

**CITY OF OJAI
ORDINANCE NO. 916**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA AMENDING CHAPTER 16 (PUBLIC ARTS) OF TITLE 4 (PUBLIC WELFARE, MORALS, AND CONDUCT) TO THE OJAI MUNICIPAL CODE REGULATING THE DISPLAY OF PUBLIC MURALS

WHEREAS, the City desires to regulate the placement of public murals on private, commercial buildings within the City;

WHEREAS, these regulations are not intended to regulate content or the viewpoints expressed in the murals in violation of the First Amendment; and

WHEREAS, these regulations are intended to (1) foster the enjoyment of public spaces in a positive way, (2) enhance the City's aesthetics, (3) create an attractive place to work, live, and shop, (4) benefit the citizens, property owners, and City, and (5) revitalize creativity in public spaces.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council hereby determines that the foregoing findings are true and correct, and incorporates them herein by reference.

SECTION 2. Code Amendment. Chapter 16 (Public Arts) of Title 4 (Public Welfare, Morals, and Conduct) of the Ojai Municipal Code is amended to as follows:

Article 3. Murals

Sec. 4-16.301. Purpose

- (a) Exceptions as noted in Article 2 Sec. 4-16.205. Projects subject to **Public Arts Program requirements, (b) Exceptions**, shall apply to this Mural Ordinance.
- (b) This Ordinance applies to proposals to install public murals on private, commercial buildings within the City.
- (c) "Mural" means any large-scale artwork, painting or mosaic, visible from public rights of way, public spaces, and public areas of private, commercial buildings, applied directly to an exterior area of a building face or wall which may or may not include sculptural elements; an artwork painted or printed on a material bolted or otherwise fastened to a wall; and /or an artwork seeking to create a faux finish, illusory, or trompe l'oeil (fool the eye) architectural detail on an exterior wall.
- (d) Murals are intended to further the goals of the City's Public Art Program by:
 - (1) Fostering enjoyment of public spaces in a positive way;
 - (2) Enhancing the aesthetics of the City;

- (3) Creating attractive places to work, live, and shop;
- (4) Benefiting citizens, the City, visitors, and property owners; and
- (5) Revitalizing creativity in the public space.

Sec. 4-16.302. Mural Application

A complete application for a Mural Proposal must be submitted to the office of the Arts Commission liaison at City Hall. The application must include:

- (a) The proposed artist's curriculum vitae or resume and samples of prior mural work or other relevant artwork;
- (b) The proposed design of the mural, in full color, drawn to scale;
- (c) A list of the proposed materials and the method of their application to the proposed wall;
- (d) A copy of the building owner's proof of liability insurance; and

Sec. 4-16.303. Limitations

The proposed mural must not:

- (a) Be placed on exit walls in a manner interfering with the identification or recognition of an exit, fire escape, stairway, or window;
- (b) Identify prices, products, or services for off-site commercial enterprises;
- (c) Include an advertisement or be commercial in nature. Murals must not contain copy, lettering, symbols or references directly to the promotion of any product, business, brand, organization, service, cause or place. Murals may contain limited commercial elements so long as they are not considered commercial speech with the purpose of promoting a commercial transaction.
- (d) Contain false statements, fighting words, obscene language or images, or create a clear and present danger to the general public

Sec. 4-16.304. Public meeting

After receiving a complete application, a Public Art Jury shall be called to review the mural application at a public meeting.

The Public Art Jury, appointed by the Arts Commission, shall be composed of seven members including: a representative of the Arts Commission, a representative of either the Planning Commission or the Historic Preservation Commission, an artist, a community member at large, two arts professionals, and a representative of the commercial building who has submitted the mural application.

The Public Art Jury shall make a recommendation to the Arts Commission for final approval or denial. The Arts Commission's decision are subject to appeal as provided in chapter 4, title 1 of the City's municipal code. The Arts Commission shall schedule a public meeting to review and approve, approve with modifications, or disapprove the application. The applicant, artist, or a qualified art consultant appointed by the applicant, must attend the public meeting.

Sec. 4-16.305. Findings

The Public Art Jury shall make all of the following findings to recommend approval of a Mural Proposal to the Arts Commission:

- (a) Artist Qualifications. The artist is experienced with the proposed mural and materials, and provided examples of past similar work;
- (b) Aesthetic Considerations. The proposal presents an innovative and unique artistic vision, including technique, composition of visual art elements, use of line, color, form, texture, materials, and suitability;
- (c) Architecture. The proposal complements the architectural design of the building on which the mural is proposed to be placed;
- (d) Paint. All paint must be durable, meet a minimum lightfastness standard of 6 to 8 on The American Association of Textile Chemists and Colorists "Blue Wool Scale", and be coated with a City approved release type anti-graffiti application, and contain low or no volatile organic compounds;
- (e) Wall. The wall must have the structural integrity to safely hold any proposed materials;
- (f) Historic Nature. If the site is a designated landmark, within a historic district, a structure of merit, or a point of historical interest, the Historic Preservation Commission must first determine a mural on the site will not adversely affect its historic nature;
- (g) Appropriateness. The proposal does not detract from the character of the surrounding area or neighborhood;
- (h) Copyright. The artist and the building owner agree to allow images of the completed mural to be used by the City at its sole discretion;
- (i) Limitations. The proposal does not conflict with any of the prohibitions under section 4-16.303.

