

REQUEST FOR COUNCIL ACTION

SUBJECT:

AN ORDINANCE AMENDING TITLE 13 OF THE 2009 CITY CODE, BY ADDING A NEW SECTION 13-8-24 "MURAL OR WALL ART".

SUMMARY:

Recently the decision by a building owner to allow wall art to cover substantially the whole building in Hispanic-culturally expressive paintings showed the inability of the City's current sign code provisions to effectively deal with the issue. After study and debate, City Staff proposes taking the regulation of murals and wall art out of the sign code and into the zoning code. Generally such wall art is proposed to be permitted within certain basic parameters.

FISCAL AND / OR ASSET IMPACT:

No material fiscal or asset impact.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Ordinance and 2009 City Code amendments. By a vote of 3-2, the Planning Commission forwards a POSITIVE RECOMMENDATION for approval of the Code amendments.

MOTION RECOMMENDED:

"Based on the conclusions of the Staff Report and testimony heard today, I move that the City Council adopt and approve Ordinance 15-~~33~~, including amendments to Title 13 in the 2009 City Code, all as set forth in the form of Ordinance attached to the Staff Report."

Public Hearing Required

Roll Call Vote required. not required.

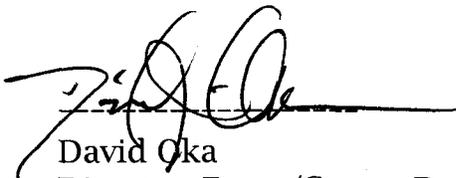
Approved by:

Reviewed by

Recommended:



Robert Thorup
Deputy City Attorney



David Oka
Director, Econ /Comm Dev.



Mark Palesh
City Manager

- I. DISCUSSION AND ANALYSIS: The amendments as proposed are attached to this Staff Report in the form of a proposed Ordinance and legislative format. The proposed amendments are self-explanatory and will not be repeated here. The foregoing background will suffice as discussion and analysis.
- II. FINDINGS OF FACT: Section 13-7D-7(B) provide findings for the amendment of the Zoning Title.

Criteria 1: The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein.

Discussion: One of the goals of the General Plan is to “promote the public interest, the interest of the community at large, rather than the interests of individuals or special interest groups within the community”. Another goal is to “inject long range considerations into the determination of short range actions”. The proposed amendments are clearly intended to meet both of these goals by avoiding politically charged enforcement efforts under the sign code and providing clear policy and legal guidance to property owners who may desire to allow or encourage wall art.

Finding: The proposed amendments conform to the general plan and are consistent with the adopted goals, objectives and policies described therein.

Criteria 2: The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to these titles.

Discussion: As noted earlier in this report, political problems arose when a property owner agreed to allow substantially all of his building to be covered with Hispanic-culturally themed wall art. Efforts to use the current sign code when confronted with complaints exacerbated the political problems for the City. Rather than attempt to regulate murals and wall art as “signs”, with the attendant political and legal issues associated with sign regulation, a new proposed regulatory scheme within the zoning code provisions provides clear guidance to a property owner contemplating wall art while at the same time permitting wall art without permit or restriction other than basic level controls.

Finding: The proposed amendments are appropriate given the context and there is sufficient justification for a modification of these titles.

Criteria 3: The proposed amendment will not create a conflict with any other section or part of this title or the general plan.

Discussion: These amendments eliminate current problems in Code enforcement, all in a well-coordinated effort to eliminate confusion and problem.

Finding: The proposed amendments will not create a conflict with any other section or part of this title or of the general plan.

Criteria 4: The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.

Discussion: These amendments are part of a City-wide effort to provide a City Code which can be effectively used and searched.

Finding: The proposed amendments do not relieve a particular hardship, nor do they confer any special privileges to a single property owner or cause, and the proposed amendments make necessary modifications to these titles in the light of correction and expansion of public policy.

III. CONCLUSION: The proposed amendments meet all of the criteria for City Code amendments set forth above. They make valuable and important improvements to the existing "Zoning" title of the 2009 City Code.

