

Policy	Public Art – PRC-001
Approved By:	Council
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Amendment Date:	

## Introduction

The Oak Bay Official Community Plan (2014) addresses Arts and Culture through its objectives and priorities and specifically recommends the development of a Public Art Policy.

The District of Oak Bay has identified Arts and Culture as one of its strategic priorities and is committed to building the necessary internal capacity and providing appropriate financial resources and systems to facilitate the successful implementation of the policy.

## Section A: Vision, Purpose, Definitions & Principles

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### A1. Vision

Oak Bay’s Public Art Policy will:

- increase the livability and artistic richness of the municipality by making art a permanent part of our environment and a legacy for future generations.
- provide opportunities for the public to increase their awareness, appreciation, knowledge and education of Public Art.
- develop a sense of place, community pride and identity through the creation of new works.
- integrate art and provide opportunities for artists to display, perform and share their art in a variety of public settings.
- enhance the attractiveness of the municipality and promote cultural tourism and the associated economic impact.
- provide inclusive and accessible opportunities for all local and regional artists at all levels and career stages to create and display their work publicly.

### A.2 Purpose

The purpose of the Public Art Policy is to encourage, promote and/or enhance opportunities for a wide variety of art forms by communicating how the District will provide the cultural leadership to promote the creation and inclusion of works of art in its public buildings and public spaces.

Specifically, the Public Art Policy serves as a basis for the acquisition, installation, maintenance, display, and programming of Public Art for the Municipality of Oak Bay. The policy will apply to all visual art under the stewardship of the Municipality including all temporary and permanent visual Public Art works.

### A3. Definitions

#### *Public Art*

The Public Art Policy considers “Public Art” to be an original artwork selected, commissioned, created or donated for location in the public domain, and created by an artist.

Public Art may include, but is not limited to:

- Sculptures, murals, and mosaics
- Painting and photography
- Memorials, monuments or artefacts
- Cultural art
- Fountains or water features that contribute aesthetically to their surroundings
- Installations of sound and light works
- Interactive installations such as community participation projects and/or interactive performances
- Hard and soft landscaping components, which are not a mere extension of the landscape architecture
- Special engineering or architectural features of existing capital projects that contribute aesthetically to their surroundings (e.g. site specific paving, street furnishings etc.)
- Community Public Art related to neighbourhood beautification
- Artworks presented for possible donation by a private citizen or group
- Functional art which has a functional component (example a bench, bike-rack, gateway, or windscreen)
- Temporary art created for a specific occasion, time frame or event
- Performing arts events and activities
- Literary art works and/or events

#### *Artist*

An artist is defined as “any person, who by virtue of professional training, exhibition history and/or critical review is recognized as skilled in making works of art.” (UNESCO)

Canada Council for the Arts defines a professional artist as a person who:

- has specialized training in the artistic field (not necessarily in academic institutions)
- is recognized as a professional by his or her peers (artists working in the same artistic tradition)
- is committed to devoting more time to artistic activity, if possible financially
- has a history of public presentation or publication.

### *Public Buildings and Public Spaces*

Public buildings and spaces refers to all lands, facilities, buildings, boulevards, pathways, trails, parks and any other location owned by and/or under the control of the District of Oak Bay, with the exception of ecologically and/or environmentally sensitive areas as defined by the District's Parks Department.

### *Parks, Recreation and Culture Advisory Committee (PRCAC)*

The Parks, Recreation and Culture Advisory Committee is a select committee of Council established under Section 142 of the Community Charter. The mandate of the (PRCAC) is to provide a community perspective and advice to Council on Parks, Recreation and Culture matters in Oak Bay as per the (PRCAC)'s assigned duties, with an emphasis on inclusivity and creating healthy, active living opportunities for residents of all ages, abilities, and backgrounds.

### *Community Arts Volunteer Team*

The Community Arts Volunteer Team was initiated by Council in 2022 with the intent of engaging volunteers of all ages in public arts and culture programs in the municipality.

The Community Arts Volunteer Team supports activities, initiatives and events that benefit and advance participation the arts in the Municipality of Oak Bay.

#### Roles:

- *Arts Events Volunteers* – Assist with Exhibitions, Performances, Workshops, Walks/Tours, Lectures and Special Events occurring throughout the year in Municipality of Oak Bay
- *Arts Exhibition Jury Volunteers* – curate exhibition selection and advise on acquisition of public art for the Municipality of Oak Bay

## A.4 Statement of Principles

The Public Art Policy shall:

- respond to the natural, social and built environment of Oak Bay.
- ensure artistic excellence.
- include processes which are inclusive, accessible and transparent to the public.
- support innovation, diversity and equity.
- ensure that once a work is installed on public space, the public shall have free and unobstructed access to the Public Art installation.
- ensure that the implementation and deaccession processes follows established guidelines and procedures.

