

**MEETING NOTICE
VILLAGE OF OSCEOLA
HISTORIC PRESERVATION COMMISSION**

Date: July 24, 2024
Time: 4:00 p.m.
Place: Village Hall, Rm 105, lower level

AGENDA

- 1) Call to Order
- 2) Approval of Agenda
- 3) Approval of Minutes
 - a. June 26, 2024
- 4) General Business
 - a. Review Chapter 2 on Wisconsin Historic Preservation Commission Training
 - b. Discuss and review potential mural/exterior wall ordinances
- 5) Future agenda items and updates
- 6) Adjourn

NOTE: It is possible that members of other governmental bodies of the municipality may be present at the above scheduled meeting to gather information about a subject over which they have decision-making responsibility. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Meetings may be recorded for public viewing and record retention.

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and of 24 services. For additional information or to request this service, contact Village Hall at (715) 294-3498.

VILLAGE OF OSCEOLA
HISTORIC PRESERVATION COMMISSION PROCEEDINGS
June 26, 2024

The Historic Preservation Commission of the Village of Osceola met in person on June 26, 2024. Chair Burch called the meeting to order at 4:00 p.m.

Present: Dan Lorenz, Perry Rice, Van Burch and Allana Clymer

Absent: Jerry Viebrock

Staff Present: Devin Swanberg and Carie Krentz

Approval of Agenda

Motion by Rice and second by Lorenz to approve agenda.

(Vote: Yes-3, No-0, Motion Carried)

Approval of Minutes

Motion by Lorenz and second by Rice to approve May 22, 2024 meeting minutes.

(Vote: Yes-3, No-0, Motion Carried)

General Business

Discussion as to development of regulations pertaining to exterior wall murals on buildings

Burch has been contacted by the owners that purchased Red Bird open space and they are interested in putting a mural on their exterior wall. Discussion on content: colors, size, wording, etc. Rice did a quick look and looks like it could go in signage ordinance and others are stand alone and defined requirements.

Members think the Village should look into this and work on implementing an ordinance/guidelines and asked Krentz to check with other municipalities for sample ordinances and present at next meeting.

Clymer arrived at 4:16 pm.

Burch did a recap of discussion and Clymer informed the members of what has not worked. Historical may be difficult to find in other municipalities but can get this process started.

Review and Discuss Chapter 1 of WI Historic Preservation Commission Training

Discussion on Chapter 1 focusing on options such as becoming a certified historical local government which would provide federal aid. Review Chapter 2 for next meeting.

Future agenda items and updates

Fence on Cascade Street North that did not go through HPC.

Swanberg still needs to reach out to John Harris for the architect opening.

Review Chapter 2 – Preservation Laws and Programs.

Samples of other municipalities for Exterior Wall ordinances.

Chair Burch adjourned the meeting at 4:34 p.m.

Respectfully submitted by

Carie A. Krentz, Village Clerk

Chapter 2: Preservation Laws and Programs

National Preservation Laws and Statutes, Chapter 2: Preservation Laws and Programs

Federal historic preservation laws largely concern the effects of federal undertakings. The three major federal laws involved are the National Historic Preservation Act, the National Environmental Policy Act, and Section 4(f) of the Department of Transportation Act.

National Historic Preservation Act (NHPA)

The NHPA is the leading federal preservation legislation, providing preservation regulations, standards, and guidelines. With the 1966 act came several specific preservation activities, including the establishment of the National Register of Historic Places, State Historic Preservation Offices, Certified Local Government program, Grants-in-Aid, and the Advisory Council on Historic Preservation. Amendments in 1976, 1980, and 1998 furthered the goals of the act, providing stronger protection of historic properties.

Four sections of the NHPA deal directly with federal agencies. The most powerful of these areas is Section 106, which requires federal agencies to take into account the effects of their activities and programs on historic properties.

Section 106

Section 106 of the NHPA requires federal agencies to consider the effects of their undertakings on historic properties. This portion of the legislation establishes a review process to ensure that historic properties are considered during federal project planning and execution. The review process is administered by the Advisory Council on Historic Preservation, which is an independent federal agency. Section 106 acts as the cornerstone of the 1966 NHPA, which was created out of public concern that the Nation's historic resources were not receiving adequate attention.

Section 106 requires that every federal agency or any project funded or licensed by the federal government examine its undertakings and how those actions could affect historic properties. A federal agency must review any type of its actions that has the potential to affect historic properties. These include a broad range of activities, including construction, rehabilitation and repair projects, neglect, demolition, licenses, permits, loans, loan guarantees, grants and federal property transfers. A historic property is any property listed in or eligible for the NRHP. Section 106 cannot prevent a federal agency from proceeding with desired projects, but it does require analysis of the project and allows for identification of historic resources. In many cases, alternatives are suggested which satisfy all interested parties.

National Environmental Policy Act (NEPA)

Under the NEPA, federal agencies are responsible for the environmental impact of their activities. Historic properties as well as natural resources are considered to be part of this environment. Enacted in 1969, the NEPA states that it is the federal government's responsibility to provide American citizens with a safe and healthful environment and to "preserve important historic, cultural, and natural aspects of our national heritage." There is much overlap between NEPA and Section 106 of the NHPA, but differences occur in the scope of protection afforded under each law. The NEPA applies to all historic and cultural properties, while the NHPA only governs properties listed or eligible for listing on the National Register. The NHPA, however, applies to a much wider range of federal agency activities, while NEPA regulates only major federal actions.

