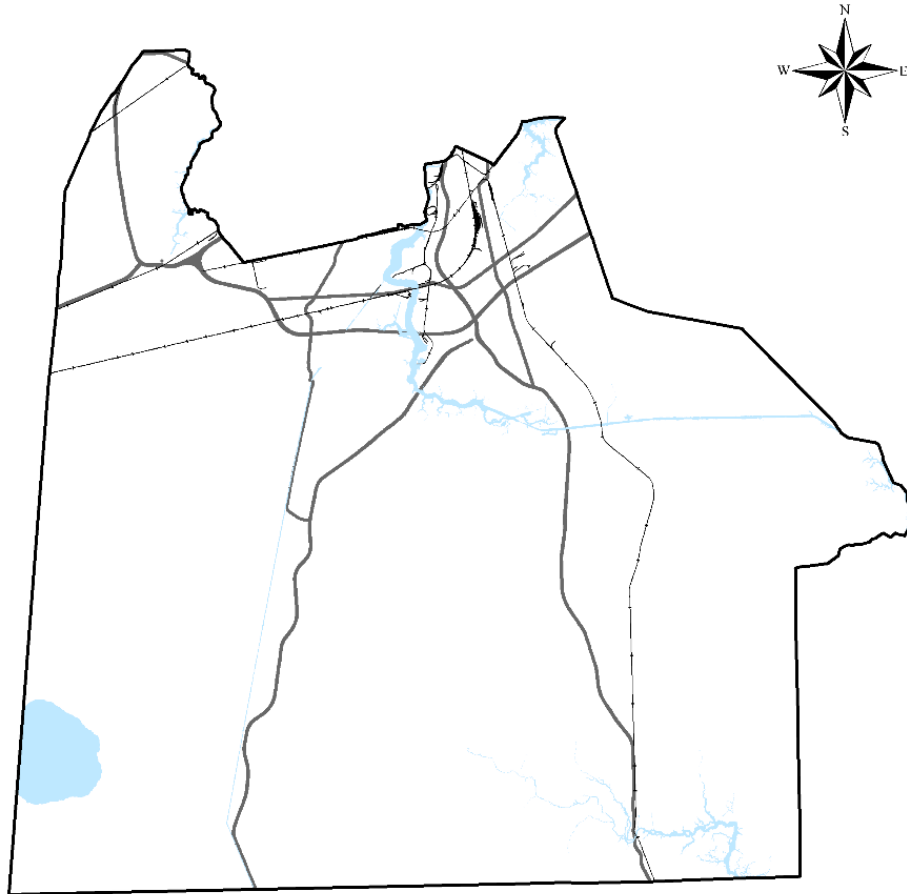


**PLN-TXT-2021-004**

*Murals and Works of Visual Arts*



Proposal: An Ordinance amending Appendix A of the City Code, entitled “Zoning,” Article 14, Sections 14-703, 14-703.1 and 14-705, to permit murals in specified overlay districts and planned unit developments; provided certain criteria are met.

**Public Hearing Date:** January 12, 2022

**Staff Report Date:** December 30, 2021

**Project Planner:** Mark Hobbs, Principal Planner

**STAFF RECOMMENDATION**

APPROVED version dated December 14, 2021

CONTINUED

DENIED

**FINDINGS:**

1. The proposed amendment will allow the issuance of a zoning permit for murals that are noncommercial works of art if it contributes to the character of the community and does not pose a threat to traffic safety.
2. The proposed amendment is consistent with good zoning practices.

**STAFF RECOMMENDATION:**

Based on the findings contained in this staff report, staff recommends that **PLN-TXT-2021-004, version dated December 14, 2021** be **APPROVED**.

**TEXT AMENDMENT DESCRIPTION:**

An Ordinance amending Appendix A of the City Code, entitled “Zoning”, Article 14, Sections 14-703, 14-703.1 and 14-705, to permit murals in specified overlay districts and planned unit developments; provided certain criteria are met. The sign ordinance has been amended to allow for murals in the Dollar Tree (Summit Pointe) PUD and the Great Bridge Historic Gateway Overlay District. Prior to permit approval, an illustration of the mural will be reviewed by the Zoning Administrator, Public Works and the Planning Department per ordinance requirements. The amendment also requires the mural to be maintained in good condition after it is displayed. Failure to do so could result in revocation of the permit.

**BACKGROUND:**

The proposed amendment was initiated by City Council who adopted a resolution on April 13, 2021, requesting the Planning Commission to consider and make recommendation concerning the proposed amendment.

