

Appendix C – City Code Regulations – Division 5 Murals: City of Miami, Florida USA

Appendix C – City Code Regulations, City of Miami

DIVISION 5. - MURALS

Sec. 62-601. - Purpose of mural sign regulations; applicability; criteria.

Intent. It is the intent of the city commission that the display of art or graphics with minimal commercial message on buildings and walls be permitted within certain commercial and special districts of the city in order to aesthetically enhance otherwise blank walls and unoccupied buildings, and that the funds generated by permits issued with respect to such displays be utilized to ensure quality of life and prevention of visual clutter or blight. The display of art or graphics without a commercial message shall not be a mural pursuant to this article.

It is the intent of the city to comply with state and federal requirements as specified in the agreements executed with the Federal Highway Administration ("FHWA") and the State of Florida Department of Transportation ("FDOT") and to keep FDOT informed of issues pertaining to oversight of the mural ordinance to ensure effective control of the mural program within the city municipal boundaries in accordance with the agreement and determination of customary local use approved by City Commission Resolution Nos. 14-0024 and 14-0025, adopted January 23, 2014 (the "agreement").

The procedures established in this article will allow for the pre-qualification of applicants to display art or graphics on buildings and walls. Once qualified, such pre-qualified applicants will be allowed to file for a temporary permit (the "mural permit"), as further defined in this division.

Mural permits will be issued by the city manager or designee upon their determination that the applicant has complied with the criteria set forth in this division, including the payment of all required fees and contributions. To the extent permissible by law, all fees and contributions received by the city pursuant to the terms of this division shall be used to promote quality of life within the city and by regulating all murals to ensure that the city's residents are not exposed to visual blight or clutter.

Upon the award of a mural permit by the city manager or designee, the holder of such a mural permit shall be allowed to obtain all required building permits. Changes in art work or other relevant copy (including text or commercial messages) changes will only be permitted upon the approval of a subsequent copy change application for a change of copy.

Strict compliance with the provisions of this division must be maintained during the term of the mural permit. Failure of the qualified applicant to remain in compliance with the terms of this division shall result in the revocation of qualified applicant's entire mural permit inventory and the forfeiture of the right to apply for any subsequent mural permit(s).

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-602. - Definitions.

For the purpose of this article, the following definitions shall apply:

Affiliate of any person, is any other 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. For these purposes the term "control" shall mean 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.

Applicant is any person or entity who, pursuant to section 62-69, is seeking to be qualified by the city manager or designee to apply for a mural permit pursuant to this division.

Building compliance with applicable laws, etc. Each building/structure for which a mural permit has been issued shall be at the time of permit issuance in full compliance with all applicable federal, state, county and city 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.

Commercial message includes any text or logos or representation of the business name or commercial product, except for a trademark, commercially recognized display, copyright or service mark of the sponsor; such commercial message may be of offsite products or businesses as applicable to the sponsorship. Text or letters displayed in an artistic format that do not spell a business name or commercial message shall not be calculated as a component of the commercial message.

Copy change application is an application by the holder of a mural permit to change the mural face.

Gateway sign is a sign marking the entrance to a neighborhood, park, or other designated historic, public or geographical areas.

Geographical area is the mural area, as amended by the Miami-Dade County Ordinance No. 12-09 and more particularly described in "Exhibit A" attached hereto and incorporated herein by reference, as amended from time to time by the city commission, and kept on file in the city clerk's office and the office of zoning.

Government-owned building is any building owned by the United States Government, the State of Florida (the "state"), Miami-Dade County (the "county"), the Miami-Dade School Board, the city, any dependent or independent special tax district, or any agency of any of the foregoing governments.

Indemnity, and hold harmless. This indemnity, and hold harmless, will be included in each permit application and location change application, and each applicant/permittee shall sign the page on which it appears. It shall be a condition precedent to the issuance of any such mural permit that the applicant/permittee shall assume all civil liability for the applicant's acts, omissions or commissions, and from all claims, suits or actions of any kind whatsoever arising out of or resulting from the issuance of the mural permit, location change, compliance with applicable laws or regulations, or the operations or activities of the applicant/permittee and shall, further, hold the city, its officials and/or employees, harmless for, and defend the city, its officials and/or employees against, any civil actions, statutory or similar claims, injuries or damages arising or resulting from this mural permit or the permitted work, even if it is alleged that the city, its officials and/or employees were negligent, unless such injuries or damages are ultimately proven to be the result of grossly negligent or willful acts or omissions on the part of the city, its officials and/or employees. The applicant shall insure that adequate safety precautions are in effect at all times during the term of the mural permit. This required indemnification and hold harmless shall survive the revocation or expiration of the mural permit and shall be included in the permit application. The applicant/permittee voluntarily and knowingly acknowledges that the granting of any such mural permit is sufficient, independent and valuable consideration for the giving of such indemnity, and hold harmless.

