

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending "Code of Ordinances, City of Lowell, Massachusetts," with respect to Chapter 222, entitled Peace and Good Order, by adding §222.21 entitled "Murals".

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The City Council, by virtue of Massachusetts General Laws, Chapter 43, Section 95, has the right to general management and control of the City of Lowell; and

The City Council has an interest in murals in the City of Lowell and wants to control where and what murals are being created in the City of Lowell.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

1. "The Code of Ordinances City of Lowell, Massachusetts" hereinafter called the "Code", adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to Chapter 222, entitled Peace and Good Order by adding the following section:

**§222.21. Murals**

**§222.22. Mural Standards.**

**A. Definition.**

- (1) Mural means a hand produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, metal panels, applied sheet graphic or other medium generally, so that the wall becomes the background surface or platform for the graphic, generally for the purpose of decoration or artistic expression, including, but not limited to, painting, fresco, or mosaic.

**§222.23. Mural placement.**

- (1) Murals shall not be permitted on the primary façade. A primary façade is defined, for purposes of this section, as the building elevation that faces the adjacent street right-of-way and is the primary customer entrance. Buildings located on a block corner with the primary customer entrance on that corner shall be reviewed by the Cultural Affairs & Special Affairs (CASE) Office.
- (2) Murals located in the Downtown Lowell Historic District shall require additional review to ensure compliance.

**§222.24. Prohibited mural types.**

**A. The following types of murals are prohibited:**

- (1) Murals or other representations that 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 that project from the wall surface, except for the minimum necessary protrusion to mount the mural to the wall or structure.
- (3) Murals that contain material that, when taken as a whole, appeals to the prurient interest in sex, portrays sexual conduct in a patently offensive way, and which, taken as a whole, an average person applying contemporary community standards would not believe to have serious literary, artistic, political, or scientific value.
- (4) Murals that are directed to incite or produce imminent lawless action and are likely to incite or produce such action.
- (5) Murals that convey threats of violence that are directed at a person or group of persons that have the intent of placing the target at risk of bodily harm.
- (6) Proposed work which contains material that when taken as a whole, applying contemporary community standards, reflects racist, misogynist, xenophobic, or otherwise bigoted imagery and/or messages will be denied.
- (7) Proposed work shall not contain commercial advertising or messages. Copyrighted images are not allowed. CASE shall review and take special consideration for proposed murals that reflect historic advertising signs.

- (8) Murals on the façades of historic mill structures, gatehouses, locks and canals, and canalways are strictly prohibited. Mural projects located in the Historic District will require an application to the Lowell Historic Board for review and approval of location and architectural context, in connection with the historic significance of the building proposed for the mural, to ensure District authenticity.

**§222.25. Lowell Historic Board.**

- A. In addition to the requirements outlined within this ordinance, the Lowell Historic Board will provide additional review on a case by case basis to all proposed projects located on the following building types in order to protect nationally and locally significant historic structures from adverse impact as well as to safeguard prior invested in the District:
  - (1) Structures rated “A” (nationally significant) or “B” (locally significant) on the Lowell Historic Preservation commission (LHPC) index of historic resources in the District
  - (2) Structures located within the National Historical Landmarks Locks & Canals Historic District.
  - (3) Structures that have received federal or state historic rehabilitation tax credits as part of their rehabilitation.
  - (4) Structures that have a LHPC/Interior Department preservation restriction on it and/or that have received a prior grant or loan from the LHPC.
- B. The Lowell Historic Board shall ensure that proposed installations cannot obscure or detract from architectural features, nor detract from the existing historic, architectural, and design context of the site and surrounding area. The installation must respect the historic setting and must not overwhelm or be obtrusive.

**§222.26. Surface preparation.**

- A. Sand and high pressure water blasting are not permitted as a cleaning process for either surface preparation or for mural maintenance purposes in any historic district or any building eligible for inclusion on the State or National Register of Historic Buildings. Treatments that cause damage to historic materials shall not be used.

**§222.27. Maintenance.**

- A. The mural shall be kept in good condition for the life of the mural pursuant to the maintenance schedule and responsibilities approved by Cultural Affairs & Special Events (CASE) and incorporated into the Mural Permit. A mural shall be deemed to be in a state of disrepair when twenty-five (25) percent or more of the display surface area contains peeling or flaking paint, or is otherwise not preserved in the manner in which it was originally created.
- B. The display surface shall be kept clean and neatly painted and free from corrosion.

- C. Any mural that is not maintained according to the maintenance schedule incorporated into the mural permit or that falls into a state of disrepair may be ordered removed or covered with opaque paint, similar to the primary building materials/colors or other appropriate material by CASE, or the City Manager or designee, all in the manner provided for in the mural permit. Owners of murals subject to removal shall be provided a time limit of thirty (30) days from the date of the written notice for such removal or covering. CASE and/or City Manager designee may authorize additional time for good cause shown.

