

In the United States District Court  
for the  
District of Kansas

**Cozy Inn, Incorporated, d/b/a The Cozy  
Inn; Stephen Howard.**

Plaintiffs,

v.

**City of Salina, Kansas.**

Defendant.

Civil Action No. 6:24-cv-01027-TC-ADM

Verified Amended Complaint for  
Declaratory Judgment and Injunctive Relief;  
Designation of Place of Trial; Verification;  
Exhibits A-D.

**Verified Amended Complaint for Declaratory Judgment and Injunctive Relief**

Stephen Howard and his business Cozy Inn, Incorporated, d/b/a The Cozy Inn, bring this civil rights lawsuit for non-monetary, prospective relief against the City of Salina, Kansas.<sup>1</sup>

**Introduction**

1. This is a civil rights lawsuit challenging the City of Salina’s mural-sign code regime—both the written code and as it’s enforced—that prevents Steve Howard from completing and displaying an artistic, whimsical mural on the side of the iconic business he owns, The Cozy Inn.

2. In November 2023, Mr. Howard hired a local artist to paint a whimsical mural on The Cozy’s wall that reflected The Cozy and Mr. Howard’s personality. Three days later, Salina told Mr. Howard he couldn’t finish painting the mural. It remains unfinished.

3. Beautiful murals adorn buildings throughout Salina. But Salina picks and chooses which murals it allows and which murals it doesn’t based solely on the murals’ content and the identity of the speaker—and that’s plainly unconstitutional. There’s more on this later, but as one city official put it in a November 2023, City Commission meeting, a

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<sup>1</sup> This Verified Amended Complaint is filed as a matter of course under Fed. R. Civ. P. 15(a)(1)(B).

hypothetical coffee shop is free to paint its entire outside wall with a dove and an olive branch because Salina considers that an unregulated mural, not a regulated sign; but the same hypothetical coffee shop can't paint its entire wall with a steaming cup of coffee because Salina considers that a regulated sign, not an unregulated mural.

4. Salina's mural-sign code regime—both the written code and the unwritten policy and practice—violate the free speech clause of the First Amendment and the void for vagueness doctrine under the Fourteenth Amendment.

5. Mr. Howard and The Cozy aren't suing Salina for money. Instead, this case seeks to vindicate their constitutional rights.

### **Parties**

6. Stephen Howard ("Steve Howard") is a citizen of Kansas and the United States. He is a resident of Saline County. Mr. Howard owns, operates, and is President of Cozy Inn, Incorporated, d/b/a The Cozy Inn. Mr. Howard files this suit in his capacity as the President of Cozy Inn, Incorporated, d/b/a/ The Cozy Inn, and in his individual capacity.

7. Cozy Inn, Incorporated, d/b/a The Cozy Inn ("The Cozy" or "The Cozy Inn") is a Kansas for profit corporation. The Cozy is located at 108 N. 7<sup>th</sup> Street in Salina, Kansas.

8. Defendant City of Salina, Kansas ("City" or "Salina" or "government") is a municipal corporation organized under the laws of the State of Kansas, is sued for non-monetary, prospective relief, and is capable of being sued as such. KSA § 12-101.

9. Salina may be served with process by serving the city clerk or the mayor. KSA§ 60-304(d)(3).

10. The Attorney General will be served with a copy of the proceedings.

### **Jurisdiction and Venue**

11. The Plaintiffs bring this civil rights lawsuit pursuant to the First and Fourteenth Amendments to the United States Constitution, pursuant to 42 U.S.C. § 1983, the Declaratory Judgments Act, 28 U.S.C. § 2201, 28 U.S.C. § 2202, and under 42 U.S.C. § 1988 to award attorney fees.

12. The Plaintiffs seek temporary, preliminary, and/or permanent prospective relief, and a declaratory judgment, all arising from Salina’s mural-sign code regime—which includes the Salina’s written sign code, Salina’s unwritten policies and practices, Salina’s Sign Permit requirement, Salina’s Downtown Salina Business Improvement District review process, the Certificate of Compatibility requirement, and its concomitant enforcement penalties (“mural-sign code regime”)—as described throughout the lawsuit, that constitute violations of the First and Fourteenth Amendments to the United States Constitution. As more fully developed throughout and below, the Plaintiffs seek 1) a judgment declaring Salina’s mural-sign code regime unconstitutional on its face and as applied; and 2) permanent prospective injunctive relief prohibiting enforcement of Salina’s mural-sign code regime.

13. This Court has jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 1983.

14. Venue lies in this Court under 28 U.S.C. § 1391 because, among other things, the events giving rise to the Plaintiffs’ claims occurred in this district.

### Facts

#### Steve Howard, The Cozy Inn, and Their Unfinished Mural

15. The Cozy Inn is an institution. Located in downtown Salina, it has proudly served sliders for more than 100 years.

16. Described as a “global treasure,” “landmark,” “destination,” and “anchor,” The Cozy serves around 45,000 customers a year.<sup>2</sup>

17. The Cozy’s owner, Steve Howard, was raised in Saline County. After spending years as a maintenance worker at the local school district, he bought the iconic business in 2007.

18. Mr. Howard has been “blessed with a sense of homespun marketing and imagination, intense work ethic, and a sincere passion for the fare.”<sup>3</sup>

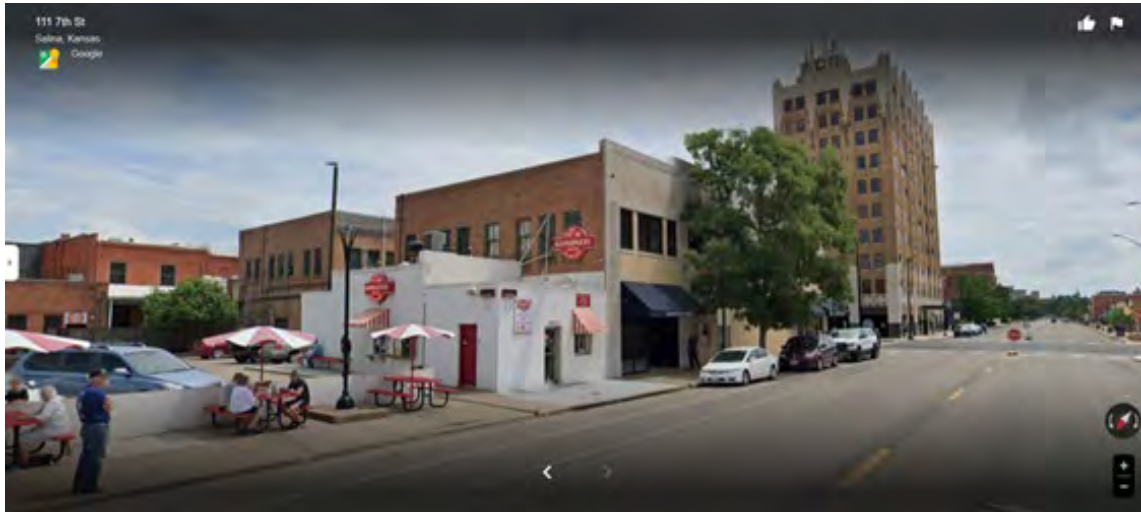
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<sup>2</sup> Tim Unruh, *Cozy Inn a global treasure in downtown Salina*, Salina Post (March 7, 2022), available at <https://salinapost.com/posts/0ba8fc2d-d1f7-4605-a9b4-e5d50a63efe7>

<sup>3</sup> Tim Unruh, *Cozy Inn a global treasure in downtown Salina*, Salina Post (March 7, 2022), available at <https://salinapost.com/posts/0ba8fc2d-d1f7-4605-a9b4-e5d50a63efe7>

19. Since he bought The Cozy, it has been featured on Travel Channel’s “101 Tastiest Places to Chown Down,” and “America’s Top Ten Hamburgers.” USA Today has picked it as the “Best Burger Joint in Kansas.”

20. For decades—at least since Mr. Howard bought it—The Cozy’s walls were white, as depicted below.



21. In November 2023, Mr. Howard decided the bare walls didn’t reflect his or The Cozy’s personality, so he hired local artist Colin Benson to paint a mural.

22. The Cozy is small—the dining area is around 192 square feet—and every burger is famously served with onions. The Cozy’s distinctive “pungent onion-esque aroma” “evokes thoughts of home and tradition, a special charm[.]”<sup>4</sup>

23. With that in mind, Mr. Howard decided the mural should include the phrase “Don’t fear the smell! The fun is inside!!”

24. The whimsical mural would depict burger-esque flying saucers piloted by aliens attacking The Cozy with blasts of ketchup and mustard.

25. With a handshake and a promise to pay, Mr. Benson started the mural almost immediately, on Friday, November 3, 2023.

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<sup>4</sup> Tim Unruh, *Cozy Inn a global treasure in downtown Salina*, Salina Post (March 7, 2022), available at <https://salinapost.com/posts/0ba8fc2d-d1f7-4605-a9b4-e5d50a63efe7>

26. By Monday, November 6, 2023, a Salina representative ordered Mr. Howard to stop or pause painting the mural—because it perceived the mural as a regulated sign, rather than an unregulated mural.

27. This is the unfinished mural:



28. Below is a rendition of what the mural would look like, once completed:



29. Mr. Howard does not want to change, alter, or deviate from the rendition directly above (“completed rendition”). As stated in a news article, “[I]t’s artwork[.] It’s my expression. It’s my character going on my wall. I want to paint my wall.” Nate King, *Cozy Inn Hamburgers ‘sign’ put on hold pending city approval*, Salina Post (Nov. 14, 2023).<sup>5</sup>

<sup>5</sup> Available at <https://salinapost.com/posts/343e570a-c5e2-4f10-af08-9fc6537d086c>

30. Salina’s position is that the mural violates the law because it pertains to The Cozy’s business—selling hamburgers.

Salina’s Mural-Sign Code Regime  
Overview

31. Salina regulates signs—and their sizes—through its written sign code, its permitting process, its Downtown Salina Business Improvement District review process, its Certificate of Compatibility requirement, and its concomitant enforcement penalties.

32. Under its unwritten policy and practice though, Salina *doesn’t* regulate what it considers to be murals. Put differently, Salina’s written sign code doesn’t mention “murals” at all, but in practice, Salina allows them—unregulated—based solely on the murals’ content or the speaker. Salina takes the position that if the content of a mural “includes a message that pertains to the goods or services for sale” the mural is not a mural but “a sign and makes it subject to the sign code.” Asia Cymone Smith, *City puts pause on Salina mural, restaurant owner says, ‘I believe we’ll work through this,’* KSN (Nov. 13, 2023).

33. Salina’s Director of Community and Development Services verbalized Salina’s unwritten policy and practice of differentiating between unregulated murals and regulated signs when she explained at a Salina City Council meeting that “[i]f the coffee house has a dove with an olive branch and it says the word ‘peace’ on the side of it, that – that’s not a sign,” but is instead an unregulated mural. Exhibit A, pg. 23, ln. 13-15. By contrast, “if we had a steaming cup of coffee and a coffee pot on the side,” that would be a regulated wall sign. Exhibit A, pg. 23, ln. 24-25 – pg. 24, ln. 1-4. What’s more, this very same mural of “a steaming cup of coffee” would be considered an unregulated mural if it was painted a building “on the other side of town unrelated to anything” at that location. Exhibit A pg. 26, ln. 17-22.

34. Salina’s distinction between murals and signs—based solely on the artwork’s content or the speaker—is not found anywhere in its written codes.

Salina’s Written Sign Code and Unwritten Policies and Practices

35. Salina regulates signs through Article X of its zoning code. Salina City Code § 42-500 *et seq.* Relevant portions of the City Code are attached as Exhibit B.



36. Under Section 42-764 of the City Code, a “sign” is broadly defined as:

Sec. 42-764. - Sign.

*Sign* is any writing (including letters, words or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols, or trademarks), flag, banner, streamer, pennant, string of lights, or display calculated to attract the attention of the public, or any other figure of similar character which:

- (1) Is a structure or any part thereof, or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground;
- (2) Is used to announce, direct attention to, or advertise; and
- (3) Is not located inside a building.

(Code 1966, § 36-1301(145))

37. Under the Code’s text, “any writing,” “pictorial representation,” “emblem,” “flag,” “banner,” “streamer,” “pennant,” “string of lights,” or “display that is calculated to attract the attention of the public” is considered a regulated “sign.”

38. Under the Code’s text, a catch-all provision exists for “any other figure of similar character” to the above types of signs, which (1) is a part of or attached to a structure, (2) is used to announce, direct attention to, or advertise, and (3) is not located inside a building.”

39. Under the Code’s text, the catch-all provision doesn’t apply to “any writing,” “pictorial representation,” “emblem,” “flag,” “banner,” “streamer,” “pennant,” “string of lights,” or “display that is calculated to attract the attention of the public.” Instead, it is a stand-alone definition of what constitutes a “sign.”

40. Among many other exemptions, the Code’s text exempts the following types of signs from the code’s requirements: “[n]oncommercial flags displayed on private property,” “[s]coreboards in athletic stadiums,” and “[w]indow signs affixed to the interior that do not display an advertising message or cover more than thirty-three (33) percent of the total window area on a single wall.” Section 42-504(1),(8),(9).

41. Under Section 42-781 of the Code, a “wall sign” is:

## Sec. 42-781. - Sign, wall.



*Wall sign* is a sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

(Code 1966, § 36-1301(162))

42. Wall signs are permitted in every zoning district in the city. Salina City Code §§ 42-516 through 42-524.

43. Each zoning district has different size-restrictions. *Id.*

44. When determining size restrictions, Salina’s written sign code doesn’t distinguish between signs that contain messages pertaining to the goods or services sold, and signs that contain messages that are unrelated to any goods or services sold.

45. When determining size restrictions, Salina’s written sign code doesn’t distinguish between signs that “announce, direct attention to, or advertise” and those that do *not* “announce, direct attention to, or advertise.”

46. Under the written sign code’s text, every wall sign is supposed to be subjected to the same size limitations, within the corresponding district.

47. The written sign code does not define the following: “display,” “pictorial representation,” “calculated to attract the attention of the public,” “figure or similar character,” “announce,” “direct attention to,” “advertise,” “pertains to,” “goods or services sold,” “art,” “commercial speech,” or “noncommercial speech.”

48. Salina’s written code doesn’t mention, define, or describe “mural” either.

49. Under its ordinary definition, a “mural” is a “painting executed directly on to a wall or ceiling as part of a scheme of decoration,”<sup>6</sup> or “a large picture that has been painted on the wall of a room or building.”<sup>7</sup>

50. Based on the Code’s text, *any* outdoor mural is a wall sign. A mural is a “pictorial representation,” “emblem,” or “display that is calculated to attract the attention of the

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<sup>6</sup> The Oxford English Dictionary, available at <https://www.oed.com/search/dictionary/?scope=Entries&q=mural>

<sup>7</sup> The Cambridge Dictionary, available at <https://dictionary.cambridge.org/us/dictionary/english/mural>



public,” after all. Alternatively, every outdoor mural would fall within the catch-all provision since it is painted on a building or structure and directs attention to the mural or the building on which it is located.

51. Salina, however, has created an unwritten policy and practice which exempts what it deems to be “murals” from the regulation of the sign code, even though they fit the definition of a wall sign under its written code.

52. Under Salina’s unwritten policy and practice, if a mural’s content doesn’t pertain to the business on which it sits, it’s an exempt “mural.”

53. On the other hand, under Salina’s unwritten policy and practice, if the mural’s content *does* pertain to the business, it’s a regulated sign, not an unregulated mural.

54. Under Salina’s unwritten policy and practice, if the content of a mural “includes a message that pertains to the goods or services for sale,” then the mural is a regulated sign; but if the artwork conveys any other content or message, then it’s unregulated. Asia Cymone Smith, *City puts pause on Salina mural, restaurant owner says, ‘I believe we’ll work through this,’* KSN (Nov. 13, 2023).

55. In addition to the size limitations found in the sign code, no regulated sign may be created without first obtaining a sign permit from the city. Salina City Code §§ 42-501 & 42-502.

56. Salina must issue or refuse a sign permit within 10 days after receipt of the application. Salina City Code § 42-502(b).

57. On good faith belief, Salina does not require murals exempted by Salina’s unwritten policy and practice to obtain a sign permit.

58. Salina has also created the Downtown Salina Business Improvement District Number 1, which Salina alleges includes The Cozy.

59. Salina requires property owners in the Downtown Salina Business Improvement District Number 1 to submit applications to a Design Review Board (DRB) for a Certificate of Compatibility before they “change the existing exterior design, material, color, texture, finish, or appearance of any building” or “[i]ntroduce, change, substitute, or remove any physical feature affecting the appearance of real property.” Salina City Code § 2-207(a).

60. Per Salina City Code § 2-208, the DRB may only approve a Certificate of Compatibility if it finds one of the following:

- (1) The general design, material and color of the proposed construction or change present an aesthetically pleasing overall image.
- (2) Environmentally harmful effects caused by the clash of contemporary materials with those of older origin, are avoided.
- (3) The distinguishing original qualities or character of a building, structure or site and its environment are not to be destroyed and the removal or alteration of any historical material or distinctive architectural features is avoided where possible.
- (4) The proposed use of banners, awnings, or canopies incorporates the use of appropriate materials, colors and graphics, and is compatible with the overall building design.
- (5) Any proposed demolition includes appropriate grading and landscaping of the building site in a manner compatible with the adjoining buildings and streetscape.

61. On information and good faith belief, numerous murals exist within the Downtown Salina Business Improvement District Number 1.

62. On information and good faith belief, it is the policy and practice of Salina to exempt murals in the Downtown Salina Business Improvement District Number 1 that it considers “art” from the requirement of obtaining a Certificate of Compatibility from the Design Review Board, while it requires that murals it considers “signs” to obtain a Certificate of Compatibility from the Design Review Board.

63. For instance, in 2015, when the Salina Arts Center installed a ceramic tile mural on its exterior façade, Salina took the position that “an art installation does not fall within the scope of authority of the DRB.” Exhibit C, Design Review Board 04-23-2015 Agenda and Packet.

64. On information and good faith belief, under Salina’s unwritten policy and practice, if a mural’s content doesn’t pertain to the business on which it sits, it’s a “mural” or “art installation” and doesn’t need a permit or Certificate of Compatibility.

65. On the other hand, on information and good faith belief, under Salina’s unwritten policy and practice, if Salina thinks the mural’s content *does* pertain to the business, it’s a regulated sign, not an unregulated “mural” or “art installation,” and requires a permit and Certificate of Compatibility.

Salina’s Civil and Criminal Enforcement Penalties

66. Violations of the zoning code, of which the sign code is a part, are a misdemeanor, punishable by a fine of between \$50 and \$500, with each day being considered a new offense. Salina City Code § 42-599.

67. Section 2-200, *et seq.*, relating to the requirement to obtain a Certificate of Compatibility from the Downtown Salina Business Improvement District Number 1, contains no specific penalty for violations. As a result, the general penalty for violations of the City Code, § 1-10, applies. Under § 1-10, any violation is a misdemeanor punishable by a fine of not more than \$500 and/or a period of imprisonment not exceeding six months, with each day being considered a new offense.

Salina Encourages Murals—Just Not The Cozy’s: Salina Unconstitutionally Discriminates through its Mural-Sign Code Regime.

68. Salina is home to a thriving and dynamic mural scene.

69. Indeed, the proliferation of murals throughout Salina is now used to attract visitors to Salina:



70. Many of the murals are supported with public resources.<sup>8</sup> Photographs of many of these publicly supported murals are attached. Exhibit D. On good faith belief, the murals depicted in Exhibit D do not comply with the size restrictions for wall signs in the sign code.

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<sup>8</sup> [https://www.salinaarts.com/public\\_art/artwork-alley/](https://www.salinaarts.com/public_art/artwork-alley/)

71. On good faith belief, Salina did not require a sign permit or Certificate of Compatibility for the murals in Exhibit D.

72. Plaintiffs don't want Salina to remove or otherwise restrict the beautiful murals throughout Salina, even though, on good faith belief, the murals are not compliant with the size restrictions of the Sign Code and were painted without permits or Certificates of Compatibility.

73. For example, Salina owns and operates Fire Station # 2, located at 1110 S. Santa Fe Avenue, which features a mural that "honors the services and allegiance of those firefighters who diligently serve Salina."<sup>9</sup>

74. This is a depiction of the mural at Fire Station # 2:



75. On good faith belief, Fire Station # 2's mural doesn't comply with Salina's sign code size restrictions.

76. On good faith belief, Fire Station # 2's mural was painted without a sign permit or Certificate of Compatibility.

77. The mural at Fire Station # 2 is a "pictorial representation" or "display calculated to attract the attention of the public" and it's "painted on" a structure.

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<sup>9</sup> [https://www.salinaarts.com/public\\_art/fire-station-2/](https://www.salinaarts.com/public_art/fire-station-2/)

78. The mural at Fire Station # 2 “directs attention to” Fire Station # 2.

79. Based on a plain reading of the Sign Code, the mural at Fire Station # 2 is considered a sign.

80. Based on the ordinary dictionary meaning of “mural” and Salina’s definition of a “sign” and “wall sign,” the mural at Fire Station #2 is classified as a sign.

81. Salina is host to the Boom! Salina Street Art and Mural Festival,<sup>10</sup> and the Salina Kanvas Project,<sup>11</sup> where many of the murals are showcased.

82. On good faith belief, the murals from the Boom! Festival and the Salina Kanvas Project do not comply with the size restrictions for wall signs in the sign code.

83. On good faith belief, the murals of the Boom! Festival and the Salina Kanvas Project were painted without a sign permit or Certificate of Compatibility.

84. For example, one mural showcased by the Salina Kanvas Project is found at The Yard,<sup>12</sup> a private “first class training facility for baseball and softball players of all ages”:<sup>13</sup>



85. On good faith belief, the mural at The Yard doesn’t comply with Salina’s sign code size restrictions.

86. On good faith belief, the mural at The Yard wasn’t painted with a sign permit or Certificate of Compatibility.

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<sup>10</sup> <https://www.boomsalina.art/>

<sup>11</sup> <https://www.kanvasproject.com/>

<sup>12</sup> <https://www.kanvasproject.com/projects/the-yard>

<sup>13</sup> <https://sikestyle.myportfolio.com/the-yard-murals>

87. The mural at The Yard is a “pictorial representation” or “display calculated to attract the attention of the public” and it’s “painted on” a structure.

