

**Report to  
Rapport au:**

**Planning Committee  
Comité de l'urbanisme  
10 November 2020 / 10 novembre 2020**

**and Council  
et au Conseil  
25 November 2020 / 25 novembre 2020**

**Submitted on 29 October 2020  
Soumis le 29 octobre 2020**

**Submitted by  
Soumis par:  
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**Ward: CITY WIDE / À L'ÉCHELLE DE  
LA VILLE**

**File Number: ACS2020-PIE-GEN-0002**

**SUBJECT: Proposed Residential Mural One-Year Pilot Program**

**OBJET: Proposition de programme pilote de murales résidentielles d'un an**

## **REPORT RECOMMENDATIONS**

**That Planning Committee recommend that Council:**

- 1. Approve a one-year pilot for the Residential Mural Program, including the Residential Mural By-law and corresponding fee schedule, attached as**

Document 1 and as described in this report, to commence on the effective date of the by-law;

2. **Delegate authority to the City Solicitor, Chief Building Official and Director of By-law and Regulatory Services to make any minor amendments to and finalize the Residential Mural By-law, and to amend the Permanent Signs on Private Property By-law accordingly, to reflect the intent of Council; and**
3. **Direct staff to report back no sooner than 12 months following the implementation of the program and by-law with the results of the pilot and recommendations.**

## **RECOMMANDATIONS DU RAPPORT**

**Que le Comité de l'urbanisme recommande au Conseil :**

1. **d'approuver un programme pilote de murales résidentielles d'un an, y compris le règlement sur les murales résidentielles et la grille tarifaire correspondante, ci-joint en tant que document 1 et comme il est décrit dans le présent rapport, qui commencerait au moment de l'entrée en vigueur du règlement;**
2. **de déléguer à l'avocat général, au chef du service du bâtiment et au directeur des Services des règlements municipaux le pouvoir d'apporter des modifications mineures au règlement sur les murales résidentielles et de le parachever, et de modifier le Règlement régissant les enseignes permanentes sur des propriétés privées en conséquence, afin de traduire l'intention du Conseil;**
3. **d'enjoindre au personnel de faire rapport sur les résultats du projet pilote et de formuler des recommandations au plus tôt douze (12) mois après la mise en œuvre du programme et du règlement.**

## **BACKGROUND**

At its meeting of October 10, 2018, Council directed staff to review the process for exemptions to the Permanent Signs on Private Property By-law to allow murals on residential buildings in a residential zone. Staff have since been working towards identifying an alternative to an Exemption Report to Planning Committee and Council to permit residential murals.

The direction to staff was as follows:

“... that, as part of the next Signs By-law Review that is underway, staff review the process for exemptions to the Permanent Signs on Private Property By-law allowing murals on residential buildings in a residential zone, and that this process be as easy as possible for homeowners while still respecting the character of the neighbourhood.”

Staff created a working group with representatives from Building Code Services, Public Works and Environmental Services Department, and By-law and Regulatory Services to explore the opportunity for a specific program for residential murals. Staff did a survey of residential mural programs in other municipalities that served to inform the working group during their discussions. The following four program requirements were identified as necessary by the working group: clear enabling legislation, maintenance requirements, enforcement mechanism through clear by-law provisions, and a vetting process to ensure minimal complaints.

An additional consideration was identified during this process: neither the Property Standards (2013–416, as amended) nor the Property Maintenance (2005-208, as amended) By-laws have sufficient or appropriate language to provide for enforcement of a Residential Mural Program by By-law and Regulatory Services, nor would these by-laws be appropriate mediums to regulate residential murals, even if amended.

A series of Residential Mural Program options were considered by the working group. A one-year Residential Mural Pilot Program, to be governed by a Residential Mural By-law administered and enforced by By-law and Regulatory Services staff was identified as the most feasible and best option. The program would see an applicant apply for a permit which would then follow a process to be approved by a Residential Mural Review Panel, with permit issuance compliance monitoring and enforcement to be undertaken by By-law and Regulatory Services.

