

CITY OF EVERMAN, TEXAS

ORDINANCE NO. 816

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 4 “BUILDINGS AND BUILDING REGULATIONS” BY ADDING A NEW ARTICLE XXI “MURALS”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE .

WHEREAS, the City Council finds that allowing for the installation of murals in the City is consistent with the values and aesthetics of the city; and

WHEREAS, the City Council desires to optimize the communication and quality of murals while protecting the public and the aesthetic character of the City; and

WHEREAS, THE City Council finds that these regulations aim to enhance the community by minimizing visual clutter along public rights-of-way that are potentially harmful to the aesthetics of the community, traffic and pedestrian safety, property values, business opportunities and community appearance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS:

SECTION 1: That the Code of Ordinances of the City of Everman, Texas is hereby amended at Chapter 4 “Buildings and Building Regulations” by adding a new Article XXI “Murals” which shall read in its entirety as follows:

“CHAPTER 4 BUILDINGS AND BUILDING REGULATIONS

. . .

ARTICLE XXI MURALS

Sec. 21-01. – Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alter shall mean to change in any way or to any extent the appearance, size, shape, colors, subject, designs, figures, elements, or pictures of a mural.

Dilapidated or deteriorated condition shall mean: (i) where any part of the mural is chipped, flaked, faded, broken, damaged, defective, missing, bent, cracked, splintered, or twisted; or (ii) where any part of the mural or the exterior wall on which the mural is located is not in compliance with the requirements of the Everman Building Code, as amended.

Director shall mean the director of development services or the city director or employee designated by the city manager to administer and enforce this article.

Mural shall mean painted graphics registered with the city in accordance with this article that are murals, mosaics, or any type of graphic arts that are painted on an exterior wall of a non-residential building and do not contain a logo, advertising symbols, lettering, trademarks, service marks, branded product names, brand names, or other written references to any business, commercial or retail service or product, except that (i) a mural may contain an unlimited amount of subject matter consistent with the theme of the business and (ii) the business name and/or references to goods and services offered by the business on the premises where the mural is located provided that these matters shall not cover more than twenty (20%) percent of the mural surface area.

Primary facade of a building shall mean elevation of a building that faces the adjacent street right-of-way and contains the door or other entrance that serves as the primary customer entrance to the building.

Registration shall mean the registration of a mural as set forth in this article.

Restore shall mean to return a mural to its original appearance and quality from a dilapidated or deteriorated condition.

Sec. 21-02. – Registration.

- (a) A mural must be registered with the city pursuant to this article prior to installation to be exempt from regulation as a sign pursuant to Article 9 of the City's Zoning Ordinance.
- (b) A mural may be registered pursuant to this article by the building owner and the artist by submitting a registration application form provided by the city accompanied by a nonrefundable registration fee of \$10.00 or such fee as may be set forth in Appendix A fee schedule of this Code for each mural, which application shall contain and include the following:
 - (1) Name and address of the building on which the mural will be installed;
 - (2) Name, address, and contact information of the building owner providing the written consent to the artist for the installation of the mural;

- (3) Name, address, and contact information of the artist who will be creating the mural;
 - (4) Notarized written consent of the building owner that the named artist has the consent of the building owner to create and install the mural on the owner's building;
 - (5) Notarized written statement of the artist acknowledging that the mural is such person's work, that the mural may be registered with the city and that the mural may be removed by the city following notice thereof, if the mural is in violation of this article;
 - (6) Site plan showing the lot on which the mural is to be located and the building dimensions;
 - (7) Photos of the building elevations on which the mural is to be located;
 - (8) A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural; and
 - (9) A description of the proposed maintenance schedule for the mural that includes the timeframe for the useful life for the mural and method for removal.
- (c) The director shall administer and enforce this article.
 - (d) The director shall issue the registration for a mural for which a completed application meeting the requirements of this article has been submitted, accompanied by the nonrefundable registration fee. The registration should be accepted not later than ten business days after submittal of a completed application and fee. An incomplete application for registration may be denied.
 - (f) Murals existing as of the date of enactment of this ordinance shall be exempt from this article.

Sec. 21-03. – Prohibited Murals.

