


APPENDIX A

	<h1 style="margin: 0;">POLICY</h1>	<p><u>Policy No:</u> GOV-COR-816</p>
<p><u>Policy Title:</u> PUBLIC ART POLICY</p> <p><u>Policy Type:</u> COUNCIL</p> <p><u>Category:</u> Governance</p> <p><u>Sub-Category:</u> Corporate</p> <p><u>Author:</u> Author Unknown</p> <p><u>Dept/Div:</u> DSD/Economic Development, Arts & Creative Industries</p>		<p><u>Approval Date:</u> December 8, 2008</p> <p><u>Reviewed Date:</u> July 2016</p> <p><u>Next Review Date:</u> July 2021</p> <p><u>Reviewed Date:</u> <u>July-October 2023</u></p> <p><u>Last Amended:</u> October 2021</p> <p><u>Replaces:</u> I-816 Public Art</p> <p><u>Repealed:</u></p> <p><u>Replaced by:</u></p>
<p><u>Related Policies, Procedures and/or Guidelines:</u> To be included at next review.</p>		

1. POLICY PURPOSE:

Kitchener is a vibrant community where the best forms of public art explore our diversity, tell our stories, and empower artists to use creativity and imagination to make intriguing landmarks and interesting gathering places.

The goal of the public art policy is to contribute to the City’s cultural identity and its strategic priorities. Intended benefits of the policy and its implementation include a better quality of life and increased social cohesion for residents, local artists and visitors, good urban design, broad community involvement and connection, increased potential for economic development and public access to the arts.

In practice, the policy is designed to offer fair opportunities for both mid-level artists in the region and substantial commissions to attract well-established professionals.

2. DEFINITIONS:

Public Art: original artworks, permanent or semi-permanent, in any medium or discipline, placed, installed, incorporated or performed in publicly accessible indoor or outdoor locations in response to the site and for the benefit of the public.

For the purposes of this policy, Public Art does not include plaques, archival collections or heritage assets already supported by other budgets, committees and policies, or temporary artworks with a production budget of less than \$10,000, such as painted murals or digital images applied to surfaces on vinyl.

Permanent: refers to public art that is intended to be displayed for a decade or more, supported by a Public Art Policy allotment of \$30,000 or more, which is added to the City of Kitchener’s public art collection by a report recommendation to Council.

Semi-permanent: refers to public art that is intended to be displayed for variable periods of time, supported by a policy allotment of between \$10,000 and \$30,000.

Temporary: refers to public art that is intended to last two years or less, supported by a policy allotment or separate budget of less than \$10,000.

Deaccessioning: refers to the formal and permanent removal of an item from the collection originally acquired on a permanent or semi-permanent basis.

3. SCOPE:

POLICY APPLIES TO THE FOLLOWING:	
<input type="checkbox"/> All Employees	
<input checked="" type="checkbox"/> All Full-Time Employees	<input checked="" type="checkbox"/> All Union
<input checked="" type="checkbox"/> Management	<input type="checkbox"/> C.U.P.E. 68 Civic
<input checked="" type="checkbox"/> Non Union	<input type="checkbox"/> C.U.P.E. 68 Mechanics
<input type="checkbox"/> Temporary	<input type="checkbox"/> C.U.P.E. 791
<input type="checkbox"/> Student	<input type="checkbox"/> I.B.E.W. 636
<input type="checkbox"/> Part-Time Employees	<input type="checkbox"/> K.P.F.F.A.
<input type="checkbox"/> Specified Positions only:	<input type="checkbox"/> Other:
<input checked="" type="checkbox"/> Council	<input checked="" type="checkbox"/> Local Boards & Advisory Committees

3.1 The policy serves the City of Kitchener’s many neighbourhoods. It supports the development of partnerships with the public, the arts community and arts service organizations, and with institutional and private sector partners.

3.2 The policy supports:

- (a) Involvement of community members, including young people, in public art projects whenever possible;
- (b) Opportunities for the involvement of educational institutions whenever possible; and,
- (c) The continuation of current youth programming.