Section 4(f) of the Department of Transportation Act

This segment of legislation prohibits federal approval or funding of transportation projects that require the "use" of any historic site, public park, recreation area, or wildlife refuge, unless there is no feasible alternative and the project incorporates all possible plans to minimize harm to the affected property. This includes the direct physical taking of property as well as indirect impacts that would greatly impair the value of protected sites. Adopted in 1966, this law applies to all transportation agencies within the U.S. Department of Transportation.

Additional Federal Laws

Some federal preservation laws contain enforcement provisions that provide civil and/or criminal penalties for violations, including these two:

- Archaeological Resources Protection Act (ARPA): establishes a permitting process regarding important archaeological sites
- Native American Graves Protection and Repatriation Act (NAGPRA): addresses the return of human remains and cultural objects held by museums or federal agencies to Native Americans

State Preservation Laws and Statutes, Chapter 2: Preservation Laws and Programs

State preservation laws address private actions affecting historic resources. This is done primarily through laws that enable local governments to pass ordinances for the protection and preservation of historic sites.

Wisconsin Act 395

In Wisconsin, the primary historic preservation legislation is Wisconsin Act 395. Adopted in 1987, this legislation expresses the state's approach and commitment to historic preservation. It states:

The historical and cultural foundations of this state should be preserved as a living part of its community life and development... Increased knowledge of historic resources, the establishment of better means of identifying and administering them and the encouragement of their preservation will improve the planning of governmentally assisted projects and will assist economic growth and development.

This act created the Wisconsin State Register of Historic Places, which, like the National Register of Historic Places, lists "districts, sites, buildings, structures, and objects which are significant in national, state, or local history, architecture, archaeology, engineering and culture." Criteria for the State Register are also similar to those of the National Register. The Wisconsin Act 395 also contains provisions for reviewing the state's long-range building plans with respect to historic properties under the state's control. The act also initiated a state [tax credit program](#) for the rehabilitation of historic structures.

Wisconsin Building Code

The State of Wisconsin has adopted the International Building Code (IBC) as the state building code. For more information about the International Building Code and how historic buildings can qualify under the International Existing Building Code to maintain the historic features of a building, please see our article, [Building Codes and Your Historic Rehabilitation Project](#).

Wisconsin Statute 62.23

To ensure that historic preservation becomes part of the local government planning process, the Wisconsin legislature enacted Wisconsin Statute 62.23 in 1993. This law mandates that cities with properties listed on the National or State Registers of Historic Places adopt a Historic Preservation Ordinance. In order for a local ordinance to be certified it must:

- Contain criteria for the designation of historic structures and districts on a local historic register similar to the criteria for inclusion in the National Register of Historic Places;
- Provide procedures for designation of historic structures or districts including a nomination process, public notice, and opportunities for written and oral public comment;
- Provide for the exercise of control by the city, to achieve the purpose of preserving and rehabilitating historic structures and districts; and
- Create a historic preservation commission.

State Historic Preservation Offices, Chapter 2: Preservation Laws and Programs

Throughout the U.S., state governors appoint a State Historic Preservation Office (SHPO) to carry out the responsibilities of the National Historic Preservation Act (NHPA) in their state. Each SHPO performs a wide variety of functions under the NHPA, state laws, and other authorities. These functions include:

- Nominating properties to the National Register of Historic Places
- Conducting statewide historic preservation planning and a statewide inventory of historic properties
- Providing technical assistance to federal and state agencies, local governments, and others
- Certifying local governments to participate in the national program

Wisconsin SHPO

In Wisconsin, the State Historic Preservation Office is part of the Wisconsin Historical Society. This office serves as the principal historic preservation agency in the state. The Wisconsin SHPO oversees state and federally mandated preservation responsibilities. The Wisconsin SHPO's responsibilities include:

- Maintaining inventories of Wisconsin's historic properties
- Administering the Certified Local Government program
- Nominating sites to the National Register and State Register of Historic Places
- Supporting research on historic architecture
- Administering federal and state tax credit programs for the rehabilitation of historic properties
- Cataloging burial sites
- Reviewing public projects for their effects on historic resources under [Section 106](#) of the NHPA and Wisconsin Statutes

The Wisconsin State Historic Preservation Officer (SHPO) administers the Certified Local Government program for the National Park Service in Wisconsin. The federal law creating the Certified Local Government program can be found in 36 CFR Part 61, Section 61.5 "Approved Local Programs."

A Certified Local Government (CLG) is any city, village, county or town that has been certified by the SHPO and the Department of the Interior to meet these basic criteria:

- Establish by ordinance a qualified historic preservation commission
- Enforce appropriate state or local legislation for the designation and protection of historic properties
- Maintain a system for the survey and inventory of local historic resources
- Provide for public participation in the local historic preservation program

Wisconsin Requirements for Certified Local Governments

Federal law allows the state to establish additional requirements for CLGs. The CLG must adhere to all of the federal and state requirements or the SHPO may revoke the CLG certification. The Wisconsin SHPO has established these additional requirements:

1. The CLG must enact and enforce a historic preservation ordinance that regulates historic property.
2. A CLG must provide annual reporting to the SHPO on CLG activities.
3. A CLG must send copies of meeting minutes and agendas to the SHPO following each meeting.
4. The ordinance must not allow historic property owners to "opt-out" of local historic designation.
5. Designation must not require owner consent.
6. The commission must approve work on locally designated properties and recommendations may not be "advisory."

