthetic of public spaces and contributes to the Town’s cultural landscape. Through its investments in public art the Town celebrates culture and heritage, reflects on diversity, expresses the shared values of the community, and defines its unique identity.

3. Definitions

“**Acquisition**” or “**Acquired**” means the process by which the Town obtains and accepts ownership and possession of an Artistic Work and includes purchases, commissions, and In-Kind Donations.

“**Artist**” means the designer and/or creator of an Artistic Work and includes but is not limited to a professional or amateur artist, graphic designer, architect, landscape designer or student.

“**Artistic Work**” means a tangible work in any media created by one or more Artists.

“**Borrowed**” means an Artistic Work that is loaned to the Town by the owner of the Artistic Work for a defined period of time pursuant to a written agreement and for which no transfer of ownership occurs.

“**Commemoration**” means an item of tangible property that acknowledges or is designed or intended to acknowledge the memory of one or more people, places, events, or ideas.



“Community Art” means an Artistic Work designed and/or created collaboratively by an Artist and members of an identified community who actively participate in its design and/or creation and for which the process of collaboration and the Artistic Work product are of equal importance.

“Council” means the municipal Council of the Town.

“Graffiti” means images, text and/or markings that are painted, drawn, scribbled or scratched, without permission, on a wall or other surface within public view.

“Joint Venture” means a collaboration between the Town and private property owner(s) for the purposes of expanded Public Art opportunities as detailed in a signed agreement from both parties.

“Mural” means an Artistic Work applied directly to a wall or building façade, either painted directly on the surface or on affixed panels, for the purpose of artistic expression, decoration, and Public Art.

“Permanent Installation” means Public Art that is intended to be displayed for an indefinite period.

“Private Space” means an area on or within property not owned by the Town but that is physically or visually accessible to the general public, including but not limited to the exterior of private buildings, utility poles and boxes, and other forms of private infrastructure.

“Public Art” means an Artistic Work that is Acquired by the Town for the purpose of being displayed in a Public Space and that enhances the aesthetic and/or cultural environment of the Town. Without limiting the generality of the foregoing, Public Art includes:

- Temporary Installations;
- Permanent Installations;
- Community Art situated in a Public Space;
- Artistic Works that are aesthetic, functional, interactive, or any combination thereof;
- Freestanding Artistic Works that are installed in a fixed location in a Public Space such as sculptures;
- Artistic Works that are fully integrated into the structure of the Public Space such as Murals and architecture, landscaping or other amenities designed and/or created by one or more Artists, in whole or in part; and



- Public Art as described or depicted in any applicable Master Plan, which may be amended, updated or replaced from time to time

For greater certainty, “**Public Art**” does not include:

- Signs as defined and described in Town of Pelham By-law No. 48-2023;
- Playground equipment;
- Graffiti in Public Spaces;
- Landscaping that is not designed or created, in whole or in part, by one or more Artists;
- Objects resembling Artistic Works that are stock items or are mass-produced;
- Artistic Works that are portable or easily moved; or
- Artistic Works that make use of electronic or technological media.

“**Public Art Operational Plan**” means an operational plan developed and administered by Town staff in conjunction with this policy, which will identify and prioritize potential Public Art locations, propose themes and materials for future Public Art based on an assessment of existing Public Art, and recommend a practical implementation strategy for Public Art, including budgetary implications and requests for funding.

“**Public Space**” means an area on or within property owned by the Town that is accessible to the general public including but not limited to parks, open spaces, roadways, trail systems, and areas of buildings or structures owned or managed by the Town that provide unrestricted physical or visual access to the general public.

“**Temporary Installation**” means Public Art that is intended to be displayed for a limited period and that does not leave a lasting record.

“**Town**” refers to the Town of Pelham.

4. General Provisions

4.1. Application of Policy

This policy applies to Public Art as defined in section 3. For greater certainty, this policy does not apply to:

- i. Graffiti management in Public Spaces;



- ii. Community exhibition and display spaces located within the Meridian Community Centre;
- iii. Community Art that is not situated in a Public Space;
- iv. Artistic Works situated in a Public Space during a Community Event as defined in Town of Pelham By-law No. 4454(2022);
- v. Commemorations that are not created by an Artist and/or situated in a Public Space; or
- vi. Artistic Works situated in a Private Space unless the Artistic Work was designed, created and/or installed pursuant to a partnership or joint venture between the owner(s) of the Private Space and the Town.

4.2. Roles and Responsibilities

The facilitation and management of Public Art is a consultative process that involves multiple stakeholders including Artists, community representatives, Town staff and Council.

The Town will designate staff to prepare a Public Art Operational Plan. Projected sites for Public Art in Public Spaces will be identified through the Public Art Operational Plan and reassessed annually. Private Space joint ventures will be assessed through an on-going process. Opportunities to incorporate and integrate Public Art into the planning, design and execution of Town development projects will also be identified through the Public Art Operational Plan and reassessed as required.

