

# Council Communication

## October 20, 2014, Study Session

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### Discussion of Wall Graphics

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**FROM:**

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**SUMMARY**

This item relates to land use issues and city code compliance efforts regarding wall graphics. At the October 7, 2014, meeting, the Council requested that a discussion of this issue be placed on the next available study session agenda. This is an opportunity for Council to determine what action if any they would like to consider on the issue of wall graphics within the City. Unless approved as Public Art, wall graphics are prohibited by the Land Use Ordinance.

**BACKGROUND AND POLICY IMPLICATIONS:**

The topic of wall graphics recently came to light as part of the issuance of a City sign permit for a local downtown business, The Book Exchange, located at 90 N. Pioneer Street. Wall graphics are listed under Prohibited Signs in the City's Sign Regulations, AMC 18.96.020:

33. **Wall Graphics.** Including but not limited to any mosaic, mural or painting or graphic art technique or combination or grouping of mosaics, murals, or paintings or graphic art techniques applied, implanted or placed directly onto a wall or fence.

Apparently a previous business occupying the space at 90 N. Pioneer painted the illustration on the front façade of the building. As part of the approval of a new application for installation of a canvas awning sign for The Book Exchange, a condition accompanied the sign permit approval requiring that the wall graphics be removed. Prohibited signs are defined in the sign code as a public nuisance and are required to be removed or the nuisance abated. A change in business provides the opportunity to correct existing infractions of the city's sign code.

**Sign Code – History**

The City of Ashland first adopted a sign code in 1968. Wall graphics were not identified in the initial code. The first definition of wall graphics appeared 1982, when the sign code was revised and replaced in its entirety. It was at this time that wall graphics first were listed under the Prohibited Signs section and have remained since.

From a review of the limited legislative history of Ashland's Sign Code, it is uncertain as to the objectives or purpose for prohibiting wall graphics. One might assume that there was concern over the potential impacts stemming from unregulated graphics and murals, applied at random to building facades and the disruption that may result to the otherwise more orderly pattern of business identifications envisioned through the sign code.



### **Public Art and Signs**

Over the years, the difference between what constitutes public art and what is a sign has been debated. In order to clarify this issue, an ordinance defining and regulating the process for establishing public art was adopted in 2010. The process for acquiring public art generally starts with advertising a request for proposal and the creation of a selection panel. The selection panel evaluates the proposals and makes a recommendation to the City's Public Arts Commission. The Public Arts Commission then forwards a recommendation to the Council for final selection. In cases where public art is proposed to be placed on private property, the City is required to receive authorization to use the private property for public art by securing permission through a written agreement or other legal instrument. With the inception of the public art process in 2010, the sign code was amended concurrently to explicitly state that "public art shall not be considered a sign."

Oregon municipalities vary substantially regarding how wall graphics and murals are regulated within their jurisdictions (see attached matrix). A number of communities take an approach similar to Ashland's in which murals may be designated as public art by a city committee and are therefore exempted from the sign code. Other communities range from permitting murals without any review process, regulate them as wall signs subject standards within the sign code, or allowing private murals following a neighborhood involvement process and certification that that no compensation was provided for display of the mural on the private property.

### **Enforcement of Wall Graphics**

Code compliance action directed toward the removal of wall graphics has occurred infrequently. There have been instances where the information accompanying the sign permit is unclear, incorrectly identifying the wall graphic as a wall sign and not describing that the graphic would be painted directly to the wall face. In a few circumstances and as long as the area of the wall graphic was within the parameters for total sign area set by the Land Use Ordinance, it appears the wall graphic was permitted to be retained. A notation would be placed in the file requiring the wall graphic to be removed when a change in business occurred or an application to replace signs was requested.

### **FISCAL IMPLICATIONS:**

N/A

### **STAFF RECOMMENDATION AND REQUESTED ACTION:**

Staff is not requesting action by Council at this time. The item is only for the purpose of discussion.