What are the Benefits of CLG Status?

- Eligibility to apply for Wisconsin Historic Preservation Fund Subgrants from the federal Historic Preservation Fund allocation to the state, to be used for eligible CLG activities.
- Ability to formally comment on National Register of Historic Places nominations within its municipal boundaries before they are sent to the State Historic Preservation Review Board.
- Eligibility to authorize the use of Chapter 11 of the International Existing Building Code for locally designated historic buildings.

Is My Community Already a CLG?

A searchable database of CLGs nationwide can be found through the [National Park Service CLG search page](#). You can also view a [map \(311 KB, PDF\)](#) of all Wisconsin CLGs.

Learn More

[How Does My Community Become a Certified Local Government?](#)

[How to Apply for Historic Preservation Fund Subgrants for Certified Local Governments](#)

Certified Local Government (CLG) Subgrant Criteria

Have Questions?

Contact Jason Tish by phone at 608-264-6512 or by email below:

jason.tish@wisconsinhistory.org

National Register and State Register of Historic Places, Chapter 2: Preservation Laws and Programs

The [National Register of Historic Places](#) is the nation's official list of properties that are deemed historically significant on a local, state, or national level. The National Register is administered by the National Park Service and the Keeper of the Register, who makes the final decision about whether a property should be listed. The State of Wisconsin also maintains a State Register of properties that have been determined to be significant to Wisconsin's heritage.

Criteria for Eligibility

A property is eligible for listing on the National Register if it meets one or more of the following criteria:

- Criterion A: Property is associated with historic events or activities
- Criterion B: Property is associated with important persons
- Criterion C: Property has a distinctive design or physical characteristics
- Criterion D: Property has yielded, or may be likely to yield, information about prehistory or history

In addition to meeting one of the above criteria for historic significance, the property must retain integrity, or a sense of time and place. Integrity is determined based on seven qualities: location, design, setting, materials, workmanship, feeling, and association.

Purpose of Listing a Property

The National Register primarily serves as a means of honoring and recognizing important historic and cultural properties. National Register status does not place restrictions on private property owners. It does, however, provide a degree of protection from federally funded or licensed activities, which must take into consideration their impact on historic resources. Income-producing properties listed on the National Register may also take advantage of federal rehabilitation tax credits. In Wisconsin, residential and income producing properties listed in the National Register may qualify for state rehabilitation tax credits.

Nominations

Properties are typically nominated to the National Register by property owners, preservation advocates, or consultants. Nominations must meet the criteria set forth in [National Register Bulletin 16: How to Complete the National Register Registration Form](#). Nominations are then reviewed by the staff of the Wisconsin Historical Society and presented to the Wisconsin State Review Board for consideration. Once approved at the state level, the nomination is sent to Washington D.C., where it is reviewed once more at the federal level. If the nomination is approved at the federal level, the property is officially listed in the National Register of Historic Places.

Both the State Register and the National Register are administered by the State Historic Preservation Office at the Wisconsin Historical Society. Current property listings of both registers are available on our website.

Read more on our website [About the State Register and National Register of Historic Places](#).

Historic Preservation Tax Incentives, Chapter 2: Preservation Laws and Programs

A variety of beneficial tax incentives are available to owners of Wisconsin historic properties. Both federal and state income tax incentive programs are available for the rehabilitation of historic properties that are either listed in or eligible for the National Register or State Register of Historic Places.

The most comprehensive and up to date information about the Federal and State rehabilitation credits is always available through our [Tax Credits for Historic Building Rehabilitation](#) website.

Community Development Block Grants, Chapter 2: Preservation Laws and Programs

The Community Development Block Grants (CDBG) program is administered by the U.S. Department of Housing and Urban Development. The CDBG program provides annual grants on a formula basis to entitled cities, urban counties, and states to develop viable urban communities. Viable communities are those that (1) provide decent housing and suitable living environments, and (2) expand economic opportunities, primarily for low- and moderate-income persons.

CDBG Funding

CDBG funds assist a wide variety of projects, including economic development, housing rehabilitation, public facilities, and large-scale physical development projects. Preservation activities can be supported through the CDBG program by helping residents to maintain and upgrade historic homes.

The Department of Housing and Urban Development (HUD) determines grant amounts using a formula that measures various factors, such as a community's extent of poverty, population, housing overcrowding, age of housing, and lag in population growth. The annual CDBG appropriation is allocated between states and local jurisdictions called "entitlement" and "non-entitlement" communities.

Entitlement Communities

Three types of jurisdictions are considered entitlement communities:

- The central cities of Metropolitan Statistical Areas (MSAs)
- Metropolitan cities with populations of at least 50,000
- Qualified urban counties with a population of 200,000 or more (excluding the populations of entitlement cities)

Wisconsin entitlement communities include the following cities: Appleton, Beloit, Eau Claire, Fond du Lac, Green Bay, Janesville, Kenosha, La Crosse, Madison, Milwaukee, Neenah, Oshkosh, Racine, Sheboygan, Superior, Waukesha, Wausau, Wauwatosa, and West Allis. Wisconsin entitlement counties are Dane, Milwaukee, and Waukesha.

Non-Entitlement Communities

The state also distributes CDBG funds to non-entitlement localities that do not qualify as entitlement communities. Non-entitlement areas are cities with populations of less than 50,000 (except cities that are designated principal cities of MSAs) and counties with populations of less than 200,000.

