

City of Boynton Beach  
Public Art Program

**Draft Art in Public Places Guidelines  
for  
Property Owners**

Draft April 20, 2022  
(Minor Updates on September 12, 2022)

## **Introduction**

On October 5, 2005, the Commission of the City of Boynton Beach adopted Ordinance 2005-060 that created the Art in Public Places program establishing a public art requirement on most new and renovation construction projects exceeding \$250,000 in value. In 2020, the program was confirmed through ordinance 2020-16 codified in the Code of Ordinances Chapter 27, Article II, Art Advisory Board. In the event that any provision of this public art guidelines limits, qualifies in error or conflicts with a provision of aforementioned enabling ordinances, such provision of the ordinances shall control. In the event of a question involving the provisions of any part of these guidelines, interpretation and clarification as necessary shall be determined by the Public Art staff.

The following public art guidelines have been prepared for property owners constructing or remodeling a building or adding murals on existing structures. Boynton Beach strongly recommends that the property owner meet very early in the project planning process with the Public Art staff. As discussed in the guidelines, the property has a choice to pay the Art in Public Places fee or install public art on their property. If installing art, the guidelines provide the entire process, requirements and forms to satisfy the public requirements in Boynton Beach.

The “Frequently Asked Questions” provide a basic understanding of the issues and process. The FAQs are followed by specific guidelines and various resources to assist in completing the process.

The Art in Public Places program is managed by the Public Art staff with assistance from Planning and Zoning Division and the Building Official. All public art that satisfies the Art in Public Places program must be approved the Art Advisory Board.

### **City of Boynton Beach**

100 E. Ocean Ave, Boynton Beach, FL 33435  
[www.boynton-beach.org](http://www.boynton-beach.org)

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Alternates: Ellen Jones and Gregory Hartmann

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## **A Significant Choice: Enhance Owner's Property or Contribute to Public Art Fund**

Each property owner that is constructing a new or renovated building, that falls under the Art in Public Places program, has a significant decision regarding compliance with City code.

### **Choice #1:**

Purchase and maintain public art on the property

### **Choice #2:**

Make a contribution of 70% of 1% of the construction value to the Public Art Fund

The City recommends the owner make the choice before or during the staff review process of the Major or Minor Development Application with the Planning & Zoning Division (aka DART).

Legally, the owner can decide at any point in the planning, design and construction phases to place public art or make a contribution. Later decision-making to install public art may require modifications to the approved site plan or building permits.

## **What is the Cost of Compliance with Art in Public Places?**

Overall, a qualifying construction project must pay or spend 1% of the total construction value. The cost is divided in two.

1. Payment of 30% of the 1% (0.003 x construction value) at the time of the issuance of any permit for building, demolition, signage, etc.
2. Payment of 70% of the 1% (0.007 x construction value) or the installation of approved public art costing the same amount prior to the issuance of the final certificate of occupancy.

## **Construction Projects requiring Art in Public Places**

Generally, any addition, renovation or new construction, except for single-family and two-family in-fill houses, with a total construction cost greater than \$250,000 must participate in the program. Here is the full list of exceptions from the City code.

- 1) Remodeling, repair or reconstruction of structures damaged by fire, flood, wind, earthquake or other calamity determined by the City of Boynton Beach building official.
- 2) The percent of the project dedicated to affordable housing as defined by the City of Boynton Beach.
- 3) All projects which were submitted prior to or on October 5, 2005, notwithstanding any subsequent request for site plan extension.
- 4) Single-family and two-family in-fill housing.
- 5) Normal, routine maintenance including replacement of existing damaged or failing structural or non-structural elements, HVAC, plumbing, electric, or fire detection/suppression equipment of a project not associated with an addition, renovation or new construction.
- 6) Remodeling, repair, reconstruction, or additions made after October 5, 2005 to any existing amenity, clubhouse, building, pool, park, playground and/or common area element located within an existing private residential development. This specific exemption applies retroactively to October 5, 2005.

### Determination of Value

The value of the construction is determined by the Building Official and the value includes all work for a particular construction project even if the permits are pulled at different times by different contractors. Except for the purchase of the land and soft costs such as architectural fees, the value includes everything from demolition or site clearance to the monument sign and landscaping.

### Affordable Housing (Number 2 Above)

The construction value for the AiPP fees for developments with affordable housing units is the total construction value times the percentage of market-rate housing in the development. ( Total Construction Value times Market Rate Units / Total Number of Units) Affordable housing units meet HUD low-income definitions.

### Single and Two-Family Houses (Number 4 above)

The exception is only for an individual single or two-family house. The exception does not apply to the development of a site with multiple houses even if the houses are built at different times under different permits.

### Routine Maintenance (Number 5 above)

If the change is voluntary and not initiated due to damaged or failing elements, then the construction project is not routine maintenance.

### Amenities in existing Residential Developments (Number 6 above)

The exception does not apply to the complete demolition of an existing amenity for the construction of a completely new version of that amenity.

## Frequently Asked Questions

### What is public art?

In general, public art is artwork displayed in publicly accessible places and buildings. Up until the mid-20th century, public art such as sculptures, mosaics, carvings and handmade building elements were normal parts of a building. To restore the lost aesthetic qualities, more than 500 American states, counties and cities have required public art in public and/or private construction. Today, public art has come to mean traditional sculptures and murals, plus the full range of things made by artists for buildings, streetscapes and landscapes.

