

SIOUX FALLS VISUAL ARTS COMMISSION VIDEO CONFERENCE WORKING SESSION MEETING

Wednesday December 9, 2020
5:30-7:30pm

WebEx Video Conference Meeting
Sioux Falls, SD

MEETING ASSISTANCE: UPON REQUEST, ACCOMMODATIONS FOR MEETINGS WILL BE PROVIDED FOR PERSONS WITH DISABILITIES. PLEASE CONTACT THE HUMAN RELATIONS OFFICE, FIRST FLOOR, CITY HALL, 224 WEST 9TH STREET, SIOUX FALLS, SD AT 367-8745 (VOICE) OR 367-7039 (TDD) 48 HOURS IN ADVANCE OF THE MEETING.

WHEN IT'S TIME, JOIN YOUR WEBEX MEETING HERE.

MEETING NUMBER (ACCESS CODE): 146 967 8253
MEETING PASSWORD: KDrnCBrk987

[JOIN MEETING](#)

TAP TO JOIN FROM A MOBILE DEVICE (ATTENDEES ONLY)
[+1-408-418-9388](tel:+14084189388)..1469678253## UNITED STATES TOLL

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+1-408-418-9388 UNITED STATES TOLL
[GLOBAL CALL-IN NUMBERS](#)

JOIN FROM A VIDEO SYSTEM OR APPLICATION
DIAL [1469678253@SIOUXFALLS.WEBEX.COM](https://1469678253@siouxfalls.webex.com)
YOU CAN ALSO DIAL 173.243.2.68 AND ENTER YOUR MEETING NUMBER.

JOIN USING MICROSOFT LYNC OR MICROSOFT SKYPE FOR BUSINESS
DIAL [1469678253.SIOUXFALLS@LYNC.WEBEX.COM](https://1469678253.siouxfalls@lync.webex.com)

AGENDA

- I. **Call to Order & Quorum Determination**
- II. **Welcome & Introductions**
- III. **Public Input**
- IV. **Review of Working Session Notes:**
 - a. **Wednesday November 12, 2020 Work Session notes**
- V. **VAC Focus**
 - a. **Content Neutral Discussion**
 - b. **Mural Ordinance: Review of mural final draft
City Attorney Comments**
 - c. **2021 Work Plan**
 - d. **2020 annual report**
- VI. **Announcements**
 - a. **Next VAC Meetings**
 - i. *VAC Regular Meetings: Tuesday, December 15, 9:00 am,
City Center, 231 N Dakota Ave and Via WebEx*
 - ii. *Future VAC Work Session (if needed): January 13, 2020*
- VIII. **Adjournment**

1st Reading: _____
2nd Reading: _____
Date Adopted: _____
Date Published: _____
Effective Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 160: ZONING BY ADDING SUBCHAPTER: ORIGINAL ART MURALS AND AMENDING SECTIONS 160.005 AND 160.578.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 1. That Section 160.005 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to add a definition:

Section 160.005. DEFINITIONS.

MURAL. A hand-painted, hand-tiled, or digitally printed work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. A *MURAL* does not include displays with electrical or mechanical components or a changing image art display. A *MURAL* does not contain any words or trademarks, logos or graphics advertising a business, product or service.

Section 2. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a subchapter to be entitled: ORIGINAL ART MURALS to read:

ORIGINAL ART MURALS

160.560 PURPOSE AND INTENT.

(a) These regulations relating to original art murals in the City of Sioux Falls further the following purposes:

- (1) Discourage graphics that is advertising signage;
- (2) Encouraging artistic expression and the creation of more murals;
- (3) Protect adjacent property owners;
- (4) Maintain existing murals that are a valued part of the history of the City of Sioux Falls;
and

(5) Keep a directory of murals including pictures and a historical account.

