



Regional Municipality of Durham

Policies & Procedures

Title: Public Art and Creative Placemaking Policy	
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1. Introduction

The Region of Durham's (the "Region") Public Art and Creative Placemaking Policy reflects our commitment to providing welcoming and inclusive experiences; promoting local artists and stories to enhance the Region's identity; reflecting the Region's values, diversity, and commitment to Indigenous reconciliation; being creative, engaging, and innovative; demonstrating collaboration and partnerships in the community; and creating joyful spaces for community connection.

2. Policy context

The Public Art and Creative Placemaking Policy connects to the Durham Region's Strategic Plan and Economic Development and Tourism Strategy and Action Plan.

3. Definitions

The following seven definitions should be used when reading this policy:

Copyright

Copyright is the exclusive right to produce or reproduce a work of art in any form. In accordance with the Canadian Copyright Act, copyright privileges will remain with the artist unless assigned or licensed by the artist to another party. Copyright in Canada is automatic upon creation of a work and usually lasts for the artist's lifetime plus fifty years.

De-accessioning

De-accessioning is the process by which a work of art is permanently removed from a collection.

Integrated art

Integrated art is permanent art built into the architecture of a property or landscape. For example, art that is built into the exterior of a building or structure (e.g., etched or stained glass, stamped concrete, sculpture built into the structure of the building). If the site were to be redeveloped, the art would be as well.

Intellectual property

Intellectual property (IP) is a creation of the mind. IP includes inventions, literary and artistic works, designs and symbols, and names and images used in business. There are five main types of intellectual property rights: patents, trademarks, copyrights, industrial designs, and trade secrets.

Moral rights

Moral rights are a legal concept that grant the author of a work the right to the integrity of the work, the right to be associated with the work as its author by name or pseudonym, and the right to remain anonymous. Moral rights protect a work from associations with unapproved causes or products and from unapproved alteration or distortion (including overprinting, cropping and changing the artwork).

Public art

Public art is work in any medium that has been produced by an artist, or in collaboration with artists, and installed in a publicly accessible space. It is created to reflect and engage the community and has undergone a formal selection process. Public art may have functional and esthetic qualities; it may be integrated into its site, or it may be a discrete piece; it can be participatory, and permanent or temporary. At its core, public art is free and accessible, encouraging community members of different abilities, backgrounds, and identities to engage.

Examples of art that are not subject to this policy:

- Plaques, memorials, and interpretative signs;
- Art objects which are mass-produced or of standard design;
- Easily movable artworks such as paintings, drawings, models and books; and
- Artwork inside Regional facilities unless they are publicly accessible and available at all times.

Regional property

Regional property is any property owned, leased, or operated by the Region on a temporary or permanent basis, including indoor and outdoor facilities, spaces, and assets.

4. Administration

Regional Council will be responsible for approving the establishment of the Public Art and Creative Placemaking Policy and Program.

The Chief Administrative Officer will approve amendments to the Public Art and Creative Placemaking Policy.

A Working Group will manage program administration and art selection process. The Working Group will strive to establish Art Selection Committees that include diverse

community members and art and design experts to advise and recommend proposals based on their informed and independent consideration of relevant factors.

Senior employees from Strategic Initiatives, Diversity, Equity and Inclusion, and the department responsible for the property where the installation will occur—in consultation with the Commissioner of Works—will verify that the proposal conforms with the identified selection criteria and site-specific considerations. Depending on the nature of any deficiency or non-conformity, the artist may be invited to make amendments, or the Art Selection Committee may be asked to recommend a new proposal.

The Working Group will prepare reports to keep Council informed of projects, and alternative funding to advance and enhance the Public Art and Creative Placemaking Program.

5. Acquisition and selection

5.1 Commissions and acquisitions

The process for commissioning and acquiring public art is based on principles of openness, equity and fairness. Public art may be acquired through a variety of methods depending on the site, project goal and individual or organization planning and implementing the project in alignment with the Region's Purchasing By-law. Honorariums may be issued to community members who participate in selection committees.

Consideration will be given to maintenance requirements of the artwork, including medium, structural and surface soundness; inherent resistance to theft, vandalism, and weathering; the cost of ongoing maintenance and anticipated repairs; and alignment with the advertised selection criteria.

5.2 Donations

Individuals or organizations may wish to make donations to the Region to support the Public Art and Creative Placemaking Program. Any donated moneys received will be allocated to Public Art and Creative Placemaking. Art donations should have a direct connection to Durham Region, Ontario or Canada and should be suitable for installation in a public space. The donor must provide sufficient detail such that an accurate assessment of local significance and relevance can be made. For example, information about the artwork, including any photographs of the artwork or illustrations; maintenance and conservation plan, including the condition of the work and any repairs needed; site and installation requirements of the artwork; installation and maintenance considerations (e.g., costs, transportation requirements, etc.); and proof of the donor's legal authority to donate the work.