### Who manages the Art in Public Places program?

The Public Art Program of the City of Boynton Beach manages the Art in Public Places program. An appointed citizen committee, the Art Advisory Board, approves artwork proposals and final artworks on private property.

### What qualifies as public art?

For this program, the public art can be many kinds of artistic creations by a professional artist. The Art Advisory Board evaluates the artist first, then the artwork. In general, these artists must have experience in public art and be recognized via museum exhibitions, publications and other cultural institutions. Reproductions of original artwork, unlimited copies or mass-produced art objects do not satisfy this program. No matter the quality, items designed by the architects or other designers on the construction project will not satisfy this program.

### What types of public art does the City prefer?

The first criterion for any public art is the finest artwork available that is appropriate to the particular location. The City wishes to enhance its international reputation for kinetic art, its reputation for sustainability and the public art made by the full range of artists from the ethnic communities of south Florida.

### What construction projects must pay the art fee or install artworks?

Generally, except for single-family and two-family in-fill houses, any addition, renovation or new construction with a total construction cost greater than \$250,000 must pay the fee or install artworks. Other exceptions exist for rebuilding after disasters, affordable housing, routine maintenance and renovations to residential community clubhouses. See page 4 for more detail.

### How much will the program cost the property owner?

The owner will need to spend 1% of the total construction value. The cost is divided in two.

1. Payment of 30% of the 1% ( $0.003 \times$  construction value) at the time of the issuance of any permit for building, demolition, signage, etc. This payment funds the overall administration of the program.
2. Payment of 70% of the 1% ( $0.007 \times$  construction value) or the installation of approved public art costing the same amount prior to the issuance of the final certificate of occupancy.

**Is the property owner required to have public art on their property?**

No, the developer may contribute the entire art fee to the Public Art Fund for artworks on public land in the city. The Art Advisory Board will create a plan of future artworks and locations for approval by the City Commission.

**If the owner wants artwork, where is the artwork located on the property?**

The public art must be located such that it is readily visible with lighting and fully accessible 24 hours a day to pedestrians and vehicles without significant visual interference by signs, poles, trees, parked vehicles and other objects. The artwork(s) locations should be proposed by the owner and then must be approved by Planning & Zoning and the Art Advisory Board. In the guidelines, the City has established suggested locations for artworks in the downtown including Federal Highway, Ocean Ave, Boynton Beach Blvd, FEC Railroad and ML King Jr Way.

**How does artwork on private property get selected?**

First, the property owner should meet with Public Art staff and discuss the project as early as possible in the planning and design process. Issues of sites, costs and artwork quality will be discussed. Once agreed and a site(s) determined, the property owner can choose from two methods. The owner can ask the Public Art Manager to issue a call to artists or the owner can propose directly an artist or work of art. In both cases, the Art Advisory Board and the owner must approve the final result.

**What if the property owner and the Art Advisory Board cannot agree on an artwork?**

If no agreement is reached on the artworks, the property owner can end the selection process and contribute the art fee to the Public Art Fund. Or the owner can appeal the decision to the City Commission on the grounds that the proposed artwork does satisfy the adopted guidelines of the City's Art in Public Places Program.

**How much time does the owner have to propose and to install artworks?**

The artwork must be installed prior to the issuance of the certificate of occupancy. The City recommends that the owner starts during the design process to propose an artist(s), public art and site design.

**Does the public art affect the certificate of occupancy?**

Yes. In unique circumstances, the CO may be issued if the artwork is nearly finished, but not installed. An extension can be granted. If the artwork is not installed within the extension, then the failure is a code violation.

**Who owns the artworks?**

The property owner.

**Who is responsible for the maintenance of the artwork?**

The property owner.

# **Art in Public Places Process**



## **Art in Public Places Process with Planning & Zoning**

The checklist is provided for every property owner that chooses to satisfy the Art in Public Places requirement on their major and minor development projects. The checklist is a guide.

- REVIEW PUBLIC ART IN BOYNTON:** At boyntonarts.org, see the public art in the City.
- P&Z PRE-APPLICATION CONFERENCE:** At the informal pre-application conference with the Planning and Zoning staff, the Art in Public Places program will be discussed and the Art in Public Places Property Owner's Guidelines will be provided. The owner is encouraged to choose as soon as possible between 1.) providing public art on the property or 2.) paying an art fee in-lieu of placing artwork on the property.
- PUBLIC ART STAFF MEETING:** If the owner is considering or planning public art on the property, the public art staff is available to discuss options and process for public art prior to extensive site design or building design.
- P&Z DART APPLICATION REVIEW\*:** With the major or minor development application to the Planning and Zoning Division, the owner should complete the Art in Public Places form and designate a choice of public art on the property or payment of the art fee. If choosing public art on the property, the P&Z submittals should show the public art location(s) on the site plan, landscape plan, photometric plan (and elevations if applicable), and a general description of artwork type. The location and visibility require the approval of the Art Advisory Board. (See page 11, Site Plan)
- BUILDING PERMIT APPLICATION:** With the permit fees prior to the start of construction, the owner will pay the 30% of 1% of construction value of each permit as determined by the Building Official. Any foundations, lighting, and landscaping drawings will be reviewed by Public Art staff for compliance with the approved proposal and these guidelines.
- ARTIST SELECTION:** The owner should select an artist(s) and present artist qualifications to Art Advisory Board for approval. The owner can request that the Public Art staff issue a Call to Artists to solicit artist applications.
- ARTWORK PROPOSAL APPROVAL:** The artist and owner's team should prepare a public art proposal and present it to Art Advisory Board for approval. The proposal includes detailed colored illustrations and a description of public art in a Public Art Proposal. (See page 15.)
- FINAL APPROVAL:** The owner will inform the Public Art staff of the installation of public art, site elements and plaque on the property and submit final documentation of artwork, maintenance plan and proof of expenditure. After the on-site review of artwork by representatives of the Art Advisory Board, the Art Advisory Board will evaluate if the finished work matched the approved public art proposal.
- CERTIFICATE OF OCCUPANCY:** With final approval by the Art Advisory Board, the final CO can be issued. If the proof of expenditure on public art did not equal or exceed 70% of 1% of the total construction value, the owner will pay the difference as an art fee.