- 3.3 Two citizen advisory committees are directly involved in the public art program: the Arts and Culture Advisory Committee and the Public Art Working Group.
- 3.4 The policy affects all City departments, in particular these divisions or teams: Economic Development, Financial Operations, Legal Services, Facilities Management, Risk Management, Corporate Communications and Marketing, Planning, Engineering, Parks and Cemeteries, and the Community Services Department. The Arts and Creative Industries team within the Economic Development division, Development Services Department, is primarily responsible for policy implementation.
- 3.5 The policy governs programming which results in the permanent acquisition and/or semi-permanent display of public art. Program funding derives from a one percent allocation applied to civic projects with construction budgets greater than \$100,000, including public facilities, parks and trails, and other public gathering spaces. The municipal public art collection develops through this program.
- 3.6 Eligible projects include new construction or construction that achieves major changes in the scope of a civic facility or public space, such as new programs, services, features or functions. This does not include projects where only routine maintenance is being carried out or building systems are upgraded.
- 3.7 The policy does not govern programming under the Industrial Artifacts Project title, nor the Artist-in-Residence program.
- 3.8 City staff implementing the policy must comply with federal, provincial and municipal laws, and international conventions and treaties signed by Canada, including but not limited to:
- The Municipal Act
 - The Ontario Planning Act
 - The Ontario Heritage Act
 - The Copyright Act
 - The Municipal Freedom of Information and Protection of Privacy Act
 - The Occupational Health and Safety Act
 - The Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act
 - The Cultural Property Export and Import Act
 - The UNESCO “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970”; and
 - Any subsequent revisions or replacements of these Acts or Conventions

4. POLICY CONTENT:

- 4.1 Through the public art program, the City acquires public art of excellent quality for the purpose of permanent or semi-permanent displays in public places

such as civic buildings and plazas, streetscapes and open spaces (parks, trails).

4.2 Strategies and planning for the best use of funding and preferred sites based on specific criteria will be coordinated by the Arts and Creative Industries (A&CI) team in collaboration with Public Art Working Group (PAWG) members and the City's interdepartmental working group (section 4.7). Criteria for preferred public art sites and public art include high visibility locations and appropriate scale, ease of public access, relevance to the community, ease of maintenance, consistency with the City's Urban Design Guidelines and Neighbourhood Design Guidelines, quality of the artwork, budget considerations and equitable distribution of sites and opportunities throughout the city.

4.3 One percent of the costs of civic projects with construction budgets greater than \$100,000 are allocated to a consolidated public art capital account. The maximum allocation at the one percent contribution is \$500,000.

Costs included in allotment calculation are the site development, construction materials and labour, and related contingencies. Other design or professional fees, project management, interior amenities or services, furnishings and equipment or technology should not be included in the allotment calculation.

4.4 Civic construction projects contributing to the consolidated capital account are eligible for a public art project as follows:

(a) Projects that generate less than \$30,000 (for example, one percent of a capital budget less than \$3 million) may be considered to receive a supplemented budget from the consolidated account. The minimum allocation required to develop any permanent public art project for the City's collection is \$30,000.

(b) Construction projects that generate more than \$100,000 (for example, one percent of a capital budget greater than \$10 million) will consume 60 to 75 percent of the one percent allocation for a public art project, up to \$500,000. The remaining 25 percent or more of the allocation is contributed to the consolidated fund for use in other semi-permanent or permanent projects and to serve the priorities of the community by creating a well-distributed and culturally representative network of public artworks.

(c) Construction projects that generate an amount between \$30,000 and \$100,000 will consume the exact amount of the percent allocation for a public art project.

(d) Multiple allotments to the consolidated account that are generated by multiple projects in an area of the City can be combined to inform site selection for a new public artwork created with consolidated funds. For

example, small park upgrade allotments could be combined to create a substantial artwork feature in a single location.

4.5 The program offers a choice of options for municipal public art projects:

(a) Public art projects at civic sites; public art projects at priority sites:

All potential sites are assessed with the following criteria:

Ownership: The site should be owned by the City or there should be assurance that an agreement for its use is attainable.

Public Exposure: If outdoors, the site should have complete public visibility and unrestricted access and offer easy surveillance to minimize opportunities for vandalism and easy access for maintenance. If indoors, the site can be used and/or enjoyed by the public at least five business days per week a year, less statutory holidays (252 days).

Significance: Locations of historical significance or that function as gateways into districts, neighbourhoods or shared public spaces provide special opportunities for public art.