### **SUGGESTED MOTION:**

N/A

### **ATTACHMENTS:**

- Matrix of other cities



## Oregon

Jurisdiction	Approach toward mural regulation	Select Code Provisions
<b>Bend</b>	<p>There is no reference to "Wall Graphics" or "Murals" within Bend's land use code. Murals, not otherwise commissioned as public art, would qualify as Wall Signs and thus be subject to the size and locations standards outlined in the sign code (right)</p> <p>The Arts, Beautification and Culture Commission identifies suitable public locations for public art (sculpture, murals, etc), and then releases a call for enteries for artists to submit proposals. The selected works are commissioned and included in the Public Art collection and are exempt from the sign code.</p>	<p>a. Wall signs are allowed for nonresidential uses.</p> <p>b. A wall sign may be painted, attached or pinned away from the wall. A wall sign shall not project from the surface upon which it is attached more than required for construction purposes and, in no event, more than 18 inches. A wall sign located over an alley shall have a minimum 14-foot clearance unless it projects less than 12 inches from the building.</p> <p>c. One or more wall signs may be allowed. The total area shall be deducted from the building sign area allowance.</p> <p>d. Wall signs shall be located on the designated sign band. When a sign band does not exist, the sign shall be located between the first and second story of a multiple story building. The sign shall not be installed higher than the top of the second story window opening to which it is adjacent and shall not be more than 24 feet above grade.</p> <p>Signs located below second story window opening</p> <p>e. Wall signs installed on mansard roofs may be installed vertically when installed on the lowest portion of the sloped roof.</p> <p>f. Wall signs shall not extend above the roofline, eaves, wall or building facade or more than 24 feet above the finished grade below the sign.</p>
<b>Milwaukie</b>	<p>Recently amended regulations (June 2014) now exclude art murals from the definition of 'sign' in the Sign Ordinance.</p> <p>The Milwaukie City Council approved an ordinance (Title 20) establishing a new public art program. The program newly allows murals to be located on public buildings or on private buildings provided a 5 year public art easements is obtained</p> <p>Public Ownership Definition: The mural must be on the surface of a building or structure that is either on property owned by the City of Milwaukie or for which a mural easement to the City has been granted.</p>	<p>Section 14: Sign Code</p> <p>Wall Signs:</p> <p>1. Area : The maximum permitted area of a wall sign shall be 20% of the building face.</p> <p>a. In the DR and DOS Zones the maximum permitted area of a wall sign shall be 16 square feet.</p> <p>b. In addition to the sign size limitations of this chapter. if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed. the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.</p> <p>14.08.010M Exempt Signs: The following signs shall not require a sign permit but shall conform to all other applicable provisions of this chapter and shall be allowed outright in all zones, except as otherwise noted: M. Art murals, and any identified subcategories. as permitted by Title 20. Such displays are not considered signs and are exempt from all provisions of Title 14.</p>

## Oregon

### Jurisdiction

### Approach toward mural regulation

### Select Code Provisions

#### Springfield

Murals are exempt from the sign code and defined as follows:

Murals. An artistic painting applied to and made integral with a wall surface. The primary purpose of a mural is not to advertise products marketed within the structure.

Exempt signs: 8.234 (15) Murals. A mural on a wall located in a commercial, public land, or industrial district. The size of the mural is not regulated.

8.267 Sports Facility Sign District: (4) Murals. Murals are allowed as an artistic painting applied to and made integral with a wall surface. To be exempt from permits, murals shall not include logos or lettering.

#### Eugene

"Murals" are fully exempt from the sign code and as such are not reregulated in the City of Eugene. As an example a Wholesale Fish business had painted fish on the side of their building and Eugene's hearings officer found that as the painting contained no lettering or logos it was a "mural" and thus allowable.

The City of Eugene enacted a percent-for-art ordinance that designates a percentage of capital improvement project budgets to create, collect and display public art, supporting the purchase of artworks to be placed in public spaces.

Definitions: Murals. Painted wall highlights, wall decorations and other murals

"Public Art", includes murals, are acquired by the City of Eugene as accepted or commissioned by the Public Art Committee per established criteria.

## Oregon

Jurisdiction	Approach toward mural regulation	Select Code Provisions
<b>Portland</b>	<p>The City has an "Original Art Mural Painting Program" which broadly allows murals through permit approval by the City, however such original art murals are prohibited on historic contributing resources, conservation landmarks, or residential buildings of 5 units or less.</p> <p>The applicant and property owner shall certify in the permit application that the applicant agrees to maintain the mural in place for a period of five years without alteration.</p> <p>Public Art approved and funded through the Regional Arts and Culture Council, including public art murals, is exempt from the sign code, Design Review, and Historic Design Review.</p>	<p>Definitions: 4.12.020 J. Original Art Mural. A hand-produced work of visual art which is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. Original Art Mural does not include: 1. mechanically produced or computer generated prints or images, including but not limited to digitally printed vinyl; 2. murals containing electrical or mechanical components; or 3. changing image murals.</p> <p>Murals for which compensation is given or received for the display of the mural, or for the right to place the mural on another's property, are prohibited. The applicant shall certify in the permit application that no compensation will be given or received for the display of the mural or the right to place the mural on the property.</p> <p>Neighborhood Review: No Original Art Mural permit shall be issued until the applicant certifies that he or she has completed the required Neighborhood Involvement Process. This is a process requirement only and in no event will an Original Art Mural permit be granted or denied based upon the content of the mural.</p>
<b>Monmouth</b>	<p>Wall Graffics or murals are prohibited except by permission of the City Council. The code does not outline the criteria for a City Council exception.</p>	<p>81.030 Prohibited Signs. L. Wall graphics or murals except by permission of the City Council.</p> <p>Definition: Wall Graphics. Any mosaic, mural, painting or graphic art technique or combination thereof applied, implanted or placed directly onto a wall or fence.</p>