

# BCA

## Memorandum

To: BCA Board of Advisors

From: BCA Public Art Committee

Date: May 10, 2022

Re: Percent for Public Art Ordinance; Recommendation to approve the Art in Public Places Guidelines and Policies

### I. Introduction.

On June 28, 2021, The Burlington City Council unanimously voted to adopt B.C.O. Chapter 21, Article 10, the Percent for Public Art Ordinance (the "Ordinance"), which requires any Capital Project<sup>1</sup> to set aside at least one percent of its Eligible Budget for the purpose of funding Public Art.

Pursuant to the Ordinance, the Board of Advisors (the "BCA Board") of Burlington City Arts ("BCA") is responsible for creating, adopting and overseeing the Art in Public Places Guidelines and Policies (the "Guidelines"). Such Guidelines are intended to guide the development and management of the City's Arts in Public Places Program (the "Public Art Program"), which is now funded, in part, by the Percent for Public Art Fund.

As the Guidelines must be adopted by the BCA Board and approved by the City Council, the purpose of this Memorandum is to (i) provide context and commentary with respect to the creation of the Guidelines and (ii) provide a foundation for the BCA Board to recommend that the City Council approve the Guidelines.

### II. Background.

In 1991, the City Council established the Public Art Program and designated BCA as the City department responsible for administering the City's public art projects. While BCA currently operates under guidelines that address the selection and commissioning of the City's public art, these guidelines do not address the use of the Percent for Public Art Fund. Moreover, the existing guidelines do not contain certain standards and procedures required by the Ordinance, including those that govern the conservation, maintenance and deaccessioning of the City's public art collection.

Accordingly, the Public Arts Administrator and the Public Art Committee developed the updated Guidelines to conform with the purpose and requirements of the Ordinance and reflect current roles and responsibilities with respect to the City's public art processes.

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<sup>1</sup> Capitalized terms used in this Memorandum, but otherwise undefined, shall have the meanings ascribed to them in the Ordinance.

### III. Guidelines Commentary.

As noted above, the Ordinance specifically requires that the Guidelines include certain content related to the selection, management, and maintenance of City's Public Art.<sup>2</sup> The following commentary outlines each of these content requirements and summarizes how the Guidelines address them:

(1) Criteria for the selection and placement of the City's public art, including standards for solicitation of artists.

Per the Guidelines, all art accessioned into the City's public art collection is subject to the evaluation of certain criteria.<sup>3</sup> Among other things, works of art are assessed for their inherent artistic quality, their ability to be maintained and their environmental impact. They are also evaluated from a public safety and accessibility perspective.

The selection criteria set forth in the Guidelines also address the placement of the City's public art by requiring that such art works be compatible in scale, material, form and content with their surroundings.<sup>4</sup> The Guidelines further advise that consideration be given to the architectural, historical, geographical and social/cultural context of the site for any proposed public art.

The selection and placement of the City's public art is also informed by the Guidelines' standards and procedures for soliciting artists. For example, the "Call to Artists" described in the Guidelines is designed in a manner that allows for art works, whether purchased or commissioned, to be appropriate for the particular project site.<sup>5</sup> Notably, the Public Arts Administrator is required to consult with numerous stakeholders in developing the Call to Artists, including City departments; project consultants, architects and managers; and community representatives, as the case may be.

(2) Requirements to ensure representation by artists who reflect cultural, racial, and ethnic diversity.

The Guidelines make clear that the City of Burlington is committed to advancing equity and inclusion in the field of public art. Specifically, the Guidelines call for the Public Arts Program to actively seek out works produced by artists from a range of races, gender identities, socioeconomic backgrounds, ages and abilities, and cultural identities.<sup>6</sup> The Guidelines also direct public art programming efforts to strive for a range of style, scale and media and encourage exploratory types of work.

Additionally, the Guidelines require the Public Art Administrator to conduct outreach whenever possible to encourage submissions by artists who have not had equitable access to opportunities in the arts.<sup>7</sup> Finally, the Guidelines advise that Public Art Review Panels (the independent juries responsible for recommending the final selection of art and artists) should include those "who will bring multiple

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<sup>2</sup> See Ordinance Section 21-124(b).

<sup>3</sup> See Guidelines Section 4(G).

<sup>4</sup> See Guidelines Section 4(G)(2).

<sup>5</sup> See Guidelines Section 5(A).

<sup>6</sup> See Guidelines Section 4(G)(7).

<sup>7</sup> See Guidelines Section 5(C)(2).

perspectives to the selection process, including from a range of races, gender identities, socio-economic backgrounds, ages and abilities.”<sup>8</sup>

(3) Standards to ensure sufficient funding for the continuing care/maintenance of the City’s public art.

Per the Guidelines, up to fifteen percent (15%) of the Percent for Public Art Fund may be allocated and/or used for the repair, restoration, conservation and maintenance of the City’s public art collection.<sup>9</sup> The Guidelines also allow the Public Arts Administrator to identify other funds for such purposes, which may include the other funding sources described in the Guidelines.<sup>10</sup>

(4) Procedures for acquiring and de-accessioning the City’s public art.

