

**ADMINISTRATIVE ORDER NUMBER 2020-001-OP  
RESPECTING PUBLIC ART**

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**ADMINISTRATIVE ORDER NUMBER 2020-001-OP  
RESPECTING PUBLIC ART**

**WHEREAS** the Municipality values the inclusion of art in its public spaces;

**AND WHEREAS** the Municipality wishes to encourage private developments to include art for the enjoyment of the public;

**AND WHEREAS** the *Halifax Regional Municipality Charter, S.N.S.1998, c. 39*, as amended, permits the Council to adopt policies on any matter that Council considers conducive to the effective management of the Municipality;

**BE IT RESOLVED AS AN ADMINISTRATIVE ORDER** of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, as follows:

**Short Title**

1. This Administrative Order may be cited as the *Public Art Policy*.

**Purposes**

2. The purposes of this Administrative Order are to provide a framework for the Municipality to:

(a) commission works of public art that showcase and celebrate the work of professional artists and designers;

(b) engage the expertise of the Municipality's arts and cultural sector to inform the acquisition of public art possessing high formal and aesthetic quality, conceptual weight and a compelling relationship to the surrounding landscape with the intention of enhancing, enlivening, and enriching public spaces and public experiences;

(c) inform, educate, and engage the diverse publics and communities of the Municipality through the ongoing development and management of a public art collection that reflects and embraces diversity, is connected to and appreciated by its audience, and that fosters critical thinking and debate among residents and visitors;

(d) invest in the long-term care, stewardship, and maintenance of its public art collection;

(e) advance a focused public art agenda and mission through the development of sustained investment, integrated planning, best practices, collaborations, and partnerships; and

(f) set out the deed of gift processes for community led donations of public art and cultural assets.

**Interpretation**

3. In this Administrative Order,

(a) "CAO" means the Chief Administrative Officer of the Municipality, or their designate;

(b) “community art” means an art form rooted in a community setting and characterized by interaction or dialogue with the community, involving an artist facilitator who works with participants throughout the process to create public art that is exhibited, installed, or performed for the community;

(c) “Council” means the Council of the Municipality;

(d) “cultural asset” means a tangible object that was not created by a professional artist, and in the opinion of the Municipality, has an enduring historical, cultural, or other value;

(e) “deaccession” means the process of permanently removing public art or a cultural asset from the public art collection;

(f) “Director” means the director assigned by the CAO to the department with responsibility for the Public Art Policy, and includes their designate;

(g) “incentive or bonus zoning” means requirements that permit the relaxation of certain requirements if one exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;

(h) “Municipality” means the Halifax Regional Municipality;

(i) “municipally-owned public spaces” includes a property owned, leased, or licensed by the Municipality and open to the public, such as:

(i) parks, boulevards, plazas, pathways, prominent civic gateways and intersections, streets, sidewalks, transportation hubs, bridges, columns, road surfaces and edges, or

(ii) facilities and structures, including exteriors and interiors of municipally-owned buildings such as community and recreation centres, ferry and bus terminals, and public amenity spaces therein;

(j) “non-municipally-owned public spaces” means interior or exterior spaces that are not owned by the Municipality, but are generally accessible, whether physically or visually, to members of the public free of charge;

(k) “peer review panel” means the evaluation, scoring, and ranking of eligible applications by a committee composed of a diverse range of artists and art professionals;

(l) “permanent public art” means any original public art which is situated at a location for longer than one year and for which there is an intention to maintain on an ongoing basis;

(m) “*Procurement Policy*” means Administrative Order 2020-004-ADM, as amended from time to time;

(n) “professional artist” means an artist who:

(i) has proven, specialized training in the artistic field,

(ii) is recognized as a professional by their peers who are working in the same artistic tradition, and

(iii) has a history of public presentation or publication;

(o) “public art” means a permanent or temporary work of art created by a professional artist in any medium, material, media or any combination thereof;

(p) “public realm” means municipally-owned public space and non-municipally-owned public spaces;

(q) “staff” means the employees of the Municipality given the responsibility for administering this Administrative Order by the Director; and

(r) “temporary public art” means any original public art which is commissioned or otherwise acquired under the understanding that the work be situated at a location for a period of one year or less.

