

THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW NO. 10558-2024

BY-LAW TO ADOPT A PUBLIC ARTS POLICY

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WHEREAS Section 8 of the Municipal Act, SO 2001, as amended provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 9 of the Municipal Act, SO 2001, as amended provides that Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS Public art adds enormous value to the cultural, aesthetic and economic vitality of a community;


AND WHEREAS the Council of the Corporation of the Town of Smiths Falls deemed it appropriate to adopt a Public Arts Policy;

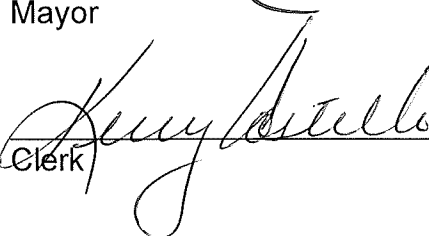
NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Smiths Falls enacts as follows:

1. THAT the Public Arts Policy for the Town of Smiths Falls attached as "Schedule A" forming part of this by-law is hereby adopted.
2. THAT this by-law shall take effect on the date of its passing.

Read a first and second time this 6<sup>th</sup> day of August, 2024

Read a third time and passed this 6<sup>th</sup> day of August, 2024

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



**SMITHS FALLS**  
RISE AT THE FALLS  
|||

# Public Art Policy

May 2024

Table of Contents

<b>SECTION 1 – PURPOSE AND SCOPE .....</b>	<b>1</b>
<b>1.1    PURPOSE .....</b>	<b>1</b>
<b>1.2    PRINCIPLES .....</b>	<b>1</b>
<b>1.3    STRATEGIC FOCUS AREAS .....</b>	<b>1</b>
<b>1.4    SCOPE AND USE .....</b>	<b>2</b>
<b>1.5    TOWN AUTHORITY AND EXCEPTIONS .....</b>	<b>3</b>
<b>SECTION 2 – ADMINISTRATION .....</b>	<b>3</b>
<b>2.1    GENERAL ADMINISTRATION .....</b>	<b>3</b>
<b>2.2    CONTRACT TERMS FOR ARTISTS .....</b>	<b>4</b>
<b>2.3    CONTRACT TERMS FOR PROPERTY OWNERS .....</b>	<b>4</b>
<b>2.4    REMUNERATION .....</b>	<b>4</b>
<b>2.5    COLLECTION MANAGEMENT .....</b>	<b>4</b>
<b>2.6    COLLECTION MAINTENANCE AND DOCUMENTATION .....</b>	<b>5</b>
<b>2.7    DECOMMISSIONING OF ARTWORK .....</b>	<b>5</b>
<b>SECTION 3 – COMMITTEE AND FUNDING .....</b>	<b>6</b>
<b>3.1    PUBLIC ART ADVISORY COMMITTEE (PAAC) .....</b>	<b>6</b>
<b>3.2    FUNDING .....</b>	<b>6</b>
<b>3.3    MUNICIPALLY OWNED PUBLIC ART SITES .....</b>	<b>6</b>
<b>3.4    PROJECT AND SITE SELECTION .....</b>	<b>7</b>
<b>3.5    PRIVATE DEVELOPMENT PUBLIC ART .....</b>	<b>7</b>
<b>SECTION 4 – DEFINITIONS .....</b>	<b>7</b>
<b>SECTION 5 – REFERENCES .....</b>	<b>9</b>

## SECTION 1 – PURPOSE AND SCOPE

### 1.1 PURPOSE

The Town of Smiths Falls Public Art Policy serves as a guiding document for Council, staff, the arts community, with its primary objectives as follows:

- i. Facilitating the commissioning, acquisition, and management of public art in municipally owned spaces or on municipally owned land.
- ii. Establishing a framework for privately owned public art on privately owned commercial and residential property, that is funded in full or in part by the Municipality.
- iii. Creating a funding and stewardship mechanism to align with the Town's commitment to fostering and supporting community public art.
- iv. Providing guidance to the public on the purpose, processes, and procedures of the finalized Public Art Master Plan.

### 1.2 PRINCIPLES

The Public Art Policy ensures that Public Art is:

- i. selected through a competitive process that is fair, consistent, and transparent.
- ii. contributes to and enhances the Town's unique history, culture, land, and building scape.
- iii. represents a variety of professional artistic expressions and practices that emphasize innovation, aesthetic, and technical merit.
- iv. a catalyst for community engagement, activation, tourism, and partnerships.
- v. accessible to all and encouraged throughout the Town.
- vi. planned for and integrated into all departments within the Town, where appropriate.

