

**CITY OF CHEVIOT
STATE OF OHIO
ORDINANCE NO. 24-16**

AN ORDINANCE TO AMEND SECTIONS 155.03 and 155.06 OF THE CHEVIOT CODE OF ORDINANCES TO REGULATE MURALS IN CERTAIN ZONING DISTRICTS OF THE CITY OF CHEVIOT.

WHEREAS, this Cheviot Code of Ordinances currently restricts the use of painted wall signs, pursuant under the zoning code; and

WHEREAS, this Council finds and determines that it is in the best interest of the community health, safety, and welfare to amend the zoning code to allow murals within the business zoning districts of the City, and to regulate murals within said districts; and

WHEREAS, the City of Cheviot Planning Commission, by a vote of 5 to 0 cast on June 26, 2024, recommended that City Council approve an amendment of the zoning code to allow installation and regulation of murals within certain districts of the City with certain recommendations for the final verbiage of the Ordinance; and

WHEREAS, this Council has accepted some, but not all, of the recommendations of the Planning Commission for the final verbiage of the Ordinance; and

WHEREAS, upon providing notification as required by law, this Council held a public hearing on July 16, 2024 to consider the adoption of said amendment of the zoning code; and

WHEREAS, Cheviot Code of Ordinances, Section 155.03, Prohibited Signs, currently reads as follows in the attached Exhibit "A," which is incorporated herein.

WHEREAS, Cheviot Code of Ordinances, Sections 155.03 shall be amended to allow murals, pursuant to the other zoning regulations, and Cheviot Code of Ordinances, Section 155.06 shall be enacted for the regulation of murals within the city.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHEVIOT, STATE OF OHIO, THREE-FOURTH OF ALL MEMBERS THEREOF CONCURRING, THAT:

Section 1. Section 155.03, Prohibited Signs, Subsection (E), hereby amended as follows:

(E) Painted wall signs. Signs painted directly on the exterior surface of a building are prohibited, unless it constitutes a wall mural, as defined by Section 155.06, and the appropriate permit is obtained.

Section 2. The full text of amended Section 155.03, Prohibited Signs, is attached hereto in Exhibit "B," and is incorporated by reference. The existing version of Section 155.03, Prohibited Signs, is hereby repealed and replaced by the amended version

Section 3. Section 155.06, which was previously reserved, is hereby enacted to read as follows:

§155.06 Wall Murals

(a) Districts Where Permitted. Wall murals shall be permitted within the within Business A, Business B, Business B-1, and Office and Professional Districts.

(b) Definitions.

(1) As used in this section "wall mural" means non-commercial painting or artwork temporarily or permanently affixed to the exterior of a building wall, freestanding wall, or fence, which can be seen from the public right-of-way, and is distinguished from signage in that it does not advertise a business, commercial endeavor, or product sold or offered on the site or off-site. It is a sign that displays high resolution static or electronic graphic or photographic images, including decorative art and art used in commerce, placed on an unsightly wall of a building, or unsightly roof surface generally parallel to the building wall surface. A wall mural may display words in accordance with this section and otherwise shall comply with this section. Wall murals shall not be deemed billboards or wall signs for purposes of Section 155.07 of the Cheviot Code of Ordinances, so long as it does not contain words, logos, trademarks, or graphic representations of any person, product, or service for the purpose of advertising or identifying a business. The purpose of a mural is to enliven and define the City.

(2) As used in this section, "architectural" means a style of building recognized in the art and science of architecture as characterized by peculiarities of structure, ornamentation, or motif.

(3) As used in this section, "the display" means the displayed images and words together with the art or pictorial background on which the images and words appear, excluding any nameplate that identifies the permit holder or its assignee.

(4) As used in this section, "historic" means recognized as distinctly important in the social science of history that records, studies, and explains the character and significance of past human activities, including the use made of buildings.

(c) Design Requirements.

(1) *Primarily Pictorial.* The sign shall display non-verbal graphic or non-verbal photographic images, and may display words. The aggregate area of all words on a static display exclusive of the sign nameplate and trademarks, service marks or other distinct product or company logos shall comprise no more than twenty percent (20%) of the area of the display.

