

**TOWN OF SAN ANSELMO
ORDINANCE NO. 1182**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO AMENDING TITLE 10
“PLANNING AND ZONING”, CHAPTER 9 “SIGNS” TO ALLOW MURALS; ADDING NEW CHAPTER
21 “MURALS” TO TITLE 10 “PLANNING AND ZONING” GOVERNING PRIVATE AND PUBLIC
MURALS; AND MAKING ASSOCIATED CEQA EXEMPTION FINDINGS**

WHEREAS, on April 26, 2023, the Town Council held a public meeting and directed staff to return with an Ordinance Amendment and implementing regulations to allow and regulate murals installed by private property owners on commercial buildings (private murals), and murals installed in response to a request for proposals on either Town-owned property or private commercial property (public murals); and

WHEREAS, the Town Council desires to allow the installation of both private murals on private commercial property, and public murals on public and private commercial property; and

WHEREAS, the proposed Ordinance Amendment amends the Zoning Code to allow murals, includes content-neutral mural requirements for private murals, and allows for a requests for proposals (RFP) process for public murals; and

WHEREAS, the Town of San Anselmo Arts Commission (Arts Commission) is an advisory body to the Town Council whose objectives include promoting art in the community, and has developed proposed Public Mural Program Guidelines (Guidelines) that set forth guidelines and procedures regarding public murals that will be installed pursuant to an RFP process; and

WHEREAS, on August 21, 2023 the Planning Commission of the Town of San Anselmo held a duly noticed public hearing and recommended Town Council adoption of the proposed Ordinance Amendment and Guidelines; and

WHEREAS, the Town Clerk caused notice of this public hearing and proposed Ordinance Amendment in the Marin Independent journal newspaper on September 1, 2023; and

WHEREAS, the Town Council held a public hearing on September 12, 2023 to consider adoption of the Ordinance Amendment; and

WHEREAS, the Ordinance Amendment is exempt from review under the California Environmental Quality Act (CEQA) because it is not a “project” under CEQA Guidelines section 15378 because it will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical changes in the environment; and pursuant to the “common sense” exemption, CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance Amendment will have a significant effect on the environment; there will be no changes to land uses, development intensities, or the rate at which development is expected to occur, and will therefore have no significant environmental effect; and

WHEREAS, the Ordinance Amendment is consistent with the Town’s General Plan Land Use Element, because public and private murals will enhance the aesthetic value and small town character of the community consistent with land use goals; and

WHEREAS, the Ordinance Amendment is consistent with the Town’s Climate Action Plan because murals do not impact the environment.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Environmental Review. Ordinance Amendment is exempt from review under the California Environmental Quality Act (CEQA) because it is not a “project” under CEQA Guidelines section 15378 because it will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical changes in the environment; and pursuant to the “common sense” exemption, CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance Amendment will have a significant effect on the environment; there will be no changes to land uses, development intensities, or the rate at which development is expected to occur, and will therefore have no significant environmental effect.

SECTION 2. The above recitals are true and correct and incorporated as findings herein.

SECTION 3. Town Council of the Town of San Anselmo does hereby find that the Ordinance Amendment is consistent with the General Plan goals, policies and objectives. The Ordinance Amendment is consistent with the Town’s General Plan Land Use Element, because public and private murals will enhance the aesthetic value and small town character of the community consistent with land use goals.

SECTION 4: Ordinance Amendment. The following changes and amendments are made to Town of San Anselmo Municipal Code Title 10 “Planning and Zoning”, Chapter 9 “Signs” as follows below. New language in underline, deleted language in ~~strikeout~~.

Article 3. – Definitions

10-9.302 – Definitions.

“Sign” means any device, structure, fixture, or placard displaying graphics, symbols, and/or written copy for the primary purpose of communicating with the public, when such image is visible from any public right-of-way. “Sign” shall include any moving part, lighting, sound equipment, framework, background material, structural support, or other part thereof. A display, device, of thing need not contain any lettering to be a sign. Notwithstanding the generality of the foregoing, the following are not within this definition.