Wisconsin awards CDBG funds only to units of general local government that carry out development activities. Each year Wisconsin develops funding priorities and criteria for selecting projects, including:

- Formulating community development objectives
- Deciding how to distribute funds among communities in non-entitlement areas
- Ensuring that recipient communities comply with applicable state and federal laws and requirements



Memo

To: Historic Preservation Commission
From: Carie Krentz, Village Clerk
CC: Files
Date: July 23, 2024
Re: Sample Ordinances from other Municipalities

Attached are samples ordinances from the following municipalities:

- Mural Regulations - City of Onalaska, WI
- Public Art Permits - City of Delavan, WI
- Public Art Permit – City of Ashland, WI

Title 7. License and Regulation

Chapter 07. Exterior Regulations

Division 1. Mural Regulations

7.07.11. Intent.

- A. The City of Onalaska recognizes the value of art in promoting civic pride, attracting visitors, developing vibrant spaces within the City and showcasing the City's culture and history. The City seeks to encourage the installation and maintenance of high-quality public artwork by establishing regulations for the location, design and maintenance of temporary and permanent artworks throughout the City. Murals will be created by artists of diverse cultural traditions and backgrounds. The intent of this division is to aid artists and others in understanding issues surrounding the creation of a mural and to apprise parties involved in mural projects of the permit process.

7.07.12. Mural permit procedure.

- A. **Permit required.** No person shall place a mural on any property unless the express permission of the owner or operator of the property has been obtained and a mural permit has been issued from the Planning Department as provided herein. A mural is considered a semipermanent hand-produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, weather-treated wood, 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, etching or mosaic greater than 24 square feet in size.
- B. **Permit application.**
1. Applicants for a mural permit must complete and return an application form furnished by the Planning Department. At the time the application is submitted, a fee shall be paid as set forth on the City of Onalaska Fee Schedule, which shall be reviewed annually.
 2. All mural permit applications shall contain, but not be limited to, the following information:
 - a. A plan showing the existing lot and building dimensions and indicating the proposed location of the mural, along with a picture of the existing building.
 - b. Colored drawing/image of the proposed mural.
 - c. A description of the proposed maintenance schedule that includes a time frame for the life of the mural and method for removal, if applicable.
 - d. Written permission from the owner of the building to which the mural is intended to be applied, if the applicant is not the building owner.
 - e. An acknowledgement that the mural must be removed or covered if so ordered by the Planning/Inspection Department for failure to maintain the mural or for the mural reaching

a state of dilapidation.

3. A mural permit application for a mural which will be created on a medium that is not the building (i.e., painted on wood panels, metal, etc.) that will be attached to the building through an installation (including but not limited to adhesive, bolts, nails, screws, or other types of materials) must provide the following:
 - a. Written confirmation by the mural provider/installer that the structural integrity of the building wall will not be impaired that the mural is to be applied or affixed to.
 - b. Information related to the design and materials used to adhere the mural to the building. The design, quality, material and loads shall conform to the requirements of Title 15, Building Code, as amended. If required by the Mural Review Team, engineering data shall be supplied on plans submitted certified by a duly licensed structural engineer. Any plan revisions shall be supplied with a revision number and date.
4. **Mural design standards.**
 - a. Murals must further the following City goals:
 - i. Enrich the public environment for residents and visitors through the incorporation of the visual arts;
 - ii. Increase the livability and artistic richness of the community;
 - iii. Increase public access to the arts; and
 - iv. Promote diversity in public art and reflect a wide range of cultural expression.
 - b. Artistic consideration includes but is not limited to:
 - i. Demonstrated strength of concept, execution and originality;
 - ii. Size of the mural is appropriate to the building size and surroundings; and
 - iii. Content will be judged first on community-wide relevance, historic value and artistic merit. Content exhibiting short-term relevance, including political campaigning or most forms of advertising, will not be considered. Advertising specific to the history or community importance of the building where the mural is proposed, which meets the above-stated criteria, may be considered.
 - c. Explanatory wording relative to the mural may be incorporated into the mural. Artistic signatures are allowed up to a maximum of two square feet in size.
 - d. The location and scale of the mural is in keeping with and will enhance the structure on which it is located.
 - e. The proposed mural is well integrated with the building's facade and other elements of the property and enhances the architecture or aesthetics of the structure and/or wall.
 - f. The proposed mural, by its design, construction, and location, will not have a substantial adverse effect on the abutting property or the permitted uses thereof.
 - g. The proposed mural is not detrimental to the public health, safety or welfare.
 - h. The proposed mural will not have a detrimental effect on the structural integrity of the wall on which it is applied/affixed.
 - i. The maintenance schedule is reasonable for the mural and the structure on which it is applied/affixed.
 - j. Murals that project from the wall surface, except for the minimum necessary protrusion to mount the mural to the wall or structure.

