

Metropolitan Planning Commission

Mural Art versus Graffiti

Defining Mural Art in the City of Savannah:
CASE STUDIES

Charleston, SC

Definition of Graffiti:

“Graffiti is any unsanctioned material posted on a public or private property. Graffiti is vandalism, not art.”¹

Definition of Mural:

Any sanctioned material posted on a public or private property.

Mural Preview Process:

- Any permanent installation visible to the public must go through Charleston’s Design Review Committee (DRC)
 - This applies to everything from trashcans, benches, and murals.
- Proposed murals must submit the following documents to the DRC:
 - A written consent from the property owner
 - If the mural is in a highly visible area, a letter of support from the community is encouraged.
 - A draft of the art work.
 - A plan for who will be maintaining the mural.
- If approved, the applicant is given written permission to move forward with the project.

Noncompliance:

- Any unapproved mural is considered graffiti.
- “State law states that first offenders receive a fine up to \$1,000.00 and/or jail time not less than 30 days and up to 90 days and restitution to the victim. A second conviction in ten years calls for a fine up to \$2,500.00 and/or jail time up to 1 year. A third or subsequent conviction calls for a fine up to \$3,000.00 and/or jail time up to 3 years.”²
- The city reserves the right to remove or fine the property owner for any unmaintained murals.

¹ <http://www.charleston-sc.gov/dept/content.aspx?nid=2201&cid=15288>

² Ibid

Greensboro, NC

Definition of Graffiti:

“Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye or other similar substances on public or private building, sidewalks, streets, structures, or places which are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of materials used in the commission of the act. However, it shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.”³

Definition of Mural:

An approved writing, drawing, inscription, figure or marks of paint, ink, chalk, dye or other similar substances on public or private structures.

Review Process:

- Must obtain property owner’s approval.
- Mural must not be negative in nature.
- Signage that advertises a business or other agency must be approved by zoning department.

Noncompliance:

- “It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, streets, sidewalks, structure or any other real or personal property. Any person convicted of a violation of this paragraph shall be fined not less than two hundred fifty dollars (\$250) for a first offense and five hundred dollars (\$500) for a second and subsequent offenses. In addition to any other punishment imposed, the court shall order the person convicted of a violation of this section to make restitution to the victim for the damage or loss suffered by the victim as a result of the offense. The court may determine the amount, terms, and conditions, of the restitution.
- It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti upon such property. Any such person convicted of a violation of this paragraph shall be fined not more than one hundred dollars (\$100). In determining the fine to be imposed, the court may consider the efforts, if any, taken by the violator to remove or effectively obscure the graffiti during the preceding calendar year. The mandatory fine provided in this section shall not apply to a property owner, agent, manager, or possessor of property if such property owner, agent, manager or possessor has been victimized two or more times by graffiti within any calendar year and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.”⁴

³ City of Greensboro Ordinance Section 18-8:

⁴ <http://www.greensboro-nc.gov/departments/Police/Prevention/gangs.htm>

Tarrytown, NY

Definition Graffiti:

“For purposes of this section, the term "graffiti" shall mean the etching, painting, covering, drawing upon or otherwise placing of a mark upon public or private property with intent to damage such property.”⁵

Definition of Mural:

An approved design etched, painted, or drawn on a public private structure.

Review Process:

- Applicant must submit a rendering of the proposed mural to the Architectural Review Board, and possibly the Town Board, for approval.
- If approved, applicant will receive a building permit for the project.

Noncompliance:

- “No person shall make graffiti of any type on any building, public or private, or any other property real or personal owned by any person, firm or corporation or any public agency or instrumentality, without the express permission of the owner or operator of said property. Making graffiti is a class A misdemeanor.”⁶
- “The owner or occupant of any building, structure or object that has been marked by graffiti shall cause said graffiti to be removed from the building, structure or object within five business days of notification by representatives of the Village of Tarrytown.”⁷
- ”In cases where the owner or the occupant shall neglect or refuse to remove the graffiti within five business days of official advisement, the village shall have the right to carry out the removal and charge the costs thereof to the owner of the premises. Such costs shall constitute a lien or charge on said premises until paid or otherwise satisfied or discharged and shall be added to the village tax roll and collected in the same manner as delinquent taxes.”⁸

⁵ Penal Law of the State of New York: Article 145.60

⁶ Penal Law of the State of New York: Article 145.60

⁷ Tarry Town Village Code: Article 185-1

⁸ Tarry Town Village Code: Article 185-2

Denver, CO

Definition of Mural:

“Murals must be a “one-of-a-kind” work of art and must not appear in any other public form including but not limited to advertising, logos, and trademarks and including publications where the mural is used to promote or identify the sponsor in any form.”⁹

Review Process:

