

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

Date: September 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. July 24, 2024
- 4) General Business
 - a. Review Chapter 3 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 services. For additional information or to request this service, contact Village Hall at (715) 294-3498.

VILLAGE OF OSCEOLA
HISTORIC PRESERVATION COMMISSION PROCEEDINGS
July 24, 2024

The Historic Preservation Commission of the Village of Osceola met in person on July 24, 2024. Chair Burch called the meeting to order at 4:00 p.m.

Present: Dan Lorenz, Perry Rice, Van Burch, Allana Clymer and Jerry Viebrock
Staff Present: Devin Swanberg and Carie Krentz

Approval of Agenda

Motion by Rice and second by Lorenz to approve agenda.

(Vote: Yes-5, No-0, Motion Carried)

Approval of Minutes

Motion by Lorenz and second by Rice to approve June 26, 2024 meeting minutes.

(Vote: Yes-5, No-0, Motion Carried)

General Business

Review and Discuss Chapter 2 of WI Historic Preservation Commission Training

Discussion on Chapter 2 with key takeaways – chapter helps give an understanding why Historic Preservation Commissions were created and needed; Village of Osceola is currently NOT a Certified Local Government, which is needed for certain grant funding; these chapters are a good resource for guidance and questions; members all felt each request to this commission is different and to address each as they come; and to look at our current ordinances and compare with other municipalities and update to use best practices overall.

Discuss and Review potential mural/exterior wall ordinances

Members reviewed other municipalities ordinances on Murals vs. Public Art. The ordinances address responsibilities, items that stand the test of time, who is responsible for maintenance and upkeep, have a provision for exiting artwork, the group is going to go over samples more in depth and come back with what would work for Osceola. Two items that group felt are required in determination would be the ordinance would be for the Historic District and would be a Public Art Ordinance.

Future agenda items and updates

Lorenz was wondering about the fence for old red bird area – it was stated that it was a safety issue not something to come before this commission.

Read Chapter 3 before next meeting.

Chair Burch adjourned the meeting at 4:57 p.m.

Respectfully submitted by
Carie A. Krentz, Village Clerk

Chapter 3: Community Benefits of Preservation

The Economics of Preservation: Communities and Homes, Chapter 3: Community Benefits of Preservation

Commission members should be aware of historic preservation's economic benefits to cities and communities. Dozens of studies conducted nationwide in recent decades have demonstrated that historic preservation is an economically sound, fiscally responsible, and cost-effective strategy that produces visible and measurable economic benefits to communities. In short, historic preservation makes good economic sense.

Tax Savings

In addition to the most obvious benefit of enhancing the surrounding physical environment, how can the rehabilitation and preservation of older buildings help a community? Between 2001 and 2005, the Wisconsin Historical Society assisted property owners with \$28 million of rehabilitation work on historic homes, leading to \$7 million of state tax savings. During these years, the state also recorded \$254 million of economic activity in the rehabilitation of income-producing historic buildings.

These tax credits amounted to \$50 million in federal tax savings and \$13 million in state tax savings for Wisconsin residents. These economic impacts have a ripple effect throughout local economies and promote additional investment and tourism.

Increased Property Values

Our houses often represent our largest economic asset, and we all want this asset to improve in value. Historic district designation and the use of design review guidelines help to ensure that our investment in a historic area will be protected — from inappropriate new construction, misguided remodeling, or demolition. Studies have shown that over time, property valuation in historic districts tends to increase, sometimes dramatically. No evidence suggests that historic designation and the use of design guidelines lowers property values.

Numerous studies across the country have shown that property values in designated National Register or local historic districts generally increase at a more rapid rate than the market. One example is a four-year study conducted during the 1990s in Knoxville, Tennessee, that compared house sale prices in three similar neighborhoods with varying historical designations. Over the four-year period, the neighborhood with both a local and a National Register designation had increased sale prices of 157%. The second neighborhood, which had National Register status but no local historic zoning, had increased sale prices of 36%. Property values in the neighborhood without any historical zoning or recognition increased by only 20% during the same period.

Locally designated districts protect the composite or overall economic value of a historic area. Every building or parcel in a historic area is influenced by the actions of its neighbors. Every decision one property owner makes has an impact on the property values of another. Design guidelines provide a level playing field for all property owners because they apply equally to everyone in a historic area. Therefore, all property owners' rights are protected from the adverse economic impact that could result from the actions of others. Historic designation and design review not only benefits existing residents of a neighborhood, but it often attracts new buyers who know their investment will be protected.

Enhanced Livability

Quality of life is a key ingredient in most of today's economic decisions. Historic preservation is important because healthy downtowns and neighborhoods reflect a community's self-image. Companies planning to relocate will often consider the economic and physical health of the downtown in their decision-making process. Consider these points:

- More than any other man-made element, historic buildings differentiate one community from all others. Any community can duplicate your community's water lines, industrial park, shopping mall, or tax rate. No community can duplicate your historic resources.
- Many quality-of-life activities—museums, theaters, and libraries—are located in historic buildings and in downtown areas.
- The quality of historic buildings says much about a community's self-image. A community's commitment to itself is a prerequisite for nearly all quality-of-life elements.
- Historic preservation can lead to revitalized commercial areas, and commercial areas that are more active and lively also generally increase safety and diversity.
- Quality-of-life issues and the livability of a community are important factors to Baby Boomers, who make up the largest percentage of the U.S. population and have the highest median household incomes. Baby Boomers typically have an interest in culture and heritage and tend to enjoy entertainment venues, walkable streets, and other aspects commonly associated with preservation.
- Many Baby Boomers in the coming years will be downsizing and choosing urban lifestyles for dining, arts and culture, and convenience. A large number of Boomers don't want to be tied to the car in suburbia. As a result, demand will increase for housing in our downtown areas. Many downtowns are already seeing a surge in conversions of upper floor areas for loft apartments and condos.

The Economics of Preservation: Tourism and Jobs, Chapter 3: Community Benefits of Preservation

In addition to offering tax savings, increasing property values, and enhancing the livability of a community, historic preservation efforts contribute to two other community economic benefits: tourism and job creation.

Economic Benefits of Heritage Tourism

A phrase that all commission members should have in their vocabulary is "heritage tourism." Across the nation, historic and cultural sites draw more tourists than recreational assets, making heritage tourism one of the fastest growing industries today. Heritage tourism strengthens the local economy by bringing outside dollars into local businesses.

Recent studies reveal that a typical heritage tourist stays longer, spends more money, and makes return trips or extends his or her stay much more than the average tourist. Communities that identify, preserve, enhance, and market their unique history and architecture will attract such visitors.

Heritage Tourism in Wisconsin

In Wisconsin, historic properties draw a substantial number of visitors to the state and constitute a large percentage of its tourism revenue. One of the most popular activities of Wisconsin tourists is sight-seeing, and

travelers often select areas to visit based on the availability of historic and scenic sites. According to the Wisconsin Department of Tourism, in 2017 tourism had a \$20.6 billion impact on the state economy, with tourism generating \$1.5 billion in state and local revenues and sustaining 195,255 jobs in the state.

Wisconsin was part of a pilot Heritage Tourism Program that began in 1990 in partnership with the National Trust for Historic Preservation. As one of four states selected to be part of this economic development initiative, Wisconsin became a model for similar efforts across the country. The Heritage Tourism Program is administered through the Department of Tourism and provides professional advice to local projects on tourism development, preservation and marketing, long-term development plans, and enhanced services to increase tourism. Projects developed through this program include:

- Timber Trails in Chippewa Valley
- Fox-Wisconsin Rivers Heritage Corridor
- Wisconsin's Ethnic Settlement Trail
- Lake Superior Heritage Highways

Another great example of a successful "homegrown" heritage tourism project in Wisconsin is "Wisconsin's Northwest Heritage Passage." In this project, the counties of Barron, Bayfield, Burnett, Polk, Sawyer, and Washburn worked together to produce thousands of maps to highlight the area's historic downtowns, craft shops, farmer's markets, and farms offering direct sales of produce. This map was funded by organizations in each of the counties involved, along with grant funds provided through the Wisconsin Department of Tourism Joint Effort Marketing Program. Comments from small business owners about the "Passage" map indicate the positive impact of this effort:

- "Definite impact. We've had our best summer in four years."
- "It has dramatically increased awareness of our immediate community and other handmade, homegrown businesses."
- "Yes, brought people here from out of the immediate area."
- "We had customers come in stating they found us on the map. Great way to promote on a large scale with a small budget."
- "I believe your map is responsible for my success this summer!"