**§222.28. Design and safety standards.**

- A. Explanatory wording relative to the graphic may be incorporated into the mural. Artist signatures shall be allowed in proportion to the overall size of the mural, limited to maximum of two (2) square feet in size.
- B. The proposed mural will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic.
- C. The location and scale of the mural should be in keeping with and enhance the building or structure on which it is located.
- D. The proposed mural is well integrated with the building's façade and other elements of the property and enhances the architecture or aesthetics of a building or wall.
- E. The proposed mural, by its design, construction, and location, will not have a substantial adverse effect on abutting property or the permitted use thereof.
- F. The proposed mural is not detrimental to the public health, safety, or welfare.
- G. The mural will not have a detrimental effect on the structural integrity of the wall on which it is applied/affixed.
- H. The maintenance schedule is reasonable for the mural and the building on which it is applied/affixed. Any deterioration, vandalism, and other maintenance issues shall be addressed in a timely manner by the artist and/or sponsoring organization. Failure to properly maintain the mural will result in notification for removal.
- I. Installations cannot obscure or detract from architectural features, nor detract from the existing historic, architectural, and design context of the site and surrounding area. The installation must respect the community setting and have no tendency to overwhelm or be obtrusive.
- J. Murals must be secured in a manner so that they will not create potential hazards to the building, public, or surrounding property.

**§222.29. Mural permit.**

- A. No mural shall be installed unless written permission is first obtained by the owner of the building upon which the mural is to be placed, or the building owner's agent, and a mural permit is obtained from the City of Lowell's Cultural Affairs & Special Events (CASE) Office.

**§222.30. Application requirements.**

- A. Each permit application shall contain, but not be limited to, the following information:
- (1) A brief proposal describing the scope of the project, including a site plan showing the lot and building dimensions, and indicating the proposed location of the mural.
  - (2) Pictures of the building elevations.
  - (3) A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural.
  - (4) A colored drawing of the proposed mural.
  - (5) A biography of the artist and/or the group installing the mural. The City of Lowell reserves the right to ask for a portfolio of artwork demonstrating the artist's prior experience undertaking a project of this scope.
  - (6) A description of the proposed maintenance schedule that indicates the expected life of the mural, the maintenance plan for that period, and method for removal, if applicable.
  - (7) Written confirmation by the mural provider/installer that no damage or negative impact will occur to the wall surface that the mural is to be applied or affixed to.
  - (8) Written permission from the owner of the building to which the mural is intended to be applied, if applicant is not the building owner.
  - (9) An acknowledgement that the mural must be removed or covered if so ordered by the City of Lowell for failure to maintain or for reaching a state of dilapidation.

**§222.31. Mural permit approval.**

- A. A complete application shall be submitted to the Cultural Affairs & Special Events (CASE) Office for review. CASE reserves the right to consult with additional artist organizations in the City of Lowell during the review process.

- B. Applications for a mural permit in the Downtown Lowell Historic District shall be distributed by CASE to the Lowell Historic Board for comment regarding consistency and compliance with the Board's policy on murals and/or public art. CASE shall coordinate, within 30 days of receipt of a complete application, placing the application on an upcoming Lowell Historic Board Agenda for consideration of the proposed location.
- C. Proposed murals located in the Downtown Lowell Historic District will require location approval from the Lowell Historic Board.
- D. All other mural permit applications will be reviewed and approved by the City. No mural permit shall be approved unless CASE, or the City Manager's designee, shall find that these requirements have been fulfilled.

**§222.32. Appeals.**

- A. The City reserves the right to deny applications based upon the standards and qualifications contained in this ordinance, as well as other City of Lowell policies. Appeals of any decision to approve or deny a mural application must be made in writing to CASE within ten (10) days of the decision. Said appeal shall be heard by representatives of CASE, the Lowell Cultural Council, and the City Manager (or his/her designee); this panel shall work with the owner/applicant and/or other appellant to attempt to resolve conflicts collaboratively. If a resolution cannot be met, the appeal panel will request that the appeal be placed on a Lowell City Council Agenda for public discussion and vote.
- B. This section shall not apply to the appeal of any Lowell Historic Board decision, which shall be governed by the appeals process for Lowell Historic Board actions laid out in Ch. 566, Sec. 12 of the Acts of 1983.


**§222.33. Fees.**

- A. There is no fee to apply for a public mural project through the Office of Cultural Affairs and Special Events. However, applicants will be responsible for all City permits & fees that are required for the execution of the project. This includes, but is not limited to, relevant Historic Board application fees and/or notice requirement fees, street closing permit(s), police details, DPW services, and any other City services required to implement the project.

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right, positioned above a solid horizontal line.

Kerry Jenness  
First Assistant City Solicitor



Eileen M. Donoghue  
City Manager

Kara Keefe Mullin  
Assistant City Manager

May 11, 2021

Mayor John J. Leahy  
and  
Members of the City Council

**SUBJECT: Citywide Mural Ordinance**

Dear Mayor Leahy and Members of the City Council:

I respectfully request that the City Council support the attached Citywide Mural Ordinance and vote to send it to a public hearing for review and approval. This ordinance was drafted in response to Councilor Drinkwater's December 22, 2020 motion and provides minimum professional standards and a permitting framework for interested artists and/or commercial property owners. The attached citywide mural ordinance will serve as the foundation to allow public art projects within the City. The Council should be aware that the Lowell Historic Board is in the process of creating additional guidelines for mural projects within the Downtown Historic District. The Board and its staff will conduct public outreach to finalize its proposed guidelines.

The Economic Development and CASE Offices will continue to collaborate with interested muralists, commercial property owners, and other organizations to identify funding and locations for potential mural projects.

Sincerely,

Eileen M. Donoghue  
City Manager

CMM/crt  
Attachment

cc: Christine M. McCall, Director of Economic Development  
Kerry Regan Jenness, First Assistant City Solicitor  
Roberto Dei, Special Events Coordinator