Note \*: The property owner can determine the location and type of art at a later date, but it may require a site plan modification if determined by the Director of Planning & Zoning Division.

## **Art in Public Places Process thru Building Department Only Art on Property**

The checklist is provided for every property owner that chooses to satisfy the Art in Public Places requirement on significant interior remodeling, not requiring a development application. The City is notified of the project with a building permit application. The checklist is a guide.

- BUILDING PERMIT REVIEW FOR PUBLIC ART:** The Building Department Intake Staff or the Public Art Manager reviews the building permit application for Art in Public Places requirement. If the construction project does not require public art, then the contractor will not receive a notice of Art in Public Places. If the construction project does require public art, the contractor will receive information and the Choice Document for completion from the building department. The contractor should complete and submit the Choice Document with “Yes, public art on the property”
- PUBLIC ART STAFF CONVERSATION:** Prior to completing the choice document, the owner can contact public art staff to discuss options and processes. A copy of the Art in Public Place Guidelines for Property Owners will be provided.
- ART FEE WITH BUILDING PERMIT(S):** With the permit fees prior to the start of construction, the owner or contractor will pay the 30% of 1% of construction value of each permit as determined by the Building Official.
- SITE APPROVAL:** High visibility of the public art from vehicles and pedestrians is required by ordinance. The site approval application to the Art Advisory Board should include public art location(s) on the site plan, elevations with art if relevant, rendering if available, landscape plan, artwork lighting and a general description of artwork type. (See page 11, Site Plan)
- ARTIST SELECTION:** The owner should select an artist(s) and present artist qualifications to Art Advisory Board for approval. The owner can request that the Public Art staff issue a Call to Artists to solicit artist applications.
- ARTWORK PROPOSAL APPROVAL:** The artist and owner’s team should prepare a public art proposal and present it to Art Advisory Board for approval. The proposal includes detailed colored illustrations and a description of public art, plus other information in the Public Art Proposal, page 15.
- FINAL APPROVAL:** The owner will inform the Public Art staff of the installation of public art, site elements and plaque on the property and submit final documentation of artwork, maintenance plan and proof of expenditure. After on-site review of artwork by representatives of the Art Advisory Board, the Art Advisory Board will evaluate if the finished work matched the approved public art proposal.
- CERTIFICATE OF OCCUPANCY:** With final approval by the Art Advisory Board, the final CO can be issued. If the proof of expenditure on public art did not tally expenditures equaling 70% of 1% of the total construction value, the owner will pay the difference as an art fee.

## **Art in Public Places Process with No Art (In Lieu of Fee)**

The checklist is provided for every property owner that chooses to satisfy the Art in Public Places requirements by paying the in lieu of fee and not providing public art onsite. The checklist is a guide.

- BUILDING PERMIT REVIEW FOR PUBLIC ART:** The Building Department Intake Staff or the Public Art Manager reviews the building permit application for Art in Public Places requirement. If the construction project does not require public art, then the contractor will not receive a notice of Art in Public Places. If the construction project does require public art, the contractor will receive information and the Choice Document for completion from the building department. The contractor should complete and submit the Choice Document with “No public art on the property”
- ART FEE WITH BUILDING PERMIT(S):** With the permit fees prior to the start of construction, the owner or contractor will pay the 30% of 1% of construction value of each permit as determined by the Building Official.
- ART FEE WITH CERTIFICATE OF OCCUPANCY:** When the Building Official determines that all conditions are met to issue the Certificate of Occupancy, the owner will pay the in lieu of fee equaling 70% of 1% of the total construction value prior to receiving the CO.

## **Paying for Art on the Property**

As per the ordinance, the owner must pay the 70% of 1% art fee prior to receiving the CO. The owner has two methods to pay the art fee.

**ART INSTALLED BEFORE THE CO:** If the art is completed before the request for the CO from the Building Official, the owner can submit proof of expenditure on the public art that equals or exceeds the 70% of 1% art fee. (See Art Budget page 13)

**ART INSTALLED AFTER THE CO:** If the artwork is not completed or installed at the time of CO, then the owner must pay the 70% of 1% to the City Building Department and submit a letter to the Art Advisory Board detailing the future process and timeline. The City will refund the owner the art fee when they submit proof of expenditure on the public art that equals or exceeds the 70% of 1% art fee. (See Art Budget page 13).

## Site Plan

The owner or owner's representative should meet with the City's Public Art staff to discuss the Art in Public Places program and its relationship to the site plan. The proposed location of the artwork will be evaluated by the Planning & Zoning staff, City Engineer and Public Art Manager during the Development Application or during the amendment to the Application.

### Site Planning Requirements

The ordinance requires that the public art is readily visible day and night and fully accessible 24 hours a day to pedestrians and/or vehicles. Signs, poles, trees, berms, parked vehicles, fences and other objects should not significantly block the view of the artwork.

