



MEMORANDUM

"... meeting community needs... enhancing quality of life."

Plan Commission Meeting Date: August 25, 2014

Common Council Meeting Date: September 3, 2014

Item: Resolution #23-R-14 –Martin/Dalton/Trauger/Konetzke/Meltzer

Case Manager: Jeff Towne

Background

At the July 21, 2014 Plan Commission meeting, staff was asked to “review its policy on painted signs and murals” in response to a resolution, which is as follows:

Resolution #23-R-14 - Martin/Dalton/Trauger/Konetzke/Meltzer

“WHEREAS, Signs and murals painted on the sides of buildings have long been a part of Appleton’s landscape and historical examples can still be seen on the sides of Harmony Café, the former Wichman Furniture building and many others throughout the city.

WHEREAS, Hand painted signs and murals are considered works of art, adding beauty and interest to the exteriors of buildings.

WHEREAS, The City of Appleton encourages owners to take pride in their businesses by maintaining and making improvements to their property.

AND WHEREAS, The City of Appleton encourages its citizens to enjoy all forms of art.

THEREFORE, BE IT RESOLVED, that City of Appleton staff review its policy on painted signs and murals. Any murals and signs that currently exist are not in violation until further review.”

Current Zoning Ordinance Standard/Regulations for Painted Signs and Murals

While the City does not have any policies related to painted signs and murals, the Zoning Ordinance does refer to painted signs under Article XIV. Signs:

Sec. 23-504. Definitions and interpretation.

Sign. Any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

- (e) Painted signs directly on building walls.

Analysis

Painted signs directly on building walls are expressly prohibited under the current Zoning Ordinance. The resolution also brings up the subject of murals. The Zoning Ordinance does not define the term mural, which is generally construed as a painted artwork on a wall or similar structure. The Zoning Ordinance does not currently regulate artwork beyond underlying setback and height standards- the same as it does for any type of use or accessory use or structure.

The term “public art” has been used to identify murals that currently exist in the City. This is a misnomer as the murals are not located on public property, controlled or sanctioned by the City of Appleton or other public entity, nor are they publicly funded. Most of these existing murals fall under the sign definition and would require review and permits to continue to remain even if the Zoning Ordinance is amended to allow painted wall signs as they identify a business or use by name or through graphics representing the uses occurring at their particular locations.

Examples of cities that have established public art programs include Portland, Oregon; Philadelphia, Pennsylvania and Cincinnati, Ohio. In certain cases, these cities do not regulate murals under their zoning regulations. These programs are administered by a board and receive public funding and input. This is a different direction than our scope of review. The Zoning Ordinance is not the appropriate section of the Municipal Code that should regulate public art.

Proposed Text Amendments

Staff has created a draft of potential language revisions to address the issue of painted wall signs. The parts of this Section proposed for change are identified in Bold Italics and are also underlined. The entire Section 23-500 has not been attached to this memorandum due to the volume of the section. Only those portions proposed for change have been incorporated in this document and no other changes have been made. The intent is to allow/permit painted wall signage in specific districts, and to create standards that specifically apply to this type of signage.

The proposed revisions to Section 23-500, with narrative, are as follows:

Sec. 23-504. Definitions and interpretation.

The following definitions will be added.

Mural. *A work of graphic art painted or applied to building walls which contain no advertising or identification messages.*

Painted wall sign. *A wall sign painted or drawn directly on the exterior wall surface of a building.*

Ghost Sign. *A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community.*

Comment: Signs painted directly on the wall of a building are not currently permitted. When permitting new uses, definitions must be created. Thus, a definition is being created for the term "painted wall sign". The definition mentions building walls specifically as this definition does not include rooftops, retaining walls, fences or structures other than a building wall as appropriate locations for painted wall signs. A definition of ghost sign has been created to identify signs created in the past that may be present on a building as a way of allowing for the preservation or restoration of such signs. A definition of mural has been created for clarification purposes.

DIVISION 3. GENERAL PROVISIONS

Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

(e) ~~Painted signs directly on building walls.~~

Comment: In order to allow painted wall signs, the standard currently prohibiting painted signs directly on building walls, is being eliminated.