The Town will establish a Public Art Working Group to identify annual priorities and capital requirements for Public Art, to provide advice and assistance in relation to the Public Art Operational Plan, and to coordinate the management of Public Art across various Town departments throughout the year.

The Public Art Working Group will review any Public Art proposals received by the Town and will prepare Public Art proposals as required. Proposals supported by the Public Art Working Group will be submitted to the Pelham Cultural Advisory Committee for review and, if approved, will be recommended to Council.

The Pelham Cultural Advisory Committee will also:

- i. Provide input on Public Art plans, policies, projects and programs;
- ii. Provide advice and assistance in relation to the Public Art Operational Plan;
- iii. Provide coordination assistance for the development of Public Art from concept to installation;



- iv. Identify and advise on opportunities for Public Art within Public Spaces and Private Space joint ventures; and
- v. Serve as ambassadors for the Public Art program.

Council may, in its sole discretion, accept or decline any Public Art proposal.

4.3. Acquisitions of Public Art

The Town may accept an In-Kind Donation as Public Art. Proposed In-Kind Donations of Public Art are subject to Town of Pelham Policy No. S400-11 and must comply with its provisions, including but not limited to the requirements that the In-Kind Donation be free and clear of encumbrances and that the Donor enter into a written agreement with the Town. The Town may accept or decline an In-Kind Donation in accordance with Policy No. S400-11.

For Acquisitions by purchase or commission, the Town will solicit proposals for the provision of Public Art. In soliciting proposals, the Town will make every reasonable effort to:

- i. Attract Artists from a variety of artistic disciplines;
- ii. Encourage opportunities for learning, participation, and experimentation in arts and culture; and
- iii. Provide a process that is meaningful, fair, and equitable.

The Town will solicit proposals for Public Art by issuing a Request for Proposal (RFP) in accordance with Town of Pelham Policy No. S402-00. Artistic Works considered for selection will be evaluated according to the criteria of the RFP, which will include, but not be limited to, the following:

- i. Quality and condition of the proposed Artistic Work;
- ii. Authenticity of the proposed Artistic Work;
- iii. Experience and reputation of the Artist;
- iv. Suitability of the proposed Artistic Work for display in a Public Space;
- v. The proposed Artistic Work is not duplicative of existing Public Art or aspects thereof;
- vi. Relevance of the proposed Artistic Work to the Town's natural and built environment, cultural heritage, history, and, where applicable, its Public Art theme(s);
- vii. Ethical and legal considerations regarding ownership, if any;
- viii. Monetary and/or appraised value of the proposed Artistic Work;



- ix. Anticipated maintenance requirements of the proposed Artistic Work and a maintenance plan; and
- x. Projected lifespan of the proposed Artistic Work.

Notwithstanding the provisions of Policy No. S402-00, the Town will give priority to proposals submitted by Artists residing in Pelham and surrounding areas, respectively, provided that the requirements of the RFP and this policy are met.

4.4. Public Art Funding

The preferred Acquisition strategy for new Public Art is In-Kind Donations or Financial Donations as described in Policy No. S400-11. However, the Town may contribute to the Acquisition of Public Art by purchase or commission on a case-by-case basis.

The Town will establish an annual budget line item in its Operating Budget to fund the Acquisition(s) of Public Art. The Town will also establish a Public Art Reserve and may dedicate an annual amount from its Operating or Capital Budget to fund the Public Art Reserve. The Town will also establish a maintenance budget line in its Operating Budget to address costs related to the ongoing maintenance, conservation, and repair needs of Public Art.

4.5. Agreements

Where Public Art is Borrowed, the Town and the owner of the Artistic Work will enter into a written loan agreement setting out the terms and conditions pursuant to which the Artistic Work is Borrowed, which agreement must be satisfactory to the Town Solicitor and signed by the Town and the owner before the Artistic Work is received.

Where an Acquisition of Public Art is approved, the Town and the Artist will enter into a written agreement setting out the terms and conditions of the Acquisition, which agreement must be satisfactory to the Town Solicitor and signed by the Town and the Artist before the Artistic Work is commenced. Matters addressed in the agreement may include but are not limited to:

- i. Scope of work to be completed by the Artist;
- ii. Materials to be used in the Artistic Work;
- iii. Timeline for completion of the Artistic Work;
- iv. Installation;
- v. Maintenance obligations of the Artist and/or the Town;
- vi. Warranty;



- vii. Copyright, intellectual property and moral rights of the Artist;
- viii. Sub-contractor involvement and payment;
- ix. Amount and method(s) of payment to the Artist;
- x. Insurance of the Artistic Work;
- xi. Community notification, if necessary; and
- xii. Recognition of the Artist.

4.6. Artist's Rights

The Town recognizes that an Artist has certain rights in relation to Artistic Works that are designed and/or created by the Artist, which generally include copyright, intellectual property and moral rights.