88. The mural at The Yard “directs attention to” The Yard.

89. Based on a plain reading of the Sign Code, the mural at The Yard is considered a sign.

90. The University of Kansas School of Medicine and School of Nursing have a mural at the Salina Campus:<sup>14</sup>



91. On good faith belief, the mural at the KU Salina Campus doesn’t comply with Salina’s sign code size restrictions.

92. On good faith belief, the mural at KU Salina Campus wasn’t painted with a sign permit or Certificate of Compatibility.

93. The mural at KU Salina Campus is a “pictorial representation” or “display calculated to attract the attention of the public” and it’s “painted on” a structure.

94. The mural at KU Salina Campus “directs attention to” the KU Salina Campus.

95. Based on a plain reading of the Sign Code, the mural at KU Salina Campus is considered a sign.

96. The Salina Art Center has a ceramic tile mural:

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<sup>14</sup> [https://www.facebook.com/photo/?fbid=816942050219919&set=a.559319332648860&locale=ms\\_MY](https://www.facebook.com/photo/?fbid=816942050219919&set=a.559319332648860&locale=ms_MY)





97. Salina considers this ceramic tile mural “similar in function to a sign or logogram that will direct the public to the gallery and educational activities within the Art Center building.” Exhibit C.

98. On good faith belief, the mural at the Salina Art Center doesn’t comply with Salina’s sign code size restrictions.

99. On good faith belief, the mural at Salina Art Center wasn’t created with a sign permit.

100. Salina exempted the mural at Salina Art Center from the Certificate of Compatibility requirement because it considered the mural to be “art.” Exhibit C.

101. The mural at Salina Art Center is a “pictorial representation” or “display calculated to attract the attention of the public” and it is “attached to” a structure.

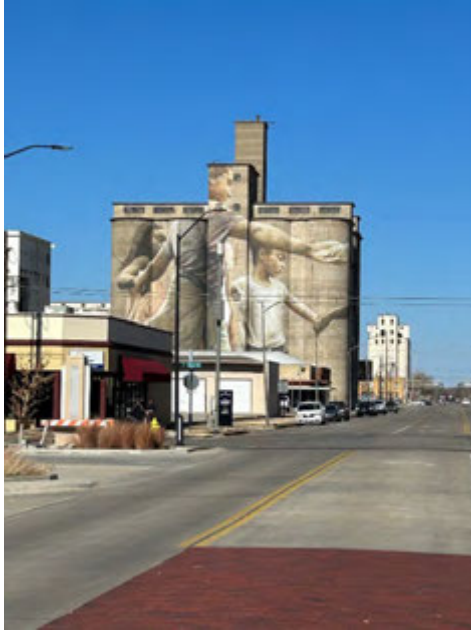
102. The mural at the Art Center “directs attention to” the Art Center.

103. Based on a plain reading of the Sign Code, the mural at Salina Art Center is considered a sign.

104. One iconic mural is the Mural at the Mill, by world-renowned Australian artist Guido Van Helten, depicted below.<sup>15</sup>

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<sup>15</sup> <https://www.kanvasproject.com/projects/mural-at-the-mill>



105. The Mural at the Mill towers over Salina. Described by some as the “intersection of art and commerce,” the hope was the roughly 100-foot tall mural would cause outsiders to spend more time in Salina, and in turn, spend their money there.<sup>16</sup>

106. On good faith belief, the Mural at the Mill doesn’t comply with Salina’s sign code size restrictions.

107. On good faith belief, the Mural at the Mill wasn’t painted with a sign permit or Certificate of Compatibility.

108. The Mural at the Mill is a “pictorial representation” or “display calculated to attract the attention of the public” and it’s “painted on” a structure.

109. The Mural at the Mill “directs attention to” the mill.

110. Based on a plain reading of the Sign Code, the Mural at the Mill is considered a sign.

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<sup>16</sup> Charles Rankin, ‘*Mural at the Mill*’ celebrates completion with ribbon-cutting in downtown Salina, Salina Journal (Oct. 21, 2021); ‘Mural at the Mill’, Salina, Kansas, Atlas Obscura, available at <https://www.atlasobscura.com/places/mural-at-the-mill-salina-kansas> (last viewed April 2, 2024); <https://www.kanvasproject.com/projects/mural-at-the-mill>

111. On good faith belief, Salina has never enforced its mural-sign code regime against the murals at Fire Station # 2, The Yard, KU Salina Campus, Salina Art Center, or the Mural at the Mill.

112. On good faith belief, Salina has never enforced its mural-sign code regime against any of the murals showcased in the Salina Kanvas Project or Boom! Festival.

113. Even though the murals at Fire Station # 2, The Yard, KU Salina Campus, Salina Art Center, and The Mural at the Mill, all meet the definition of a too-large wall signs, and even though each of the above murals are “pictorial representation[s],” “display[s] calculated to attract the attention of the public,” and “direct attention”—and thus regulated signs—Salina treats them differently because Salina doesn’t perceive them to “pertain” to goods or services for sale. Salina thus treats unregulated murals and regulated wall signs differently based on their content.

114. Salina officials make these determinations “all on the basis of a commercial message.” Exhibit A pg. 10, ln. 4-5.

115. Salina believes that it is a “misunderstanding” for businesses such as The Cozy to believe that “signs and commercial speech” qualify as “art.” Exhibit A pg. 5, ln 23-25. According to Salina, “[t]he important distinction here relates to commercial speech and our ability to regulate commercial speech or signs,” Exhibit A pg. 5, ln. 2-4, “[a]nd I would reiterate, it’s all on the basis of a commercial message,” Id. at pg. 10, ln. 4-5.

116. Plaintiffs, like most residents, take pride in the beauty and creativity of the murals throughout Salina.

117. Again, Plaintiffs don’t want Salina to remove or otherwise restrict the beautiful murals throughout Salina.

118. Instead, Plaintiffs want to participate in this thriving part of Salina culture through a mural on the side of The Cozy.

The Cozy, Mr. Howard, and Salina’s Mural-Sign Code Regime

119. Following intense media coverage of Salina’s decision to enforce the mural-sign code regime against Steve’s mural at The Cozy, the City Commission held a hearing to discuss the application of the mural-sign code regime.<sup>17</sup>

120. On November 13, 2023, Salina officials appeared before a meeting of the Salina City Commission to discuss Salina’s unwritten policy and practice exempting murals from the sign code and how they applied to The Cozy.

121. A transcript of the relevant portion of the City Commission meeting is attached as “Exhibit A.”

122. The Cozy is located in the C-4 commercial zoning district.

123. In the C-4 commercial zoning district, the maximum sign area allowed is 3 square feet of sign for each lineal foot of building frontage. Salina City Code § 42-521(b).

124. Salina contends that The Cozy has 21 lineal feet of building frontage, resulting in a maximum sign area of 63 square feet. Exhibit A pg. 16, ln. 24 – pg. 17, ln. 3.

125. Salina contends that The Cozy’s existing signs already constitute 52.88 square feet of sign area, leaving 10.12 square feet of remaining square footage for an additional sign. Exhibit A pg. 17, ln. 4-11.

126. Salina contends that The Cozy’s mural is approximately 528 square feet and violates the mural-sign code regime. Exhibit A pg. 17, ln. 12-18.

127. Under Salina’s unwritten policy and practice, it is not relevant to the distinction between wall signs and murals whether the painting is purely images or if text is used. A mural could be purely text and a wall sign could be purely imagery. “[I]f the wording’s not commercial in any way or does not have an attachment to a commercial operation,” then text does not transform an unregulated mural into a regulated sign. Exhibit A pg. 27, ln 3-5; pg. 26, ln. 23 – pg. 27, ln. 6; *id.* at pg. 28, ln. 16-21.

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<sup>17</sup> See generally <https://salinapost.com/posts/343e570a-c5e2-4f10-af08-9fc6537d086c>; <https://www.kwch.com/2023/11/10/art-or-an-ad-city-salina-pauses-project-historic-cozy-inn-restaurant/>; <https://www.ksn.com/news/state-regional/city-puts-pause-on-salina-mural-restaurant-owner-says-i-believe-well-work-through-this/>; <https://www.ksal.com/art-or-advertising/>.

128. According to the City Manager, under Salina’s unwritten policy and practice, if the content of a mural “includes a message that pertains to the goods or services for sale” the mural is not a mural but “a sign and makes it subject to the sign code.” Asia Cymone Smith, *City puts pause on Salina mural, restaurant owner says, ‘I believe we’ll work through this,’* KSN (Nov. 13, 2023).<sup>18</sup>

129. To illustrate this distinction, the Director of Community and Development Services discussed a mural on the outside of a hypothetical coffee house. She explained that “[i]f the coffee house has a dove with an olive branch and it says the word ‘peace’ on the side of it, that – that’s not a sign,” but is instead an unregulated mural. Exhibit A pg. 23, ln. 13-15.

130. By contrast, “if we had a steaming cup of coffee and a coffee pot on the side,” that would be a regulated wall sign. Exhibit A pg. 23, ln. 24-25 – pg. 24, ln. 1-4.

131. What’s more, this very same mural of “a steaming cup of coffee” would be considered an unregulated mural if it was painted “on the other side of town unrelated to anything” at that location. Exhibit A pg. 26, ln. 17-22.

132. The supposed justification for this distinction is that “the dove, the olive branch, the peace are not a part of a commercial transaction that would take place in that building or draw you to that building for a commercial transaction. Where if we had a steaming cup of coffee and a coffee pot on the side, those are things that draw you in to the use of that building. Even without a word, that illustration can suggest that commercial transaction.” Exhibit A pg. 23, ln. 19 – pg. 24, ln. 4.

133. In other words, whenever someone paints any text, image, or emblem on an outside wall, Salina officials must evaluate the contents of the mural to determine if they sufficiently pertain to any business activity taking place at the location.

134. Under Salina’s mural-sign code regime, if Salina officials perceive a mural’s content to pertain to the goods or services for sale at the location where the mural sits, it’s

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<sup>18</sup>Available at <https://www.ksn.com/news/state-regional/city-puts-pause-on-salina-mural-restaurant-owner-says-i-believe-well-work-through-this/>

classified as a wall sign, and is subject to the code's size limitations, requires a sign permit, and Certificate of Compatibility.

135. Conversely, under Salina's mural-sign code regime, if Salina officials perceive a mural's content does *not* pertain to the goods or services for sale, then it's classified as a mural, is exempt from the code's size limitations, and does not require a sign permit or Certificate of Compatibility.

136. Members of the City Commission discussed how Plaintiffs could "turn this into a mural rather than a sign" by changing its content. Exhibit A pg. 27, ln 25 – pg. 28, ln. 8.

137. Salina tries justifying its unwritten policy and practice of discriminating against the content of murals it perceives pertain to a business because it allegedly fears that "sign wars" will harm "the aesthetic character of your community." Olivia Bergmeier, *Blacksmith Coffee continues conversation on small building signs in town*, Salina Post (Jan. 25, 2024).<sup>19</sup>

138. Salina has never defined a "sign war."

139. Salina has never explained how allowing Plaintiffs to paint a mural would trigger a "sign war."

140. Salina has never explained how a "sign war" would cause any harm to the aesthetic character of the community.

141. On good faith belief, Salina does not possess any evidence that The Cozy's mural would trigger a "sign war."

142. On good faith belief, Salina does not possess any evidence that The Cozy's mural would harm the aesthetic character of the community. On the contrary. Ex. A pg. 30, ln. 10; pg. 32, ln. 3-4 (describing mural as "beautiful," and artist's work as "high energy," and "it pops.").

143. On good faith belief, Salina does not possess any evidence that The Cozy's mural would harm property values.

144. On good faith belief, Salina does not possess any evidence that The Cozy's mural causes any safety concerns.

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<sup>19</sup> Available at <https://salinapost.com/posts/06567217-4e0d-49be-9a97-b05ef4b7ec7d>



145. On good faith belief, Salina does not possess any evidence that murals that include a message that pertains to the goods or services for sale are more likely to trigger a “sign war” than murals that do not include a message that pertains to the goods or services for sale.

146. On good faith belief, Salina does not possess any evidence that murals that include a message that pertains to the goods or services for sale are more likely to harm the aesthetic character of the community than murals that do not include a message that pertains to the goods or services for sale.

147. On good faith belief, Salina does not possess any evidence that murals that include a message that pertains to the goods or services for sale are more likely to harm property values than murals that do not include a message that pertains to the goods or services for sale.

148. On good faith belief, Salina does not possess any evidence that murals that include a message that pertains to the goods or services for sale are more likely to cause safety concerns than murals that do not include a message that pertains to the goods or services for sale.

### **Salina’s Mural-Sign Code Regime and its Enforcement Injures the Plaintiffs**

149. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

150. Salina’s mural-sign code regime, and Salina’s policies and practices regarding the enforcement of its mural-sign code regime, violate the Plaintiffs’ right to free speech as guaranteed by the First Amendment to the United States Constitution and are void for vagueness.

151. The Plaintiffs want to complete and display the mural as shown in the rendition above, without any changes.

152. Salina has ordered Plaintiffs to halt work on the mural.

153. Salina has explained that the Plaintiffs cannot complete the mural as it is reflected in the rendition because Salina believes it’s larger than allowed by the City Code. Exhibit A pg. 17, ln. 12-18.

154. Salina also informed Plaintiffs that it cannot complete the mural without first obtaining a sign permit and a Certificate of Compatibility.

155. On or about November 13, 2023, at the request of Salina, Plaintiffs submitted an application for a sign permit and for a Certificate of Compatibility to complete the mural as shown in the rendition above.

156. Salina was required to issue or deny the sign permit application within ten days. Salina City Code 42-502.

157. Salina was required to hold a public hearing of the Design Review Board to consider the Certificate of Compatibility application within 23 calendar days, Salina City Code § 2-209(2)(a), and to either approve or deny the application at the hearing, Salina City Code § 2-209(2)(d).

158. Rather than issue or deny the permit and Certificate of Compatibility in a timely manner—as required by law—Salina waited until February 8, 2024, to send Mr. Howard a letter which neither granted nor expressly denied a permit, and neither granted nor expressly denied a Certificate of Compatibility, to complete the mural as shown in the rendition above.

159. Instead, Salina acknowledged “receipt of [the Plaintiffs’] Certificate of Compatibility application” and “sign permit application.” After explaining in the letter a “Certificate of Compatibility” was required, Salina placed the application “requesting approval of an existing painted wall sign/mural” “on-hold until our review of the sign regulations is complete.”

160. If or when Salina chooses to amend the sign code, “Staff will then be able to facilitate a Certificate of Compatibility application to be considered by the DRB, as well as review your sign permit application.”

161. According to a news report, the City Manager has indicated that in light of this lawsuit, Salina intends to pause conversations about code amendments. Jeff Garretson, *Commissioners Briefed on Cozy Legal Response*, KSAL (April 9, 2024).<sup>20</sup>

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<sup>20</sup> Available at <https://www.ksal.com/commissioners-briefed-on-cozy-legal-response/>

162. According to a news report, Salina enforces the mural-sign code regime against other businesses, based on their content. Oliver Bergmeier, *Blacksmith Coffee continues conversation on small building signs in town*, Salina Post (Jan. 25, 2024).<sup>21</sup>

163. Other businesses, such as The Yard, appear to have been exempted from Salina's mural-sign code regime, even though the content of that mural appears to pertain to the goods or services sold by the business.

164. Salina's publicly available statements, its order to halt work on the mural, and its placement of the permit and Certificate of Compatibility application on-hold, presents a clear and continual threat of enforcement of Salina's mural-sign code regime against the Plaintiffs if they renew work on the mural.

165. Salina's enforcement of its mural-sign code regime against the Plaintiffs means they cannot finish the mural.

166. The Plaintiffs would be able to complete the mural if it expressed a different message Salina perceives as not pertaining to the Plaintiffs' business.

167. The Plaintiffs' speech is being chilled by Salina's enforcement of its mural-sign code regime against the Plaintiffs' mural.

168. The Plaintiffs stopped completion of the mural because of Salina's enforcement of its mural-sign code regime.

169. But for Salina's mural-sign code regime and its enforcement, the Plaintiffs' First and Fourteenth Amendment rights would not be violated.

170. The same day Salina's mural-sign code regime is enjoined and/or declared unconstitutional, or as soon as reasonably possible thereafter, the painting of the mural will continue; the Plaintiffs will not be subjected to First and Fourteenth Amendment violations.

171. But for Salina's mural-sign code regime and its enforcement, the Plaintiffs would have suffered none of these harms or injuries in the past and would suffer none of them in the future.

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<sup>21</sup> Available at <https://salinapost.com/posts/06567217-4e0d-49be-9a97-b05ef4b7ec7d>

172. Salina's mural-sign code regime is ongoing, continuous, and repetitive, as are the violations of federal law, and is an ongoing, continuous, and repetitive violation of the Plaintiffs' rights under the United States Constitution.

173. Absent a judgment declaring Salina's mural-sign code regime unconstitutional, and absent issuing injunctive relief enjoining its enforcement, the Plaintiffs will continue to be subjected to an abridgement of their First and Fourteenth Amendment rights.

174. A judgment declaring Salina's mural-sign code regime unconstitutional, as described above and throughout, and an injunction prohibiting its enforcement, would allow the Plaintiffs to freely complete the mural at The Cozy.

175. There is no administrative remedy available that would provide Plaintiffs with the relief they seek.

176. The Plaintiffs have no other adequate remedy at law, other than to file this lawsuit for prospective, non-monetary relief.

#### **Declaratory Judgment and Injunctive Relief**

177. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.

178. An actual controversy has arisen and now exists between the Plaintiffs and Defendant concerning the Plaintiffs' rights under the United States Constitution. A judicial declaration is necessary and appropriate at this time.

179. The Plaintiffs' injuries result from Salina's mural-sign code regime and its enforcement.

180. The Plaintiffs' injuries are concrete, particularized, and cognizable.

181. The Plaintiffs require a judicial determination of their rights against Salina as it pertains to Salina's mural-sign code regime.

182. It's appropriate and proper that a declaratory judgment be issued, pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, declaring unconstitutional all relevant portions of Salina's mural-sign code regime at issue in this case, including Salina's written sign code, Salina's unwritten policies and practices, Salina's sign permit requirements, Salina's Downtown Salina Business Improvement District review process, the Certificate of

Compatibility requirement, and its concomitant enforcement penalties, as described throughout.

183. Pursuant to 28 U.S.C. § 2201, 28 U.S.C. § 2202, and Fed. R. Civ. P. 65, it's appropriate and requested that this Court issue temporary, preliminary, and permanent relief prohibiting enforcement of Salina's mural-sign code regime at issue in this case.

**Constitutional Violations**  
**Claim One: First Amendment Violations**

184. The Plaintiffs reallege and incorporate by reference all the preceding paragraphs.

185. The First Amendment provides, in part, that that "Congress shall make no law ... abridging the freedom of speech." U.S. Const. amend. I. "By incorporation through the Fourteenth Amendment, this prohibition applies to states and their political subdivisions," and "applies not only to legislative enactments, but also to less formal governmental acts, including city policies." *Aptive Env't, LLC v. Town of Castle Rock, Colorado*, 959 F.3d 961, 979 (10th Cir. 2020) (cleaned up).

186. Murals and signs are protected by the First Amendment. *Morris v. City of New Orleans*, 399 F. Supp. 3d 624, 633 (E.D. La. 2019).

187. The First Amendment protects the rights of individuals, entrepreneurs, and businesses to express themselves through murals with content that a government perceives to pertain their business in some way.

188. The First Amendment also protects the rights of rights of individuals, entrepreneurs, and businesses to express themselves through murals with content that actually pertains to their business in some way.

189. The Plaintiffs' artistic mural is protected by the First Amendment, incorporated *via* the Fourteenth Amendment.

190. The Plaintiffs want to complete and display their artistic mural as reflected in the rendition above, without threat of criminal charges or fines hanging over their heads.

Salina’s mural-sign code regime is a content-based and speaker-based regulation of speech

191. Salina’s mural-sign code regime is a content-based regulation of speech under *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155 (2015), subject to strict scrutiny, because it regulates murals differently based solely on their communicative content.

192. Salina’s mural-sign code regime is also a speaker-based restriction on speech, subject to strict scrutiny, because it “favor[s] some speakers over others” and this “speaker preference reflects a content preference.” *Id.* at 170.

193. Under *Reed*’s “commonsense” test, laws are content based if they “target speech based on its communicative content,” if the “law applies to particular speech because of the topic discussed or the idea or message expressed,” *id.* at 163 (relying in part on *Sorrell v. IMS Health, Inc.*, 564 U.S. 552 (2011)), or if it’s “targeted at specific subject matter,” *id.* at 169. If the law “draws distinctions based on the message a speaker conveys,” it’s a content-based regulation. *Id.* at 163.

194. It doesn’t matter, for example, whether the content-based regulations were adopted for “benign” reasons, “content-neutral” justifications, or even “a lack of animus” toward the ideas expressed, they’re still content based. *Reed*, 576 U.S at 165.

195. Second, laws are content-based regulations of speech if they “cannot be justified without reference to the content of the regulated speech, or that were adopted by the government because of disagreement with the message the speech conveys.” *Id.* at 164 (cleaned up).

196. Third, if the application of an ordinance “turn[s] on whether the speech is commercial or not, the law is content-based” as well. *Aptive Env’t, LLC v. Town of Castle Rock, Colorado*, 959 F.3d 961, 982 (10th Cir. 2020).

197. Outside the context of off-premises, “location-based,” regulations, *see City of Austin, Texas v. Reagan Nat’l Advert. of Austin, LLC*, 596 U.S. 61, 69, (2022), if a code enforcement officer must “read the sign”—or in this case, look at the mural—to determine whether the artwork is allowed or not, it’s a content-based regulation. *Reed*, 576 U.S. at 162.

198. Under *Reed*, Salina’s mural-sign code regime is a content-based, speaker-based regulation of speech.



199. Even though all murals meet the definition of a “sign” under §§ 42-764 and 42-781, Salina exempts some murals from regulation, depending on the content of the mural and the identity of the speaker.

200. Even though all murals exceed the size restrictions of the written sign code, Salina exempts some murals from the size restrictions, depending on the content of the mural and the identify of the speaker.

201. Even though the mural at The Cozy meets the regular dictionary definition of a mural, Salina insists that it is not a mural, all because Salina officials are opposed to its allegedly commercial content.

202. Even though all murals meet the definition of “sign” under §§ 42-764 and 42-781, Salina exempts some murals from regulation, depending on the content of the mural and the identity of the speaker.

203. Even though all murals “change the existing exterior design, material, color, texture, finish or appearance of any building” and “affect the appearance of real property” under § 2-207(a), Salina exempts some murals from regulation, depending on the content of the mural and the identity of the speaker.