### 1.3 STRATEGIC FOCUS AREAS

As such, the Public Art Program for the Town of Smiths Falls encompasses five key areas:

#### **Public Art Capital Projects**

Public Art Capital Projects to be included in the Town's capital planning and budgeting process taking new and refurbished facilities, parks, and infrastructure into consideration. The artwork will be accessioned into and deaccessioned from the Town's Collection. Capital Projects include those commissioned and maintained by the municipality, or those commissioned by community members to be installed on or in municipal property or facilities and would become a piece of the Town's Collection. Such installations must be vetted through and recommended by the Public Arts Advisory Committee and approved by Council.

#### **Art in Public Places**

The Town will create opportunities to foster diverse cultural expression in municipal owned spaces, public areas and neighborhoods by commissioning and displaying public artwork in various art forms, including temporary art, street art (including crosswalks and or commissioned graffiti) and private public art donations. These works may or may not be integrated into the Town's Collection and will be assessed on the individual proposal.

### **Community Arts, Public Engagement and Education**

Involving the local community will help shape the Town of Smiths Falls' commitment to fostering place-making throughout the Town. Residents will be encouraged to actively participate in public and community arts initiatives through attendance on the advisory committee, artistic creation, public consultations, educational activities, and promotional efforts. Projects aimed to support community arts, public engagement and education will not be included in the Town's Collection unless recommended by the Public Arts Advisory Committee and approved by Council.

### **Developing Artists and the Arts and Cultural Sector**

Fostering the growth of local artists, curators, and cultural workers through training programs, mentorships, and workshops for emerging artists across diverse disciplines. This aims to enhance the quality, frequency, and diversity in cultural programs. In turn, this will support employment opportunities for the cultural sector and help to retain working professional artists within the Town.

### **Public Art Inclusion Program**

Promoting the integration of public art into major building developments by infusing the concept in urban design and land use planning procedures. Municipal staff will leverage existing and explore new planning tools that support the inclusion of public art in development projects.

## **1.4 SCOPE AND USE**

The Public Art Policy serves as the foundational document for the Public Art Master Plan, offering understanding and implementation guidance to staff and the community. The scope of this Public Art policy encompasses the following principles:

- i. the Policy shall not be interpreted in a manner that exempts any individual(s) from fulfilling the obligations set forth in any Town of Smiths Falls' By-law, any Provincial or Canadian law, or from acquiring any necessary license, consent, permit, authorization or approval mandated by this or any other Corporation By-law, unless explicitly specified otherwise herein.
- ii. the Public Art Policy supersedes all other policies, arrangements, installed by the Municipality prior to the date of enactment of this Policy.
- iii. the Public Art Policy should be taken into consideration by all commercial and residential property owners who wish to include, display, and/or commission Public Art on their property.
- iv. the Public Art Policy does not include:
  - Art exhibitions and presentations held within galleries, museums, or traveling exhibitions under the management of the Town of Smiths Falls.
  - Special events, festivals, and temporary art installations on private property.
  - Management of any archaeological, archival, historical, and museum collection or

exhibition under the Town of Smiths Falls' care.

- Commemorations and memorials not commissioned or created by artists and not situated in municipal public spaces.
  - General graffiti removal and its management.
  - Art initiatives curated or installed on privately owned property, unless funded in whole or in part by the municipality
  - Public Art installed on leased property or licensed to third parties. These works are the responsibility of the occupying organization or individual(s).
- v. this Policy supports the Public Art Master Plan for the Town of Smiths Falls and takes effect on the day it is enacted.

### **1.5 TOWN AUTHORITY AND EXCEPTIONS**

- i. All submissions for commissioned Public Art must comply with the stipulations set forth by the Town of Smiths Falls, the Ontario Building Code, the Ontario Fire Code, and the Municipality's Building By-law, along with any other pertinent Municipality By-law.
- ii. The Town reserves the right to terminate any Public Art project at its discretion, should it be deemed unsafe, inappropriate, detrimental to the Town's reputation, or not representing the artist's originally proposed concept as approved by the Town. In such an exceptional circumstance, the artist(s) would be responsible for remediation of the site at their own expense.