The Guidelines provide procedures for both (i) the acquisition of public art through commissioning and (ii) the acquisition of public art through gifts. With respect to commissioned acquisitions, the Guidelines set forth procedures for soliciting and selecting art and artists; contracting with artists; and implementing and documenting public art projects.<sup>11</sup>

Regarding proposed gifts of public art, the Guidelines provide for a review process that must be adhered to before any gift of public art may be acquired and made part of the City’s public art collection.<sup>12</sup> This review process requires potential donors to make a gift proposal that includes, among other things, a statement of gift value, a site plan and a letter of support from any City department that may be involved the proposed public art project. The review process for gifts of public art also addresses responsibility for certain costs, including the ongoing maintenance costs associated with such gifts.

As noted in the Guidelines, the acquisition of public art, whether acquired through commission or through gift, implies permanency within the City’s public art collection, provided that such art maintains its physical integrity, identity and authenticity, and usefulness as public art in relation to the City of Burlington and its residents. In the event that an acquired work of public art fails to maintain such qualities, the Guidelines set forth procedures for removing art from public display and/or de-accessioning such art.<sup>13</sup> Specifically, the Guidelines address the conditions under which public art may be considered for removal/deaccessioning. The Guidelines also establish processes for recommending and approving the removal/de-accessioning of public art; selling and/or exchanging public art; and altering, modifying or destroying a work of public art.

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<sup>8</sup> See Guidelines Section 5(B)(1)(c).

<sup>9</sup> See Guidelines Section 7(B)(2).

<sup>10</sup> See Guidelines Section 10

<sup>11</sup> See Guidelines Section 5.

<sup>12</sup> See Guidelines Section 6.

<sup>13</sup> See Guidelines Section 12.

(5) *a process for public input and selection of members to serve on artist-selection juries.*

In the Guidelines, artist selection juries are referred to as Public Art Review Panels, or “PARPs.”<sup>14</sup> In general PARPs are comprised of five to seven individuals, depending on size and complexity of the project. Per the Guidelines, PARPs should include (i) at least one local juror who works or resides in the neighborhood where the project will occur; (ii) one member of the public art project team that possesses the most technical understanding of the project site; and (iii) one or two jurors that are arts professionals. To facilitate the formation of PARPs, the Guidelines also require the Public Arts Administrator to maintain a file of potential “pre-qualified” jurors containing information on their experience and other expertise that may qualify such individuals to serve on a PARP.

As mentioned above, PARPs will ideally include at least one local juror that is connected to the neighborhood where the public art project will occur. Accordingly, the PARP is direct channel for receiving public input from vested community members. Similarly, community representatives may also be invited to develop the Call to Artists used to solicit artists for public art projects. The Guidelines also provide for other opportunities to engage the public. For instance, artists chosen to create public art may be asked to make a public presentation at an appropriate time and venue in the community where such is to be sited.<sup>15</sup>

It is also worth noting that many of Guidelines’ processes and procedures assign certain responsibilities to a variety of City departments and governing bodies, including BCA/BCA Board and its Public Art Committee, and City Council and its Park Arts and Culture Committee. As such departments, boards and committees are considered to be “public bodies,” and therefore subject to Vermont’s Open Meeting (1 V.S.A. §§ 310-314), the public is welcome to observe, be heard, and participate in the deliberations of these public bodies as they address matters related to public art.

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In addition to ensuring that the updated Guidelines incorporate the content contemplated by the Ordinance, BCA modeled the Guidelines on established public art programs in cities such as Philadelphia, PA, Nashville, TN, San Francisco, CA, Portland, OR and Golden, CO. The Guidelines also reflect BCA’s research on best practices in the field of public art, which continue to evolve.

Please note that the Guidelines were developed with inputs from numerous stakeholders. Former City attorney Eileen Blackwood put tremendous effort into her own research to ensure that the draft guidelines aligned with existing City of Burlington policies. A more recent review was also undertaken by City attorney Hayley McClenahan, who agreed that the Guidelines are consistent with the Ordinance in terms of (i) ineligible/eligible costs of public art fund monies and (ii) the content that is required by Ordinance. The Public Arts Administrator and the Public Art Committee have also solicited feedback from City Council’s Park Arts and Culture Committee and several City departments, including the Department of Public Works, the Department of Parks and Recreation and the Office of City Planning.

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<sup>14</sup> See Guidelines Section 5(B).

<sup>15</sup> See Guidelines Section 5(F).

#### **IV. Public Commentary and Response.**

Members of the Burlington community have also provided feedback and commentary on the Ordinance.<sup>16</sup> Specifically, concerns have been raised that the Ordinance marginalizes, under-resources, and neglects non-visual art forms.

First, it is important to note that contemporary public art is frequently multi-disciplinary, and neither the Ordinance nor the Guidelines preclude artists from other disciplines from being included in a Public Art project's conception and design. BCA recognizes that continued needs exist in the arts community and, as a practice, BCA seeks to connect opportunities with those needs, especially as it relates to supporting the full spectrum of Burlington's artists. BCA strongly believes that the Ordinance, and the funding it provides, will expand those opportunities for our local artists.

