CITY OF ENGLEWOOD

ORDINANCE #19-14

AN ORDINANCE AMENDING THE CODE OF THE CITY OF ENGLEWOOD BY THE ADDITION OF SECTION 250-107 ENTITLED: "MURALS AND PUBLIC ART INSTALLATIONS"

WHEREAS, the Governing Body of the City of Englewood wishes to amend Chapter 250 Land Use with the addition of Section 250-107 entitled "Murals and Public Art Installations:"

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Englewood, Bergen County, New Jersey, that 250-107 is hereby established as follows:

SEC. 250-107 MURALS AND PUBLIC ART INSTALLATIONS

A. PURPOSE

This article regulates all Murals and Public Art Installations within the City of Englewood visible from the public right-of-way and those that are visible from adjacent properties to ensure that they are appropriate for their respective uses in keeping the appearance of the affected property and surrounding environment and protective of the public health, safety, and general welfare. The purposes of this chapter with respect to murals and public art installations are to:

a. Ensure public welfare by providing proper maintenance of Murals and Public Art Installations.
b. Ensure public safety by preventing hindrances and distractions to pedestrians and drivers of motor vehicles.
c. Encourage quality in design and application and to promote a desirable visual environment.
d. Encourage artistic expression and foster a sense of pride.
e. Guarantee that murals and other Public Art installations contain no commercial advertising.
f. Prevent visual expression that may be offensive, obscene, contain elements of fighting words, incitement, defamation or is derogatory, or that constitutes off premises advertising.

B. SEVERABILITY

If any word, sentence, section, chapter or any other provision or portion of this article or rules adopted hereunder is invalidated by any court or competent jurisdiction, the remaining words, sentences, chapters, provisions, or portions will not be affected and will continue in full force.

C. DEFINITIONS

Words and terms used in this article have the following meanings given. Unless expressly stated otherwise, any pertinent word or term not part of this listing but vital to the interpretation of this ordinance shall be construed to have their legal definition, their meaning as commonly accepted by practitioners including civil engineers, surveyors, architects, landscape architects and planners, designers and artists.

ALTERATION
Any change or rearrangement that enlarges or diminishes the work, or a change in location, excluding normal repairs and maintenance.

COMMERCIAL MESSAGE
A message or symbol that advertises a business conducted, services rendered, or goods produced or sold.

GRAFFITI
The etching, writing, painting, covering, drawing upon or otherwise placing a mark of paint, ink, chalk or dye upon public or private property, regardless of the content, with intent to damage such property and are not authorized or permitted by the property owner.

MURAL
A hand produced work of visual art that is tiled, digitally printed and mounted directly to an exterior wall, a vinyl applique or painted by hand directly to an exterior wall of a building. A mural that contains the name or logo of a business or a specific brand of merchandise sold within the building on which the mural is applied is considered a sign. Murals may not contain any promotional material.

PUBLIC ART
All forms of visual art that does not contain any commercial message that are located within the City Right-of-Way or on public land or on private property visible from a sidewalk, street or other right-of-way within the City of Englewood and which meets the requirements within this article.

D. GENERAL REGULATIONS

1. An original art mural or public art that meets all of the following requirements will be permitted upon satisfaction of the applicable procedures.

2. No Mural or Public Art shall be erected, placed, altered, relocated or replaced except in accordance with this article and unless a permit has been issued. This is applicable, but not limited to, all walls, utility boxes, benches and trash receptacles, streets and sidewalks.

3. All Murals and Public Art Installations shall be maintained in good repair, free from peeling paint or damage due to age, weather vandalism or the like. Failure to maintain a mural or public art installation in good repair may result in notification of the Code Enforcement Officer, and if necessary, appropriate enforcement action by the City including recovery of related expenses for enforcement.

4. Murals may only be placed on a building or structure in accordance with the restrictions set forth herein. However, should an applicant desire to have a mural constructed off-site in moveable panels or vinyl appliques to be installed on said facade, the attachment of said panels must comply with applicable building codes, subject to permits and inspection, the attachment devices must not compromise the structural integrity of the surface to which the panels are attached, and said panels must be securely attached to prevent failure due to weather conditions, vandalism or age.

5. The mural or public art installation shall remain in place, without alteration, for a minimum period of one (1) year. "Alterations" include any change to a permitted mural or art installation, including but not limited to, any change to the image(s), materials, colors or size of the permitted mural. "Alteration" does not mean any naturally occurring changes to the mural caused by exposure to the elements or the passage of time. Minor changes to the permitted items that result from the maintenance or repair of the mural shall not be considered and alteration. Such minor changes may include slight unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of vandalism.

6. No part of a mural shall exceed the height or width of the structure to which it is tiled, painted or affixed.

7. No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted or affixed where allowable.

8. No part of a mural shall exceed the allowable height above the grade within each district.

9. No mural or public art installation may consist of, or contain, electrical or mechanical components, or changing images, moving structural elements, flashing or sequential lights, kinetic art or lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every twenty-four (24) hours.

10. No mural or public art installation may be placed over the exterior surface of any building opening, including but not limited, windows, doors, fire escapes, vents, unless those openings have been permanently sealed.

11. No mural or public art installation shall be arranged and illuminated in a manner that will produce a light intensity of greater than three (3) foot candles above ambient lighting as measured at the property line of the nearest residentially zoned property. Any mural or public art installed within a residential zone shall not be permitted to be illuminated between the hours of 10:00 p.m. and 5:00 a.m.

