



## Mural Registration Application City of Sioux Falls

Application Date: \_\_\_\_\_

Property General Location or Address

Mural Location Description:

**Attachments:** Copy of the artwork (photo, sketch, or printed)

### Contacts

<b>Applicant/Owner</b>	
First and Last Name of Contact Person	
Mailing Address	
City, State, Zip	
Telephone Number	Email Address

### Artist Information

<b>Company Name</b>	
First and Last Name	
Mailing Address City, State, Zip	
Telephone Number	Email Address ( <i>No General Emails Please</i> )

Received By: \_\_\_\_\_

Approval Date: \_\_\_\_\_

1st Reading: 03/15/21  
2nd Reading: 04/06/21  
Date Adopted: 04/06/21  
Date Published: 04/10/21  
Effective Date: 04/30/21

ORDINANCE NO. 38-21

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 DEFINITIONS of the 2013 Shape Places Zoning Ordinance of Sioux Falls, SD, is hereby amended and added as follows:*

**§ 160.005 DEFINITIONS.**

***DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES/DIRECTOR.*** The person appointed by the mayor to be the leader of the department empowered to carry out/enforce all those codes adopted that regulate planning and zoning, housing, building, plumbing, mechanical, and electrical inspection.

***MURAL, ORIGINAL ART.*** A one-of-a-kind, 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.

***MURAL, VINTAGE ORIGINAL ART.*** An original art mural that existed prior to the adoption of this ordinance.

*Section 2. That the 2013 Shape Places Zoning Ordinance 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) Encouraging artistic expression and the creation of more murals;
  - (2) Protect adjacent property owners;
  - (3) Maintain existing murals that are a valued part of the history of the city of Sioux Falls;
  - (4) Keep a directory of murals including pictures and a historical account; and

- (5) Contribute to the cultural identity of a neighborhood and foster a sense of pride.
- (b) The city wishes to encourage the installation of murals and at the same time prevent the proliferation of off-premise signs. This mural ordinance is intended to work in tandem with and help preserve the intent of the off-premise sign code set forth in Chapter 160.587 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 the public will enjoy the aesthetic benefits of being able to view such displays that are reasonably and appropriately regulated without having to endure visual blight and traffic safety impacts that would be caused by such displays that are not reasonably and appropriately regulated.
  - (4) That consideration will be given to equalizing the opportunity for messages and artistic expression to be displayed.
  - (5) That the regulations will conform to judicial decisions, thereby limiting further costly litigation and facilitating enforcement of these regulations.
  - (6) To provide registration requirements for murals as defined by this ordinance.

**§ 160.561 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, 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 § 132.003 of this Code.

**§ 160.562 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 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 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, deregister 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).
- (e) *Severability.* If any part, sentence, phrase, clause, term, or word of §§ 160.560–160.562 is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such invalidity or unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of the Sioux Falls Code of Ordinance, or any other city regulation regulating signage, or original art murals.

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.**

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.
- (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: 04/06/21 .

Paul TenHaken, Mayor

ATTEST:

Thomas Greco, City Clerk