Second, while non-visual art forms can absolutely and rightly be considered public art, such art forms are often more ephemeral in nature and do not share the same goal of enhancing our built environments. Public Art, as conceived by the Ordinance, represents, in part, our City's investments in our shared public buildings and spaces and it actively seeks to shape how we interact with these environments. For example, it has the capacity to enhance the functionality/accessibility of Burlington's public spaces; it can designate spaces for commemoration, celebration and belonging; it can foster the public's appreciation for art and raise awareness for the City's commitment to issues such as equity and inclusion; it can document/teach our cultural heritage; and it can contribute to the City's economic development as well-executed public art concepts attract visitors, tourists and ultimately business. These are some of the goals BCA aims to accomplish with the funding provided by the Ordinance.

Third, public art in Burlington will continue to be created with multiple funding sources in addition to the Percent for Public Art Fund. BCA has advocated continuously for public support of the arts for more than 40 years. As a result of this advocacy, the City of Burlington invests in broad range of artists, arts organizations and arts disciplines through BCA programs, the Regional Programs budget, and the Community Arts Fund. From exhibiting leading contemporary and local artists in its Church Street art center, providing education and studio space to students of all ages and abilities at BCA Studios, and hosting hundreds of musicians and performing artists in City Hall Park concert and speaker series and city-wide festivals, BCA is dedicated to elevating and investing in artists of all mediums, so that their creative visions may reach as broad an audience as possible.

In fact, year over year, more of BCA's budget is being spent on performing arts programming and the infrastructure that supports performing arts. As a result, a greater number of artists are being supported. In FY17, BCA paid 192 performing artists for services and spent 11% of its overall artist budget on events; by the end of FY22, BCA will have paid 430 artists to perform and spend 32% of its artist budget on events, while artist budgets in other areas of the organization of remained relatively flat. Additionally, BCA staff have invested an immense amount of time and specialized skillsets into

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<sup>16</sup> See <https://cherrycoal.com/2021/08/on-the-percent-for-public-art-ordinance/> and <https://hyperallergic.com/709621/the-power-of-cities-to-serve-the-arts-needs-to-be-harnessed/>

improvements to and addition of city infrastructure that supports the performing arts. Specific improvements include:

**Contois Auditorium.** Over the last three years, BCA has worked with the City capital improvements program and procured grant support to make significant upgrades to Contois Auditorium, which functions as an affordable performance venue in the downtown. Investments to upgrade this venue include:

- \$86,200 in electrical, audio and lighting upgrades
- Replaced main drape and over-stage rigging
- Video system upgrade that includes three PTZ cameras and a video switching software system for seamless integration with OBS and our audio systems.

With these investments, Contois now has performance-ready lighting and sound capabilities, supplemented with portable/flexible-use audio equipment in BCA's inventory. In the last five (5) months, upgrades have allowed BCA to support Kat Wright and Brett Hughes' Holiday Concert, a week of Young Tradition Vermont's Spring Festival, Boston's CircUs, Steve Goldberg and Slut Magic concert and Bruce Wilson's Youth On The Boards concerts. BCA also used Contois as a live-stream studio for the Highlight New Year's eve, taking advantage of both our lighting and audio improvements and the installed Chanel 17 video equipment.

**City Hall Park.** Since 2018, BCA's Festival Director has been involved in the infrastructure design of the City Hall Park renovation. BCA worked with the park architects and engineers to be sure that the park was highly functional for events of all kinds. As a result, City Hall Park's three performance sites now feature:

- High amperage power near each performance site (50 amps, 200 amps and 100 amps, respectively)
- Data lines for either broadband internet access or connection to networked audio systems or lighting control near each performance site
- Eight ground boxes throughout the park, each with 20amps of GFCI protected power and two data lines
- Ground rated tent tie downs at the performance stage, BCA patio and College Street terrace allow tents to be safely secured without the need for tent stakes or large counterweights.

To further support these outdoor locations that are available at subsidized rates for public use, BCA expanded its lighting and sound inventory with over \$50,000 in new equipment.

**Community Sound System.** In 2021, BCA invested in a basic community sound system that is available for anyone to rent for a low daily rate of \$25. This includes two powered speakers, a small mixing console and two microphones, plus interconnect cable.

**Venues and Community Spaces.** Recognizing that performing arts and community organizations have been hit hard by the COVID-19 pandemic, BCA partnered with Love Burlington to improve access

to community spaces for performing artists<sup>17</sup>. Specifically, BCA helped build a searchable database of all community spaces that performing artists of all kinds can use to find spaces that can support their work.

**V. Recommendation.**

In light of the above, it is clear that the Guidelines fulfill the requirements of the Ordinance. The Guidelines also reflect current best practices in the field of public art to help ensure that the City's Public Art Program enhances public spaces and promotes Burlington's identity as a creative city and a desirable place to live, work and visit. Finally, the Guidelines fully support BCA's Mission to nurture a dynamic environment through the arts, making quality experiences and opportunities accessible to a broad audience. Accordingly, the Guidelines are in a form suitable for the BCA Board to adopt them and recommend that the City Council approve the Guidelines.

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<sup>17</sup> See <https://loveburlington.org/venues>