Safety and Preservation of Artwork: Sites where high levels of chemical use for snow removal, or where maneuverability of snow clearing machinery is required may present problems for some public art installations. Medians in roadways may not be suitable sites due to the level of risk caused by vehicle collisions.

(b) Semi-permanent installation projects requiring a production budget greater than \$10,000 but less than \$30,000.

(c) Promotion of the collection and public education.

4.6 Civic construction projects are reviewed annually to identify those eligible for one percent assessments and allotments. Eligible projects include: community facilities such as but not limited to community centres, fire stations, arenas, swimming pools, libraries, City Hall and other public-access or staffed facilities, major buildings such as Kitchener Memorial Auditorium, sports fields, parks with active recreational facilities, trails or other green spaces if deemed appropriate, urban or pedestrianized spaces, and streetscape improvements with elements of feature landscape designs. These projects will be reviewed using the same criteria described in Section 4.5.

Roadways, sewers or underground infrastructure projects are not eligible.

4.7 Eligible construction projects and allotments to the consolidated account are determined by an interdepartmental working group that meets annually to consider the current 10-year capital forecast. Working group members include

the Facilities Management project delivery manager, Facilities asset & energy management manager, Parks & Open Space design & development manager, A&CI coordinator and Finance budget analyst that supports Economic Development. The A&CI coordinator will maintain a forecasted allotments list and lead artwork development activities.

- 4.8 The program continues to support public art objectives as described in the Official Plan (see sections 10, 11, 13, 15 and 17 in the 2014 document, “A Complete & Healthy Kitchener”), and other approved planning documents.
- 4.9 The City engages in public art partnerships with the private sector, the institutional sector, arts organizations, and other governments.
- 4.10 The City encourages the private development sector to participate voluntarily in the percent for art program.
- 4.11 In construction projects for which the City has provided grants or loans to an outside agency, the terms of the loan or grant agreement may include a requirement for permanent, semi-permanent or temporary public art to be included in that project. The grant or loan must be greater than \$500,000. The outside agency’s one percent allocation will not exceed \$500,000. A&CI staff should be consulted about those project’s budgets and commission process, but artworks produced by outside agencies are not included in the collection and ongoing maintenance is the responsibility of the outside agency that commissioned the piece.
- 4.12 The public art collection is documented and maintained to the highest standards.
- 4.13 Public art maintenance and repair work is exempt from the Purchasing policy requirements when necessary to enable artists and material or form experts to perform specialized work related to maintaining or repairing the collection.
- Funds in the consolidated account may be used for necessary maintenance of artworks in the collection at the discretion of the A&CI manager.
- 4.14 Up to 15 percent of any public artwork allotment may be used to contract hire professional services to support a selection process, such as jurors, curators or public art consultants. Additional funds from the consolidated public art account for professional services may be determined by the A&CI manager.

5. IMPLEMENTATION:

5.1 Roles and Responsibilities

- 5.1.1 The A&CI team manages the public art program and is responsible for project development and monitoring, competition processes, collection management, internal and external communications and

partnership creation. However, the program's implementation depends on participation from many departments in varying degrees. These roles range from clarifying allotment amounts to contract preparation to artwork evaluation and maintenance.

5.1.2 The Arts and Culture Advisory Committee's permanent sub-committee PAWG provides specialized advice on policy, program and projects, and champions the program in the community. All acquisitions, whether by competitive or invitational commission, direct purchase, or donation, are reviewed by PAWG and then by the Arts and Culture Advisory Committee. This advisory committee support is communicated to Council when recommendations are made. PAWG members routinely serve on competition juries.

5.1.3 Project delivery staff in Facilities Management will confirm allotment amounts during the schematic design phase of a civic construction project. If possible, the A&CI coordinator and/or representative of PAWG should be involved in the conceptual phase of a project to effectively plan and integrate any new artwork. The assigned FM project manager will help to evaluate and give input on technical details of proposed artworks during the selection process, such as integrating structural support measures or safety requirements.

5.1.4 Financial Operations staff transfer eligible construction allotments to the consolidated account and help to forecast artwork projects.

5.1.5 Community members and workers from the regional arts sector participate in competition juries to provide balance and stakeholder involvement. Ward councillors are invited to participate on public art juries for projects in their wards. Typical jury compositions include a representative from PAWG, additional visual arts professionals, a representative of the project partner(s) and the project architect.