In addition to the above accolades, the "Passage" program received a Wisconsin Rural Partners, Inc. award as one of the Top Ten Development Initiatives of 2001.

Creating Local Preservation Jobs

Rehabilitation and revitalization projects create thousands of construction jobs annually, and historic preservation creates more jobs than new construction. On average, \$1 million invested in rehabilitation instead of new construction produces:

- 20 percent more jobs
- \$120,000 more in the local economy
- \$107,000 more in household income
- \$34,000 more in retail sales

(The Economics of Historic Preservation, p. 14)

Historic preservation creates more jobs largely because rehabilitation projects are more labor intensive than new construction. In new construction, about half of all expenditures are for labor and half are for materials. In a typical historic rehabilitation project, between 60 and 70 percent of the total cost goes toward labor, which has a beneficial ripple effect throughout the local economy. Labor for preservation projects — carpenters, electricians, plumbers, sheet metal workers, painters — is nearly always hired locally. And local wages are spent locally.

In addition to construction, historic preservation also generates jobs for architects, accountants, attorneys, engineers, preservationists, real estate brokers, and others. The materials used in preservation projects are much more likely to be purchased locally, whereas materials for new construction are often purchased elsewhere. Across the nation, building rehabilitation outperforms new construction in the number of jobs created, the increase in local household incomes, and the impact on other industries.

[Sources: Rypkema, Donovan D. "The Economics of Historic Preservation: A Community Leader's Guide" (Washington, D.C.: National Trust for Historic Preservation, 1994); Wisconsin Department of Tourism. [The Power of Wisconsin Tourism](#) (PDF, 76 KB)]

The Environmental Impact of Preservation, Chapter 3: Community Benefits of Preservation

Historic preservation conserves resources and encourages sustainable design, making it an environmentally friendly approach to revitalizing a community. Historic structures also tend to be more pedestrian-friendly than modern structures, which increases the walkability and vibrancy of a community.

Resource Conservation and Sustainable Design

Preserving and rehabilitating an existing historic building has less negative impact on the environment than new construction. The rehabilitation of older buildings utilizes existing infrastructure, such as water lines, sidewalks, and streets, and preserves existing building materials and architectural elements. Debris from demolition typically makes up 25 to 30 percent of all materials discarded in landfills. The rehabilitation of an existing structure prevents substantial amounts of building material from becoming landfill. The economic revitalization of a historic main street lessens the demand for another strip mall on the edge of town.

Historic buildings, particularly vernacular designs, are by nature closely tied to the land and are often compatible with the principles of today's sustainable design for environmentally friendly structures. Features of historic buildings such as porches, large windows, and projecting overhangs take advantage of natural ventilation systems and solar heating. Historic properties typically incorporate the use of shade trees in their setting and are often sited to take advantage of natural wind currents. Preservation encourages the use of natural materials, typically generated at the local level.

Conservation of Embodied Energy

Historic buildings embody energy that was expended in the past — the energy put forth to make the bricks, clapboard siding, windows, and other elements of the building. Rehabilitating older structures is a cost-effective reuse of these existing assets. If original elements are removed and replaced with new materials, new energy must be applied to make them. On the heels of the energy crisis of the mid-1970s, the consulting firm Booz Allen Hamilton measured the amount of energy inherent in various building materials. They found that the amount of energy required to manufacture eight bricks, haul them to a construction site, and place them in a wall is equal to the amount of energy in a gallon of gasoline.

This finding was important because it tells us that existing historic buildings — the heart of many communities' Main Streets and neighborhoods — represent a huge energy investment. This investment is lost when these buildings are torn down. For example, the amount of energy inherent in the bricks alone in a typical three-floor, 20-by-100-foot brick bearing-wall main street building is equal to the amount of energy in more than 3,700 gallons of gasoline — enough to keep the average American driving for almost eight and a half years. Multiply this by the structures that make up a downtown or city residential building stock, and the embodied energy is enormous.

Increased Walkability

Historic preservation increases the general walkability of a city, town, or village. Historic structures were built and designed with pedestrians, rather than automobiles, in mind.

Historic commercial buildings, and many historic residential buildings, were built up to the sidewalk. Unlike their modern-day counterparts, historic commercial buildings have large display windows that passersby can see through, and their entryways are designed to be inviting to pedestrians. This welcoming design encourages interaction, and the more "walkable" a downtown or commercial area is, the more active and vibrant it becomes. And when people can take a pleasant walk to their destination, they may just leave the car at home.

Smart Growth Community Planning, Chapter 3: Community Benefits of Preservation

A term that historic preservation commission members should have in their vocabulary is "smart growth." Smart growth refers to an approach toward community planning and development. The goal of smart growth is for a community to conscientiously direct its growth rather than allowing growth and development to happen randomly, which usually results in misuse of open space and wastes public and private investments.

Through smart growth planning, communities recycle existing buildings and land, conserve historic residential neighborhoods and downtown commercial districts, preserve farmland, and maintain community character.

Role of Preservation in Smart Growth Planning

Historic preservation work plays an important role in smart growth planning. Members of preservation commissions should be actively involved in developing and guiding their community's future through incorporating smart growth into local planning.

Wisconsin's comprehensive planning legislation requires community comprehensive plans to address these nine elements:

- Issues and opportunities
- Housing
- Transportation
- Utilities and community facilities
- Agricultural, natural, and cultural resources
- Economic development
- Intergovernmental cooperation
- Land use
- Implementation

As part of local government, a preservation commission should participate in the community's comprehensive planning process and take a lead role in developing the cultural resource component of the plan. Community members and groups with a significant interest or experience in historic preservation should also be included in this portion of the planning process.

In addition to leading the development of the cultural resource element of a community's comprehensive plan, the preservation commission should also be involved in the entire planning process and contribute to other elements of the plan. The commission's participation will ensure that all elements of the plan incorporate concerns for the community's cultural resources. The commission should have a representative on the planning committee and attend as many meetings as possible.

Guide to Smart Growth

The Wisconsin Historical Society's State Historic Preservation Office has published "A Guide to Smart Growth and Cultural Resource Planning," which thoroughly addresses a commission's role in the planning process and how to develop the cultural resource portion of a comprehensive plan. This document is a valuable resource that every commission member should have. The booklet outlines the following steps to take when developing the cultural resource element:

Organize the Historic Preservation Team

Encourage community participation and include representatives from a wide variety of key community groups, such as Native Americans, local historical society members, Main Street program members, local preservation groups, etc. Clarify the group's roles and purpose, and discuss views and perceived problems concerning local historic and cultural resources.

Create Vision

Investigate the concerns and values of the community regarding its historic and cultural resources. Develop overarching goals.

Take Stock

Collect and evaluate the available information about the community's cultural resources. Decide if an additional survey is needed.

Set Goals

Assess how existing programs meet the community's need to preserve significant historic and cultural resources. Identify issues and needs, and formulate long-range goals.

Strategize

Develop a strategy statement that proposes specific actions to achieve the stated goals, identifies responsible parties, and defines a time frame.

Implement

Define how the plan's goals and policies will be carried out. Be sure that the implementation element corresponds to other elements within the overall comprehensive plan.

Evaluate Progress

Establish a process to measure the progress of reaching the set goals, policies, and strategies.



Memo

To: Historic Preservation Commission
From: Carie Krentz, Village Clerk
Cc: Devin Swanberg, Village Administrator
Date: September 19, 2024
Re: Additional Sample Ordinances from other Municipalities

Attached are samples ordinances from the following municipalities:

- Design of Murals – A chapter within the ordinance
- Art Murals – An Article within their zoning chapter
- Public Arts – A chapter within the ordinance
- Murals and Public Art – An article within an Advertising and Signs ordinance

City of Cuba, MO
Thursday, September 19, 2024

Chapter 625. Design of Murals

Section 625.010. Definitions.

[CC 1996 § 7-84; Ord. No. 884, § 1]

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

BOARD OF ALDERMEN

The Board of Aldermen of the City of Cuba.

CITY

The City of Cuba, Missouri.

MURAL COMMITTEE

The Committee established by the Viva Cuba Committee and recognized by the Board of Aldermen.

Section 625.020. Amateur Paintings.

