

## ORDINANCE 02- 2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA CREATING CHAPTER 71 OF THE TOWN CODE ENTITLED "MURALS"; PROVIDING FOR THE AUTHORIZATION OF BUILDING OWNERS WITHIN THE TOWN OF LAKE PARK'S **PARK AVENUE DOWNTOWN DISTRICT** TO DISPLAY MURALS ON THEIR BUILDINGS; PROVIDING FOR THE CRITERIA TO BE APPLIED FOR THE DISPLAY OF MURALS ON BUILDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town of Lake Park, Florida (Town) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission and the Board of Commissioners of the Town's Community Redevelopment Agency (CRA) have previously determined that the encouragement of the arts in the community redevelopment area of the Town and particularly **within the Park Avenue Downtown District (PADD)** would further redevelopment; and

**WHEREAS**, murals have been recognized as a form of artistic expression; and

**WHEREAS**, the Commission finds that the display of murals on buildings within the Town's PADD area would be consistent with the Commission and the CRA's vision to encourage the arts in the community redevelopment area's **downtown core** of the Town; and

**WHEREAS**, the Commission finds that authorizing property owners within the Town's **PADD** to allow artists to display murals on their buildings would provide the owners of those buildings with a unique form of artistic expression within the community redevelopment area of the Town; and

**WHEREAS**, the Commission finds that the display of murals on buildings within the **PADD** is likely to encourage the owners of buildings to redevelop their properties, and thereafter to maintain them because of the improved aesthetic appearance of their buildings and the redevelopment area in general.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

**Section 2.** Chapter 71 of the Town Code is hereby created to read as follows:

## **MURALS**

### **ARTICLE. I. INTENT.**

#### **Section 71-1. It is the intent of these regulations to:**

- (1) Create a process permitting the owners of buildings within the Town's **Park Avenue Downtown District (PADD)** to engage artists to display their mural art containing content neutral messages on their buildings.
- (2) Promote the arts by providing artists with a forum to display their work.
- (3) Encourage property owners to improve the appearance of their buildings, and thereafter to maintain the enhanced appearance of their buildings.
- (4) Protect and enhance property values through the creation of a more attractive economic and business area.
- (5) Protect and enhance the physical appearance of the community redevelopment area by improving its visual appearance.

## ARTICLE II. DEFINITIONS.

### Sec. 71-2. For the purpose of this chapter, the following definitions apply:

- (1) **Affiliate** means any person, other than the person that controls, is controlled by or is under common control with the first person including, but not limited to, any owner, shareholder, member, partner, officer, director or employee of the first person.
- (2) **Control** means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of any person, whether through ownership of voting securities, by contract or otherwise.
- (3) **Applicant** is any person or entity who, is seeking to be qualified to apply for a mural permit pursuant to this chapter.
- (4) **Copy change** means a type of application by the holder of a mural permit to change a mural painted on a building.
- (5) **Gateway sign** means a sign marking the entrance to a neighborhood, park, or other designated historic, public or geographical areas.
- (6) **Location change** means a type of application by the holder of a mural permit to change the location of a previously approved mural permit.
- (7) **Mural** means a painting or artistic work (including collage effects) composed of pictures or arrangements of color, or similar works of art which may have a commercial sponsorship message not related to any businesses located onsite, and which is made directly onto, projected onto, attached to a building or a wall, or placed as a standalone feature.
- (8) **Mural face** means the entire face of the mural including all noncommercial text, artwork, and commercial sponsorship messages incorporated into a mural.
- (9) **Mural permit** means the permit allowed by this chapter once all criteria described herein has been met.
- (10) **New location** means an available location for a mural placement where there is not currently an active mural permit and otherwise complies with the criteria of this chapter.
- (11) **Permittee** means a person or entity who is the holder of an approved mural permit.
- (12) **Permit fee** means the permit application fee paid for a mural permit.
- (13) **Qualified applicant** means any person or entity as defined herein.