## **Section B: Governance**

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### **B.1 Public Art Administration and Program Development**

The Public Art Program will provide a cohesive plan under which all Public Art in the District is requested (i.e. “called for,”), assessed, developed and procured. The program will be consistent with, have regard for, and support the District’s strategic directions and related strategies. The program will select works in an equitable manner and will uphold the following principles in its operation:

#### *Collaborative Approach*

The implementation of the Public Art Program will be a joint effort between the Parks, Recreation, and Culture staff and volunteer teams and the (PRCAC).

Recommendations arising from this program shall be brought to the (PRCAC) and/or Director or Parks, Recreation and Culture as recommended/required by Council for approval.

#### *Community Representation*

The Public Art Program will give representation to artists and the community, with regard to the selection of Public Art. This representation will be reflected in The Community Arts Volunteer Team - Arts Exhibition Jury Volunteers. Secondly, public engagement opportunities will be provided in conjunction with programs, events and the acquisition of permanent art works as and when appropriate.

#### *Program Sustainability*

The Public Art Program will be funded annually by the District of Oak Bay to an appropriate level as approved by Municipal Council to secure long term sustainability. The Public Art Fund will provide a vehicle for community donations towards public art. When available and appropriate staff will pursue provincial and federal grants.

## **Section C: Municipal Funding Mechanisms for Public Art Policy**

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### **C.1 Establishment of a Public Art Reserve Fund**

The District of Oak Bay, through the annual budget process, will allocate a total of \$20,000 annually for capital and maintenance of Public Art to the Public Art Reserve Fund. Ten percent (10%) of the annual

contribution (\$2,000) will be committed to maintenance of existing works; the balance (\$18,000) will be used for the purchase, planning, design, and fabrication/installation of Public Art.

#### *Percent for Art in Municipally Owned Buildings*

The Municipality of Oak Bay will allocate one percent (1%) of the budget for municipal building construction/renovation projects in excess of Two Hundred and Fifty Thousand Dollars (\$250,000), towards the purchase or commission of Public Art to be displayed in public areas, and/or may incorporate artists' designs or concepts into the design of the building or structure.

In the future, Council may consider a *percent for Art for private construction projects* as part of the development of a District Community Amenity By-law.

## **Section D: Guidelines**

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### D: 1 Roles and Responsibilities

#### *Municipal Council*

Council must approve the Public Art Policy and any changes to the Public Art Policy, as needed.

Council must consider recommendations from the (PRCAC) for the purchase, acquisition and location of permanent public art in the District.

#### *Municipal Departments*

A Public Art inter-departmental staff team shall assist in the identification and review of Public Art sites and opportunities as part of the annual allocation of the Public Art Fund. This team is comprised of representatives from municipal departments: Parks, Recreation, and Culture, Engineering, Public Works, and Planning. The Manager of Recreation Program Services, or designate, will chair the team, and coordinate programming staff.

The Public Art inter-departmental staff team will:

- determine and review sites for Public Art installations
- assess risk management issues (re: safety and maintenance) of proposed arts-based projects
- identify Public Art opportunities in conjunction with upcoming municipal projects throughout the year.
- consider District policies and planning documents when evaluating art projects and proposals.

### *The Community Arts Volunteer Team*

The Community Arts Volunteer Team - Arts Exhibition Jury Volunteers shall be comprised of five to seven community members. It will be composed of people knowledgeable in the visual arts, community planning and design and/or in development, procurement and installation of Public Art. We encourage applicants of all abilities, gender identities and expressions, sexual orientations, racialized identities and/or other lived experiences that reflect the diversity of the capital region.

*Arts Exhibition Jury Volunteers* will be drawn from the following backgrounds:

- Art Professional (curatorial and/or gallery experience, conservation background, art historian)
- Landscape Architect, Architect, Design Professional or Civil Engineer
- Visual artist
- Youth active in the arts
- The Arts Laureate
- Arts and Culture Programmer (impartial lead)

The Community Arts Volunteer Team is charged with the following functions:

- Provide advice and act as a resource;
- Develop calls for artist proposals and jury artwork for display and acquisition;
- Advise and consult on specific issues, such as proposed gifts, donations, bequests, de-accessions and loans of artworks to the Municipal collection;
- Assist with arts programs, performances and events.