[CC 1996 § 7-85; Ord. No. 884 § 2]

- A. The Board of Aldermen may make such provisions as it deems necessary to allow amateur artists to display their own work of art in public places to be identified by the Board of Aldermen.
- B. Notwithstanding this Chapter, the Board of Aldermen may permit amateur artists to choose themes which are not of heritage value and to establish criteria to ensure such paintings are not offensive to the public in general.
- C. The provisions of Section **625.030** hereof, Professional Murals, shall be applicable to an amateur artist desiring to paint any mural, picture, design or drawing on the exterior side of any wall, roof, or other structure within the City.

Section 625.030. Professional Murals.

[CC 1996 § 7-86; Ord. No. 884 § 3]

- A. A mural, picture, design or drawing shall mean a work of art depicting the heritage of the City and the surrounding area and may depict one or more of such places.
- B. No mural, picture, design or drawing shall be painted on the exterior side of any wall, roof, or other structure within the City, except in the manner as hereinafter provided.
- C. Any person, organization, firm or corporation proposing to paint any mural, picture, design or drawing on the exterior side of any wall, roof, or other structure within the City shall first submit such proposal in such form and in such detail as may be required by the Mural Committee, to the Mural Committee.

- D. Upon receiving of any such proposal, the Mural Committee shall review such proposal and may request such additional detail and information as may be required, and shall meet as a committee and review such proposal. Upon completion of the review of any such proposal by the Mural Committee, the Mural Committee shall submit to the Board of Aldermen details of any such proposal and recommend to the Board of Aldermen that any such proposal be approved or rejected.
- E. Upon receipt of such report and recommendation from the Mural Committee, the Board of Aldermen may either accept or reject such recommendation.
- F. The Board of Aldermen shall communicate such decision to the Mural Committee, as well as the person, firm, group or organization that has made such proposal as soon as is possible.
- G. No person, firm, group, organization or corporation, once any such proposal has been approved in the manner herein provided, shall paint any mural, picture, design, or drawing on the exterior side of any exterior wall, roof, or other structure within the City of Cuba except in strict accordance with the proposal as approved.
- H. Any person, firm, organization or corporation shall pay to the Mural Committee a copyright fee or royalty fee, as the case may be, of five percent (5%) of the wholesale value of any product sold within the boundaries of the City of Cuba which depicts or reproduces in any manner, any mural, design or drawing on the exterior side of any wall, roof, or other structure within the City of Cuba that has been approved pursuant to this Chapter and which is copyrighted and registered in the office of any governmental agency in the name of the Viva Cuba Committee and such funds so paid shall be placed in a special account of the Mural Committee and shall be designated as the Mural Protection Fund. All items of revenue and expenditure relating to the said Mural Protection Fund shall be separately accounted for by the Mural Committee, and no expenditures shall be made for any purpose whatsoever except for the protection, enhancement and maintenance of murals approved pursuant to this Chapter.
- I. Any person who paints a mural, picture, design, or drawing on the exterior of any wall, roof, or other structure within the City of Cuba not approved pursuant to this Chapter, or who fails to pay the copyright fee or royalty fee as provided herein, commits an offense and is liable to a fine of not more than five hundred dollars (\$500.00) for every day the offense continues.
- J. This Chapter does not apply to any sign for which a permit is granted pursuant to any law regulating signs.

Section 625.040. Criteria For The Mural Committee To Consider.

[CC 1996 § 7-87; Ord. No. 884 § 4]

- A. Criteria for the Mural Committee to consider are as follows:
 - 1. The mural must be an original concept, created entirely for the proposed mural.
 - 2. The organization or person proposing the mural can (a) relinquish the copyright to the Mural Committee or (b) enter into a contract with the City of Cuba to maintain the mural in its original condition following completion. In the case of (a), the Mural Committee shall be responsible for the maintenance of the completed mural.
 - 3. The surface of the mural must be properly prepared and the paint applied in such a manner to ensure there will be not peeling, cracking or significant fading for a period of at least five (5) years.
 - 4. The subject of the proposed mural must be a portrayal representative of the heritage of the City of Cuba or the surrounding area.
 - 5. The mural must dominate the designated wall or space without being obstructed by signage or other material.

6. The artist must have previously produced exterior wall murals of high quality and submit a portfolio of work for review by the Mural Committee.
7. The organization or person must submit a colored proof of the proposed mural.
8. The Mural Committee may request such further information or details as may be required to properly evaluate the project.

Town of Ithaca, NY
Thursday, September 19, 2024

Chapter 270. Zoning

Article XXX. Art Murals

[Added 8-7-2017 by L.L. No. 13-2017]

§ 270-264. Purpose.

The purpose of this article and the policy of the Town of Ithaca is to permit and encourage art murals on a content-neutral basis on certain terms and conditions. Art murals comprise a unique medium of expression which 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; and community building through the presence of and identification with original works of art. Murals can increase community identity and foster a sense of place if they are located at heights and scales visible to pedestrians and are retained for longer periods of time.

§ 270-265. Allowed art murals.

Art murals that meet all of the following criteria, and which are not prohibited by § **270-266** below, will be allowed as accessory structures in the Agricultural, Mobile Home Park, Multiple Residence, Light Industrial, Industrial and all Commercial Zoning Districts upon satisfaction of the applicable permit requirements:

- A. No part of the art mural shall exceed 30 feet in height, from the bottom of the mural to the top of the mural.
- B. The art mural shall not extend more than six inches from the wall upon which it is tiled or painted or to which it is affixed.
- C. The art mural shall remain in place, without alterations, for a period of three years, except as described below. The applicant shall certify in the permit application that the applicant agrees to maintain the art mural in place for a period of three years without alteration. The following shall not constitute "alteration" of the art mural within the meaning of this article:
 - (1) Naturally occurring changes to the art mural caused by exposure to the elements or the passage of time.
 - (2) Minor changes to the art mural which result from its maintenance or repair. Such minor changes include slight and unintended deviations from the original image, colors or materials that occur when the art mural is repaired due to the passage of time, or as a result of vandalism such as graffiti.
- D. The art mural shall not be internally or externally lit.

§ 270-266. Prohibited art murals.

The following are prohibited:

- A. Art murals on any historic building that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places.
- B. Art murals in a public right-of-way.
- C. Art murals for which compensation is given or received for the display of the art mural or for the right to place the art 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 art mural or the right to place the art mural on the property. For the purposes of this article, "compensation" shall mean 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:
 - (1) Goodwill; or
 - (2) An exchange of value that a building owner (or leaseholder with a right to possession of the wall upon which the art 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 art mural on behalf of the building owner or leaseholder, and the building owner or leaseholder fully controls the content of the art mural.
- D. Art murals which would result in a property becoming out of compliance with the provisions of Chapter **270**, Zoning, or with conditions of approval imposed by the Planning Board or Zoning Board of Appeals for the development or lot on which the art mural is to be located.
- E. Art murals that contain moving or mechanical components.

§ 270-267. Art mural permit.

- A. No art mural shall be erected or altered, unless and until an art mural permit for such work has been obtained. No art mural permit is necessary for maintenance or repair of such a mural, provided the art mural is reinstalled in the same location, and its dimensions, height, and design remain unchanged.
- B. Applications for art mural permits, on forms provided by the Town, shall be submitted to the Code Enforcement Officer.
- C. Applications shall have attached thereto the following information and material:
 - (1) Application fee as set from time to time by Town Board resolution.
 - (2) Information as listed on the application form.
 - (3) Drawings at an appropriate scale that adequately show the dimensions, height and design of the art mural, details of any illumination sources, and placement of the art mural relative to the building on which it is located.
- D. The Code Enforcement Officer shall issue a permit within 30 days after:
 - (1) Receipt of a complete application, if the proposed art mural is in conformance with all requirements of this article and does not require action by the Planning Board or Zoning Board of Appeals; or
 - (2) Receipt of a complete application and any necessary approvals and/or variances by the Planning Board and Zoning Board of Appeals, if the proposed art mural complies with all

Planning Board and Zoning Board of Appeals approvals and/or variances and with all requirements of this article that have not been waived by the Zoning Board of Appeals.

- E. If an art mural authorized by a permit is not completed and in place within one year, said permit will expire.
- F. The Code Enforcement Officer shall issue a Certificate of Compliance for any art mural upon completion of the art mural installation or alteration in compliance with its permit and any Planning Board or Zoning Board of Appeals approvals.

