

AMENDED ORDINANCE NO. 01807-34

AN ORDINANCE OF THE CITY OF GALLATIN, SUMNER COUNTY, TENNESSEE AMENDING THE MUNICIPAL CODE OF THE CITY OF GALLATIN AMENDING CHAPTER 5, BUILDING AND BUILDING REGULATIONS BY ADDING ARTICLE XV, TITLED MURALS AND IMAGES, AND AMENDING CHAPTER 12, MISCELLANEOUS OFFENSES, SECTION 12-2, REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council finds that certain graphic images including mural images are not considered signs, and

WHEREAS, graphic mural images may improve the aesthetic appeal of the city and cover unsightly walls or plane surfaces, and

WHEREAS, the proposed code amendment is necessary to accommodate desires to create interesting panoramas and places of interest in the city and promote community involvement, and

WHEREAS, the proposed code amendment will help to improve the aesthetic and create a sense of place in various places in the city;

WHEREAS, the proposed code amendment will allow for effective enforcement against vandalism and the removal of unauthorized markings on vandalized property in a reasonable manner, and

WHEREAS, the proposed code amendment will allow for businesses and individuals to more effectively advertise messages to benefit citizens and to promote economic development, and

WHEREAS, the proposed code amendment will improve the aesthetics of the community, and will not adversely affect property values or create significant distractions to vehicle operators or area property owners, and will minimize visual clutter, and

WHEREAS, the proposed code amendment is not intended to supersede any covenant or restriction on residential, commercial, or industrially zoned property; and

WHEREAS, the proposed code amendment will not create adverse effects upon adjoining property owners or any such adverse effect is justified by the public good or welfare, and

WHEREAS, the amendment is in agreement and consistent with the recommendations of the *Gallatin on the Move 2020* General Development and Transportation Plan as determined by the Planning Commission, and

WHEREAS, the Gallatin-Municipal-Regional Planning Commission provided an advisory review of the proposed Ordinance and recommended approval of these amendments in GMRPC Resolution 2018-061, and

WHEREAS, The City Council of the City of Gallatin is authorized under Tennessee Code Annotated Title 6, Chapter 2, Part 1 and Chapter 54, Part 5 and to adopt ordinances/regulations for the betterment of the city, and

WHEREAS, notice and public hearing before the Gallatin City Council has or will occur before final passage of these amendments pursuant to Article II, Section 1 of the Section Gallatin City Charter and Tennessee Code Annotated, Title 6, Chapter 2, Part 1 and Chapter 54-Part 5;

THEREFORE, BE IT ORDAINED BY THE CITY OF GALLATIN, TENNESSEE, that Chapter 5, Buildings and Building Regulations, Article XV, titled Murals and Images, and Chapter 12, Section 2 is hereby amended as described in Exhibit 'A':

Section 1. The City Council of the City of Gallatin does hereby approve, authorize and direct revision to the Code of Ordinances of the City of Gallatin to show the text as described in Exhibit 'A'.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provision or applications of this ordinance which can be given without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 4. This ordinance shall become effective immediately upon adoption, the public welfare requiring such.

PASSED FIRST READING: July 17, 2018.

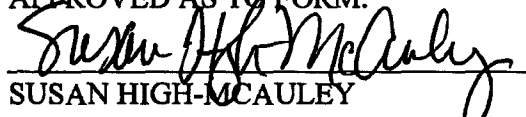
PASSED SECOND READING: August 7, 2018.


MAYOR PAIGE BROWN

ATTEST:


CONNIE KITTRELL
CITY RECORDER

APPROVED AS TO FORM:


SUSAN HIGH-MCAULEY
CITY ATTORNEY

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Exhibit 'A'

Chapter 5, BUILDINGS AND BUILDING REGULATIONS

ARTICLE XV. MURALS AND IMAGES

Sec. 5-300.

Purpose and Intent.

The purpose and intent of a mural image is to provide opportunities to add variety and interest in the community by applying non-text based commercial or non-commercial images of unique redeeming artistic and/or historic images on qualified surfaces to enhance the character of the community and to promote community pride and reinforce a sense of place. Mural images may be painted or tiled when applied to a qualified surface and shall be maintained to preserve the visual quality of the image.