204. The mural-sign code regime as written and enforced permits murals that don’t pertain to goods or services sold.

205. That is because Salina doesn’t consider murals as “signs,” so long as the content of the mural doesn’t pertain to goods or services sold.

206. Under Salina’s mural-sign code regime, both the written code and the unwritten policy and practice, individuals or businesses can display a mural if Salina perceives the mural’s subject matter as not pertaining to goods or services being sold.

207. Under Salina’s mural-sign code regime, both the written code and the unwritten policy and practice, Salina allows murals which Salina does not believe pertain to goods or services sold without requiring a permit, Certificate of Compatibility, fee, or size limitations, and without demanding they be taken down.

208. Under Salina’s mural-sign code regime, both the written code and the unwritten policy and practice, whether City officials deem a mural to pertain to goods or services sold, or to be artistic based on its subject matter or message, is a content-based distinction on speech.

209. If Plaintiffs were to change the content of the mural such that Salina does not consider its message to pertain to the goods sold at The Cozy—perhaps by removing any reference to hamburgers or their smell—Salina would not consider it to be a regulated sign but an unregulated mural.

210. This demonstrates Salina’s antipathy toward content related to a business and commercial speech. This also demonstrates Salina’s preference for content unrelated to a business and noncommercial speech.

211. When City officials deem that a mural pertains or does not pertain to goods or services sold that is also a speaker-based restriction on free speech, as it turns on the identity of who is displaying that mural.

212. Plaintiffs are prohibited from displaying the mural depicted above because Salina alleges that mural contains a message that pertains to goods sold at The Cozy—presumably because Plaintiffs sell hamburgers and the mural depicts burger-esque flying saucers—while a different individual who does not sell hamburgers, or an individual who gives hamburgers away for free, could display the exact same mural.

213. Imposing different burdens on speech depending on who is speaking and what is being said is content-based and speaker-based restriction on free speech.

214. Imposing different size restrictions on murals depending on the content of the mural and the person displaying the mural is a content-based and speaker-based restriction on free speech.

215. Additionally, murals within the Downtown Salina Business Improvement District Number 1 are subjected to additional content-based review by the Design Review Board.

216. First, murals with contents that Salina considers “art” are completely exempt from the Design Review Board process, while murals with contents that Salina does not consider “art” are subjected to the Design Review Board process.

217. Then the Design Review Board determines whether a mural “presents an aesthetically pleasing overall image,” “clash[es]” with older materials or harms the “distinguishing original qualities or character of a building.”

218. These determinations by the Design Review Board are based on the content of the mural under review.

219. In the alternative, if Salina believes that the sign code only applies to a “display” which is “used to announce, direct attention to, or advertise,” then this too would be a content-based restriction on speech.<sup>22</sup>

220. If Salina officials determine that the content of a mural somehow “announces,” “directs attention to,” or “advertises” something, then they enforce the mural-sign code regime.

221. Conversely, if Salina officials determine that the content of a mural does not “announce,” “direct attention to,” or “advertise” anything, then they do not enforce the mural-sign code regime.

222. The only way Salina officials can make such a distinction is by analyzing the content of murals and applying different rules based on the content of the mural.

223. Content-based and speaker-based restrictions on speech are subject to strict scrutiny. *Reed*, 576 U.S. at 164, 170.

224. Content-based regulations of speech “are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163; *United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 816 (2000) (when government restricts speech, it “bears the burden of proving the constitutionality of its actions”). It’s “rare that a regulation restricting speech because of its content will ever be permissible.” *Playboy Ent. Grp., Inc.*, 529 U.S. at 818.

225. Salina cannot meet this burden.

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<sup>22</sup> As explained above, the Plaintiffs do not believe that the language of Salina City Code § 42-764(2) is a requirement of all signs, rather, this is a catch-all provision intended to cover items that were not already covered by § 42-764.

226. Salina has no evidence that Salina’s mural-sign code regime is narrowly tailored to further a compelling government interest.

227. Salina also has no evidence that its discrimination against messages that pertain to the goods or services for sale is narrowly tailored to further a compelling government interest.

228. Nor does Salina have evidence that its discrimination against messages that it does not consider to be “art” is narrowly tailored to further a compelling government interest.

229. Thus, the different treatment of speech based on speakers and content under Salina’s mural-sign code regime, is an unconstitutional content-based and speaker-based restriction on speech under the First Amendment.

Even if Salina’s mural-sign code regime is content- and speaker-neutral, it is still unconstitutional.

230. Even if Salina’s discrimination against messages related to a business were somehow not content based or speaker based, Salina’s enforcement of its mural-sign code regime against the Plaintiffs still violates the First Amendment.

231. Salina does not have sufficient justification for either its regulation of Plaintiffs’ mural specifically, or its regulation of messages it perceives are related to business generally.

232. Salina’s regulation of Plaintiffs’ mural does not directly or materially advance a substantial, important, or compelling government interest.

233. Salina’s general regulation of messages related to business does not directly or materially advance a substantial, important, or compelling government interest.

234. The Plaintiffs’ mural does not present a safety hazard.

235. The Plaintiffs’ mural does not present a health hazard.

236. The Plaintiffs’ mural does not have a negative impact on the public welfare.

237. The Plaintiffs’ mural does not present a traffic control hazard.

238. The Plaintiffs’ mural does not harm the aesthetics of the surrounding area.

239. The Plaintiffs’ mural does not propose a commercial transaction.

240. The Plaintiffs’ mural is not related solely to the economic interests of Plaintiffs or their customers.

241. The Plaintiffs' mural is not commercial speech. *Complete Angler, LLC v. City of Clearwater, Fla.*, 607 F. Supp. 2d 1326, 1332 (M.D. Fla. 2009).

242. The Plaintiffs' mural is not false.

243. The Plaintiffs' mural is not deceptive.

244. The Plaintiffs' mural does not pose any risk of misleading the public.

245. Salina's mural-sign code regime does not serve Salina's interests in public safety, public health, or public welfare.

246. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, is not narrowly tailored to serve any substantial, important, or compelling government interest.

247. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, does not directly or materially advance any substantial, important, or compelling government interest.

248. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, is not substantially related to any substantial, important, or compelling government interest.

249. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, is more extensive than necessary to serve any substantial, important, or compelling government interest.

250. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, does not leave open alternative channels of communication.

251. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, is not rationally related to any legitimate government interest.

252. Salina's mural-sign code regime, and its enforcement of its mural-sign code regime against the Plaintiffs, is not narrowly tailored, and cannot survive a less-restrictive-means analysis.

253. On information or good faith belief, Salina does not have actual evidence justifying any of its First Amendment restrictions.

254. On information or good faith belief, Salina does not have any evidence justifying any of its First Amendment restrictions.

255. On information or good faith belief, Salina cannot prove that any of the alleged harms it seeks to remediate are real, or that its First Amendment restrictions will alleviate them to a material degree.

256. Salina cannot satisfy its heavy First Amendment burdens.

257. The Plaintiffs' mural is not commercial speech. But even if it were, strict scrutiny still applies. The "regulation of commercial speech that is not content-neutral is still subject to strict scrutiny under *Reed*." *Int'l Outdoor, Inc. v. City of Troy, Michigan*, 974 F.3d 690, 703 (6th Cir. 2020).<sup>23</sup> But even if *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557 (1980) applies to this case, Salina's mural-sign code regime is still unconstitutional, for at least all of the reasons set forth above and throughout.

258. To the extent that Salina's mural-sign code regime is held to be a valid restriction on commercial speech, Plaintiffs preserve the right to argue that the commercial speech doctrine is incompatible with the text, history, tradition, and original public meaning of the First Amendment and must be overturned.

#### Unconstitutional Prior Restraint on Speech

259. The Plaintiffs reallege and incorporate by reference all the preceding paragraphs.

260. Salina's requirement that property owners first obtain a sign permit and Certificate of Compatibility before painting a mural on a wall is an unconstitutional prior restraint on speech.

261. In the area of free expression, a licensing law placing unbridled discretion in the hands of a government official or agency is an unconstitutional prior restraint because it may result in censorship.

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<sup>23</sup> On this point—whether *Reed* applies to content-based restrictions of commercial speech—*Aptive* doesn't control. In *Aptive*, unlike here, the plaintiffs didn't challenge the application of *Central Hudson* to their case. Instead, the plaintiffs specifically *requested* its application in its motion for preliminary injunction, 1:17-cv-01545-MSK-MJW (Doc. 23) (pages 11-12), in its motion for summary judgment (Doc. 93) (page 1), and before trial, stipulated the test applied there too (Doc. 105 page 2).

262. Salina’s unwritten policy and practice of distinguishing between unregulated murals and regulated signs places complete and unbridled discretion in Salina officials to analyze the content of the proposed mural and determine if it pertains to the goods or services for sale.

263. Nothing in either the written sign code or Salina’s unwritten policy and practice provide Salina officials with any guidelines or criteria for judging whether or not a mural pertains to the goods or services for sale.

264. The mural-sign code regime constitutes unconstitutional prior restraint in that it doesn’t contain narrow, objective, and definite standards to guide Salina, for at least all of the following reasons, whether considered individually or collectively:

- a. “Mural” is not defined.
- b. “Pictorial representation” is not defined.
- c. “Display,” is not defined.
- d. “Calculated to attract the attention of the public,” is not defined.
- e. “Figure or similar character,” is not defined.
- f. “Announce,” is not defined.
- g. “Direct attention to,” is not defined.
- h. “Advertise,” is not defined.
- i. “Pertains to,” is not defined.
- j. “Goods or services sold,” is not defined.
- k. “Art,” is not defined.
- l. “Commercial speech,” is not defined.
- m. “Noncommercial speech,” is not defined.

265. The fact that Salina appears to believe that burger-esque flying saucers painted on The Cozy pertain to the hamburgers sold at The Cozy, while the baseball themed mural at The Yard does not pertain to the baseball training services sold at The Yard exemplifies the extent of Salina’s discretion.

266. The absence of express standards makes it virtually impossible to distinguish between a legitimate denial of a permit and an illegitimate abuse of censorial power.

267. Similarly, there are no established guidelines or criteria for judging whether or not a mural is “art” and exempt from the Design Review Board process.



268. Salina’s determination that the mural at the Salina Art Center was “art” and exempt from the Design Review Board process, while the Plaintiffs’ mural is not “art” but a regulated sign lacks any neutral standards to distinguish between legitimate regulation and illegitimated and discriminatory censorship.

269. The Downtown Salina Business Improvement District Number 1 Design Review Board lacks any established neutral criteria to ensure that its decision to grant or deny a Certificate of Compatibility is not based on the content or viewpoint of the speech being considered in the mural.

270. Indeed, its written criteria for granting or denying a Certificate, such as whether or not the mural “present[s] an aesthetically pleasing overall image,” “clash[es]” with older materials or preserves the “distinguishing original qualities and character of a building” are inherently subjective, arbitrary, and capricious. Salina City Code § 2-208.

271. Additionally, Salina’s decision to ignore the written deadlines for either granting or denying Plaintiffs’ application for a sign permit and Certificate of Compatibility, and instead placing the application “on-hold” indefinitely, shows that Salina views its authority to issue or deny permits to be entirely unconstrained even by the terms of the written city code.

272. This total disregard for the one clear constraint on Salina’s discretion – a hard deadline – concerning the Plaintiffs’ application would render this prior restraint on speech to be unconstitutional even if it were otherwise completely content-neutral, speaker-neutral, and constrained by clear, neutral criteria.

273. The mural-sign code regime lacks any established neutral criteria to ensure that the licensing decision is not based on the content or viewpoint of the speech being considered.

274. The First Amendment does not allow the government to possess unbridled discretion in determining when to impose a prior restraint on speech.

275. Salina’s enforcement of its mural-sign code regime is an unconstitutional restriction of speech under the First Amendment.

276. On its face and as applied, Salina’s mural-sign code regime violates the First Amendment.

277. The Plaintiffs' First Amendment rights have been and will continue to be violated by Salina's mural-sign code regime.

278. Salina oversees, implements, and enforces the mural-sign code regime violating Plaintiffs' First Amendment rights and causing Plaintiffs' First Amendment injuries.

279. As a consequence of Salina's actions or inactions in the implementation and enforcement of the mural-sign code regime, Plaintiffs have been and will continue to be injured, and are therefore entitled to, among other things, declaratory judgment and prospective injunctive relief, and any other equitable or other legal relief as the court deems just or appropriate.

280. Plaintiffs have no other legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their First Amendment rights, other than to file this lawsuit for non-monetary, prospective relief.

281. Unless the mural-sign code regime's unconstitutional ordinances, regulations, rules, and policies are declared unconstitutional and their enforcement permanently enjoined, Plaintiffs and others who are similarly situated will continue to suffer great and irreparable harm. Plaintiffs therefore seek such declaratory and injunctive relief.

**Claim Two: Fourteenth Amendment Due Process Clause Violation  
(Void for Vagueness)**

282. Plaintiff realleges and incorporates by reference all preceding paragraphs.

283. An enactment is void for vagueness if it "is so standardless that it authorizes or encourages seriously discriminatory enforcement." *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012); *see also Welch v. United States*, 578 U.S. 120 (2016).

284. The mural-sign code regime is unconstitutionally vague in that it doesn't provide fair notice as to the conduct proscribed and because it doesn't provide explicit standards for enforcement to protect against arbitrary enforcement, for at least all of the following reasons, whether considered individually or collectively:

- a. "Mural" is not defined, doesn't provide fair notice, and is susceptible to arbitrary enforcement.

- b. “Pictorial representation” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- c. “Display,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- d. “Calculated to attract the attention of the public,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- e. “Figure or similar character,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- f. “Announce,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- g. “Direct attention to,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- h. “Advertise,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- i. “Pertains to,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- j. “Goods or services sold,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- k. “Art,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- l. “Commercial speech,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.
- m. “Noncommercial speech,” is not defined, doesn’t provide fair notice, and is susceptible to arbitrary enforcement.

285. The mural-sign code regime, and Salina’s unwritten policy and practice of distinguishing between unregulated murals and regulated signs, do not define or otherwise establish sufficient standards necessary to prohibit or discourage seriously discriminatory enforcement.

286. Instead, Salina officials are required to examine the content of murals and determine if they believe the artwork somehow pertains to the goods or services sold in the vicinity.

287. If they believe the mural pertains to the goods or services sold then officials enforce the sign code.

288. Salina officials are also required to examine the content of murals and determine if they believe the mural is “art.”

289. If they believe the mural is not “art” then officials enforce the Design Review Board process.

290. For the reasons stated in Claim One above, the criteria utilized by the Downtown Salina Business Improvement District Number 1 Design Review Board to grant or deny Certificates of Compatibility are so standardless that it authorizes or encourages seriously discriminatory enforcement.

291. In the alternative, if Salina believes that the sign code only applies to a “display” which is “used to announce, direct attention to, or advertise,” then this too would be void for vagueness.<sup>24</sup>

292. The terms “display,” “announce,” “direct attention to,” and “advertise,” are all undefined.

293. This alternative interpretation requires City officials to examine the content of every mural and determine if it is a “display” that “announces,” “directs attention to,” or “advertises” something.

294. Salina lacks any standards for making these determinations, risking serious discriminatory enforcement.

295. As a consequence of Salina’s standardless, unwritten policy and practice, Plaintiffs cannot know what murals may permissibly be painted on the side of The Cozy, and are injured by Salina’s arbitrary enforcement, and are therefore entitled to, among other things, entry of a temporary restraining order, prospective injunctive relief, and any other equitable or legal relief as the court deems appropriate.

296. Salina’s enforcement of its mural-sign code regime is unconstitutionally vague under the Fourteenth Amendment

297. On its face and as applied, Salina’s mural-sign code regime violates the void for vagueness doctrine of the Fourteenth Amendment.

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<sup>24</sup> As explained above, the Plaintiffs do not believe that the language of Salina City Code § 42-764(2) is a requirement of all signs, rather, this is a catch-all provision intended to cover items that were not already covered by § 42-764.

298. The Plaintiffs' Fourteenth Amendment rights have been and will continue to be violated by Salina's mural-sign code regime.

299. Salina oversees, implements, and enforces the mural-sign code regime violating Plaintiffs' Fourteenth Amendment rights and causing Plaintiffs' Fourteenth Amendment injuries.

300. As a consequence of Salina's actions or inactions in the implementation and enforcement of the mural-sign code regime, Plaintiffs have been and will continue to be injured, and are therefore entitled to, among other things, declaratory judgment and prospective injunctive relief, and any other equitable or other legal relief as the court deems just or appropriate.

301. Plaintiffs have a liberty interest in their speech and a property interest in the wall of The Cozy that is protected by the Fourteenth Amendment.

302. Plaintiffs have no other legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their Fourteenth Amendment rights, other than to file this lawsuit for non-monetary, prospective relief.

303. Unless the mural-sign code regime's unconstitutional ordinances, regulations, rules, and policies are declared unconstitutional and their enforcement permanently enjoined, Plaintiffs and others who are similarly situated will continue to suffer great and irreparable harm. Plaintiffs therefore seek such declaratory and injunctive relief.

304. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights, other than to file this lawsuit for non-monetary, prospective relief.

305. Unless the mural-sign code regime and unwritten policy and practices are declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

### **Request for Relief**

Plaintiffs respectfully request the Court grant the following relief:

306. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

307. Declaratory judgment that Salina’s mural-sign code regime, as written and enforced, is an unconstitutional content-based restriction on speech, on its face and as applied to Plaintiffs and others similarly situated.

308. Declaratory judgment that Salina’s mural-sign code regime, as written and enforced, is an unconstitutional speaker-based restriction on speech, on its face and as applied to Plaintiffs and others similarly situated.

309. Alternatively, if Salina’s mural-sign code regime is ruled to be content-neutral and speaker-neutral, a declaratory judgment that Salina’s mural-sign code regime, as written and enforced, fails to satisfy intermediate scrutiny, on its face and as applied to Plaintiffs and others similarly situated.

310. Declaratory judgment that Salina’s mural-sign code regime, as written and enforced, is an unconstitutional prior restraint on speech, on its face and as applied to Plaintiffs and others similarly situated.

311. Declaratory judgment that Salina’s mural-sign code regime, as written and enforced, is void for vagueness, on its face and as applied to Plaintiffs and others similarly situated.

312. For entry of temporary, preliminary, and/or permanent prospective injunctive relief, enjoining Defendant, Defendant’s officers, agents, employees, attorneys, servants, assigns, and all those in active concert or participation who receive, through personal service or otherwise, actual notice of this Court’s order, from enforcing or directing the enforcement of Salina’s mural-sign code regime—which includes the Salina’s written sign code, Salina’s unwritten policies and practices, Salina’s Sign Permit requirement, Salina’s Downtown Salina Business Improvement District review process, the Certificate of Compatibility requirement, and its concomitant enforcement penalties (“mural-sign code regime”)—as described throughout the lawsuit, that constitute violations of the First and Fourteenth Amendments to the United States Constitution, on their face and as applied to Plaintiffs and other similarly situated.

313. A permanent injunction prohibiting Defendant from taking any enforcement or other action against Plaintiffs for displaying their mural in its current position on The Cozy Inn, or for completing the mural on The Cozy Inn.

314. Reasonable costs and attorney fees under 42 U.S.C. § 1988; and

315. Such other legal or equitable relief as this Court deems appropriate and just.

### **Jury Demand and Designation of Place of Trial**

316. Plaintiffs request a jury trial on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure. Plaintiffs request the trial be held in Wichita, Kansas, due to the proximity of the parties.

Kansas Justice Institute

Dated: April 10, 2024.

/s/ Samuel G. MacRoberts  
Samuel G. MacRoberts, 22781  
12980 Metcalf Avenue, Suite 130  
Overland Park, Kansas 66213  
Sam@KansasJusticeInstitute.org  
(913) 213-5018  
Attorney for Plaintiffs

Dated: April 10, 2024.

/s/ Jeffrey Shaw  
Jeffrey Shaw, 29767  
12980 Metcalf Avenue, Suite 130  
Overland Park, Kansas 66213  
Jeff@KansasJusticeInstitute.org  
(913) 213-5018  
Attorney for Plaintiffs



In the United States District Court  
for the  
District of Kansas

Cozy Inn, Incorporated, d/b/a The Cozy  
Inn; Stephen Howard.

Plaintiffs,

v.

City of Salina, Kansas.

Defendant.

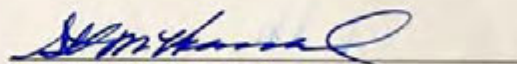
Civil Action No. 6:24-cv-01027-TC-ADM

Verification

**Verification**

I, Stephen Howard, have personal knowledge of myself, my activities, and my intentions, including those set out in the Amended Verified Complaint. I verify under penalty of perjury under the laws of the United States of America that the factual statements in the Verified Complaint concerning myself, my activities, and my intentions are true and correct, as are the factual statements concerning Cozy Inn, Incorporated, d/b/a The Cozy Inn. Matters alleged on information and belief I reasonably believe to be true in good faith.

Dated: 4-8, 2024.



Stephen Howard, individually and  
On behalf of Cozy Inn, Incorporated,  
d/b/a The Cozy Inn

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Exhibit A

SALINA CITY COMMISSION MEETING

held on

November 13, 2023

Excerpt Transcribed by

AVANELLE L. SULLIVAN

for Dolginoff & Associates, a  
Registered Professional Reporter  
Certified in Kansas and Missouri.



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APPEARANCES

CITY MANAGER:  
Mike Schrage

VICE MAYOR:  
Bill Longbine

CITY ATTORNEY:  
Greg Bengtson

CITY COMMISSIONERS:  
Greg Lenkiewicz  
Trent W. Davis, MD  
Karl Ryan

DIRECTOR OF COMMUNITY AND  
DEVELOPMENT SERVICES:  
Lauren Driscoll

(ph) indicates a phonetic spelling.

[sic] indicates the text is as stated.

Quoted text is as stated by the speaker.

1 (The excerpt of the proceedings  
2 commenced.)

3 VICE MAYOR LONGBINE: That brings us  
4 to Citizens Forum.

5 MR. SCHRAGE: If I may -- I need to  
6 make sure my microphone is on.

7 VICE MAYOR LONGBINE: Oh, you have  
8 other business?

9 MR. SCHRAGE: Right.

10 VICE MAYOR LONGBINE: I was going to  
11 skip that.

12 MR. SCHRAGE: So I have a -- I would  
13 like to give you some background on an issue  
14 that I'm sure you're aware of that became a  
15 topic of conversation over the last week. And  
16 that is the Cozy Inn artwork and mural/sign  
17 that's been initiated on the -- I guess it  
18 would be the north side of their building. So  
19 I have some background information for you.