**COMMENTS:**

| AGENCIES NOTIFIED       | RESPONSE REC'D DATE | AGENCIES NOTIFIED | RESPONSE REC'D DATE |
|-------------------------|---------------------|-------------------|---------------------|
| D & P / Dev Engineering | No Objections       | Public Utilities  | No Objections       |
| D & P / Zoning          | No Objections       | Economic Dev.     | No Objections       |
| Public Works            | No Objections       |                   |                     |

*Received comments are attached.*

**STAFF ANALYSIS:**

Murals are a visual display or illustration that is subject to First Amendment protection in the same manner as typical signage because it uses its medium to convey a message. As such, murals fall under the definition of a sign and the proposed text amendment would amend the City’s sign ordinance. The definition of a mural restricts the display and requires it to be unrelated to the business, product or service offered on site. The definition is provided below:

*Mural.* Visual illustration that is either projected with light or painted onto the wall of a building that intends to beautify or enhance the character of the surrounding community. Murals shall not include commercial logos or trademarked symbols; or pictures, symbols or devices that relate to a commercial business, product or service offered on the premises where the wall is located.

The definition intends to permit noncommercial murals, and not commercial speech, as the City seeks to promote murals that function as art. Murals dedicated to commercial speech would not contribute to the character of the surrounding area as such murals would be intended to attract attention of potential customers and are motivated by

economic purposes. By only permitting noncommercial murals, the ordinance can permit murals by issuance of a zoning permit and the artwork will not be counted against a property's allowed signage. Thus, this ordinance will allow an artist to create a mural as a work of art that is appropriate for the property and the surrounding area.

Specifically, the ordinance will permit murals in the Great Bridge Historic Gateway Overlay District and the Dollar Tree Planned Unit Development with the issuance of a zoning permit certifying compliance with the ordinance. The Zoning Administrator may issue a permit if Public Works determines the mural will not interfere with or pose a threat to traffic safety and Planning determines the mural contributes to the design of the property and is compatible with the character of the surrounding overlay district or planned unit development, as applicable.

To apply for a permit, the applicant/owner shall submit an application with an illustration depicting the location, dimension and depiction of the proposed mural. The zoning permit issued shall be rendered null and void if the mural substantially deviates from the location, dimension, and depiction. After issuance of the permit, the applicant/owner shall be responsible for maintaining the mural in good condition. Failure to maintain the mural in good condition shall render the permit null and void. Any unpermitted mural would be subject to enforcement as a potential Zoning Ordinance violation.

Murals can be used to create interest and excitement in a community. It can also be used to cover a structure that is a detriment to the property. Such is the case with the Dollar Tree PUD. They desire to paint a mural on a warehouse wall that borders the back (north) side of their current area of development. In this case, a mural converts a negative design element into a positive aesthetic, that adds value to their community. Murals provide another tool for the design tool-box and help to create a unique sense of place vital for today's successful developments.

Numerous jurisdictions in Virginia allow and promote the use of murals or other forms of art on private property, with the intent that it be viewed by the public and enhance the character of public places. These jurisdictions target their strategic areas identified for increased growth, such as urban, or resort districts. Chesapeake needs to initiate this practice in order to be competitive with other jurisdictions. This amendment will allow murals in the Dollar Tree PUD and the Great Bridge Historic Gateway Overlay District because these are strategic growth areas, coupled with design standards and district character, that can successfully integrate murals into their communities. For these reasons staff recommends approval of the proposed amendment.

#### **PREVIOUS STAFF REPORTS AND UPDATES:**

[Version dated August 27, 2021](#)

[Version dated August 2, 2021](#)

[Version dated July 2, 2021](#)

**ATTACHMENTS:**

1. Ordinance, dated December 14, 2021
2. Initiating Resolution, dated April 13, 2021.

**AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED “ZONING,” ARTICLE 14, SECTIONS 14-703, 14-703.1 AND 14-705, TO PERMIT MURALS IN SPECIFIED OVERLAY DISTRICTS AND PLANNED UNIT DEVELOPMENTS; PROVIDED CERTAIN CRITERIA ARE MET.**

**BE IT ORDAINED** by the Council of the City of Chesapeake, Virginia that Appendix A of the City Code, entitled “Zoning,” Article 14, entitled “Accessory Uses and Structures,” Sections 14-703, 14-703.1 and 14-705 be amended and reordained as follows:

**ARTICLE 14. – ACCESSORY USES AND STRUCTURES**

**Section 14-703. Definitions.**

Mural. Visual illustration that is either projected with light or painted onto the wall of a building that intends to beautify or enhance the character of the surrounding community. Murals shall not include commercial logos or trademarked symbols; or pictures, symbols or devices that relate to a commercial business, product or service offered on the premises where the wall is located.