Sec. 5-300. Definitions

Graffiti – non-approved artistic work or random markings applied to buildings, walls, accessory structures or uses as an act of vandalism on public or private property. (This excludes temporary soluble chalk markings or paint marking used for marking utility locations made by a utility company or surveyor.)

Mural Image – A professionally prepared artwork design or representation, comprised of two or more colors or hues, applied to a building wall, free-standing wall or fixed accessory structure or use, expressed in a form and manner as to garner viewer interest and which contains no registered trademark logos or advertising. (A mural is not considered a sign.)

Sec. 5-300. Administration of murals.

(a) Standards for murals

- (1) Murals shall comply with the following standards:
- (2) Any mural proposed in a designated historic district must be reviewed and approved by the Historic District Commission and obtain a Certificate of Appropriateness.
- (3) No Graffiti shall be permitted within or on a mural.
- (4) Murals shall be placed only on walls of buildings in commercial, industrial or on walls of buildings of institutional uses in residential districts.
- (5) Murals may be placed/painted on any façade of a building but shall not cover windows or doorways unless included on the door.
- (6) Murals may contain text within the image.
- (7) No owner or lessor of a building containing a mural may declare damages from the use or viewing of a mural should an adjacent or area property owner erect a building, fence, wall or landscaping that obstructs the vision of a mural from a public street or area private properties.
- (8) The mural shall be painted with limited paint types (oil, acrylic, or other typical wall paint and may include airbrushing or spray paint applications) treated with a sealed-coating and remain at least one year on the painted surface. The mural may be

repainted with the same image without obtaining approval or re-approval by the authority.

- (9) Murals may contain images of items/products sold within the building(s) without being considered a commercial message.

(b) Prohibited Murals Images

- (1) No murals shall contain any devices that includes flashing colors, glitter panels, internal light sources, movement of parts from hand, electric, wind or other similar power sources.
- (2) Murals shall not be composed of vinyl wrappings but shall be limited to tiled or painted surfaces.
- (3) Graffiti is not a permitted form of a mural

(c) Mural Image Permitting Process:

- (1) Application. All applications for a mural shall be made with the Mayor's Office and contain the following information.

- i. Written consent from the property owner
- ii. Draft or scaled rendering of the art work (mural) on the proposed surface and a photograph or rendering of the existing surface
- iii. Dimensions of the artwork (mural)
- iv. Maintenance plan for the mural
- v. Any letters of support from surrounding property owners

(2) Review and Approvals.

- i. All mural applications shall be reviewed by the Gallatin Arts Council and referred to the City Council for approval. If approved by the City Council the Building Department shall issue a permit for the mural.
- ii. Any murals proposed within the Historic Overlay areas of the City shall be reviewed by the Historic District Commission.

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Chapter 12 Miscellaneous Offenses

Section 12-2. Reserved. Vandalism with Graffiti

- (a) It shall be unlawful for any person to write, paint, inscribe, scratch, spray, place or draw graffiti of any type on any public or private building, street, sidewalk, structure or any other real property without first obtaining a permit for a sign or a mural as described in the Zoning Ordinance of the City. Any person convicted of a violation of this paragraph shall be fined not less than two-hundred and fifty dollars (\$250) for the first offense and five-hundred dollars (\$500) for a second or subsequent offense. In addition, the court may order the person convicted of a violation of this section to make restitution to the victim for the damage or loss suffered by the victim as a result of the offense. The court may determine the amount, terms, and condition of the restitution.

- (b) It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in the possession or control of property to fail to remove or effectively obscure any graffiti vandalism upon or unapproved mural from such property within 10 days after notice by the city official to remove the graffiti vandalism or unapproved mural. Any person convicted of a violation of this paragraph shall be fined not less than one-hundred dollars (\$100). In determining the fine to be imposed, the court may consider the efforts, if any, taken by the violator to remove or effectively obscure the graffiti during the preceding calendar year. The mandatory fine provided in this section shall not apply to the property owner, agent, manager, or possessor of property if such property owner, agent, manager, or possessor has been victimized two or more time by graffiti vandalism within any a calendar year and during such time, has removed or effectively obscured such graffiti from the property in a timely manner.