12. Not more than one mural or public art installation may be located within 200 feet of another mural or public art installation unless it is part of an approved ensemble.

13. If vandalism to the mural or the public art installation occurs, it is the responsibility of the property owner or tenant to remove the graffiti, in consultation with the artist, within forty-eight (48) hours. The City reserves the right to remove or fine the property owner for any unmaintained murals or public art installation.

E. REVIEW AND PERMITTING PROCESS

1. An application for a mural or public art permit shall be made to the Zoning Officer on forms provided for such purposes.

2. The application shall include, but not necessarily be limited to: the required fee and all information required on the application and attendant forms.

3. <u>The applications shall be accompanied by</u>:
    a. Photographs of the subject property and surrounding buildings;
    b. Illustration of the proposed mural or public art installation, color renderings of mural, to scale and with indicated dimensions of both the mural and the wall it is to be applied to;
    c. Project description, including purpose. Detailed information regarding the material to be used to apply or install the mural or public art installation, and any specialized equipment necessary for the project;
    d. Information regarding the expected life span of the mural or art installation;
    e. Maintenance plan which specifies the frequency of maintenance, provisions to address fading and vandalism, and general maintenance for the life of the mural or public art installation. A plan for the restoration of the surface substrate at its conclusion;
    f. Project timeline and budget;
    g. Written, notarized, consent of the property owner and the property tenant on which the mural is to be placed;
    h. Certificates of Insurance including Contractor/Artist registration;
    i. Hold Harmless Agreement with the City of Englewood;
    j. Certification by the Police Department [Traffic Division] to ensure pedestrian, driver and traffic safety at the site.
    k. A guarantee in the form of a Bond, from the property owner or tenant with the City of Englewood that the mural will comply at all times with this ordinance, and

that there will be guaranteed maintenance of the mural on a weekly (as needed) basis for the life of the project.

l. Application fee, as determined by the City Council and escrow deposit for professional review fees.

F. COMPLETENESS DETERMINATION

An application shall be reviewed for completeness by the Zoning Officer and forwarded to the Sign and Facade subcommittee of the Planning Board for review of appropriateness of the mural or public art installation. The Zoning Officer shall advise the applicant in writing if the application is deficient within forty-five (45) days of submission. Resubmission shall initiate another forty-five (45) days for Zoning Officer's review.

G. MURAL/PUBLIC ART INSTALLATION PERMIT

The Planning Board shall have the ultimate authority to approve all Murals and Public Art installations alone or as part of site plan review of a development project upon public notice and hearing. Such review shall be limited to the provisions of the Ordinance and shall not be content-based.

Alterations to an existing mural or public art installation shall require a permit when the alterations are to the size, shape, location or design of the mural or public art installation.

H. SITE PLAN REVIEW

Site Plan review shall be required for all murals and public art installations at a regularly scheduled meeting of the Planning Board of the City of Englewood.

I . MAINTENANCE OF PERMITTED MURALS AND PUBLIC ART INSTALLATIONS

The building owner is responsible for ensuring that a permitted mural or public art installation is maintained in good condition, fading is addressed and the mural or object is repaired in the case of vandalism or accidental destruction in accordance with approved maintenance plans.

J. REMOVAL OF A PERMITTED MURAL OR PUBLIC ART INSTALLATION

Prior to the removal of a mural or art installation the property owner must notify the Chief Building Inspector or Sub-Code official at least thirty (30) days prior to its/their removal with a letter stating the intent to remove the mural or public art. Any associated materials that were used to affix or secure the mural to the wall must also be removed at the time of the removal. This includes, but not limited to mounting brackets, hardware, caulk or grout, adhesives and glues. Complete restoration of the surface substrate is required.

K. ALTERATIONS TO A PERMITTED MURAL OR PUBLIC ART INSTALLATION

Alterations of a mural or a public art installation must be approved by obtaining a new permit.

L. ENFORCEMENT

It is unlawful to violate any provisions of this chapter. The regulations of this chapter are enforced by the Chief Inspector of the City of Englewood.

M. FEE SCHEDULE

The fee for a permit shall be as follows:

1. $4 per square foot; minimum fee of $200.

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RECORD OF VOTE

FIRST READING DATE: September 17, 2019

COUNCIL	MOTION	VOTE
Cobb	**X**	**N**
Cohen		**Y**
Glynn		**Y**
Hamer		**Y**
Rosenberg		**AB**

DATE PUBLISHED IN THE RECORD: September 25, 2019

DATES PUBLIC HEARINGS HELD: October 29, 2019

DATE SECOND READING HELD: October 29, 2019

COUNCIL	MOTION	OPEN	MOTION	CLOSE	MOTION	TABLE
Cobb		**Y**		**Y**		**Y**
Cohen		**Y**		**Y**		**Y**
Glynn		**Y**		**Y**		**Y**
Hamer	**X**	**Y**	**X**	**Y**	**X**	**Y**
Rosenberg		**AB**		**AB**		**AB**

Y=YES N=OPPOSED A=ABSTAINED AB=ABSENT

PRESENTED TO MAYOR: November 4, 2019

APPROVED _____

REJECTED _____ (VETO)

DATE: _____ _____
MAYOR MICHAEL WILDES

I do hereby certify that the foregoing is a true and exact copy of an Ordinance adopted and approved by the Mayor and Council of the City of Englewood.

_____
Yancy Wazirmas, RMC
City Clerk