



Legislation Details (With Text)

File #: 20-250 **Version:** 1

Type: New Business **Status:** Approved

File created: 5/27/2020 **In control:** City Council

On agenda: 6/16/2020 **Final action:**

Title: PUBLIC HEARING: Consider an ordinance approving amendments to the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions to permit murals on private property/businesses and modifying, Article Three - Definitions and Article 8 - Zoning Districts, Development Standards, Tree Preservation; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. (UDC-20-0002)

Attachments: 1. 061620_UDC Amend_Ordinance 1976, 2. 061620_UDC Amend_Exhibit A.pdf, 3. H-3 Private Murals Presentations

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|--------------------------|--------|
| 6/16/2020 | 1 | City Council | close the public hearing | |
| 6/16/2020 | 1 | City Council | approve with conditions | |

To: Mark Hafner, City Manager

From: Trina Zais, Director of Public Services/Economic Development

Subject:

PUBLIC HEARING: Consider an ordinance approving amendments to the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions to permit murals on private property/businesses and modifying, Article Three - Definitions and Article 8 - Zoning Districts, Development Standards, Tree Preservation; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. (UDC-20-0002)

Background:

A mural is any piece of artwork painted or applied directly on a wall, ceiling or other permanent surfaces expressed in a form and manner as to provide aesthetic enjoyment for the viewer. A distinguishing characteristic of mural painting is that the architectural elements of the given space are harmoniously incorporated into the picture and it shall not contain text. A private mural is a design etched, painted, or drawn directly onto a privately owned structure (i.e. the side of a building).

Over the years, Keller has enjoyed a number of murals on private buildings, through various means of approval. These include:

-159 S. Main St: Dr. Pepper logo in OTK which we have preserved in an easement as an historic relic through the Façade Improvement Program, recommended by the KEDB and approved by City Council;

-164 S. Main St: a mural yet to be designed and approved for which we have secured an easement on the Ann Gibson Insurance Agency building as part of the OTK Phase I Revitalization effort;

-163 S. Main St: the mural on Nikko Blu at the request of the owner of Nikko Blu, recommended by the Public Arts Board and approved by City Council;

-128 Keller Pkwy: Artful Mayhem proposed a framed piece of art to be the size of a mural, but not directly applied to the building, recommended by the Public Arts Board and approved by City Council (not completed);

-962 Keller Pkwy: Starbucks proposed a mural that was processed as a variance to the UDC, under signs, recommended by the Public Arts Board and approved by City Council.

There are many examples throughout the DFW metroplex that include historic preservation, artistic expression, façade dressings, photo opportunities, expressions of civic pride, economic generators, accent pieces, etc.

Discussions surrounding murals over the years have included controversial content, whether or not a mural was really a sign, the quality of the materials used in the mural, and which body should review and approve requests.

The Keller Public Arts Board felt that it was not their directive to review any other than publicly purchased art. Both Planning and Zoning Commissioners as well as City Council members questioned treating murals like signs, when there was clearly a difference in most minds, and the approval process flowed from the Planning and Zoning Commission to the City Council. Council asked staff to review this with no particular urgency, but in advance of the next mural request.

Analysis:

The Keller Unified Development Code (UDC) does not provide for murals beyond a definition. Keller doesn't have a process for private mural consideration and approval, as evidenced by the multiple approaches used to date. There has been much debate in recent years regarding the processing of murals, what is considered a mural and which Board or Commission should be reviewing and recommending to the City Council. During the most recent mural consideration, it was the desire of Council that a process should be established and codified.

Staff examined the adopted processes of other similar DFW cities.

1. Fort Worth incorporates murals in their Public Art Master Plan. Their efforts include "Collaborating with Professionals Across Disciplines to Bring Public Spaces to Life" and "Enhancing the Quality of Life within Our Community." Their vision statement is "Public Art Helps to Define Fort Worth's Character as a Vibrant and Sustainable 21st Century City by Celebrating its Storied History, Contributing to its Iconic Destinations, Shaping its Distinct Neighborhoods, and Honoring its Close Connection to Nature." The Art Commission reviews and makes recommendation to City Council for approval.