(b) The City wishes to encourage the installation of murals and, at the same time, prevent murals as commercial advertising signs. Therefore, the City's mural regulations exclude commercial advertising on murals to prevent the installation of the equivalent advertising signage on a mural. This mural ordinance is intended to work in tandem with and help preserve the intent of the sign code(s) set forth Title XV of this Code. Adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area.

(c) These mural regulations also promote public safety and welfare by regulating such displays in keeping with the following objectives:

(1) That the design, construction, installation, repair and maintenance of such displays will not interfere with traffic safety or otherwise endanger public safety.

(2) That the regulations will provide reasonable protection to the visual environment by controlling the minimum improvement and maintenance of the displays.

(3) That consideration will be given to equalizing the opportunity for messages and artistic expression to be displayed.

(4) That the regulations will conform to judicial decisions, thereby limiting further costly litigation and facilitating enforcement of these regulations.

(5) To provide registration requirements for murals as defined by this ordinance.

160.561 ORIGINAL ART MURAL MINIMUM IMPROVEMENT AND MAINTENANCE STANDARDS.

An original art mural that meets all of the following requirements will be allowed upon satisfaction of the applicable registration procedures:

(a) To preserve public order and protect human dignity, a mural artwork may not include displays that incite violence or prejudicial actions against groups or individuals on the basis of their membership in the group, or which disparage or intimidate a group of individuals on the basis of their membership in the group.

(b) No part of a mural shall exceed the height of the structure to which it is tiled, painted or affixed.

(c) No part of a mural shall extend from the plane of the wall upon which it is tiled, painted or affixed.

(d) No mural, except for murals consisting completely of paint, shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors and

vents. Notwithstanding the foregoing, a mural consisting of paint or any other material permitted under this section may be placed on roll down security doors on a commercial or industrial building.

(e) Surfaces should be prepared to allow the mural to withstand the outdoor climate of Sioux Falls, South Dakota. Mural materials may not create environmental pollution due to flaking or chipping over time. Surface sealant is recommended.

(f) The property owner is responsible for the mural maintenance, and shall coordinate repairs to the mural as necessary, including but not limited to removal of graffiti per section 132.003 of this Code.

160.562 ORIGINAL ART MURAL REGISTRATION.

(a) *Administrative rules.* The Director of Planning and Development Services is authorized and directed, as in section 160.690, to administer the mural registration, and may adopt mural administrative rules to implement this section. The administrative rules shall include an application to identify and describe proposed original art mural and its location on the structure. The applicant for the original art mural registration shall be the property owner.

(b) *Neighbor involvement.* The mural administrative rules to be adopted by the Director of Planning and Development Services may include a neighbor involvement rule. Specifically, the rule shall include a requirement that an applicant for mural provide a notice of the approved mural registration to the adjacent neighbors including those across the street, prior to the installation of the mural. No mural shall be installed until the applicant has completed this neighbor involvement requirement. This is a procedural requirement only and the Director of Planning and Development Services shall at all times retain sole authority to approve or deny an application for a mural based on the criteria in section 160.561 of -this subchapter and any mural administrative rules promulgated by the Director of Planning and Development Services. Further, in no event will a registration of a mural be granted or denied based upon the content of the mural.

(c) *Change of ownership.* Upon a change of ownership of the property to which an original art mural is affixed, a new owner may, at the owner's election and without the need for permission from the City of Sioux Falls, de-register the mural with the Department of Planning and Development Services.

(d) *Grandfathering of vintage original art murals.* Any vintage original art mural installed prior to the effective date of this section, shall have legal nonconforming status and, notwithstanding any provision to the contrary, not require registration under this section. But a vintage original art mural which has not gained legal nonconforming status through law other than this section, cannot qualify for legal nonconforming status under this section if it consists or contains any of the following: electrical, mechanical or kinetic components, or changing images (moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every 24 hours).