Copyright grants an Artist the sole right to reproduce, distribute, display and alter their Artistic Works during their lifetime and generally for 70 years thereafter. The right may be assigned or licensed to another entity. The Town will respect the copyright of the Artist(s) that design and/or create Public Art.

Intellectual property rights are the rights of Artists over the creations of their minds and typically give the Artist an exclusive right over the use of their creation for a certain period of time. The Town will respect the intellectual property rights of the Artist(s) that design and/or create Public Art.

Moral rights protect the integrity of Artistic Works and the reputation of the Artist. Moral rights include the right to be identified as the Artist of an Artistic Work by name or pseudonym, or to remain anonymous, and the right not to have an Artistic Work modified or associated with goods or services in a manner that is prejudicial to the Artist's reputation. Moral rights are non-transferable and endure even after copyright has been assigned; however, the rights may be waived by the Artist agreeing to not exercise them in whole or in part. The Town will respect the moral rights of the Artist(s) that design and/or create Public Art.

4.7. Location and Installation

The Town is responsible for coordinating Temporary Installations and Permanent Installations of Public Art.

Where Public Art will be situated within a Private Space as part of a joint venture with the Town, the proposed location must be submitted to the Town for approval prior to commencing a Temporary Installation or a Permanent Installation. All relevant departments will be consulted early in the project development process to ensure the appropriateness of the proposed location. Installation costs and responsibilities will be guided by the terms of the Acquisition agreement.



Where a Mural will be installed on an exterior building surface, façade or other exterior wall in or on a Public Space, the Mural should, whenever possible, be created on removable panels that can be fastened to and removed from the intended surface.

For Public Art that is Acquired by the Town, the installation process will be identified, in advance, in the Acquisition agreement and may involve the participation of the Artist and/or a contracted professional installer.

For Public Art that is Borrowed by the Town, the installation process will be identified, in advance, through the written loan agreement and may involve the participation of the owner of the Borrowed Artistic Work, the Artist and/or a contracted professional installer.

The condition of all Artistic Works that are Acquired or Borrowed by the Town will be documented upon receipt and any defects, deficiencies or problems identified will be referred to the Artist or the owner of the Artistic Work, as the case may be, for resolution, prior to installation.

4.8. Insurance

All Public Art that is Acquired by the Town is the property of the Town and will be insured under the policies of commercial general liability and property insurance obtained and maintained by the Town.

All Public Art that is Borrowed by the Town will be insured under the policies of commercial general liability and property insurance obtained and maintained by the Town for the period in which the Artistic Work is Borrowed as set out in the written loan agreement.

4.9. Maintenance

The Artist is responsible for developing a maintenance plan for each Artistic Work to be Acquired by the Town, which must be included in the Artist's submission in response to the RFP.

Maintenance plans must include maintenance specifications, budget implications, manufacturer lists, key contacts including the Artist, and any other matters pertinent to maintenance of the Artistic Work. As the complexity of maintenance plans may vary based on the size, nature and material of the associated Artistic Work, the Public Works Department must review and approve the maintenance plan prior to acceptance of the Artist's proposal.

The Town is responsible for the care and maintenance of Public Art in accordance with the approved maintenance plan for each Artistic Work. The Recreation,



Culture and Wellness Department and the Public Works Department will implement and monitor the maintenance plan. The Town will undertake routine inspections of Public Art in accordance with a pre-determined schedule and may, if deemed necessary, retain a qualified art restorer to undertake any or all such inspections.

4.10. Removal of Public Art

The Town may remove Public Art, when necessary, in consultation with the Pelham Cultural Advisory Committee. Prior to removal, all reasonable efforts will be made to resolve problems or re-site the Public Art, in consultation with the Artist(s) and/or Donor(s) where appropriate.

Reasons for removal include, but are not limited to:

- i. Endangerment of public safety;
- ii. Unanticipated or excessive repair or maintenance requirements;
- iii. Irreparable damage;
- iv. Inaccessibility of the Public Space where the Public Art is located; and/or
- v. Redevelopment of the Public Space where the Public Art is located.

In the event of theft, vandalism or accidental loss of an Artistic Work that is Public Art, the Town may determine whether repair, replacement or removal of the Artistic Work is appropriate.

Where Public Art is removed in accordance with this policy, the Town has sole authority to determine if the removed Artistic Work will be relocated to another Public Space, returned to the Artist, or destroyed. Alternatively, the Town may, in consultation with the Artist(s) and subject to the rights of the Artist(s) described in section 4.6 and appropriate compensation to the Artist(s), consider if the Artistic Work is suitable for resale or donation by the Town. In the event that an Artist is deceased, the Town will consult with the Estate of the Artist in relation to a proposed resale or donation of the Artistic Work by the Town. Dispositions of Public Art by resale or donation are also subject to Town of Pelham Policy No. S400-10.

5. Attachments

None.