Licensee is any person or entity who holds or obtains or has been issued a state license for outdoor advertising.

Location change application is an application by the holder of a mural permit to change the location of a previously approved mural permit.

Lottery is the process described in section 62-605 for the approval of mural permits. The initial lottery date was May 12, 2008. New lotteries will be held when new mural permits become available.

Lottery winner is a person or entity who has won the right to apply for a mural permit pursuant to the lottery.

Mural is a painting or artistic work (including collage effects) composed of pictures or arrangements of color which has a limited commercial sponsorship message, advertises a commercial product and which is made directly onto, projected onto or attached to a building or a wall.

Mural face is the entire face of the mural including all text, artwork, and commercial sponsorship messages incorporated into a mural.

Mural permit is the temporary permit allowed by this division once all criteria described herein has been met.

New location is an available location for a mural placement where there is not currently an active mural permit and otherwise complies with the criteria of this division.

Park West entertainment district is the area between State Road 836 to the north and Northwest 7th Street to the South; and North Miami Avenue to the West and Biscayne Boulevard to the east.

Permittee is a person or entity who is the holder of an approved mural permit.

Permit fee is the annual permit fee paid for a mural permit.

Permit fee period begins every September 1. Payments that are due concurrently with the permit fee period are also due September 1.

Qualified applicant is any person or entity who, pursuant to section 62-603, has been qualified by the city manager or designee to enter the lottery and if selected apply for a mural permit, and is not an affiliate of another qualified applicant. All applications for qualification shall be submitted 30 days prior to any lottery.

Quarters, for purposes of this division are the periods beginning September 1, December 1, March 1, and June 1 of each year.

Small business enterprise is a business enterprise that qualifies as a small business enterprise pursuant to applicable state and federal laws and the rules and regulations of Miami-Dade County, as amended from time to time.

Wall is 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.

Wrap or wrapped mural is 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 commercial messages on both sides of the mural.

Notwithstanding anything herein to the contrary, subject to the conditions listed below and the written permission of the city manager or designee, murals will be permitted to be placed on walls with windows of commercial buildings only, and on the exterior walls of a parking garage or a parking pedestal provided that such murals:

- (1) Are not directly facing residential units;
- (2) Are made of perforated vinyl mesh or adhesive backing and are transparent to the occupants of the commercial building;
- (3) Do not prevent the opening of windows intended to be opened; and
- (4) Do not prevent ingress and egress. In no event, may a mural be placed so as to cover any residential units, including residential liners.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13390, § 2, 6-13-13; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-603. - Qualified applicants; procedure for application; requirements.

In order to participate in a lottery to be held in accordance with the requirements of this division, each applicant must be approved as a qualified applicant. Once an applicant, is a qualified applicant, such applicant shall submit proof of status as a qualified applicant and information must be confirmed in order to allow them to participate in subsequent lotteries.

