


CITY OF PLANTATION

PLANNING, ZONING & ECONOMIC DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: Chair and Members of the Planning and Zoning Board

FROM: Danny A. Holmes, AICP 
Planning, Zoning & Economic Development Director

DATE: December 7, 2021

SUBJECT: Proposed Ordinance Creating Section 27-59 of the Land Development Regulations to Establish Review Standards for Mural Artwork (Application No. PP21-0048)

RECOMMENDATION

It is recommended that the Planning and Zoning Board recommend approval of the request to create Section 27-59 of the Land Development Regulations to establish standards and review criteria for mural artwork.

THE REQUEST

City staff is requesting an amendment to the text of the Land Development Regulations to establish standards and criteria for the review and approval of mural artwork.

BACKGROUND

Recently, City staff received a request for approval of an artist commissioned mural on the property located at 1003 – 1025 South University Drive. Currently, the Land Development Regulations do not contain standards and review criteria for mural artwork. In fact, under the City's current regulations, a mural would be classified as a painted sign and painted signs are prohibited within the City.

The proposed ordinance would establish standards and review criteria for the review of mural artwork on private property within the City.

THE PROPOSED AMENDMENT

The proposed amendment to the Land Development Regulations is as follows:

Section 27-59 – Murals and Public Art

- (a) Purpose. It is the intent and purpose of this section to promote the aesthetic and cultural enrichment development of the city by creating a citywide process for the integration of original art murals into private development projects on a content-neutral basis on certain terms and conditions. Murals comprise a unique medium of expression which serves the public interest. Murals have purposes distinct from traditional signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of and identification with original works of art; and a reduction in the incidence of graffiti and other crime. Murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians, are retained for longer periods of time and include a neighborhood process for discussion
- (b) Definitions. The following words, terms and phrases, when used in this Section 27-59, shall have the meanings ascribed to them herein, unless the context affirmatively designates to the contrary:

Artist is defined as a professional in the visual arts, having reached a certain level of expertise in their medium, and meeting at least two of the following criteria:

- (1) The artist's works are included in private, public, corporate or museum collections;
- (2) The artist has received art-related awards, grants, or fellowships;
- (3) The artist has completed other public commissions on a similar scale;
- (4) The artist has participated in exhibitions at major museums or galleries.

Local artist is defined as an artist, as defined in this section, who resides in the City.

Mural art or mural is defined as an original hand-produced work of visual art that is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. For the purpose of this section, a "mural" shall not include:

- (1) mechanically produced or computer-generated prints or images, including, but not limited to, digitally printed vinyl; or
- (2) murals with electrical or mechanical components, or changing images.

- (c) Application Filing. An application for a mural may be initiated by any property owner whose property meets the eligible project criteria as set forth in Section 27-59(f) subject to the payment of an application fee to cover the costs of processing the application.
- (d) Application requirements. Mural application forms, along with all established and required fees, documents, and renderings shall be submitted by the applicant to the Department. All applications shall be processed according to code and shall meet the minimum criteria of Section 27-59(g).
- (e) Application Approval required. The Department shall review applications for murals and compile a report which summarizes the artist and location of the mural. Once complete, the Department shall transmit all documents for review and approval by the Plan Adjustment Committee at its next available meeting pursuant to Section 27-25 of the Code.
- (f) Minimum criteria. It shall be the policy of the city to limit mural art as follows:
- (1) Murals that are commissioned by a professional artist as defined herein; and
 - (2) Development projects with one hundred fifty (150) or more residential units and/or with residential gross floor area of 12,500 or more square feet and located within the zoning district; and
 - (3) Mural art must be applied utilizing weather resistant paint or materials; and
 - (4) The Mural shall not extend more than 6 inches from the plane of the wall upon which it is tiled or painted or to which it is affixed; and
 - (5) Murals shall not contain any unlawful content, unlawful content shall include but not be limited to, content that includes obscenity, fraud, child pornography, content integral to illegal conduct, content that intentionally incites imminent lawless action, content that violates intellectual property law, true threats, and defamatory content; and
 - (6) Murals shall not be designed as to constitute or create a traffic hazard in that no mural shall be erected, and there shall be no lighting of murals or premises, in such a manner or in such location as to obstruct the view of, or be confused with, any authorized traffic signal, notice or control device, or with lights on any emergency vehicle, or to create hazards or distractions to drivers because of direct or reflected natural or artificial light, flashing, intermittent or flickering lighting, or real or apparent movement. Any such murals or light sources shall be removed at the direction of the City. If not removed by owners or occupants of the property within ten (10) days of notice, the City shall cause the murals to be otherwise removed and the cost of removal shall become a lien against the property until satisfied; and
 - (7) Murals shall only be located on building façades; and