20 I would tell you that I think staff  
21 made first contact with Mr. Howard, who's here  
22 on -- the owner and operator of Cozy's is  
23 here. Made first contact with him last week  
24 and then we met with Mr. Howard and his artist  
25 this morning and kind of walked through the



1 same information that I'm going so share with  
2 you at this point.

3 So -- and it started by  
4 acknowledging -- and I understand it's become  
5 an emotional issue for some and has been a hot  
6 topic of conversation in social media and the  
7 radio.

8 I want to give Mr. Howard credit.  
9 He's adamant that that wasn't his doing, that  
10 wasn't his initiation, that wasn't his intent.  
11 But it did start, you know, kind of a  
12 community conversation.

13 So I want to clarify a couple of  
14 things right off the top. The issue is not  
15 about the art. The issue is not about the  
16 artist. I think there were some comments made  
17 that the artist hadn't been approved or the  
18 art hadn't been approved. And that's really  
19 not what -- what's at play here.

20 I would tell you as well that there  
21 are examples of very similar issues as it  
22 relates to what constitutes art, what  
23 constitutes a sign, how does free speech get  
24 involved, how can signs and art be regulated.

25 That is a difficult issue that's



1 playing itself out coast to coast, so not  
2 necessarily unique to Salina. The important  
3 distinction here relates to commercial speech  
4 and our ability to regulate commercial speech  
5 or signs and then specifically how we do that  
6 by way of our -- the codes that we have in  
7 place.

8 I won't go into great detail, but  
9 there's a U.S. Supreme Court case that  
10 provided us clear direction, provided the  
11 nation clear direction, that sign regulation  
12 has to be content neutral. And I think some  
13 of you are on the planning commission, and the  
14 city commission as we worked our way through  
15 that a couple years ago trying to modify our  
16 code to be sure that we met that content  
17 neutral requirement. So.

18 And that's important in that we don't  
19 get to look at a sign and what it says and  
20 what it looks like. We just need to have  
21 codes that apply across the board, regardless  
22 of any specific content parameters. And so --

23 And there certainly is a  
24 misunderstanding between art and signs and  
25 commercial speech. And I would acknowledge



1 that signs can be artistic, some more artistic  
2 than others. This one in particular is very  
3 artistic in terms of kind of the theme and  
4 where it's headed with the image.

5 So despite all the emotion and kind  
6 of the confusion surrounding it, we do not  
7 regulate based on content, aesthetics, the  
8 particular business in question nor social  
9 media or a petition process. We just have to  
10 administer based on the codes that are in  
11 effect.

12 Our codes in this particular case  
13 have been in effect since 1966. It doesn't  
14 mean that they can't be changed, but the codes  
15 that we currently have, have been in effect  
16 since 1966 and we regulate based on size.

17 So by zoning category, that then  
18 dictates, kind of, the mathematical formula  
19 that gets applied that then determines the  
20 maximum size of signs in total, not just an  
21 individual sign, but kind of the aggregate  
22 size of those signs that's allowed.

23 And I am going to call on Lauren  
24 Driscoll to walk you through the specifics as  
25 it relates to Cozy's. And so that, then, kind





1 of sets size limits in proportion to the  
2 building or more specifically the building  
3 frontage.

4 So in this particular case, Cozy  
5 currently has three permitted signs, and they  
6 use up 84 percent of their allowable space by  
7 our current code. The proposed sign, in  
8 combination with those other three signs,  
9 would put them at about nine times the  
10 allowable size. So it really becomes a  
11 function of the size of that artwork and  
12 signage relative to our current code  
13 provisions.

14 In terms of possible next steps, we  
15 discussed these with Mr. Howard and his  
16 artist. First and foremost is submitting a  
17 sign application, so we have the specifics of  
18 what they intend and we can take a look at  
19 that relative to the code.

20 But we do know just from what's on  
21 the sign and the renderings that have been  
22 shared, it's going to be more than just  
23 submitting an application for approval. We do  
24 have a disconnect between what they intend and  
25 what our code currently allows.



1           A couple of other options that are  
2 just generally available in the zoning code  
3 are applying for a variance or proposing a  
4 code amendment. We discussed the variance  
5 process, and there is a statutory set of  
6 criteria that the board of zoning adjustment  
7 has to reach findings on all five of them,  
8 that they're met.

9           And that makes it a little -- makes  
10 it problematic in terms of this particular  
11 instance. It has to be unique and -- there  
12 has to be something unique in terms of an  
13 insurmountable challenge or something that the  
14 code might not have taken into account. There  
15 has to be an undue hardship -- some of those  
16 standards are pretty high bars.

17           And we told Mr. Howard, we are not  
18 saying you can't apply for a variance. We're  
19 not saying what the outcome might be. But  
20 knowing what we know about kind of that  
21 criteria and our history, it doesn't seem  
22 likely that a variance would be granted.

23           In fact, staff shared that our only  
24 knowledge of a sign variance that has been  
25 approved relates to a location where the



1 ground falls off so quickly from the roadway,  
2 that it had to be allowed to be taller than  
3 the code might have allowed just to get in a  
4 normal scale relative to the driving surface.

5 The other option, the code amendment,  
6 we have a process whereby someone can make  
7 application or request a code amendment.  
8 Looking at it in first blush, probably to  
9 accommodate what's being -- what Mr. Howard  
10 desires, we need to increase the allowable  
11 square footage nine to 10 times what our code  
12 currently says or we would need to come up  
13 with some allowance to cover an entire -- a  
14 wall pretty much in its entirety or possibly  
15 even all four sides of the building in its  
16 entirety.

17 And that starts to get very  
18 customized, very detailed. And the key factor  
19 there is, it has to be applicable across the  
20 board. We can't -- we're not in a position to  
21 create a carve-out specific to a particular  
22 business.

23 And so whatever we come up with would  
24 need to allow the proposed sign. It would  
25 need to apply equally to others in a similar



1 situation, again, regardless of its content,  
2 regardless of its aesthetics, regardless of  
3 the specific business.

4 And I would reiterate, it's all on  
5 the basis of a commercial message. So while  
6 we may have one sign that feels much more  
7 artistic than another, these size limits could  
8 just be pricing and a more typical business  
9 sign text than kind of an art -- artistic  
10 flair.

11 I don't -- I think it's lost on you;  
12 that's a pretty significant policy decision.  
13 It's going to take some work. We will --  
14 we're prepared to staff that through in terms  
15 of code drafting, running it through the  
16 necessary committees for recommendation. But  
17 then it ultimately would end up back at the  
18 city commission level for consideration of an  
19 amendment to our code.

20 As I said, we're -- we're definitely  
21 willing to do that. It won't be quick. I  
22 think there is a lot that we might be able to  
23 learn from other communities, and if they've  
24 been able to find a creative way to come up  
25 with codes that kind of address the balance



1 that we're trying to strike here.

2 Part of the conversation will be  
3 while -- while it may be acceptable in this  
4 particular location, does it open it up for  
5 other locations. And so we would need to  
6 provide -- spend some time kind of looking at  
7 all the possible scenarios so that the  
8 planning commission and the city commission  
9 have a good understanding of what that code  
10 change might allow.

11 And so we have learned -- had some  
12 contacts and planning. And we'd already  
13 identified the need to take a look at this and  
14 had it on our plan of work for 2024. It  
15 wasn't necessarily on the plan of work for the  
16 coming week or before year end, but she is  
17 aware of some planners that specialize in  
18 this. Reached out to one of them last week to  
19 try to see if we can expedite some of that  
20 conversation.

21 We're hoping to have a proposal back  
22 in the next week or two. But the preliminary  
23 conversation -- Lauren can speak to this  
24 better than I can -- is their schedule is such  
25 that their -- even if we engaged them and can



1 get something in place, it's probably a couple  
2 months out before they're able to, you know,  
3 work on our specific project.

4           The last thing that I would say --  
5 then I want to turn it over to Lauren, and  
6 then I know Mr. Howard is here as well -- is  
7 part of the conversation we had with the  
8 artist and Mr. Howard this morning was last  
9 week, staff's contact with him was not  
10 intended to be enforcement, per se, with a  
11 violation citation, but just agree to pause on  
12 proceeding with the project until we can sort  
13 through the codes, until we can have the  
14 conversation we had this morning.

15           I think that's still a possibility.  
16 The artist indicated this morning their  
17 preference was, they washed the building in  
18 preparation for painting. They don't  
19 necessarily want to leave it half finished.  
20 And if it's going to take into the spring  
21 before they have an answer, their preference  
22 is to paint it white and just prep it to start  
23 over again.

24           So. That's certainly probably the  
25 cleanest way from a code standpoint. But that



1 wasn't something that we said that they  
2 necessarily had to do.

3 With that, what I'd like to do is  
4 give Lauren an opportunity to walk you through  
5 the math and the code provision specific to  
6 the Cozy sign as a little bit of background.

7 MR. HOWARD: Can I just say --

8 MR. LONGBINE: Well, now, let Ms.  
9 Driscoll -- let Ms. Driscoll bring the code.

10 MS. DRISCOLL: Are you sure?

11 VICE MAYOR LONGBINE: Yeah. No, you  
12 don't need to leave, Mr. Howard. We just got  
13 procedure here.

14 MR. HOWARD: Okay.

15 VICE MAYOR LONGBINE: Go ahead,  
16 Lauren.

17 MS. DRISCOLL: Jacob, if you wouldn't  
18 mind popping that analysis up. Staff learned  
19 about the sign late on Sunday night, contacted  
20 Mr. Howard Monday morning and just asked if we  
21 could have -- if he could pause in -- in the  
22 creation of his sign so that we could get a  
23 chance to look at it.

24 Without an application, we had no  
25 measurements, things like that. Needed a





1 chance to look at it. And could already see  
2 on social media a lot of people had already  
3 seen it, loved it, wanted more of it.

4 So we also looked and needed a little  
5 time to research to see if there are any  
6 exceptions to -- somebody asked us if really,  
7 you know, institutional-type buildings get an  
8 exception to sign codes. How -- how do you  
9 give that kind of variance. Did some  
10 research -- that's why we asked for the pause  
11 so that we could meet with him this morning.

12 MR. SCHRAGE: Sorry to interrupt, but  
13 just to clarify. Sunday -- not yesterday --

14 MS. DRISCOLL: Correct.

15 MR. SCHRAGE: -- Sunday, the week  
16 prior.

17 MS. DRISCOLL: Right. Sunday before.  
18 But without a lot of details, staff needed  
19 just a little time to do some research, which  
20 is what we had asked him and he said that that  
21 was fine.

22 As part of some of that research,  
23 also quick -- did a side analysis. This is  
24 typically something we would do when we would  
25 get a new sign permit in the door. In this



1 case the question is, is it a sign.

2 If you look at our definition of a  
3 sign, a sign is anything in writing including  
4 letters, words and numbers -- there are  
5 letters involved in this application -- or in  
6 this particular sign -- pictorial  
7 representation. This includes illustrations  
8 or decorations; that is also part of this  
9 sign.

10 And these are calculated to attract  
11 the attention of the public or any figures,  
12 similar in character which, one, could include  
13 being painted on -- so they are painted on to  
14 the wall; two, used to announce, direct  
15 attention to or advertise something. It's  
16 welcoming you to come into the building --  
17 that's part of the sign -- and is not located  
18 inside the building. It is of course on the  
19 exterior side wall of the structure.

20 So from that pure definition, this  
21 starts to tick all the boxes that make it a  
22 sign, before we even get into a discussion of  
23 commercial speech, noncommercial speech.

24 When we look at sign regulation, we  
25 go to the sign code, which is in the city



1 zoning code, Chapter 42. And then we look at  
2 what zone the property falls into.

3 So I've gotten quite a few calls over  
4 the last few days of people asking, well, what  
5 about that one? What about that sign? What  
6 about that sign?

7 Well, they're in different zoning  
8 districts. So the rules are going to be  
9 different for those.

10 This particular property is in C4,  
11 which is the central business district  
12 downtown. And beyond things that are typical  
13 to any zoning district, identifying functional  
14 types of signs, structural permits, numbers of  
15 signs, most notable by most people when it  
16 comes to signage is the maximum gross surface  
17 area. So how big can the sign be.

18 We also do a collective surface area.  
19 So you can have a couple smaller signs that  
20 could equal that full surface area amount of  
21 signage. So, for instance, in the downtown,  
22 you can have 3 square feet of signage for  
23 every foot of frontage.

24 Well, the Cozy building is a very  
25 little building. It only has 20.8 feet -- so



1 let's round it up to 21 -- even to 21 linear  
2 feet of frontage. So if we take 21 times 3,  
3 you get 63 square feet.

4 So by the time we take their north  
5 facing wall sign, which is 24 square feet,  
6 their 7th Street projecting sign, which is  
7 24 square feet and then their 7th Street  
8 awning sign, which is another 4.88 square  
9 feet, you get 52.88 square feet, leaving us  
10 just over 10 square feet of remaining surface  
11 area of signage allowed for the building.

12 In Cozy'a situation, if you take the  
13 sign that's on the side of the building and  
14 you do the square footage analysis on that,  
15 it's approximately 528 square feet, which is  
16 significantly greater than the allotted amount  
17 in the C4 district. So that's really the  
18 challenge here.

19 And I would love to say from the  
20 staff perspective, if there was one line that  
21 I could change and make this simple, I really  
22 would. But one of the things that makes the  
23 downtown unique is there's kind of a domino  
24 effect; right? We have a lot of different  
25 shaped buildings. We have very limited or no



1 setbacks in many situations.

2 So how the buildings work together,  
3 the scale of messaging, of signage, really  
4 does matter in that environment. Plus the C4  
5 is also very pedestrian focused.

6 Where, for instance, you know,  
7 driving down 9th Street, that's not a  
8 pedestrian environment. But everything in the  
9 C4 is scaled for both car and people. So that  
10 also has to do with some of our sign  
11 regulations and kind of how they came to be.

12 So we did have this conversation with  
13 Mr. Howard this morning. We kind of saw this  
14 coming, the excitement of all the art with  
15 Boom Festival has gotten people looking at  
16 blank walls differently. But that doesn't  
17 necessarily change the definition of a sign.

18 Even if we changed our definition, we  
19 still have to be mindful of kind of what the  
20 Supreme Court decisions have done to reflect  
21 that sign code and how murals and signs can  
22 exist cohesively in a community.

23 And it takes a bigger, broader  
24 conversation. So we had planned to start that  
25 this spring knowing we had a lot of creative



1 minds wanting to share, but also wanting to  
2 get everybody on the same page of what the  
3 outcome would look like.

4 In reaching out to specialists -- and  
5 I will say, if we could do this in-house right  
6 now, I would. But this is a very unique and  
7 specialized area of code. It also, in order  
8 to do it in a time efficient manner, you kind  
9 of need to -- this needs to be your -- your  
10 thing.

11 It's kind of like when you hire a  
12 specialist, a subject-matter expert to do  
13 something. They can do it quicker than other  
14 people. You know, that's -- that's their  
15 system or that's the tool that they always  
16 work on.

17 And we want this done in a timely  
18 manner. Clearly it's kind of come to a  
19 precipice where people are noticing this. And  
20 I do think bringing a subject matter expert  
21 in -- a couple of them that I've talked to  
22 said, you know, two, three months they could  
23 have a good public process that lets everybody  
24 have a chance to speak on this, to find code  
25 that will work in the community and get



1 something to bring forward to you all.

2 So I think that's pretty reasonable.  
3 I'm hoping they can start January, February at  
4 the latest. But I do think that this is a  
5 situation in which it would be reasonable to  
6 get somebody who could really kind of help us  
7 move this along in addition to everything else  
8 we got going on.

9 MR. SCHRAGE: And if I could add one  
10 thing to that. In addition to being the  
11 subject matter expert, I think this a really  
12 good example where it's going to take some  
13 creativity on our part. It's going to take  
14 some balancing of considerations.

15 And someone that's been in these  
16 similar conversations in multiple communities  
17 and facilitated, you know, kind of public  
18 discussions about that I think can add a lot  
19 of value versus us just kind of working in a  
20 vacuum trying to figure this out from scratch.

21 MS. DRISCOLL: Well, and they're  
22 going to have to turn visual materials around  
23 quickly. I mean, in amongst everything that's  
24 coming in and out of the office every day,  
25 somebody stopping, and every time we talk





1 about a scaling of something or, you know,  
2 how -- how a different change in rules would  
3 look, you're going to need to kind of create  
4 new visuals to go over with the group to say,  
5 okay, well, that's what it looks like here,  
6 that's what it looks like here and that's what  
7 it looks like here in the C4.

8 Is that what you were hoping this  
9 rule change would do? And so people are going  
10 to have to see those visuals. And somebody  
11 being able to produce those in a timely manner  
12 is also part of kind of what helps move this  
13 along, rather than staff in amongst phone  
14 calls and other day-to-day things, trying to  
15 produce those materials, plus research code,  
16 plus rewrite and do all of those others  
17 things.

18 MR. SCHRAGE: So we -- in what little  
19 time we have had, we brainstormed a little bit  
20 about, okay, what's unique about that  
21 location. Could it be acceptable.

22 And I think the conversation was not  
23 just absolute objection to it, but it then  
24 quickly becomes, well, how do we write  
25 something that that's acceptable but it



1 doesn't expand beyond what the community might  
2 have in mind for other building faces in the  
3 downtown.

4 I think we can get there. But I do  
5 think an outside subject matter expert could  
6 certainly help us.

7 COMMISSIONER RYAN: Well, I would  
8 agree you're taking the right approach to dive  
9 in, given the proliferation of mural art  
10 everywhere -- and it seems Salina is really  
11 interested in that, we're kind of ahead of  
12 things in trying to develop that.

13 But I'm -- yeah, I would be anxious  
14 to hear what the better brains are doing with  
15 that. Because I can understand the city's  
16 point of view of --

17 I mean, if this code is as old as  
18 1966, it deserves to be reviewed in this  
19 modern concept. Because I can see dividing a  
20 signage like this -- I mean, look at any Apple  
21 ad in the world that -- it's very much art but  
22 still a portion of it communicates the  
23 commercial message.

24 I could see much of the mural part be  
25 considered art, and then focus on the actual



1 portion that's the message as the commercial  
2 aspect. So a fine line there between artistic  
3 minds and people that administer code, so.

4 MS. DRISCOLL: And I think  
5 representation is one thing also that you'll  
6 see when you read case law about this is,  
7 expressly related solely to the economic  
8 interest, to the speaker and the audience, or  
9 speech that possesses commercial transaction  
10 when the -- I'm going to use the coffee house  
11 for instance. This is actually from a Supreme  
12 Court case.

13 If the coffee house has a dove with  
14 an olive branch and it says the word "peace"  
15 on the side of it, that -- that's not a sign.  
16 Because even though the word "peace" is there,  
17 you're not selling peace inside. I mean,  
18 coffee may do that for some people.

19 But in general, the dove, the olive  
20 branch, the peace are not part of a commercial  
21 transaction that would take place in that  
22 building or draw you to that building for a  
23 commercial transaction.

24 Where if we had a steaming cup of  
25 coffee and a coffee pot on the side, those are



1 things that draw you in to the use of that  
2 building. Even without a word, that  
3 illustration can suggest that commercial  
4 transaction.

5 There's actually case law example of  
6 a mural, which is actually a sign, of a bunch  
7 of puppies playing in a field. It's across  
8 from a dog park. And the mural happens to be  
9 on a building that is a doggy day care. Never  
10 said a word. But it's dogs; they do doggy day  
11 care. That was deemed commercial signage.

12 VICE MAYOR LONGBINE: I think it's --  
13 go ahead.

14 COMMISSIONER RYAN: I'm sorry. I was  
15 just kind of following up on my -- are there  
16 communities that have public boards or  
17 entities that decide what's an artistic aspect  
18 and what would be a commercial? I mean, that  
19 seems very hard to me to distinguish in given  
20 instances.

21 MS. DRISCOLL: I do. I think that is  
22 one of the biggest challenges. I think part  
23 of what we have to focus on is really  
24 location, size, and scale of signage and work  
25 from there, rather than what is the content or



1 does it look like art, does it feel like art.  
2 Because that's definitely where we get into  
3 the trouble zone. And that's definitely  
4 where, you know, cities that try to regulate  
5 to that messaging side of things typically end  
6 up getting sued.

7 MR. SCHRAGE: Yeah. You probably  
8 recall time, place, and manner is a typical  
9 refrain of, well, you can relate. And then  
10 Reed v Gilbert is another U.S. Supreme Court  
11 case that very clearly makes it known that  
12 you're not supposed to regulate based on  
13 content. So.

14 MS. DRISCOLL: But the other option  
15 is we may end up having to have a process for  
16 the murals. So it's like if you can't say  
17 this is one thing, do you identify the others?  
18 I mean, that's part of the conversation I  
19 think needs to be had.

20 Sometimes saying something isn't  
21 something -- maybe you need a process to  
22 identify what something is. So. I think  
23 there's some different things we have to look  
24 at.

25 COMMISSIONER DAVIS: Just from a



1 definition standpoint, if this same painting  
2 was, let's say, on the side of one of the  
3 grain elevators, downtown, away from where it  
4 is now, would it -- then be considered  
5 commercial -- commercial signage?

6 MR. SCHRAGE: And the reason I laugh,  
7 is now we're into off-premise signs. There  
8 are -- there is signage that's not on a -- at  
9 the actual business location that directs  
10 attention elsewhere.

11 COMMISSIONER DAVIS: Yeah, I kind of  
12 remember that discussion from --

13 MR. SCHRAGE: So --

14 COMMISSIONER DAVIS: Okay. I'll  
15 withdraw that question.

16 MR. SCHRAGE: But it -- you know,  
17 there's a lot of what-ifs. There certainly is  
18 a circumstance where a steaming cup of coffee  
19 on the side of a coffee house is a sign and a  
20 steaming cup of coffee on the other side of  
21 town unrelated to anything going on might not  
22 be a sign.

23 You know, as we -- as we looked at  
24 murals, we had some conversation about this  
25 very question. And the first reaction was,



1 well, if it includes lettering, or if it  
2 includes wording.

3 But it really -- if the wording's not  
4 commercial in any way or doesn't have an  
5 attachment to a commercial operation, that in  
6 and of itself isn't a disqualifier.

