

ORDINANCE NO. 2491

AN ORDINANCE ESTABLISHING A PUBLIC ART MURAL PROGRAM; CREATING THE WOODBURN PUBLIC ART MURAL COMMITTEE AND PROVIDING FOR A PROCESS FOR THE CITY'S CONSIDERATION OF PUBLIC ART MURALS

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Approval by Woodburn Public Art Mural Committee. No person shall commence creation of any public mural without first obtaining approval from the Woodburn Public Art Mural Committee and agreeing to donate the mural to the City of Woodburn as provided in this Ordinance. Murals that are created or exist without approval from the Woodburn Public Art Mural Committee or are inconsistent with the conditions of approval from the Woodburn Public Art Mural Committee are not public art murals and are subject to the regulations contained in the Woodburn Development Ordinance and other applicable ordinances.

Section 2. Creation of Woodburn Public Art Mural Committee. The Woodburn Public Art Mural Committee ("the Committee") is hereby created by the Woodburn City Council and is delegated power and authority pursuant to this Ordinance.

Section 3. Composition of Woodburn Public Art Mural Committee.

A. The Woodburn Public Art Mural Committee shall consist of five members appointed by the Mayor to a full or unexpired term, and confirmed by the City Council. Any vacancy in the Committee shall be filled by appointment by the Mayor with the consent of the City Council for the unexpired portion of the term.

B. The Woodburn Public Art Mural Committee shall consist of two City Councilors, two members who have experience, training or expertise in the visual arts, art history, art criticism, or art education; and one at-large member.

C. All members of the Committee shall be legal residents of the City of Woodburn. Except that the two members who have experience, training or expertise in the visual arts, art history, art criticism, or art education may reside outside the Woodburn city limits.

Section 4. Terms of Office.

A. The terms of office of each Committee member shall be three years, or until a successor is appointed and qualified. The terms of Committee members shall be staggered so that the term of office of not more than two members will expire in the same year. The terms of office shall expire at midnight on December 31.

B. Members of the Committee shall receive no compensation for their services.

Section 5. Organization of the Committee.

A. The Committee shall elect a Chair and a Vice Chair.

B. The Economic and Development Services Director shall serve as Secretary to the Committee. The Secretary, supported by other city staff, shall provide notice of public meetings and public hearings, and keep minutes of all proceedings of the Committee in accordance with state law and city ordinances.

C. Three members of the Committee shall constitute a quorum.

D. The regular meeting place of the Committee shall be at Woodburn City Hall.

E. Meetings of the Committee shall be convened by the Chair of the Committee or by the Economic and Development Services Director.

Section 6. Functions and Duties of the Committee. The Woodburn Public Art Mural Committee is delegated the authority pursuant to this Ordinance to select, acquire, receive, document and register public art murals on behalf of the City of Woodburn.

Section 7. Public Art Mural Selection Criteria.

A. The Woodburn Public Art Mural Committee shall consider and apply the following selection criteria in selecting and acquiring public art murals:

1. Strength of artist's concept for, and originality of, proposed public art mural,
2. Demonstrated craftsmanship of artist,
3. Appropriateness of scale of the public art mural to the wall on which the proposed public art mural will be painted/attached,
4. Appropriateness of the scale of the public art mural to the surrounding neighborhood,
5. Architectural, geographical, socio-cultural and/or historical relevance of the public art mural to the site,

6. General support/advocacy for the public art mural from the building owner/user, surrounding neighborhood, adjacent businesses, and arts community,
7. Ability to complete the proposed public art mural,
8. The proposed public art mural will not be located on a single family dwelling, duplex, or multi-family dwelling, as used in this subsection, single family dwellings, duplexes, or multi family dwellings does not include mixed-use buildings which contain a single family dwelling, duplex, or multi-family dwellings.
9. The proposed public art mural will not contain electrical components, three dimensional structural elements; employ electrical lights as part of the image, moving structural elements, flashing or sequential lighting, interior lighting elements, any automated method that causes movement, or any method that causes periodic changes in the appearance of the public mural or changes the mural image or message,
10. The proposed public art mural will be located in a manner that is visible to the public.

Section 8. Public Art Mural Application. An application for the proposed public art mural will be submitted on a form prepared by the Economic and Development Services Director. The application will include the location, materials, size/dimensions, written description of the mural, and an explanation of how the mural meets the selection criteria specified in this Ordinance. In addition, an Easement Agreement shall be submitted that includes: a legal description of the property upon which the mural will be placed, a sketch of the Public Art Mural as it will be placed on the property, proof of ownership of the property (i.e. a copy of the deed), and proof of identity of the person who has the authority to sign the easement.

Section 9. Public Art Mural Application Fee. The application fee for a proposed public art mural is initially set by the City Council at \$500. This fee may be adjusted as by the City Council as appropriate as part of the Master Fee Schedule.

Section 10. Easement Automatic Renewal. The approval and acceptance of each public art mural shall be contingent upon the conveyance of a public mural easement to the City from the owner of the building upon which the public mural will be located. The easement shall be for a period of seven years and shall automatically renew and continue for successive seven year terms unless it is terminated by either party within thirty days after the expiration of any seven year term.

Section 11. Termination of Easement by Building Owner. The easement may be terminated by the Building Owner at any time with the City's written consent upon the Building Owner's showing of any of the following: (i) that the property is to be sold and the buyer requires removal of the easement as a condition of the purchase and sale; or (ii) that the property is to be refinanced and the lender requires removal of the easement as a condition of the refinancing; or (iii) that the property is to be substantially remodeled or altered in a way that precludes continued maintenance of the Public Art Mural; or (iv) that circumstances have materially changed and the continued existence of the easement or maintenance of the Public Art Mural substantially impedes the Building Owner's reasonable use and enjoyment of the property. The City shall not unreasonably withhold consent to termination upon the Building Owner's satisfactory demonstration of any of the foregoing conditions of termination.

Section 12. Termination of Easement by City. The City may terminate the easement at any time at its sole discretion upon thirty days written notice should the Building Owner fail to substantially perform its obligations under the Public Art Mural Easement Agreement.

Section 13. Notice of Public Hearing. The Committee shall hold a public hearing on the proposed public art mural. Written notice of a public hearing shall be published once in a newspaper of general circulation and shall be posted on the building where the public mural will be placed. Public notice shall be given no later than thirty days before the public hearing. The notice shall explain the purpose of the hearing, and state that the public mural application is available for inspection at the office of the Economic and Development Services Director.

Section 14. Public Hearing. At the public hearing, any interested person shall be afforded the opportunity to speak or to present written evidence to the Committee.

Section 15. Final Decision. After the conclusion of the public hearing, the Committee shall deliberate and make a final decision of the proposed public art mural. The final decision by the Committee shall be in written form and shall contain findings and conclusions explaining how the public art mural selection criteria were applied to the application.

Section 16. Notice of Final Decision. The Committee shall provide notice of its final decision to the applicant and all persons who presented testimony or submitted written evidence at the public hearing.

Section 17. Judicial Review of Final Decision. The final decision of the Committee is not a land use decision and is reviewable exclusively by Writ of Review filed in the Marion County Circuit Court as provided in ORS 34.010 to ORS 34.102.

*Passed by the Council August 13, 2012 and approved by the Mayor
August 29, 2012.*