#### **Application**

4. Subject to subsection 5(3) of this Administrative Order, “public art” excludes the following:

(a) interpretive, wayfinding, or other functional signage;

(b) branding or promotional projects, including corporate insignia;

(c) plaques, and supporting infrastructure;

(d) stock and mass-produced items that are not planned and executed by a professional artist, including street furnishings, playground infrastructure, and serials and editions;

(e) memorials, if:

(i) the memorial commemorates a single individual not previously approved through the Municipality’s Commemorative Asset Naming Program,

(ii) the memorial has not been designed and created by a professional artist through an acceptable acquisition mechanism as outlined herein, or

(iii) the primary component or element of design involves: benches, picnic tables, playgrounds or other park infrastructure, trees, shrubs or other ornamental landscape elements;

(f) landscape design or landscape gardens, or any garden features including fountains, garden furnishings or other infrastructure, unless those features:

(i) have been conceived of by a professional artist independently or in collaboration with other design professionals, and

(ii) are an integral component of an artwork; or

(g) community art, including the Placemaking Program of the Municipality, where the form and content of the art is community-generated and executed.

5. (1) Nothing in this Administrative Order requires Council to:

- (a) include or erect public art for a particular project or facility; or
- (b) accept public art.

(2) Nothing in this Administrative Order prevents Council from accepting public art donated:

- (a) without the donor assuming all the costs associated with the donation;
- (b) by a third party without a cash contribution;
- (c) by a third party with a cash contribution less than the amount required by section

30.

(3) Nothing in this Administrative Order prevents Council from accepting public art excluded under clauses 4(c), (d), (e), or (f).

6. (1) Any public art under this Administrative Order must be sited or staged in the public realm and accessible to everyone.

(2) Temporary public art may be situated for a period beyond one year, at the discretion of the Director.

(3) The Director may declare temporary public art to be permanent public art, providing the temporary public art has been situated for more than one year and where such declaration is made the provisions for public donation apply.

7. (1) Council delegates to the CAO, the authority to:

- (a) make, approve, and enter into agreements under this Administrative Order, and any amendments to such agreements on behalf of the Municipality;
- (b) agree to assignments of agreements this Administrative Order on behalf of the Municipality; and
- (c) appoint a peer review committee under section 9.

(2) The CAO may delegate any or all of the authorities under subsection 1 of this section to the Director.

#### **Public Art Purchases Generally**

8. (1) Subject to subsection (2) of this section, the Municipality may purchase public art for municipally-owned public spaces by:

- (a) a public commission purchase;
- (b) a direct selection purchase; or
- (c) a collaborative model purchase.

(2) The preferred mechanism to acquire public art is through the public commission of art in accordance with the *Procurement Policy*.

#### **Public Commission Purchase**

9. (1) The Municipality:

(a) must establish peer review panels to review proposals and make recommendations when the Municipality undertakes a public commission purchase of public art; and

(b) may establish peer review panels for any other form of public art that is purchased or acquired by the Municipality.

(2) If a peer review panel is established, the recommendations of the peer review panel will form the basis of the staff recommendation to Council on all public art awards.

(3) The peer review committee may be appointed by the CAO.

#### **Direct Selection Purchase**

10. Staff may identify circumstances in which the Municipality may purchase works of art through a direct selection purchase with an artist provided it is in compliance with the *Procurement Policy*.

#### **Collaborative Model Purchase**

11. Staff may identify circumstances in which the Municipality may purchase works of public art through a collaboration with not-for profit arts and cultural organizations, and institutional or governmental agencies under the terms and conditions of this Administrative Order and in compliance with the *Procurement Policy*.

#### **Acquisitions of Public Art Require Agreement**

12. Acquisitions of public art by the Municipality through a public commission purchase, a collaborative model purchase, or a direct selection purchase, will require a written agreement with the commissioned artist or body corporate outlining the roles, responsibilities, and rights of all parties, including ownership, stewardship, and moral rights considerations, artist acknowledgement, and acceptable use provisions as well as ongoing maintenance expectations.

