



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

**Ordinance No. 2079**

**An ordinance of the City Council of the City of Milwaukie, Oregon, to establish Milwaukie Municipal Code Title 20 Public Art, Chapter 20.04 Art Murals, with Sections 20.04.050 Public Art Murals and 20.04.060 Original Art Murals, containing rules and procedures for allowing public art murals and original art murals within the City.**

**WHEREAS**, the City of Milwaukie finds that murals are a unique form of public art that add visual interest to buildings and spaces, build community identity, and celebrate the history, culture, and values of the city; and

**WHEREAS**, the City of Milwaukie desires to allow murals as a form of public art in order to realize the beneficial aspects of murals; and

**WHEREAS**, the City does not regulate signage on the basis of sign content, and currently regulates murals in the same manner as other signage; and

**WHEREAS**, the City of Milwaukie has worked with mural artists, art professionals, and community stakeholders in devising a program for public art murals; and

**WHEREAS**, the City Council held a duly advertised public hearing on the establishment of Title 20, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes;

**Now, Therefore, the City of Milwaukie does ordain as follows:**

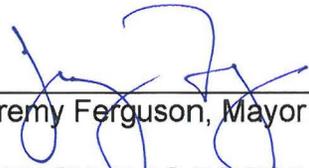
Section 1. Amendments. Title 20 Public Art is enacted, as described in Exhibit A.

Read the first time on 6/3/14, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 6/3/14.

(See Page 2 for Signatures)

Signed by the Mayor on 6/3/14.

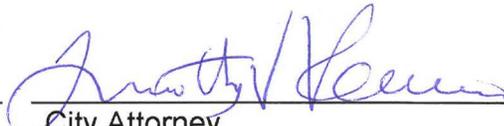
  
\_\_\_\_\_

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

  
\_\_\_\_\_  
FOR Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney

## Amendments

### TITLE 20 PUBLIC ART

#### CHAPTER 20.04 ART MURALS

##### 20.04.010 PURPOSE

The purpose of this title, and the policy of the City of Milwaukie, is to permit and encourage art murals under certain terms and conditions. Art murals comprise a unique medium of expression that serves the public interest. Art murals have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of, and identification with, original works of art; and a reduction in the incidence of graffiti and other crime. Art murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians and are retained for periods of 5 years or more.

##### 20.04.020 DEFINITIONS

Words used in this title have their normal dictionary meaning unless they are listed in this chapter or unless this title specifically refers to another title. Words listed in this chapter have the specific meaning stated or referenced unless the context clearly indicates another meaning.

"Applicant" means the party that is primarily responsible for the design and installation of an art mural.

"Original art mural" means a hand-painted image on the exterior wall of a building that may comprise up to 40% of the surface area of a building wall.

"Public art mural" means a hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building where the wall or surface is either on City-owned property or has a public art easement and is viewable from another property or right-of-way.

"Mural easement" means an easement granted to the City of Milwaukie by a property owner for purposes of installing and maintaining a public art mural on the surface of a structure or building.

"Compensation" means the exchange of something of value. It includes, without limitation, money, securities, real property interest, barter of goods or services, promise of future payment, or forbearance of debt. "Compensation" does not include goodwill, or an exchange of value, that a building owner (or leaseholder with a right to possession of the wall upon which the mural is to be placed) provides to an artist, muralist, or other entity, where the compensation is only for the creation and/or maintenance of the mural on behalf of the building owner or leaseholder, and where the building owner or leaseholder fully controls the content of the art mural.

"Owner" means the entity(ies) that own(s) the real property that contains the building or structure upon which a public art mural is installed. In the case where a public art mural is installed in the right-of-way, the owner means the entity(ies) with jurisdiction over that right-of-way.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-

## **Proposed Code Amendment**

---

of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned.

"Ad Hoc Mural Committee" means the committee assembled on an ad hoc basis to review and make a recommendation to the Milwaukie Arts Committee regarding a mural application, based on criteria established in the Milwaukie Mural Arts Program administrative rules and procedures.