- (a) The following are prohibited:
 - (1) Murals or other representations which imitate or appear to imitate any official traffic sign or device, which appears to regulate or direct the movement of traffic, or which interferes with the proper operation of any traffic sign or signal, or which obstructs or physically interferes with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

- (2) Murals affixed, applied, or mounted above or upon or suspended from any part of the roof of a structure.
 - (3) Murals projecting from the wall surface, other than the minimum necessary protrusion to mount the mural to the wall or structure.
 - (4) Murals containing any gang affiliation symbols.
 - (5) Murals containing any commercial messages or advertising except as allowed in the definition of mural contained in this article.
 - (6) Murals containing any depiction of violence, pornography, profanity, tobacco, explosives, or drugs.
- (b) It shall be unlawful for any person to install, display, or maintain a mural prohibited by this section or which is otherwise not in compliance with this article. It is unlawful for any person to display, install or maintain a mural that has not been registered as provided in this article.

Sec. 21-04. – Mural Location.

- (a) Murals shall be permitted on any non-residential building in the city lawfully occupied by any non-residential use.
- (b) Murals shall not be permitted on any residential building except on a multi-family building and associated structures, such as a parking garage.
- (c) Murals are not permitted on the primary facade of a building.

Sec. 21-05. – Mural Maintenance.

- (a) The property owner of the property upon which the mural is located is responsible for mural maintenance, upkeep, repair and general compliance with the requirements of this article.
- (b) A mural shall be kept in good condition for the life of the mural and shall be maintained, at a minimum, in accordance with the maintenance schedule and responsibilities approved by the director.
- (c) The display surface of a mural shall be kept clean and neatly painted and free from corrosion.
- (c) Any mural that is not properly maintained or which is faded or in a state of disrepair, dilapidated or in a deteriorated condition, as determined by the director or the City building official, shall be

repaired, removed, restored, or covered with opaque paint, similar to the primary building materials/colors or other appropriate material approved by the city, by the building owner within ten business days after receipt of written notice thereof from the director.

Sec. 21-06 – Variance

A variance from one or more of the requirements of this Article may be granted by the Planning and Zoning Commission upon written application setting forth the following, which shall be factors to be considered by the Commission in determining whether to grant the variance:

- (a) The degree of the variance;
- (b) The reasons for the variance requested;
- (c) The location of the variance requested;
- (d) The duration of the variance requested;
- (e) The effect on public safety;
- (f) The effect on general public welfare;
- (g) The impact on neighboring properties; and
- (h) The degree of hardship involved if the variance is not granted.

Sec. 21-07 – Enforcement

- (a) If the director or the City's building official determines a mural to be in a dilapidated or deteriorated condition, the mural shall be restored or removed by the owner and/or occupant of the structure to which it is applied within thirty (30) days of receipt of written notice requiring restoration or removal. Removal accomplished by painting over or covering must be by painting over the entire mural surface with opaque paint, similar to the primary building materials/colors or other appropriate material approved by the city
- (b) The director of the City's building official may cause the removal or painting over/covering of any mural that is not maintained in accordance with the provisions of this article or which otherwise violate any provision of this article. A mural which is kept, maintained, or allowed to remain in a dilapidated or deteriorated condition or which otherwise violates a provision of this article is hereby declared to be a nuisance. Upon the failure of the owner and/or occupant of the premises on which the mural

is located to repair, restore, or restore the mural or otherwise correct the violation of this article, following thirty (30) days written notice thereof, the city may cause the removal or painting over of the mural. The owner and/or occupant shall pay all expenses incurred by the city incident to such removal. In the event of the failure of the owner and/or occupant to remit to the city the expenses incurred in the abatement of the nuisance, a lien may be placed on and against the property on which the mural was located. Such lien shall bear interest at the highest legal rate per annum and shall be a first priority lien, second only to liens for taxes.

Sec. 21-08 through 21.30 – Reserved.”

SECTION 2: All ordinances, orders, or resolutions heretofore pass and adopted by the City Council of the City of Everman, Tarrant County, Texas are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, are in conflict herewith.

SECTION 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 5. This ordinance shall be effective from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Everman, Tarrant County, Texas this the 21st day of May, 2024.

APPROVED:

Ray Richardson, Mayor

ATTEST:

APPROVED AS TO FORM:

Mindi Parks, City Secretary

Victoria Thomas, City Attorney
4861-1354-5149, v. 2