- (a) An applicant shall submit an application to the city manager or designee for the purposes of qualifying said applicant as a qualified applicant 30 days prior to any lottery. Such application shall include the following:
- (1) 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, managers, and other persons who own more than five percent of the entity;
 - (2) Payment of a non-refundable, pre-qualification administrative fee in the amount of \$500.00;
 - (3) Payment in full and delivery to the city finance director of a pre-qualification fee in the amount of \$10,000.00 (the "qualification fee"). Payment must be made by cashier's check, certified check or United States Postal money order. The qualification fee shall be refunded to the applicant if the city manager or designee determines that the applicant does not qualify as a qualified applicant;
 - (4) Proof, reasonably satisfactory to the city risk management administrator, that the applicant has (and can maintain at all times) public liability insurance in the amount of \$3,000,000.00;
 - (5) Proof in the form of a signed affidavit(s) stating that the applicant or in the case of an entity, that a majority of the applicant's principal officers or managers (each of whom shall submit a signed affidavit) has or have had experience in the outdoor advertising industry for a minimum of five years prior to the date of application;
 - (6) Proof in the form of copies of all required city and county business tax receipts, evidencing the fact that the applicant has an office or local presence within the city to ensure an immediate response in the event of an emergency;
 - (7) Proof in the form of copies of a memorandum of lease, sworn to by affidavit which indicates relevant information regarding control of the mural site and which shows that the applicant or its affiliate has executed and enforceable leases for a minimum of five mural sites within the geographic area;
 - (8) Proof that the applicant had gross revenue of at least \$1,500,000.00 in the outdoor advertising industry during each of the two years preceding the date of the application;
 - (9) Proof that the applicant is in good standing with the city 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 city 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 chapter 62 or Miami 21 since, April 20, 2008, in which event the site, building, or entity will be precluded from participating in the lottery;
 - (10) Proof that applicant will post a bond or letter of credit in the amount of \$500,000.00 in a form reasonably acceptable to the city's department of risk management, at the time of issuance of the mural. The city shall be named as a beneficiary on the bond or letter of credit. The city shall be authorized to collect on the bond or letter of credit in the event the permittee is found to be in non-compliance with any provision of this article and any fines assessed in respect of such non-compliance are not paid within 30 days of the assessment or if the city is required to send personnel to ensure compliance with any provision of this article. The city shall be authorized to collect against the bond or letter of credit all fees, fines, and penalties; together with expenses incurred by it with respect to such personnel, including, but not limited to, the costs associated with the investigation and determination of the violation;
 - (11) Proof that the applicant has contracted with one or more small business enterprise(s) (as a consultant, joint-venture partner, vendor or otherwise) to which ten percent or more of the applicant's operating expenses would be paid in the event the applicant is approved as a

qualified applicant and obtains a permit for a mural and that the applicant consents to submitting financial records demonstrating compliance with this provision; and

(12) Proof that the applicant is a licensee.

An individual, business, building owner, or affiliate of an individual, business, or building owner may not apply for a mural permit if that person or entity has failed to fully resolve and close any notice of violation or open code enforcement matter of any section of this Code or zoning ordinance as amended (the "zoning ordinance") prior to the submission of the application for participation in the lottery. Furthermore, if a prospective site or building has displayed a mural or outdoor advertising sign in violation of the zoning ordinance within five years prior to the date of the lottery, the qualified applicant shall tender, as a result of such non-compliance, a partially refundable fee in the amount of three times the qualification fee, of which \$10,000.00 may be refunded, if the application is not approved.

Unless otherwise indicated, all proof required to be submitted by this section may be in the form of an affidavit signed by the applicant or a duly authorized representative of the applicant. Upon the submission of all items required to be submitted under this section 62-603, the city manager or designee shall review and approve or deny, no later than 30 days after its submission, the applicant's application for qualification as a qualified applicant. If the application is denied, the city manager or designee shall advise the applicant in writing of the reasons for the denial of the application. The applicant must cure all defects within 15 days of such notification.

(13) Proof that the applicant has no outstanding fees, fines, or liens for any amounts owed to the city, including, but not limited to, business tax receipt fees, certificate of use fees, code enforcement fines or liens, fire liens, unsafe structure fines or liens, or any other fee, fine, penalty, or lien due and owing to the city.

- (b) Throughout the course of a year, any new applicant(s) can become a qualified applicant pursuant to subsection 62-603(a) above to be able to participate in a new lottery if a mural permit becomes available and a new lottery is announced. Once an applicant is certified as a qualified applicant, then that qualified applicant shall be permitted to participate in subsequent lottery(ies) without the need to reapply for qualification, but must show proof thereof as to the continued status as a qualified applicant.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-604. - Mural permit required; application for a mural permit by a qualified applicant.

Murals may not be erected, hung, placed, posted, painted, displayed, or maintained in the city except as provided by this division. The city shall issue no more than 45 mural permits at any one time; however, no more than 25 mural permits may be issued at any one time and in any one city commission district. An applicant shall submit to the city manager or designee a single permit application listing each and every site sought to be permitted at such time.