### **20.04.030 PROHIBITION OF COMPENSATION**

No compensation will be given or received for the display of art murals or for the right to place the mural on another's property. The applicant shall certify in the permit application that no compensation will be given or received for the display of the mural or the right to place the mural on the property.

### **20.04.040 VIOLATIONS AND ENFORCEMENT**

It is unlawful to violate any provision of this title; any administrative rules adopted by the City of Milwaukie pursuant to this title; or any representations made, or conditions or criteria agreed to, in an art mural permit application. This applies to any applicant for an art mural permit, the proprietor of a use or development on which a permitted art mural is located, or the owner of the land on which the permitted art mural is located.

#### **A. Notice of Violations**

The City Manager, or designee, must give written notice of any violation to the property owner. Failure of the property owner to receive the notice of the violation does not invalidate any enforcement actions taken by the City.

#### **B. Responsibility for Enforcement**

The regulations of this title, and the conditions of art mural permit approvals, shall be enforced by the City Manager, or designee.

### **20.04.050 PUBLIC ART MURALS**

#### **A. Standards for Public Art Murals**

##### **1. Allowed Locations**

Public art murals are only allowed on buildings or structures as described below, unless a public art mural is specifically prohibited by Subsection 20.04.050.A.2. Zoning designations refer to the base zones established in Title 19.

##### **a. Downtown Zones**

Public art murals are allowed in areas zoned Downtown Commercial, Downtown Office, Downtown Storefront, Downtown Residential, or Downtown Open Space.

##### **b. Commercial Zones**

Public art murals are allowed in areas zoned General Commercial or Community Shopping Commercial.

##### **c. Industrial Zones**

Public art murals are allowed in areas zoned Manufacturing or Business Industrial.

d. Community Service Uses

Public art murals are allowed on uses that have received approval as a community service use, per Section 19.904.

2. Specifically Prohibited Locations

Public art murals are specifically prohibited on buildings or structures that are designated as a Contributing or Significant Historic resource per Section 19.403.

B. Public Ownership, Duration and Alteration

1. Public Ownership

The mural must be on the surface of a building or structure that is either on property owned by the City of Milwaukee or for which a mural easement to the City has been granted.

2. Duration and Alteration

The public art mural shall remain in place, without alteration, for a minimum period of 5 years. "Alterations" includes any change to a permitted mural, including, but not limited to, any change to the image(s), materials, colors, or size of the permitted mural. "Alteration" does not include naturally occurring changes to the mural caused by exposure to the elements or the passage of time. Minor changes to the permitted mural that result from the maintenance or repair of the mural shall not constitute "alteration." Such minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of vandalism.

Public art murals may be removed within the first 5 years of the date of registration, per the terms of the public art easement and under any of the following circumstances:

- a. The property on which the mural is located is sold.
- b. The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural.
- c. The property undergoes a change of use authorized by the Planning Department.

C. Physical Standards

1. Dimensions

A public art mural may wrap around a wall edge or corner and/or may extend above the wall height.

2. Materials

Public art mural materials may include the following: paint, painted wood or plastic surfaces affixed to a building or structure, mosaics of ceramic tile and/or glass, vinyl or pella, or similar materials. The Ad Hoc Mural Committee and Milwaukee Arts Committee may consider other materials in their review of a proposed public art mural.

3. Placement

No new public art mural shall obstruct the functioning of any building opening, including, but not limited to, windows, doors, and vents.

## Proposed Code Amendment

---

### D. Structural Permit

Public art murals that are affixed to a building, or contain elements that extend above or around a wall, shall require structural permit approval as deemed necessary by the Milwaukie Building Official.

### E. Lighting

No new or existing public art mural may consist of, or contain, electrical or mechanical components or changing images; i.e., moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message. Static illumination, which is turned off and back on not more than once every 24 hours, is permitted.

Lighting may be required for safety or crime deterrent purposes with consideration to impacts to surrounding on properties, as determined by the City Building Official.

### F. Application

An applicant shall initiate a proposal to place a public art mural by filing an application with the City. The application shall be made on forms provided by the City, include the application fee for review of a public art mural, and include any accompanying materials deemed necessary by the City for review of the public art mural proposal (such as proposed designs, site photos, and building or structure elevation drawings).