7 COMMISSIONER DAVIS: Case in point  
8 being the Target logo. You know, some of the  
9 buildings, they don't even put the word  
10 "Target" on it.

11 MR. SCHRAGE: Right.

12 COMMISSIONER DAVIS: They just  
13 have --

14 MR. SCHRAGE: Well, Lauren's made the  
15 example in prior conversations, the gas pump  
16 and the different icons that you see on  
17 directional signs on the side of the  
18 interstate. No words, but it's still  
19 conveying a message.

20 VICE MAYOR LONGBINE: Well, I think  
21 if this had been anything other than a  
22 101-year old historic institution, it wouldn't  
23 be an issue.

24 And, you know, I'm sorry Mr. Howard  
25 wouldn't stay and join the conversation here.





1 But I really believe if he intended to get in  
2 on the whole mural trend -- and it is -- you  
3 pointed out well the distinction between art  
4 and murals and commercial sign.

5 So I guess my thoughts all along as  
6 I've studied this issue is what would it take  
7 for him to turn this into a mural rather than  
8 a sign.

9 MR. SCHRAGE: So as I prepared my  
10 overview, I shared it with legal counsel to  
11 just make sure I wasn't saying anything  
12 incorrectly. And as might be expected, they  
13 responded two to three levels deeper in terms  
14 of legal analysis and court cases.

15 And I say all that because we end --  
16 that ends up being a legal question of, if  
17 there are no words but it's still, you know,  
18 related to the business activity of the  
19 building, I think there's case law out there  
20 that says that's still a commercial message  
21 and it's still a sign.

22 And then the added difficulty is --  
23 and there's examples in court cases of this as  
24 well -- as soon as you start that treatment,  
25 whatever it might be, for one intended



1 location or purpose, then the expectation is,  
2 I'm the same as them. I deserve the same  
3 treatment.

4 And that's the precedent-setting  
5 nature that we have to really pay attention to  
6 as we revise the code.

7 COMMISSIONER DAVIS: Then I think the  
8 other flip side of that is, you know -- and I  
9 do -- I did drive by and it's a really nice  
10 drawing. But we don't spend our time  
11 regulating things that we like. Our codes  
12 make us be impartial when we have to deal with  
13 things that we don't like.

14 And if everybody in town liked it,  
15 we'd probably push it through and -- but the  
16 next time -- you know, this may be a poor  
17 example to use. But, you know, if a sexually  
18 explicit supply store wanted to come by and  
19 they had, you know, pictures of their  
20 paraphernalia on the side of the building,  
21 judging from comments during our last  
22 election, a lot of folks would be upset over  
23 that.

24 Or if we had same-sex couples, you  
25 know, with a rainbow picture on the side of



1 the building saying, you know, Salina,  
2 friendly to the LGBTQ community, folks -- you  
3 know, we'd have folks coming up on the other  
4 side saying, well, how can you allow that? I  
5 mean, that's clearly a sign.

6 So, you know, whatever we do, it's  
7 got to be something that will stand the test,  
8 no matter who's coming up to the podium. And  
9 it makes it more difficult -- I think it's a  
10 beautiful sign, but.

11 And I've said it before, we have  
12 rules for a reason. There are times -- you  
13 know, if a rule always has to be overridden or  
14 we give exceptions, then there's probably  
15 something wrong with the rule.

16 But we even need to look at finding a  
17 way to change the rule. But, again, you know,  
18 you have to understand that someone else that  
19 you don't like may come by and use that  
20 same -- same rule.

21 MR. SCHRAGE: All right. So building  
22 on that hypothetical just a little bit,  
23 without additional clarification, allowing one  
24 building to have 100 percent of the side wall  
25 as a sign, we -- you could do your frontage on



1 Santa Fe, a hundred percent a sign.

2 I don't think that's the intent. And  
3 that's -- those are the kind of things that  
4 when we make a code amendment, we need to  
5 parse out so that we don't have unintended  
6 consequences.

7 COMMISSIONER DAVIS: And, you know,  
8 if we wanted to have a sign frontage district,  
9 you know, where the front of every building  
10 had to be a sign, you know, so it looked like  
11 you weren't going into a store but you were  
12 going into a sign, we could do that. I mean,  
13 what is it -- which city in Texas is Weird --  
14 Austin?

15 MR. SCHRAGE: Keep Austin Weird.

16 COMMISSIONER DAVIS: Austin and  
17 Portland would probably take objection to us  
18 stealing their fun. But, again, that just has  
19 to be the nature of that particular district.

20 MR. SCHRAGE: It's not lost on staff,  
21 this is a result of the enthusiasm and the  
22 energy that is the mural festival. And  
23 speaking with Mr. Howard, I'm confident that  
24 he viewed it as his mural and didn't make a  
25 distinction between it being a sign in our



1 estimation and it being a mural.

2 And I have vague knowledge to the  
3 artist, that -- his artwork is high energy.  
4 You know, it -- it pops. We just got to find  
5 a way to balance that with the sign code.

6 VICE MAYOR LONGBINE: Well, I think  
7 we should be able to work through this without  
8 bringing in outside consultants. It shouldn't  
9 be that complicated.

10 MR. SCHRAGE: I don't -- you might  
11 find us bringing a consultant in on this one.

12 VICE MAYOR LONGBINE: I do agree with  
13 Commissioner Davis' point, though, that, you  
14 know, we got these ordinances and regulations  
15 and we need to be consistent. You know,  
16 someone could put something very derogatory or  
17 offensive to society as a whole, and that's  
18 why we have these ordinances.

19 COMMISSIONER DAVIS: And I guess even  
20 then we can't prevent. All we can do is  
21 regulate the size of the sign.

22 COMMISSIONER LENKIEWICZ: It's a bit  
23 of a quandry. And I -- coming back to the  
24 subject matter, expert -- I mean, you  
25 mentioned -- I'm sorry. I did not mean to do



1 that to you. But it sounds like it will  
2 expedite the situation, which is what we want  
3 to see happen.

4 I mean, I can't speak for the other  
5 members of the Commission, but I'm getting a  
6 general sensibility of we want to work with  
7 this business owner. We want to figure out if  
8 there is any middle ground, which sounds very  
9 questionable at this point. We'd like to get  
10 there.

11 But, you know, for the general  
12 public, this sensibility that we're just up  
13 here, you know, thumbs up, thumbs down and,  
14 you know, this is art, this is not art, I  
15 mean, it's a lot more complicated than that.

16 And, unfortunately, we find ourselves  
17 in a situation where I think we all appreciate  
18 the art. But we are bound by -- by laws that  
19 we -- you know, we're a governing body and  
20 that we -- we're -- we can't just arbitrarily  
21 decide, yes, this rule we're not going to  
22 enforce, and, you know, this rule we're going  
23 to apply, and there's the sense of fairness  
24 and uniformity to how we do things.

25 And it's really not a good spot to be



1 right now, to be honest. I don't like this.  
2 And it reminds me a lot of my law enforcement  
3 years, a lot of similarities. But  
4 unfortunately, that's part of our job and it's  
5 going to take time. And hopefully we find  
6 some middle ground.

7 But the concept of private property  
8 rights and, hey, this is something I own and I  
9 want to do what I will with it. That's not  
10 lost on me either, as a -- as a business  
11 owner. I get it. It's just we are -- we're  
12 in a bit of a quandary, I'll say it again.

13 COMMISSIONER DAVIS: If we had a  
14 different set of rules for downtown or if we  
15 called it an arts district or whatever, we  
16 would not be able to have a separate board  
17 decide the artistic merits. It would still --  
18 you'd still have to have a regulation -- not  
19 necessarily worded like this, but it would  
20 still be you either fit or you don't.

21 MR. SCHRAGE: We do have a design  
22 review board that applies some architectural  
23 and aesthetic standards within -- in that  
24 district. But that's about as far as I'm  
25 comfortable going without some legal advice



1 beyond that.

2 It certainly isn't -- as Commissioner  
3 Lenkiewicz pointed out, it's not thumbs up,  
4 thumb down on the particular art. It's --

5 COMMISSIONER DAVIS: Just the  
6 structure and appearance of the building.

7 MR. SCHRAGE: -- some broader  
8 guidance and is it within that guidance.

9 MS. DRISCOLL: Well, boards and  
10 commissions make their decisions based on the  
11 criteria that's outlined in code. So when  
12 they make a decision, you have to be able to  
13 tie findings back to that.

14 So the body finds that as per this  
15 section of code, it did not meet it. The body  
16 finds it did meet that section of code. So  
17 it's never really arbitrary, right, when the  
18 board reviews things. I mean, there is  
19 criteria which they make the decision to.

20 So when we say, like, can we have a  
21 board that decides if it's art or not art,  
22 that's a great example of can you really find  
23 that criteria. That's where we stick to time,  
24 place, and manner.

25 The board can decide, is that, you





1 know, the right size for that space. Is that  
2 the right material for that space.

3 When we get into downtowns, we start  
4 talking about, you know, historic materials,  
5 historic architecture. And that's kind of a  
6 unique line that we walk in our downtown.  
7 We're not a purist when it comes to historical  
8 integrity like some downtowns which is --  
9 that's -- we have a lot of cool stuff going  
10 on, which means we can bring some other things  
11 in. But you still have to be mindful, of some  
12 of those components.

13 So those are things that can be part  
14 of that decision. But as far as kind of  
15 content or, you know, the flavor of the  
16 message, I mean, outside of outright  
17 profanity -- Mr. Bengtson?

18 MR. BENGTSON: Well, if I may,  
19 Vice Mayor and commissioners, to all the  
20 points being made, most of what a municipality  
21 or city regulates is subject to a relative --  
22 relatively simple test of whether there is a  
23 nexus between the regulation and a legitimate  
24 public purpose. Most of the code is subject  
25 to that sort of test.



1           When you get into First Amendment  
2 regulation, anything that is protected by  
3 First Amendment, it gets more specific. The  
4 Supreme Court has told us now when you are  
5 evaluating anything in the commercial speech  
6 category, it undergoes what is called an  
7 intermediary -- intermediate scrutiny level.

8           It's higher than that just rational  
9 nexus. There has to be a specific public  
10 purpose. It has to be narrowly tailored to  
11 meet that. That's the type of analysis that  
12 under -- that -- or critique that anything  
13 that you do that regulates commercial speech  
14 would undergo if challenged.

15           Now, we know also, however, that when  
16 you're looking at art as a form of expression  
17 that has been determined to be protected under  
18 the First Amendment, that undergoes what is  
19 called a strict scrutiny. It's a higher level  
20 test. So that's the sort of distinctions that  
21 Ms. Driscoll is speaking of.

22           And I think the only other point I  
23 would make, to your point Vice Mayor,  
24 understand I'm not sure if your thought was  
25 related to cost or time or whatever it might



1 have been. But the only thing I would say, we  
2 are in an area where we, as your local general  
3 counsel recognize, particularly with both the  
4 speed and accuracy with which we would like to  
5 address this, that at least from the legal  
6 standpoint, I think there are efficiencies  
7 even in terms of cost of having the  
8 specialized expert handling those sorts of  
9 questions rather than you all having to wonder  
10 if we've figured that out or not.

11 So, you know, I think there are  
12 efficiencies. And I know from Ms. Driscoll's  
13 work at state and national levels, she has  
14 reason to be familiar with folks who are  
15 expert in these areas. And from our  
16 standpoint as legal counsel, we welcome that  
17 sort of expertise on such a -- such an  
18 important set of issues.

19 VICE MAYOR LONGBINE: What's the  
20 commission's thoughts on that? Bring a  
21 consultant in?

22 COMMISSIONER RYAN: No. I'm  
23 completely on board with a consultant, yeah.  
24 I think that there are people that have been  
25 following this law for periods of time and



1 that it's important that we have their wisdom  
2 and experience. And I'm sure it will be much  
3 cheaper than us, you know, plowing a new road.

4 I mean, I have a lot of confidence in  
5 our staff in figuring any kind of problem out  
6 and providing remedies. But it looks like  
7 we'll get much quicker answers if we buy some  
8 expertise.

9 COMMISSIONER DAVIS: I agree. And  
10 that doesn't mean that creative minds in town  
11 can't still work up some other solutions.

12 MS. DRISCOLL: Oh, definitely. And,  
13 I mean, one of the things that takes a little  
14 time vers, you know, me sitting in my office  
15 just going one line at a time, is that we need  
16 public process. I mean, there are definitely  
17 a group of stakeholders here. They're  
18 artists. They're downtown business owners.  
19 They're downtown building owners. There's  
20 nondowntown businesses and buildings.

21 So, I mean, this is -- this is  
22 something that we're seeing not just downtown  
23 but in the other areas. And I think to have  
24 time to have conversations with those folks  
25 and ask, you know, how are these rules feeling



1 and fitting as we've changed as a community  
2 over the last few years is an important part  
3 of that process. So definitely getting those  
4 creative minds to the table.

5 VICE MAYOR LONGBINE: Well, I did  
6 learn a lot from the PowerPoint presentation  
7 that was forwarded to us and things I hadn't  
8 thought of. So this is a learning experience  
9 for all of us, I think.

10 MS. DRISCOLL: And it's -- to Greg's  
11 point, it's also like an ever-changing field.  
12 I mean, every time somebody gets sued, a  
13 different city, that's a different  
14 interpretation of that case law.

15 So that's the other thing is having  
16 somebody who's doing this day in and day out,  
17 following and applying those things. And  
18 there's a -- I will say from 20-some years of  
19 experience, there's a difference between  
20 having read it and read somebody else's code,  
21 then trying to borrow pieces of that and put  
22 that into your own, vers somebody who has  
23 applied this in other places and can kind of  
24 come in and say, well, here's several  
25 different examples; how do they apply to your



1 place, which can -- can be very helpful.

2 And sometimes just a new set of eyes  
3 to see things differently than we have before.

4 VICE MAYOR LONGBINE: Well, I hope  
5 patience can prevail. This really did take  
6 off. And I want to remind people, this had  
7 nothing to do with the city collecting permit  
8 fees.

9 MS. DRISCOLL: No. And I have -- I  
10 will say we have not issued a violation  
11 notice. We simply called and asked for a  
12 brief pause so we could research and asked for  
13 a meeting. That is the sum total of it.

14 This morning we met with the business  
15 owner like we would any other business owner  
16 in town, wanted to talk through these things,  
17 and came in willing to talk about how the code  
18 could be different.

19 Still haven't issued a violation  
20 notice. Haven't -- haven't done any of those  
21 things. Had a normal conversation.

22 In fact, as I was coming down the  
23 stairs, Mr. Howard did drop off his permit  
24 along with his application fee. We'll use  
25 that to kind of be in the system, work through



1 it to see, you know, if he'd like to move  
2 forward with that. But at least that's on  
3 record.

4 And as we go forward with the  
5 ordinance changes, if he'd like to wait and  
6 see how that applies, we can do that as well.

7 VICE MAYOR LONGBINE: Well, I hope  
8 citizens realize that a lot has been put into  
9 this already. And we want to see it work out  
10 and be successful. I think I can speak for a  
11 lot of citizens that we'd just like it to be  
12 worked out. So.

13 UNIDENTIFIED SPEAKER: I think we're  
14 doing great things here in town. And I look  
15 forward to the collaborative aspect of this.  
16 Certainly, our value set here in Salina as  
17 midwesterners is different than Seattle or in  
18 Florida or D.C. So I think it's important we  
19 have this -- conversations and do what's right  
20 for our place here.

21 MS. DRISCOLL: Hm-hmm.

22 VICE MAYOR LONGBINE: Anything else?

23 MR. SCHRAGE: That was longer than I  
24 expected but good conversation.

25 VICE MAYOR LONGBINE: It was.



1 MR. SCHRAGE: So we'll keep moving  
2 forward.

3 VICE MAYOR LONGBINE: Yes, it was.  
4 Okay. That will bring us to Citizen's Forum.

5 Anything that's not on the agenda,  
6 welcome to come and share and keep your  
7 comments three minutes.

8 (The excerpt of the proceedings  
9 concluded.)

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C E R T I F I C A T E

I, Avanelle L. Sullivan, a Certified Shorthand Reporter of the State of Kansas, do hereby certify that I appeared at the time and place first hereinbefore set forth, that I took down in shorthand the entire proceedings had at said time and place, and that the foregoing constitutes a true, correct, and complete transcript of my said shorthand notes.

Witness my hand and seal this 16th day of November, 2023.

 **Avanelle Sullivan  
State of Kansas  
Certified Shorthand Reporter**



Avanelle L. Sullivan  
Certified Shorthand Reporter  
State of Kansas

## Exhibit B

## ARTICLE X. - SALINA BUSINESS IMPROVEMENT DISTRICT DESIGN REVIEW BOARD

## Sec. 2-200. - Created.

By authority of the home rule powers granted to cities by the Kansas Constitution and consistent with the Kansas Business Improvement District Act, there is hereby created the design review board of the Salina Business Improvement District Number 1.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 91-9471, § 1, 10-28-91; Ord. 07-10432, § 1-14-08; Ord. No. 17-10907, § 1, 11-13-17)

## Sec. 2-201. - Membership.

The board shall consist of seven (7) members recommended by the board of advisors of the Salina Business Improvement District Number 1 and appointed by the mayor with the consent of the governing body. Membership shall at all times include at least one (1) representative of the following categories:

- (1) Representative of a business within the Salina Business Improvement District Number 1.
- (2) Property owner within the Salina Business Improvement District Number 1.
- (3) Design professional, including but not limited to a licensed professional engineer, architect or landscape architect.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 07-10432, § 1, 1-14-08; Ord. No. 17-10907, § 2, 11-13-17)

## Sec. 2-202. - Appointment and term.

Those persons first appointed as members of the board shall be appointed for the following terms:

- (1) Two (2) members for a term of one (1) year.
- (2) Two (2) members for a term of two (2) years.
- (3) Three (3) members for a term of three (3) years.

Upon the expiration of the term of each board member, subsequent terms shall be for a period of three (3) years. Any vacancy occurring among the membership of the board shall be filled by appointment of the mayor with the consent of the governing body.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 07-10432, § 1, 1-14-08)

## Sec. 2-203. - Compensation.

The members of the board shall serve without compensation.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 07-10432, § 1, 1-14-08)

## Sec. 2-204. - Officers.

The officers of the board shall be chair, vice-chair and secretary. The chair and vice-chair shall be elected at the annual meeting and shall serve for a term of one (1) year, or until their successors are elected. The director of planning, or his designee, shall serve as secretary, and he or she may appoint a staff member assistant secretary. No person shall be eligible to hold the office of chair or vice-chair for more than two (2) full, consecutive one-year terms.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 91-9471, § 2, 10-28-91; Ord. No. 07-10432, § 1, 1-14-08)

## Sec. 2-205. - Quorum.

A simple majority of the members of the board appointed and qualified at any given time shall constitute a quorum for the purpose of conducting the board's business.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 91-9471, § 3, 10-28-91; Ord. No. 07-10432, § 1, 1-14-08)

Sec. 2-206. - Purpose.

The purpose of the board shall be:

- (1) To advise and make recommendations to the board of city commissioners or Salina Business Improvement District Number 1 board of advisors on such matters as, from time to time, may be referred to the board.
- (2) To protect and enhance the exterior appearance of property located within the Salina Business Improvement District Number 1 by regulating, according to proper architectural principles, the design, use of materials, finished grade lines, and orientation of new building construction and the alteration, improvement, repair, or demolition of existing buildings through the issuance of certificates of compatibility when proposed plans and specifications warrant.
- (3) Issue notice of decision on signage and other matters referred by other duly constituted city boards, commissions, and committees.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 88-9298, § 1, 1-9-89; Ord. No. 91-9471, § 4, 10-28-91; Ord. No. 07-10432, § 1, 1-14-08; Ord. No. 17-10907, § 3, 11-13-17)

Sec. 2-207. - Certificate of compatibility.

(a) No person shall perform or cause to be performed any work to:

- (1) Construct; demolish; or change the existing exterior design, material, color, texture, finish, or appearance of any building or any other improvement to real property in the Salina Business Improvement District Number 1; or
- (2) Introduce, change, substitute, or remove any physical feature affecting the appearance of real property in the Salina Business Improvement District Number 1;

without first applying for and obtaining a certificate of compatibility, subject only to the exclusions outlined in subsection (b).

(b) A certificate of compatibility shall not be required:

- (1) If the work includes only routine maintenance and results in no change to the existing design, material, color, texture, finish, or appearance of a building or other improvement to real property; or
- (2) If circumstances warrant authorization of emergency repairs of a pre-approved nature and scope, in the sole discretion of the building official.

(c) If the work requiring a certificate of compatibility requires any other type of permit, the permit shall not be issued unless a certificate of compatibility has been issued for the work.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 88-9298, § 2, 1-9-89; Ord. No. 07-10432, § 1, 1-14-08, Ord. 16-10819, § 1, 2-1-16; Ord. No. 17-10907, § 4, 11-13-17)

Sec. 2-208. - Authorization and findings.

Any application for a building permit which relates to property included within the Salina Business Improvement District Number 1 shall, in conjunction with the standard building permit review process, be referred by the city's chief building official to the board. The board is hereby authorized to grant any applicant a certificate of compatibility if, upon the vote of a majority of board members present and voting, any of the following findings can be made:

- (1) The general design, material and color of the proposed construction or change present an aesthetically pleasing overall image.
- (2) Environmentally harmful effects caused by the clash of contemporary materials with those of older origin, are avoided.
- (3) The distinguishing original qualities or character of a building, structure or site and its environment are not to be destroyed and the removal or alteration of any historical material or distinctive architectural features is avoided where possible.

- (4) The proposed use of banners, awnings, or canopies incorporates the use of appropriate materials, colors and graphics, and is compatible with the overall building design.
- (5) Any proposed demolition includes appropriate grading and landscaping of the building site in a manner compatible with the adjoining buildings and streetscape.

In considering applications for certificates of compatibility, the board's decisions shall be based upon the adopted Design Guidelines for Downtown Salina as approved and amended from time to time by resolution of the governing body.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 07-10432, § 1, 1-14-08; Ord. No. 17-10907, § 5, 11-13-17)

Sec. 2-209. - Review process.

Upon submission of a complete application, administrative staff will make a determination of the scope of the project using the design review board matrix as approved and amended from time to time by resolution of the governing body. Projects determined to be minor will undergo a "minor" review process. All other projects requiring a certificate of compatibility shall undergo a "full" review process.

