

BILL NO. 16-179

AN ORDINANCE AMENDING CHAPTER 21. PLANNING AND DEVELOPMENT OF THE CODE OF ORDINANCES FOR THE CITY OF LEE'S SUMMIT, MISSOURI, BY CREATING ARTICLE V. MURALS, AND FURTHER ADDING SECTIONS 21-100. MURAL STANDARDS, AND SECTION 21-101. MURAL PERMIT, FOR THE PURPOSE OF ADOPTING CERTAIN REGULATIONS FOR THE DEFINITION AND PLACEMENT OF MURALS AS PUBLIC ART.

WHEREAS, the City of Lee's Summit desires to establish mural regulations for commercial districts within the city, and,

WHEREAS, such regulations are intended to provide for the manner in which murals may be placed, maintained and permitted.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 21. Planning and Development, of the Code of Ordinances for the City of Lee's Summit, Missouri, is hereby amended by adding the following Article:

ARTICLE V. MURALS

Sec. 21-100 Mural Standards.

A. Definition:

Mural. A hand produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, metal panels, applied sheet graphic or other medium generally so that the wall becomes the background surface or platform for the graphic, generally for the purpose of decoration or artistic expression, including but not limited to, painting, fresco or mosaic.

B. Mural Placement

1. Murals shall be allowed in all commercial districts of the City
2. Murals shall not be permitted on the primary façade. A primary façade is defined, for purposes of this section, as the building elevation that faces the adjacent street right-of-way and is the primary customer entrance. Buildings located on a block corner with the primary customer entrance located diagonally at the building corner to both intersecting streets shall be considered to have two primary façades.
3. Murals shall not be allowed on backs of buildings, backing to residential districts.
4. Murals shall not be allowed in non-commercial districts of the City.

C. Prohibited Mural Types

1. Murals or other representations which imitate or appear to imitate any official traffic sign or device which appears to regulate or direct the movement of traffic or which interferes with the proper operation of any traffic sign or signal, or which obstructs or physically interferes with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

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2. Murals that project from the wall surface, except for the minimum necessary protrusion to mount the mural to the wall or structure.
 3. Murals which contain material that when taken as a whole (i) applying contemporary community standards, its predominant appeal is to prurient interest in sex; and (ii) the average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and (iii) a reasonable person would find the material lacks serious literary, artistic, political or scientific value.
 4. Murals that are directed to incite or produce imminent lawless action and are likely to incite or produce such action.
 5. Murals that convey threats of violence that are directed at a person or group of persons that have the intent of placing the target at risk of bodily harm.
 6. Murals where the intended audience is commercial or actual or potential consumers, and where the content of the message is commercial in character.
- D. Surface Preparation. Sand and high pressure water blasting are not permitted as a cleaning process for either surface preparation or for mural maintenance purposes in any historic district or any building eligible for inclusion on the State or National Register of Historic Buildings. Treatments that cause damage to historic materials shall not be used.
- E. Maintenance
1. The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by the Director and incorporated into the Mural Permit. A mural exhibit shall be deemed to be in a state of disrepair when 25% or more of the display surface area contains peeling or flaking paint, or is otherwise not preserved in the manner in which it was originally created.
 2. The display surface shall be kept clean and neatly painted and free from corrosion.
 3. Any mural that is not maintained according to the maintenance schedule incorporated into the Mural Permit or that falls into a state of disrepair may be ordered removed or covered with opaque paint, similar to the primary building materials/colors or other appropriate material by the Director, or his/her designee, all in the manner provided for in the mural permit. Murals subject to removal shall be provided a time limit of 30 days from the date of the written notice for such removal or covering. Additional time may be authorized by the Director for good cause.
- F. Design Standards
1. Explanatory wording relative to the graphic may be incorporated into the mural. Artist signatures shall be allowed and limited to maximum of two square feet in size.
 2. The proposed mural will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic; and
 3. The location and scale of the mural should be in keeping with and enhance the building or structure on which it is located; and
 4. The proposed mural is well integrated with the building's façade and other elements of the property and enhances the architecture or aesthetics of a building or wall; and

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5. The proposed mural, by its design, construction, and location, will not have a substantial adverse effect on abutting property or the permitted use thereof; and
6. The proposed mural is not detrimental to the public health, safety, or welfare; and
7. The mural will not have a detrimental effect on the structural integrity of the wall on which it is applied/affixed; and
8. The maintenance schedule is reasonable for the mural and the building on which it is applied/affixed.
9. The mural shall not be painted directly onto brick, but may be attached by using an alternate medium (i.e. canvas, tile, metal panels, or similar materials with an approved attachment method) or may be otherwise applied by methods that will not damage the wall surface including brick. New materials such as applied sheet graphics and appliques that can be removed readily from brick may be utilized. Other new materials can be utilized provided they are found to be non detrimental to the surface on which applied.

Sec. 21-101. – Mural Permit.

- A. No mural shall be installed unless written permission is first obtained by the owner of the building upon which the mural is to be placed, or the building owner's agent, and a Mural permit is obtained from the Director of Planning and Codes Administration, or his/her designee.
- B. Application Requirements: Each permit application shall contain, but not be limited to, the following information:
 1. Site plan showing the lot and building dimensions and indicating the proposed location of the mural.
 2. Pictures of the building elevations.
 3. A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural.
 4. A colored drawing of the proposed mural.
 5. A description of the proposed maintenance schedule that includes the time frame for the life of the mural and method for removal, if applicable.
 6. Written confirmation by the mural provider/installer that no damage or negative impact will occur to the wall surface that the mural is to be applied or affixed to.
 7. Written permission from the owner of the building to which the mural is intended to be applied, if applicant is not the building owner.
 8. An acknowledgement that the mural must be removed or covered if so ordered by the Director for failure to maintain or for reaching a state of dilapidation, as described in subsection E(3) above.

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C. Mural Permit Approval

Applications for a mural permit in the downtown area shall be distributed to Downtown Main Street for comment regarding consistency between the Application and the requirements herein. All other mural permit applications will be reviewed and approved by City Planning staff. No mural permit shall be approved unless the Director, or his/her designee, shall find that these requirements have been fulfilled.

D. Appeals.

Appeals of the Director's decision to approve or not approve a Mural application may be made in writing to the City Clerk within 10 days of the Director's decision. Said appeal shall be placed on an upcoming City Council meeting for consideration and disposition.

SECTION 2. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

SECTION 3. That all ordinances or parts of ordinances in direct conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

SECTION 4. That this ordinance shall be in full force and effect immediately upon its passage, adoption, and approval.

PASSED by the City Council of the City of Lee's Summit, Missouri this _____ day of _____, 2016.

ATTEST:

Mayor *Randall L. Rhoads*

City Clerk *Denise R. Chisum*

APPROVED by the Mayor of said City this _____ day of _____, 2016

ATTEST:

Mayor *Randall L. Rhoads*

City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*