In regards to the site plan, the City of Boynton Beach strongly encourages the following:

- Artworks contribute to the urban design of Boynton Beach through the placement
  - 1.) on the property line against the road with the highest amount of traffic,
  - 2.) on the prominent façade or entrance,
  - 3.) in a public pedestrian place used by a large number of visitors, or
  - 4.) a combination of all
- The artworks are a prominent and important part of the overall site plan with a real impact on the site and city. Landscape, hardscape, site furnishing and lighting are designed to enhance the public art and make the artworks better appreciated from the public sidewalk or public space. This includes what is in front of and behind the artwork(s).

### Elements of the Site Plan Submittal

The artwork(s) site should be located on an overall site plan. The site plan should include graphic indications of site corridors for the artwork from the street or public spaces. Lighting for the artwork(s) should be indicated.

If the artwork is integrated into the building façade or building elements, the relevant building elevations should be included.

### Special Siting Requirements

In the Special siting chapter, the City is working toward priority locations for public art on the Avenue of the Arts/East Ocean Ave and other downtown properties on Federal Highway, Boynton Beach Blvd, Seacrest Blvd.

### Good siting practices

It is recommended that the project designers consider the following:

- Artworks backlit by the sun makes photography difficult.
- Shade from buildings, trees or even poles can harm the look of the art
- Avoid hotspots on lighting on the art
- Give the artwork its own space without the clutter of signage, emergency lights, electrical cabinets, etc.
- Create a safe location for the photographer ( selfie or otherwise ).

## Artwork Qualities

The City of Boynton Beach has established definitions and qualities of public artworks that are eligible to satisfy the requirements of the Public Art Ordinance.

### Eligible Media and Forms of Public Art

The public art ordinance identifies the following artwork media and forms. “tangible creations by artists exhibiting the highest quality of skill and aesthetic principles and includes all forms of the visual arts conceived in any medium, material, or a combination thereof, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetics, collages, drawings, monuments erected to commemorate a person or an event, functional furnishings, such as artist-designed seating and pavers, unique or original architectural elements, and artist-designed landforms or landscape elements.”

Ineligible Objects. The following do NOT satisfy the Art in Public Places program

1. “Reproductions or unlimited copies of original artwork.
2. “Art objects, which are mass-produced.
3. “Works that are decorative, ornamental, or functional elements of the architecture or landscape design, except when commissioned from an artist or designed as an integral aspect of a structure or site.”
4. Artworks that too closely resembles a business logo, trademarks or branding imagery and therefore would a sign.

The guidelines encourage

1. unique works of art made specifically for the owner’s property in Boynton Beach through direct contracts with the artist(s); and
2. artworks fabricated in the United States of America.

The guidelines encourage public art that has the following attributes

- Appropriate art for the site with careful consideration of placement, landscaping and other surrounding elements;
- Artwork expressing one or more of the diverse cultures of Boynton Beach;
- Surprising and unexpected art;
- An experience to be in, touch or interact with;
- A powerful impact on the city through size, prominent location, image, and/or multiple artworks; and
- Museum-quality public art that is of high quality, approachable and inspiring.

## Artwork Budget

The budget will be presented three times during the public art process. The estimated total artwork budget should be identified during the site plan review process. A detailed budget should be presented with the artwork proposal. A final budget will be submitted with the completion of the work.

The selection, design, fabrication and installation have many budgetary elements. Below is a list of allowable expenses that can be charged against the required art budget under the Art in Public Places program.

1. Direct artist<sup>1</sup> costs in the design and/or fabrication of artworks including artist fees, materials, fabricators, insurance, sales taxes and travel.
2. Art consultant or art dealer's fees up to 15% of the artwork fabrication cost<sup>2</sup>
3. Delivery and installation of the artwork.
4. Construction and design of structures or foundations supporting the artwork
5. Lighting
6. Acknowledgment plaque identifying the artist, artwork, year and sponsor.<sup>3</sup>

### Special Budget Category: Artist-Designed Elements of Building, Plaza or Landscape

In this category, the budget should show an artist design fee and a remaining budget for the implementation of the artist ideas. In general, the Art in Public Places dollars will be used for the additional cost created by implementing the artist's visual design ideas. For example:

1. On plazas, only the decorative brick or terrazzo topping
2. For fountains, only the special fountain elements, not the plumbing, computers or basic pool if not designed by the artist.

### Maintenance

Future costs for the operation, conservation and maintenance of the artwork cannot be reserved from the original budget.

### Responsibility for Budget Compliance

The owner is responsible for the budget control on the public art project. In the event that the costs exceed the required 0.007 times total construction value, the owner shall resolve the budget with the artist and others. The City will not be responsible to supplement the budget based on its approval of the artwork and budget submitted by the owner.

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<sup>1</sup> The City of Boynton Beach encourages direct contracts with artists as purchases through galleries or art dealers can have a 100% mark-up, thus reducing the amount of art by half.

<sup>2</sup> Consultants or art dealers should not be permitted to take an additional percentage of the artwork cost from the artist

<sup>3</sup> A permanent plaque is mandatory

## **Professional Artist Qualification**

The qualifications of the artist(s) are the first priority. These qualifications will undergo significant examination. The qualifications are quoted from the ordinance with additional explanation.