- (1) *Minor review.* Upon the filing in the development services department of a completed application for a certificate of compatibility for a project qualifying for a minor review, the following process shall occur:
  - a. No more than three (3) working days (Monday through Friday, excluding holidays) after the date the completed application is filed, the project will be reviewed by administrative staff.
  - b. Administrative staff shall either approve or deny the application unless staff determines that a full review should be scheduled. Written notice of the decision of the administrative staff, including the certificate of compatibility if approved, shall be provided to the applicant and the building services division within seven (7) calendar days after the date the completed application is filed.
  - c. If a project is determined to require a full review, the project will be placed on the agenda of the next regularly scheduled meeting of the design review board as set out in subsection (2), full review, a. through d. below.
- (2) *Full review.* Upon the filing in the development services department of a completed application for a certificate of compatibility for a project requiring a full review, the following process shall occur:
  - a. No more than twenty-three (23) calendar days after the date the completed application is filed, the project will be scheduled for review at a public hearing by no less than a quorum of the board.
  - b. No less than seven (7) calendar days prior to the hearing, notice of the date, time, and place of the hearing and a statement of the nature of the proposed application shall be mailed by first class mail to the record owners of the property immediately adjacent to the subject property. ("Adjacent properties" shall mean those properties that share a property line with the subject property, excluding any street rights-of-way).
  - c. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the board may prescribe by its own rule. Any interested person or party may appear and be heard at the hearing in person, by agent, or by attorney. The board may request a report on any proposed application from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy shall be made available to the applicant and any other interested person in the development services department.
  - d. The board shall either approve or deny the application at the hearing, unless the board determines that compelling circumstances require that the hearing be continued. Written notice of the decision of the board, including the certificate of compatibility, if approved, shall be provided to the applicant and the building services division within seven (7) days after the date of the board's decision.
- (3) *Denial of a certificate of compatibility.* Any denial of a certificate of compatibility by either administrative staff or the board shall be accompanied by a statement of the reason(s) for the denial, which shall include recommendations to the applicant concerning changes in the proposed project, if any, that would allow the administrative staff or board to

reconsider the denial. An applicant may submit an amended application that takes into consideration the recommendations of administrative staff or the board.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. No. 88-9298, § 3, 1-9-89; Ord. No. 07-10432, § 1, 1-14-08)

Sec. 2-210. - Appeal.

- (a) *Appeal from an administrative decision.* Any person dissatisfied with an administrative decision to either grant or deny a certificate of compatibility may appeal the decision to the board by filing a notice of appeal in the development services department on a form provided by that office. The notice of appeal must be filed within five (5) calendar days of the date of the administrative decision. The board shall consider the appeal within fourteen (14) calendar days in the same manner as a full review of a new application.
- (b) *Appeal from a board decision.* Any person dissatisfied with a decision by the board to either grant or deny a certificate of compatibility may appeal the decision to the board of city commissioners by filing a notice of appeal in the office of the city clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days of the date of the board's decision. The board of city commissioners shall conduct a public hearing on the appeal and shall within thirty (30) calendar days of the date the appeal was filed:
  - (1) Uphold the decision of the design review board.
  - (2) Reverse the decision of the design review board.
  - (3) Refer the matter back to the design review board for further consideration, with or without specific instructions.

(Ord. No. 86-9163, § 1, 10-20-86, Ord. No. 07-10432, § 1, 1-14-08)

Sec. 2-211. - Stop work orders.

Whenever any work is being done contrary to the provisions of this article, or other pertinent laws or ordinances implemented through the enforcement of this article, the building official may order the work stopped by notice in writing served on any person involved in the performance of such work or the owner of record of the property. Any such person or owner of record shall immediately stop such work and shall not resume work until the building official has determined that the project is in compliance with any applicable requirements of this article.

(Ord. No. 86-9163, § 1, 10-20-86; Ord. 07-10432, § 1, 1-14-08)

Secs. 2-212—2-224. - Reserved.

**Editor's note—** Ord. No. 07-10432 repealed § 2-212 pertaining to decision on appeal.

ARTICLE X. - SIGNS

*Footnotes:*

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**Cross reference**— *Sign code, § 8-381 et seq.*

DIVISION 1. - GENERALLY

Sec. 42-500. - Purpose.

This article promotes the public health, safety and welfare of the community through a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements, narrowly drawn to:

- (1) Ensure that all signs installed in the city are compatible with the character and visual environment of the community and promote the goals, objectives and policies of the comprehensive plan;
- (2) Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages;
- (3) Improve pedestrian and traffic safety by promoting the free flow of traffic and the protection of pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, unsecured, cluttered, distracting, and/or illegible signage;
- (4) Protect the aesthetic appearance of the city's natural and built environment for its citizens and visitors;
- (5) Prevent property damage, personal injury, and litter caused by signs that are improperly constructed or poorly maintained;
- (6) Protect property values, the local economy, and quality of life by preserving and enhancing the appearance of the streetscape; and
- (7) Provide for the placement of temporary signs in limited circumstances, without regard to the communicative content of the sign.
- (8) Provide consistent design standards that enable the fair and consistent enforcement of these sign regulations.
- (9) Enhance the city's ability to maintain its public rights-of-way.

(Ord. No. 17-10882, § 1, 7-10-17)

Sec. 42-501. - Permits.

No sign, except for normal repair and for signs listed in sections 42-504 and 42-505, shall be painted, constructed, erected, remodeled, relocated or expanded until a zoning certificate (sign permit) for such sign has been obtained pursuant to the procedure set forth in this article.

(Code 1966, § 36-900)

Sec. 42-502. - Zoning certificate (sign permit) required.

- (a) The zoning certificate (sign permit) must be obtained from the office of the zoning administrator.
- (b) A zoning certificate (sign permit) shall be either issued or refused by the zoning administrator within ten (10) days after the receipt of an application therefore or within such further period as may be agreed to by the applicant. No zoning certificate for any sign shall be issued unless the sign complies with the regulations of this article.
- (c) A zoning certificate (sign permit) shall become null and void four (4) months after the date on which it is issued unless within such four-month period, construction, building, moving, remodeling or reconstruction of a structure or sign is commenced or a use is commenced.

(Code 1966, § 36-901)

Sec. 42-503. - Sign standards.

- (a) The gross surface area of a sign shall be the sum of all surface areas of all sign faces, except that for signs designed as double faced signs, with both faces parallel and the distance between the faces does not exceed two (2) feet, then only one (1) face of the sign shall be considered in determining the gross surface area. When two (2) or more signs are located on a zoning lot, the gross surface area of all signs on the lot shall not exceed the maximum allowable for the district regulations. For computing the area of any wall sign which consists of letters, numbers and symbols mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters, numbers or symbols.
- (b) Sign height shall be measured from ground level at the base of or below the sign to the highest element of the sign.
- (c) All signs must conform to the regulations and design standards of the building code of the city and all wiring of all electrical signs must conform to the electrical code of the city.
- (d) Illuminated signs shall be shaded wherever necessary to avoid direct casting of light upon property located in any residential district or upon any public street or park. Any illuminated sign located on a lot adjacent to or across the street from any residential district, which sign is visible from such residential district, shall be illuminated only during business hours or between the hours of 7:00 a.m. and 10:00 p.m.
- (e)



Electronic changeable copy signs.

- (1) Electronic changeable copy signs shall be permitted: (i) in residential districts subject to the limitations of Section 42-517(7); (ii) in U districts subject to the limitations of Section 42-518(9); (iii) in P districts subject to the limitations in Section 42-518.2(7); (iv) in H-M districts; (v) in the C-1, C-2, C-3, C-5, C-6 and C-7 commercial districts; and (vi) in the I-2 and I-3 industrial districts. No electronic changeable copy signs shall be permitted in the C-4 district, except on theatres listed on a historic register. Applications for electronic changeable copy signs for historic theatres shall be reviewed and approved by the Heritage Commission. Electronic changeable copy signs shall comprise only a portion of the overall theatre marquee or sign design package for the theatre.
- (2) All electronic changeable copy signs must be equipped with a photo cell dimmer or some other automatic dimmer control that automatically adjusts for day and night brightness. The sign owner or sign installer shall provide written certification from the equipment manufacturer that the sign is so equipped. No electronic changeable copy sign shall exceed a brightness level of three-tenths (0.3) foot-candle above ambient light as measured using a foot candle meter at a preset distance depending on sign size. The measuring distance shall be determined using the following equation: the product of the square root of the sign copy area times one hundred (100). Text and moving pictorial images shall be permitted; however, blinking, flashing, rotating, revolving, spinning or fluttering lighting or graphic animation is not allowed. Transitions between messages must fade, scroll or reveal. No signs with moving parts, revolving beacons, strobe lights or signs which emit an audible sound, shall be permitted in any district.
- (f) No sign shall block any required accessway or window.
- (g) No sign shall be attached to a tree or utility pole whether on public or private property.
- (h) On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage.
- (i) No metal sign shall be located within eight (8) feet vertically and four (4) feet horizontally of electric wires or conductors in free air carrying more than forty-eight (48) volts, whether or not such wires or conductors are insulated or otherwise protected.
- (j) No sign shall be maintained at any location where by reason of its position, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic-control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
- (k) No sign shall be located in any vision triangle formed by the curb lines of any two (2) intersecting streets, except signs mounted ten (10) feet or more above the ground whose supports do not constitute an obstruction. See also section 42-81.
- (l)



No sign shall be permitted to be located in the public-right-of-way in any zoning district, except for the following:

- (1) Signs placed or authorized by the city, county, state, or federal government for the protection of the public health, safety, and general welfare, including, but not limited to, the following:
  - a. Emergency and warning signs necessary for public safety;
  - b. Traffic and wayfinding signs;
  - c. Signs showing the location of public facilities including public and private hospitals and emergency medical services; and
  - d. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibilities to protect the public health, safety, and general welfare.
- (2) Projecting signs within the C-4 (central business) zoning district, provided that no such sign may project over the public right-of-way more than half the width of the abutting public sidewalk or alley. Any sign so extending must be a minimum of ten (10) feet above grade.
- (3) Movable A-frame and sandwich board signs within the C-4 (central business) zoning district complying with section 35-40.2 of the Salina Code.
- (4) Neighborhood entry signs placed and displayed in any RS, R, R-1, R-2, R-2.5, R-3 or MH residential zoning district, if authorized by the city pursuant to a written license agreement which shall specify the message content, size, placement, illumination, design, and material to be used.
- (5) Vertical banners attached to light or utility poles in any zoning district, if authorized by the governing body pursuant to a banner program.
- (6) Decorative flags within the Salina Business Improvement District No. 1, if authorized by the governing body pursuant to a decorative flag program.
- (7) Temporary signs placed and displayed in the unpaved public right-of-way for a city street, in any zoning district, during the period prior to an election, in accordance with the requirements set forth in subsection 42-508(d).
- (8) Signs authorized by the city to be permanently affixed on bus benches in the public right-of-way at bus stops located on arterial streets. Signs affixed to bus benches must face toward the adjacent public street. If signs are placed on bus benches by a private contractor pursuant to an agreement between the city and such contractor, the agreement shall be in writing and shall specify the allowable message content, size, placement, illumination, design, and material for each of the signs, so as to minimize the visual impacts of such signs on the general public and surrounding properties.
- (m) All signs which are more than four (4) feet above grade shall be securely fastened so as to prevent movement.

- (n) Any time a sign is removed from its structural support, except for the purposes of maintenance, repair, replacement, repainting or cleaning, or due to an act of God, the structural support shall be removed within twenty-four (24) hours, provided further, that if a sign removed for the purposes of maintenance, repair, replacement, repainting or cleaning, or due to an act of God, if not reinstalled within thirty (30) days of the removal, then the structural support shall be removed within twenty-four (24) hours.

(Code 1966, § 36-901; Ord. No. 80-8821, § 1, 11-24-80; Ord. No. 81-8857, § 1, 6-22-81; Ord. No. 90-9381, §§ 1, 9, 5-14-90; Ord. No. 06-10337, § 1, 7-10-06; Ord. No. 19-10990, § 1, 1-14-19; Ord. No. 19-11020, § 1, 12-2-19)

Sec. 42-504. - Exemptions generally.

The following signs shall be exempt from the requirements of this article:

- (1) Noncommercial flags displayed on private property;
- (2) Signs placed or authorized by the city, county, state, or federal government for the protection of the public health, safety, and general welfare, including, but not limited to, the following:
  - a. Emergency and warning signs necessary for public safety;
  - b. Traffic and wayfinding signs;
  - c. Signs showing the location of public facilities including public and private hospitals and emergency medical services; and
  - d. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibilities to protect the public health, safety, and general welfare;
- (3) Signs placed in or attached to a motor vehicle, bus, or railroad car that is regularly used for purposes other than the display of signs;
- (4) Onsite handheld signs;
- (5) Memorial signs and tablets displayed on private property;
- (6) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the signs does not exceed the requirements of such law, order, rule or regulation;
- (7) Small signs, not exceeding five (5) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and the like;
- (8) Scoreboards in athletic stadiums;
- (9) Window signs affixed to the interior of a window that do not display an advertising message or cover more than thirty-three (33) percent of the total window area on a single wall.

(Code 1966, § 36-903; Ord. No. 90-9381, §§ 2, 9, 5-14-90; Ord. No. 04-10218, § 1, 10-11-04; Ord. No. 19-11020, § 2, 12-2-19)

**Editor's note**— Ord. No. 04-10218, adopted § 42-504, combining former §§ 42-504, 8-386, and 8-387.

Sec. 42-505. - Exemption from zoning certificate requirement.

The following signs shall be exempt from the zoning certificate (sign permit) requirements of section 42-502, but shall comply with all of the other requirements of this article and of the applicable district regulations;

- (1) Illuminated nameplate signs not exceeding two (2) square feet in gross surface area accessory to a single-family or two-family dwelling;
- (2) Illuminated identification signs not exceeding forty (40) square feet in gross surface area accessory to a multiple-family dwelling;
- (3) Illuminated bulletin board signs not exceeding forty (40) square feet in gross surface area accessory to a church, school or public or nonprofit institution; subject to the provisions of section 42-503(d);
- (4) Illuminated business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

(Code 1966, § 36-904)

Sec. 42-506. - Classification of signs—Functional types.

The following signs are classified by function:

- (1) *Advertising sign*. A sign displaying a commercial message that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, or to which it is affixed (off-premise sign).
- (2) *Bulletin board sign*. A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events or activities appearing or occurring at the institution. Such signs may also present a greeting or similar message.
- (3) *Business sign*. A sign displaying a commercial message that directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.
- (4) *Identification sign*. A sign having the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
- (5) *Menu board sign*. An on-site sign designed and used for the display of menu items and pictures and/or prices of menu items.
- (6)

*Nameplate sign.* A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.

(Code 1966, 36-905; Ord. No. 04-10218, § 1, 10-11-04; Ord. 07-10396, § 1, 7-9-07; Ord. No. 17-10882, § 2, 7-10-17)

**Editor's note**— Ord. No. 04-10218 adopted § 42-506, combining §§ 8-385 and former 42-506.

Sec. 42-507. - Same—Structural types.

The following signs are classified as types:

- (1) *Awning, canopy and marquee sign.* A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by this chapter. No such sign shall project more than twenty-four (24) inches above, below, or twelve (12) inches beyond the physical dimensions of the awning, canopy or marquee, and a minimum of eight (8) feet of clearance shall be provided above grade.
- (2) *Banner sign.* A temporary sign composed of cloth, canvas, plastic, fabric, or similar light-weight, non-rigid material that is mounted to a wall, canopy, or solid fence with cord, rope, cable, or a similar method.
- (3) *Changeable copy sign.* Any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps, light emitting devices, or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.
- (4) *Electronic changeable copy sign/Computer-operated electronic message signs.* A sign containing a computer or digital software generated message or other automated or remote method of changing copy.
- (5) *Feather flag.* A temporary, freestanding, vertical sign, also referred to as a teardrop flag, swooper flag or wind flag, consisting of a loose polyknit or other semi-rigid membrane sign face that flutters in the wind from a pole or staff attached to, anchored or placed into the ground.
- (6) *Flashing sign.* A sign which contains an intermittent or flashing, pulsating, blinking or traveling light source which includes signs that give the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.
- (7) *Ground sign.* Any sign placed upon or supported by, and permanently affixed to, the ground independently of the principal building or any accessory structure on the property.
- (8) *Illuminated sign.* Any sign which is directly lighted by any electrical light source, internal or external, regardless of technology.
- (9)

*Inflatable sign.* Any sign made of flexible material enlarged, activated or inflated by inserted air or gas, which floats, is tethered in the air, or is located on the ground or on a building.

- (10) *Mobile sign.* A sign that is not permanently affixed to the ground or a building and is designed or constructed to be easily moved from one (1) location to another, including signs mounted upon or designed to be mounted on a trailer, even if the sign has had its wheels removed.
- (11) *Pole sign.* A sign that is mounted on a freestanding pole, the bottom edge of which sign is six (6) feet or more above ground level.
- (12) *Projecting sign.* A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (13) *Pylon sign.* A freestanding sign, other than a pole sign, permanently fixed to the ground by shafts, posts or other supports wrapped with an aesthetic veneer, but not having the appearance of a solid base.
- (14) *Roof sign.* A sign erected, constructed and maintained wholly upon or projecting above any portion of the roof of a building or having the roof as the principal means of support. A mansard shall be considered part of the wall of the building.
- (15) *Rotating sign.* Any sign or portion of a sign which moves in a revolving or similar manner.
- (16) *Temporary sign.* A sign that is to be displayed for a short period of time and not designed or constructed for permanent display, including but not limited to yard signs, banners, flags, balloons, feather flags, and inflatable signs. Temporary signs shall not include mobile signs.
- (17) *Wall sign.* A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.
- (18) *Yard sign.* A temporary, freestanding sign made of lightweight or nondurable materials such as paper, cardboard, canvas, fabric, wood, metal, or vinyl that is supported by a frame, pole, or other support structure placed directly in the ground without foundation or other anchor. Yard signs shall not include banner signs.

(Ord. No. 88-9283, § 1, 11-14-88; Ord. No. 90-9381, §§ 3, 9, 5-14-90; Ord. No. 07-10396, § 1, 7-9-07; Ord. No. 17-10882, § 3, 7-10-17)

Sec. 42-508. - Temporary signs, banner signs, and mobile signs.

- (a) The following temporary signs shall be exempt from the zoning certificate (sign permit) requirements of section 42-502, and shall be allowed to display any commercial or noncommercial message on a property with the owner's consent in addition to any other signs allowed under this article and the applicable district regulations:
  - (1) Two (2) yard signs may be placed and displayed on an individual residential lot in any RS, R, R-1, R-2, R-2.5, R-3 or MH residential zoning district.

- (2) Two (2) freestanding temporary signs of any type except feather flags, inflatable signs or banners may be placed and displayed on property located in any A-1, U, H-M, P, C-1, C-2, C-3, C-4, C-5, C-6, C-7, I-1, I-2 or I-3 zoning district and on property occupied by multi-family apartments, assisted living facilities and nursing homes.
- (b) On property located in any A-1, U, H-M, P, C-1, C-2, C-3, C-4, C-5, C-6, C-7, I-1, I-2 or I-3 zoning district, or on property occupied by multi-family apartments, assisted living facilities and nursing homes, temporary signs allowed under subsection (a) shall not exceed six (6) feet in height or thirty-two (32) square feet of sign area.
- (c) On property located in any RS, R, R-1, R-2, R-2.5, R-3 or MH residential zoning district, other than property occupied by multi-family apartments, assisted living facilities and nursing homes, temporary signs allowed under subsection (a) shall not exceed six (6) feet in height or eight (8) square feet of sign area.
- (d) Notwithstanding any other provision in this article:
  - (1) An unlimited number of temporary signs may be placed and displayed on private property either by or with the permission of the owner or tenant of such private property in any zoning district for a period of up to forty-five (45) days prior to an election involving candidates for a federal, state or local election that represent the district in which the private property is located or involving an issue on the ballot of an election within the district in which the private property is located. In years during which a primary election is held, any signs authorized under this subsection with respect to the primary election may continue to be placed and displayed during the period between the primary election and immediately following the general election, except to the extent that displaying a sign is in violation of applicable electioneering laws.
  - (2) To comply with K.S.A. 25-2711 (even though the unpaved area of platted right-of-way for city streets is city property and not private property), an unlimited number of temporary signs may also be placed and displayed in the unpaved public right-of-way immediately abutting private property either by or with the permission of the owner or tenant of such private property during the same periods of time described in subsection (1) above. The area referred to as "the unpaved public right-of-way immediately abutting private property" shall include any unpaved public right-of-way physically separated from such private property by an intervening pedestrian sidewalk or hike-bike path but shall not include (i) any unpaved public right-of-way physically separated from such private property by an intervening public street, alleyway, drive, or other public use (other than a pedestrian sidewalk or hike-bike path), (ii) any median separating lanes of traffic in public roadways or (iii) any interstate interchange.
  - (3) Temporary signs placed and displayed pursuant to this subsection shall comply with the following requirements:



- a. Temporary signs must be removed within two (2) days following the election except in years during with a primary election is held, in which case the signs shall be removed within two (2) days following the general election.
  - b. No temporary sign shall exceed six (6) feet in height or eight (8) square feet of sign area.
  - c. In all areas on private or public property at any corner formed by intersecting public streets or public streets intersecting private driveways, all temporary signs shall comply with setback requirements contained in section 35-51, so as not to impede sight lines or sight distance for safety reasons.
- (e) In addition to the temporary signs allowed under subsection (a):
- (1) Feather flags may be placed and displayed on property located in any A-1, U, H-M, P, C-1, C-2, C-3, C-4, C-5, C-6, C-7, I-1, I-2 or I-3 zoning district and on property occupied by multi-family apartments, assisted living facilities or nursing homes. Two (2) feather flags for every fifty (50) feet of street frontage, not exceeding a total of six (6) flags per street frontage, may be displayed on a property for a period not exceeding thirty (30) consecutive days for up to six (6) events in a calendar year. Feather flags shall not exceed thirteen (13) feet in height, shall be set back from any adjoining street a distance equal to its height, shall be securely anchored to the ground, and must be removed by the owner if the flag becomes tattered, torn, or damaged.
  - (2) One (1) inflatable sign may be placed and displayed on property located in any A-1, U, H-M, P, C-1, C-2, C-3, C-4, C-5, C-6, C-7, I-1, I-2 or I-3 zoning district and on property occupied by multi-family apartments, assisted living facilities or nursing homes. An inflatable sign may be displayed for a period not exceeding fourteen (14) consecutive days for up to four (4) events in a calendar year. An inflatable sign shall not exceed twenty (20) feet in height, shall be securely anchored to the ground, shall be set back from any adjoining street a distance equal to its height, and must be removed by the owner if the inflatable device becomes tattered, torn, or damaged.
- (f) Banners placed over an existing sign face, placed at least eight (8) feet above ground level on existing poles or other supports which serve another primary purpose or placed on an existing building, canopy, solid fence, or other structure located behind the front yard setback line shall be exempt from the zoning certificate (sign permit) requirements of section 42-502, but shall comply with all of the requirements of this article and the applicable district regulations.
- (g) Mobile signs may be permitted upon issuance of a zoning certificate (sign permit) and when in compliance with all of the other requirements of this article, the applicable district regulations, and the following provisions:
- (1) Only one (1) mobile sign shall be allowed on a zoning lot.
  - (2) Mobile signs shall not exceed thirty-two (32) square feet in area.