A qualified applicant's permit application shall contain the following for each site sought to be permitted:

- (1) Dimensioned elevation drawing and photo of the wall where the mural is to be located.
- (2) A colored drawing or colored computer simulation depicting the mural face.
- (3) Two photographs or two computer simulations depicting the wall and the mural superimposed on the wall.
- (4) A certified spacing survey showing compliance with this article, if applicable.
- (5) Copy of the city's zoning atlas where the mural is to be located.
- (6) Payment of a non-refundable administrative fee in the amount of \$500.00.

- (7) A memorandum of lease, sworn to by affidavit, of an executed and enforceable lease for the site sought to be permitted.
- (8) The address and the folio number of the subject building and the specific wall on the building upon which the mural would be attached.
- (9) 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 civil violations of this Code or any liens due to the city.
- (10) Completion by the applicant of the city indemnity and hold harmless agreement as defined in this division, in a form approved to by the city attorney.
- (11) Mural permits shall require the applicant notify: the abutting property owner(s) of the new location, the homeowner and neighborhood associations registered with the neighborhood enhancement team responsible for the new location, and the city commissioner of the district where a mural is proposed.
- (12) Proof that the property, the building, and each individual wall where the mural is to be placed has not displayed an illegal mural, banner, sign, or any type of outdoor advertising in the city 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 chapter 62 or Miami 21 since April 20, 2008.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13390, § 2, 6-13-13; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-605. - Approval process for permit.

From time to time, as the need for a new lottery arises, the following shall be the procedure followed for the approval of a mural permit:

- (1) The city manager or designee shall notify all qualified applicant(s) of the date and time of all lottery rounds. There shall be one lottery for each round of approvals commencing with the highest priority site submitted by each qualified applicant. The number of rounds scheduled shall equal the greatest number of lease sites submitted in any single application.
- (2) Each qualified applicant will receive one assigned number through the lottery process for each round.
- (3) Each qualified applicant may only submit one application which shall include each distinct wall sought to be permitted. If more than one permit is sought, the qualified applicant shall list the walls sought to be permitted.
- (4) An affiliate of a qualified applicant shall not be an affiliate of another qualified applicant.
- (5) For each round, the city manager or designee shall review each qualified applicant's site in the order of assigned number pursuant to the lottery for each specific round. At the end of the selection made at each round, a qualified applicant may reprioritize the list of sites.
- (6) In the numerical order assigned to each qualified applicant for a given round, the city manager or designee shall review the first priority site for each qualified applicant and shall conditionally approve sites meeting the required criteria. Thereafter, the city manager or designee shall, in the numerical order assigned to each qualified applicant for the immediate subsequent round, review for conditional approval a site listed by the qualified applicants and so on.
- (7) In the event that a site is determined to not meet the required criteria, the next eligible site in the qualified applicant's list, if any, shall be reviewed for conditional approval.
- (8) Locations will be approved until a maximum of 45 sites have been approved.
- (9) Proof that each individual wall sought to be permitted exists and is fully built, and that the property, the building, and each individual wall where the mural is to be placed has not been used to display a illegal mural, banner, sign or any type of outdoor advertising in the city 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 chapter 62 or Miami 21 since, April 20, 2008.

- (10) The city manager or designee shall advise qualified applicants of the contingent approval of an application for a mural permit, and shall refer all such mural applications to the county for their determination of compliance with the county ordinance. Upon receipt by the city manager or designee of notice from the county confirming compliance with the county ordinance, and the payment of all applicable fees for each conditionally approved application, city manager or designee shall issue a mural permit for each approved site within 30 days from receipt of such notice from the county.
- (11) Mural permits shall be granted to the qualified applicants only in accordance with the procedures set forth in this section 62-605.
- (12) If a mural permit becomes available, a new lottery will be held during the first week of the following quarter.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-606. - Criteria for issuing a mural permit.