- k. The mural shall not be painted directly onto brick, but may be attached by using an alternate medium (i.e., canvas, tile, metal panels, weather-treated wood, or similar materials with an approved attachment method) or may be otherwise applied by methods that will not cause damage to the structural integrity of 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 nondetrimental to the surface on which applied.
5. Application to be reviewed for compliance with the mural design standards above and prohibited mural content (Section 7.07.13.A) by the Mural Review Team, which shall include members of the Planning, Inspection, Attorney and the Parks and Recreation Departments as applicable within 30 days of a submitted, complete application.
- C. **Permit issuance.** Provided the mural permit meets the technical and aesthetic standards of this chapter, the Planning Department may approve and issue the mural permit. The mural permit will be valid for the specific design and one-time production of the presented mural. Any changes must be resubmitted to the Planning Department for review by the Mural Review Team. The mural permit is revocable by the Planning Department if it is determined any time that the mural being installed does not comply with the information provided within the application.
 - D. **Permit expiration.** The construction timeline for an issued mural permit is valid for one year. If the approved mural has not been installed within one year of permit issuance, the mural permit shall expire. Further, if construction of the mural permit has not commenced within 180 days of permit issuance, the mural permit shall expire. The mural permit shall also expire if it has been determined that the work authorized by the permit has been suspended, discontinued or abandoned for a continuous work permit of 180 days.
 - E. **Special exception.** Special exceptions to these mural regulations may be requested by completing a special exception application furnished by the Planning Department and returned to the Planning Department. At the time the application is submitted, a fee shall be paid as set forth on the City of Onalaska Fee Schedule, which shall be reviewed annually. The Plan Commission will consider the special exception request and make a determination to approve or deny the special exception and mural permit. If denied, an applicant may appeal to the Common Council to approve the special exception and mural permit.

7.07.13. Additional regulations for murals.

- A. **Prohibited mural content.** Murals are hereby prohibited from containing the following:
 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;
 2. Murals which contain material that when taken as a whole:
 - a. Applying contemporary community standards, its predominant appeal is to a morbid, degrading, or excessive interest in sexual matters;
 - b. The average person would find the material depicts or describes sexual conduct in a patently offensive way; and
 - c. A reasonable person would find the material lacks serious literary, artistic, political or scientific value.
 3. Murals that are directed or may appear to direct to persons to incite or produce imminent lawless action and are likely to incite or produce such action.

4. 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.
5. Murals where the intended audience is commercial or actual/potential consumers and where the content of the mural is commercial in character, therefore becoming a sign. A mural is not considered a sign and signs are regulated through Title 14, Sign Code.

B. Mural placement.

1. Murals are allowed in all commercial, industrial, public and semipublic and mixed-use zoning districts as identified in Title 13, Unified Development Code. Murals shall not be allowed in strictly residential zoning districts.
2. Murals are not permitted on the primary facade of a building. The primary facade is defined, for the purposes of this chapter, as the building elevation which directly faces an adjacent street right-of-way and is the primary customer entrance.

C. Mural installation and maintenance standards.

1. **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, a structure that has been locally, state, or federally designated as historic, or has been deemed eligible for future inclusion as historic structure. These treatments and similar can cause damage to historic building materials and shall not be used.
2. It shall be the responsibility of the property owner upon which the mural is placed to maintain the appearance of the mural. A mural that is permitted to remain in a condition of disrepair shall constitute a public nuisance as defined in Chapter 2, Public Nuisances, of Title 12.
3. A mural's display surface shall be kept clean and neatly painted/maintained and free of corrosion and kept in good condition for the life of mural according to the maintenance schedule and responsibilities approved by the Planning Department and incorporated into the mural permit. A mural 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.
4. 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 Inspection Department 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 Inspection Department for good cause or efforts to restore and/or preserve the mural to its original form.

City of Delavan, WI
Tuesday, July 23, 2024

Chapter 7-15. Public Art Permits

[HISTORY: Adopted by the Common Council of the City of Delavan 8-11-2014 by Ord. No. RC-344 (Title 7, Ch. 15, of the 1997 Code). Amendments noted where applicable.]

§ 7-15-1. Purpose.

- (a) The purpose of this chapter is to establish a permitting process that will allow for and encourage the installation of public art throughout the community. Art contributes to livable, aesthetically pleasing and pedestrian-friendly streetscapes. The experience of public art makes a space seem more welcoming. It helps a community remember its past, honor an ideal, and express its values and concerns to future generations. Public art makes a community more livable and more visually stimulating.
- (b) Specific goals of public art are to:
- (1) Enhance the City's sense of place in the region by providing unique artwork throughout the community in a manner unlike any other place in the area.
 - (2) Celebrate the City's history and cultural spirit and identity through the creation of art that is accessible to the public.
 - (3) Create a recognizable icon.
 - (4) Enhance the appearance and livability of public spaces through the placement of site-specific art projects that respond to the natural and built landscape.
 - (5) Enliven public spaces.
 - (6) Enhance overall quality and identity of the place and/or building.
 - (7) Strengthen community identity, spirit and collective cultural experience through the placement of public art throughout the City.
 - (8) Allow local, regional, national and international artists to share their creations with the community.
 - (9) Stimulate the economic success of businesses.
 - (10) Attract visitors and leave them with a positive impression and a desire to return.
 - (11) Create a more livable community by linking arts and everyday life with the objective of making Delavan the place of choice to live, work, recreate and raise a family.
- (c) Public art should be designed to complement the visual experience of those who live, work or visit the City of Delavan. In addition, the placement of public art throughout Delavan will contribute to the City's economic draw and be an ongoing educational tool and tourism draw for the community. By virtue of the effort, the community should become a richer place for residents and visitors.
- (d) Through the permitting process, the City is able to: (1) ensure that community objectives of public art are achieved; (2) address any public health, safety, and welfare concerns that may arise relative

to the art media or locations proposed; and (3) verify that public access and long-term maintenance issues are addressed.