- (14) **Wall** means the exterior surface of a building capable of being occupied, including surfaces free of windows or devoid of occupants behind the area where the mural is to be placed. Surfaces constructed on roof tops (other than a roof parapet) shall not be considered walls for purposes of this article.
- (15) **Wrap or wrapped mural** means a mural which is continuous on two sides of the building and connects or touches on one side and has the same sponsor. A wrap shall have related paintings, artistic works, or messages on both sides of the mural.

### ARTICLE III. MINIMUM CRITERIA FOR MURALS.

#### Sec. 71-3. Placement of murals on buildings.

- (1) Murals may be placed on the exterior walls of a nonresidential building.
- (2) **Minimum setback requirement:** Murals shall not be placed on buildings that are within 50 feet of a residential structure, measured from the closest exterior edge of the view of the surface of the mural to the closest parallel residential wall.
- (3) A mural shall not be placed on buildings such that it prevents a window from being opened;
- (4) A mural not prevent ingress and egress or interfere with site circulation by incorporating images that are misleading to site operators.

#### Sec. 71-4. Duration.

An applicant shall indicate the duration the mural is proposed for display on the mural permit application (shall not exceed five years). The determination of the duration of the permit shall be made by the Town Commission, but shall in no case be longer than five (5) years. Applicants shall pay a \$250 fee for every 1-12-month period the mural is displayed beyond the first 12 months. At the conclusion of the approved period of the display of the mural it shall be removed, or replaced with a new mural through a new mural permit. Extensions are only possible through the submittal of a new mural permit application. The new mural shall meet the provisions of this chapter.

### ARTICLE IV. PARTICIPATING ARTISTS.

#### Sec. 71-5. Qualification as a participating artist.

An individual who proposes to be a participating artist shall submit the following information.

- (1) A mural permit application from the building owner; and
- (2) The name, address, phone number and other pertinent information of the applicant, and if the applicant is an entity, such as a corporation, limited liability company, or partnership, the names and business addresses of the principal officers, and other persons who own more than five percent of the entity; and
- (3) Proof, reasonably satisfactory to the Town risk management administrator, that any applicant who is a corporation, limited liability company, or partnership has (and can maintain at all times) public liability insurance in the amount of \$1,000,000; and
- (4) Proof that the applicant is in good standing with the Town and the county for any pending code enforcement matters. No individual, business, building or property owner, or affiliate of an individual, business or building or property owner may apply for a mural permit if that person or entity has displayed an illegal mural, banner, sign or any type of outdoor advertising in the Town by receiving a notice of violation, any summons to appear, or a ticket for any illegal mural, banner, sign, or any type of outdoor advertising in violation of the Town Code; and
- (5) A cash security deposit in the amount of \$1,500.00 payable to the Town of Lake Park. The Town shall be authorized to utilize the cash security deposit in the event the applicant is determined by the Town's Special Magistrate to be in violation of any provision of this chapter and any fines assessed by the Special Magistrate are not paid within 30 days of the order; and
- (6) The applicant shall not be indebted to the Town for any fees, fines, liens business tax receipt fees, zoning certificate fees, code enforcement fines or liens, palm beach county fire rescue liens, unsafe structure fines or liens, or any other fee, fine, penalty, or lien due and owing to the Town.

## **ARTICLE VI. MURAL APPLICATIONS AND PERMITS.**

### **Sec. 71-6. Mural Applications.**

Applicants shall submit applications to display murals on buildings to the Community Development Department. The application shall include a depiction of the mural proposed for a building and identify the building upon which it will be displayed.

Upon the submission of an application, the Department shall determine whether the Applicant has complied with the criteria set forth herein. Upon the determination by the Department that the proposed mural meets the minimum distance separation and size requirements set forth herein and application shall be submitted to the Town Commission for its initial review as to its proposed location.