§ 270-268. Alternate requirements and procedures.

Even though art murals are not signs, a building owner (or leaseholder with a right to possession of the wall upon which the art mural is to be placed) may at its option have the requirements and procedures of Article **XXIX**, Signs, apply to a proposed art mural that does not meet one or more requirements of this Article **XXX**, Art Murals. The building owner or leaseholder must notify the Department of Code Enforcement in writing that it wishes to utilize this option at least 45 days prior to installation of the art mural. The art mural will thereafter be subject to all of the requirements of, and procedures in, Article **XXIX**, Signs, instead of those in Article **XXX**, Art Murals.

City of Ojai, CA
Thursday, September 19, 2024

Title 4. Public Welfare, Morals, and Conduct

Chapter 16. PUBLIC ARTS

Editor's note: Chapter 15, Public Arts, added by Ord. No. 622, repealed and replaced in its entirety by Ord. No. 765, effective May 22, 2003, renumbered to be Chapter 16 by Ord. No. 800, effective August 8, 2008.

Article 1. Arts Commission

§ 4-16.101. Arts Commission created.

There is hereby established an Arts Commission consisting of seven members, or such lesser number as may be appointed by the City Council. The Mayor, a rotating Councilmember as determined by the City Clerk, and the Commission chair shall nominate each Commissioner, which must be ratified by the approval of a majority of the full City Council. All Commission appointments are non-political appointments. The members shall be selected, need not be residents of the City, but shall be selected from the community who have a special knowledge of and a demonstrated interest in the arts and who are interested in promoting such activity. In making such appointments, Councilmembers, in consultation with the Arts Commission chair, may consider representation on the Commission from a number of arts-related disciplines and activities, including, but not limited to, the following:

- (a) Performing arts, such as drama, music and dance;
- (b) Visual arts, such as painting, sculpture, photography, graphics, video art and applied art;
- (c) Literary arts, such as literature, poetry and journalism;
- (d) Communications arts involving film, television and radio;
- (e) Arts education, such as schools, libraries and community education; and
- (f) Funding, such as fund raisers, representatives of public and private funding agencies and art patrons.

If an Arts Commission member resigns before the end of their term, the Mayor, a rotating Councilmember as determined by the City Clerk, and the Commission chair may nominate their replacement to fill the remainder of the original term, which must be ratified by the approval of a majority of the full Council.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022, and § 1, Ord. 948, eff. December 28, 2023)

§ 4-16.102. Terms.

Members of the Commission shall be appointed to terms of four years. The terms of all members of the Commission shall expire at the second regular City Council meeting of May. Members shall hold office

upon the expiration of their terms until their successors have been nominated and confirmed. A person who has been appointed to fill a vacancy shall hold office for the remainder of the unexpired term.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 3, Ord. 843, eff. August 22, 2014, § 2, Ord. 929, eff. May 12, 2022, and § 2, Ord. 948, eff. December 28, 2023)

§ 4-16.103. Removal.

A Commissioner may be removed from office by the following process: two City Councilmembers must advise the City Manager of their intent to place an item on an upcoming City Council agenda to consider the removal of a Commissioner. The City Manager must then contact the Commissioner to advise him/her of that notification, and to provide the Commissioner with at least seven days' advance notice of any agendaized City Council discussion regarding the possible Commissioner removal. The Commissioner may choose to resign or object to the proposed action. Commissioners serve "at will" and may be removed for any reason. The Commissioner shall be given an opportunity to speak to the full City Council at the agendaized public meeting if they wish to do so, before consideration of their removal. After completing this process, any Commissioner may be removed by majority City Council vote at a regular City Council meeting. Vacancies for the remainder of unexpired terms as a result of removal, resignation or any other cause shall be filled in the same manner in which original appointments were made.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022, and § 3, Ord. 948, eff. December 28, 2023)

§ 4-16.104. Organization.

The Commission shall annually elect a chairperson, vice-chairperson and such other officers deemed necessary, including a secretary who need not be a member of the Commission. In the absence or disability of either the chairperson or vice-chairperson, the Commission may designate a chairperson pro tempore. Regular meetings of the Commission shall be public and shall be held at least quarterly at such times and places as the Commission may fix.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022)

§ 4-16.105. Minutes of meetings—Compensation.

Minutes of meetings of the Commission shall be kept of all meetings, and copies thereof shall be delivered by the secretary of the Commission to the City Clerk for filing and distribution to the members of the Council within 15 days after the Commission's approval. No member of the Commission shall receive compensation for his or her services as such a member, but the Council may fix the amount of compensation, if any, to be paid to the secretary.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022)

§ 4-16.106. Rules of procedure.

Except as provided in this chapter, the Commission shall have the power to prescribe its own rules of order and procedure. Three members of the Commission if there are five Commissioners, or four members of the Commission if there are six or seven Commissioners, shall constitute a quorum, without regard to residency, and a simple majority of the votes of a quorum as present shall be required to pass a motion. In the absence of specific rules of order and procedure, the conduct of such meetings shall be governed by the latest revised edition of Rosenberg's Rules of Order.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022, and § 4, Ord. 948, eff. December 28, 2023)

§ 4-16.107. Powers and duties.

The Commission shall exercise the powers reasonably necessary to perform and carry out its delegated responsibilities. The duties of the Commission include the following:

- (a) Advise the Council on all matters pertaining to the arts in the community;
- (b) Make recommendations to the Council concerning the resources and needs of the community on the subject of the arts, opportunities for participation of artists and performers in City-sponsored activities, and ways to encourage community involvement;
- (c) Work cooperatively with City boards and commissions and other public and private organizations in promoting art and cultural activities within the City;
- (d) Encourage public and private partnerships to assure the survival of the arts and artists in the City;
- (e) Encourage the flow of art into the City and stimulate art and cultural activities among residents of the City;
- (f) Review and evaluate submitted City art grant proposals and submit funding recommendations to the Council;
- (g) Carry out the duties necessary to oversee the Ojai Public Arts Program as specified in Article 2 of this chapter; and
- (h) Prepare and submit to the Council at least every two years a five year arts project plan. Prior to submission, the Arts Commission shall review all ongoing and future capital improvement and development projects for public art opportunities.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 929, eff. May 12, 2022)

Article 2. Public Arts Program

§ 4-16.201. Purpose.

- (a) The purpose of the Public Arts Program is to enrich the built environment of the City. The program will increase the understanding and enjoyment of art by residents and visitors, add to the economic viability of the City, encourage artistic cooperation among various disciplines and invite public interaction with public spaces. The Public Arts Program, among other things, requires that public art be included as part of certain private and public development projects in the City. It represents a partnership between the City, developers and the arts community that serves to enhance Ojai's built environment both now and in the future.
- (b) The Council finds and declares as follows:
 - (1) Enhancement of the quality of life for City residents, workers and visitors is provided by the development of cultural and artistic resources;
 - (2) Development and maintenance of a Public Arts Program improves the quality of the urban environment and increases real property values;
 - (3) Nurturing alternative sources for cultural and artistic outlets improves the environment, image and character of the community;

(4) Those whose developments diminish these resources should make provision for new opportunities for public art in order to preserve and enhance cultural and artistic resources in the City;

(5) Establishing the Public Arts Program will promote the general welfare by balancing the City's physical growth and revitalization with its cultural and artistic resources.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008; as amended by § 1, Ord. 835, eff. January 10, 2014)

§ 4-16.202. Program execution.

The Commission shall carry out the duties established by this chapter.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008)

§ 4-16.203. Definitions.

For purposes of this article:

"Accession" shall mean the assignment of a basic number to the objects acquired for the permanent art collection. The accession number is composed of two figures, one indicating the year of the receipt and the other the number of the accession within the year. The source of the acquisition is also noted. Numbers are assigned in order of the acquisition and a master list maintained of all acquisitions.

"Acquisition" shall mean inclusion of an artwork in the City's art collection whether by purchase, commissioning or donation.

"Arts consultant" shall mean an arts professional with demonstrated education, experience and training in the development of public art projects.

"Committee to Approve Public Art" (CAPA) shall mean a public body comprised of five members: two members of the Arts Commission (or others appointed by the Arts Commission), one Planning Commission representative appointed by the Planning Commission, and two members of the community with arts knowledge, appointed by the Arts Commission. The Committee shall be responsible for conceptual reviews of artwork covered by this Article, and recommendations to the Arts Commission for final review and approval or denial.

