

CITY OF IMPERIAL BEACH COUNCIL POLICY		
SUBJECT: Murals on Public Property	POLICY NUMBER: 618	PAGE 1 OF 3
ADOPTED BY: Resolution No. 2022-72	DATED: September 21, 2022	

BACKGROUND

The City of Imperial Beach supports artistic and cultural activities within the City and recognizes the aesthetic quality of daily life by placing murals in public areas, on buildings, and in parks owned by the City. Art is a fundamental element and defining characteristic of the City of Imperial Beach. The City promotes facilitates and encourages public art. The City also recognizes that murals can become a recognized asset to the City's growth and image. In recent years, murals in the community have created a great deal of interest and excitement.

The City prioritizes mural designs that embody important City values and messages, or reflect a City goal, value or mission statement. There are a wide range of possible design ideas. Those interested in collaborating with the City on a mural design should explain how the design speaks to a value, goal or objective important to the City. Occasionally, the City may solicit designs with specific messages or values. As the final product will represent the City's viewpoint on public property, through the process outlined in this policy, the City Council will make the determination on all aspects of the final design and production. The locations of any current and future murals are not intended to be a forum for free expression by the public, and murals will be displayed as an expression of the City's sentiment and authorized by a City Council resolution.

PURPOSE

Murals are an integral part of the City of Imperial Beach community and they have been more prominent recent years. The City of Imperial Beach is fortunate to have with artworks throughout the City thanks to the Port of San Diego - Arts, Culture & Design Committee, and local non-profit Cultural and Arts organizations. All murals on public property are considered as messages of the City and therefore government speech.

Proposed murals on public property should stimulate the vitality and economy of the City while enhancing public spaces, buildings, and parks. The mural should be accessible to the public, durable to the outdoor elements, safe to the public and compatible with the City's mission statement: *"To maintain and enhance Imperial Beach as "Classic Southern California": a beach-oriented community with a safe, small town, family atmosphere, rich in natural and cultural resources."* In addition to the City's mission statement, the murals must:

- Stimulate the vitality and economy of the City.
- Enhance the City of Imperial Beach as a leading cultural and environmental destination.
- Advance public understanding of the visual arts.
- Improve the aesthetic of daily life and provide a sense of place.

Any group or individual that wishes to paint or create a mural on public property must obtain permission from the City by submitting an application. Painting murals on public property without permission is illegal and punishable by law. The City of Imperial Beach does not condone any type of illegal graffiti, murals or art, irrespective of artistic content.

POLICIES

All murals on public areas must be reviewed by a City staff committee comprised of one (1) staff member from each of the following departments: Community Development Department, Parks, Recreation and Community Services, Public Works, and the City Manager's Office. The City Manager and/or designee will compile the final application proposal for completeness and ensure it meets all the mural policies and guidelines. The artist is encouraged to collaborate with City staff. Once the application is complete, the City Manager and/or designee will present to the City Council the proposal of the mural at a regular meeting. Staff members do not make a recommendation regarding the design or content of the mural and are not included in the voting process. A majority of the City Council has the final decision-making authority for the proposed mural project.

Murals must meet the following criteria, which are also outlined on the application:

Mural Criteria

1. Murals must be completed by an artist with prior experience, or the artist must work with another artist with prior experience. Murals should be signed and dated. Painting of the mural shall be completed by the artist, unless otherwise approved by the City Council.
2. Review of mural design and location must be approved by the majority of the City Council during a regular meeting. The placement of the mural shall be appropriate to the size, scale, design and character of the particular site. The work may build a relationship to the space or natural environment. The artwork's relationship to pedestrian traffic patterns, visibility and public access to the work should also be considered. As government speech on City property, the City has the sole and absolute discretion to determine if the mural proposal should be accepted. No mural can deviate from the City Council approved design.
3. Colors must be consistent with the surrounding area.

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4. The size of the mural may be restricted due to the size of building, wall or location. The mural should complement the surrounding area. The scale of the mural should be appropriate to the building, public space, part or site.
 5. The materials to paint the mural must be durable, graffiti resistant and weather resistant. All materials will be subject to prior review and approval by the City.
 6. The theme of the mural must be appropriate within the context of the surrounding neighborhood. The mural should be an original design, and the artist shall not copy work from another artist. The theme for the mural should uphold the City mission statement, be representative of the history, culture, or location of the community, and be respectful of the greater context of the community. No branded or copyrighted products, services, etc. should be depicted.
 7. Murals shall not serve as an advertisement sign in violation of Imperial Beach Municipal Code Chapter 19.52 - Signs. Logos (with the exception of City owned logos and seals), advertising, signage, and other branding are prohibited.
 8. Mural approval does not warrant or guarantee that, after installation, the mural will be preserved or remain intact for the expected life span of the mural. The mural should have a weatherproof and vandalism-resistant coating. The artist is required to enter into an agreement regarding maintenance, preservation, and removal with the City prior to painting the mural. Approval by the City Council does not constitute an indication or promise of any conservation or restoration funds from the City.
 9. If vandalism/graffiti to the mural occurs, it is the responsibility of the artist to remove graffiti within 48 hours after notification. If the graffiti is not removed and the mural is not repaired by the artist, the City can either remove the mural entirely and/or remove the graffiti vandalism using the City's standard removal techniques/materials, however there is no guarantee that the mural would appear as originally designed depending on the damage.
 10. City may display the mural for up to five (5) years, with the City determining the duration for each mural. Because the lifespan of the mural is not indefinite, the mural is considered "temporary." However, the City will work with the artist to increase the lifespan of the art when feasible and desired by the City. The City will evaluate each mural's eligibility for replacement, removal, or repairs after five (5) years, or sooner if needed. The City Council will make the final determination on each mural's status, and the City can remove the mural at any time as discussed further below.
 11. It is the responsibility of the artist to create and maintain the mural. The City assumes that the mural will be kept in good repair with periodic maintenance to be performed by the artist as needed. By submitting the application, the artist agrees that should the mural be defaced and/or not repaired, maintained,