A qualified applicant's permit application shall **initially** contain the following:

- (1) The address of the subject building and dimensioned (in feet) elevation drawing and photo of the wall where the mural is to be located along with identification of the desired mural wall area in feet.
- (2) A survey identifying the property boundaries.
- (3) An aerial image of the site identifying the surrounding properties, their existing use and distance (measured in feet) from the applicant's site.
- (4) Proof that the building where the mural is to be placed is in compliance with applicable laws, as defined herein, and does not have any outstanding code violations pending, or liens recorded or past code violations.
- (5) The applicant shall provide a list of all property owners within 300 feet of the building proposed for a mural together with address labels and funds to cover the cost of certified mail to property owners.

**Following the Commission's approval of the mural's location, the applicant shall submit the following additional documentation to the Community Development Department:**

- (6) A colored drawing or colored computer simulation depicting the mural face.
- (7) Two photographs or two computer simulations depicting the wall and the mural superimposed on the wall.
- (8) Payment of an initial non-refundable administrative permit fee in the amount of \$250.00. A wrap-around wall mural shall be considered under a single mural permit however, if murals are proposed on more than one building wall and are not a continuation of one another, separate mural permits and fees are required.
- (9) Completion by the applicant of the Town indemnity and hold harmless agreement, in a form approved to by the Town attorney.

#### **Sec. 71-7. Approval process for permit issuance.**

Once all the mural permit requirements have been received by the Community Development Department, the Department Director shall direct the final application package to the Town Commission for approval, approval with modifications, or denial. Notification in the form of a certified mail notice with a description of the proposal shall be

mailed to all properties within 300 feet of the subject property at least 7 days before the Town Commission meeting. The applicant shall bear the costs of this notification. The proposal shall be approved by Resolution of the Town Commission.

**Sec. 71-8. Minimum Mural permit criteria.**

- (1) Mural size. Murals may be painted on up to 80 percent of a wall. In any event, a mural may not be greater than 10,000 square feet.
- (2) Mural size. The mural face shall be predominantly pictorial with no text.
- (3) Illumination. The illumination of a mural shall only be by indirect lighting, and shall only be permitted from 6:00 p.m. to midnight Standard Time and 7:00 p.m. to midnight Day Light Savings Time. If illumination is proposed, a signed and sealed photometric plan shall accompany the application for those murals adjacent to residential property.
- (4) Location. Murals shall be placed only on walls.
- (5) Public safety. Mural faces shall not have any moving or animated parts, or any other electronic movements, and shall not be illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists and interfere with their ability to safely operate their vehicles.
- (6) Unoccupied buildings. A mural shall be permitted on an unoccupied building only if the building possesses a valid Town permanent certificate of occupancy.

**Sec. 71-9. Review by the Community Development Department**

- (1) The Town Community Development Department or designee shall be responsible for the review of mural permits with the criteria established herein prior to forwarding the application to the Town Commission.
- (2) The Town Community Development Department or designee shall keep an updated map and permit records/photos depicting the locations of all approved mural permits.
- (3) A permittee shall have 60 days from the issuance a mural permit to install a mural at the approved site. Should the permittee fail to install the permitted mural within the 60-day period, the Town Community Development Department or designee shall rescind the mural permit.

**Sec. 71-10. Changes in art work, copy, or applications.**

- (1) An Applicant may change the copy on the mural face by filing a revision permit application and the payment of a \$100 revision fee. Such application shall be

submitted to the Town Community Development Department and adhere to the Application Requirements and Approval Process for Permit Issuance listed herein, which includes Town Commission approval.

- (2) Location change application. Mural permits are not transferable. All location changes shall be subject to the review procedure set forth herein.