Any fees shall be in accordance with the City's fee schedule.

### G. Administrative Review

1. Upon submission of a complete application for a public art mural, the City Manager, or designee, shall review the proposal for conformance with the standards in Subsection 20.04.050.A.
2. Upon finding that the proposed public art mural conforms with the standards in Subsection 20.04.050.A, the City Manager, or designee, shall inform the applicant in writing that the proposed public art mural meets the standards in Subsection 20.04.050.A. The City Manager, or designee, shall then provide the applicant with the materials necessary to complete the public notice requirements in Subsection 20.04.050.H.2.
3. Prior to the Ad Hoc Mural Committee review, the applicant shall provide documentation to the City Manager, or designee, that they complied with the public notice requirements of Subsection 20.04.050.H.2.

### H. Public Notice

#### 1. Mailed Notice

Mailed notice is intended as a courtesy and to provide the Neighborhood District Associations (NDAs) a chance to invite the applicant to discuss the proposal.

- a. The City Manager, or designee, shall mail a notice to the chairperson of the NDA(s) containing, or whose boundary is within 300 feet of, the site of the proposed mural.
- b. The notice shall be mailed at least 14 days prior to the Ad Hoc Mural Committee's review of the proposed mural.
- c. The notice shall include instructions for submitting comments; the name and contact information for the applicant and owner; contact information for the City

Manager, or designee; and a legibly-sized color representation of the proposed public art mural.

2. Posted Notice

A notice shall be posted at the site of the proposed public art mural and shall conform to the following standards.

- a. The notice shall be posted at least 14 days prior to the Ad Hoc Mural Committee's meeting to review the proposed mural. The City Manager, or designee, shall provide the applicant with materials to be posted. The applicant shall be responsible for ensuring that the notice is posted and remains posted. If the notice is damaged or removed, the applicant shall replace the notice as soon as practicable.
- b. The notice shall be durable and waterproof.
- c. The notice shall be clearly visible from the public right-of-way and be at least 11 x 17 in. The City Manager, or designee, may require more than 1 sign to be posted, depending on specific site characteristics.
- d. The notice shall include the name and contact information for the applicant and owner; contact information for the City Manager, or designee; and a legibly-sized color representation of the proposed public art mural.

I. Ad Hoc Mural Committee Review

The Ad Hoc Mural Committee shall review the proposed public art mural. The intent of this review is to explore the feasibility of the mural, evaluate the community support for the proposed mural, assess the mural given its context and its placement on either a City building or building with a public art easement, and to make a recommendation to the Milwaukie Arts Committee for approval, approval with conditions, or denial of the public art mural application.

1. Committee Composition

The Ad Hoc Mural Committee shall be selected by the City Manager, or designee, and will be comprised of a minimum of 3 members and maximum of 5 members. A majority of the members shall be professional mural artists and/or professional public art administrators. At least 1 member shall also reside, own property, or own a business within the neighborhood where the mural is proposed.

Further selection criteria may be set forth in the Milwaukie Mural Arts Program administrative rules and procedures.

2. Review Process

The Ad Hoc Mural Committee shall be convened by the City Manager, or designee, and shall meet within 30 business days of the submitted mural application being deemed complete.

3. Review Criteria

a. Scale

Appropriateness of scale to the wall upon which the mural will be painted/attached and to the surrounding physical features.

- b. Context  
Architectural, geographical, sociocultural, and/or historical relevance to the site.
- c. Community Support  
General support/advocacy from the building owner/user, surrounding neighborhood, adjacent businesses, and/or arts community.
- d. Feasibility  
Demonstrated ability to complete the proposed mural on time and within budget.
- e. Media  
Appropriate media proposed to ensure the mural's longevity and durability.
- f. Structural and Surface Stability  
Commitment to repair the mural surface as necessary before painting and a plan for mitigating graffiti through design and/or graffiti coating.
- g. Signed Easement Form from Building Owner  
Commitment to keep the mural in place as approved for a minimum of 5 years and to maintain the mural during that time.
- h. Public Accessibility, Safety and Lighting  
Compliance with City codes for safety, accessibility, and lighting.