preserved and/or conserved to the satisfaction of the City, the City in its sole discretion, has the authority to repair, maintain, preserve, and/or conserve the mural, or alternatively, the authority to remove or alter the mural.

12. If for any reason the mural is removed or altered by the City, the artist could submit another application within 60 days of mural removal, with a proposal for replacing the mural with the same or different mural.
13. A public City Council meeting on the proposed mural will be held, with notice of the meeting at a regular City Council meeting providing at least 72-hour notice. Presentation of the project provides an opportunity for the City Council to ask questions and discuss the proposed mural. The artist is highly encouraged to attend the meeting.
14. The artist is responsible for the cost and material for installing and maintaining the mural. The artist shall carry any required insurance coverage.
15. If an artist would like to submit a proposal for multiple murals, then a separate application is required for each location.
16. General Liability insurance must be procured and maintained while the project is active. Insurance of the types and to the limits and confirming to requirements are as follows:
 - General Liability Coverage. The artist, organization, or sponsor shall maintain commercial general liability insurance of not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed or the general aggregate limit shall be at least twice the required occurrence limit.
 - Workers' Compensation and Automobile Liability Coverage may also be required.
17. Incomplete applications will not be reviewed or considered.
18. Artists approved by the City Council will be required to obtain an encroachment permit prior to installation of the mural which will require indemnification, stormwater requirements, construction plan, proposed materials, and traffic control (if needed).

Mural Goals and Objectives

1. Create a cohesive public art program that is embraced by the City of Imperial Beach community selecting projects, excellent in both conception and execution, which enhance, celebrate, reflect and inspire the community's identity, environment, culture and history for the enjoyment of its citizens and

visitors.

2. Select sites for murals which are significant to the community, the collection as a whole and will maximize interaction with the work.
3. Maintain the mural with proper identification and care of the art. This includes ensuring that public art is safe, accessible, and durable.
4. Educate the community by providing up to date educational materials and information about the mural. Murals may be used as a way to engage the community and as an element of outreach. Include a plaque no larger than 3x3 that includes the artist name, mural name, and brief description of the art.

City Requests for Murals

1. The City may request and propose a mural at a public building, space, or park while partnering with local non-profit art and cultural organizations or local artist.
2. The City reserves the right to have priority in adding a mural in such public areas that are owned by the City.
3. City staff is required to follow the mural criteria, goals and objectives, stated above, and present the proposal to the City Council at a regular meeting.
4. The City proposal must include the following information:
 - a) Department proposing the mural (name and title of coordinated staff member of the project)
 - b) Description of the mural
 - c) A description of how the proposed mural aligns with the City's mission statement and criteria
 - d) A description of interest/reason for installing a mural
 - e) Location of the mural, with supporting renderings/drawings
 - f) Date of anticipated fabrication date and project timeline
 - g) Name of the artist or local non-profit organization
 - h) Include at least 3 sample works from the artist
 - i) Budget and Funding
 - j) Include any additional information that support this policy and are included in the mural criteria, goals and objectives

Removal Guidelines

Any mural shall be eligible for removal or may be considered for review toward removal, if one or more of the following conditions apply:

1. The condition or security of the mural cannot be reasonably guaranteed.
2. The mural requires excessive maintenance or has faults of design, material or workmanship, and repair or remedy is impractical or unfeasible.
3. The mural has been damaged or has deteriorated, and repair or remedy is impractical or unfeasible.
4. The mural condition poses a threat to public safety.
5. The mural is proved to be inauthentic or in violation of existing copyright laws. Murals should not contain material that is protected under copyright law unless written permission is obtained. This includes permission to use photos of people, all copyrighted material and text, and images of artwork. Allow ample time to acquire these permissions.
6. The mural has exceeded its expected lifespan.
7. No suitable site is available for relocation or exhibition, or significant changes in the use, character, or design of the site have occurred which affect the integrity of the mural.
8. Changes to the site have significantly limited or prevented the public's access to the mural.
9. The site where the mural is located is undergoing privatization or reconstruction.
10. A majority of the City Council votes to approve its removal at any time for any reason.

Murals may be reviewed for removal at any time at the initiative of City staff members or a member of the City Council. Review also may be initiated by the artist. The artist may also request removal.

Notwithstanding anything in this policy or guidelines, the City may act at any time to protect the health and safety of the public in the event of an emergency and such action may result in the damage, destruction, or removal of a mural.

Other Considerations

This policy applies to any existing and future murals on public property and supersedes any written or verbal agreements or understandings.