- (3) Mobile signs shall not be placed within twenty-five (25) feet of an existing pole sign or ground sign, within fifty (50) feet of another mobile sign or within the clear vision triangle of any street or driveway.
- (4) Mobile signs shall not be placed on the premises of an establishment which has an existing pole sign or ground sign located in the front yard.
- (5) Mobile sign permits shall be valid for not more than thirty (30) days. Each establishment may be issued not more than four (4) permits during a calendar year for a combined total of sixty (60) days.
- (6) Mobile signs shall be of rigid construction and anchored or weighted to prevent movement or overturning by wind.
- (7) Electrical lines shall not lie on the ground where vehicular or pedestrian traffic is permitted. Use of aboveground extension cords is prohibited. All wiring shall comply with the electrical code of the city.
- (8) Use of red, yellow, or green external lighting shall be prohibited. Any light shall be constant in intensity or color at all times.

(h) Except for temporary signs allowed pursuant to subsection (d), no sign authorized under this section shall be placed or displayed within the public right-of-way.

(Ord. No. 88-9283, § 2, 11-14-88; Ord. No. 96-9776, § 1, 1-6-97; Ord. No. 17-10882, § 4, 7-10-17; Ord. No. 19-11016, § 1, 9-23-19; Ord. No. 22-11135, § 1, 10-17-22)

Sec. 42-509. - Maintenance and safety.

All signs, including attendant braces, supports, guys and anchors, shall be kept in a safe and sound structural condition and maintained in a presentable state of appearance. Defective parts shall be repaired or replaced and display surfaces shall be kept neatly painted or posted and readable at all times. Every sign and its immediate surroundings shall be maintained in a clean and sanitary condition and free of all offensive substances, rubbish and weeds. All maintenance required is the responsibility of the owner of the sign. Where ownership cannot be determined, the property owner is responsible for the maintenance of the sign. If the zoning administrator shall find that any sign is unsafe, insecure, has been abandoned, or has been erected or is being maintained in violation of the article, he shall give written notice to the owner thereof to repair, alter or remove the sign so as to comply with the standards herein set forth.

(Ord. No. 90-9381, § 4, 5-14-90)

Sec. 42-510. - Abandoned signs.



Any sign which no longer advertises a bona fide business conducted, product sold or service provided shall be deemed to be abandoned and shall be removed at the expense of the owner. Sign panels shall be removed within ninety (90) days of the vacation of the premises or discontinuance of the advertised activity. Sign frames and poles shall be removed within one (1) year of vacation of the premises or discontinuance of the advertised activity unless new sign panels are installed advertising a bona fide activity. Provided however, an appeal for an extension of up to one (1) year for removal of sign frames and poles may be granted by the design review board or board of zoning appeals when found to be justified. The installation of new sign panels on the same sign frame and pole shall not require the issuance of a new sign permit. If however, a new permit shall be required then the sign shall comply with the provisions of this article.

(Ord. No. 90-9381, § 7, 5-14-90; Ord. No. 98-9897, § 1, 11-2-98)

Sec. 42-511. - Sign substitution.

The owner of any sign which is otherwise allowed by this article may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of any particular commercial or noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary.

(Ord. No. 17-10882, § 5, 7-10-17)

Sec. 42-512. - Electronic changeable copy advertising signs.

Advertising signs located within the city limits shall not incorporate any of the following types of displays: electronic changeable copy signs, digital graphic signs or digital animated signs; except for advertising signs lawfully constructed and maintained within two hundred (200) feet of an interstate highway right-of-way.

(Ord. No. 18-10982, § 1, 10-22-18)

Secs. 42-513—42-515. - Reserved.

DIVISION 2. - DISTRICT REGULATIONS

Sec. 42-516. - A-1 agricultural district.

The following sign regulations shall apply in the A-1 agricultural district:

- (1) Functional types permitted: any type listed in section 42-506, except advertising signs and electronic changeable copy signs.

- (2) Structural types permitted:
  - a. Ground signs;
  - b. Wall signs.
- (3) Number of signs permitted: One (1) per zoning lot.
- (4) Maximum gross surface area: thirty-two (32) square feet.
- (5) Maximum height: thirty (30) feet.
- (6) Required setback: None required, except that in no case shall a sign project over public property.

(Code 1966, § 36-907(1); Ord. No. 19-10990, § 2, 1-14-19)

Sec. 42-517. - RS, R, R-1, R-2, R-2.5, R-3 and MH residential districts.

The following sign regulations shall apply in the RS, R, R-1, R-2, R-2.5, R-3 and MH residential districts:

- (1) Functional types permitted:
  - a. Bulletin board signs;
  - b. Business signs;
  - c. Construction signs;
  - d. Identification signs;
  - e. Nameplate signs;
  - f. Real estate signs.
- (2) Structural types permitted:
  - a. Ground signs;
  - b. Wall signs;
  - c. Awning, canopy and marquee signs (when used in conjunction with a conditional use along a collector or arterial street only).
- (3) Number of signs permitted:
  - a. Ground sign: one (1) per zoning lot.
  - b. Wall signs: two (2) per zoning lot.
  - c. Awning, canopy and marquee signs: one (1) per zoning lot.
  - d. A maximum of three (3) signs is permitted per zoning lot.
- (4) Maximum gross surface area:
  - a. Bulletin board signs: thirty-two (32) square feet.
  - b. Business signs: eight (8) square feet.
  - c. Construction signs: thirty-two (32) square feet.

- d. Identification signs: thirty-two (32) square feet.
- e. Nameplate signs: two (2) square feet.
- f. Real estate signs: eight (8) square feet per lot, provided that one sign of not more than one hundred (100) square feet in area announcing the sale of lots and/or homes in a subdivision may be located on such development. Such signs shall be removed at the end of three (3) years from the date of issuance of permit, or when seventy-five (75) percent of the lots in the subdivision or development have been sold, whichever occurs sooner.
- g. Business signs: when used in conjunction with a conditional use and only along a collector or arterial street; one (1) square foot of sign area for each lineal foot of building frontage, not to exceed thirty-two (32) square feet.

(5) Maximum height:

- a. All signs shall be placed flat against a building or designed as part of an architectural feature thereof except that signs may be detached if they do not exceed a height of eight (8) feet or project into any required building setback area.
- b. No height limit is specified for signs placed flat against or painted on the wall of a building, or other attached signs provided all other provisions of this section are complied with.

(6) Required setback:

- a. All signs, except real estate and construction signs, shall maintain the same setback required for principal structures.
- b. Detached grounds signs used in conjunction with a conditional use shall be set back at least ten (10) feet from the front property line.

(7) Illumination: No sign shall be illuminated, except that identification signs and bulletin board signs may be internally or externally illuminated, provided that no direct light shall be cast upon any residential property. In addition, churches, schools, nursing homes, rehabilitation centers, assisted living facilities, governmental facilities, YMCAs and parks and recreational facilities and athletic fields, may have one (1) freestanding electronic changeable copy identification or bulletin board sign subject to the following limitations:

- a. The electronic message center portion of the sign may not exceed fifty (50) percent of the total sign area.
- b. The sign must set back at least ten (10) feet from the front property line and must be set perpendicular to the adjoining public street, provided that signs on corner lots may be set at a forty-five (45) degree angle at street intersections.
- c. The sign may not exceed a height of eight (8) feet.
- d. All electronic message center signs must be equipped with a photo cell dimmer or some other automatic dimmer control and may not operate between 10:00 p.m. and 6:00 a.m.

- e. No minimum hold time or interval of change shall be required.
- f. Text and moving pictorial images shall be permitted, however, no sign shall have blinking, flashing or fluttering lights or any other illuminating device that changes the intensity, brightness or color of the sign background.

(Code 1966, § 36-907(2); Ord. No. 80-8825, § 1, 12-15-80; Ord. No. 85-9074, § 1, 6-3-85; Ord. No. 91-9424, § 1, 2-4-91; Ord. No. 03-10126, § 1, 1-13-2003; Ord. No. 09-10517, § 1, 9-28-09)

Sec. 42-518. - U University district.

The following sign regulations shall apply in the university district:

(1) Functional types permitted:

- a. Bulletin board signs;
- b. Construction signs;
- c. Identification signs;
- d. Nameplate signs.

(2) Functional types conditional:

- a. Advertising signs facing outward on the rear side of a scoreboard structure.

(3) Structural types permitted:

- a. Ground signs;
- b. Pole signs;
- c. Scoreboard mounted signs;
- d. Wall signs.

(4) Structural types conditional:

- a. Signs mounted on the rear side of a scoreboard structure with a gross surface area and sign height in excess of the maximum size and height specified in subsections (6) and (7) and/or with a setback that is less than the minimum setback in subsection (8).

(5) Number of signs permitted: no limitation except as specified in subsection (4).

(6) Maximum gross surface area:

- a. One (1) square foot for each six (6) lineal feet of building frontage except as noted in b. below.
- b. Outdoor football/soccer stadiums shall be permitted no more than two (2) signs not to exceed one hundred sixty (160) square feet each. These signs shall be located within fifty (50) feet of the outdoor stadium and separated by a minimum of fifty (50) feet.

(7)

Maximum height: No height limit is specified for signs placed flat against a building, painted on the wall of a building or designed as a part of an architectural feature thereof. Detached signs shall not exceed ten (10) feet in height.

(8) Required setback:

- a. All signs of thirty-two (32) square feet or less shall maintain a minimum setback of ten (10) feet.
- b. All signs larger than thirty-two (32) square feet in area shall maintain the required setback for principal structures in the "U" university district.

(9) Illumination: No signs shall be illuminated, except the following:

- a. Identification signs and bulletin board signs may be internally or externally illuminated, provided that no direct light shall be cast upon any residential property.
- b. Electronic changeable copy signs not associated with advertising signs facing outward on the rear side of scoreboard structures subject to the following limitations:
  1. All electronic message center signs must be equipped with a photo cell dimmer or some other automatic dimmer control and may not operate between 10:00 p.m. and 6:00 a.m., except when a scheduled public event extends beyond 10:00 p.m., the sign may operate no later than 30 minutes after the conclusion of the event.
  2. No minimum hold time or interval of change shall be required.
  3. Text and moving pictorial images shall be permitted, however, no sign shall have blinking, flashing or fluttering lights or any other illuminating device that changes intensity, brightness or color of the sign background.
  4. The electronic message center portion of the sign shall not exceed fifty (50) percent of the total sign area.
  5. The sign shall not exceed a height of ten (10) feet.
  6. Educational institutions may have a maximum of one (1) freestanding electronic changeable copy identification or bulletin board sign for the institution and one (1) freestanding electronic changeable copy identification or bulletin board sign for an associated athletic stadium.
- c. Electronic changeable copy signs associated with advertising signs facing outward on the rear side of the scoreboard structure provided that:
  1. An electronic changeable copy sign conditional use permit must first be approved by the planning commission.
  2. The sign shall be subject to the area, sign height limitations and setback requirements established under subsection 42-518(4)a.

Sec. 42-518.1. - Reserved.

Sec. 42-518.2. - P district.

The following sign regulations shall apply in the P district:

- (1) *Functional types permitted:* Any type listed in section 42-506, except advertising signs, which shall only be allowed in accordance with subsection (7).
- (2) *Structural types permitted:*
  - a. Ground signs;
  - b. Pole signs when used in conjunction with an approved conditional use, on properties located on a collector or arterial street, athletic stadiums, or public arenas; and
  - c. Wall signs.
- (3) *Number of signs permitted:*
  - a. Ground sign:
    1. Secondary schools (high schools) shall have a maximum of one (1) sign per street frontage.
    2. All other zoning lots shall have a maximum of one (1) ground sign.
  - b. Pole signs: Each zoning lot shall have a maximum of one (1) pole sign as allowed in subsection (2).b.
  - c. Wall signs:
    1. Secondary schools (high schools) shall have no limit on the total number of wall signs.
    2. All other zoning lots shall have a maximum of two (2) wall signs.
  - d. Total number of signs: A maximum of four (4) signs is permitted per zoning lot, except that secondary schools (high schools) shall have no limit on the total number of wall signs.
- (4) *Maximum gross surface area:*
  - a. Ground signs:
    1. When used in conjunction with an approved conditional use or on properties located on an arterial or collector street, the maximum gross surface area shall be sixty-four (64) square feet.
    2. For secondary schools (high schools) located on an arterial street, the maximum gross surface area shall be one hundred (100) square feet.
    3. For all other zoning lots, the maximum gross surface area shall be thirty-two (32) square feet, except as provided in subsection (d) below.
  - b. Pole signs:

1. When used in conjunction with an approved conditional use or on properties located on an arterial or collector street, the maximum gross surface area shall be sixty-four (64) square feet.
  2. For all other zoning lots, the maximum gross surface area shall be thirty-two (32) square feet, except as provided in subsection (d) below.
- c. Wall signs:
1. For secondary schools (high schools), the maximum gross surface area for all wall signs combined shall be one (1) square foot of sign area for each one (1) foot of building frontage.
  2. For all other zoning lots, the maximum gross surface area for each wall sign shall be thirty-two (32) square feet.
- d. Athletic stadiums and public arenas shall be permitted to have one (1) either ground or pole sign on the same zoning lot as the athletic stadium or public arena with a maximum gross surface area of one hundred (100) square feet.
- (5) *Maximum height:* No height limit is specified for signs placed flat against or painted on the wall of a building, or other attached signs provided all other provisions of this section are complied with. Detached signs may not exceed eight (8) feet in height, except that pole signs for approved conditional uses, properties located on a collector or arterial street, athletic stadiums, or public arenas may be up to twenty (20) feet in height.
- (6) *Required setback:* Detached ground signs and pole signs shall be set back at least ten (10) feet from the front property line.
- (7) *Illumination:* Signs may be internally or externally illuminated, provided that no direct light shall be cast upon any residential property. In addition, schools, athletic stadiums, public arenas, community centers, convention centers, governmental buildings and offices, aquatic centers, and parks and recreation facilities may have as its permitted ground or pole sign one (1) freestanding electronic changeable copy sign subject to the following limitations:
- a. The electronic message center portion of the sign may not exceed fifty (50) percent of the allowable sign area, except for secondary schools (high schools), where the electronic message center portion of the sign may cover up to sixty-seven (67) percent of the allowable sign area.
  - b. The sign must set back at least ten (10) feet from the front property line and must be set perpendicular to the adjoining public street, provided that signs on corner lots may be set at a forty-five-degree angle at street intersections.
  - c. The sign may not exceed a height of eight (8) feet, except that pole signs for approved conditional uses, properties located on a collector and arterial street and at athletic stadiums and public arenas may be up to twenty (20) feet in height.

- d. All electronic message center signs must be equipped with a photo cell dimmer or some other automatic dimmer control that automatically adjusts for day/night brightness. The sign owner or sign installer shall provide written certification from the equipment manufacturer that the sign is so equipped.
- e. The sign shall only operate between 7:00 a.m. to 10:00 p.m., with the exception of scheduled public events.
- f. No minimum hold time or interval of change shall be required.
- g. Text and moving pictorial images shall be permitted, however, no sign shall have blinking, flashing or fluttering lights or any other illuminating device that changes the intensity, brightness or color of the sign background.
- h. The sign may be used as an advertising sign if the sign location is eligible for a pole sign.

(Ord. No. 12-10640, § 1, 6-11-12; Ord. No. 18-10929, §§ 1, 2, 3-19-18)

Sec. 42-519. - C-1 restricted business district.

The following sign regulations shall apply in the C-1 restricted business district:

- (1) *Functional types permitted:* Any type listed in section 42-506, except advertising signs.
- (2) *Structural types permitted:* Any type listed in section 42-507, except roof signs, projecting signs and mobile signs.
- (3) *Number of signs permitted:*
  - a. *Ground sign:* One (1) per zoning lot.
  - b. *Pole sign:* One (1) per zoning lot.
  - c. *Others:* Two (2) per zoning lot.
- (4) *Maximum gross surface area:* One (1) square foot of sign area for each lineal foot of building frontage, not to exceed thirty-two (32) square feet.
- (5) *Maximum height:*
  - a. All signs shall be placed flat against a building or designed as part of an architectural feature thereof except that signs may be detached if they do not exceed a height of eight (8) feet or project into any required building setback area.
  - b. No height limit is specified for signs placed flat against or painted on the wall of a building, or for other attached signs provided all other provisions of this section are complied with.
- (6) *Required setback:* Entire sign shall be set back ten (10) feet.
- (7) *Illumination:* Illuminated signs shall be permitted.

(Code 1966, § 36-907(3))



Sec. 42-520. - C-2 neighborhood shopping district.

The following sign regulations shall apply in the C-2 neighborhood shopping district:

- (1) *Functional types permitted:* Any type listed in section 42-506, except advertising signs.
- (2) *Structural types permitted:* Any type listed in section 42-507, except mobile signs, projecting signs, and roof signs.
- (3) *Number of signs permitted:* Two (2) per business.
- (4) *Maximum gross surface area:* One (1) square foot of sign area for each lineal foot of building frontage.
- (5) *Maximum height:* Thirty (30) feet.
- (6) *Required setback:* No minimum setback, except that pole sign supports must maintain a ten-foot setback.
- (7) *Illumination:* Illuminated signs shall be permitted.

(Code 1966, § 36-907(4))

Sec. 42-521. - C-3 and C-4 commercial districts.

The following sign regulations shall apply in the C-3 shopping center and C-4 central business districts:

- (1) *Functional types permitted.* Any type listed in section 42-506, except that advertising signs for other than special public events sponsored by governmental, philanthropic and nonprofit organizations shall be prohibited in the C-4 district and district and advertising signs other than computerized electronic message displays shall be prohibited in the C-3 district.
- (2) *Structural types permitted.* Any type listed in section 42-507, except that mobile signs and roof signs shall be prohibited in the C-4 district.
- (3) *Number of signs permitted.* No maximum limitation in the C-3 district. In the C-4 district, four (4) signs per business with a maximum of ten (10) signs per zoning lot; provided, however, the following additional restrictions shall apply:
  - a. No more than one (1) projecting sign or ground/pole sign shall be allowed per street frontage.
  - b. Ground/pole signs shall be allowed only on zoning lots without buildings or those with buildings having a front yard setback of ten (10) feet or more.
  - c. Ground/pole signs and projecting signs shall not be allowed in combination along the same street frontage.
- (4) *Maximum gross surface area:*
  - a.

In the C-3 district, four (4) square feet of sign area for each lineal foot of building frontage; where no building frontage exists, one (1) square foot of sign area for each lineal foot of street frontage.

- b. In the C-4 district, three (3) square feet of sign area for each lineal foot of building frontage for allowable signage other than a ground/pole sign or a projecting sign; where no building frontage exists, one (1) square foot of sign area for each lineal foot of street frontage. Irrespective of building or street frontage, no property or zoning lot shall be restricted to less than thirty-six (36) square feet of sign area. No more than sixty-seven (67) percent of allowable sign area may be displayed on any building wall or street frontage. In regards to projecting signs and ground/ pole signs, the following maximum area limitations shall apply:

Building Frontage	Projecting Signs*	Ground/Pole Signs
25 feet or less	30 sq. ft.	45 sq. ft.
26—50 feet	36 sq. ft.	54 sq. ft.
51 feet or more	48 sq. ft.	72 sq. ft.

\*The maximum area for a projecting sign on a building wall without street frontage shall be four (4) square feet.

- (5) *Maximum height.* In the C-3 and C-4 districts, ground/pole signs may not exceed thirty (30) feet in height above grade. In the C-4 district, projecting or wall signs may not project above the lowest point of the roof of the structure to which it is attached.

(Ord. No. 90-9381, §§ 5, 9, 5-14-90; Ord. No. 07-10425, § 1, 12-03-07)

Sec. 42-522. - C-5, C-6 and C-7 commercial districts.

The following sign regulations shall apply in the C-5, service commercial, C-6, heavy commercial and C-7, highway commercial districts:

- (1) Functional types permitted: any type listed in section 42-506.
- (2) Structural types permitted: any type listed in section 42-507.
- (3) Maximum gross surface area:
  - a. Four (4) square feet of sign area for each lineal foot of building frontage.

b. Where no building frontage exists, four (4) square feet of sign area for each lineal foot of street frontage.

(4) Maximum height:

a. Signs located on an arterial, collector or residential street: Fifty (50) feet.

b. Signs oriented toward a designated interstate highway and located on property within six hundred sixty (660) feet of the interstate right-of-way: Fifty (50) feet above the interstate roadbed and associated bridges and ramps, with a maximum sign height of seventy (70) feet. Where the interstate roadbed is below the grade elevation of adjoining property, the maximum sign height shall be fifty (50) feet.

c. Artificially raising the ground level through filling or berming for the sole purpose of increasing sign height shall not be permitted.

(5) Required setback: none required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback required for principal structures, and in no case shall a sign project over public property.

(6) Illumination: illuminated signs shall be permitted.

(Code 1966, § 36-907(6); Ord. No. 95-9708, § 1, 10-16-95)

Sec. 42-523. - I-1 industrial park district.

The following sign regulations shall apply in the I-1 industrial park district:

(1) Functional types permitted: any type listed in section 42-506, except advertising signs.

(2) Structural types permitted: any type listed in section 42-507, except roof signs.

(3) Number of signs permitted: two (2) per establishment.

(4) Maximum gross surface area: one (1) square foot for each lineal foot of street frontage.

(5) Maximum height: thirty (30) feet.

(6) Required setback: ten (10) feet.

(7) Illumination: illuminated signs shall be permitted.

(Code 1966, § 36-907(7); Ord. No. 08-10467, § 1 9-29-08)

Sec. 42-524. - I-2 and I-3 industrial districts.

The following sign regulations shall apply in the I-2 light industrial and I-3 heavy industrial districts:

(1) Functional types permitted: any type listed in section 42-506.