The Region may request further information from the donor to allow for an accurate assessment, including an appraisal and an assessment of overall community support.

Proposed donations will be evaluated against selection criteria and reviewed by the Working Group with guidance from senior employees from Strategic Initiatives, Diversity, Equity and Inclusion, and the Commissioner of Works.

5.3 Site selection

The Region provides infrastructure for the delivery of public services within its mandate. This includes buildings and property, street features (e.g., roads, bridges, traffic signal boxes), transit shelters, stops and stations and other infrastructure. Through engagement with the community and area municipalities, priority locations have been identified. The Working Group will co-ordinate the selection of appropriate Regional Property for public art and placemaking projects. As all infrastructure is unique, projects will be located strategically to complement current and future development and improvement projects.

6. Collections management

6.1 Documentation and asset management

Regional employees will maintain an inventory, which will include artwork title, artist name, agreements, maintenance plan, location, photographs, conservation activities, and any other applicable documentation. Temporary public art will be included in the inventory; however, no maintenance program is required.

Records relating to the selection, acquisition, de-accession, maintenance and conservation of all public art and creative placemaking projects will be maintained according to the Region's Records Retention Schedule Policy.

6.2 Maintenance and conservation of permanent art

Work in the collection will be maintained and conserved by the Region as per the maintenance plan agreed to by the artist and the Region at the time of the acquisition.

a) Stand-alone art:

- The Working Group will be notified of vandalism or other maintenance needs.
- Costs for maintenance and conservation will be covered through the Public Art and Creative Placemaking Allocation.

b) Art integrated into a building or space:

- The relevant department will clean and maintain the artwork as per the artwork's maintenance plan. Maintenance is to be equal to the service level of the rest of the facility.
- The department may contact the Working Group with any questions regarding appropriate maintenance and cleaning procedures for the integrated art.
- Costs for regular maintenance (e.g., cleaning and graffiti removal) of the integrated art will be covered by the department responsible for the building/space.
- Costs for conservation (e.g., repairs due to deterioration of the work) of the integrated art will be covered through the Public Art and Creative Placemaking Allocation.

- Where a building/space that includes integrated art is undergoing renovations or redevelopment, the relevant department will alert the Working Group.

6.3 Maintenance plans

The Region is responsible for the maintenance and conservation of artwork in accordance with the approved agreement and maintenance plans for each unique piece at the time of acquisition.

All permanent public art submissions must include a detailed maintenance and/or conservation plan in their proposals. The plan should include but is not limited to:

- Maintenance dossiers
- Engineering or shop drawings
- Manufacturers' lists
- Original installation plan
- Key contacts including the artist
- Maintenance and/or conservation specifications
- Estimated budget

The Region may retain maintenance and conservation services by a third party if deemed appropriate.

6.4 Relocation

Due to the changing nature of urban and built environments, the Region may determine that artwork needs to be relocated. Where this is the case, the Region will endeavour to notify the artist of the relocation.

6.5 De-accessioning

The Region may de-accession public art when necessary. Since the Region does not acquire public art with the intention of eventual de-accession, each de-accession will be approached with caution. Reasonable efforts will first be made to resolve problems or relocate the public art, in consultation with the artist and/or donor, where appropriate. Reasons for de-accession include but are not limited to:

- Endangerment of public safety;
- Excessive repair or maintenance;
- Irreparable damage;

- Non-compliance with other Regional policies or any other applicable legislation, as may be amended from time to time;
- Inaccessibility; and
- Site redevelopment.

In the event of theft, vandalism or accidental loss, the Region may determine whether replacement or de-accession of the artistic work is appropriate. No artistic work will be de-accessioned and disposed of without consultation with the Working Group.

Recommendations regarding the need for and method of de-accession will be made to senior employees from Strategic Initiatives, Diversity, Equity and Inclusion, and the department responsible for the property where the installation will occur in consultation with the Commissioner of Works. The de-accessioned artistic work may be moved, sold, returned to the artist or destroyed, with any monies received through a sale allocated to the Public Art and Creative Placemaking Allocation. Donated works will not be returned to the donor if they have received a tax benefit for the donation.

6.6 Contract management

In creating standard agreements, it is important to note artists' moral rights and to take into consideration practices in the arts sector which differ from other professional service providers or suppliers.