If the moving Councilmember disagrees with the staff's findings and conclusions and finds substantial evidence supporting a different result, the following motion may be given:

Based on the findings set forth in this staff report, and upon the evidence and explanations received today, I move that the City Council disapprove and reject Ordinance 15-____ for the proposed Title 13 text amendment as discussed in this report. Specifically, I disagree with the Staff and find that the following required criterion/criteria for a code amendment has/have not been met:

Criteria 1: The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein.

Criteria 2: The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to these titles.

Criteria 3: The proposed amendment will not create a conflict with any other section or part of this title or the general plan.

Criteria 4: The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner

or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.

Which criterion/criteria has/have not been met? Why?

Note: All applicable criteria must be met to support a positive action by the City Council.

Legal Review-Date/Initial: 10-21-15 / AR
Text/Format -Date/Initial: 10-21-15 / BAC
Dept. Review-Date/Initial: _____ / _____
Adopted: _____ Effective: _____

THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

ORDINANCE NO. 15- 33
[MURAL OR WALL ART]

AN ORDINANCE AMENDING TITLE 13, "ZONING REGULATIONS."

WHEREAS, the City of West Jordan adopted a City Code in 2009, for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the city and its officers, employees and inhabitants, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the city and its inhabitants, and to protect property in the city; and

WHEREAS, the West Jordan City Council finds and determines that the purpose of the 2009 City Code, and the public health and welfare, will best be reached by the adoption of the following amendments to Title 13, Chapter 8 of the 2009 City Code.

NOW THEREFORE, IT IS ORDAINED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH:

Section 1. Title 13, Chapter 8, Section 24 of the 2009 City Code shall hereafter read as follows:

13-8-24: MURAL OR WALL ART:

- A. Definition: Mural or wall art consists of the depiction of (1) one or more images and/or (2) language writing using one or more colors and one or more artistic media on an outside wall face of a building or other wall face.
- B. Permitted Use; Advance Notice Required:
 - 1. Mural or wall art is a permitted use in all commercial and manufacturing zones of the City, subject only to prior notice to the City planning division before any mural or wall art is commenced.
 - 2. The notice must include a general description of the proposed mural or wall art, its subject(s) and the artistic media to be used, and must evidence the clear agreement of the property owner as to the existence and extent of wall coverage that is contemplated.
- C. Hate Speech Prohibited: Mural or wall art may not depict any images or language that are likely to incite community unrest or cause members of the community to reasonably fear for their physical safety or to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

- D. Advertising Prohibited: A permitted mural or wall art may not depict or otherwise identify a product, service or business logo. Such advertising will render the mural or wall art to be a wall sign regulated under the City's sign code.
- E. Obscenity Prohibited: A permitted mural or wall art may not depict (1) persons in a state of nudity or semi-nudity, as defined in Title 4 of this Code, (2) the female breast, any gender's genitalia, or the human buttocks, or (3) one or more persons engaged in sexual activities. (Ord. 15-__, 11-04-2015)

Section 2. Additions or amendments to the 2009 City Code when passed in such form as to indicate the intention of the city council to make the same a part of the 2009 City Code shall be deemed to be incorporated in the 2009 City Code, so that reference to the 2009 City Code hereafter includes the additions and amendments.

Section 3. This Ordinance shall become immediately effective.

Passed and adopted by the City Council of the City of West Jordan, Utah this 4th day of November, 2015.

CITY OF WEST JORDAN

By: _____
KIM V. ROLFE
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC
City Clerk

Voting by the City Council

“AYE”

“NAY”

Council Member Jeff Haaga
Council Member Judy Hansen
Council Member Chris McConnehey
Council Member Chad Nichols
Council Member Sophie Rice
Council Member Ben Southworth
Mayor Kim V. Rolfe

CITY CLERK/RECORDER'S CERTIFICATE OF PUBLICATION

I, Melanie S. Briggs, certify that I am the City Clerk/Recorder of the City of West Jordan, Utah, and that the foregoing ordinance was published in the Legal Section, of the Salt Lake Tribune, on the _____ day of _____, 2015, pursuant to Utah Code Annotated, 10-3-711.

MELANIE S. BRIGGS, MMC
City Clerk/Recorder

[SEAL]

Legislative

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