#### **Deed of Gift and Temporary Public Art**

13. (1) Subject to subsection 2 of this section, the Municipality may consider proposals for the installation of public art that is not owned by the Municipality but located on municipally-owned public spaces, providing the public art

- (a) will be donated to the Municipality; or



(b) is temporary public art.

(2) The Municipality may consider proposals for the installation of those items of public art excluded under clauses 4 (c), (d), (e), or (f), providing such item:

(a) was not created by a professional artist;

(b) is not currently owned by the Municipality;

(c) is located, or is intended to be located, on municipally-owned public spaces; and

(d) will be either donated to the Municipality, or is temporary public art.

#### **Private Donations**

14. (1) Prospective donors of any public art and cultural asset shall make an application to the Municipality.

(2) Applications for donations to the Municipality will be reviewed, from time to time, by staff for recommendation to Council.

15. (1) A review team will be established to review the applications for donations.

(2) The review team will be comprised of those members of staff selected by the Director to be on the team.

16. (1) Subject to subsection 2 of this section, any donation of public art or cultural asset may only be forwarded to Council for consideration if, in the opinion of the review team:

(a) the donation is the unique work of a professional artist;

(b) the donation exemplifies excellence in artistry, design, and construction;

(c) the donation embodies a form of cultural expression of value to the public art collection, or exhibits relevance to the Municipality and its communities;

(d) the donation has been found to be in a state of good repair, constructed of durable materials, and the costs of maintaining the donation is reasonable;

(e) there is a suitable municipally-owned public space to site the donation and the Municipality has sufficient resources to maintain the donation;

(f) the donor has clear legal title to the proposed donated public art; and

(g) the donation complies with subsection 3 of this section.

(2) Any donation that is excluded under clause 4(c)(d)(e), or (f) that was not created by a professional artist, may only be forwarded to Council for consideration if, in the opinion of the review team:

- (a) the donation exhibits relevance to the Municipality and its communities;
- (b) there is a suitable municipally-owned public space to site the donation and the Municipality has sufficient resources to maintain the donation;
- (c) the donation has been found to be in a state of good repair, constructed of durable materials, and the costs of maintaining the donation is reasonable;
- (d) the donor has clear legal title to the proposed donated asset; and
- (e) the donation complies with subsection 3 of this section.

(3) The acceptance of a donation of any public art by the Municipality shall be subject to the following conditions

- (a) if the donation is for new public art, the donor assumes all costs associated with the donation, including design, public consultation, production, siting, and installation of the art;
- (b) if the donation is existing public art, the donor provides a recent appraisal of the art;
- (c) proof the donor has a commitment for full funding for the project;
- (d) the Municipality has sole and final authority to determine the location and siting of the proposed public art;
- (e) the Municipality has sole and final authority to remove the public art;
- (f) the donor provides a maintenance manual;
- (g) if the donor owns the public art and it is required by the Director, maintenance funds in the amount determined by the Director;
- (h) if the donor is a third party and section 30 applies, section 30 is satisfied;
- (i) if maintenance funds are required by the Director or section 30 applies, the full amount of the funds are paid prior to acceptance into the Municipality's collection; and
- (j) the donor does not impose any conditions on the Municipality associated with the donation.

(4) The acceptance of a donation of a cultural asset by the Municipality shall be subject to the following conditions,

- (a) proof the donor has a commitment for full funding for the project;
- (b) the Municipality has sole and final authority to determine the location and siting of the proposed cultural asset;
- (c) the Municipality has sole and final authority to remove the cultural asset;
- (d) the donor provides a maintenance manual;
- (e) if the donor owns the cultural asset and it is required by the Director, maintenance funds in the amount determined by the Director;
- (f) if the donor is a third party and section 30 applies, section 30 is satisfied;
- (g) if maintenance funds are required by the Director or section 30 applies, the full amount of the funds are paid prior to acceptance into the Municipality's collection; and
- (h) the donor does not impose any conditions on the Municipality associated with the donation.

(5) Donations of any public art or cultural asset approved by Council will be structured under a deed of gift transferring title and ownership to the Municipality.

#### **Temporary Public Art**

17. (1) Third parties wishing to install temporary public art in accordance with this section shall make an application to the Municipality.