2. North Richland Hills approved "I Luv NYC," a 20-panel mural bolted to the wall, at Ace Park, 7751 North Richland Blvd. City staff takes recommendations to City Council for approval.

3. Southlake has an Arts Council that considered a Public Arts Master Plan, as an element of the 2035 Comprehensive Plan. This Arts Council is responsible for approving murals.

4. Grapevine simply provides that murals are discouraged in their signing and lighting design guidelines. They did approve murals on buses. The city staff brought forward a recommendation to the City Council for approval.

Current UDC Regulation:

Section 3.01 Definitions, j. Murals - A painting or other work of art executed directly on a wall.

Section 8.03.R OTK - Old Town Keller District. 5.e.11) Wall murals shall be considered on a case-by-case basis and approved by the City Council as an element of a site plan application.

Section 8.03.S KR - Katy Road District. 5.f.1.d.) Wall murals shall be considered on a case-by-case basis and approved by the City Council as an element of a site plan application.

Section 8.09.D Sign Regulations. 6. Table 3) Wall murals -There are no set standards for murals. All proposed murals must be approved by City Council after recommendation from the Public Arts Board.

Proposed UDC Text Amendment:

Section 3.01 Definitions:
Modify Signs. j. **Mural**: See Mural

Insert (and adjust numbering) 285: A mural is any piece of artwork painted or applied directly on a wall, ceiling or other permanent surface expressed in a form and manner as to provide aesthetic enjoyment for the viewer. A distinguishing characteristic of mural painting is that the architectural elements of the given space are harmoniously incorporated into the picture and it shall not contain text.

Insert as a subset to 285. *Mural. a.: Private Mural* - An approved mural on a private structure provided with private funding and visible from publicly accessible space such as streets, sidewalks, trails, etc.

Insert as a subset to 285. *Mural. b.: Public Mural* - An approved mural on a public structure or on a private structure within a public purpose agreement provided with public funding and visible from publicly accessible space such as streets, sidewalks, trails, etc.

Section 8.03.R OTK - Old Town Keller District.
Modify 5.e.11) ~~Wall~~ Murals shall be considered on a case-by-case basis. Public murals shall be considered by the Public Arts Board for recommendation to and approved by the City Council. Private murals approval process includes a recommendation from the Planning and Zoning Commission to the City Council based on the following criteria:

- Shall not include any owner identification or commercial text message; however, it may contain graphics or images that relate to the products or services offered on the premises where the mural is located.

- Murals or art representation displaying any owner identification or commercial text message will be considered as a “flat/wall sign.”
- Shall not depict nudity or obscene images and be generally acceptable for viewing by all audiences.
- Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.

Section 8.03.S

KR - Katy Road District.

Modify 5.f.1.d.) ~~Wall~~ Murals shall be considered on a case-by-case basis. Public murals shall be considered by the Public Arts Board for recommendation to and approved by the City Council. Private murals approval process includes a recommendation from the Planning and Zoning Commission to the City Council based on the following criteria:

- Shall not include any owner identification or commercial text message; however, it may contain graphics or images that relate to the products or services offered on the premises where the mural is located.
 - Murals or art representation displaying any owner identification or commercial text message will be considered as a “flat/wall sign.”
- Shall not depict nudity or obscene images and be generally acceptable for viewing by all audiences.
- Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.

Section 8.09.D

Sign Regulations.

Modify 6. Table 3) Wall murals: Where permitted, the following applies:

- Shall not include any owner identification or commercial text message; however, it may contain graphics or images that relate to the products or services offered on the premises where the mural is located.
 - Murals or art representation displaying any owner identification or commercial text message will be considered as a “flat/wall sign.”
- Shall not depict nudity or obscene images and be generally acceptable for viewing by all audiences.
- Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.

Planning and Zoning Commission:

At the May 26, 2020, Planning and Zoning Commission meeting, Chairperson Gary Ponder opened the public hearing portion of the item. Debbie Wolfe voiced her support for allowing murals and shared her concern about prohibiting text on murals.

The Planning and Zoning Commission held discussion regarding the murals and ultimately approved unanimously the UDC text amendments as presented.

Alternatives:

The City Council has the following options when considering an amendment to the text of the UDC:

- Approve as presented.
- Approve with modifications.
- Table the item with clarification of intent and purpose.
- Deny.