## **SECTION 2 – ADMINISTRATION**

### **2.1 GENERAL ADMINISTRATION**

- i. The administration of this Policy falls under the purview of the Department of Economic Development and Tourism and will undergo periodic reviews and updates.
- ii. Public Art projects submitted for Town consideration through the application process must adhere to municipal requirements and criteria, in compliance of municipal, provincial, and federal laws, as well as with the scope and spirit of this Public Art Policy.
- iii. The Request for Proposal (RFP) process, its criteria, the application procedure, public consultation, and the selection process are outlined in the Terms of Reference for the Public Art Advisory Committee (as approved by Council) and may be subject to revisions from time to time.
- iv. The formal and final approval of any Public Art project is granted by Council and recommended through the Advisory Committee, or the Community Improvement Plan Evaluation Working Group as applicable.
- v. The Town entrusts the Public Arts Advisory Committee to uphold the Purpose and Principals of Public Art Policy in its decision-making including but not limited to the evaluation procedures for the RFP process, public consultation, and final recommendations.

## 2.2 CONTRACT TERMS FOR ARTISTS

Agreements with artists for Public Art projects through the Town of Smiths Falls' Public Art Program must encompass a range of elements, including but not restricted to:

- i. Project scope
- ii. Responsibilities of private property owners including artwork care, conservation, maintenance or decommission/removal guidelines should funding be provided through the Town of Smiths Falls and as outlined in the Funding Agreement (if applicable)
- iii. Construction schedules
- iv. Ownership rights
- v. Artist recognition
- vi. Obligations for both the Town and the artist(s)
- vii. Artist(s)' recommended maintenance procedures for the artwork
- viii. Intellectual property and copyright considerations
- ix. Identification of subcontractors (if applicable)
- x. Any necessary legal and insurance requirements
- xi. Timelines for artist payments

## 2.3 CONTRACT TERMS FOR PROPERTY OWNERS

An additional agreement may be required by the Town for Property Owners when the Town commissions artwork or provides funding for artwork on private property. These agreements shall include stipulations for the property owner's maintenance or decommission/removal guidelines of artwork and the duration of the agreement (in the number of years).

## 2.4 REMUNERATION

- i. The Town of Smiths Falls will compensate artists in accordance with the Canadian Artists Representation (CARFAC) [Minimum Fee Schedule](#), which includes time spent on proposal revisions of proposals once shortlisted (if required).
- ii. Arts professionals and local representatives who serve on the Public Art Advisory Committee shall act as a public art jury to review and make recommendations related to their mandate as volunteers, Committee Members shall not receive compensation.

## 2.5 COLLECTION MANAGEMENT

- i. The Public Art Collection will become a part of the permanent collection of the Town of Smiths Falls and be overseen and managed by the Economic Development and Tourism Department.
- ii. All Town Commissioned, and Town approved private donations of Public Art will be entered into the Town's Collection and within the Asset Management database to ensure funds are allocated for condition assessments, maintenance/repair or removal practices.
- iii. An inventory of all Public Art owned by the Town, or funded through municipal funds, will be managed by the department of Economic Development and Tourism, and will include:

- Title of Artwork
  - Artist(s) name and biography
  - Agreements (e.g., Artist, Partner, Funder, or Property Owner)
  - Appraisal (fair market value)
  - Insurance Certificate (where applicable)
  - Location of artwork and site plan
  - A comprehensive listing of materials used and product brand names
  - Maintenance plan
  - Conservation and condition reports
  - Photographs of the artwork
  - Other (e.g., loan or recognition agreements)
- iv. The Town shall manage a Public Arts Reserve for the purpose of maintenance, conservation, and repairs of its Public Art Collection.

## **2.6 COLLECTION MAINTENANCE AND DOCUMENTATION**

- i. Artwork is to be installed where it is accessible and may be enjoyed by the community.
- ii. Artwork should be maintained in good repair by the Town or by a property owner for the duration of the installation or the life span of the artwork.
- iii. At the installation/completion of a Public Art project, the Town must receive all documents and materials outlined in subsection 2.5 to complete the file.

## **2.7 DECOMMISSIONING OF ARTWORK**

The Town has the right to decommission artwork, move it to another site, donate, sell, or destroy the artwork. The Public Arts Advisory Committee, working with Town staff and any required third-party shall manage the process of permanently removing artwork from the Town's Collection through a decommissioning process. The Committee shall prepare a report for Council that will outline the need for decommissioning and the method of disposal. Decommissioning may be required if:

- I. The artwork is deteriorating and conservation or restoration is not feasible.
- II. The artwork is no longer relevant to the Town's Collection.
- III. The artwork poses, or is predicted to pose, public safety concerns.
- IV. The artwork is disproportionately too costly for the municipality to maintain.
- V. The site for the artwork is no longer accessible to the public.

When possible, the Town will notify the artist of its intent to decommission the artwork and the reasons for that decision. Deaccessioned art from the Town's Collection may be moved, donated, sold or destroyed at the Town's discretion. Should the artwork be donated to the Town, it cannot be returned to the donor as per CRA tax regulations.



## SECTION 3 – COMMITTEE AND FUNDING

### 3.1 PUBLIC ART ADVISORY COMMITTEE (PAAC)

The Town of Smiths Falls will appoint a Public Art Advisory Committee (PAAC). As outlined in the municipal Terms of Reference, the term will coincide with the term of Council. The Committee shall be comprised of seven voting (7) members from various backgrounds including: one (1) member of Council, two (2) Smiths Falls & District Arts & Culture Council Members, one (1) member of the SFDBA, one (1) Station Theatre Board Member and two (2) members of the public including but not limited to youth representatives. The PAAC will:

- i. Adhere to the roles and responsibilities detailed in the approved municipal Terms of Reference for the Smiths Falls Public Arts Advisory Committee concerning the implementation of the Public Art Policy and the Town of Smiths Falls Master Arts Plan. The Terms of Reference will be reviewed and amended from time to time.
- ii. Work alongside the Town Staff Liaison (non-voting) who will act as Secretary & Treasurer and who will report to Council on the Committee's behalf.

### 3.2 FUNDING

The Town of Smiths Falls Public Art Program will receive funding in a formal and consistent manner to offer a comparable level of financial support with other similar Public Art programs in the province. Funding will include:

- i. Establishing an ongoing funding allocation of the Town's annual budget, being up to 1% of the tax generated revenues, to be used for commissioning, fabrication and installation of new art pieces and projects (subject to the approval of Town Council during the annual budget cycle).
- ii. A minimum of 10% of annual allocation will be maintained for the long-term maintenance, conservation, and deaccession of the permanent collection. This will be placed in the Public Art Reserve Fund for future allocation as needed.
- iii. Support of a Public Art contribution from each new major capital project in the Town by leveraging tools referenced in the Ontario Planning Act including identifying a public art component when developing the Smiths Falls Official Plan.
- iv. Where Public Art is identified as an opportunity for the developer, the Town will consider concessions (height, zoning, or other), offer guidance and technical input through Town departments and consider funding support through the Community Improvement Program or other similar incentives.
- v. Leverage cost-sharing opportunities and partnerships available to area businesses and organizations as well as donation opportunities from individuals for future public art installations.

### 3.3 MUNICIPALLY OWNED PUBLIC ART SITES

Municipally owned public art sites that have been recommended by the Public Arts Advisory Committee and approved by Council can include new civic facilities, additions to existing buildings, park and natural space development projects, streetscape developments, and newly built and existing engineering structures (bridges and overpasses) that are places of one or more of the following:

- i. historical and cultural significance.
- ii. highly visible and accessible for pedestrians and motorists.
- iii. community gathering spaces, open spaces, pedestrian routes, and trails.
- iv. significant as a tourism opportunity that may be proposed for multiple works either as one project or to house multiple works as in a sculpture park.
- v. high profile and have been prioritized by the Town’s development schedules.

### 3.4 PROJECT AND SITE SELECTION

The selection of projects will be contingent upon available funding and the level of priority the project holds. Site selection should include opportunities for smaller projects as well. The Town of Smiths Falls’ Public Art Master Plan identifies five categories of sites to be taken into account during the Town's capital or annual planning phase. These encompass:

- 1. Park Renewal (existing land)
- 2. Park Development (new)
- 3. Facility (Major and Medium-scale projects)
- 4. Facility (Minor projects)
- 5. Major Infrastructure Projects

### 3.5 PRIVATE DEVELOPMENT PUBLIC ART

This Policy includes a Private Development Public Art component to:

- i. advance the Purpose and Principles of the Town of Smiths Falls’ Public Art Program by encouraging private development to contribute to the program through current or emerging opportunities.
- ii. offer funding assistance in support of Public Art inclusion throughout the Town, when appropriate including but not limited to the Community Improvement Plan, Town planning policy and/or town programs.
- iii. advise developers, artists, collectives, and others in the planning and inclusion of Public Art into projects including the selection and placement of Public Art in private developments undergoing a development approvals process.

## SECTION 4 – DEFINITIONS

For the purpose of this Policy, the definitions and interpretations in Section 4 shall govern unless the context indicates otherwise. Where a definition does not exist, a dictionary definition may prevail. (Source: The Merriam-Webster Dictionary)

- 4.1 **“ACCESSIBILITY”** shall mean the public’s ability to reach a site or enter a building, interact with the artwork through programming, activations, and events in compliance with Section 6 of Ontario Regulation 429/07 (Accessible Standard for Customer Service) made under the Accessibility for Ontarians with Disabilities Act, 2005.
- 4.2 **“ACTIVATION”** shall mean the ability to encourage and participate in public programming,

knowledge sharing, and enjoyment of the Town of Smiths Falls' Public Art Collection.

- 4.3 **"AESTHETIC"** shall mean the qualities of the artwork that are beautiful or interesting.
- 4.4 **"APPROVAL"** shall mean permission to proceed with the Public Art project as agreed upon by the Town.
- 4.5 **"COMMEMORATIONS"** shall mean memorials and plaques to celebrate, observe, or remember a specific event, person, or group of persons.
- 4.6 **"COMMERCIALY LEASED PROPERTY"** shall refer to all property that is not owned or leased by the municipality.
- 4.7 **"COMMISSIONING"** shall mean the formal request to produce Public Art in exchange for payment.
- 4.8 **"DECOMMISSIONING"** shall mean the act of removing artwork from public view or from service.
- 4.9 **"INTELLECTUAL PROPERTY"** shall refer to the artist(s)'s intellectual concepts and techniques involved in the creation of artwork. It is considered best practice for all North American Public Art Programs to include a statement that the artist does not waive their Artist Moral Rights or assign their copyrights.
- 4.10 **"GRAFFITI"** shall mean intentional artwork in a genre that is not general vandalism or unauthorized writing or drawing on a public surface.
- 4.11 **"MUNICIPALITY"** shall mean the Corporation of the Town of Smiths Falls and its representatives, which include but are not limited to, its officers, directors, employees, agents, licensors, and other representatives.
- 4.12 **"MUNICIPAL PROPERTY"** shall mean any municipally owned lands, which may include but is not limited to any park, building, road, structure, or sidewalk.
- 4.13 **"PERMANENT ART"** shall mean artwork created and installed with no proposed expiry or end-date for exhibition.
- 4.14 **"PUBLIC ART"** shall mean a work in any media created by an Artist for the express consent to be installed and displayed in a public site to be incorporated into the community through engagement.
- 4.15 **"RECOGNITION"** shall mean public acknowledgement and outlining of the artist's name, biography, date of the artwork and any other items the Town deems necessary to display who, when, where, and why the artwork was commissioned.
- 4.16 **"SIGNAGE"** shall mean the physical element used to attribute the artist's recognition and any information relevant to animate Public Art.
- 4.17 **"SITE"** shall mean a place or location set aside for specific Public Art use.
- 4.18 **"SMITHS FALLS PUBLIC ART MASTER PLAN"** shall mean the guiding plan of the Town of Smiths Falls that outlines their Mission and Vision of Public Art as well as key goals, objectives, and action items to be carried out by the Town and PAAC.
- 4.19 **"STREET ART"** shall mean temporary art that is sanctioned and permitted on walls, sidewalks, roads and other urban spaces.
- 4.20 **"STEWARDSHIP"** shall mean the obligation of the Town to manage the care and maintenance

for the Public Art within its collection.

- 4.21** “**TEMPORARY ART**” shall mean original artwork that is created to be exhibited for a proposed length of time, for a specific occasion or event. Temporary art may take many forms including visual, digital, sound, and performance-based artwork.

## SECTION 5 – REFERENCES

1. Smiths Falls Public Art Master Plan (2024)
2. Terms of Reference for the Smiths Falls Public Arts Advisory Committee (2024)
3. Smiths Falls Festivals and Event Policy (2022)
4. Town of Smiths Falls Cultural Plan (2021)
5. City of Kingston Public Art Policy (July 2014)
6. Town of Surrey Public Art Policy (2018)
7. City of Sault Saint Marie Public Art Policy (2021)
8. Town of Smiths Falls Corporate Sponsorship, Advertising and Donations Policy (2019)