

ORDINANCE NO. 2021-06

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES CHAPTER 42
& UNIFIED DEVELOPMENT ORDINANCE CHAPTER 12**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Code of Ordinances Chapter 42 and Unified Development Ordinance Chapter 12, be amended to regulate the installation of public art; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following sections:

ELEMENT 1: ARTS AND CULTURE

OBJECTIVE 1.4: Increased public art throughout the City.

POLICY 1.4.A: Collaborate with partners to expand its existing public sculpture program into a broader public art program including various media types.

and,

WHEREAS, a legislative public hearing was conducted on Monday, February 15, 2021, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code, Code of Ordinances Chapter 42 and Unified Development Ordinance Chapter 12 are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

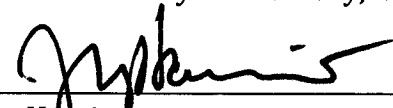
Adopted and approved upon second reading this the 22nd day of February, 2021.



ATTEST:




Jill Murray, CMC
City Clerk



Jimmy Harris
Mayor

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney

Code of Ordinances

Chapter 42 - OFFENSES AND MISCELLANEOUS PROVISIONS¹¹

Footnotes:

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State Law reference— Criminal law, G.S. ch. 14.

ARTICLE I. - IN GENERAL

Sec. 42-16. – Public art.

- (a) It shall be unlawful for any person to install art in publicly-visible spaces without receiving City Council approval. City Council shall issue a resolution stating its approval or denial of the installation request based on adopted policies.
- (b) Public art includes but is not limited to murals, sculptures, memorials, and community art designed and/or built by an artist. Public art may be attached to a building or be a free-standing installation.
- (c) For the purposes of this section, a publicly-visible space is defined as publicly- or privately-owned, non-residential property that is visible from public streets and pedestrian walkways.
- (d) Any person failing to comply with this section, shall be guilty of a misdemeanor as provided in G.S. 14-4, and subject to punishment as provided in Sec. 1-8. Installed artwork may be subject abatement pursuant to Sec. 38-35.

Secs. 42-17—42-40. - Reserved.

Unified Development Ordinance

CHAPTER 12. - SIGNS

12.7. - Exempt signs.

The following signs are exempt from the provisions of this ordinance and do not require a permit:

- A. *Government signs:* Official signs installed by units or agencies of local government having jurisdiction within the City of Brevard, and agencies of the State of North Carolina or the federal government are exempt from the regulations established by this section. For the purposes of this section, official signs shall include any sign erected by the City of Brevard. Such signs may be illuminated, flashing, or moving as required.
- B. *Signs required by law:* Signs erected pursuant to federal, state, or local laws or ordinances.
- C. *Architectural features:* Signs which are a permanent architectural feature of a building or structure, existing at the time of adoption of this ordinance.
- D. *Public-owned ball field signs:* Signs attached to the field's fencing, provided that such signs are made of weather-durable materials and are not self-illuminated.
- E. *Window signs:* Signs placed on or behind window glass, provided that no window signs shall include electronic or flashing elements as prohibited by Section 12.6.E.
- F. *Historic properties:* Buildings or properties that are either locally or nationally listed as a historic landmark may have small identifying signs on the building or property.
- G. *Murals:*
 1. A mural, as defined herein, is any image painted, applied, or affixed directly on to a privately owned, nonresidential building wall, retaining and screening wall, or other large existing outdoor surface in nonresidential zoning districts for artistic and/or aesthetic purposes. A distinguishing characteristic of a mural is that the architectural elements of the given surface are often harmoniously incorporated into the depicted image.
 2. Murals may be permanent, or temporary and shall be maintained in good condition by the property owner.
 3. Owners seeking to create murals shall receive City Council approval. Based on adopted policies, City Council shall issue a resolution stating its approval or denial of the mural request in all nonresidential zoning districts.
 4. Murals do not require a sign permit if they adhere to the following:
 - (a) If media other than, or in addition to, paint are used in a mural such media shall not extend more than twelve inches (12") above the surface on which the mural is applied, or affixed and may not extend into a right-of-way.
 - (b) The mural may incorporate logos, symbols, and copy within the image, however such elements combined shall not exceed eight percent of the mural's total surface area.
 - (c) The following shall be used for purposes of measuring surface area:
 - (1) The area of a mural shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or paint or other media, together with any material or color forming an integral part of the background of the display or used to differentiate the mural from the backdrop or structure against which it is placed.
 - (2) Architectural elements on building walls such as windows, doors, and awnings that are harmoniously incorporated into the mural's design shall be counted in the overall square footage of the mural.
 5. Murals shall not be placed or installed on locally designated historic buildings by the Joint Historic Preservation Commission or those listed on the National Register of Historic Places.
 6. Murals that do not adhere to Subsection 12.7.G, and its subsections, shall be considered wall signs and shall adhere to all provisions therein and require the issuance of a sign permit.
- H. *Vintage signs:*
 1. Vintage signs are defined as any logo, photo, text, or image that is the copyrighted advertising for a business, whether active, or closed, that is no longer used by the business for marketing purposes. Vintage signs may be incorporated into murals, or placed on building walls of privately owned, nonresidential buildings, and retaining/screening walls in nonresidential zoning districts.
 2. Vintage signs are allowed in all zoning districts.
 3. Vintage signs shall require only a letter of compliance before placement if they adhere to the following:
 - (a) If used by a property owner with no affiliation to the active, or closed business, vintage signs may be placed or incorporated:

- (1) On a building wall as long as no more than forty percent (40%) of the wall face is covered;
 - (2) On a pitched or flat roof as long as no more than twenty percent (20%) of the area of the surface plane on which the vintage sign is placed is covered; or
 - (3) Within murals as long as all provisions for murals are met in addition to those for vintage signs provided herein.
4. Vintage signs shall require a sign permit if used by an operational business in place of its current advertising signage. In such instances the vintage sign shall be considered wall signage and shall adhere to all provisions therein and require the issuance of a sign permit.

(Ord. No. 2020-34, § 1(Exh. A), 12-7-20)