- “practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the sole commission of artwork, frequent or consistent art exhibitions.” In general, these elements should reveal a consistent practice as a VISUAL artist over the years. The critics need to be recognized art critics from printed or online art publications. Exhibitions should be in quality galleries and museums specializing in the visual arts.
- “Placement of artwork in public institutions or museums.” Other similar artworks in public art collections of merit, sculpture parks of merit and/or museums of university, state, regional or national respect.
- “Receipt of honors and awards.” Fellowship or awards from the National Endowment from the Arts, national art agency, state arts agency, major metropolitan area arts council and prominent art foundations.
- “Training in the arts.” Bachelor and/or Masters of Fine Art or fields of design

Other criteria established by these guidelines include the Art Advisory Board determination of:

- Compatibility with the aesthetic quality and community standards of Boynton Beach;
- High quality of the artist's recent public work; and
- Comparative quality of the recommended artist in relation to other known talented artists.

### Recommended Submission

1. Comprehensive resume of the artist addressing the basic qualifications.
2. Reviews or other writings of recent exhibitions or public artworks.
3. Ten color images of at least 5 relevant artworks completed in the last five years

## **Artist Selection Process Assistance**

The owner can utilize whatever process they desire. Several standard methods do exist in the United States that will result in an expanded pool of applicant artists that can satisfy the requirements of the property owner, Art Advisory Board and arts professionals.

If requested by the owner, the Public Art staff will manage a selection process that matches the City's processes for artist selection.

- Develop a Scope of Work, Budget and Schedule
- Issue a Call to Artists
- Establish a Committee to review applications and recommend a shortlist of artists to the owner
- Establish a Committee to review artwork proposals and make recommendations to the owner.

Neither the public art staff nor the Art Advisory Board members will make direct recommendations to the owner regarding a single artist for the project. Public art staff only provides advice and assistance in the process that may include contact lists of artists and encouraging artists to apply. The staff does not vote nor approve artists or artworks.



## **Public Artwork Proposal and Criteria**

The owner should prepare a public art proposal for approval by Art Advisory Board. The proposal should include the following:

1. Detailed drawings or images of the proposed artwork.
2. Description of artwork including overall length, width and height, materials and method of construction.
3. Detailed drawings of the specific public art site showing
  - a. Location of artwork(s)
  - b. Location of lighting for artwork(s)
  - c. Location of plaque for artwork.
4. Full site plan with artwork(s) plus the landscaping, parking, building and view corridors from the public sidewalk and/or public space.
5. If appropriate to the project, colored building elevations with the artwork
6. Statement on maintenance requirements.
7. Summary budget

A sample proposal form for the artist is available in the Appendix.

### Review Criteria

As per the Art in Public Places program, the proposal will be evaluated on the following:

- Appropriateness of the artwork to the site and site environmental conditions;
- Maximum visual accessibility to pedestrian or vehicular traffic;
- Quality of the artwork;
- Maintenance requirements; and
- Whether the artwork too closely resembles a business logo, trademark or branding image and then is rejected as a sign.

Additional evaluations established by these guidelines include:

- Compatibility with the special art sites; and
- Maximizing the public art budget to achieve a maximum amount of quality artwork.

## **Final Installation and Approval**

The owner should contact the Public Art staff upon the installation of the public art on the owner's property and to submit final documentation of artwork, plaque, maintenance plan and expenditures.

The documentation should include the completed "ARTWORK INFORMATION FORM" that includes the maintenance requirements, actual color/material samples and three high-definition color digital images. The maintenance requirements should be a statement from the artist explaining the maintenance needs of the artwork and desired weathering. For example, the artist may or may not wish the oxidation of bronze.

The Artwork Information Form, samples and digital images will be utilized for code enforcement in the future.

In special cases of digitally printed artworks or complex fabrication/installation, the City will ask for copies of the digital files or fabrication/installation documents. The City's copies will serve as a backup resource in case the owner or future owner misplaces these documents necessary to repair.

After the on-site review of artwork by representatives of the Art Advisory Board, the Art Advisory Board will evaluate if the finished work matched the approved public art proposal.

## **Post-Installation**

### Removal of the Artwork

In the event that the owner wishes to remove the artwork in the future for any reason and still be in compliance with the ordinance, they must secure the Art Advisory Board approval for one of the following:

1. A new location on the property with good visibility and lighting.
2. Donate the artwork to the city for placement elsewhere and cover all costs of the installation
3. Transfer the artwork to another property in Boynton Beach for public display in a location with comparable or better public visibility. (The new property owner cannot use this artwork to meet the requirement of the Art in Public Places program and must assume permanent responsibility.)
4. Contribute funds to the Public Art Fund equal to the original required amount that has been adjusted as per the Consumer Price Index since installation.
5. Purchase a new replacement artwork equal in value to the original required amount that has been adjusted as per the Consumer Price Index since installation. This new artwork should be approved by the Art Advisory Board

### Maintenance of the Artwork

On an annual basis, the Public Art Program staff will examine the artwork for general condition and comparison with original photographs and material samples. Any failure to maintain the artwork may result in a citation for code compliance violation.

### Transfer of Property Ownership

In the event of the transfer of the property ownership, the artwork will be transferred to the new owner and remain on the property unless approved by the Art Advisory Board under the removal of artwork section above. If the past owner removes the artwork without permission, the current owner will be required to replace the artwork or contribute to the Public Art Fund as per the removal of the artwork above.

### Continual Damage

In the event that the approved artwork is continually damaged by humans or weather, and despite the owner's good efforts, the artwork is always in disrepair, then the owner may ask the Art Advisory Board to approve the removal. In this one case, the owner is not responsible for creating new artwork. The owner should be aware of Visual Artist Rights Act (VARA).

