

ORDINANCE NO. 2023-314

AN ORDINANCE AMENDING CHAPTER 8 OF THE MADISON CITY CODE

WHEREAS, the City of Madison Director of Planning and Economic Development has recommended that the City Council amend the City Code to provide for an application process for the placement of murals within the City; and

WHEREAS, the City of Madison Director of Planning and Economic Development has also recommended that the City Council amend the City Code to provide for an appeal process for the denial of a mural application; and

WHEREAS, the City Council received input from citizens and civic groups on the benefits of and regulations for murals.

BE IT ORDAINED by the City Council of the City of Madison, Alabama, that the Madison City Code of Ordinances is hereby amended as follows:

Section 1. Chapter 8, Article II shall be amended to insert the following revised first sentence of Section 8-26 with all remaining provisions of this Section remaining in force undisturbed:

“Sec. 8-26. Appeals

With the exception of the appeals processes detailed in Article IV, Divisions 3 and 4 of this Chapter for the permitting of small cell antennas and murals, whenever under this chapter it is alleged that there is an error in any decision, order, grant of permit, refusal to grant permit, or any other requirement or determination made by any official, building official, department head, agency or other authority charged with enforcement of or decision-making power under the applicable provisions of this chapter, any person aggrieved including any official, building, department head, agency or other authority of the municipality shall have the right to administrative review before the construction board of appeals, in accordance with procedures prescribed in the International Codes as adopted herein.”

Section 2. Chapter 8, Article IV shall be amended to insert the following Division immediately after Division 3:

“Division 4. Murals

Sec. 8-98.75. Definitions.

The terms below have the following meanings for purposes of this chapter.

- (a) *Development Plan* means a plan that shows the proposed mural and describes the relationship of the mural to the surrounding context, the surface to which the mural will be attached or applied, mural dimensions, proposed materials and colors, and application techniques.
- (b) *Maintenance Plan* means a plan for the preservation, routine care, restoration, and removal of a mural.

- (c) *Mural* means any graphic, painting, painted or tiled wall surface or copy that is visible and projects a graphic display and/or image that does not direct attention to an organization, business, a product, commodity or service for sale or lease or any other similar interest or activity.
- (d) *Mural Advisory Board* is a five-member body established pursuant to City Code of Ordinances Chapter 28, Article VI that provides guidance, review and approval of murals.

Sec. 8-98.76. Location - generally.

- (a) Murals are permitted on public property and within the Neighborhood Business (B1) District, Urban Center (UC) District, and Traditional Neighborhood Development (TND) District. Murals within the TND District will only be permitted in the designated Neighborhood Center Areas.
- (b) Murals shall be located as to be visible from a street, pedestrian path, or other publicly accessible space.
- (c) Wall surfaces must be associated with a building or its accessory structures and cannot be freestanding wall structures.

Sec. 8-98.77. Permit Required.

- (a) Murals must receive a Certificate of Approval signed by the Mural Advisory Board. Murals proposed in the Madison Station Historic District must first obtain a Certificate of Approval, which will be forwarded to the Historic Preservation Commission for consideration in granting approval of a Certificate of Appropriateness.
- (b) Application for a Certificate of Approval will follow standard procedures and have a fee of \$100. Applications shall include and address the following:
 - (1) Development plan including schematic design.
 - i. Relationship with the building and surrounding properties
 - ii. Location and dimensions of mural
 - iii. Colors, materials, type of surface, and techniques to be used during application.
 - (2) Maintenance plan
 - i. Preservation, routine care, and restoration methods upon completion
 - ii. Techniques required.
 - iii. List of responsible parties for maintenance, removal, and contract agreement
 - iv. Methods of removal once the lease is over or if mural is too damaged to be repaired.
- (c) Approved murals require an installation permit, with a fee of \$50, for a term of three to seven years. Murals must be completed within six months of receiving the permit.
- (d) Modification to an existing mural will be processed as a new mural request.

Sec. 8-98.78. Mural Inspection, Renewal and Removal.

- (a) Inspection of murals will be at the end of the summer season and the end of the winter season to ensure it has been maintained properly during harsh environments.
 - (1) In the event of damage due to a storm or accident, the inspection of the mural will occur as soon as feasible.
- (b) The Mural Advisory Board as well as inspectors from the Building Department will deem if a mural has become too damaged to repair.
- (c) A mural permit may be renewed if the mural has been maintained properly.
- (d) If a mural is deemed too damaged to repair, the property owner will be notified that the mural must be removed or painted over within 30 days.