When the Region contracts a commission, the artist agreement will include but not be limited to the following sections:

- Scope of work (e.g., design services only or design, fabricate and/or install);
- The Region and artist's obligations, appropriately apportioning risk and responsibility;
- Timelines;
- Ownership, maintenance and conservation obligations;
- Intellectual Property, including Copyright and Moral Rights;
- Artist recognition;
- Warranty and insurance (as appropriate); and
- Payment schedule.

In cases where the artist is not contracted directly to the Region, but is a sub-contractor (e.g., for integrated artworks or an artist on a design team), the Region will stipulate that the contract must include terms related to intellectual property rights, ownership, and maintenance obligations as appropriate.

Except in very rare circumstances, the artist(s) will own all Intellectual Property from the work developed. Following best practices in North American public art programs, they will not be asked to waive their Moral Rights or assign Copyright. Artist(s) will be asked to provide a royalty-free, non-commercial license to the Region for images of their work in perpetuity or as listed in the artist agreement.

6.7 Insurance

The Region will provide insurance for its permanent collection including works in storage, transit and on display in accordance with negotiated legal agreements and sound risk management practice. In addition, Regional employees will work to eliminate, reduce, and mitigate threats to the collection.

6.8 Storage

When storage is required, the Region will take care to ensure that the storage area is appropriate for the materials in the work to prevent damage. Whenever possible, existing resources will be used for the storage and management of public art.

6.9 Installation

The Region is responsible for co-ordinating the installation of public art. The installation process will be identified, in advance, through the purchase, commission, donation, or exhibition agreement and may involve the participation of the artist and/or a contracted professional installer. The condition of all acquired artistic works will be reported upon receipt, and any problems found will be referred to the artist/donor for resolution before installation.

7. Partnership on public art and placemaking projects on Regional property

Opportunities may arise where a public art or placemaking project proposal on Regional property may be funded through a cost-sharing agreement between the Region and area municipalities or other community partners.

Where the Region will maintain ownership of the completed work, the Region's processes and procedures in this policy will apply.

Where the area municipality or partner maintains ownership, the process will follow 7.1 Installation of public art and placemaking projects on Regional property by partners.

7.1 Installation of public art and placemaking projects on Regional property by partners

Area municipalities and community partners may be permitted to install and maintain a public art feature on Regional infrastructure. Proposals will be reviewed by the Working Group against selection criteria in consultation with the Commissioner of Works. As each piece of infrastructure is unique, all proposals will be reviewed on a case-by-case basis. Specific conditions may be implemented depending on the infrastructure.

Any installations of public art on Regional infrastructure will be subject to a license agreement outlining specific terms and conditions for the use of that specific infrastructure as deemed necessary by the Regional Municipality of Durham. This can be accomplished through individual license agreements drafted for each piece of infrastructure where the Region is agreeable to its use for these purposes.

For public art and placemaking projects on Regional property by partners, the Commissioner of Works will have the authority to approve or deny a request for art installations on Regional infrastructure. If permission is granted for the use of Regional infrastructure for public art purposes but it is determined that the art installation is contrary to the safety of the public or adverse to the Region or its infrastructure, the Region will reserve the sole right and discretion to take measures it deems appropriate, up to and including de-accessioning the work.

The Commissioner of Works will be authorized to execute license agreements for public art installations on behalf of the Region.

8. Community engagement

Durham Region is committed to partnering and engaging with artists, residents, businesses and Indigenous communities early into projects to understand priorities and integrate diverse voices and perspectives. Artists who live or study in Durham Region as well as those who have a strong connection to the region will be showcased where possible.

Community members involved in public art-making will be required to complete a waiver before participating in the project.

9. Monitoring and evaluation

Measuring the impact of public art is a known challenge. Long-term indicators such as community economic investment and neighbourhood changes (such as reduced litter or crime) are difficult to attribute to public art. Instead, monitoring and evaluation efforts will be focused on:

- Testimonials on the impact of public art projects from the community, artists and selection committee members;
- Qualitative audience responses to public art, including whether or not the art provokes discussion;
- How public art is treated over time, including whether it gets “used” or vandalized, and whether the community takes the initiative to repair or maintain it;
- Media coverage; and
- Levels of engagement with public art.

“Good evaluation must take account of the social, economic and environmental outcomes and impacts of public art alongside the intrinsic values of art and culture... Changes to the planning system and the state of the economy may affect what is asked of some public art projects. However, the role of evaluation in improving the ways we manage and deliver public art remains a constant, especially in ensuring that the critical focus is on artistic values and outcomes, and that commissioning starts with the premise of providing meaningful opportunities for artists.”

- IXIA Public Art Think Tank, Public Art: A Guide to Evaluation, 2013

Policy and process improvements will continue to be made as needed to ensure that the public art program continues to evolve to meet the needs of the Region, artists and the community.