

**ORDINANCE NO. 2021-33**

**AN ORDINANCE OF THE VILLAGE OF PECATONICA, WINNEBAGO COUNTY, ILLINOIS, AMENDING THE VILLAGE OF PECATONICA'S CODE OF ORDINANCES, TITLE XI, "BUSINESS REGULATIONS", CHAPTER 110, "LICENSING AND PERMITS", ADDING SECTIONS 110.201 THROUGH 110.207, "MURAL AND FENCE ART PERMITS" TO THE CODE OF PECATONICA**

**WHEREAS**, the Village of Pecatonica ("Village") has adopted a Code of Ordinances; and

**WHEREAS**, as part of the Village's Code of Ordinances, the Village has, from time to time, adopted Ordinances regulating businesses, some of which Ordinances require licenses and/or permits; and

**WHEREAS**, the Village wishes to allow murals on the sides of commercial buildings and "art" applied directly to fences in commercial areas, and to permit and encourage murals and fence art on a content-neutral basis pursuant to certain minimum terms and conditions to ensure the prohibition of public displays of profanity and obscenity; and

**WHEREAS**, in order to implement these changes, it is necessary to enact an Ordinance.

**NOW THEREFORE**, be it ordained by the President and Board of Trustees for the Village of Pecatonica, Winnebago County, Illinois, as follows:

Section 1. The above recitals are incorporated herein and made a part hereof.

Section 2. Title XI, "Business Regulations", Chapter 110, "Licensing and Permits", Sections 110.201 through 110.207, "Mural and Fence Art Permits", is hereby added and shall read as follows:

**"§ 110.201 - GENERAL PROVISIONS**

The following shall not be subject to the provisions of Chapter 153:

- (1) Murals, as defined in § 110.203.
- (2) Fence Art applied directly on fences, as defined in § 110.203

***MURALS & FENCE ART***

**§ 110.202 - PURPOSE**

The purpose of this subchapter is to permit and encourage art murals and fence art on a content-neutral basis on certain terms and conditions. It is not the

intent of this subchapter to deny or restrict material protected by the First Amendment.

### **§ 110.203 DEFINITIONS**

(A) *Mural.* Any graphic design, such as, but not limited to, a mosaic, picture, scene or diagram painted (with the property owner's approval) on an exterior wall of a building and does not contain any obscene content (as defined in this section) or profanity.

(B) *Fence Art.* Any graphic design, such as, but not limited to, a mosaic, picture, scene or diagram painted (with the property owner's approval) on a fence and does not contain any obscene content (as defined in this section) or profanity.

(C) *Obscene Content.* Any material in which: a) the predominant appeal is to a prurient interest in sex; and b) the average person would find the material depicts or describes sexual content in a patently offensive way; and c) a reasonable person would find the material lacks serious literary, artistic, political, or scientific value.

(D) *Primary Façade.* The building elevation that faces the adjacent street right-of-way and is the primary entrance.

### **§ 110.204 WHERE PERMITTED**

Murals and Fence Art shall be permitted in all Commercial Districts and Industrial Districts, subject to the following regulations:

(A) A mural shall be allowed on one (1) exterior wall surface of a commercial or industrial building excluding the primary façade of a building.

(B) A mural may cover up to seventy-five percent (75%) of the one (1) exterior wall on which the mural is painted, but should not cover significant architectural features.

(C) No other signage shall be permitted on the wall where a mural has been painted or on a fence where art has been painted.

(D) A mural shall not project from the wall surface, other than the minimum necessary protrusion to mount the mural to the wall or structure. Fence art shall not project from the surface of the fence.

(E) All murals and fence art shall be kept in good condition and shall be well-maintained. In the case of a mural or fence art being in disrepair, the mural or fence art must either be removed from the wall of the building or fence or repaired within sixty (60) days of written notice from the Village.

**§ 110.205 EXISTING MURALS AND FENCE ART**

Any displays constituting murals or fence art under this subchapter currently in existence at the time of approval of the ordinance from which this subchapter is derived shall be deemed to be allowed under this subchapter. Any material alternations, other than routine maintenance, to such a mural or fence art would be subject to the provisions of this subchapter.

**§ 110.206 PERMITS**

All mural or fence art must have a permit. Permits are obtained from the Village Clerk after application for same and payment of an administrative fee to be determined by the Board of Trustees. The Board of Trustees shall review and approve or deny applications for mural and fence art permits after review by a committee to be established by the Board, which committee shall recommend approval or denial based on applicant's conformance with this subchapter.

**§ 110.207 COMMITTEE**

The Board of Trustees shall establish a standing committee to review and recommend whether an application for a mural or fence art complies with the regulations of this subchapter. The committee shall then report in writing to the Board of Trustees whether the proposed mural or fence art complies with this subchapter and should be approved, or is in violation of this subchapter, stating specifically how it violates these regulations, and should be denied.

The committee shall consist of at least two Trustees and three members of the public at large, which members shall be selected by the Village President.

Section 3. That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form.

PASSED by the President and Board of Trustees of the Village of Pecatonica, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED by the President of the Village of Pecatonica, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2021.

MOTION BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

By: \_\_\_\_\_  
WILLIAM SMULL, Village President  
Village of Pecatonica, Illinois

ATTEST:

\_\_\_\_\_  
GWENN SHIRLEY, Village Clerk  
Village of Pecatonica, Illinois