As part of the review and qualification process, the city manager or designee shall apply the following criteria:

- (1) *Geographical area.* No more than 45 mural permits may be issued and outstanding at any one time. Murals permits shall only be issued within the geographical area, as defined in section 62-602 above.
- (2) *Zoning districts.* Murals shall only be permitted within portions of the following zoning districts: T5-O, T6-8, T6-12, T6-24, T6-36, T6-48, T6-60, T6-80, CI, CI-HD, D1, D2, and D3 as described in the zoning ordinance. Murals outside these zoning districts shall be in violation of this Code and ordinances.
- (3) *Spacing between murals and number of murals allowed per building.* A mural shall not be located within 300 feet of another legally permitted mural oriented towards the same side of a street or the State Highway, as applicable. The distance shall be measured in accordance with Rule 14-10.006(4), Florida Administrative Code ("F.A.C.")(2012)(i.e. measured along the edge of pavement of the main traveled way). The spacing requirement provided herein shall be reduced to 150 feet within the City Park West entertainment district.

If two murals are permitted for any one building, they must be on different sides of the building and each such mural shall be required to obtain a separate mural permit for each street front. This section shall not preclude a mural on one building which is contiguous on two sides of the building, commonly referred to as a wrap-around mural. A wrap-around mural shall be counted as one mural for purposes of fees and the maximum number of mural permits which may be issued pursuant to this division.
- (4) *Spacing from single family residential district.* The distance of a mural located on any building shall be calculated by measuring the distance of the mural at ground level to the property line of any parcel designated as T-3. A mural shall not be located on a Wall that is within 300 feet of any property zoned T-3.
- (5) *Spacing from billboards.* A mural shall not be located within 300 feet of a legally permitted billboard oriented toward the same side of a street or State Highway, as applicable, within the Geographical Area. The distance shall be measured in accordance with Rule 14-10.006(4), F.A.C. (2012). The spacing from mural to a billboard shall be reduced to 150 feet within the boundaries of the Park West entertainment district.

- (6) *Mural size.* Murals shall be allowed to cover up to 80 percent of a wall, or 33 percent of a wall if the mural covers windows. In any event, a mural may not be greater than 10,000 square feet.
- (7) *Mural commercial message size.* The mural face shall be predominantly pictorial with text limited to no more than 15 percent of the mural face to be written copy. Corporate logos on the mural as a stand-alone emblem and/or product, shall not be considered part of the written copy to be limited to 15 percent.
- (8) *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, and only in accordance with Miami-Dade County Code Sections 33-46 and 33-107, as amended.
- (9) *Location.* Murals shall be placed only on walls.
- (10) *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. Murals shall also comply with all applicable laws, rules and regulations of the federal, state and county governments; and in addition, any proposed amendments to this division shall be consistent with applicable federal, state and county laws and ordinances in effect at the time of such amendment.

In the event the National Hurricane Center issues a hurricane warning to the county, the permittee shall remove all murals within 24 hours of the issuance of a hurricane warning. In the event a mural is not so removed, enforcement proceedings shall immediately commence pursuant to section 62-612 and chapter 2 of the City Code.

- (11) *Adult content.* Adult content, as defined in the zoning ordinance, shall be prohibited on mural.
- (12) *Unoccupied buildings.* A mural shall be permitted on an unoccupied building only if the building possesses a valid city permanent certificate of occupancy, certificate of use, or a 40-year certification, if applicable. In order to promote the use of efficient building spaces, when commercially viable, the holder of the mural permit shall work with the building owner and the building, zoning and planning departments so that as soon as commercially reasonable, the mural will not be the primary permit active at the location. If the holder of the mural permit fails to comply with such requirements, the mural permit holder will be required to transfer its mural permit from such building to another qualified location.
- (13) *Term and recertification of each qualified applicant.* Once the mural permit is issued and continuously is in compliance with the fee provisions of sections 62-607 and 62-609, and all other provisions of this division, the mural permit will be valid. In the event that the permittee fails to comply with any provision in this division and/or is determined to be in violation in accordance with section 62-612, the specific mural permit(s) in violation shall be forfeited and available to be included in a lottery. The issuance of a mural permit under this division does not create a vested right or proprietary or compensable interest in any permit for any permittee. Any and all costs and fees associated with the acquisition of mural permits, shall be deemed acceptable to the permittee.
- (14) All qualified applicants shall be required by September 1 of the fifth permit year, to re-certify all requirements in this division. This shall include a re-qualification fee in the amount of \$1,500.00; proof of valid public liability insurance; copies of all current business tax receipts; proof of gross revenues; proof of current bond or letter of credit and proof that the permittee is in good standing with the city and county, including, but not limited to, Code violations. In the event that the permittee, is not able to comply with this recertification provision, the permittee's mural permits shall be revoked and included in a lottery.
- (15) No mural permit or relocation shall be approved unless the property, the building, and each individual wall where the mural is to be placed has not displayed an illegal mural, banner, sign or any type of outdoor advertising in the city 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 chapter 62 or Miami 21 since April 20, 2008.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13390, § 2, 6-13-13; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-607. - Permit fees.