"Covered project" shall mean all new residential development consisting of five or more units, all remodeling, repair or reconstruction of residential housing consisting of five units or more the cost of which is \$300,000 or more, and all commercial, manufacturing, institutional recreation, village mixed use (commercial portion only, unless residential portion of such development consists of five or more units) and public/institutional construction, remodeling, repair or reconstruction exceeding \$300,000 in value.

"Deaccessioning" shall mean the removal of an artwork from the City art collection, whether by sale or otherwise. Such action shall be taken only on the recommendation of the Arts Commission with the official permission of the Council.

"Public art" shall mean artwork created by artists for spaces accessible to the public for specified time periods. It may include, but is not limited to, works of sculpture, painting, tile work, street furniture, murals and place-making and arts programming. The installations may be either permanent or temporary.

"Public art jury" shall mean a jury comprised of seven members composed of: a representative of the Arts Commission, two arts professionals, at least one with public art experience, a representative of the Planning Commission, a community member-at-large, Representative of the developer (e.g. architect or landscape architect or, if there is no developer for the project, a member selected at the discretion of the Arts Commission), and an artist.

"Responsible party" shall mean the person or entity which is administering or managing a covered project and is the party responsible for complying with the requirements of the Public Arts Program as set forth in this article.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 2, Ord. 835, eff. January 10, 2014, § 2, Ord. 908, eff. October 8, 2020, and § 3, Ord. 929, eff. May 12, 2022)

§ 4-16.204. Public Arts Fund.

- (a) *Creation.* There is hereby established the Public Arts Fund into which shall be deposited all funds as may be appropriated by the Council or contributed to the City for expenditures in conjunction with the Public Arts Program.
- (b) *Endowments.* The Public Arts Fund shall be used as a depository for endowments, bequests, grants, contributions or fees. Such endowments, bequests, grants, contributions or fees may be expended as set forth in subsection (e) and as approved by the Commission.
- (c) *Accounting.* A Public Arts Fund shall be maintained by the City's Finance Director, with accounting records established to sufficiently identify and control these funds. Expenditures shall be processed through the City's established warrant payment procedure.
- (d) *Use of Public Arts Fund.* The Public Arts Fund shall be used solely for the Public Arts Program expenses outlined below as subsection (e) Permissible Expenditures.
- (e) *Permissible expenditures.* The following constitute permissible expenditures of Public Arts Fund moneys:
 - (1) The cost of artwork, including artist's fees, and its installation, exhibition or display;
 - (2) Any required permit fees and legal and other costs directly related to the project;
 - (3) The cost of purchase or lease of art sites;
 - (4) Waterworks, landscaping, lighting and other objects which are commissioned from an artist as an integral aspect of a structure or site or which are necessary for the proper aesthetic presentation and structural placement of the artwork;
 - (5) Frames, mats, pedestals and other objects which are necessary for the proper presentation of the artwork;
 - (6) Expenditures for maintenance and repair of artwork;
 - (7) Promotion of art education within the City, either separate from or complementary to art programs of schools, museums or other nonprofit organizations; and
 - (8) Costs of administering the Public Arts Program.
- (f) *Ineligible expenditures.* Public Arts Fund moneys may not be expended on the following:
 - (1) Reproductions of original artwork except an artwork from an artist-signed limited edition unless approved by the Arts Commission;
 - (2) Unlimited editions of original artwork;
 - (3) Mass-produced art objects;
 - (4) Artworks that are decorative, ornamental or functional landscape or architectural elements except when commissioned from an artist or a skilled artisan or craftsman, as an integral aspect of a structure or site;
 - (5) Architectural rehabilitation of historical buildings; and

- (6) Expenses not directly related to the purchase, design, fabrication and installation of the artworks, including site construction costs not directly related to the costs of the artwork.
 - (g) *Replacement.* For those artworks that have been purchased with moneys from the Public Arts Fund or contributed to the City, the Council may determine to deaccess existing artworks for replacement artworks. Any funds obtained from the sale of artwork shall be credited to the Public Arts Fund.
 - (h) *Alteration, replacement or relocation.* Permanently installed public works of art may not be modified, altered, relocated or removed without the prior review of the Arts Commission. Any alteration, replacement or relocation of the artwork shall be subject to the California Art Preservation Act and the Federal Visual Arts Rights Act of 1990.
- (§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 3, Ord. 835, eff. January 10, 2014)

§ 4-16.205. Projects subject to Public Arts Program requirements.

- (a) *Requirements.* Except as provided below in Section **4-16.205(b)**, the requirements of this article shall apply to all covered projects.
- (b) *Exceptions.* The requirements of this article shall not apply to the following:
 - (1) Projects undertaken by any agency of the State, County, the Ojai Unified School District or any governmental entity other than the City;
 - (2) Remodeling, repair or reconstruction of structures to comply with earthquake seismic safety code standards or buildings damages to which have been immediately occasioned by fire, flood, wind, earthquake or other calamity;
 - (3) Nonprofit social service projects;
 - (4) Housing projects for "low to moderate income persons and families" as defined in **Health and Safety Code** Section 50093;
 - (5) Affordable housing developments receiving City, State or Federal assistance, unless permissible under City, State or Federal regulations;
 - (6) Construction, remodeling, repair or reconstruction of residential projects consisting of four or fewer units whether or not such residential project is a part of a mixed-use development; and
 - (7) Architectural rehabilitation or historical preservation of properties which are designated as historic sites by the Council.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 4, Ord. 835, eff. January 10, 2014)

§ 4-16.206. Requirement to provide artwork; waiver or modification.

- (a) The responsible party shall be deemed to have satisfied his, her or its obligations under this article through the placement of artwork at the site of a covered project and in a manner consistent with this article.
- (b) Other provisions of this article notwithstanding, the Arts Commission may waive the strict compliance, in whole or in part, in respect to any covered project otherwise subject to the provisions of this article and instead permit the responsible party to meet the intent and purpose of this article through compliance with subsections (1), (2), or (3) of Section **4-16.206(c)**, below. In authorizing such alternative compliance, the Arts Commission shall make findings on the basis of substantial evidence, that the responsible party achieves the goals and aims of this article in substantially the same manner as strict compliance would. The Arts Commission may also waive

the requirements for covered projects which are also City projects when it determines it would be in the public interest to do so.

(c) Acceptable alternative methods of fulfilling Public Art Requirement, if approved pursuant to subsection (b) above, are as follows:

- (1) Contribution of approved off-site public artwork;
- (2) Donation of an approved artwork to the City Art Collection; or
- (3) Monetary contribution to the Public Art Fund.

(§ 5, Ord. 835, eff. January 10, 2014, as amended by § 2, Ord. 908, eff. October 8, 2020)

[1] *Editor's note—Ord. No. 835, Section 5, effective Jan. 10, 2014, repealed the former Section 4-16.206 and enacted a new section as set out herein. The former Section 4-16.206 pertained to similar subject matter and derived from Section 1, Ord. No. 765, effective May 22, 2003, and Section 2, Ord. 800, effective Aug. 8, 2008.*

§ 4-16.207. Compliance required.

No final City approval, such as final inspection or a certificate of occupancy, for any covered project shall be granted or issued unless and until full compliance with this article is achieved in one of the following ways:

- (a) The approved artwork has been placed in an approved on-site or off-site location in a manner satisfactory to the Arts Commission;
- (b) Donation of an approved artwork to the City Art Collection in a manner approved by the Arts Commission;
- (c) The Public Art Program allocation amount determined in accordance with Section **4-16.208**, is credited to the Public Arts Fund to be used as provided herein.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 6, Ord. 835, eff. January 10, 2014)

§ 4-16.208. Program allocation.

The Public Art Program allocation, as used in this article, shall be the percentage of the building cost which is set aside for the acquisition and installation of approved artwork and shall be an amount equal to 2% of the first one million dollars (\$1,000,000.00) and one percent of any excess over one million dollars (\$1,000,000.00) of the total building valuation for a covered project. The total building valuation shall be computed using the latest building valuation data as set forth by the International Code Council (ICC) unless, in the opinion of the Arts Commission, a different valuation measure should be used.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 7, Ord. 835, eff. January 10, 2014)

§ 4-16.209. Art site acceptability.