### Redevelopment of the Property

At some time in the future, the property may be redeveloped. If the artwork is integrated with the building or site elements to be demolished and the Art Advisory Board agrees that the artwork cannot be safely removed, then the artwork may be demolished. (See VARA below). If the artwork can be removed without injury to the work of art, then the city recommends the re-use of the artwork on the site. The new development must comply with the ordinance at that time. The older artwork will not satisfy the ordinance requirement for new construction on the site.

### Visual Artist Rights Act (VARA)

The owner should be aware of VARA, a section of the Federal Copyright Legislation. Among other things, this law forbids the willful destruction of a work of visual art. See United States Code Annotated, Title 17. Copyrights, Chapter 1 – Subject Matter and Scope of Copyright, Current through P.L. 105-153, approved 12-17-97.

## **Promotion of Public Art**

By participating in the Art in Public Place program, the owner is granting the City the right to use images of the owner's public art for public information and promotion of the City and public art. To the extent possible, the City will give credit to the owner and the development. The contract with the artist should grant the image use to the City and owner.

## **Contact**

Glenn Weiss, Manager  
Public Art Program  
weissg@bbfl.us  
561-742-6026  
boyntonarts.org

# Murals Guidelines

Adopted by the Boynton Beach City Commission on February 15, 2022

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Mural Guidelines are a special section of the Art in Public Place (AiPP) guidelines with unique requirements related to murals as permitted in the Land Development Regulations of the City of Boynton Beach. Many parts of the Art in Public Places general guidelines such as artistic and community standards are the same for murals as other public artworks.

The Mural Guidelines encourage voluntary murals on privately- owned buildings and sites. Some murals are called voluntary as the murals are not created in compliance with the Art in Public Places program. Art in Public Places murals are permanent whereas voluntary murals can be modified or removed at any time.

The Mural Guidelines do not apply to single-family or duplex houses in the City of Boynton Beach. Homeowners can install murals without this review and approval process. The City does encourage homeowners to utilize the guidelines when planning, creating and maintaining a mural. Other laws may restrict the content of painting such as signage for a home business or hate speech. Homeowners associations may have restrictions.

The Mural Guidelines do not apply to murals on the interior of buildings except for murals on the interior surfaces of exterior windows that are intended to be seen from the exterior.

## What is a mural?

As per Chapter 1, Article II, Definitions of the LDR, a mural is “a work of art that is hand-painted, hand-tiled or digitally printed image or digital display system on the exterior surfaces of a building or site”.

”Such a mural is not a sign and shall not contain any advertising or other commercial message with the brand name, product name, abbreviations thereof, company or business name or logo, hashtag, trademark or brand imagery.”

The Art Advisory Board will determine if an image, painting pattern or other elements on the exterior of a building or site is a work of art. If the Art Advisory Board determines that the image, painting pattern or other element is not a work of art, then other LDRs may be applied such as sign or building design guidelines by the other City departments.

## Criteria for Approval

As per Chapter 4 Article XIV, “Murals”, of the LDR, all exterior murals, except on single-family or duplex houses, will be reviewed and approved by Art Advisory Board before installation. Below are the criteria.

### Criteria for Artistic Quality

The criteria for a mural design shall meet the criteria for artists and artwork as established in the AiPP guidelines “Artwork Qualities”

### Criteria for a Mural Location

A mural can occur on any surface on a building exterior or site including walls, columns, windows, roofs, fences, retaining walls, driveways, sidewalks, utility boxes and plazas as long as the location and material do not conflict with other City codes.

### Criteria for Mural Materials

For the intended life of the mural, the materials shall resist the weathering caused by the sun, wind, rain and other environmental factors and resist damage by cleaning products and methods. The underlying surface shall be prepared such that the mural adheres to the surface for the intended life of the mural.

## Life of a Mural

As part of the evaluation of the materials, the applicant should declare the life span of the mural during which the mural will be maintained in excellent condition. The following are sample life spans based on south Florida coastal environment.

- North Facing or Shaded Painted Wall: 20 Years\*
- East, South and West Painted Wall or Roof: 10 Years\*
- Painted or Stained Street or Drive: 2 Years
- Painted or Stained Pedestrian Sidewalks or Plaza: 3 Years
- Concrete Skim Coats and Etching: Permanent
- Glazed Colored Ceramic, Glass or Stone Mosaic: Permanent
- Printed Mural on Ceramic Tiles and Fired: 20 Years
- Printed Mural on Adhesive Vinyl, Aluminum Composite Material or similar: 7 Years\*
- Digital Displays: Depending on Manufacturer’s Warranty
- Digital Projections: Depending on Manufacturer’s Warranty

At the end of the declared lifespan, the property owner and the public art staff will consider the removal, renewal or replacement of the mural. The mural may be in good condition at the end of its lifespan and therefore will remain in place. Nothing about the declared lifespan prohibits the owner from removing or repainting the mural before the end of the lifespan.

Note \*: These life spans require high-quality exterior paints or ink with additional UV protection. Less quality paints can be used for murals with a shorter life span. Additionally, the life span is significantly influenced by the condition of the underlying wall or surface.