**J. Milwaukie Arts Committee Review**

**1. Authority**

The Milwaukie Arts Committee shall have the authority to determine if an application for a public art mural substantially meets all of the applicable requirements and to issue a final approval, approval with conditions, or denial of the public art mural application.

**2. Notice of Decision**

The City Manager, or designee, shall issue the notice of decision in writing. The decision shall include the following information:

- a. A brief summary of the proposal.
- b. A description of the subject property reasonably sufficient to inform the reader of its location, including street address, if available, map and tax lot number, and zoning designation.
- c. A statement of the facts that the review authority relied upon to determine whether the application satisfied, or failed to satisfy, each applicable approval criterion.
- d. The decision to approve or deny the application and, if approved, any conditions of approval necessary to ensure compliance with the applicable criteria.
- e. The date upon which the decision rendered shall become final, unless appealed. The decision shall state the date and time by which an appeal must be filed. The statement shall reference the requirements for filing an appeal of the decision.
- f. A statement that the complete public art mural application file is available for review, including findings, conclusions, and any conditions of approval. The decision shall list when and where the case file is available and the name and

telephone number of the City representative to contact about reviewing the case file.

K. Appeals

A decision on the approval, approval with conditions, or denial of the public art mural application may be appealed by filing a written request to the City Manager within 15 days of the date on the notice of decision. If the 15<sup>th</sup> day falls upon a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

L. Mural Maintenance

Public art murals shall be maintained by the property owner for 5 years and per the terms outlined in the public art easement.

**20.04.060 ORIGINAL ART MURALS**

A. Standards for Original Art Murals

1. Original art murals are allowed on properties described in this subsection.
  - a. Properties in the sign districts 14.16.020 Residential-Office-Commercial Zone, 14.16.030 Neighborhood Commercial Zone, 14.16.040 Commercial Zone, 14.16.050 Manufacturing Zone, and 14.16.060 Downtown Zones.
  - b. Community service use properties, as defined in Subsection 19.904.2, regardless of the sign district in which the property is located.
  - c. Irrespective of Subsections 20.04.060.A.1.a and b, properties designated as significant or contributing historic resources, per Section 19.403, are not eligible for original art murals as allowed in this subsection. This does not prohibit any signage otherwise allowed by the sign district in which the historic resource is located or under Section 14.12.010.
2. An original art mural may comprise up to 40% of the surface area of a building wall. The area allowed for an original art mural is considered in conjunction with the size regulations for other wall signs, as allowed by the sign districts in Chapter 14.16, so that the combination of the wall sign and original art mural shall not exceed 40% of the wall face.
3. An original art mural may wrap around the corner of a building, but the area of the mural on each wall shall be calculated separately.
4. The area of an original art mural includes the area within a rectangular-shaped perimeter enclosing the limits of any lettering, writing, representation, emblem, symbol, figure, drawing, character, or large-scale pattern. If the mural consists of more than 1 section without a painted background, each section area will be calculated and all areas will be totaled. If the mural consists of more than 1 section with a painted image background, the area is calculated within a perimeter enclosing the entire limits of the mural. To simplify area calculation, the smallest dimension of any rectangular-shaped perimeter enclosing a section of the mural shall measure two feet.
5. No compensation may be given or received for placement of an original art mural. Prior to issuance of a sign permit for an original art mural, the building owner shall provide an affidavit that no compensation was or will be received for placement of the original art mural.

6. Where compensation is involved, nothing in Subsections 20.04.060.A.1 or 5 shall prohibit an original art mural from being permitted as a wall sign, as allowed per the sign district in which the property is located.
- B. Review and Permitting of Original Art Murals
1. Authority  
The Milwaukie Planning Director, or designee, shall have the authority to determine if an application for an original art mural meets all of the applicable requirements and to issue a final approval, approval with conditions, or denial of the original art mural application.
  2. Notice of Decision  
The Planning Director, or designee, shall issue the original art mural permit in writing.