- Application is submitted to the Denver Office of Cultural Affairs
- By submitting the following information, the project will be considered as a one-of-a-kind artwork rather than signage
 - General information (location, artist name and bio, property owner name)
 - Description of mural including subject matter, drawings and renderings
 - Expected materials, dimensions, and timeline for execution
 - Letters of support from neighborhood groups and /or local business district

Review Criteria:

- If the mural is to be on an historic building, the application must be approved by the Landmark Preservation Commission.
- The mural must comply with existing Denver Municipal Code:
 - **Excerpt from Denver Revised Municipal Code [DRMC 59-537]**
(Ord. No. 852-92, eff. 11-27-92)
(10) Signs which are works of art as defined by section 20-86 of the Denver Revised Municipal Code. Such signs shall be primarily artistic in nature, but up to five (5) percent of the sign may be the name or logo of a sponsoring organization. The percentage of the sign devoted to the sponsoring organization may be increased up to ten (10) percent of the sign if the zoning administrator, with input from the director of the Denver Office of Cultural Affairs, determines the portion of the sign devoted to the sponsor does not detract from the artistic quality of the sign.

Noncompliance:

- If it is determined by the committee that the proposed mural does not constitute a one-of-a-kind work of art, the applicant will be directed to the zoning commission to apply for a sign permit.
- If vandalism to the mural occurs, it is the responsibility of the mural owner/project manager/artist to remove graffiti within 48 hours (consistent with City-wide ordinances regarding graffiti removal). If it is not removed and repaired by the owner/project manager/artist, the Public Works department could be called to remove the graffiti vandalism using their standard removal techniques/materials.

⁹ Denver, Colorado, Mural Policy and Application Materials,
www.denvergov.org/Portals/701/documents/Mural%20Policy.2009.doc

Milwaukee, WI

Definition of Mural:

A mural is defined as any picture, painting or other art work applied to and made integral with an exterior wall surface of a building, structure, fence or garden wall and which contains no copy, lettering, symbols or any references directly related to the promotion of any product, business or service.¹⁰

Review Process:

Application is submitted to the City of Milwaukee Commissioner of City Development and a Building Code permit is issued upon approval. Application includes:

- Notarized letter of approval from the property owner
- Certificate of Appropriateness (if mural is on locally designated historic property or in local historic district)
- Permit fee of \$100 and annual inspection fee of \$75
- Four sets of scale renderings of existing façade, indicating proposed location and design of mural

Review Criteria:

- Mural cannot be within 300 feet of a property with an existing mural
- Mural cannot exceed 75% of the area of the façade of a building, structure, fence, or garden wall
- Mural cannot cover windows or doors
- Mural cannot face an alleyway
- Mural must be limited to one façade

Noncompliance:

- If the mural is not completed within three months of the issuance of the permit the permit is considered expired
- If a mural is started without a permit, the mural fee may be quadrupled
- Any violations may be issued to both the person constructing the mural and the property owner

¹⁰ City of Milwaukee, Mural Ordinance Proposal, <http://www.trueskool.org/Mural%20Ordinance%20text.pdf>

Beaverton, OR

Public Art Policy:

The Beaverton City Council voted in April 2008 to exempt all public art from the City's sign code and create a public art program for display of art on public rights of way and on private building facades and other private property under the terms of easements to be granted to the City for that purpose. New murals are reviewed by the Public Art Selection Committee, a standing committee that is responsible for overseeing the City's Public Art Mural Program. Committee members include a representative from the City and the Arts Commission, as well as artists, arts patrons, a City resident and an experienced muralist. The program has a matching grant fund opportunity available.¹¹

Review Process:

- Meet with Beaverton Arts Commission staff for initial review of imagery, location, funding, and building owner's approval
- Submit Public Art Mural Application, including
 - 15 copies of color renderings of mural
 - Photographs of site and physical surroundings
 - Project timeline
 - Project budget
 - Written description of mural, site, materials used, process
 - Evidence of community support (letters from property owner, neighbors)
- Present mural to Public Art Selection Committee for approval
- Notarized Art Easement agreement is signed by building owner and artist(s)

Review Criteria

- Accessibility: is viewable by public, meets city accessibility codes
- Artist Quality: strength of artist's concept and demonstrated craftsmanship
- Contemporary Relevance: appropriateness for our time
- Context: architectural, geographical, socio-cultural, historical
- Feasibility: budget, timeline, experience level
- Originality: uniqueness
- Permanence: will last a minimum of five years, resistance to vandalism and weather
- Scale: appropriateness of scale to surrounding neighborhoods
- Suitability: appropriateness to surrounding neighborhood
- Technical Proficiency: technical skills and artistic experience

¹¹ Beaverton, Oregon, Beaverton Arts Commission,
<http://www.beavertonarts.org/Opportunities/docs/Public%20Art%20Mural%20Guidelines.pdf>

Salem, MA

Case Study: Mike's Museum

Background:

The owner of a local art gallery in Salem, MA wanted to turn the garage door on his storefront into a temporary mural space. The city had no public policy addressing murals specifically, so his request was given to the city's design review board. The following are taken from the minutes of the meeting.