(2) *Type of Medium.* The medium for the display shall be electronic as a static or moving image or a combination of each, or as a static image upon a single sheet of vinyl or other material that presents a high-resolution image ("other high-resolution material") or a durable painted image on a stable substrate. A display is "electronic" if its images, while being displayed on the wall mural, are generated by computer or otherwise by the controlled conduction of electrons or other charge carriers.

(3) *Vinyl or other High-Resolution Medium.* If the medium is vinyl or other high-resolution material, it shall comply with all of the following:

A. The resolution of the display shall be a minimum of three hundred (300) dots-per-inch ("DPI");

B. If vinyl, the grade of vinyl shall be a minimum twelve (12) ounce flex vinyl, twelve (12) ounce mesh vinyl, or twelve (12) ounce sailcloth vinyl;

C. The display may be replaced to repair or restore the sign if the structure or medium is defaced, damaged or destroyed;

D. The sign panel or other structure to which the vinyl or other high-resolution material is attached shall not appear from line-of-sight in front of the display as a distinct frame surrounding the exterior of the display.

(4) *Prohibited Mural Types.* The following types of murals do not meet the design requirements of this Section and are prohibited:

A. Murals or other representations which 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.

B. Murals with moving parts, including solar, wind, or water driven devices.

C. Murals containing gang affiliation symbols or true threats (a serious expression of an intent to commit an act of unlawful violence).

D. Murals containing any commercial message or advertising (words, logos, trademarks, or graphic representations of any person, product, or service for the purpose of advertising or identifying a business).

E. Murals containing obscene content. For purposes of this section, any material is obscene if applying contemporary community standards:

1) The predominant appeal is to a prurient interest in sex; and

2) The average person would find the material depicts or describes sexual content in a patently offensive way; and

3) A reasonable person would find the material lacks serious literary, artistic, political, or scientific value.

(d) Size of Display. The total area of the display shall be no less than eighty percent (80%) of the total area of the wall on which the sign is located except where:

(1) A smaller sign is required to avoid covering a distinctive architectural or historic feature of the building; or

(2) A smaller sign is required to avoid interference by structures, other buildings, trees, or other obstacles with line-of-sight visibility of the display by the vehicular traffic to which the sign is oriented; or

(3) A smaller sign is required to ensure safety in erecting, changing, or maintaining the display or sign structure; or

(4) A smaller sign is required because the structure of the building or wall will not support or otherwise accommodate the sign structure necessary for the display to cover eighty percent (80%) of the wall area.

(e) Maximum Number of Wall Murals. Exclusive of legal nonconforming wall murals or wall signs, no more than fifteen (15) wall murals authorized by this section may be displayed simultaneously within the Business A, Business B, Business B-1, and Office and Professional Districts.

(f) Standards for Wall Placement and Removal.

(1) The wall mural shall be displayed on an exterior wall in a manner parallel with the wall surface. The wall mural shall not be affixed, applied, or mounted above, or suspended from any part of the roof of a structure.

(2) The wall mural shall not project more than sixteen (16) inches from the wall surface if the medium is vinyl or other high-resolution material, and not more than twenty-eight (28) inches if the medium is electronic.

(3) The wall mural shall be set back from each vertical and horizontal end of the wall a minimum distance of six (6) inches.

(4) *Illumination.* Except for displays that are electronic, the displays of wall murals shall be illuminated by continuous reflected light directed from an external light source onto the display.

(5) *Repair and Removal.* Each wall mural shall be secured in a manner that will require minimal repair after removal. The person in control of a wall mural or the owner of the wall shall repair all damage caused to the wall by securing or removing the wall mural. Upon removal, if required by the City Planning Commission or the City Building Department, the entire wall face shall be painted by the owners or person in possession of the wall with a high quality exterior paint guaranteed by the manufacturer to last at least 10 years before weather causes the paint to deteriorate. The paint shall be a solid color that is consistent with the color of the building.