(2) Applications by third parties will be assessed under any requirements that were developed under section 25, as well as any other relevant municipal regulation, standards, and processes.

(3) Subject to subsection 6 of this section, the Municipality may consider requests from third parties to install temporary public art on Municipally-owned public space if:

- (a) the proposed public art remains under the ownership of the artist or community group that initiated the project and will not become part of the Municipality's Public Art Collection;
- (b) the applicant agrees to be responsible for all costs associated with insurance, maintenance, and de-installation of the public art, and any associated site repair;
- (c) the applicant identifies sufficient funding sources for the installation; and

(d) the applicant agrees the public art that will be temporarily installed on a municipally-owned public space is not owned by the Municipality.

(4) The Director may require the third party to undertake engagement with the community and may specify the manner of the engagement.

(5) If the Director requires engagement, the proposal shall not proceed until the engagement is undertaken to the satisfaction of the Director, and the results of the engagement are provided to the Director.

(6) Successful applicants may be required enter into a formal agreement with the Municipality outlining the terms and conditions under which the installation will be permitted on Municipal property and shall acquire any necessary permits for the installation.

(7) This section does not apply to temporary public art installations as part of an event that is subject to Administrative Order Number 2014-010-ADM, *The Special Events Administrative Order*.

#### **Funding for Municipal Public Art Generally**

18. (1) The Municipality may provide investment for public art acquisition, creation, and maintenance through:

- (a) the Council approved budget; and
- (b) the ongoing funding through a reserve of the Municipality.

(2) The Municipality may establish an operating budget for public art initiatives, signage, and interpretation, and ongoing marketing and promotion of its public art collection during its annual business planning process.

#### **Funding for Municipal Public Art on Facilities**

19. (1) This section applies to municipally-owned public spaces that is a facility or structure.

(2) The Municipality may include public art as a component of new construction or major renovation projects that are located on municipally-owned public spaces, for the following:

- (a) community centres;
- (b) recreational, cultural and sports facilities;
- (c) transit terminals;
- (d) libraries; and
- (e) any other municipal facility recommended by staff and approved by Council for the inclusion of public art.

(3) When incorporating public art as a component of new construction and major renovation projects as outlined in subsection (2) of this section, staff must allocate no less than one percent (1%) of the total construction costs of the project to public art, and this amount shall be included in the overall budget for the project.

(4) Public art that is a component under subsection (2) of this section must be sited on the facility grounds.

#### **Funding for Municipal Public Art on Streetscapes**

20. (1) In accordance with subsection (3) of this section, the Municipality may fund public art in municipally-owned public spaces that are municipal streetscape development projects, major park development and park recapitalization projects, and other major infrastructure projects.

(2) In determining whether to fund Public Art under subsection (1) of this section, Council may consider the amount of public open space and the public impact of the public art.

(3) When incorporating public art as outlined in subsection (1) of this section, staff must allocate not less than one percent (1%) of the total construction costs of the project toward the provision of public art, to be included as a one-time allocation from the overall capital project budget for the project.

21. Council may consider applying funds from an applicable reserve to supplement the one percent (1%) public art allocation from project budgets for smaller capital projects to achieve significant public art at strategically important locations.

#### **Integration of Public Art: Site Evaluation and Prioritization**

22. (1) Subject to subsection (2) of this section, the Municipality will ensure public commission purchases and direct selection purchases are accessible, planned, executed, and sited or staged in the public realm.

(2) The Municipality may facilitate public art in non-municipally-owned public spaces through:

(a) an agreement in accordance with section 12; or

(b) in accordance with clause 70(1)(b) of the *Halifax Regional Municipality Charter*.

23. The Municipality will give priority to siting and staging public art at the following locations:

(a) Halifax, Dartmouth, and Bedford waterfront areas;

(b) Regional Parks, and District Parks;

(c) streetscaping projects;

(d) community facilities;

(e) areas identified through municipal planning strategies, community visioning process(es) and future land use studies; and

(f) other areas of opportunity that may be identified by Council.

24. No new permanent public art will be approved for any municipally-owned public spaces until:

(a) a site plan has been completed for the municipally-owned public spaces;

(b) where a masterplan exists for a park, the proposed public art is, in the opinion of staff, consistent with the masterplan; and

(c) a technical review of the proposed site has been completed, and the results reviewed by staff designated by the Director.