The Manager of Parks, Recreation and Culture is charged with the following functions:

- Follow the goals and vision of the community plan;
- Develop an annual arts & culture workplan and budget;
- Prepare art selection for evaluation and review by the Public Art Inter-departmental Staff Team;
- Develop recommendations for the acquisition/inclusion of permanent art to be brought to the (PRCAC) annually for review;
- Oversee the Community Arts Volunteer Team.

## **Section E: Project Recommendation**

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### E: 1 Project Recommendation

The Inter-departmental Staff Team will review the selection(s) made by the Community Arts Volunteer Team to determine the best method of artwork procurement and evaluate the artwork in terms of risk management using the following project parameters before any recommendation for approval:

- Location/site selection for the installation
- Safety and maintenance
- Type of artwork being installed
- Process by which the artwork will be procured

- Funding source for the project
- Ecological and environmental sensitivity of the proposed location
- Consultation with Indigenous Knowledge Keepers on culturally sensitive sites and projects
- Consultation with Accessibility Groups on locations and placement of appropriate art works for those locations.

## **Section F: Project Procurement**

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### F: 1 Implementation of Public Art

The Inter-departmental staff team will oversee the implementation of the Public Art on municipally owned public space. Implementation will include overseeing processes, site planning, and installation of acquired Public Art.

Parks, Recreation and Culture staff will confirm the budget as part of the annual budget process. The Inter-departmental Staff Team will determine locations as part of the annual funding approval. Parks, Recreation and Culture and Public Works will provide the administration and project management for civic projects.

### F: 2 Ownership of Public Art

The District of Oak Bay solely owns all Public Art works acquired through the Public Art Program. The District will respect the artist's right of authorship and the integrity of Public Art.

For temporary installations, all artists will be required to sign an Art Display Agreement.

For performances, all artists will be required to obtain the appropriate permits, business licenses and/or to sign an Agreement with the District.

### F:3 Care and Maintenance - Permanent and Temporary Exhibition

The District of Oak Bay shall preserve the integrity and security of Public Art through collection management systems, standards and procedures that include:

- Maintenance Reserve Fund.
- Cleaning and general maintenance of the art based on information from the artist.

- Repair to a damaged work shall involve input from the artist or arts conservator as to the best way to proceed.
- Evaluation of the costs of repairs for a work and the likelihood of positive results.

## **Section G: Gifts and donations**

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### G:1 Gifts and Donations of Cultural Properties to the District

The Municipality of Oak Bay may consider the offer of donations and gifts of artwork for inclusion in the Permanent Public Art Collection.

Upon consideration of gifts of artwork, council may direct the Inter-departmental Staff Team with the assistance of the Community Arts Volunteer Team to evaluate the proposed artwork donation using established criteria that considers artistic merit, site suitability, significance of the subject, cultural relevance, municipal liability, security, and maintenance.

Consideration of a proposal to gift an artwork shall be made on the understanding that no civic funds shall be required for production or installation of the artwork, except when the municipality itself decides to act as a sponsor or co-sponsor. Cost of installation shall be determined by the Inter- departmental Staff Team.

Donors shall be obliged to provide funds of 10 per cent of the value of the artwork with the municipality for maintenance and repair in the Public Art Fund.