## Evaluation and Approval

Any person or business with the signed permission of a property owner may apply to install a mural in the city. By signing the application, the property owner agrees to the application and will abide by the Mural Guidelines

### Application

The applicant will complete the Mural Application with attachments and submit it to the Public Art Manager. The components of the application are as follows:

1. Name and contact of the person applying for the mural
2. Name and contact of the property owner
3. Name, contact, resume and website of the proposed artist
4. Address of the property
5. Name of the business(es) using the property
6. Lifespan of the mural.
7. Mural Type: Painted, tile, mosaic, concrete, vinyl, digital panel, digital projection
8. Mural Location: Walls, columns, windows, roofs, fences, retaining walls, driveways, sidewalks, plazas, etc.
9. Mural Materials: For example: paint manufacturer and product, surface sealer manufacturer, UV protection, anti-graffiti coating, vinyl wrap specifications, etc.
10. Underlying Surface: For example: Stucco on concrete, wood fence, asphalt drive.
11. Attachments
  - a. Image of the overall building and site and image(s) of the proposed location of the mural(s).
  - b. Illustration of proposed image(s).
  - c. If using digital displays and projections, sample images and a policy statement on owner's criteria for future images.

### Process for Approval of Design and Installation

The applicant will submit the application for technical review and recommendation from the Public Art staff. The Public Art staff may request a review by other agencies for traffic safety, public safety, planning and zoning and building departments. The planning and zoning division will review for any conflict with an existing development order.

Once the application is complete, the application with the artist's resume and illustrations will be placed on the Art Advisory Board agenda with a staff report by the Public Art Manager. The Board will review the mural for compliance with the established criteria. If not approved, the applicant can modify the design and submit it for review at a future Art Advisory Board meeting.

Once the mural is complete, the Public Art staff will photograph the installation and review the installation quality. The photographs, installation report and the original approved design will be placed on the agenda of the Art Advisory Board. If the mural was changed during the installation, the Art Advisory Board can accept the modification or require the mural to be returned to the approved design.

Once approved, the applicant will provide material and paint samples for future comparison after weathering. If digitally printed, the applicant will provide the original electronic file for comparison and possible re-printing.

### Inspections

From time to time, the City will inspect the murals for good condition and damage. If the Public Art Manager believes the mural does not match the approved design due to alternation, damage or deterioration, the owner will be notified. In most cases, the owner will have three months to repair the mural. If the mural was altered due to building modification or for artist reasons, the owner can apply to the Art Advisory Board to approve the mural as modified. If the mural was damaged in a way that violates general community standards such as obscenity, the offensive words should be removed as soon as possible.

If the mural is not repaired or removed after a failed inspection or a failed request to the Art Advisory Board, then the Community Standard Department will start the procedures for a code violation.

### Removal

Several unique circumstances exist related to the removal of a mural. All these circumstances should be mindful of the Visual Art Rights Act (VARA) and other laws related to the destruction of works of art.

- If the mural was installed voluntarily by a private property owner on their property without financial support from the City of Boynton Beach, then the mural can be removed at any time.
- If the mural was created to comply with the Art in Public Places code for new or remodeled building construction, then the removal will follow the Art in Public Places guidelines regarding required artworks.
- If City fiscal support was provided to a mural on private property, then the agreements written in grants or lease will determine the terms for the removal of the mural.
- If the mural is owned by the City on City property then the standard Art in Public Places guidelines for deaccession and removal of a work of art would be applied.

### Existing Murals in Boynton

All existing murals in Boynton Beach will have the same inspection and requirements for maintenance in good condition as the new murals. If the mural was formally approved by the Art Advisory Board, then the mural will be compared to the approved design.

### Artist Walls

The Art Advisory Board may designate walls and other publicly visible surfaces as "Artist Walls". The goal of the Artist Walls is to provide places of experimentation for artists in locations where the City wishes to enhance the artistic brand of the area. These surfaces can be modified with murals without the pre-approval of the artist or mural design. At any time, the Art Advisory Board may review new and existing temporary murals and require the owner to remove or modify if the temporary murals do not conform to the mural ordinance or AiPP guidelines.

The owner of buildings, walls or other surfaces must submit a request for designation of "Artist Walls". The request will include illustrations of the specific surfaces and methods by which artists will be selected. The Art Advisory Board will review and approve or deny the request for designation.



### Boynton Beach Art District

For many years, the City has permitted the "Boynton Beach Art District" to curate many temporary murals on the buildings at 402 and 422 West Industrial Ave, Boynton Beach, Florida 33426. The walls, doors and fences of the warehouses on both properties are designated as Artist Walls until such time that the properties no longer operate an art district with studio spaces and events.

**(End of Special Section on Murals)**

# Forms

**City of Boynton Beach  
Art in Public Places Choice**

Most proposed new developments, redevelopments or remodeling projects that are not an infill single-family house or duplex and have a construction value of at least \$250,000 are subject to the Arts in Public Places ordinances codified in Part II, City Code of Ordinances, Chapter 27, Article II. More information is available through the Public Art Manager at 561-742-6026.

Project Name	
Project Address	
PCN	
Estimated Total Construction Valuation	
Contact Person for Public Art Decisions	
Contact Phone	
Contact Email	
Date Form Completed	

The Art in Public Places program has two parts to the fees. An administrative fee of 0.003 x construction value is paid at issuance of each building permit. A public art purchase fee of 0.007 x total construction value can be contributed to the Public Art Fund or used to purchase art for the owner's property prior to issuance of the CO.

**Check one\***

- Purchase and maintain public art on the property  
 Contribute as an in lieu of fee to the Public Art Fund

The City recommends the owner make the choice before or during the staff review process of the Major or Minor Development Application with the Planning & Zoning Division (aka DART).

If the owner plans to purchase public art, then does the Development Application include the location on the site plan and/or architectural elevations?