Sec. 23-508. Signs not requiring a permit.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

(c) The following are signs that do not require a sign permit:

() Murals. Murals are not signs and are not subject to regulation under this Chapter.

Comment: For clarification purposes, mural is listed under the permit exemptions of the section.

Sec. 23-529. Design standard exceptions.

(a) **Hospital exceptions.** In a C-2 commercial district, the following design standard exceptions for PD planned development zoning for hospitals will apply:

- (1) A ground, medical campus identification sign shall be allowed for every five hundred (500) feet of frontage subject to size, height and setback restrictions in accordance with Division 4. If located by an entrance, an identification sign can be combined with a site information sign.
- (2) Emergency entrance signage may be included in the medical campus identification or site information signage to give clear direction to the emergency room.
- (3) Each entrance to the hospital campus shall be allowed a ground, site information sign to identify parking, emergency, hospital, and clinic entrances. Site information signs shall be limited to seventy (70) square feet and shall meet all height and setback restrictions in accordance with Division 4.
- (4) At each entrance door to the hospital or clinic, a wall sign will be allowed not to exceed forty (40) square feet to identify the function beyond the door.
- (5) All hospital related signs may be lighted for nighttime identification.
- (6) A hospital may request off-premises signage attached to City street signs for directional purposes. These signs are subject to City approval and installed by the City.

(b) **Central business district (CBD) exceptions.** Permitted signs in the CBD central business district are the same as in the C-2 District, with the following conditions and exceptions:

- (1) Signs on pedestrian skywalks are limited to businesses that have long-term leases to maintain the skywalks. The area of all skywalk signs per side may be a maximum of twenty percent (20%) of the skywalk face.
- (2) Parking ramps, library, children's museum, post office, YMCA, hotels, City Center

Plaza, and other major landmarks may have off-premises signage attached to existing street signage and light poles subject to review and approval by the City.

(c) **41 and 441 freeway exceptions.** The following ground sign design standard exceptions for C-2, M-1, and M-2 zoned land will apply to freeway-oriented, on-premises signs.

- (1) A ground sign may exceed twenty-eight (28) feet in height by two (2) feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right-of-way. No ground sign shall exceed sixty (60) feet in height above the abutting freeway's centerline grade.
- (2) A ground sign may exceed one hundred fifty (150) square feet in area by ten (10) square feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right of-way. No ground sign shall exceed two hundred (200) square feet in area per sign face.
- (3) If a single parcel exceeds nine (9) acres, a second ground sign not exceeding twenty-eight (28) feet in height and one hundred fifty (150) square feet in size shall be allowed at the parking lot entrance on the access street.

(d) **Places of worship and nursing home exceptions.** Places of worship and nursing homes will be allowed one (1) ground sign not to exceed sixteen (16) feet in height and forty-eight (48) square feet per sign face for each street frontage as calculated for multiple-faced signage §23-524(b). One (1) wall sign will also be allowed per street frontage subject to design standards in accordance with Division 4.

(e) **Educational institution signs.** An educational institution shall be allowed one (1) wall sign per street frontage. A substitute for the one (1) wall sign may be a reader board, attached to the face of an educational institution building, not to exceed forty-eight (48) square feet, for the purpose of conveying information related to public events held on the premises. Educational institution sites shall also be allowed one (1) ground sign as calculated for multiple-faced signage §23-523(b) (or reader board if none exists as a wall sign) set back at least twenty (20) feet from the public right-of-way. The ground sign shall not exceed fifteen (15) feet in height and shall not exceed forty-eight (48) square feet per face.

(f) **Automobile RV, truck, cycle, boat sales and dealerships.** Dealerships selling new vehicles shall be allowed one (1) ground sign for each fifty thousand (50,000) square feet of hard-surfaced, outdoor display.

(g) **Real estate marketing sign.** One (1) sign per street frontage, eighty (80) square feet maximum, is allowed for the purpose of marketing a new subdivision, apartment, condominium, or planned development. Such permit will be issued for one (1) year and may be renewed for one (1) additional year.