**Sec. 71-11. Enforcement.**

- (1) Enforcement of any provisions of this chapter shall be through the Town Code Enforcement procedures outlined in Chapter 9 of the Town Code.
- (2) The Town shall be authorized to collect against the letter of credit all fees, fines and penalties, as well as all expenses incurred by the enforcement of this Ordinance.
- (3) In the event an Applicant is found to be in non-compliance by the Town's Special Magistrate, any and all mural permits issued pursuant to this Ordinance shall be revoked and the Applicant shall forfeit the right to apply for any subsequent mural permits for a five year period following revocation. A notice of rescission shall be provided to the Applicant, and require the Applicant to remove all murals permitted pursuant to this Ordinance within five days of receipt of such notice. If the Applicant fails to remove the mural(s) after receipt of such notice, enforcement proceedings may be immediately initiated.
- (4) A mural that has been erected without a valid mural permit shall be removed within 24 hours of the building owner's receipt of notification from the Town that the mural is in violation of the Town Code. If the mural erected without a valid mural permit poses a threat to the public welfare (through the use of obscene symbols or other similar prohibitions), the Town, by and through its designee, shall be permitted to enter the building premises in violation and remove the mural and code enforcement shall adhere to the code enforcement procedures to abate a nuisance outlines in Chapter 54 of the Town Code.
- (5) The building owner shall strictly comply with the provisions of this chapter throughout the term of a permit. Failure to do so may result in the Town's revocation of the permit and the forfeiture of the building owner's opportunity to apply for subsequent mural permits for a five-year period.

**Sec. 71-12. Maintenance.**



- (1) In the event a Town code compliance officer finds that any mural permitted pursuant to this article is not being maintained in good repair or appears faded, torn, or in similar condition of deterioration, the code enforcement officer shall send written notice to the property owner and order the owner to repair the mural. In the event the owner fails to repair the mural the Town may initiate proceedings to rescind the mural permit through the code enforcement proceedings outlined herein and require the removal of the mural and would be subject to Section 71-11 of this chapter.
- (2) The building owner shall assure that each building/structure for which a mural permit has been issued shall be throughout the term of the permit in full compliance with all applicable federal, state, county and Town laws and regulations including, without limitation, building, life/safety, electrical, and similar technical codes, minimum housing, land use and zoning, sanitary, solid waste, storm water, water and sewer, and such other applicable laws as further the public health, safety and general welfare.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 4. Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 3 day of February, 2016, the foregoing Ordinance was offered by Commissioner O'Rourke who moved its approval. The motion was seconded by Vice-Mayor Glas-Castro and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

**PUBLISHED IN THE PALM BEACH POST THIS 7 DAY OF February, 2016**

Upon Second Reading this 17 day of February, 2016, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Vice-Mayor Glas-Castro and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No.** 02-2016 duly passed and adopted this 17 day of February, 2016.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois  
Mayor, James DuBois

ATTEST:

Vivian Mendez  
Town Clerk, Vivian Mendez  
(Town Seal)  
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird  
Town Attorney, Thomas J. Baird

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**LEGAL NOTICE OF  
PROPOSED ORDINANCE  
TOWN OF LAKE PARK**

Please take notice that on Wednesday, February 17, 2016, 2016 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

**ORDINANCE 02- 2016**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA CREATING CHAPTER 71 OF THE TOWN CODE ENTITLED "MURALS"; PROVIDING FOR THE AUTHORIZATION OF BUILDING OWNERS WITHIN THE TOWN OF LAKE PARK'S PARK AVENUE DOWNTOWN DISTRICT TO DISPLAY MURALS ON THEIR BUILDINGS; PROVIDING FOR THE CRITERIA TO BE APPLIED FOR THE DISPLAY OF MURALS ON BUILDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**ORDINANCE NO. 03-2016**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, CREATING ARTICLE IV OF CHAPTER 22 ENTITLED "PANHANDLING"; PROVIDING FOR AN INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGULATION OF CERTAIN CONDUCT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, CMC, Town Clerk  
Town of Lake Park, Florida  
PUB: The Palm Beach Post  
2-7/ 2016 #554827

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