§ 7-15-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERATIONS

Includes any change to a permitted public art, including but not limited to any change to the image(s), materials, colors, or size of the public art. "Alteration" does not include naturally occurring changes caused by exposure to the elements or the passage of time. Minor changes that result from the maintenance or repair of the public art shall not constitute "alteration." Such minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the art piece is repaired due to the passage of time or as a result of vandalism.

ARTIST

An individual generally recognized by peers as a professional practitioner of the visual arts as judged by the quality of that professional practitioner's body of work, educational background, experience, past public commissions, and production of artwork. It also may include students or youth who are creating public art under the direct supervision of practicing artist/art teacher.

PROJECT INITIATION DATE

The date on which the first art piece included in the permitted public art project is fully or partially installed on a site.

PUBLIC ART

(a) Includes works of art in any media that have been planned and executed with the specific intention of being sited or staged in or have the ability to be viewed from the physical public domain, usually outside and accessible to all. Public art includes all forms of visual art originally created by an artist or under the artist's direction, whether contemporary or traditional in style, that is located outdoors and is visible to the general public. Works of public art to be placed in the community may include:

(1) **SCULPTURE AND KINETIC ART**

Freestanding, wall supported or suspended; in any appropriate material or combination of materials.

(2) **MURALS AND PAINTINGS**

In any appropriate material or variety of materials, with or without collage.

(3) **MOSAICS**

Including tiled composites on walkway, street furniture and wall surfaces.

(4) **WATER FEATURES**

Including fountains, waterfalls and decorative pools.

(5) **EARTHWORKS**

Environmental works in appropriate outdoor sites.

(6) **GLASS**

Including but not limited to ceramics and lighted glass, including neon and plastic.

(7) **FUNCTIONAL ART**

Including decorative furnishings or fixtures, but not limited to gates, railings, streetlights or seating, if created or decorated by artists as unique elements.

(b) To be considered "public art," the art must be located either upon public property or upon private property for which an agreement to which the City is a party is secured and authorizes

the "public art" subject to the conditions included in the agreement. Whether it is on public or private property, "public art" must be freely accessed by the general public during the normal hours of operation of the premises upon which the art is located. All public art projects must be reviewed by the Plan Commission and approved by the Common Council. Public art that is not approved by the Common Council under this chapter shall also be subject to the provisions of the applicable sections of the Zoning Code and any other ordinance that regulates signs and land use, including any applicable overlay district(s).

SPONSOR (also referred to as APPLICANT)

Any person, firm, corporation or association who applies for and secures a public art permit for the purpose of installing public art as provided for in this chapter. The sponsor shall be responsible for ensuring compliance with all requirements and obligation of the permit including but not limited to obligations relating to maintenance of the public art and its removal if a permit is revoked or terminated. The sponsor shall be a party to any and all agreement(s) provided herein.

§ 7-15-3. Eligibility criteria.

- (a) To be considered "public art," the art must be located either upon public property or upon private property for which an agreement to which the City is a party is secured and authorizes the "public art" subject to the conditions included in the agreement. Whether it is on public or private property, "public art" must be freely accessed by the general public during the normal hours of operation of the premises upon which the art is located. All public art projects must be reviewed by the Plan Commission and approved by the Common Council. The following factors are to be considered in approving "public art":
- (1) Achievement of the goals of public art.
 - (2) The appropriateness of the location for public art.
 - (3) The originality and/or aesthetic quality of the work.
 - (4) The appropriateness of the art media selected for the location.
 - (5) Appropriateness of the work, including theme and size, to a chosen location, including scale of artwork to the site and obstacles of the site.
 - (6) The subject matter is consistent with the goals of public art and appropriate for the proposed location.
 - (7) The artist has demonstrated in the design, aesthetic and functional coordination with the architecture of the building/buildings, streetscape and/or landscape.
 - (8) The proposed maintenance plan and funding level is consistent with "best practices" relative to the type of art media proposed.
 - (9) The sponsor of the program has secured the right to locate the public art on either public or private property as evidenced by a written agreement that may be subject to successful completion of this approval process.

§ 7-15-4. Public art location criteria.

- (a) Display of public art throughout the City is encouraged. There may, however, be areas that are not appropriate for an art display. The following criteria will be considered in determining whether a proposed location for public art should be approved:
- (1) Visibility and public access.
 - (2) Public safety.

- (3) Interior and/or exterior traffic patterns.
 - (4) Relationship of art to the site's existing or future architectural or natural features.
 - (5) Function and uses of the facility or site.
 - (6) Future development plans for the area which may affect the public art project.
 - (7) Relationship of the proposed work to existing works of art or design elements within the site's vicinity.
 - (8) Social or cultural context of the proposed artwork relative to the site and its surrounding environment.
- (b) When a public art display is considered for a particular site, consideration will also be given as to whether or not public art in such a location has the potential to:
- (1) Express the values, diversity and character of the neighborhood.
 - (2) Illustrate the cultural heritage or built heritage or other unique qualities inherent to the site, neighborhood, area or community (such as existing/lost landmarks).
 - (3) Recognize the unique natural settings of shoreline, prairie and wetland present in the City.
 - (4) Reinforce spatial networks that link one neighborhood to another.
 - (5) Enrich the visitor's experience of the place.
 - (6) Enhance the pedestrian experience.
 - (7) Inspire new ways of looking at the community.
 - (8) Reveal aspects of the social, historical, physical or commercial context of the site, neighborhood, area or community.
 - (9) Add to the attractiveness, and therefore, inherent value of the site or area.