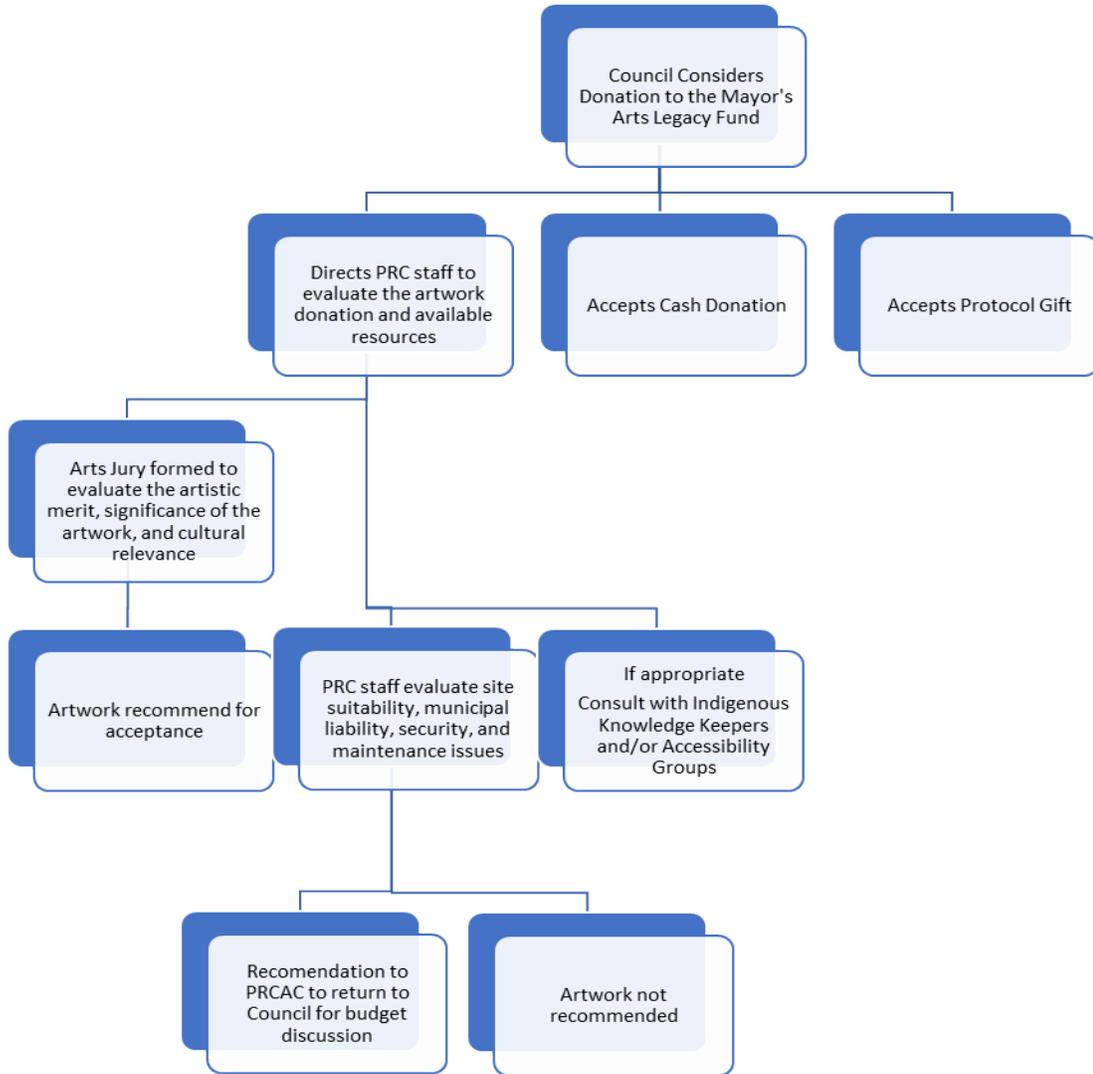
The municipality must be satisfied that the appraised amount is an accurate determination of the fair market value of the artwork. As such, an appraisal of the artwork must be conducted by an independent, qualified arts professional and submitted to the municipality. Donors shall be obliged to provide an independent appraisal.

Once Council has elected to accept artwork into the Permanent Public Art Collection, all sections of this policy would apply.

Protocol gifts shall be vetted through the Inter-departmental Staff Team for public display. The Inter-departmental Staff Team will determine placement and appropriateness of the site. Knowledge Keepers, Accessibility Groups will be consulted as appropriate.

Public notification of a proposed gift or donation shall occur via Oak Bay Parks, Recreation and Culture's website and the Council meeting minutes, once the above conditions are met and a recommendation for permanent display location placement is proposed. Public comments and feedback may be considered in the development of the recommendations for acceptance, location and installation.

Diagram 1: Flow Chart Representation of the Process for Donations of Art Work to the District.



## Section H: De-accession of Public Art

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The District of Oak Bay has the right and responsibility to deaccession Public Art. The District of Oak Bay recognizes that the deaccession of an artwork must be handled with great care, as apprehension that public art might be disposed of to pay expenses or concede to current artistic trends which could discourage potential donors or artists. The District of Oak Bay recognizes that the rights of the artist must be upheld in accordance with the Canadian Copyright Act. The District of Oak Bay reserves the right to take the immediate and appropriate action to protect public health and safety if the Artwork is a cause of imminent danger due to extreme damage, winds, fire, flood or collision.

Reasons for consideration of deaccession of public art include:

- Endangerment of public safety or security.
- Excessive repairs or maintenance.
- Public accessibility is no longer available.
- Demolition of a structure incorporating Public Art or redevelopment/revitalization of site incorporating Public Art.
- Request of artist or their estate.
- It is determined that the work lacks significant aesthetic, historical and/or cultural value.