(h) Ghost Sign. Existing ghost signs are exempt from these requirements and deemed conforming. Ghost signs may be maintained and repainted but no new information or images may be added to the existing sign.

Comment: For clarification purposes, ghost signs are listed under the design standard exceptions of the section. This is the only change to this section.

Table 23-14A. Area, Height, and Number of Individual Signs by Zoning District.

Sign Type	AG	R1A, R1B, R-1C & R2	R-3, NC	P-I & C-O	C-1 & C- 2	CBD	M-1	M-2
<i>Ground</i>								
Area (sq. ft) ^a	-	-	-	150	150	150	150	150
Height (feet) ^b	-	-	-	28	28	28	28	28
Number Permitted ^{c, d}	-	-	-	1	1	1	1	1
<i>Building</i>								
Wall area – street (whichever is less)	-	-	-	350 or 35%	350 or 35%	350 or 35%	10%	10%
Wall area – non-street (whichever is less)	-	-	-	150 or 15%	150 or 15%	150 or 15%	10%	10%
<u>Painted wall sign</u>	-	-	-	<u>350</u> <i>or</i> <u>35%</u>	<u>350</u> <i>or</i> <u>35%</u>	<u>350</u> <i>or</i> <u>35%</u>	<u>350</u> <i>or</i> <u>35%</u>	<u>350</u> <i>or</i> <u>35%</u>
<i>Portable sign</i> ^e	-	-	-	4x8	4x8	4x8	4x8	4x8
<i>Temporary sign</i> ^f	-	-	-	2½ x 3½	2½ x 3½	2½ x 3½	2½ x 3½	2½ x 3½

- a. In residential zones, signs are permitted for specific uses identified in §23-508. The area of a ground sign may increase in size, according to exceptions allowed in §23-529.
- b. In residential zones, signs are permitted for specific uses identified in §23-508. The height of ground signs may increase in size, according to exceptions allowed in §23-529.
- c. In residential zones, signs are permitted for specific uses identified in §23-508.
- d. More than one (1) sign may be allowed per lot, subject to §23-522 and §23-529.
- e. Portable signs are allowed for one hundred twenty (120) days total per year.
- f. Temporary signs are allowed one per street frontage in setback, unlimited on balance.

On the tables in this ordinance, which are organized by zoning district, the headings have the following meanings:

AG	Agricultural District
R-1A, R-1B, R-1C, R-2	Residential, Single and Two-Family District
R-3	Residential, Multi-Family District
P-I	Public Institutional District
NC	Nature Conservancy
C-O	Commercial Office District
C-1	Neighborhood Commercial District
C-2	General Commercial District
CBD	Central Business District
M-1	Industrial Park District
M-2	General Industrial District

Table 23-14B. Permitted Signs by Type and Zoning District.

Sign Type	AG	R-1A, R-1B, R-1C & R-2	R-3, NC	P-I & C-O	C-1 & C-2	CBD	M-1	M-2
<i>Ground</i>	A ^a	A ^a	A ^a	P	P	P	P	P
<i>Building</i>								
Awning	X	X	X	P	P	P	P	P
Building Marker	A	A	A	A	A	A	A	A
Canopy	X	X	X	P	P	P	P	P
<u>Painted wall sign</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Projecting	X	X	X	P	P	P	P	P
Roof	X	X	X	X	X	X	X	X
Suspended	X	X	X	P	P	P	P	P
Swinging	X	X	X	X	X	X	X	X
Wall	A ^a	A ^a	A ^a	P	P	P	P	P
Window	A	A	A	A	A	A	A	A
<i>Miscellaneous</i>								
Animated	X	X	X	X	X	X	X	X
Banner	A	A	A	A	A	A	A	A
Billboard	X	X	X	X	X	X	X	X
Changeable Copy	X	X	X	P	P	P	P	P
Construction	A	A	A	A	A	A	A	A
Directional	A	A	A	A	A	A	A	A
Flag	A	A	A	A	A	A	A	A

Home Occupation	A	A	A	A	A	A	A	A
Off-Premises	X	X	X	X	X	X	X	X
Portable	X	X	X	P	P	P	P	P
Real Estate	A	A	A	A	A	A	A	A
Residential	A	A	A	A	A	A	A	A
Temporary/Sandwich	X	X	X	P	P	P	P	P

A – Allowed without a permit (§23-508).