- (1) *Permit fee.* The permittee shall pay an annual permit fee equal to \$1.00 per square foot of mural face multiplied by 12 months per year for each mural permit which the fee shall, in no event, be less than the minimum \$48,000.00 or greater than the maximum \$120,000.00 per annum ("permit fee"). The initial mural permit fee shall be due in its entirety within ten business days of the approval of the mural permit. In the event any permit fee is not paid, the city shall immediately rescind the mural permit. The permit fee is in addition to any non-refundable fees charged pursuant to this article. When new mural permits are issued, the initial permit fee may be prorated accordingly by the city manager or designee in order to maintain conformity with the scheduled permit fee quarterly payments.
- (2) *Renewal of permit fees.* The permittee shall pay an annual permit fee calculated in the following manner: The permit fee may be paid in quarterly installments, every three months, for a total of four payments per annum. Mural permits shall be void if quarterly payments are not received within ten business days after each quarterly payment is due. First quarterly payment is due on September 1, then December 1, March 1 and June 1 of each year. The permit fee does not include copy change fees which are due in their entirety on September 1 of each year.
- (3) *Annual administrative fee.* On September 1 of each year, permittees shall be required to pay an annual administrative fee for each mural permit equal to 1/24 th of their annual permit fee.

Along with the first quarter permit fee due by September 1 of each year, each permittee shall submit demonstration of up to date documentation of public liability insurance as required in subsection 62-603(4), continued effectiveness of a bond or letter of credit in the amount of \$500,000.00 as required in subsection 62-603(10) and affidavit of compliance with the subsection 62-603(9) requiring compliance with mural regulations. Late payments shall accrue interest at the rate of 18 percent for 45 days. If payment is not received by the 45th day, the city shall immediately rescind the mural permit.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-608. - Approval by the city manager or designee.

The city manager or designee shall be responsible for the approval of all mural permits. The city manager or designee may approve, approve with modifications, or deny a permit application upon a finding that the application does or does not meet the applicable criteria set forth in this division.

The city manager or designee shall keep an updated map and photos depicting the locations of all approved mural permits.

A lottery winner shall submit a mural permit application with the applicable fees within 30 days of winning the lottery. Failure to do so, shall result in the rescission of the lottery award by the city manager or designee.

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 city manager or designee shall rescind the mural permit.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-609. - Copy change and location change applications.

(a) *Copy change application.* An annual copy change fee of \$6,000.00 shall be paid for each permit. Thereafter, a permittee may change the mural face by filing a copy change application and paying related fees. Such application shall be submitted to the city manager or designee and include the following:

- (1) A colored drawing or colored computer simulation depicting the mural face.
- (2) Two photographs or two computer simulations depicting the wall and the mural superimposed on the wall.
- (3) An affidavit from the permittee affirming that (a) the change of copy will be limited to a single commercial message; (b) the mural will be fastened in the same manner as the original mural permit; and (c) the permittee will comply with all other conditions of the mural permit.

The city manager or designee shall, within five business days after receipt of the copy change application, have the opportunity to deny with written notice. A copy change application that is not denied in the time provided shall be deemed an approval. A written denial shall be provided to the permittee indicating the reasons for the denial. The city manager or designee shall not approve a change to the mural face if such approval results in an increase of any of the linear dimensions of the previously permitted mural face.

(b) *Location change application.* A mural permit shall be transferable to a new location only if the permittee submits a location change application and such application are approved by the city manager or designee. The city manager or designee shall approve such application only if:

- (1) The location change is for cause, which shall be limited to:
 - a. The lease for the location of the mural permit is cancelled due to circumstances not within the permittee's control or that were not reasonably foreseeable to the permittee when it submitted its permit application or the lease is not renewed upon the natural expiration of the term of the lease;
 - b. The building or structure where the mural is located is demolished, sold, destroyed, or renovated; or
 - c. An intervening building or structure is constructed which substantially diminishes the visibility of the mural.
- (2) The new location for the mural is approved by the city manager or designee in accordance with the provisions of sections 62-604 and 62-606.
- (3) The permittee pays a non-refundable administrative fee in the amount of \$500.00, and a location change fee in the amount of \$1,000.00, which location change fee shall be refunded if the application is denied.