One or more citizen-at-large jurors is an option. Focus groups or community feedback opportunities for residents can also provide a combination of professionalized deliberation and citizen input.

5.1.6 Public art celebrations are designed to be public events.

5.2 Project Planning

Public art information is included in RFP documents for eligible construction projects. With this approach, public art is integrated earlier into the capital project for both efficiency and optimum results.

5.3 Acquisition Methods

A variety of acquisition methods are used to better serve the needs of unique projects and situations and the overall mandate of the collection. Open competition-generated commissions, invitational competition-generated commissions, direct purchases and donations are used.

5.4 Jury Procedures

Competition juries ensure a fair public process through balanced participation by community representatives, other project stakeholders and professional arts community representatives. Competition juries function in accordance with established procedures.

Typical evaluation criteria may include:

- Artist or team qualifications and ability to produce high-quality artworks;
- Artist or team capacity to successfully complete and install their proposal;
- Artistic merit of a proposed concept to enhance or activate public space;
- Relevance or responsiveness of artwork to site and/or community goals;
- Artist or team capacity to collaborate with building design professionals;
- Appropriateness of the scale, visibility and/or presence of the artwork;
- Appropriateness of proposal to the budget, scope and timelines available;
- Suitability and sustainability of material and maintenance requirements;
- General technical feasibility (durability, assembly, safety, accessibility);

5.5 Technical Review of Proposals

All commission proposals derived from competitions, and proposals for direct purchases, are reviewed by an interdepartmental staff team and, as needs warrant, by outside experts, to assess compliance with mechanical, structural, health and safety, and maintenance requirements.

Typically, the interdepartmental team would include the appropriate Facilities Management project manager and a representative of the Engineering and/or Building division, and potentially Parks, Planning or Risk Management staff.

5.6 Education

Public education strategies include, but are not limited to, participation on juries, communication tools such as signage, artist talks, brochures, website information, and public art symposia.

5.7 Deaccession

The City of Kitchener reserves the right to remove objects from its public art collection under the following conditions:

- a) The item has been lost, stolen, or damaged beyond repair.

- b) The item has deteriorated to a non-restorable condition where the costs of conservation outweigh the value to the collection.
- c) Duplication: The object is a duplicate of another one in the collection.
- d) The item's non-conformity to the collection mandate or problematic changed cultural significance.
- e) Endangerment of public safety.
- f) Legal compliance (proof of ownership; maintenance of the integrity of the public trust).
- g) Site redevelopment.

5.8 Process of Deaccession

- a) Deaccessioning will be by means of gift, exchange, sale or intentional discard (destruction of an object that has lost its integrity or cannot be gifted or sold). The method of disposition will be in accordance with the City of Kitchener purchasing by-laws in consultation with Procurement.
- b) A decision to deaccession must be based on the recommendation of City staff with consultation received from PAWG and ACAC. The consent to deaccession shall be recorded in writing and remain as an integral part of the documentation pertaining to the transaction and the object's city public art collection history.
- c) The recommendation must be approved by Council.
- d) First consideration is given to a not-for-profit institution that can provide a high level of care for the object and can continue to keep the object accessible to the public. Second consideration is given to the disposal of objects through public sale, and third disposal.
- e) All proceeds from sale or auction of works shall be credited to the Public Art consolidated account.
- f) In the event that artwork accepted by the City is to be deaccessioned or moved, and it relates to or otherwise reflects the history of the City's Administration and Local Government (i.e. Portrait of Mayor, City Hall or City owned facility), it will be donated free of charge to the City's Archives and be managed through the Corporate Records Management and Archive Services Department in compliance with the Corporate Records Management Policy.
- g) The object will not be transferred for ownership to any employee of the City, or any person associated with the program.

- h) When there is any doubt about the legality of the disposition, consult independent legal counsel.
- i) The disposition must be documented: updated condition at time of disposition including photographs, all agreements, correspondence, record of the decision of the method of disposition and any subsequent use of any funds from the sale of deaccessioned artworks.
- j) Ensure complete transparency and communicate the disposition to the public.

6. HISTORY OF POLICY CHANGES

Administrative Updates

2016-06 - Policy I-816 template re-formatted to new numbering system and given number GOV-COR-816.

2021-12 - Addition of deaccession process as per DSD-2021-173.

Formal Amendments

2010-08-20 - As per Council directive

2011-11-14 - As per Council directive