Criteria for a review for the removal, relocation or deaccession of Artworks:

1. That the Artwork is considered beyond repair or that maintenance and conservation work will undermine the integrity of the Artwork or that the cost of such work is considered excessive.
2. That the Artwork has serious or dangerous faults in design, workmanship or material composition that cause it to be a danger to public health and safety.
3. That the Artwork is so deteriorated that restoration would prove unfeasible or misleading.
4. That the Artwork's condition requires restoration in excess of its aesthetic value, and/or restoration exceeds reserve budget in the Public Art Reserve Fund.
5. That the current location of the Artwork is no longer suitable or available, that another site compromises the integrity of the Artwork or requires incurring excessive expense or that another site is unavailable.
6. That the District cannot properly store the Artwork.
7. That the terms of the acquisition/commissioning agreement can no longer be met.
8. That the acquisition/commissioning agreement has a clause for decommissioning of the Artwork after a defined period of time.
9. That Council and the artist/estate agree to have the Artwork decommissioned.
10. There has been significant and documented adverse reaction to the Artwork from the public over an extended period, normally a minimum of ten years from the date of acceptance of the Artwork into the Civic Art Collection.
11. That the Artwork has been unsolicited.

12. That the Artwork is fraudulent, not an authentic work, infringes on copyright or there is a valid challenge to title.
13. That the public Artwork has been stolen and formal removal from the Public Art Collection is required.

De-accession of Public Art will follow the established procedure outlined in Appendix A.

## **Appendix A: Detailed List of Steps in the De-accession of Public Art**

### **Initial Assessment**

The Director, Parks, Recreation and Cultural Services, in consultation with other expertise if required, will undertake an initial assessment. The initial assessment will include:

- How the request for deaccession matches the criteria
- Review of the contracts or legal agreements with artists, donors or lenders relating to the Artwork.
- Document the Artwork (both visual record and condition report)
- Examine the context of the commission/agreement including the artists' statement.
- Propose recommendation or action.
- Consider emergency measures to ensure public safety.

### **Further Assessment**

In the case where the Director, Parks, Recreation and Cultural Services, considers that the request for deaccession meets one or more of the criteria, will undertake a further assessment. A report will be prepared for PRCAC or Council which provides:

- Informal valuation of the Artwork
- Seek opinions of independent qualified professionals (conservators, engineers, architects, landscape architects, critics, art historians, safety experts, first nation band councils, knowledge keepers)
- Discussion with artist or heirs
- Discussion with the Inter-departmental Staff Team
- Legal issues and obligations
- Recommendation for repair, removal, decommission.
- Recommendation to forward the request for decommissioning to an arts jury.

The arts jury may recommend any of the following courses of action as a result of its decommissioning review. The jury shall not be limited to these suggested solutions, but may suggest new methods as may be demanded by any particular set of circumstances.

- Relocate the Artwork.
- Store the Artwork temporarily.
- Loan the Artwork to another civic collection or professional arts body.
- Give the artist, estate or donor first opportunity to retrieve the Artwork to be transacted by a specific date.
- Seek bona fide appraisal and advertise sale;

- Sell, auction or trade the Artwork;
- Dispose of the work through City surplus property procedures;
- Retain the Artwork.

Director, Parks, Recreation and Cultural Services reviews Arts Jury recommendations to include in report to the PRC Advisory Committee or Council.

### **Arts Jury**

An arts jury of no fewer than three and no more than seven persons must be comprised, having suitable expertise, including a majority of art professionals and at least one neighbourhood representative, if appropriate, to review the proposed deaccessioning.

### **Notifying Artists/Donors/Heirs:**

Once it is determined that a work is to be deaccessioned, the District will make all reasonable efforts to locate the donor or his/her heirs. The District will explain in writing its decision to deaccession the work.

The Artwork will be offered for return to the Artist or their estate.

### **Disposal:**

The following options for disposition of a deaccessioned Artwork, listed in order of preference:

- Return to the artist or art's estate.
- Return to the donor.
- Donation or trade to another municipal or charitable institution.
- Sale or auctioned, with preference given for sale at an advertised public auction or public marketplace that will best protect the interest, objectives and legal status of the collection (with proceeds returned to the District of Oak Bay Arts Program – acquisition or maintenance fund);
- Destruction/disposal; in accord with the Municipal Act

### **Changing Locations or Moving Art Works:**

In consultation with the Artist and with the Inter-Departmental Staff Team an artwork may be moved without de-accession in full. All efforts will be made to address any issues or concerns that may have predicated the need to re-locate a work of art. The procedure outlined for siting and locating works of art shall be followed in determining the relocation site.