The city manager or designee shall, within 20 days after receipt of the location change application, approve or deny the location change application in accordance with the provisions of this article. A written denial shall be provided to the permittee indicating the reasons for the denial and refunding the location change fee.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-610. - Assignment.

Upon the payment of a \$2,500.00 assignment fee, a mural permit may be transferred to an entity found to be a qualified applicant by the city manager or designee. No applications for assignment will be received or processed if the assignor or assignee, or the mural proposed for transfer, has been issued a notice of violation, summons to appear, or ticket for any illegal mural, banner, sign, or any type of outdoor advertising in violation of chapter 62 or Miami 21.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-611. - Exemptions.

Temporary permits for signs, not governed under this division, placed on government-owned buildings may be granted by the city manager or designee and shall be exempt from the provisions of this article. A temporary permit may only be granted for signs depicting special events with citywide or countywide significance, and shall be granted for a period not to 14 days, except that the city manager or designee may, for good cause, grant one extension for a period not to exceed ten days.

Other than as exempted above in this section 62-611, there shall be no exemption from this article for a mural placed on government-owned buildings, and such mural shall be subject to the provisions of this article, including, but not limited to, the maximum number of mural permits that may be issued by the city manager or designee.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-612. - Enforcement.

Enforcement of this division shall be by chapter 2, article X, Code enforcement or any other remedies as provided by law and as further stated herein.

In the event of a violation of the terms of this division, including the erection of a mural without a permit, a civil penalty may be assessed or enforcement proceedings may be instituted with the city's code enforcement special masters. Each violation shall carry a civil penalty of \$1,000.00 per day or such greater penalties as are permitted by the law. The city may employ all penalties and remedies set forth in chapter 2, article X entitled "Code enforcement." This provision is supplemental to all other remedies and penalties provided by law. Decisions of the code enforcement special master shall be final and may be appealed to a court of competent jurisdiction within the times and in the manner provided by the Florida Rules of Appellate Procedure, and the laws of the state and this Code.

The city shall be authorized to collect against the bond or letter of credit all fees, fines and penalties, as well as all expenses incurred by the enforcement of this article.

In the event a permittee is found to be in non-compliance by the code enforcement board or special master of the city or the county equivalent for any mural located outside of the city, any and all mural permits issued to such permittee pursuant to this article shall be immediately rescinded and the permittee shall forfeit the right to apply for any subsequent mural permits. A notice of rescission shall be provided to the permittee, and require the permittee to remove all murals permitted pursuant to this division within five days of receipt of such notice. If the permittee fails to remove the mural(s) after receipt of such notice, enforcement proceedings and fines shall be immediately initiated in accordance with section 62-612.

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 city that the mural is in violation of the City Code. The violation will be scheduled on the next available code enforcement board or special master agenda within 30 days. If the mural erected without a valid mural permit poses a threat to the public health, safety, or welfare, the city, by and through its designee, shall be permitted to enter the building premises in violation and remove the mural. In the event the code enforcement board or special master finds that the mural was not in compliance with City Code at the time the citation was issued, any fines shall accrue from the date of notification of the violation and shall not be mitigated or reduced by the city, the code enforcement board, and/or the special master. Removal of the mural after issuance of a notice of violation, summons to appear, or a ticket shall not be a defense or deemed to be compliance with the Code, and the code enforcement board or special master shall find a violation of City Code if the mural was not in compliance with City Code at the time of issuance of the notice of violation, summons to appear, or a ticket. If any property, building, or individual wall has displayed an illegal mural, banner, sign, or any type of outdoor advertising in the city 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 chapter 62 or Miami 21, the property shall not thereafter be

an eligible mural location for five years from the date of the issuance of the notice of violation, summons to appear, or a ticket. No applications or requests by for a mural permit, assignment, or any other request pursuant to this division shall be accepted or processed for a qualified applicant from the date of issuance of 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 chapter 62 or Miami 21. No individual or entity that has displayed an illegal mural, banner, sign, or any type of outdoor advertising in the city 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 chapter 62 or Miami 21 shall be eligible to apply for a mural permit, assignment, or any other authorization pursuant to this division for five years from the date of the notice of violation, summons to appear, or a ticket.