P – Permit required.

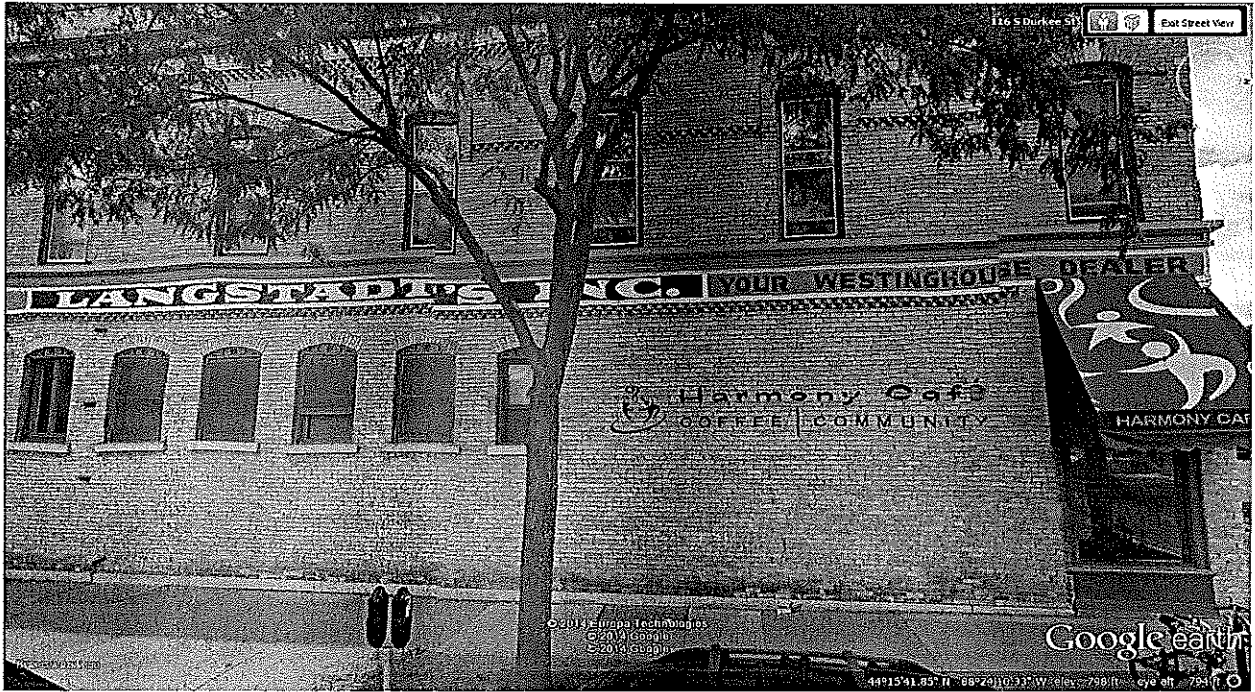
X – Prohibited sign (§23-505).

- a. Ground and wall signs are allowed only as identified in §23-508 and §23-529.