- Yes, location shown.  No, location decided later.

\*The owner can decide at any point in the planning, design and construction phases to place public art or make a contribution. Later decision-making to install public art may require modifications to the approved site plan or building permits.

The construction values are the valuations approved by the Building Official for all permit fees. Therefore the precise Art in Public Places fee may not be known until the building permits are issued.

**City of Boynton Beach  
Project Information**

**Construction Project**

Date Submitted \_\_\_\_\_

Project Name \_\_\_\_\_

Project Address \_\_\_\_\_

PCN: \_\_\_\_\_

**Estimated Schedule & Construction Cost**

Estimated Total Construction Cost: \_\_\_\_\_

Submittal to Planning & Zoning Date \_\_\_\_\_

Issuance of Building Permits Date \_\_\_\_\_

Issuance of Certificate of Occupancy Date \_\_\_\_\_

**Property Owner**

Owner's Business Name \_\_\_\_\_

Property Owner Business Address \_\_\_\_\_

Owner's Contact Person \_\_\_\_\_

Phone Number \_\_\_\_\_ Email \_\_\_\_\_

**Developer (if Different from Property Owner)**

Developer Business Name \_\_\_\_\_

Developer Contact Person \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

**Owner's/Developer's Representative (Planner, Architect, Project Manager)**

Owner's/Developer's Rep Name \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

## City of Boynton Beach Proposed Artist Cover Sheet

Project Name: \_\_\_\_\_

Property Owner's Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Submission Date: \_\_\_\_\_

Proposed Artist Name: \_\_\_\_\_

Studio Address: \_\_\_\_\_

Website: \_\_\_\_\_

Email: \_\_\_\_\_

Phone : \_\_\_\_\_

In order to approve the artist, the Art Advisory Board needs all the following information.

1. Statement about why the artist is an excellent choice for the construction project and Boynton Beach
2. Resume of the artist including information such as
  - Gallery exhibitions
  - Museum exhibitions
  - Public artworks in public spaces of cities, developments or sculpture parks
  - Awards
  - Articles or publication about the artist's work (not the artist)
  - Education in the arts
3. Digital Images  
10 images of at least 5 different artworks made in the last five years.

## City of Boynton Beach Artwork Proposal Cover Sheet

Project Name: \_\_\_\_\_

Property Owner's Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Artist Name: \_\_\_\_\_ Proposal Date: \_\_\_\_\_

In order to approve the final artwork proposal, the Art Advisory Board needs all the following information.

1. Detailed Drawings or Photographs of Artwork(s)
2. General Description of Artwork(s)  
(Include important dimensions, materials, colors, fabrication method, etc.)
4. Illustration or Rendering of Building or Landscape with the Artwork and
  - a) Lighting
  - b) Landscape or hardscape
  - c) Location of plaque for artwork.
5. General Site Plan with artwork(s) location showing
  - a) Landscaping;
  - b) Parking;
  - c) Building; and
  - d) View Corridors from the Public Sidewalk and/or Public Space.
6. Statement on Maintenance Requirements
7. Budget
  - a) Design fees to Artist (if applicable)
  - b) Artwork Purchase (cost and sales tax)
  - c) Delivery and installation
  - d) Plaque identifying the artist, artwork, year and sponsor.
  - e) If utilized, art consultant or art dealer's fees (Maximum 15% of Fabrication Cost)
  - f) Engineering and construction of foundation, lighting, etc.

**City of Boynton Beach  
 Final Artwork Information**

Completed by Owner

	Building Name
	Building Permit Number
	Street Address
	Owner's Name
	Owner's Representative / Contact
	Mailing Address
	Phone
	Email

Completed by Artist

Artist Contact Information

Artist Name	
Business Name (if Different)	
Address #1	
Address #2	
City	
State	
Zip Code	
Business Phone	
Business FAX	
E-Mail #1	
E-Mail #2	
Website	

Artist Resume Information

Artist Name for Publication (if Different)	
Date of Birth	
Place of Birth	
Biographical Paragraph	

Total Work of Art

Title of Artwork (Entire Work)	
Year of Completion	
General Description of Artwork	
Site Attributes of Artwork (If Any)	
Description of Operational Parameters (If Any)	

Artist Statement regarding the Artwork

Statement	
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Artwork Components or Individual Works

Title or Five Word Identifier	
Materials	
Height	
Width	
Length	
Frame or Base Description	

Title or Five Word Identifier	
Materials	
Height	
Width	
Length	
Frame or Base Description	

(Repeat as necessary)

Electronic Components of Artwork(If Any)

Name of Item	
Manufacturer Name, City, State, Phone	
Supplier Name, City, State, Phone	

(Repeat as necessary)



Fabrication

Listing of Materials	
Description of Finishes	
PMS Color Numbers for Industrial Finishes	
Fabricator #1 Name, City, State, Phone	
Fabricator #1 Name, City, State, Phone	
Fabrication Method (Attach Dwgs)	

Installation

Installer Name, City, State, Phone	
Installation Method (Attach Dwgs)	
Date of Installation	

External Factors

Description of Physical Position on Site	
Description of Environmental Factors. Example: Tree Trimming	
Description of Site Specific Elements	

Maintenance

Short Term Needs with Future Dates	
Long Term Needs with Future Dates	
Note on Appearance of Artwork	
Schedule of Replaceable Parts (light bulbs, etc)	

Digital Copies for Future Repair (list & attach)

Sound Art Description	
Graphics Descriptions	