#### **Administration**

25. The Director may develop:

(a) public art procedures to support the administration of this Administrative Order; and

(b) requirements for the temporary installation of public art on municipal-owned public space.

#### **Promotion**

26. The Municipality may promote awareness of and engagement with public art through an awareness program that will include promotion of new acquisitions and major restoration projects, public education, programs and public art festivals, and events.

27. The Municipality may engage institutional and not-for-profit organizations within the arts and cultural sector to develop and deliver the awareness program.

#### **Maintenance**

28. Council may consider allocating funds from the Community Events Reserve, or such applicable reserve, for the maintenance, care, and conservation of the Municipality's public art collection.

29. The Municipality will maintain a current database of its public art and cultural asset to inform its collection management, and the database will include a list of the public art:

(a) that is owned by the Municipality before the coming in force of this Administrative Order;

(b) commissioned or acquired by the Municipality under this Administrative Order; or

(c) public art that has been installed as a form of public benefit from incentive or bonus zoning.

30. The Municipality may determine that a donation of public art or cultural asset include a cash contribution to support the ongoing maintenance of the public art, and if such a determination is made, the contribution shall be in the following amounts:

(a) in the case of public art already sited on municipally-owned public spaces for which the Municipality has agreed to accept ownership, no less than ten percent (10%) of the estimated current value of the art; or

(b) in all other cases, to be no less than ten percent (10%) of the construction budget for the public art.

31. The Municipality will oversee the maintenance, conservation, and restoration of public art on municipally-owned public spaces pursuant to HRM Public Art Procedures.

32. The Municipality will remove all municipally-commissioned temporary public art installations pursuant to the HRM Public Art Procedures.

### **Deaccessioning**

33. Council may consider the deaccessioning of permanent public art or a cultural asset that Council considers is no longer required for, or relevant to, the Municipality's public art collection, and such considerations may include:

(a) substantive alterations to the site of the public art or cultural asset has resulted in the public art or cultural asset being negatively impacted, including physically or contextually altering or diminishing the public art or cultural asset;

(b) whether the extent of material or technical degradation of the public art or cultural asset makes repair unreasonable or impractical, or makes the public art or cultural asset unsightly or a concern for public safety; or

(c) that exceptional or unforeseen circumstances have arisen which supported removing the public art or cultural asset from its site, and no other suitable site could be found.

34. In considering the deaccession of permanent public art or a cultural asset in accordance with section 33, Council shall consider the following:

(a) the reasons for the suggested deaccessioning;

(b) the opinion of Legal Services;

(c) the method by which the public art or cultural asset was originally acquired and its original cost;

(d) if the acquisition was \$5,000 or less, an informal estimate of the current value of the work;

(e) if the acquisition cost exceeded \$5,000, at least one expert appraisal of the current value of the public art or cultural asset;

(f) the cost of deaccessioning or removal of the public art;

(g) any documented public response to the public art;

(h) a report on the condition of the public art or cultural asset from a professional conservator, engineer, or material specialist;

(i) a recommended disposal plan for the permanent removal from the public art collection;  
and

(j) any alternative course of action suggested by staff, including relocation.

35. Public art or cultural asset that is deaccessioned shall be disposed of in accordance the *Administrative Order Number 2020- 003-ADM, the Surplus Assets Policy*.

**Private Development**

36. If a land use by-law provides for incentive or bonus zoning and the Municipality is the recipient of money-in-lieu of a contribution for public art for incentive or bonus zoning, the funds received by the Municipality shall be used by the Municipality in accordance with this Administrative Order.

**Repeal**

37. The *Public Art Policy* adopted by Council on September 23, 2008 is hereby repealed.

Done and passed in Council this 1<sup>st</sup> day of September, A.D. 2020.

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Mayor Mike Savage

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Phoebe Rai, Acting Municipal Clerk

I, Phoebe Rai, Acting Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of the Halifax Regional Council held on September 1, 2020.

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Phoebe Rai, Acting Municipal Clerk



Notice of Motion:  
Approval:

August 18, 2020  
September 1, 2020