Section 3. That Subsection (b) of Section 160.578 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

160.578 PROHIBITED SIGNS.

(b) *Painted wall signs.* Painted wall signs shall be prohibited except that existing signs may remain, provided the signs are maintained. Signs that are not maintained shall be removed or renovated within 60 days upon notice. ~~Painted wall graphics and murals shall be permitted; however, the graphics and/or murals shall not contain any words or graphics advertising a business, product, or service.~~

Date adopted: _____.

Paul TenHaken, Mayor

ATTEST:

Thomas Greco, City Clerk

1st Reading: _____
2nd Reading: _____
Date Adopted: _____
Date Published: _____
Effective Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 160: ZONING BY ADDING SUBCHAPTER: ORIGINAL ART MURALS AND AMENDING SECTIONS 160.005 AND 160.578.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 1. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding a subchapter to be entitled: ORIGINAL ART MURALS to read:

ORIGINAL ART MURALS

160.560 PURPOSE AND INTENT.

(a) These regulations relating to original art murals in the City of Sioux Falls further the following purposes:

- (1) Discourage graphics that is advertising signage;
- (2) Encouraging artistic expression and the creation of more original art murals;
- (3) Protect adjacent property owners;
- (4) Maintain existing original art murals that are a valued part of the history of the City of Sioux Falls; and
- (5) Keep a directory of original art murals including pictures and a historical account.

(b) The City wishes to encourage the installation of original art murals and, at the same time, prevent murals as commercial advertising signs. Therefore, the City's original art mural regulations exclude commercial advertising on original art murals to prevent the installation of the equivalent advertising signage on a mural. This original art mural ordinance is intended to work in tandem with and help preserve the intent of the sign code(s) set forth Title XV of this Code. Adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area.

(c) These original art mural regulations also promote public safety and welfare by regulating such displays in keeping with the following objectives:

- (1) That the design, construction, installation, repair and maintenance of such displays will not interfere with traffic safety or otherwise endanger public safety.
- (2) That the regulations will provide reasonable protection to the visual environment by controlling the minimum improvement and maintenance of the displays.
- (3) That consideration will be given to equalizing the opportunity for messages and artistic expression to be displayed.
- (4) That the regulations will conform to judicial decisions, thereby limiting further costly litigation and facilitating enforcement of these regulations.
- (5) To provide registration requirements for original art murals as defined by this ordinance.

160.561 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) *DEPARTMENT.* The Department of Planning and Development Services.
- (b) *DIRECTOR.* The Director of Planning and Development Services or his or her designee.
- (c) *ORIGINAL ART MURAL.* A one-of-a-kind, hand-painted, hand-tiled, or digitally printed image or work of visual art that: a) is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner; b) does not include displays with electrical or mechanical components or a changing image art display; and c) **does** not contain any commercial message. For definition purposes, a commercial message is any message that in words, trademarks, logos, graphics or in any other manner advertises a business conducted, services rendered, or goods produced or sold.
- (d) *VINTAGE ORIGINAL ART MURAL.* An original art mural that existed prior to the adoption of this ordinance.

160.562 ORIGINAL ART MURAL MINIMUM STANDARDS.

An original art mural that meets all of the following requirements will be allowed upon satisfaction of the applicable registration procedures:

- (a) To preserve public order and protect human dignity, an original art mural may not include displays that incite violence or prejudicial actions against groups or individuals on the

basis of their membership in the group, or which disparage or intimidate a group of individuals on the basis of their membership in the group.

(b) No part of a mural shall exceed the height of the structure to which it is tiled, painted or affixed.

(c) No part of a mural shall extend from the plane of the wall upon which it is tiled, painted or affixed.

(d) No mural, except for murals consisting completely of paint, shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors and vents. Notwithstanding the foregoing, a mural consisting of paint or any other material permitted under this section may be placed on roll down security doors on a commercial or industrial building.

