

Suggested amendment to the Comprehensive Development Ordinance:

Section 3.1.2 Zoning Permit Required

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1. 1-18 *as written*

19. Public art on private property, provided the following:

- a. The installation meets applicable building code for wind load, structural stability, mounting and any anchoring, to protect public health and safety;
- b. The specific installation shall not be insulting, threatening based on characteristics that are protected under antidiscrimination laws, represent hate, violence, or direct personal insults that are so offensive they are likely to provoke violence;
- c. If mounted on a historic structure, shall be installed so as to avoid damage to historic materials and shall be removable without causing permanent damage or diminish the integrity of the structure. If mounted to a masonry building, the fasteners shall penetrate mortar rather than masonry units so as to be repairable.
- d. Within the Form Districts, the proposed art may not cause or increase any non-conformity to required dimensional standard under Section 14.4.13, *Urban Design Standards* (including, but not limited to Façade voids, transparency of glazing) nor under Section 14.3.13 *Shopfront* (Ground floor façade voids.)

Draft Definition of Public Art

Public Art - Public art is a general term for forms of community expression. Public Art may be located in the public domain (rights-of-way), or on private property yet available for community viewing. Public art may be cast, carved, built, assembled, or painted, and include murals, sculpture, memorials, integrated architectural or landscape architectural work, painting, tapestry, mosaics, ceramics, stained glass, community art, digital new media, Earthworks, assemblage, installation art and performance. Installations may be transient or permanent.

Public Art placed in the right-of-way is not subject to zoning review, but follows a separate process through Burlington City Arts relative to funding, acceptance, placement, rights, agreements and maintenance. (Reference is made to *Art in Public Places: Guidelines and Policies*.)

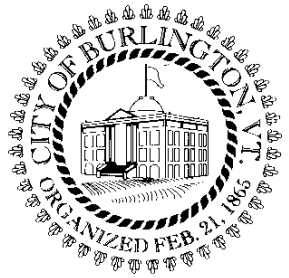
Public Art placed on private property is not subject to a zoning permit; however must observe the following:

- a. The installation meets applicable building code for wind load, structural stability, mounting and any anchoring, to protect public health and safety;
- b. The specific installation shall not be insulting, threatening based on characteristics that are protected under antidiscrimination laws, represent hate, violence, or direct personal insults that are so offensive they're likely to provoke violence;
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Department of Permitting and Inspections

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MEMORANDUM

To: Planning Commission Ordinance Committee
From: Mary O'Neil, AICP, Principal Planner
Date: April 7, 2022
RE: Public Art

On March 3, 2022, the Planning Commission Ordinance Committee began a discussion of Public Art. The Committee ultimately disagreed with the Zoning Manager's assessment that omission from Article 14 was the equivalent of dis-allowance, and after discussion requested staff assemble language that would favor no zoning permit requirement, however implement requirements relative to public health and safety and typical restrictions related to discriminatory or inflammatory representations consistent with sign messaging.

The attached draft document attempts to coalesce those Committee directives, with the addition of a definition of Public Art and segregation between Art that is installed in the public domain and that on private property.

Staff submits these for comment and revision as necessary.



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Burlington Planning Commission

Ordinance Committee

Remote Meeting

Thursday, April 7, 2022 @ 5:15 PM

Zoom: <https://us02web.zoom.us/j/83738544459?pwd=a2M5OVlmQ0xzTnE3dk5QVVhsN1J1Zz09>

Webinar ID: 815 7046 0285

Password: 586902

Telephone: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or
+1 253 215 8782 or +1 346 248 7799

AGENDA

1. Continued discussion of public art standards within the form code districts.
2. Adjournment



Burlington Planning Commission

Ordinance Committee Meeting Minutes

Thursday, April 7, 2022 @ 5:15 PM

Remote Meeting

Attendance

- **Committee Members:** Yves Bradley, Leo Sprinzen, and Bruce Baker
- **Absent:** Emily Lee, Caitlin Halpert
- **Staff:** Mary O'Neil & Scott Gustin (Permitting & Inspections)
- **City Planning:** Charles Dillard

1. Continued discussion of Public Art; its absence from the CDO since the adoption of the Form Code.

Mary O'Neil (staff) reviewed the prior discussion of March 3, 2022, and presented draft language for an exemption from permitting for Public art, given the refinements outlined in the last meeting. Mary also added the concern raised by Jay White relative to avoiding obstruction of any path of ingress/egress, which may relate to ADA access. Also in the PCOC packet are a draft definition of Public Art (intended for Article 13), and a memo overview of the March discussion.

The participating PCOC members initially discussed whether the 3 / 4 conditions under the proposed permit exemption might be covered in other parts of the ordinance. Mary suggested that those seeking information about the permit exemption might not otherwise be aware of compliance issues elsewhere in city regulation.

Leo raised concern about the potential for noise in a performance based installation. Scott indicated that the City has a noise ordinance, and added that a permit is typically for a physical alteration.

Bruce Baker suggested that language be added that would remind the property owner that nothing shall relieve them for compliance with any other applicable city or state regulation. The rest of the City Code of Ordinances would be applicable.

General discussion occurred about avoidance of the regulation of content but prohibition of "hate" speech, and identification of more succinct language to insert under the conditioned exemption from a zoning permit. Scott and Mary will review Article 7 for similar language as it pertains to Signs.

Bruce asked the revised draft(s) be forwarded to the Planning Commission for their review.

2. Adjournment

The Committee adjourned at 5:45 PM.