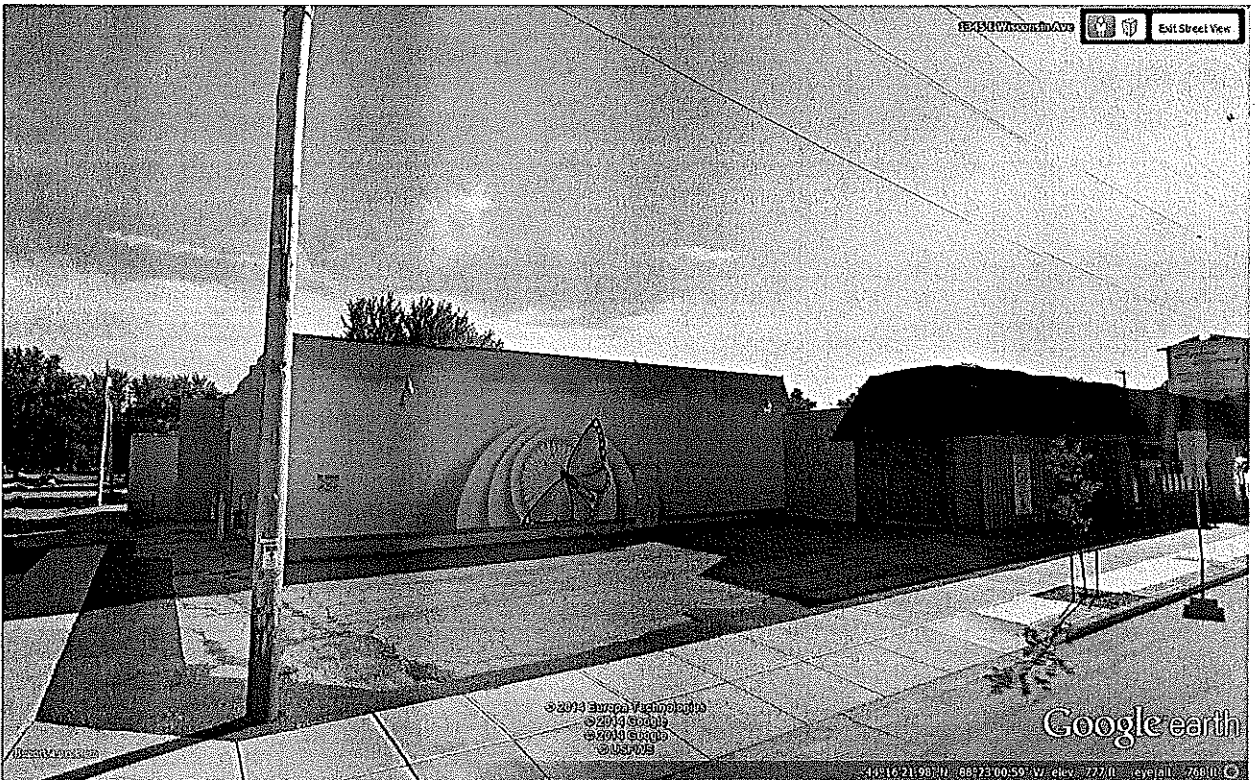
RECOMMENDATION PENDING PUBLIC HEARING TESTIMONY:

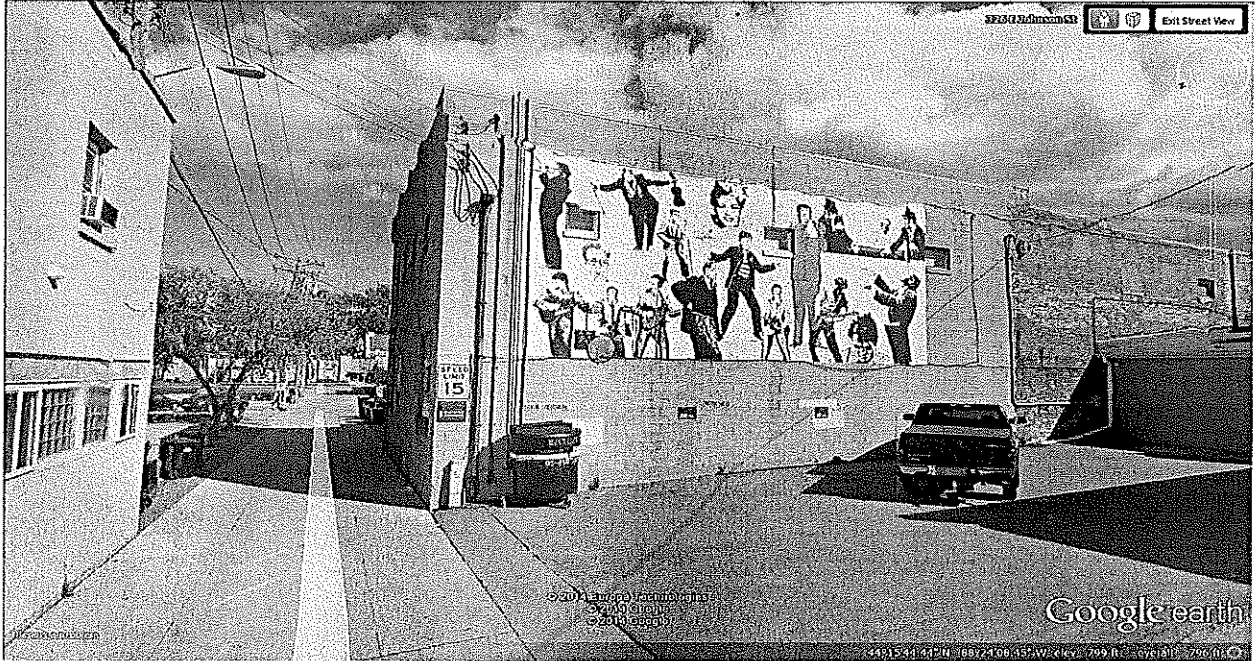
Staff recommends that any proposed changes to Chapter 23 be brought forward at a future Plan Commission meeting.