§ 7-15-5. Public art program criteria.

- (a) A public art project, once approved, cannot be altered, as further clarified below, unless an amendment reviewed by the Plan Commission is approved by the Common Council.

Additionally, public art, once approved, shall:

- (1) Not have any alterations to the permitted public art.
- (2) Not, if attached to a building:
 - a. Exceed the height of the structure or 100 feet, whichever is lower.
 - b. Extend more than six inches from the building facade.
 - c. Cover windows, doors, vents or other architectural elements such as cornices and pilasters.
- (3) Not contain changing images (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, not including static illumination turned off and back on not more than once every 24 hours).
- (4) Not provide for any compensation from the artist or the City to the property owner. "Compensation" is herein defined as the exchange of something of value, including but not limited to money, securities, a real property interest, the barter of goods or services, the

promise of future payment, or the forbearance of debt, and is given to or received by said property owner, or a leaseholder with the right to possession of the wall upon which the public art is to be placed, for the display of the public art, or for the right to place the public art on the property. The applicant shall certify in the registration application that no compensation for the display of the public art or the right to place the public art on the property will be given to or received by the property owner or leaseholder). (However, nothing herein contained is intended to limit or prohibit the compensation of the artist.)

- (5) Not contain any brand name, product name, or abbreviation of the name of any product, company, profession or business, or any logo, trademark, trade name or other commercial message, with the exception of public art that is being created to capture "events" (which may include places, businesses, products, people) of historic value or significance to the Delavan area, except as otherwise approved by the Common Council.
- (6) Remain intact for a minimum of five years subject to the following exceptions:
 - a. The property on which the mural is located is sold and the new owner has requested that the agreement be terminated; or
 - b. The structure or property is substantially remodeled or altered in a way that precludes continuance of the public art.

§ 7-15-6. Public art maintenance criteria.

- (a) Except as otherwise provided for in a written agreement, the sponsor of the project shall retain responsibility for maintenance and regular upkeep of the approved public art per the maintenance plan reviewed and approved in conjunction with the approval of the public art Project. Where appropriate the maintenance plan for the public art shall provide for the treatment of the art with an anti-graffiti coating. If, for any reason, a public art piece is removed, destroyed, or has deteriorated, the owner on which the art is located is responsible for removal except as otherwise provided in a written agreement.

§ 7-15-7. Permit application process.

- (a) A public art permit must be secured for all public art installations. No fee shall be charged for this permit. If the installation is not completed per the approved plan, reinspection fees shall apply.
- (b) Application for a permit for public art must be completed by the sponsoring person, partnership, corporation, limited liability company or other entity and submitted to the Building and Zoning Division of the Public Works Department and shall include the following information:
 - (1) Completed City application form for a public arts permit.
 - (2) Project information on the program including each location (including alternate locations, if any). A dimensioned sketch for each location identifying the boundaries within which the public art element is to be located. Pictures depicting the relationship of the public art element to adjacent buildings and spaces.
 - (3) The overall theme of the public art project and, if applicable, a listing of the specific topics (including alternates, if any) that will be addressed in the individual public art elements of the project.
 - (4) Information on the materials to be utilized for the project and the durability of these materials.
 - (5) Maintenance plan which plan shall include evidence of available funds or a funding source to cover the cost of the maintenance plan as proposed.

- (6) Acknowledgement that agreements must be secured for each location at which public art is to be located, which agreements shall, at minimum, provide rights to the program sponsor to access the property for maintenance purposes and require the owner of the property to commit to maintaining the public art element on the property for a minimum of five years except as otherwise provided for in this chapter.

§ 7-15-8. Permit review process.

- (a) Once submitted, a public art permit application shall be reviewed by the Building and Zoning Administrator as follows:
 - (1) The Building and Zoning Administrator shall determine whether the application is complete and whether the proposed project meets the eligibility criteria to be considered a public art project. If the Building and Zoning Administrator determines that the application is not complete or does not fulfill the eligibility criteria to be considered public art, he shall return the application to the applicant. If the Building and Zoning Administrator determines that the application is complete, he shall so notify applicant.
 - (2) Upon notifying the applicant that his application is complete, the Building and Zoning Administrator shall review the application and evaluate and comment on whether the public art project as proposed meets the criteria established under the program.
 - (3) Upon completion of his review, the Building and Zoning Administrator shall then submit the application to the Plan Commission for review and recommendation to the Common Council as to whether the public art permit should be issued.
- (b) Plan Commission review and recommendation.
 - (1) The Plan Commission shall consider the application at a regular or special meeting open to the public. The public art project sponsor shall be in attendance to present a summary of the proposal and to answer questions that may arise at the meeting.
 - (2) The Plan Commission shall consider the effectiveness of the proposed public art project in meeting the objectives of and criteria for the program and the effect of the proposed project on the health, safety, morals, and general welfare of the surrounding areas and the overall community. The Plan Commission may request further information and/or additional reports from the Building and Zoning Administrator and/or the sponsor.
 - (3) Within 60 days after the public meeting (or within an extension of said period requested in writing by the applicant and granted by the Plan Commission), the Plan Commission is to submit to the Common Council a report on its findings as to whether, in the opinion of the Plan Commission, a public art permit should be approved for the proposed public art project. Said report shall also identify any and all conditions of approval that may be recommended by the Plan Commission.
 - (4) If the Plan Commission fails to make a report within 60 days after the adjournment of the public meeting at which this matter was presented (unless extended as provided for in this section), then the Common Council may proceed with the consideration of the public art permit.
- (c) Common Council review and consideration.
 - (1) The Common Council shall consider the public art application following receipt of the report from the Plan Commission or following the expiration of the 60-day period if no report is filed.
 - (2) The Common Council shall consider the Plan Commission's recommendation regarding the proposed public art project. The Council may request further information and/or additional reports from the Plan Commission, the Building and Zoning Administrator, and/or the applicant. The Common Council shall also consider the effectiveness of the proposed public art project in meeting the objectives of and criteria for the program and the effect of the proposed project on