Proposal:

The owner of Mike's Museum proposed to install a temporary mural wall on a non-historic building within the public view. The mural would be repainted by a different artist each month for six months.

Concerns of the Review Board:

- Art cannot be "graffiti-style" or appear to be vandalism
- The mural cannot be advertising for the business, but rather public art
- Text is allowed, but it would have to be art related
- All drawings must be subject to approval to monitor for offensiveness

Outcome:

The mural wall was approved unanimously by the Review Board with the following conditions:

- The artists would submit drawings for review by one member of the Salem Redevelopment Authority for approval
- If complaints are received about the murals it must be reviewed by the Design Review Board
- All maintenance will be performed by the property owner, and mural must be kept in good condition¹²

¹² City of Salem, Massachusetts, Draft Minutes April 27, 2011
http://www.salem.com/Pages/SalemMA_DRBMinutes/103089694

Fayetteville, NC

Definition of Graffiti:

“As used in this section, graffiti means writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, structures, or places which are not authorized or permitted by the property owner or possessor. For the purpose of this article, graffiti includes drawing, writings, markings, or inscriptions regardless of the content or the nature of materials used in the commission of the act. Graffiti does not include temporary, easily removable chalks or other water soluble markings which are used in connection with traditional children's activities such as drawings of bases for ball games, hopscotch, and similar activities, nor does it include temporary, easily removable markings used in connection with any lawful business or public purpose or activity and markings used to denote the location of underground utility infrastructure and those used in conjunction with establishing survey control data and location points by survey crews.”¹³

Exemption: Subsection (a) of this section shall not be construed to prohibit temporary, easily removable chalk or other water-soluble markings

Definition of Mural:

“Public art building. To further create an individual identity to the community, artistic detailing such as tile work, murals, sculptures, and similar features, which are integrated into the design of the structure, are encouraged. If tile work or murals, or similar detailing on the building is used, it must cover at least 20 percent of that facade, which is not devoted to the entrance area(s). In lieu of installation of public art directly by the developer, the developer may elect and is encouraged to have a local arts organizations coordinate the selection, placement and installation of the public art as required in this subsection:

- One percent of the construction cost, as determined by the value of the building permit, for the subject property shall be allocated and used to purchase and install public art for the building(s).
- Calculation of the construction cost shall be verified by the inspections department.
- The following expenses may be included in the public art allocation:
- The artwork itself, including the artist's fee for design, structural engineering and fabrication;
- Transportation and installation of the work at the site;
- Identification plaques; and
- Mountings, anchorages, containment, pedestals, bases or other materials necessary for the installation of the artwork;
- The following expenses shall be excluded for the public art allocation:
- The cost of locating the artist;

¹³ Fayetteville, North Carolina Code of Ordinances: Sec. 17-32- Graffiti

- Architect and landscape architect fees;
- Land costs;
- Landscaping, utility connections and fees associated with activating the artwork; and
- Publicity, public relations, photographs or dedication ceremonies.”¹⁴

Review Process:

- If proposed as a public art element, such proposals would be considered by at least two bodies – the Arts Council and the City’s Public Arts Commission.
- If the site or building is subject to historic district or landmark building regulations, the mural would have to receive approval of the Historic Resources Commission.

Penalties:

- “It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property. Any person convicted of a violation of this paragraph shall be fined not less than \$250.00 for a first offense and \$500.00 for second and subsequent offenses.”¹⁵

¹⁴ Fayetteville NC Code of Ordinance, Chapter 30 Zoning, Article IV

¹⁵ Ibid

Miami, FL

Wynwood Walls:

Background:

Wyn Wood Walls is open air park that showcases international contemporary artists. The gallery was created in the already existing Wyn Wood area of Miami. The gallery is the result of a collaboration between Tony Goldman (Goldman Properties) and Jeffrey Deitch (Deitch Properties). The main objective was to continue the already existing tradition of street art in the Wynwood area but to do so in a legal and contained manner.

Proposal:

“Using primed walls of buildings as their canvases, internationally respected artist from Asia, Europe, Latin America and the United States created the art park’s original 12 expansive murals.”

The art park will have designated walls that artists can use. The exhibits change periodically and are maintained by Goldman Properties and Deitch Properties. The art park is free of charge.

Outcome:

Since it’s opening in 2009, the art park has welcomed dozens of internationally acclaimed contemporary artists and has attracted visitors from around the globe. The park has been well kept and is often published in nation wide newspapers advertising each exhibit.