

POLICY DIRECTIVE

Frank DePaola P.E. (signature on original)

ADMINISTRATOR

State Highway Access Permits for Murals and Artwork

Policy

MassDOT will consider requests from applicants who wish to install murals or other artwork on buildings, bridges and other structures owned by MassDOT, solely for the purpose of aesthetic enhancement to the affected communities/neighborhoods. Murals and other artwork that involve advertising or promotional content will not be allowed under this policy.

To be considered, interested parties are required to prepare and submit a Non-vehicular Access Permit application to the appropriate District Office.

MassDOT may issue permits for murals or other artwork on buildings, bridges and other structures that conform to the conditions described herein.

Authority

The authority for this policy derives from M.G.L. c. 81 and M.G.L. c. 87 and regulations found at 720 CMR 13.00. MassDOT is authorized to issue Non-vehicular Access Permits for projects within a State Highway Layout that do not involve physical modifications.

Applications for murals or artwork that involve advertising content shall be referred to the MassDOT Outdoor Advertising Office and processed in accordance with M.G.L. c. 93D, §1-7 and regulations found at 700 CMR 3.00.

Permit Application Requirements

Applicants proposing to install murals or other artwork on buildings, bridges, or other structures owned by MassDOT shall be required to apply for access via a Non-vehicular Access Permit. In addition to a completed Application for Permission to Access State Highway, the applicant must also include the following documentation:

- A plan showing the structure on which the mural/artwork is proposed to be installed. This plan shall be labeled with sufficient geographic information (street labels, scale,

north arrow, and coordinates) to determine the location of the structure and the affected highway(s), as well as viewpoints documented below.

- Photographs taken from roadway views, indicating the structure to be affected, with mark-ups showing the intended work.
- Concept sketches or renderings of the proposed mural/artwork.
- Evidence of support from municipalities that will be affected by the proposed mural/artwork, including support from the local police department(s). In some cases, additional support from local abutters, regulatory commissions or agencies, and relevant municipal councils or commissions may also be required.
- Additional documentation, such as engineering or material specifications and plans, digitally-modified photographs showing before-and-after conditions, drawings showing existing conditions and/or proposed modifications, other illustrations or information may be required as part of this submission.

The applicant must also demonstrate in writing that the proposed mural/artwork is consistent with the goals outlined in MassDOT's *Project Development and Design Guide*, Chapter 13 (Landscape and Aesthetics).

The District Highway Director may request the applicant to present its proposal to MassDOT and other affected parties as MassDOT deems appropriate in its sole discretion.

Criteria for Approval

The mural/artwork must not cause driver distraction or otherwise unnecessarily engage the attention of drivers. The mural/artwork must not result in conditions that would compromise the flow of traffic or increase roadway information clutter.

The mural/artwork should be best applied directly to the structure and should otherwise not obscure or cover elements that would affect MassDOT's ability to properly inspect the structure in the future. In all cases, MassDOT shall consider its ability to inspect the structure in the future and should not approve any murals/artwork that would compromise this ability.

For the purpose of this policy, the approved application of a mural/artwork to a structure will not be considered to cause a physical modification of the structure. Physical modification is caused by cutting, breaking, demolishing, reconstructing, adding to or otherwise changing the shape and/or structural adequacy of a structure. MassDOT shall not approve applications of murals/artwork that will cause physical modification of any structure, as described above.

In addition to the requirements cited above, MassDOT, in its sole discretion, shall not approve permits for murals/artwork if any of the following apply to the content of the proposed artwork:

1. Demeaning or Disparaging – The mural/artwork contains material that demeans or

disparages an individual or group of individuals. For purposes of determining whether a mural contains such material, MassDOT will determine whether a reasonably prudent person would believe that the mural/artwork contains material that ridicules or mocks, is abusive or hostile to, or debases the dignity or stature of, an individual or group of individuals.

2. Tobacco and Alcoholic Beverages – The mural/artwork promotes the sale or use of tobacco or tobacco-related products or alcoholic beverages.
3. Violence – The mural/artwork contains an image or description of graphic violence, including but not limited to (1) the depiction of human or animal bodies, body parts or fetuses, in states of mutilation, dismemberment, decomposition or disfigurement, or (2) the depiction of weapons or other implements or devices used in the mural in an act or acts of violence or harm on a person or animal.
4. Unlawful Goods or Services – The mural/artwork promotes or encourages, or appears to promote or encourage, the use or possession of unlawful or illegal goods or services.
5. Unlawful Conduct – The mural/artwork promotes or encourages, or appears to promote or encourage, unlawful or illegal behavior or activities.
6. Obscenity or Nudity – The mural/artwork contains obscene material or images of nudity. For purposes of these guidelines, the terms “obscene” and “nudity” shall have the meanings contained in Massachusetts General Laws c. 272, §31.
7. Prurient Sexual Suggestiveness – The mural/artwork contains material that describes, depicts or represents sexual activities or aspects of the human anatomy in a way that the average adult, applying contemporary community standards, would find appeals to the prurient interest of minors or adults in sex. For purposes of these guidelines, the term “minor” shall have the meaning contained in Massachusetts General Laws c. 272, §31, which is a person under eighteen years of age.
8. Political Campaign Speech – The mural/artwork contains political campaign speech. For purposes of these guidelines, the term “political campaign speech” is speech that (1) refers to a specific ballot question, initiative petition, or referendum, (2) promotes or opposes a political party for local, state, or federal election, or (3) promotes or opposes a candidate or group of candidates. For purposes of these guidelines, the term “candidate” shall include any person actively campaigning for office, any person who has filed their candidacy or declared their intent to run for office, or any person who has been reported in the mainstream media as likely to run for a particular public office.
9. Endorsement – The mural/artwork implies or declares an endorsement by MassDOT or the Commonwealth of any service, product or point of view, without prior written authorization of MassDOT.

Approval

If the applicant's proposal is approved by MassDOT, the following provisions, in addition to those set forth in 720 CMR 13.00, shall be incorporated within the Non-vehicular Access Permit for the mural/artwork:

1. The applicant shall be responsible for installation of the mural/artwork, including any traffic control required by MassDOT for the safety of workers and the traveling public during the installation process.
2. The applicant shall be responsible for future maintenance of the mural/artwork including repair of any damage, wear and tear, or defacement. Additional Non-vehicular Access Permits may be required to perform future maintenance.
3. The applicant shall be responsible for any damage caused to the structure by the mural/artwork.
4. At the discretion of the District Highway Director, the applicant shall post a Surety Bond for an amount not to exceed \$5,000.
5. The applicant shall hold MassDOT harmless for any damage caused to the mural/artwork during structural inspection or other maintenance procedures performed by MassDOT. The applicant may also be responsible for temporary removal of the mural/artwork for purposes of maintenance or inspection.
6. All work shall be subject to regular inspections or ongoing observation by the District Office. Any work determined by MassDOT to be inconsistent with the terms of the permit and policies of MassDOT shall be stopped and the permit revoked as determined in MassDOT's sole discretion.
7. The permit shall recognize an end date for the mural/artwork, at which time MassDOT may remove it due to disrepair, discoloration, fading, or any other reason. Any reapplication of the mural/artwork by the original applicant shall only be done through a new Non-vehicular Access Permit.
8. MassDOT, in its sole discretion, may remove the mural/artwork at any time and for any reason.