### **Current Policy Context**

Mural Signs are governed by the [Permanent Signs on Private Property By-law 2016-326, as amended](#) (Sections 140 to 143, inclusive). The by-law does not generally permit a mural on private property in a residential zone unless it is:

1. Approved by the Chief Building Official
2. Located beside a commercial, industrial or institutional building
3. Meets the criteria of the City's Paint It Up! Program

Ottawa's [Paint it Up! program](#), that is administered by Crime Prevention Ottawa, is a key component of the [Graffiti Management Strategy](#) which makes funding available for

outdoor mural art projects that support graffiti prevention, youth empowerment, community safety and the beautification of Ottawa neighbourhoods. Projects must contribute to a clean, safe and beautiful city by engaging neighbourhoods and youth in a constructive learning process to create murals to prevent or deter graffiti. The intent of the Paint it Up! program is to engage youth in solving graffiti issues. Therefore, residents who wish to paint a mural on their property located in a residential zone where graffiti is not the primary issue are not in scope of the Paint it Up! program objectives.

The only existing avenue for the City to approve a mural in a residential zone, on a residential building, is through an Exemption to the Permanent Signs on Private Property By-law 2016-326 report to Planning Committee and Council.

Between 2017 and 2019, there have been five such exemption reports considered and approved by Council.

At its meeting of October 10, 2018, Council directed staff:

“... that, as part of the next Signs By-law Review that is underway, staff review the process for exemptions to the Permanent Signs on Private Property By-law allowing murals on residential buildings in a residential zone, and that this process be as easy as possible for homeowners while still respecting the character of the neighbourhood.”

## **DISCUSSION**

### **Defining Residential Murals**

Murals are defined in the Paint it Up! Program as “large-scale artworks done on permanent structures, with permission of the property owner, either directly on the wall or attached to it”. Restrictions on the artwork include: no tags, acronyms, registered trademarks, commercial advertising, or public information; and up to 10 per cent of the mural may be utilized as an acknowledgement recognizing the sponsor provided it does not exceed an area of 1.0 square metre and is located at a bottom corner of the mural.

During the course of developing the Residential Mural Program, staff determined that the current definition of murals, as per the Paint it Up! graffiti program and the Permanent Sign on Private Property By-law, is too permissive in a residential context. Staff have concerns that the current definition does not adequately address the requirement of “respecting the character of the neighbourhood”. To prevent artwork that would be discriminatory in nature, a new definition of residential murals for the purpose of the Residential Mural Pilot Program is proposed.

The definition included in the Residential Mural By-law, developed in collaboration with representatives of the City's Public Art Program Unit and Legal Services, is generally as follows:

“Residential Mural” means a large-scale artwork done directly on the wall of a structure in a residential zone, with written permission of the property owner, which aims to beautify and enhance the community with images that reflect and depict culture, history or visions of artistic expression in a tasteful and positive manner, and shall not discriminate, or incite any other person to infringe upon any person's human rights, on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability.”

## **Proposed Residential Mural Program**

### **1. Application for a permit**

Residents would apply for a Residential Mural Permit, either in person or on Ottawa.ca. The requirements for a complete application will be similar to other City of Ottawa mural programs. The applicant will be required to submit personal details including the address where the mural is to be painted, a sketch of the proposed mural, a picture of the proposed location and payment of a permit fee.

A permit fee of \$150 for each mural at a civil address is proposed, to recover the costs associated with administration and enforcement of the proposed by-law. Level of effort, anticipated applications and service requests are considerations of the fee. The proposed fee is necessary to ensure that the process does not over-burden staff, that there is cost-recovery for administration and enforcement, and that there is a level of seriousness and commitment on the part of residents applying for a permit for such a project. An additional \$50-dollar fee would be charged for each additional residential mural at the same municipal address.

Applicants who qualify to the Residential Mural Program would be exempt from the Permanent Signs on Private Property By-law sections that relate to residential murals, as detailed in Document 1, Section 4(2).

### **2. Processing the Application**

The application would be received and coordinated by existing By-law and Regulatory Services staff who would circulate the application to the Residential Mural Review Panel.

The Residential Mural Review Panel would be comprised of representatives of the City's Public Art Program Unit, By-law and Regulatory Services, Heritage and Urban Design Branch, Legal Services and the Ward Councillor. Each representative on the Residential Mural Review Panel shall provide comment within 30 business days from the date of receipt of the application. The panel's role is to ensure that the application meets the requirements of the proposed Residential Mural By-law and provide feedback to the Director, By-law and Regulatory Services so that they may authorize issuance of the permit.