the health, safety, morals, and general welfare of the surrounding areas and the overall community.

- (3) The Common Council, in the permitting of a public art project, may impose, in addition to the standards and requirements expressly specified by the Municipal Code, additional conditions which the Plan Commission and Common Council consider necessary to protect the best interests of the surrounding area or the City as a whole.
- (4) The Common Council may approve the public art permit application as originally proposed, may approve the application with modifications (per the recommendations of the Building and Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the application.

§ 7-15-9. Effect of denial.

No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except if new information is submitted to the Building and Zoning Administrator sufficient to change his recommendation, or the proof of a change of factors used to deny said application is found to be valid by the Building and Zoning Administrator.

§ 7-15-10. Time limits on completion.

Once a permit for a public arts project has been approved, this project, unless an extension is granted by formal action of the Common Council, must commence ("Project Initiation Date") within 365 days of said approval of the permit by the Common Council, and shall be completed within 730 days of the project initiation date. The failure to initiate or complete the project within the periods set forth herein shall automatically constitute a revocation of the public art permit.

§ 7-15-11. Termination or revocation of an approved permit.

- (a) Any public art project found not to be in compliance with the terms of this chapter and/or the conditions under which a permit for the project was issued under this chapter shall be considered in violation of this chapter and shall be subject to the penalties set forth under § 1-1-7 of this Code of Ordinances. A public art permit may be revoked for such a violation by majority vote of the Common Council.
- (b) Public art created or installed under a public art permit that has been terminated or revoked must be removed within 60 days of the date of the notice to remove, or sooner based upon a finding by the Common Council that it is a detriment to the public health, safety, or welfare. If said public art is not removed within the time period provided in the notice, the City shall have the right, but not the obligation, to either remove or contract for the removal of the non-permitted public art media and shall bill the property owner, or other responsible party as provided for in the agreement, for all costs incurred in taking this action. Any costs incurred shall be in addition to the penalties set forth in § 1-1-7 of the Code of Ordinances.

3.25 Public Art Permit

A. **Applicability.** It shall be unlawful for any person to erect, construct, enlarge, relocate, or structurally modify public art or cause the same to be done in the City of Ashland without first obtaining a public art permit pursuant to this Section and Section 5.6 I.: Public Art.

B. Review Process.

1. **Optional pre-application meeting.** The property owner, or their designated agent, requiring a public art permit may request a pre-application meeting with the Zoning Administrator or Designated Authorized Agent to review the proposed work and clarify the requirements for obtaining a public art permit.
2. **Initiation.** Initiation of a public art permit may be made upon application of the property owner or their designated agent.
3. **Application submittal.** A complete application shall be submitted to the Zoning Administrator or Designated Authorized Agent pursuant to Section 3.1, D., 2.: Application Forms and Fees. The application shall contain the following information:
 - a. The name, address, and telephone number of the public art owner, the property owner where the public art is or shall be located, and the artist or contractor of the proposed public art.
4. Clear and legible scale drawings showing the construction, size, dimensions, materials to be used, and the location of the proposed public art and any existing public art on the parcel.
5. Calculations or evidence showing that the structure and design comply with the provisions of Section 5.6 I.: Public Art.
6. Evidence of liability insurance policy or bond as required herein.
7. A Historic Preservation Certificate of Appropriateness and/or approval from the Mural Art Walk Committee, if required.
8. Such other information as the Zoning Administrator or Designated Authorized Agent may require showing full compliance with the provisions of this Ordinance.
9. Signature of the applicant.
10. Payment of all required fees.
11. **Staff review.** The Zoning Administrator or Designated Authorized Agent shall complete the following tasks:
 - a. Determine if the application is complete pursuant to Section 3.1, D., 4.: Application Completeness; and
12. Review the application, considering the criteria for approval, and submit the application to other City Staff for their review and comment as necessary or desired.
13. **Plan Commission final action.** The Plan Commission shall complete the following tasks:
 - a. Conduct a public informational meeting pursuant to Section 3.1, G.: General Procedures associated with Public Informational Meetings and Notices.
14. Within ninety (90) days of the City's receipt of a complete application, the Plan Commission shall take action to approve, approve with conditions, or deny the request for public art approval unless the deadline for action is extended pursuant to Section 3.1, D., 5.: Limit of Time Relating to Final Action.

C. **Approval Criteria.** The Zoning Administrator or Designated Authorized Agent shall issue a public art permit when the permit application is properly made, all appropriate fees have been paid, approval has been granted by the Plan Commission and the public art complies with the applicable provisions of this Ordinance.