Sec. 4-16.306 Final Mural Project Inspection

After a Mural is complete, the Public Art Committee of the Arts Commission will conduct a site review. If the Mural is not in keeping with the approved Mural Proposal, the owner must direct the artist(s) to address all identified issues within 14 days of the inspection. If any identified issues are not adequately adjusted, the Public Art Committee may recommend to the Arts Commission that the Mural be removed at the owner's expense.

Sec. 4-16.307. Mural Inspection and Maintenance

- (a) The building owner will be responsible for maintaining the mural, to the satisfaction of the City Manager or designee in consultation with the Arts Commission.
- (b) All murals will be subject to ongoing inspection by the City Manager or designee in consultation with the Arts Commission.
- (c) Murals not properly maintained in the judgment of the City Manager or designee in consultation with the Arts Commission may be declared a public nuisance at a noticed public hearing before the Arts Commission. A determination of public nuisance may be appealed to the City Council within 15 days of the Art Commission's decision. A notice of appeal must be filed with the City Clerk in writing. The City Clerk shall set the matter for a public hearing before the City Council. The City Council may confirm or deny the declaration of the mural as a public nuisance, applying the standards in this Chapter and this Code.
- (d) A mural deemed a public nuisance must be repaired or removed at the building owner's expense. Mural removal is subject to the rights of the artist, which are protected under both the California Art Preservation Act and the Visual Artist Rights Act, unless waived by the artist in accord with those laws.
- (e) The bare wall left after removal of the mural must be returned to a condition consistent with the building's existing color scheme, texture, façade, and other requirements of the Code. The City may, upon reasonable notice, perform all necessary repairs, maintenance, and secure insurance or take such legal or other action deemed necessary to have the artwork maintained, and the costs therefore become a lien against the real property.

Sec. 4-16-308. Existing Murals

(A) Replacement of an existing Mural. A new Mural may not be installed on the site where the deteriorated Mural was removed without applying to the Arts Commission in accordance with this Mural Ordinance.

B) Modification of an existing mural. Murals existing prior to the adoption of the ordinance are exempt from the ordinance. Murals approved under the provision of this chapter may not be modified, altered, relocated or removed without the prior review of the City.

(C) Maintenance of Existing Murals. Murals on commercial property existing prior to the adoption of this Ordinance should be kept in good condition. If an existing mural is found to be in disrepair, it may be declared a public nuisance by the City Manager or designee in consultation with the Arts Commission at a noticed public hearing before the Arts Commission. A mural deemed a public nuisance must be repaired or removed at the building owner's expense. A determination of public nuisance may be appealed to the City Council within 30 days of the decision. A notice of appeal must be filed with the City Clerk in writing. The City Clerk shall set the matter for a public hearing before the City Council. The City Council may confirm or deny the declaration of the mural as a public nuisance, applying the standards in this Chapter and this Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 4. Environmental Determination. The proposed text amendment is exempt from the California Environmental Quality Act (CEQA) because CEQA only applies to projects which have the potential for causing a significant negative effect on the environment, under CEQA Guidelines Section 15061(b)(3). The proposed addition of mural regulations will not have a significant negative effect on the environment as they do not permit any new activity or development and instead create new rules regulating murals. Additionally, under CEQA Guidelines Section 15378(b)(5), these mural standards would not be a “project” under CEQA because they would not cause a “direct physical change in the environment” or a “reasonably foreseeable indirect physical change in the environment,” again because they create new regulations and enforcement tools and do not permit any new development.

SECTION 5. Certification. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 6. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

CITY OF OJAI, CALIFORNIA

By _____
Betsy Stix, Mayor

Betsy Stix

3-16-21

Date signed

ATTEST:

Gail Davis

Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

Matthew T. Summers

Matthew T. Summers, City Attorney

City of Ojai
Ordinance No. 916

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on February 9, 2021 and adopted at a regular meeting held on February 23, 2021 by the following vote:

AYES: Blatz, Francina Haney, Stix, Weirick
NOES: None
ABSTAIN: None
ABSENT: None



Gail Davis
Deputy City Clerk for the City of Ojai