The Ward Councillor's concurrence is required ahead of the permit being issued.

### **3. Enforcement**

By-law and Regulatory Services, in consultation with the working group, identified two risks with potential impact on their enforcement workload: complaints about murals that have not gone through the permit process and the lack of maintenance for existing murals.

In the instance where a mural is painted without a permit, By-law and Regulatory Services would issue a Notice of Violation giving the property owner a choice to remove the mural or submit an application through the proposed Residential Mural By-law.

Staff anticipate a higher level of service requests for enforcement of residential murals due to this pilot. The \$150 permit fee for each mural at a municipal address is intended to recover not only the costs associated with administration, but enforcement of the proposed by-law as well.

### **4. Alterations and maintenance**

Staff anticipates that there will be instances when residents would like to modify a residential mural that has already been approved. In the instance that it is a minor change, a new application would not be required. However, substantial alterations would require a new application to be submitted.

Maintenance would be included as a condition of the issuance of the permit and as a provision of the by-law. Violations could be subject to Notices to comply and potential fines for non-compliance, or the City could arrange for the work to be undertaken at the owner's expense.

### **Consideration of Consultation Requirements**

In staff's consideration of consultation requirements for the Residential Mural Pilot Program, thought was given to the role of neighbours in assessing the suitability of a residential mural in their neighbourhood.

The report does not recommend a consultation requirement as part of the Residential Mural Pilot Program at this time, as it is staff's view that a consultation requirement would not respect the "easy for homeowners" requirement from the original direction to staff.

Any consultation is at the prerogative of the Ward Councillor, who through giving their concurrence, represents the interest of the community.

### **Next Steps**

Staff would take the following steps to implement the program, to be ready in time for spring 2021, when staff expect demand for residential murals might increase.

1. Ottawa.ca information webpage
2. Payment mechanism, receipt and confirmation email
3. Information management for Residential Mural Request
4. Residential Mural Permit
5. Feedback Survey

Staff would report back to Council after 12 months following the implementation of the program and by-law, with the results of the pilot and recommendations on next steps for the Residential Mural Program. A feedback survey would be set up on the residential murals webpage to gather comments and satisfaction levels from residents on the Pilot Project.

An evaluation of the impact on By-law and Regulatory Services' resources to administer and enforce the regulation will also be included in the 12-month report back.

### **CONCLUSION**

Staff propose a Residential Mural Pilot Program with features that meet the Council direction and internal requirements as an alternative to the current Exemption to the Permanent Signs on Private Property By-law No. 2016-326 report to Committee and Council. The new process:

- Is easy for homeowners, as it mirrors current practice for other mural programs;
- Respects the character of the neighbourhood through a vetting process by a Residential Mural Review Panel;
- Is governed by a clear regulation with the enactment of a Residential Mural By-law;

- Has enforcement mechanisms to ensure compliance;
- Ensures maintenance of murals; and
- Includes a vetting process through the Residential Mural Review Panel to ensure minimal complaints.

## **CONSULTATION**

### **Public consultation**

Consultation was limited to City staff at this time given the administrative and temporary nature of the program. However, staff will conduct consultation concurrently with the implementation of the Residential Mural One-Year Pilot Program and report back to Committee and Council with an “As we heard” report with recommendations on next steps for the Residential Mural Program.

## **RURAL IMPLICATIONS**

Rural residential zones would qualify for this program.

## **COMMENTS BY THE WARD COUNCILLORS**

This is a city-wide report – not applicable.

## **LEGAL IMPLICATIONS**

There are no legal implications associated with implementing the recommendations contained within this report.

## **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with the recommendations in this report.

## **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management issues related to this report.

## **FINANCIAL IMPLICATIONS**

The proposed fees are intended to be cost recoverable.

## **ACCESSIBILITY IMPACTS**

There are no accessibility impacts.



## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

## **TERM OF COUNCIL PRIORITIES**

This project addresses the following Term of Council Priority:

- Thriving Communities: Promote safety, culture, social and physical well-being for our residents.

## **SUPPORTING DOCUMENTATION**

Document 1 Draft Residential Mural By-law

## **DISPOSITION**

Planning, Infrastructure and Economic Development Department, in conjunction with By-law and Regulatory Services, Legal Services and any other relevant branches/departments to process the by-law for enactment and to implement the Pilot Program and concurrent consultation.