GHOST SIGN

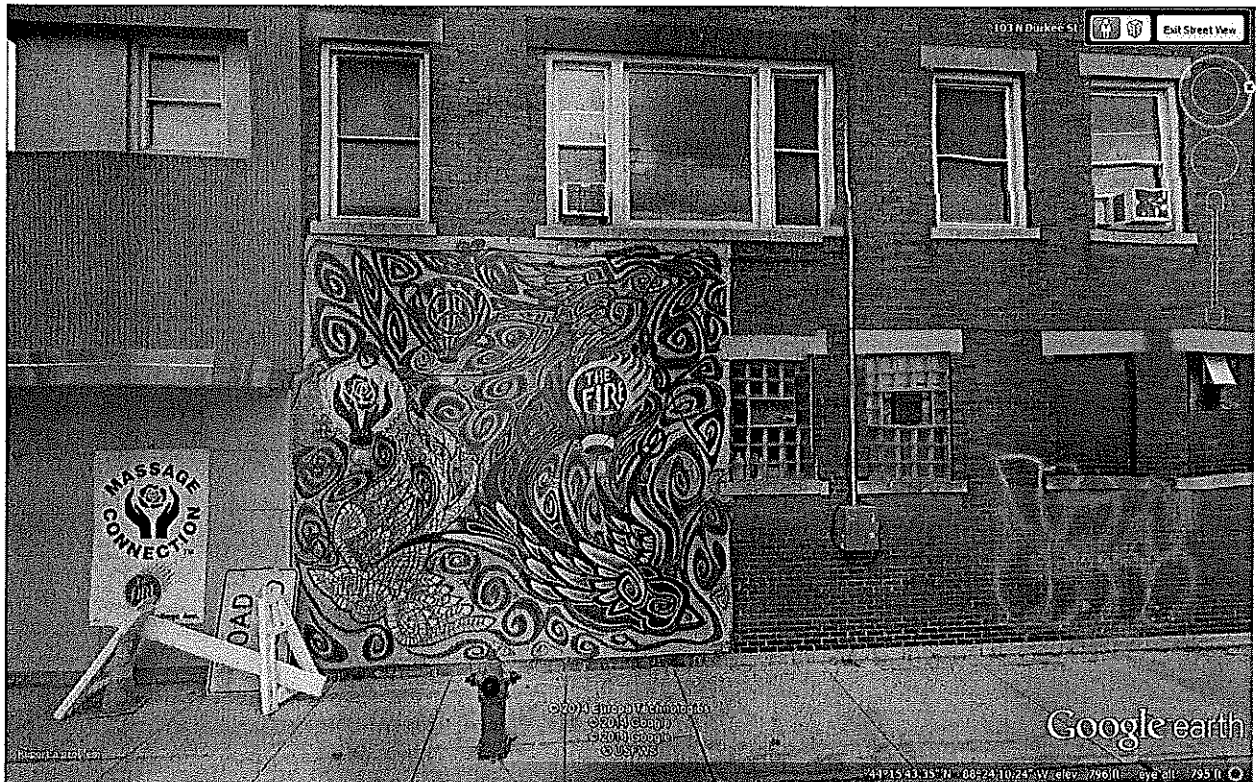


MURAL





PAINTED SIGNS



City of Appleton

Sec. 10-38. Defacement or damage of property by graffiti.