Sec. 8-98-79. Specific Mural Requirements

- (a) There shall be no more than two murals per building.
- (b) Murals may only be installed on side or rear walls of buildings, except consideration shall be given to front walls for mixed use buildings in the B1 District that do not have a side wall.
 - (1) Murals on front walls shall not cover more than 25 percent of the wall façade.
- (c) Window murals are permitted provided they do not occupy more than 25 percent of the window area.
 - (1) Paint used for window murals must be durable to the environment, but also easily removable once the term has expired.
- (d) Murals may not cover or detract from the significant or character-defining architectural features of a structure.
 - (1) Murals must complement and enhance the structure they are applied to.
- (e) Murals must exhibit skilled application standards consistent with sound and generally accepted artistic practices and principles.
- (f) Paint must be of superior quality intended for exterior use so not to corrode or compromise the integrity of the material of the building it is applied to.
 - (1) Paint that is reflective, fluorescent, or metallic is prohibited.
 - (2) A weather resistant sealant and anti-graffiti coating shall be applied upon completion.
 - (3) Walls on which murals are located must be cleaned using the gentlest means possible and primed with appropriate paint.

- (g) Walls on which murals are located must be in good repair with roof, flashing and parapets in good condition.
- (h) Lighting for murals must be shielded and directed towards the mural to ensure no spillage of light onto surrounding properties.
- (i) The location, size, nature, or type of mural shall not create a hazard to the safe and efficient operation of vehicles nor create a condition that endangers the safety of persons or property thereon.
 - (1) Murals may not extend beyond the eaves, parapet, or sides of a building.
 - (2) Murals must be located to engage and encourage pedestrian interaction.
 - (3) Murals with a proposed projection from the wall that is located less than eight feet from adjacent ground surface shall have a lawn separating the mural wall and the sidewalk so as to not cause an obstruction of pedestrian traffic.
 - i. If the proposed projection is designed to be interactive, an ADA compliant pathway, approved by the City of Madison, should connect from the sidewalk to the mural.
- (j) Budgeting, insurance, liability, maintenance, and mural removal will be the responsibility of the property or business owner.
 - (1) Whether the rights of the artist commissioned to create the mural are retained or voided is determined by the contract agreement, as well as whether the artist may include their signature on the mural.
 - (2) The contract agreement must also address responsibilities for maintenance, removal, and artist rights if property ownership changes while the mural is still active.
 - (3) A copy of the contract agreement and any amendments thereto must be provided to the City.
- (k) Copyright ownership will be that of the property owner for reproduction of the image (i.e., stickers, apparel, etc.) unless otherwise agreed upon.
- (l) Murals proposed in the Madison Station Historic District shall also follow the District's Regulations and Guidelines pertaining to mural design and requirements.

Sec. 8-98-80. Appeal of Mural Advisory Board Decision.

- (a) A final decision of the Mural Advisory Board may be appealed to the City Council upon filing a written statement with the City Clerk providing the date of the decision, the precise decision of the Board being appealed and a precise statement of the grounds for the City Council to reverse any decision of the Board.
- (b) A copy of the written appeal must also be served on the City Attorney contemporaneously with the filing of the appeal with the City Clerk.

- (c) The City Council will hear the appeal during a regularly scheduled council meeting within forty-five days of the date said appeal is filed with the City Clerk.
- (d) The City Council shall apply a *de novo* standard of review.
- (e) The City Council may consider new evidence not considered by the Mural Advisory Board during the appeal hearing.
- (f) A reversal of the Mural Advisory Board shall require a majority vote of the City Council. Furthermore, the Council’s decision on the appeal may be predicated upon additional conditions and/or other required changes to the mural design not considered by the Mural Advisory Board.”

Section 3. If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

Section 4. No other provisions of the City Code are amended by this Ordinance, unless specifically stated and referenced herein.

Section 5. This ordinance shall become effective immediately upon its adoption and proper publication as required by law.

READ, PASSED AND ADOPTED this 9th day of October 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ____ day of October 2023.

Paul Finley, Mayor
City of Madison, Alabama