...

(4) Art Murals as defined in Chapter 10-21 of the San Anselm Municipal Code

SECTION 5: Ordinance Amendment. Chapter 21 “Murals” is hereby added to Title 10 “Planning and Zoning” of the San Anselmo Municipal Code as follows:

10-21-010 Purpose and Intent

The purpose of this Chapter is to permit and encourage original mural artwork on a content-neutral basis on private commercial properties in the Town subject to certain terms and requirements. This Chapter also allows for the installation of Town-initiated public murals on both Town-owned property and private commercial property with the cooperation and agreement of the private property owner. Art murals are distinct from signs and confer different benefits, which include improved community aesthetics, forums for original artistic expression, and public access to original works of art in the community. Art murals can increase community identity and create a sense of place for residents and visitors alike.

10-21-020 Definitions

“Art Mural” means an original hand-painted, hand-tiled, or hand-installed work of visual art on the exterior wall of a building consisting of paint, tile, or other similarly appropriate exterior material. An Art Mural must be a non-commercial image, which is defined as an image that does not include any branded, registered, or trademarked words, icons, or logos and is not used to advertise a business, service, or product, or to create a revenue stream as a result of its visible placement to the public.

“Private Art Mural” is an art mural located on commercial property allowed by an art mural permit granted to a private property owner of commercial property.

“Public Art Mural” is an art mural initiated by the Town located on Town-owned property or on private commercial property with the agreement and cooperation of the private property owner.

10-21-030 Distinction from Signs

An art mural that conforms with the requirements of this Chapter shall not be considered a sign and is therefore not subject to San Anselmo Municipal Code Title 10, Chapter 9 “Signs” (Sign Ordinance). Any art mural that does not conform to the requirements of this Chapter shall be considered a sign and subject to the requirements of the Sign Ordinance.

10-21-040 Public Art Mural Program Guidelines

The Town Council may adopt Public Art Mural Program Guidelines which shall identify public art application procedures, program requirements, criteria for evaluating proposed murals, and funding mechanisms.

10-21-050 Private Art Mural Permit Required

It shall be unlawful to install, erect, construct, change, alter, or attach any private art mural in the Town without first obtaining a private art mural permit. A private mural permit is valid for a period of five (5) years from issuance. The property owner may apply for a renewal of the private mural permit which shall be reviewed pursuant to the provisions of this Chapter. The review of a renewal permit shall also include an evaluation of whether the mural has been maintained in a good condition. Each renewal permit term shall be a maximum of two (2) years. If a mural renewal permit is denied, the property owner must remove the mural and return the wall to its original condition. Private art murals are allowed only in Commercial Town Zoning districts on a structure that is wholly or partially used for commercial purposes.

10-21-060 Private Art Mural Permit Application and Review Procedures

- a. Authority to Adopt Administrative Rules. The Town Manager is authorized to adopt private art mural administrative rules implementing this Section.
- b. Application Requirements and Review. An application for a private art mural shall be submitted pursuant to an application submitted to the Planning Department with applicable fees, as established by Town Council Resolution. The application shall be ministerially reviewed for compliance with the requirements of this Chapter by the Planning Director or designee. There is no right of appeal and no neighbor notice is required for a private art mural permit.

10-21-070 Private Art Mural Requirements Private art murals must satisfy the following content-neutral requirements.