**Section 14-703.1. Classification of sign types.**

The following table describes and classifies each of the sign types defined in the chapter which meet more than one definition. \*

| <b>Freestanding sign</b>                  | <b>Temporary sign</b> | <b>Wall sign</b>                              | <b>Offsite sign</b>                                     |
|---|-----------------------|---|---|
| Ground sign                               | Banner                | Attached sign                                 | Billboard sign  |
| Monument sign                             | Flag sign             | Projecting sign                               | Directory sign  |
| Public service sign (when freestanding)   | Snipe sign            | Roof sign                                     | Residential development/subdivision sign (when offsite) |
| Ground sign                               | Festoons              | Public service sign (when fastened to a wall) |   |
| Community entrance sign                   | Portable sign         | Gas pump sign                                 |   |
| Development, construction and sales signs | Sandwich board sign   | <u>Mural</u>                                  |   |

|  |   |  |  |
|--|---|--|--|
|  | Public service sign   |  |  |
|  | Temporary window sign   |  |  |
|  | Yard sign   |  |  |
|  | Signs located on property zoned or used for agricultural purposes only at test plot locations under cultivation |  |  |

Note(s): Depending on available technology, many of the sign types identified in this table may also meet the definition of flashing signs or illuminated signs.

**Section 14-705. Special situations.**

L. Murals. Murals shall be permitted in the Great Bridge Historic Gateway Overlay District, as defined by this ordinance, and in the Dollar Tree Planned Unit Development, as approved by City Council, with the issuance of a zoning permit certifying compliance with the requirements of this section. Any mural permitted by this ordinance shall not count toward the permitted wall signage requirements set forth in Section 14-700 et seq. of this ordinance. In the event of a conflict, the provisions in this ordinance shall supersede any contrary zoning ordinance provision.

1. The Zoning Administrator or designee may approve and issue a zoning permit for a mural if the following requirements are met:
  - a. The applicant either owns the property where the mural is proposed to be located or is the authorized agent for the owner, as determined by the City Attorney; and
  - b. The Department of Public Works determines that the mural will not interfere with or pose a threat to traffic safety; and

- c. The Department of Planning determines that the proposed mural contributes to the overall design and aesthetic value of the development where it is located and is compatible with the character of the surrounding overlay district or planned unit development, as applicable.
2. The applicant shall be responsible for providing the Zoning Administrator with an illustration depicting the location, dimension and depiction of the proposed mural. The zoning permit issued shall be rendered null and void if the mural substantially deviates from the location, dimension and depiction on said illustration, as determined by the Zoning Administrator.
3. The applicant/owner shall maintain the mural in good condition, to include repairing of peeling paint and deterioration caused by weather, natural or unnatural forces, passage of time or other factors. The zoning permit shall be rendered null and void if the mural is not maintained in good condition, as determined by the Zoning Administrator.

**ADOPTED** by the Council of the City of Chesapeake, Virginia this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Council

APPROVED AS TO FORM:

  
Deputy City Attorney



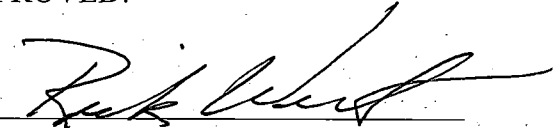
**A RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO ARTICLES 3, 11, 12 AND 14 OF THE CHESAPEAKE ZONING ORDINANCE TO PERMIT MURALS PROVIDED CERTAIN REQUIREMENTS ARE MET.**

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require amendments to the Chesapeake Zoning Ordinance be considered by the Planning Commission and City Council to permit murals provided certain requirements are met.

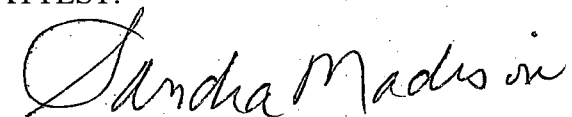
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Chesapeake, Virginia, that the Planning Commission is hereby requested to consider and make recommendations to City Council concerning proposed amendments to Articles 3, 11, 12 and 14 of the Chesapeake Zoning Ordinance, and any necessary and correlating amendments, to permit murals provided certain requirements are met.

ADOPTED by the Council of the City of Chesapeake, Virginia this 13<sup>th</sup> day of April, 2021.

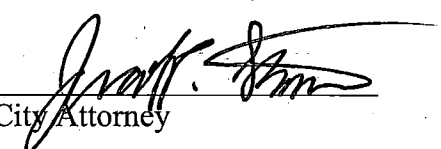
APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Clerk of the Council

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney