

Excerpt of Draft Mural Code

February, 2015 DRAFT – Not Adopted

15.28.020 Definitions.

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

"Public Art Mural" means an original, two-dimensional work of visual art, comprised of paint, ceramic or glass tiles, or tesserae, metal, executed by hand directly upon, or affixed directly to an exterior wall of a building, where the work of visual art has been approved by the Arts Commission and accepted by the City into its public art collection pursuant to this Chapter.

"Sign" means any sign, display message, emblem, figure, painting, drawing, placard, poster, billboard, carving or other thing that is designed, used or intended to convey a message or image and is used to inform or attract the attention of the public, and the term includes the sign structure, display surface and all other component parts of a sign; when dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display area.

15.28.090 Public art murals.

- A. Public Art Mural Program Intent and Purpose. The intent and purpose of this section is to encourage the production of public art murals for acquisition by the City. Public art murals are a medium of expression which serves the public interest in unique ways, including, but not limited to: enhancing the aesthetics of the City; providing avenues for original artistic expression in the City; providing public edification through access to original works of public art; encouraging community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime.
- B. Criteria for Public Art Murals. All of the following criteria shall be met for public art murals:
 - 1. Public art murals shall remain in place, without alteration, for a period of not less than five (5) years, except as may be specified by the Arts Commission in the conditions of approval. Within 30 days of the end of the approval period, the public art mural shall be removed unless a new approval is granted. Alterations to an approved mural shall receive approval by the Arts Commission.
 - 2. No public art murals shall be allowed on single-family dwellings, duplexes, or multi-family dwellings. As used in this subsection, single-family dwellings, duplexes, or multi-family dwellings do not include mixed-use buildings which contain a single-family dwelling, duplex, or multi-family dwellings.
 - 3. The public art mural shall be painted, or if ceramic, glass tiles, tesserae, or metal, applied directly onto the surface of a building with a paint, ceramic, glass tiles, tesserae, or metal that ensures longevity, durability, and structural and surface stability. No part of the public art mural shall exceed the height of the structure to which it is tiled, painted, or affixed.
 - 4. No part of the public art mural shall be placed over the exterior surface of any opening of a building, including its windows, doors, and vents.
 - 5. No public art mural may contain electrical components, three dimensional structural elements; employ electrical lights as part of the image, moving structural elements, flashing or sequential

lighting, interior lighting elements, any automated method that causes movement, or any method that causes periodic changes in the appearance, image or message of the public art mural.

6. Public art murals shall be located in a manner that is accessible to the public.
 7. The artist shall have a strong concept.
 8. The proposal is not mechanically reproduced or computer generated and printed on a base that will be attached to the wall, such as, by way of illustration but not limitation, images digitally printed on vinyl.
 9. The proposed design is feasible in regards to budget, timeline and experience.
 10. The mural proposal shall include methods to resist vandalism and weather impacts and commitment to repair the mural surface as necessary for a minimum of five years.
 11. The scale is appropriate to the structure and surrounding neighborhoods.
 12. No compensation will be given or received for the display of public art murals or for the right to place the mural on another's property.
 13. The approval and acceptance of each public art mural shall be contingent upon the conveyance of a public art mural easement to the City from the owner of the building upon which the mural will be located, in a form approved by the City Attorney. The terms of the easement shall grant the right to create the public art mural on the wall of the building and provide that the person granting the easement will maintain and restore the public art mural in its original condition for the period of the easement, and state that upon termination of the easement, the mural shall be removed and the building restored to its prior condition.
- C. Approval Process. Public art murals shall be approved by the Arts Commission at a public hearing based on the criteria in the Oregon City Municipal Code.
- Notice of the application and the Arts Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred (300) feet of the proposed mural location. Notice must be issued at least twenty (20) days pre-hearing, and the staff report must be available at least seven (7) days pre-hearing. At the evidentiary hearing held before the Arts Commission, all issues must be raised and addressed. Failure to raise an issue at the hearing will preclude review on that issue.
- D. The decision of the Arts Commission is appealable to the City Commission on the record. Notice of the appeal must be received in writing by the planning division within fourteen (14) calendar days from the date the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
1. All of the following must be included as part of the notice of appeal:
 - a. The City file number and date the decision to be appealed was rendered;
 - b. The name, mailing address and daytime telephone number for each appellant;
 - c. A statement of how each appellant has an interest in the matter and standing to appeal;
 - d. A statement of the specific grounds for the appeal;
 - e. The appropriate appeal fee. Failure to include the appeal fee within the appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a City-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Oregon City Municipal Code Section 17.50.290.C, no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.
 2. Standing to Appeal. Only those persons or recognized neighborhood associations who have participated either orally or in writing have standing to appeal the decision of the Arts

Commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. No new evidence shall be allowed.

3. Notice of the Appeal Hearing. The planning division shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. Notice of the appeal hearing shall contain the following information:

- a. The file number and date of the decision being appealed;
- b. The time, date and location of the public hearing;
- c. The name of the applicant, owner and appellant (if different);
- d. The street address or other easily understood location of the subject property;
- e. A description of the permit requested and the applicant's mural proposal;
- f. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
- g. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
- h. A general explanation of the requirements for participation and the City's hearing procedures.

4. The City Commission decision on appeal is the City's final decision.

E. No person shall commence creation of any public art mural without first obtaining approval from the Arts Commission, and executing an easement pursuant to section 15.28.090.B.14. Murals that are created without approval from the Arts Commission that are not otherwise exempt pursuant to this chapter or are inconsistent with the conditions of approval from the Arts Commission shall not be deemed public art murals.