The responsible party shall place artwork equal in value to the applicable program allocation for the project in outdoor areas of the covered project that are accessible to and used by the public. Interior spaces, including lobbies, courtyards, malls, etc., may be eligible if they are accessible to the public a minimum of eight hours per day and visible from the nearest public right-of-way. When selecting the location for art, preference shall be given to libraries, parks, office buildings, sidewalks, traffic islands, etc. Lobbies, plazas, adjacent open spaces or exterior treatment of buildings shall be potential sites, but the offices themselves shall not be considered acceptable sites. Final location of art shall be subject to the approval of the Arts Commission.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 8, Ord. 835, eff. January 10, 2014)

§ 4-16.210. Criteria for artwork selection.

Eligibility requirements for each project shall be established by the Arts Commission. Specifically excluded are artworks created by students under the supervision of art instructors to satisfy course requirements, and artists who are members of the Arts Commission. The following criteria shall be considered in the selection of artwork:

- (a) *Quality*. The quality of the artwork.
- (b) *Media*. All visual art forms may be considered, subject to limitations set by the Arts Commission.
- (c) *Style*. Artworks of all schools, styles and tastes should be considered for the City collection.
- (d) *Environment*. Artworks and art places should be appropriate in scale, material, form and content for the immediate, general, social and physical environments to which they relate.
- (e) *Permanence*. Other than for temporary installations of artwork, consideration should be given to structural and surface integrity, permanence and protection against theft, vandalism, weathering and excessive maintenance and repair costs.
- (f) *Elements of design*. Consideration should take into account that public art, in addition to meeting aesthetic requirements, also may serve to establish focal points, terminate areas, modify, enhance or define specific spaces or establish identity.
- (g) *Diversity*. The Public Arts Program should strive for diversity of style, scale, media, artists and equitable distribution of artworks and art places throughout the City.
- (h) *Limitation*. Previously commissioned or acquired artists shall not be eligible until three years from the date of the Arts Commission's approval of the project or acquisition.
- (i) *Murals*. Mural applications shall meet the criteria in this Code.
(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 9, Ord. 835, eff. January 10, 2014, and § 2, Ord. 908, eff. October 8, 2020)

§ 4-16.211. Method of artwork selection for private and public development.

The following methods may be used to select artwork at the option of the responsible party:

- (a) *Direct purchase*. A completed work of art may be purchased for a specific project or location.
- (b) *Direct commission*. An artist may be chosen directly and paid to submit a proposal. Artists will be selected on the basis of their qualifications for a particular project and its probability of successful completion.
- (c) *Limited competition*. A small number of artists may be invited and paid to submit proposals.
- (d) *Open competition*. Any artist may apply subject to project specifications. A Public Art Jury shall be called to review applications and qualifications, select an artist, and recommend approval to the Arts Commission. Chosen finalists may be asked to submit project proposals for which a fee is paid. The Public Art Jury shall make a recommendation to the Arts Commission for final approval or denial.
- (e) *Recommendation*. CAPA, except when a Public Art Jury has been called, will recommend private and public development projects to the Arts Commission for final review and approval or

disapproval."

(§ 10, Ord. 835, eff. January 10, 2014)

[1] *Editor's note—Ord. No. 835, Section 10, effective January 10, 2014, repealed the former Section 4-16.211 and enacted a new section as set out herein. The former Section 4-16.211 pertained to similar subject matter and derived from Section 1, Ord. No. 765, effective May 22, 2003; and Section 2, Ord. No. 800, effective Aug. 8, 2008.*

§ 4-16.212. Community Development Director review.

The Community Development Director shall review the artwork and its placement and landscaping elements and may refer the artwork to the Planning Commission for approval pursuant to Section 9-4.07 of the Ojai Municipal Code.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008)

§ 4-16.213. Application procedures for placement of artwork on private property.

- (a) Any artwork placed on private property as part of the Public Arts Program shall be a one-of-a-kind piece conceived by and executed through an artist. The responsible party shall retain the services of a qualified art consultant to manage the art project and present the project to CAPA. The fee for the art consultant is considered a legitimate expense of the public art project allocation. The City shall maintain a list of qualified arts consultants. Early selection of an art consultant is required. The responsible party shall submit an artwork proposal to be reviewed at a public meeting by CAPA (the Committee to Approve Public Art) prior to issuance of a building permit for the project. The Arts Commission shall consider the recommendation of the CAPA and give final approval for the proposed project.
- (b) The completed arts application shall include:
- (1) Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork, including, but not limited to, artist resume, images of previous artwork, and material samples;
 - (2) An appraisal, budget or other evidence of the value of the proposed artwork, including acquisition and installation costs;
 - (3) Preliminary plans containing such detailed information to adequately evaluate the location of the artwork in relation to the proposed development, and its compatibility with the proposed including compatibility with the proposed site;
 - (4) Evidence that the artwork will be displayed in an open area and accessible to the public in accordance with Section **4-16.209**;
 - (5) Maintenance factors required to ensure its permanence.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 11, Ord. 835, eff. January 10, 2014, and § 2, Ord. 908, eff. October 8, 2020)

§ 4-16.214. Approval procedures for inclusion of artwork on private property.

- (a) The application for the proposed artwork and its inclusion will be considered by CAPA, which shall recommend approval or denial to the Arts Commission. The Community Development Director shall also review the artwork and its placement in relation to architecture and landscaping elements and may refer the application to the Planning Commission for design review approval pursuant to Title

10, Chapter **2**, Article **20** of the Ojai Municipal Code. Any changes, questions or recommendations shall be conveyed in writing to the responsible party. The Arts Commission will review the CAPA recommendation for the approved artwork and approve or disapprove the recommendation. The applicant will be notified in writing.

- (b) If the responsible party proposes significant revisions to the architecture or physical design and layout of the proposed project subsequent to the receipt of the Commission's approval, the application shall, if legally permitted, be returned to the CAPA for further review and recommendation concerning the revised proposal prior to final approval by the Arts Commission.
- (c) If the responsible party has not applied for a building permit within three years of the date of the Arts Commission's approval of the project, the project will be considered null and void and the responsible party must resubmit a public art proposal to the CAPA (Committee to Approve Public Art).
- (d) A contract between the City and the responsible party spelling out all requirements for the artwork, including budget, insurance and maintenance, shall be executed by the Community Development Department prior to the City's formal acceptance of the artwork proposal as approved by the CAPA and the Arts Commission.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 12, Ord. 835, eff. January 10, 2014, and § 2, Ord. 908, eff. October 8, 2020)

§ 4-16.215. Application procedure for donation of artwork to the City.

- (a) The prospective donor shall submit to the CAPA:
 - (1) Sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork in relation to the site.
 - (2) Additional samples of the artist's work other than the proposed donation.
 - (3) Background information on the artist who created the proposed donation.
 - (4) Proof of valuation (previous sales receipt or similar) of the Artist's work.
 - (5) The estimated design, site preparation, fabrication and installation costs.
 - (6) Maintenance factors required to ensure its permanence.
- (b) The proposed donation will be considered by the Arts Commission. A personal appearance by the artist may be requested. The Commission will determine when all issues have been addressed and recommend acceptance or rejection of the artwork to the City Council.

(§ 13, Ord. 835, eff. January 10, 2014)

- [1] *Editor's note—Ord. No. 835, Section 13, effective January 10, 2014, repealed the former Section 4-16.215 and enacted a new section as set out herein. The former Section 4-16.215 pertained to application procedure for contribution of artwork to the City and derived from Section 1, Ord. No. 765, effective May 22, 2003, and Section 2, Ord. No. 800, effective Aug. 8, 2008.*

§ 4-16.216. (Reserved)

- [1] *Editor's note—Ord. No. 835, Section 14, effective Jan. 10, 2014, repealed Section 4-16.216, which pertained to review and acceptance of artwork contributed to the City and derived from Section 1, Ord. No. 765, effective May 22, 2003, and Section 2, Ord. No. 800, effective Aug. 8, 2008.*

§ 4-16.217. Maintenance of artwork on public and private property.

- (a) *Public artwork on public property.* Procedures for accession, maintenance and conservation of artworks shall be established by the Arts Commission, as well as a maintenance schedule. Specific instructions for care of each work shall be kept on file as part of the collection management. Maintenance provisions shall be included in the artist's contract stipulating the length of time (typically one year) the artist will be responsible for repairs. The artist shall be required to provide to the City a maintenance manual outlining procedures, methods and products needed to preserve the condition of the artwork. The artist shall be offered a right of first refusal on repair contracts within a fair market rate of remuneration. Regular inspection-for-condition reporting shall be conducted as supervised by designated City personnel so that the collection is maintained in the best possible condition. When necessary, a conservation plan will be established prioritizing the work which is to be done.
- (b) *Public artwork on private property.* For artwork on private property, the obligation to provide all maintenance necessary to preserve the artwork in good condition shall remain with the owner of the site. Art installed on or integrated into a construction project pursuant to the provisions of this article shall not be removed or altered without the approval of the Commission. If the Public artwork is not integrated into the architecture, landscape or affixed to the property, any future owner of the property may remove artwork will have the option of: (1) replacing the original piece(s) with a new commission of equal fair market value (subject to the approval of the CAPA); or (2) depositing in the Public Art Fund a dollar amount equal to the fair market value of the artwork in which case the owner may remove the artwork.
- (c) *Maintenance of artwork.* Artwork installed pursuant to this article shall be maintained as specified in the written agreement between the City and the private property owner with regard to that artwork. Maintenance of artwork, as used in this article, shall include, without limitation, preservation of the artwork in good condition to the satisfaction of the City, protection of the artwork against physical defacement, mutilation or alteration and securing and maintaining fire and extended coverage insurance and insurance for coverage of vandalism and other similar acts in an amount to be determined by the City Attorney. Evidence of said insurances shall be provided to the City on an annual basis. Prior to placement of an approved artwork, the responsible party and owner of the site shall execute and record a covenant in a form approved by the City for maintenance of the artwork. Failure to maintain the artwork as provided herein is hereby declared to be a public nuisance. If the artwork is not maintained in the manner prescribed, or is removed or altered without approval of the Commission, in addition to all other remedies provided by law, the City may, upon reasonable notice, perform all necessary repairs, maintenance, secure insurance or take such legal or other action deemed necessary to have the artwork maintained and, if necessary, restored, and the costs therefor shall become a lien against the real property.

(§ 1, Ord. 765, eff. May 22, 2003, as renumbered by § 2, Ord. 800, eff. August 8, 2008, as amended by § 15, Ord. 835, eff. January 10, 2014)

Article 3. Murals

§ 4-16.301. Purpose.

- (a) Exceptions as noted in Article 2, Section **4-16.205**, subsection (b) Exceptions, shall apply to this article.
- (b) This article applies to proposals to install public murals on private, commercial buildings within the City.
- (c) "Mural" means any large-scale artwork, painting or mosaic, visible from public rights-of-way, public spaces, and public areas of private, commercial buildings, applied directly to an exterior area of a

building face or wall which may or may not include sculptural elements; an artwork painted or printed on a material bolted or otherwise fastened to a wall; and /or an artwork seeking to create a faux finish, illusory, or trompe l'oeil (fool the eye) architectural detail on an exterior wall.

(d) Murals are intended to further the goals of the City's Public Art Program by:

- (1) Fostering enjoyment of public spaces in a positive way;
- (2) Enhancing the aesthetics of the City;
- (3) Creating attractive places to work, live, and shop;
- (4) Benefiting citizens, the City, visitors, and property owners; and
- (5) Revitalizing creativity in the public space.

(§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.302. Mural application.

A complete application for a mural proposal must be submitted to the office of the Arts Commission liaison at City Hall. The application must include:

- (a) The proposed artist's curriculum vitae or resume and samples of prior mural work or other relevant artwork;
- (b) The proposed design of the mural, in full color, drawn to scale;
- (c) A list of the proposed materials and the method of their application to the proposed wall;
- (d) A copy of the building owner's proof of liability insurance.

(§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.303. Limitations.

The proposed mural must not:

- (a) Be placed on exit walls in a manner interfering with the identification or recognition of an exit, fire escape, stairway, or window;
- (b) Identify prices, products, or services for off-site commercial enterprises;
- (c) Include an advertisement or be commercial in nature. Murals must not contain copy, lettering, symbols or references directly to the promotion of any product, business, brand, organization, service, cause or place. Murals may contain limited commercial elements so long as they are not considered commercial speech with the purpose of promoting a commercial transaction;
- (d) Contain false statements, fighting words, obscene language or images, or create a clear and present danger to the general public.

(§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.304. Public meeting.

After receiving a complete application, a Public Art Jury shall be called to review the mural application at a public meeting.

The Public Art Jury, appointed by the Arts Commission, shall be composed of seven members including: a representative of the Arts Commission, a representative of either the Planning Commission or the

Historic Preservation Commission, an artist, a community member at large, two arts professionals, and a representative of the commercial building who has submitted the mural application.

The Public Art Jury shall make a recommendation to the Arts Commission for final approval or denial. The Arts Commission's decision are subject to appeal as provided in Chapter 4, Title 1 of the City's municipal code. The Arts Commission shall schedule a public meeting to review and approve, approve with modifications, or disapprove the application. The applicant, artist, or a qualified art consultant appointed by the applicant, must attend the public meeting.

(§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.305. Findings.

The Public Art Jury shall make all of the following findings to recommend approval of a mural proposal to the Arts Commission:

- (a) *Artist Qualifications.* The artist is experienced with the proposed mural and materials, and provided examples of past similar work;
 - (b) *Aesthetic Considerations.* The proposal presents an innovative and unique artistic vision, including technique, composition of visual art elements, use of line, color, form, texture, materials, and suitability;
 - (c) *Architecture.* The proposal complements the architectural design of the building on which the mural is proposed to be placed;
 - (d) *Paint.* All paint must be durable, meet a minimum lightfastness standard of six to eight on the American Association of Textile Chemists and Colorists "Blue Wool Scale," and be coated with a City approved release type anti-graffiti application, and contain low or no volatile organic compounds;
 - (e) *Wall.* The wall must have the structural integrity to safely hold any proposed materials;
 - (f) *Historic Nature.* If the site is a designated landmark, within a historic district, a structure of merit, or a point of historical interest, the Historic Preservation Commission must first determine a mural on the site will not adversely affect its historic nature;
 - (g) *Appropriateness.* The proposal does not detract from the character of the surrounding area or neighborhood;
 - (h) *Copyright.* The artist and the building owner agree to allow images of the completed mural to be used by the City at its sole discretion;
 - (i) *Limitations.* The proposal does not conflict with any of the prohibitions under Section **4-16.303**.
- (§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.306. Final mural project inspection.

After a mural is complete, the Public Art Committee of the Arts Commission will conduct a site review. If the mural is not in keeping with the approved mural proposal, the owner must direct the artist(s) to address all identified issues within 14 days of the inspection. If any identified issues are not adequately adjusted, the Public Art Committee may recommend to the Arts Commission that the Mural be removed at the owner's expense.

(§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.307. Mural inspection and maintenance.

- (a) The building owner will be responsible for maintaining the mural, to the satisfaction of the City Manager or designee in consultation with the Arts Commission.
 - (b) All murals will be subject to ongoing inspection by the City Manager or designee in consultation with the Arts Commission.
 - (c) Murals not properly maintained in the judgment of the City Manager or designee in consultation with the Arts Commission may be declared a public nuisance at a noticed public hearing before the Arts Commission. A determination of public nuisance may be appealed to the City Council within 15 days of the Art Commission's decision. A notice of appeal must be filed with the City Clerk in writing. The City Clerk shall set the matter for a public hearing before the City Council. The City Council may confirm or deny the declaration of the mural as a public nuisance, applying the standards in this chapter and this Code.
 - (d) A mural deemed a public nuisance must be repaired or removed at the building owner's expense. Mural removal is subject to the rights of the artist, which are protected under both the California Art Preservation Act and the Visual Artist Rights Act, unless waived by the artist in accord with those laws.
 - (e) The bare wall left after removal of the mural must be returned to a condition consistent with the building's existing color scheme, texture, façade, and other requirements of the Code. The City may, upon reasonable notice, perform all necessary repairs, maintenance, and secure insurance or take such legal or other action deemed necessary to have the artwork maintained, and the costs therefor become a lien against the real property.
- (§ 2, Ord. 916, eff. March 7, 2021)

§ 4-16.308. Existing murals.