- (8) The City has not made application to FDOT for certification for local zoning control of murals within the City's jurisdictional boundaries under provisions of the Highway Beautification Act, 23 U.S.C. Sec. 131, et seq., the Florida and U.S. Department of Transportation Agreement of January 27, 1972 ("Federal/State Agreement"), Federal Regulations, 23 C.F.R. Sec. 750.706, and Chapter 479.156, Florida Statutes. Accordingly, any mural application within 660 feet of the nearest edge of the right-of-way within an area adjacent to the interstate highway system or the federal-aid primary highway system shall, in addition to other criteria listed herein that are not in conflict with or controlled by way of the Federal/State Agreement, be approved by the Department of Transportation and the Federal Highway Administration when required by federal law and federal regulation under the Federal/State Agreement.
- (g) Maintenance. The property owner shall be responsible for the continuous maintenance of the mural art in good condition at all times, as determined by the city's code compliance official. Maintenance includes the required repairs or cleaning to keep the artwork in its intended condition, including preventative maintenance at scheduled intervals to curtail future deterioration, as well as ordinary repairs, including painting, repair or replacement.
- (h) Removal or Replacement of Murals.
- (1) Murals installed in accordance with this section shall remain on site in the approved location and cannot be altered, replaced or removed except as provided in this section, or when deemed to be unsafe by the city building official, or necessary replacement due to damage from natural disasters.
 - (2) Removal of existing murals or artwork and all replacement art and elements must meet the all of the requirements of this section for installation.

.

ANALYSIS

Standards for reviewing proposed amendments to the text of the LDR:

1. The proposed amendment is consistent with the goals, objectives, and policies of the comprehensive plan;

The proposed amendment is consistent with the goals, objectives and policies of the Comprehensive Plan.

2. The proposed amendment is consistent with the authority and purpose of this Code;

The proposed amendment is consistent with the authority and purpose of the Land Development regulations. The LDRs are enacted pursuant to the requirements and authority of F.S. Chapter 163, Part II and the general powers confirmed in F.S. Chapter 166. The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of

land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City. The proposed amendment is consistent with this purpose.

3. The proposed development furthers the orderly development of the City;

The proposed amendment furthers the orderly development of the City.

4. The proposed amendment promotes sustainability and efficiency of the City;

The proposed amendment promotes sustainability and efficiency of the City.

5. The proposed amendment promotes the public health, safety, welfare, and aesthetics; and

The proposed amendment promotes the public health, safety, welfare, and aesthetics of the City

6. The proposed amendment improves the administration or execution of the development process.

The proposed amendment improves the administration or execution of the development process.

Section 27-43 of the City's Land Development Regulations provides that the text of the Land Development Regulations may be amended by The Planning, Zoning and Economic Development Director, Chief Administrative Officer, or the City Council. Any affected person or persons or interested parties may also petition the City to amend the text of the Land development Regulations, subject to the payment of a non-refundable application fee to cover the cost of processing the application. The application is being submitted by staff in accordance with that section.

Notice of the proposed amendment has been published in accordance with Section 27-41(1) of the Land Development Regulations and Section 166.041 of the Florida Statutes.