(6) A wall mural shall not cover, destroy, or materially alter an architectural feature distinct from a generally flat, unornamented wall surface.

(7) A wall mural shall not cover, destroy, or materially alter a distinctive historic feature of the building.

(8) Finishes, textures, construction techniques, designs, colors, craftsmanship, and building materials that characterize a distinctive historic or architectural feature of a building shall be preserved. To prevent material alteration:

A. Wall murals adjacent to a distinctive historic or architectural feature of a building shall be secured in a manner that, if removed in the future, would not impair the form and integrity of the feature;

B. Chemical or physical treatments, such as sandblasting, that may cause damage to any distinctive historic or architectural feature shall not be used;

C. All surface cleaning of the portion of a wall mural or underlying wall adjacent to a distinctive historic or architectural feature shall use a means that will not disturb the feature's color, texture, or other visual qualities, accelerate deterioration or otherwise impair the structure of the feature.

(9) Wall murals shall be kept in good repair and free of vandalism. Should a wall mural fall into disrepair or be vandalized, the Safety-Service Director, with the concurrence of the Economic Development Director, if applicable, may require the property owner to repair the mural or remove it.

(g) Permit for Erection of Wall Murals.

(1) No wall mural may be erected or replaced unless and until the person in control of the display applies for and obtains a Wall Mural Permit, as described herein.

(2) All approvals required for the erection or replacement of wall murals shall be documented by notation on the permit application during its evaluation, or by issuance of a separate legal instrument reciting the approval. No permit shall be issued if the approvals required by this section have not been obtained.

(3) A permit issued in accordance with this section shall be construed to be a license to proceed during the life of the permit with the erection or replacement of the wall mural as described in the approved permit application so long as fewer than ten (10) wall murals are on display simultaneously within the B-1 Business District and shall be construed as signifying all approvals required by this section. All permits and applications for permits authorized by this section shall be in the name of the person in control of the display. Such permits shall convey to such person all rights and privileges prescribed by this section, which may be assigned, and impose upon such person all duties prescribed by this section, which may be delegated. The person in control of the display, including all assignees and delegees, shall place a nameplate on the wall mural when erected or replaced that identifies that person, and shall notify the Safety-Service Director of the identity and current postal address of that person.

Nothing in this section shall be construed as authorizing the erection or placement of a wall mural without the consent of the owner or person in possession of the wall where the wall mural would be located.

(4) *Expiration.* A permit to erect or replace a wall mural shall expire if the wall mural is not erected and bearing a display within one (1) year after the date of the issuance of the permit.

(5) Holders of permits authorizing the erection or replacement of wall murals shall have priority over all other holders based on the date and time of issuance of each permit, with the earlier date and time having priority.

(6) A wall mural shall be removed if it has no display for a continuous period of six (6) months. It shall not be re-erected or replaced without obtaining a new permit pursuant to this section.

(7) The City shall keep a permanent record of all permits issued for wall murals including dates and times of issuance, which shall be available for public inspection and copying.

(8) *Change or Replacement of Display.* A change of material or method of attachment to the building or wall surface shall be deemed a replacement of the wall mural, requiring a new permit, unless such change is authorized by the Safety-Service Director.

(h) Standards for Determining Whether to Issue Permit for Wall Murals. An application for a permit to erect or replace a wall mural shall be granted if the wall mural as proposed satisfies the criteria of this section. Such criteria are in lieu of the standards and guidelines prescribed and authorized elsewhere in the Codified Ordinances for a permit, certificate of appropriateness, or other approval by any official of the City except those set forth in the Building Code and Property Maintenance Code addressing structures and materials for signs.

(1) *No Pending Notices of Violation.* No permit to erect or replace a wall mural shall be issued if, while the permit application is pending, a notice issued for a violation of the City's the Building Code or Property Maintenance Code, or if there is an open investigation or violation issued by the Hamilton County Public Health Department, which is unresolved as to the building on which the proposed wall mural would be placed. A permit may be issued upon resolution of the alleged violation that is the subject of the notice.

(2) *Content of Display Not Subject To Approval.* No official of the City shall prescribe or otherwise require approval of the color, graphic design, words, message, or any other element of the content of any display, nor shall any official of the City require advance submission of the content of a display before granting a permit or other approval required or authorized by the Codified Ordinances except to confirm that the mural is not a prohibited mural type, as defined in ____.

(3) The wall mural's size and placement is appropriate to achieve the objective of beautifying the unsightly wall.

(4) The mural complies with the Design Requirements set forth in §155.06(c), the display requirements set forth in §155.06(d), and the wall placement requirements set forth in §155.06(f)

(i) Application for Permit.

(1) Each application shall address one (1) wall mural proposed for one (1) wall.

(2) Completed and satisfactory applications for permits to erect or replace wall murals filed first in accordance with this section shall be given priority over all other completed and satisfactory applications. The Safety-Service Director shall record on the application the time and date upon which each application is filed, and maintain all filed applications or copies for at least ten (10) years from the date of filing.

(3) The applicant for a permit prescribed by this section shall file such application with the Safety-Service Director, who shall forward the application to the appropriate official responsible for evaluating it within seven (7) days of receiving it.

(4) The application shall be accompanied by the following:

A. A color photographic or digital image of the proposed wall location in the context of adjoining properties, and the same color image shall also depict the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural. The official of the City responsible for evaluating the application may require additional photographic or digital images to be submitted with the application relevant to the criteria prescribed by this section.

B. The street address of the building upon which the proposed wall mural would be located;

C. A list of streets and other vehicular rights of way to which the proposed mural principally would be oriented;

D. A calculation of the area of the wall upon which the wall mural would be located and a calculation of the area of the expected display;

E. If the area of the expected display would be less than eighty percent (80%) of the wall area, the reasons for the smaller display;

F. A description of the medium to be used for the display, and if vinyl or other high-resolution material, a description of its grade and a calibration of the dots-per-inch of the resolution of the display;

G. The telephone number and postal address of the applicant and the name, telephone number, and postal address of the owner of the building to which the wall mural would be secured and a statement as to whether the owner or person in possession of the wall has consented to erection of the proposed wall mural.

H. Written permission from the owner of the building or structure on which the wall mural will be placed.

I. Any other information the Safety-Service Director deems necessary to review and evaluate the request.

(j) Time for Granting or Denying Application for Permit.

(1) Within sixty (60) days after receiving an application for a permit or up to an additional sixty (60) days if requested by the applicant or needed by the official responsible for evaluating the application, the official of the City responsible for evaluating the application shall grant or deny the application and shall notify the applicant in writing of the decision.

(2) An application shall be deemed denied only by written notification to the applicant identifying each ordinal provision that was not satisfied and the reason that it was not satisfied.

(3) The application shall be deemed granted if not denied in accordance with this section.


(k) Enforcement. Whenever the Building Commissioner or Safety-Service Director finds that a wall mural does not conform to the requirements of this section or that the structure of the wall mural or its attachment to the building is in a hazardous condition, he

or she shall forward by certified mail to the person in control of the display a written notice of violation, stating the defects and requiring that person to correct or abate the defects within thirty (30) days. The Commissioner shall otherwise follow the procedures set forth in Chapter 151.

Section 4. This Ordinance shall be in effect at the earliest time allowed by law.


Kerry Smyth
President of Council

8/20/24
Date passed


Samuel D. Keller
Mayor

8/20/24
Date approved

Attest:


Jenny M. Eilermann
Clerk of Council

Approved as to form:


Kimberlee Erdman Rohr
Law Director

CERTIFICATE OF PUBLICATION

I, Jenny M. Eilermann, Clerk of the Council of the City of Cheviot, Ohio, hereby certify that the foregoing ordinance, or a succinct summary, was published in the *Cincinnati Court Index*, a newspaper of general circulation in the City of Cheviot, Ohio, in accordance with Section 731.21 of the Ohio Revised Code, on the following dates:

- 1) 8/23, 2024, and
- 2) 8/30, 2024.


Jenny M. Eilermann
Clerk of Council

EXHIBIT A

CURRENT VERSION

§ 155.03 PROHIBITED SIGNS.

The following signs, unless designated as legal non-conforming signs pursuant to § 155.18, are prohibited within the city:

(A) Abandoned signs. Any sign, now or hereafter, existing which no longer advertises a bona fide business conducted on the premises or a product sold on the premises for a period of 30 days shall be deemed abandoned.

(B) Off-premises signs. Off-premises signs which direct attention to a business, profession, activity, commodity, service, or entertainment other than one conducted, sold, or offered upon the premises where such sign is located or within the portion of the building to which such sign is affixed are prohibited. The term "off-premises sign" includes any outdoor advertising sign on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or non-commercial message. When a building has more than one business or tenant operating therein, signs designating a particular business shall be located only on that portion of the building which houses the business identified on the sign.

(C) Hazardous or dangerous signs. When the Building or Zoning Commissioner determines that a sign or its supporting structure is structurally unsafe, constituted a hazard to safety or health, is not in good repair, or can cause electrical shock, he or she shall cause such sign or its structure to be removed. At the discretion of the Commissioner, he or she may order the sign removed according to the procedures in division (F) below, or, if in his or her determination, the sign is an imminent threat to the safety of the public, he or she may cause the immediate removal of the sign with expenses charged to the owner of the property, building, or structure upon which the sign is attached.

(D) Roof signs. No signs shall be placed on a roof or extended beyond the height of the gutter line. The Board of Appeals may grant a variance for a roof sign only where the applicant demonstrates practical difficulties in utilizing a wall sign and that the variance shall be in keeping with the spirit and intent of this chapter. Removal of an illegal roof sign shall be in accordance with division (F) below, or division (C) if it constitutes a hazard.

(E) Painted wall signs. Signs painted directly on the exterior surface of a building are prohibited.

(F) Prohibited signs, as described in §§ 155.03 and 155.04, and their supports shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such a sign may be found within 60 days after written notification from the Building or Zoning Department. The notice shall warn the owner, agent, or beneficial user that failure to remove the sign as ordered may result in criminal charges and may cause the city to undertake removal of the sign at the owner's, agent's, or user's expense. Upon failure to comply with such notice within the time specified in such order, the Safety-Service Director or the Building Commissioner shall cause removal of such sign, and any expenses incident thereto shall be paid by the owner of the property, building, or structure upon which the sign is erected, or to which the sign is attached.

EXHIBIT B
AMENDED VERSION

§ 155.03 PROHIBITED SIGNS.

The following signs, unless designated as legal non-conforming signs pursuant to § 155.18, are prohibited within the city:

(A) Abandoned signs. Any sign, now or hereafter, existing which no longer advertises a bona fide business conducted on the premises or a product sold on the premises for a period of 30 days shall be deemed abandoned.

(B) Off-premises signs. Off-premises signs which direct attention to a business, profession, activity, commodity, service, or entertainment other than one conducted, sold, or offered upon the premises where such sign is located or within the portion of the building to which such sign is affixed are prohibited. The term "off-premises sign" includes any outdoor advertising sign on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or non-commercial message. When a building has more than one business or tenant operating therein, signs designating a particular business shall be located only on that portion of the building which houses the business identified on the sign.

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(E) Painted wall signs. Signs painted directly on the exterior surface of a building are prohibited, unless it constitutes a wall mural, as defined by Section 155.06, and the appropriate permit is obtained.

(F) Prohibited signs, as described in §§ 155.03 and 155.04, and their supports shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such a sign may be found within 60 days after written notification from the Building or Zoning Department. The notice shall warn the owner, agent, or beneficial user that failure to remove the sign as ordered may result in criminal charges and may cause the city to undertake removal of the sign at the owner's, agent's, or user's expense. Upon failure to comply with such notice within the time specified in such order, the Safety-Service Director or the Building Commissioner shall cause removal of such sign, and any expenses incident thereto

shall be paid by the owner of the property, building, or structure upon which the sign is erected, or to which the sign is attached.