- (a) *Replacement of an Existing Mural.* A new mural may not be installed on the site where the deteriorated mural was removed without applying to the Arts Commission in accordance with this article.
 - (b) *Modification of an Existing Mural.* Murals existing prior to the adoption of the ordinance codified in this article are exempt from the ordinance. Murals approved under the provision of this article may not be modified, altered, relocated or removed without the prior review of the City.
 - (c) *Maintenance of Existing Murals.* Murals on commercial property existing prior to the adoption of the ordinance codified in this article should be kept in good condition. If an existing mural is found to be in disrepair, it may be declared a public nuisance by the City Manager or designee in consultation with the Arts Commission at a noticed public hearing before the Arts Commission. A mural deemed a public nuisance must be repaired or removed at the building owner's expense. A determination of public nuisance may be appealed to the City Council within 30 days of the decision. A notice of appeal must be filed with the City Clerk in writing. The City Clerk shall set the matter for a public hearing before the City Council. The City Council may confirm or deny the declaration of the mural as a public nuisance, applying the standards in this chapter and this Code.
- (§ 2, Ord. 916, eff. March 7, 2021)

*Town of Westfield, NJ
Thursday, September 19, 2024*

Chapter 3. Advertising and Signs

Article III. Murals and Public Art

§ 3-19. Findings and Purpose.

[G.O. No. 2142, 9-3-2019]

The Mayor and Town Council, in their continuing efforts to strengthen and enhance the business community in the Town, have noted that murals can provide an enhancement to the community and the quality of neighborhoods within the Town, provided that they do not cause distraction to motor vehicle operators and are consistent with the character of the neighborhood.

§ 3-20. Definitions.

[G.O. No. 2142, 9-3-2019]

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

MURAL

A painting or illustration applied directly to a wall of an independent structure within the Town but shall not include:

- (a) Any such painting or illustration requiring a separate foundation or footing;
- (b) Any depiction or contents of a commercial, trademarked, copyrighted, or other licensed feature;
- (c) Any message or advertisement for any individual, group, or entity (whether or not commercial);
or
- (d) Any subjects or material of a scandalous, libelous, or indecent nature as determined by contemporary community standards.

PUBLIC ART

Publicly accessible, original art installation that enriches the Town and evokes meaning. It may include permanent visual art, performances, installations, events and other temporary works, preservation or restoration of unique architectural features, ornamentation or details. It may also include the artist-designed infrastructure and structures themselves. Public art should consider the site, its context and audience. Public art may possess functional as well as aesthetic qualities; it may be integrated into the site or be a discrete work.

STREETSCAPE

The overall arrangement and interaction of signs, lighting, statuary, fountains, facade treatments (including murals), landscaping, walkways, window treatments, and the like in view, primarily, of pedestrians and motorists upon public or semipublic rights-of-way.

§ 3-21. Permit Requirement.

[G.O. No. 2142, 9-3-2019]

Any public art or mural to be erected, painted, or otherwise installed within the Town, shall not be erected, painted or installed without first obtaining approval from the Town of Westfield Public Arts Commission and a permit from the Town Clerk for the same. All requirements concerning the establishment, composition and powers of the Public Arts Commission are set forth in § 2-44.21 et seq., of the Town Code.

§ 3-22. Application and Fee for Public Art or Mural Permit.

[G.O. No. 2142, 9-3-2019]

Application for a permit to erect, paint and/or install public art or a mural within the Town shall be made on a form provided by the Town Clerk, or if no such form has been prepared, by a letter, signed by the property owner and the applicant, and filed with the Town Clerk containing or enclosing the following information:

- (a) The owner of the property where the installation is to be made.
- (b) The street address and tax lot and block number of the property in question.
- (c) A description of the subject matter of the mural or other feature, if appropriate.
- (d) Sketch(es) or rendering(s) showing the appearance of the mural or other installation.
- (e) A precise description and visual rendering of the location and size of the public art or mural.
- (f) A general description of the color scheme of the installation.
- (g) A general description of the points from which the installation may be viewed, with attention to its visibility to motorists and its proximity to intersections.
- (h) An application fee in the amount of \$250.
- (i) Such other information as the Public Arts Commission may reasonably request.

§ 3-23. Review of Public Art or Mural Applications.

[G.O. No. 2142, 9-3-2019]

- (a) Upon the filing of an application, the Town Clerk shall cause the application to be forwarded to the Public Arts Commission for review and consideration. Upon receipt of the public art or mural application, the Public Arts Commission shall schedule a hearing for the purpose of reviewing said application. The Public Arts Commission shall advise the applicant, in writing, at least 14 days prior to the hearing, of the date, time and place of said hearing, and shall ensure that a notice of the hearing is placed in the official newspaper of the Town at least seven, but not more than 14, days prior to the hearing. The applicant shall be required to ensure that written notice is mailed, by certified mail, return receipt requested, at least seven days prior to the hearing to the record owner(s) of the subject property if other than the applicant, as well as to all property owners who own property located within 200 feet of the proposed public art or mural location.
- (b) At the meeting, the Commission shall allow the applicant to be heard, as well as any other interested parties who wish to address the proposed application. The Public Arts Commission shall consider the application in light of the proposed installation's compatibility with the neighborhood in which it is to be located, its size in relation to surrounding features, whether it is likely to cause a distraction or hazard to pedestrian or vehicular traffic, its compliance with the definitional provisions of this article, its compliance with the design guidelines adopted by the Commission, and its overall aesthetic impact on the neighborhood. The Commission shall also consider the significance of the proposed project's location, the artist's ability to complete the project in a timely manner, and the ability and willingness of the property owner to maintain the installation. The Commission may

reject any application that is deemed not in the best interests of the community by not enhancing the residents' quality of life and the Town's commitment to a clean, safe, healthy, and diverse community.

- (c) In considering the application, the Commission may, in its discretion, seek the opinions of professionals familiar with the subject or field involved, including but not limited to historians, artists, sculptors or similar professionals.

§ 3-24. Requirements for Murals.

[G.O. No. 2142, 9-3-2019]

The following requirements shall apply to mural construction within the Town, which shall be duly considered by the Public Arts Commission during the review process:

- (a) No more than two square feet of the mural may contain the name of the artist, sponsor and/or product likeness.
- (b) Murals may not be mere extensions or enlargements of an existing sign.
- (c) Murals shall become the property of the property owner following construction.

§ 3-25. Issuance of Permit; Conditions; Expiration.

[G.O. No. 2142, 9-3-2019]

- (a) Final action on the application shall be made by way of a vote of the Public Arts Commission to issue or deny the permit for the proposed installation, which shall be rendered within 30 days of the submission of a complete application, unless this time frame is extended by consent of the applicant. An approval may be subject to any reasonable conditions deemed appropriate by the Commission.
- (b) Upon positive action by the Public Arts Commission, the Town Clerk shall promptly issue the permit, with a notation as to any required conditions imposed. Permits shall expire 180 days after the date of issuance. Any approved project not installed within the 180-day time frame shall be required to reapply and obtain a new permit.

§ 3-26. Appeal.

[G.O. No. 2142, 9-3-2019]

Any aggrieved party shall have the right to appeal any determination made by the Commission to the Mayor and Town Council within 10 days following the Town Clerk's issuance or denial of the permit. If an appeal is filed, the Clerk shall cause the appeal to be placed on the next conveniently available agenda for the consideration of the Mayor and Town Council.

§ 3-27. Maintenance.

[G.O. No. 2142, 9-3-2019]

- (a) Maintenance of the public art or mural shall be the responsibility of the property owner on whose premises the installation is located. However, business owners, artists, sponsors, and other interested parties may reach private arrangements regarding maintenance.
- (b) All installations shall be maintained by the owner in good condition free from chips, stains, graffiti, defacing, fading paint, and the like. Failure to properly maintain an installation shall subject the property owner to the penalties of this article.

§ 3-28. Enforcement; Violations and Penalties.

[G.O. No. 2142, 9-3-2019]

Violations of the provisions of this article shall subject the owner and/or violator to a fine as specified in § **35-10.1** et seq., of the Town Code (relating to Exterior Property Maintenance Code violations). Each day that such a violation continues shall be considered a separate offense.

§ 3-29. Applicability of Construction and Land Use Regulations.

[G.O. No. 2142, 9-3-2019]

Nothing in this article shall be interpreted as a waiver, replacement, or substitute for any installation that requires a construction code or land use approval under applicable provisions of any statute, ordinance, rule or regulation.