(a) Graffiti is hereby specifically declared to be a public nuisance, as defined in §12-27, affecting peace and safety.

(b) No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating §12-31. The parents of any unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with W.S.A. §895.035.

(c) Every owner or occupant of a structure or property defaced by graffiti shall notify the Police Department of the graffiti before removing or covering such graffiti.

(d) Every owner of a structure or property defaced by graffiti shall comply with the terms of a written notice served upon them by the Police Department to remove or cover such graffiti within seventy-two (72) hours of such notice.

(e) In the event any owner fails to comply with the above-mentioned notice, the Police Department shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to such owners' real estate taxes. (Ord 104-92, §1, 9-16-92; Ord 124-96, §1, 12-18-96)

Wisconsin State Stats

943.017 Graffiti.

(1) Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent is guilty of a Class A misdemeanor.

(2) Any person violating sub. (1) under any of the following circumstances is guilty of a Class I felony:

(a) The property under sub. (1) is a vehicle or a highway, as defined in s. 943.01 (2) (a) 1., and the marking, drawing, writing or etching is of a kind which is likely to cause injury to a person or further property damage.

(b) The property under sub. (1) belongs to a public utility or common carrier and the marking, drawing, writing or etching is of a kind which is likely to impair the services of the public utility or common carrier.

(c) The property under sub. (1) belongs to a person who is or was a grand or petit juror and the marking, drawing, writing or etching was caused by reason of any verdict or indictment assented to by the owner.

(d) If the total property affected in violation of sub. (1) is reduced in value by more than \$2,500. For the purposes of this paragraph, property is reduced in value by the amount which it would cost to repair or replace it or to remove the marking, drawing, writing or etching, whichever is less.

(e) The property affected is on state-owned land and is listed on the registry under s. 943.01.

(2m)

(a) In this subsection:

1. "Family member" means a spouse, child, stepchild, foster child, parent, sibling, or grandchild.
2. "Witness" has the meaning given in s. 940.41 (3).

(b) Whoever does any of the following is guilty of a Class I felony:

1. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a person who is or was a witness by reason of the owner having attended or testified as a witness and without the owner's consent.

2. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a family member of a witness or by a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the owner's consent.

(3)

(a) In addition to any other penalties that may apply to a crime under this section, the court may require that a convicted defendant perform 100 hours of community service work for an individual, a public agency or a nonprofit charitable organization. The court may order community service work that is designed to show the defendant the impact of his or her wrongdoing. The court shall allow the victim to make suggestions regarding appropriate community service work. If the court orders community service work, the court shall ensure that the defendant receives a written statement of the community service order and that the community service order is monitored.

(b) Any individual, organization or agency acting in good faith to whom or to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.

(c) This subsection applies whether the court imposes a sentence or places the defendant on probation.

(d) If the defendant is not placed on probation and the court orders community service work, the court shall specify in its order under this subsection the method of monitoring the defendant's compliance with this subsection and the deadline for completing the work that is ordered. The court shall inform the defendant of the potential penalties for noncompliance that would apply under s. 973.07.

(4) If more than one item of property is marked, drawn or written upon or etched into under a single intent and design, the markings, drawings or writings on or etchings into all of the property may be prosecuted as a single crime.

(5) In any case under this section involving more than one act of marking, drawing, writing or etching but prosecuted as a single crime, it is sufficient to allege generally that unlawful marking, drawing or writing on or etching into property was committed between certain dates. At the trial, evidence may be given of any such unlawful marking, drawing, writing or etching that was committed on or between the dates alleged.

History: 1995 a. 24; 1997 a. 35, 143; 2001 a. 16, 109; 2009 a. 28.