(e) Surfaces should be prepared to ensure the original art mural will be able to withstand the outdoor climate of Sioux Falls, South Dakota. The materials used to create original art murals may not create environmental pollution during the initial installation or due to flaking or chipping over time. **Surface sealant is recommended.**

(f) The property owner is responsible for the mural maintenance, and shall coordinate repairs to the mural as necessary, including but not limited to removal of graffiti per §132.003 of this Code.

160.563 ORIGINAL ART MURAL REGISTRATION.

(a) *Administrative rules.* The Director, pursuant to §160.690, is authorized and directed to administer the registration of original art murals and may adopt administrative rules to implement this section. The administrative rules shall include an application to identify and describe proposed an original art mural and its location on the structure. The applicant for the original art mural registration shall be the property owner.

(b) *Neighbor involvement.* The administrative rules to be adopted by the Director may include a neighbor involvement rule. Specifically, the rules shall include a requirement that an applicant for original art mural approval send notice of the application to the adjacent property owners including those across the street, prior to the registration of the original art mural. No original art mural may be installed until the application has been approved by the Director. This is a procedural requirement only and the Director shall at all times retain sole authority to approve or deny an application for an original art mural based on the criteria in §160.561 and 160.562 of this subchapter and any administrative rules promulgated by the Director. Further, in no event will a registration of an original art mural be granted or denied based upon the content of the mural.

(c) *Change of ownership.* Upon a change of ownership of the property to which an original art mural is affixed, a new owner may, at the owner's election and without the need for permission from the City of Sioux Falls, de-register the mural with the Department.

(d) *Vintage original art murals.* Any vintage original art mural shall have legal nonconforming status and, notwithstanding any provision to the contrary, not require registration under this section. But a vintage original art mural which has not gained legal nonconforming status through law other than this section, cannot qualify for legal nonconforming status under this section if it consists or contains any of the following: electrical, mechanical or kinetic components, or changing images (moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every 24 hours).

160.564 EXEMPTION FOR ORIGINAL ART MURALS.

An original art mural that conforms to the requirements of §§160.560 through 160.565 is not considered a sign and therefore is not subject to the sign code(s) set forth in Title XV of this Code or any other ordinance that regulates signs. Any supposed "mural" that does not conform to the requirements of §§160.560 through 160.565 shall be considered a sign and subject to the provisions of the sign code(s) set forth in Title XV and any other ordinance that regulates signs and digital displays. A building permit from the Department is required for any new original art mural.

160.565 SEVERABILITY.

If any portion, clause, provision or section of this subchapter is declared or adjudged invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of this subchapter.

Section 2. That Subsection (b) of Section 160.578 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

160.578 PROHIBITED SIGNS.

The following signs are prohibited and shall be removed within the time periods specified:

(a) *Miscellaneous signs and posters.* The tacking, pasting, or otherwise affixing of signs of a miscellaneous character, visible from a public way, located on walls of buildings, barns, sheds, trees, poles, posts, fences, or other structures is prohibited, and the sign shall be removed upon notice.

(b) *Painted wall signs.* Painted wall signs shall be prohibited except that existing signs may remain, provided the signs are maintained. Signs that are not maintained shall be removed or renovated within 60 days upon notice. ~~Painted wall graphics and murals shall be permitted; however, the graphics and/or murals shall not contain any words or graphics advertising a business, product, or service.~~

(c) *Parking of advertising vehicles prohibited.* No person shall park any vehicle or trailer on a public right-of-way, or public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises or any other premises. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.

(d) *Nuisance signs.* Signs that imitate an official traffic sign or signal or that are of a size, location, movement, content, coloring, or manner of illumination that may be confused with or construed as a traffic control device or that hide from view any traffic, street sign, or signal shall be removed upon notice. Signs that cause a safety or health issue to the public, including creating unsafe traffic conditions by confusing or distracting motorists; or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles; or health concerns to occupants of adjacent and contiguous property by their brightness, size, height, or movement.

Date adopted: _____.

Paul TenHaken, Mayor

ATTEST:

Thomas Greco, City Clerk