Any costs incurred pursuant to this division, separate from code enforcement liens, incurred in the removal of murals shall be a special assessment lien imposed pursuant to this division and shall be a lien greater in dignity to all liens, excepting IRS ta liens. Special assessment liens created pursuant to this division may be discharged and satisfied by paying to the city the amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the maximum statutory interest rate, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records.

The violation for a mural erected without a valid mural permit shall be enforceable against any one or more of the following: the individual or entity operating the mural, the individual or entity that erected the mural, the owner of the property upon which the mural is erected, the commercial sponsor that is the subject of the mural, or the individual or entity that owns or licenses the product advertised in the mural. For any mural erected without a valid mural permit, the code enforcement board or code enforcement special master shall apply a rebuttable presumption that any of one or more of these entities had knowledge that the mural was erected without a valid mural permit in violation of City Code, and may determine that the violation shall be enforced as multiple individual violations against each entity, with each individually and jointly and severally liable for penalties and compliance. In the case of individuals or entities determined to be in violation that do not own the property where the violation is determined to have occurred, monetary penalties shall be attached to any business tax receipt maintained by such individual or entity in the city, and payment of such penalties shall be required prior to renewal of any such business tax receipt.

(Ord. No. 13311, § 2, 2-23-12; Ord. No. 13486, § 2, 10-23-14)

Sec. 62-613. - Maintenance.

In the event a city code enforcement inspector 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 inspector shall send written notification of their findings to the permittee and the city manager or designee and shall order the permittee to repair the mural within ten days after receipt of such written notice. In the event the permittee fails to repair the mural to the satisfaction of the code enforcement inspector, the city manager or designee shall initiate proceedings to rescind the mural permit under section 62-612. Notice shall be effectuated pursuant to chapter 2, article X, Code enforcement.

The building owners 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 city 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.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-614. - Conflict.

Notwithstanding any city ordinance to the contrary, this article shall exclusively control the legality, permitting, and approval process for murals in the city. Only murals authorized by this division shall be permitted in the city. Any murals not so authorized are hereby prohibited.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-615. - Rescission.

In the event this division is rescinded by the city commission in its entirety, all murals approved pursuant to this article shall be removed within 60 days from the date of such rescission or within the time for removal set forth in the county ordinance, whichever is sooner.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-616. - Appeals.

Any decisions of the city manager or designee pursuant to this article may be appealed to the city commission.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-617. - Opt-out provision.

The city opts-out of chapter 33, article 6, division 5 of the Miami-Dade County Code of Ordinances, as amended, per section 33-121.11 as applicable to murals, but expressly retains and adopts such regulations relating to other types of off-site advertising. The city has adopted the rules contained in this article, to regulate murals within the urban core and in proximity to expressways.

(Ord. No. 13311, § 2, 2-23-12)

Sec. 62-618. - Compliance with agreement and this article for customary use for local zoning for murals under the Highway Beautification Act.

Subject to compliance with all other city requirements, all murals which will become non-conforming pursuant to the agreement and this division are subject to the following conditions unless revoked or rescinded by the city.

- (a) Existing murals as of February 19, 2014 within the Park West entertainment district. Existing murals within the Park West entertainment district are depicted on a map maintained on file in the city clerk's office and the office of zoning. Murals which are legally permitted yet not in compliance with the spacing requirements set forth in the agreement and this division shall continue to be recognized as permissible mural locations and are deemed legally non-conforming with respect to spacing requirements until the mural permit is revoked, rescinded, or transferred to a new location.
- (b) The permit number, date of issuance, and current location for all existing murals as of February 19, 2014 outside the Park West entertainment district are listed on Exhibit B.

On or before February 19, 2024, all murals listed on Exhibit B shall be recertified to confirm compliance with spacing requirements. The permittee shall submit a signed and sealed survey to prove compliance with the spacing requirements set forth in the agreement and this division on or before January 9, 2024.

In the event of a conflict as to spacing requirements between murals listed on Exhibit B, on or before January 23, 2024, the city shall issue notices of rescission of mural permits in the order of most recently issued mural permit first.

(Ord. No. 13486, § 2, 10-23-14)