- a. Maximum number of murals. A maximum of one (1) mural per legal parcel, or one mural per building, whichever is more restrictive, is allowed.
- b. Mural Area. The mural area shall not exceed the area of the wall upon which it is installed.
- c. Maximum Height. The mural shall not exceed the height of the structure on which it is installed.
- d. Materials. Mural materials shall be paint, tile, or similarly appropriate exterior material that are weatherproof and resistant to wear and deterioration.
- e. No Structural Change of Building. No mural shall structurally alter a building, including but not limited to, architectural changes or the addition or removal of structural posts, or beams.
- f. No Obstruction. No mural shall obstruct the exterior surface of any building opening, including but not limited to, doors, windows, and vents.

g. No Exterior Lighting. No mural shall include illumination or be illuminated by an exterior source.

h. No Mechanical Components. No mural shall contain electrical, mechanical, or moving components.

i. ~~—— No Murals on Primary Façade in C-2 Zoning District. Murals are prohibited on the primary façades of buildings located in the C-2 Zoning District. For purposes of this section, “primary façade” means the exterior face of a building that contains the principal pedestrian entrance and is oriented towards a public right-of-way or public space. Murals may be located on the non-primary façade of buildings within the C-2 Zoning District.~~

i. Term. ~~The mural shall remain in place without alternation for a period of five (5) years. “Alteration” includes any change to the permitted private art mural, including but not limited to, change of image, materials, colors, or size. “Alteration” does not include natural occurring changes caused by exposure or maintenance work. Upon the expiration of the term, the property owner may apply for renewal of the private art mural permit pursuant to this Chapter. A private art mural may be removed prior to the expiration of the term if: the property on which the mural is located is sold; the structure or property is substantially remodeled; the property undergoes an authorized change in use; the owner of the property requests permission from the Planning Director or designee who may grant said permission upon a finding that the continued maintenance of the mural is not feasible.~~ The property owner may remove the mural prior to the expiration of the term.

j. Agreement. The property owner and mural artist shall enter into an agreement with the Town which agreement shall be in a form approved by the Town Attorney.

10-21-080 Private Art Mural Maintenance Requirements

a. Maintenance.

1. The mural must be properly maintained in good condition at all times, ensure that material failure and excessive weathering is corrected, and graffiti and other vandalism are removed promptly.

2. Failure to maintain the private art mural as provided herein is declared to be a public nuisance and may be summarily abated or repaired by the Town consistent with the Town of San Anselmo Municipal Code. The Town may pursue additional remedies to obtain compliance. All remedies are cumulative. After reasonable notice, the Town may perform all necessary repairs or maintenance, and all costs incurred shall be billed to the property owner. Should the property owner fail to pay the Town for said costs, the costs may become a lien against the property.

10-21-090 Prohibited Private Art Murals The following private art murals are prohibited.

- a. Murals on local, State, or Federally-designated historic structures.
- b. Murals may not include Constitutionally unprotected speech which includes any message or image that is outside the protection of the First Amendment of the U.S. Constitution and/or corollary provisions of the California Constitution, such as obscenity. Hate speech or imagery is prohibited.

10-21-100 Enforcement The Town Attorney is authorized to abate violations and to enforce the provisions of this Chapter and all implementing regulations pursuant to the Code Enforcement provisions of the San Anselmo Municipal Code, civil action, injunctive relief, and/or any other proceeding permitted by law. All remedies are cumulative.


SECTION 6: Severability. The Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. If any section, paragraph, sentence, clause or phrase of this Ordinance Amendment for any reason is found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 7: Effective Date. This Ordinance Amendment shall go into effect thirty (30) days from its adoption. Prior to the expiration of fifteen (15) days of adoption, this Ordinance Amendment or a summary thereof pursuant to Government Code section 36933, shall be published at least once in a newspaper of general circulation, along with the names of the members of the Town Council voting for and against its adoption.

INTRODUCED AND ADOPTED AT A PUBLIC HEARING at a regular meeting of the San Anselmo Town Council on the 12th of September 2023, and was adopted at a regular meeting on the 10th of October 2023 by the following vote:

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|-----------------|-----------------------|---|
| AYES: | Councilmember: | Kullaway, Fineman, Colbert, Burke, Mayor Burdo |
| NOES: | Councilmember: | None |
| ABSTAIN: | Councilmember: | None |
| ABSENT: | Councilmember: | None |
| RECUSED: | Councilmember: | None |

ATTEST: 
Serge Avila, Town Clerk

APPROVED: 
Steve Burdo, Mayor