(2) Structural types permitted: any type listed in section 42-507.

(3) Number of signs permitted: no limitation.

- (4) Maximum gross surface area: four (4) square feet for each lineal foot of street frontage.
- (5) Maximum height:
  - a. Roof sign: thirty (30) feet above the highest point of the structure on which the sign is located.
  - b. All other signs: thirty (30) feet.
- (6) Required setback: none required.
- (7) Illumination: illuminated signs shall be permitted.

(Code 1966, § 36-907(8))

Sec. 42-525. - Historic signs.

- (a) Specific provisions of this sign ordinance may be waived by the board of city commissioners for designated historic signs upon application by the owner or by city-initiated application.
- (b) Upon filing of said application, the heritage commission, with or without review and recommendation from the Salina Business District Number 1 Design Review Board, may recommend, and the city commission may declare, a sign to be of "historic significance" by making findings according to the guidelines below. Except for requirement pertaining to safety, structural integrity or maintenance, a sign so designated shall be deemed to conform to this article.
- (c) To be designated "historically significant," a sign must be found to comply with all of the following guidelines:
  - (1) The sign has been in continuous existence at the present location for not less than twenty-five (25) years.
  - (2) The sign possesses such exemplary design, technology, craftsmanship, materials and/or a means of illumination that it significantly enhances the cultural, historical and/or aesthetic quality of the community.
  - (3) The sign has not been significantly altered from its historic period or, if altered, is restorable to its historic function and appearance.
- (d) Once designated "historically significant," removal of the sign shall be subject to the provisions of article IX, regarding demolition or removal of heritage landmarks.

(Ord. No. 90-9381, § 8, 5-14-90)

Secs. 42-526—42-540. - Reserved.

Sec. 42-764. - Sign.

*Sign* is any writing (including letters, words or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols, or trademarks), flag, banner, streamer, pennant, string of lights, or display calculated to attract the attention of the public, or any other figure of similar character which:

- (1) Is a structure or any part thereof, or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground;
- (2) Is used to announce, direct attention to, or advertise; and
- (3) Is not located inside a building.

(Code 1966, § 36-1301(145))

Sec. 42-765. - Sign, advertising.

*Advertising sign* is a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, or to which it is affixed (off-premise sign).

(Code 1966, § 36-1301(146))

Sec. 42-766. - Sign, awning, canopy, and marquee.

*Awning, canopy and marquee sign* is a sign that is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by these regulations. No such sign shall project more than twenty-four (24) inches above, below, or twelve (12) inches beyond the physical dimensions of the awning, canopy, or marquee, and a minimum of eight (8) feet of clearance shall be provided above grade.

(Code 1966, § 36-1301(147))

Sec. 42-767. - Sign, bulletin board.

*Bulletin board sign* is a sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events, or activities occurring at the institution. Such signs may also present a greeting or similar message.

(Code 1966, § 36-1301(148))

Sec. 42-768. - Sign, business.

*Business sign* is a sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.

(Code 1966, § 36-1301(149))

Sec. 42-769. - Sign, canopy.

See "sign, awning, canopy, and marquee."

(Code 1966, § 36-1301(150))

Sec. 42-770. - Sign, construction.

*Construction sign* is a temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project only during the construction period and only on the premises on which the construction is taking place.

(Code 1966, § 36-1301(151))

Sec. 42-771. - Sign, ground.

*Ground sign* is any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. Signs on accessory structures shall be considered ground signs.

(Code 1966, § 36-1301(152))

Sec. 42-772. - Sign, identification.

*Identification sign* is a sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

(Code 1966, § 36-1301(153))

Sec. 42-773. - Sign, marquee.

See "sign, awning, canopy, and marquee."

(Code 1966, § 36-1301(154))

Sec. 42-774. - Sign, mobile.

*Mobile sign* is a sign which is designed to be easily transported and is attached to a trailer or other nonmotive powered vehicle.

(Code 1966, § 36-1301(155))

Sec. 42-775. - Sign, nameplate.

*Nameplate sign* is a sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.

(Code 1966, § 36-1301(156))

Sec. 42-776. - Sign, off-premise.

See "sign, advertising."

(Code 1966, § 36-1301(157))

Sec. 42-777. - Sign, pole.

*Pole sign* is a sign that is mounted on a free-standing pole, the bottom edge of which sign is six (6) feet or more above ground level.

(Code 1966, § 36-1301(158))

Sec. 42-778. - Sign, projecting.

*Projecting sign* is a sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building

(Code 1966, § 36-1301(159))

Sec. 42-779. - Sign, real estate.

*Real estate sign* is a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

(Code 1966, § 36-1301(160))

Sec. 42-780. - Sign, roof.

*Roof sign* is a sign erected, constructed and maintained wholly upon or over the roof of a building and having the roof as the principal means of support.

(Code 1966, § 35-1301(161))

Sec. 42-781. - Sign, wall.

*Wall sign* is a sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

(Code 1966, § 36-1301(162))





# DESIGN REVIEW BOARD

Exhibit C

LEE DISTRICT

SALINA DOWNTOWN INC.

DESIGN REVIEW BOARD  
4:00 P.M., Thursday, April 23, 2015  
City Conference Room 107  
City-County Building, 300 West Ash Street

## AGENDA

1. Administration:
  - A. Call to Order/Roll Call.
  - B. Additions or corrections to the agenda.
  - C. Review of Minutes for March 26, 2015 meeting.
  - D. Introduction of guests.
  
2. New Business:
  
- 2A. The Salina Art Center, 242 S. Santa Fe Avenue, has requested a meeting of the Design Review Board to review and receive public comments regarding a façade improvement project that has been planned for the Art Center’s South Santa Fe Avenue façade. A ceramic tile mural has been commissioned for an area within a 12 ft. x 23 ft. building bay on the South Santa Fe façade. It will be located between the original Art Center entrance and the north education wing. The Art Center property is legally described as Lots 158 & 160 on Santa Fe Avenue in the Original Town of Salina, and is addressed as 242 S. Santa Fe.
  
3. Other Business:
  
4. The next regular meeting, if scheduled, will be on May 14, 2015.
  
5. A motion to adjourn is in order.

***An applicant or his representative is required to attend the hearing in order for the Design Review Board to take action on an application.***

City of Salina/Development Services  
Salina, KS 67402-0736

Planning Division  
785/309-5720

City-County Building  
FAX 785/309-5713

300 W. Ash Street, Room 201  
email: [john.burger@salina.org](mailto:john.burger@salina.org)

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**Design Review Board Members:** Michael Trow – *Chair*  
Daniel Baffa, Larry Bunker, Maggie Gillam, Tina Lewis – Vice Chair

**Salina Downtown Inc.** 120 West Ash Street PO Box 1065 Salina, Kansas 67401 785-825-0535  
**Interim Executive Director:** Penny Bettles Email: [pbettles@salinadowntown.com](mailto:pbettles@salinadowntown.com)

## **ADDRESSING THE DESIGN REVIEW BOARD**

The public is invited to speak to the Design Review Board during the public hearing portion of any item under discussion.

Please raise your hand and after receiving recognition from the Chairman, approach the front, state your name, address, and purpose for speaking.

Generally, the order of presentation after introduction of an item by the Chairman will be:

1. Determination if the applicant or his/her representative is present.
2. Brief presentation by the staff.
3. Comments by the applicant.
4. Comments by interested citizens.
5. Additional comments by the applicant, and/or citizens as appropriate.
6. Closing of public comment portion of hearing by Chairman.
7. Design Review Board discussion and action.

Any person dissatisfied with a decision by the board to either grant or deny a certificate of compatibility may appeal the decision to the Board of City Commissioners by filing a written protest with the City Clerk on a form provided by that office. The notice of appeal must be filed within fourteen (14) calendar days after the conclusion of the public hearing. If you have any questions or concerns, please contact the Development Services Department in Room 201 of the City-County Building, 309-5720.





Attachment, Salina Art Center, Application for a Certificate of Compatibility, Lee District, Design Review Board

The proposed project is a ceramic tile mural along the Art Center's Santa Fe Avenue façade. The specific location is the 12 x 23 ft. bay between the Art Center's original Santa Fe entrance and the current entrance. Ceramic artist Conrad Snider will create and install the mural. A three-time SculptureTour Salina exhibitor, Snider maintains a studio in a renovated 1920s feed mill in Newton, Kansas. His commissioned work can be found throughout the state and includes his mural *Points of Contact* (First Presbyterian Church, Salina) and *Woven*, the large-scale figural group in front of the City of Salina Municipal Court Building.

The mural will be constructed of handmade ceramic tiles between one-half inch and two inches thick. The tiles will be fired to Cone 10 (2,300 degrees Fahrenheit), which will vitrify the clay, making it resistant to water penetration and damage from freeze/thaw cycles. The tiles will be attached to one-half inch thick concrete backer board with tile mortar. Grout lines will be filled with an epoxy grout.

The mural design will take into consideration the exterior of the building, including colors and surfaces of the brick, ceramic elements on the center pillar, and roof tiles. The space allowed for the tile mural is approximately 12 feet by 23 feet, for a total of 230 square feet (see attached photo).

**STAFF REPORT  
LEE DISTRICT DESIGN REVIEW BOARD**

Hearing Date: April 23, 2015

**ITEM**

The Salina Art Center, 242 S. Santa Fe Avenue, has requested a meeting of the Design Review Board to review a proposed façade improvement/art installation project that has been planned for the Art Center's Santa Fe Avenue façade. A ceramic tile mural has been commissioned for an area within a 12 ft. x 23 ft. building bay on the Santa Fe façade. It will be located between the original Art Center entrance and the north education wing. The Art Center property is legally described as Lots 158 & 160 on Santa Fe Avenue in the Original Town of Salina, and is addressed as 242 S. Santa Fe.

**BACKGROUND**

Conrad Snider, a Newton, Kansas ceramic artist has been commissioned to create and install a mural comprised of handmade ceramic tiles that would be attached to the stucco wall in the Art Center façade. The art installation will become a permanent feature of the Art Center's Santa Fe façade. The mural will be comprised of sculptural elements existing on the exterior of the building, including the brick, terra cotta and the Spanish Tile roof. Mr. Snider's work is found throughout the state and includes the *Points of Contact* ceramic mural located in the Salina's First Presbyterian Church, and the *Woven* terra cotta figures in front of Salina's Municipal Court Building.

A Ceramic Workshop has been scheduled by the Salina Arts and Humanities Department under the Horizon Grants Program that will involve up to 12 participants of the community. Under the direction of the artist, Conrad Snider, participants will assist in the creation of a scale model of a ceramic tile mural for the exterior of the Art Center. The series of workshops at the Art Center Warehouse will engage participants in the development of the model's design and fabrication. The completed model will serve as the basis for Mr. Snider's permanent sculptural mural. The art installation would become an important feature of the Art Center's visual identity and downtown Salina's streetscape. The workshop is open to high school students and adults with no experience in ceramics required. A call for the Ceramics Workshop is attached to this report.

**PHYSICAL CHARACTERISTICS**

Records indicate that the one-story storefront building on Lot 160, addressed as 240-241 S. Santa Fe was originally constructed of brick with a Mission Revival cornice and Spanish Tile roof in 1929. A one-story storefront building addressed as 236-238 S. Santa Fe was constructed on Lot 158 in 1946. The Knights Sporting Goods Company and various storefronts occupied 238 and 240 S. Santa Fe until 1987. A building permit was issued in August 11, 1987 to convert the space at 240-242 S. Santa Fe to the Salina Art Center at a cost of \$237,000. The space was opened to the public on January 11, 1988. Architect Donnie Marrs enclosed the storefront facing Santa Fe with two bays, having arched stone surrounds, a building base and terra cotta tile columns.

242 S. Santa Fe Avenue  
Page 2

The Art Center expanded into the space at 236-238 S. Santa Fe in 1992, establishing an open floor plan education wing that included additional gallery and work space, restrooms and storage. Jones-Gillam Architects designed an all glass storefront with a sculptured metal canopy on the Santa Fe façade and a covered courtyard at the rear of the building.

An artist in residence warehouse was established in a commercial space at 149 S. 4<sup>th</sup> Street in 2008. The space is occupied by an open work area and an apartment for Artist-in-Residence exhibitors at the Salina Art Center. This space is utilized as a workshop and for various activities and projects of the Art Center throughout the year.

## **PROPOSAL**

The proposed project would include the installation of a ceramic tile mural along the Art Center's Santa Fe façade. The work would be located in the northern one-half of the original Art Center building. The specific location is the 12 ft. by 23 ft. bay between the original Art Center entrance on the south and the education wing to the north. This area is delineated by the arched stone surround and the stone building base at the sidewalk.

Ceramic artist Conrad Snider will create and install the mural. Mr. Snider is a three-time Sculpture Tour Salina exhibitor and maintains a work studio in a renovated 1920's feed mill in Newton, Kansas. A summary description of Mr. Snider's work is maintained on his website, a copy of which is attached to this report.

The mural will be constructed of handmade ceramic tiles between one-half inch and two inches thick. The tiles will be formed and fired in a kiln to vitrify the clay and make it water resistant to water penetration and damage from freeze/thaw cycles. The tiles will be attached to one-half inch thick concrete backer board with tile mortar. Grout lines will be filled with epoxy grout to match the tile

The mural design will take into consideration work done at a Ceramic Workshop being sponsored by the Salina Arts and Humanities Horizon Program where a scaled prototype will be designed and constructed. The composition of the proposed mural will utilize the colors and surface textures of the brick, ceramic elements on the terra cotta pillars and Spanish Tiles found on the Art Center building south gallery wing and cornice. The space allowed for the tile mural is approximately 12 feet by 23 feet, totaling 230 sq. ft. This blank stucco area on the Art Center façade has been utilized in the past for temporary art installations.

## **STAFF ANALYSIS**

Installation of public art does not require a Certificate of Compatibility however; a public hearing has been scheduled before the Lee District Design Review Board in order to receive comments on the compatibility of the art piece to submit as part of a grant application to the Façade Development Incentive Program (DIP) of Salina Downtown, Incorporated. The grant program is designed for large and small scale projects for new



242 S. Santa Fe Avenue  
Page 3

construction, renovation of building facades and interiors of existing historic buildings. The program is designed primarily for façade improvements to the exteriors of buildings in the Lee District. The amount of any grant is contingent on the scale of the project and available funds. Non-profit Salina Downtown, Inc. partner businesses located in the Lee District boundary are eligible to apply for DIP funds.

The proposed project appears eligible for the DIP program as a façade renovation and restoration project. Work found to comply with the Salina Downtown Guidelines (contingent on Design Review Board approval) is an eligible use of funds.

The Design Guidelines for Downtown Salina, 2008 contains the following Policies relating to Architectural Character:

***Building materials should be visually compatible with the predominate materials of the downtown area.***

The historical use of terra cotta and ceramic tile accents and trim is consistent throughout the Blocks of North and South Santa Fe. Evidence of this can be found at 117-119 S. Santa Fe and 111-125 East Iron Avenue, among others. It is integral to the Spanish Revival style of architecture used by Salina architects, such as Charles Shaver during the 1930's. Much of this is attributed to the influence of J. C. Nichols' development of the Country Club Plaza in Kansas City. The 200 Block of South Santa Fe West elevation contains several Spanish Revival style facades.

It appears that the mural design program will utilize the colors and surface textures of the brick, terra cotta and ceramic elements on the terra cotta pillars and Spanish Tiles found on the Art Center building south gallery wing and cornice. This would appear to be consistent with the Design Guidelines.

### **REQUESTED ACTION**

Similar to the addition of a new storefront, awning or other permanent improvement or renovation of an existing architectural element, it is appropriate for owners and residents potentially affected by such an activity in the Lee District to receive notice and an opportunity to be heard on the matter.

A public hearing was been scheduled for the Design Review Board to receive public comments and input about the mural design and installation. As a general rule, an art installation does not fall within the scope of authority of the DRB, however in this case the DRB is being asked to make a recommendation on this proposed art project for use with an application being made under the Façade Development Incentive Program of SDI.

The art installation is intended to be a permanent element similar in function to a sign or logogram that will direct the public to the gallery and educational activities within the Art Center building. It is also intended to enrich and engage members of the public visiting

242 S. Santa Fe Avenue  
Page 4

or doing business within the Downtown area. Letters of notice were sent to surrounding property owners announcing this public hearing. Since the Lee District Design Review Board customarily reviews exterior improvements in the Lee District, it is appropriate for this Board to receive comments from the public at the hearing concerning the art installation as a requirement of the Façade Development Incentive Program. A description of the DIP Program is attached to this report.

A record of the proceedings and any verbal or written comments received will be provided to the Façade Development Incentive Program (DIP) Review Committee for their use in analyzing a potential grant award for this project. Grant awards are made during May and September of each calendar year.





Facade Improvement  
Salina Art Center  
242 S. Santa Fe Avenue

SALINA ART  
CENTER

Request Area

Santa Fe Ave

Mulberry St





**CALL FOR  
CERAMIC WORKSHOP  
SALINA ART CENTER MURAL**





## **CERAMIC WORKSHOP PARTICIPANTS NEEDED**

Modeling Community: Salina Art Center Façade Mural Project

Limited to 12 participants - **SIGN UP TODAY!**

Under the direction of acclaimed ceramic artist Conrad Snider, participants will assist in creating a scale model of a ceramic tile mural for the exterior of the Art Center's Santa Fe Avenue façade. A series of workshops at the Art Center's Warehouse will engage participants in the development of the model's design and fabrication. The completed model will serve as the basis for Snider's permanent sculptural mural, which will become an important feature of the Art Center's visual identity and downtown Salina's streetscape.

This project was funded in part by the Horizons Grants Program of the Salina Arts and Humanities Foundation. Funding is provided by Horizons, a private donor group.

Three-time SculptureTour Salina exhibitor Conrad Snider maintains a studio in a renovated 1920s feed mill in Newton, Kansas. His commissioned work can be found throughout the state and includes his mural *Points of Contact* (First Presbyterian Church, Salina) and *Woven*, the large-scale figural group in front of the City of Salina Municipal Court Building.

**WHAT:** Ceramic mural workshop with Conrad Snider.

**WHO:** The workshop is open to high school students and adults. No experience with ceramics necessary.

**WHEN:** Wednesday, **April 22, 4-6 p.m.**; Thursday, **April 23, 4-7 p.m.**; and 3 sessions before May 6 (dates and times TBD on April 22).

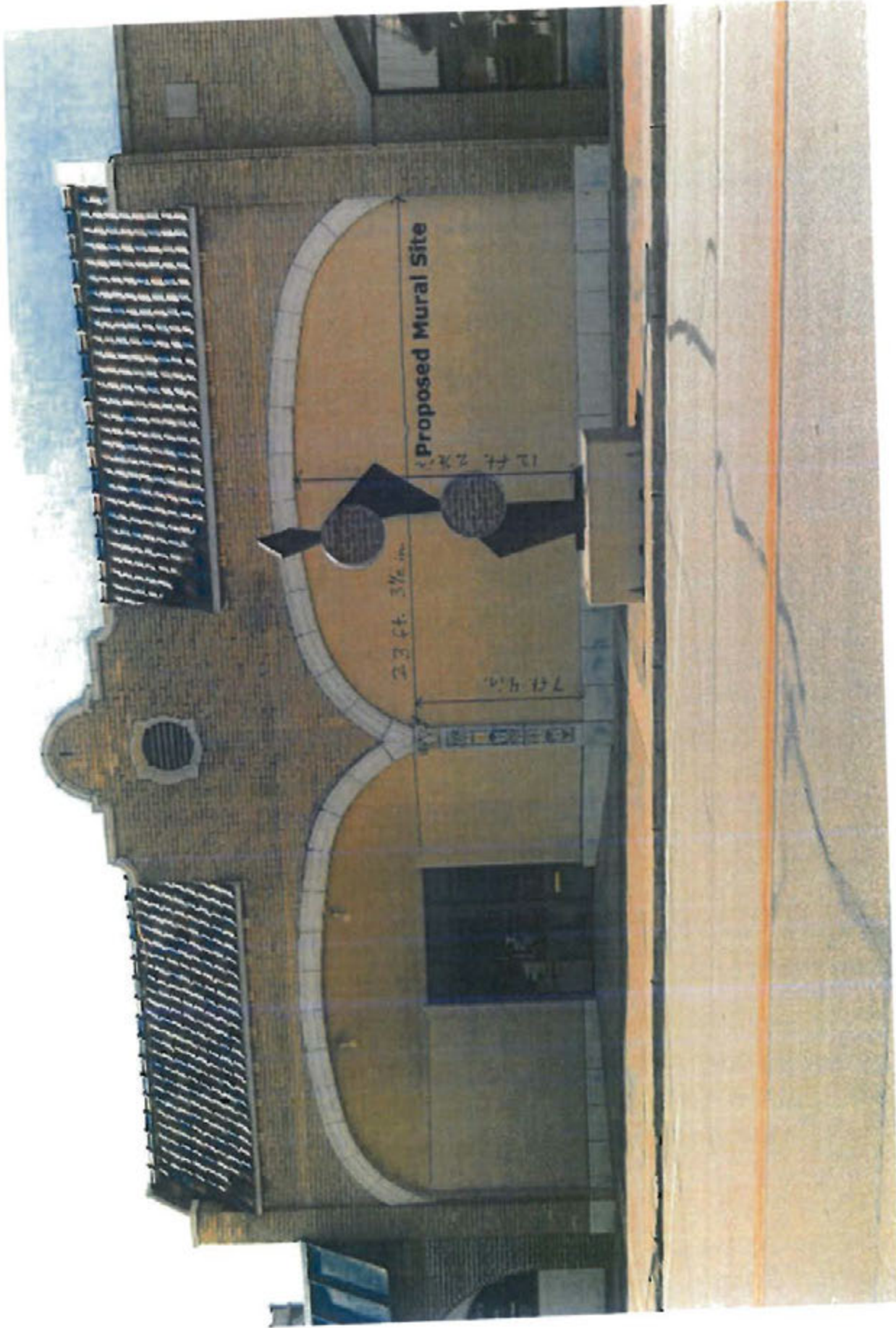
**WHERE:** The Salina Art Center Warehouse, 149 S. 4th St.

**HOW:** Register online (<http://goo.gl/QjgeDn>), by email ([info@salinaartcenter.org](mailto:info@salinaartcenter.org)), or by phone (827-1431). Participation in the workshop is FREE OF CHARGE. Registration is on a first-come, first-served basis and limited to 12 participants. There will be a waiting list.

For more information, call 827-1431.



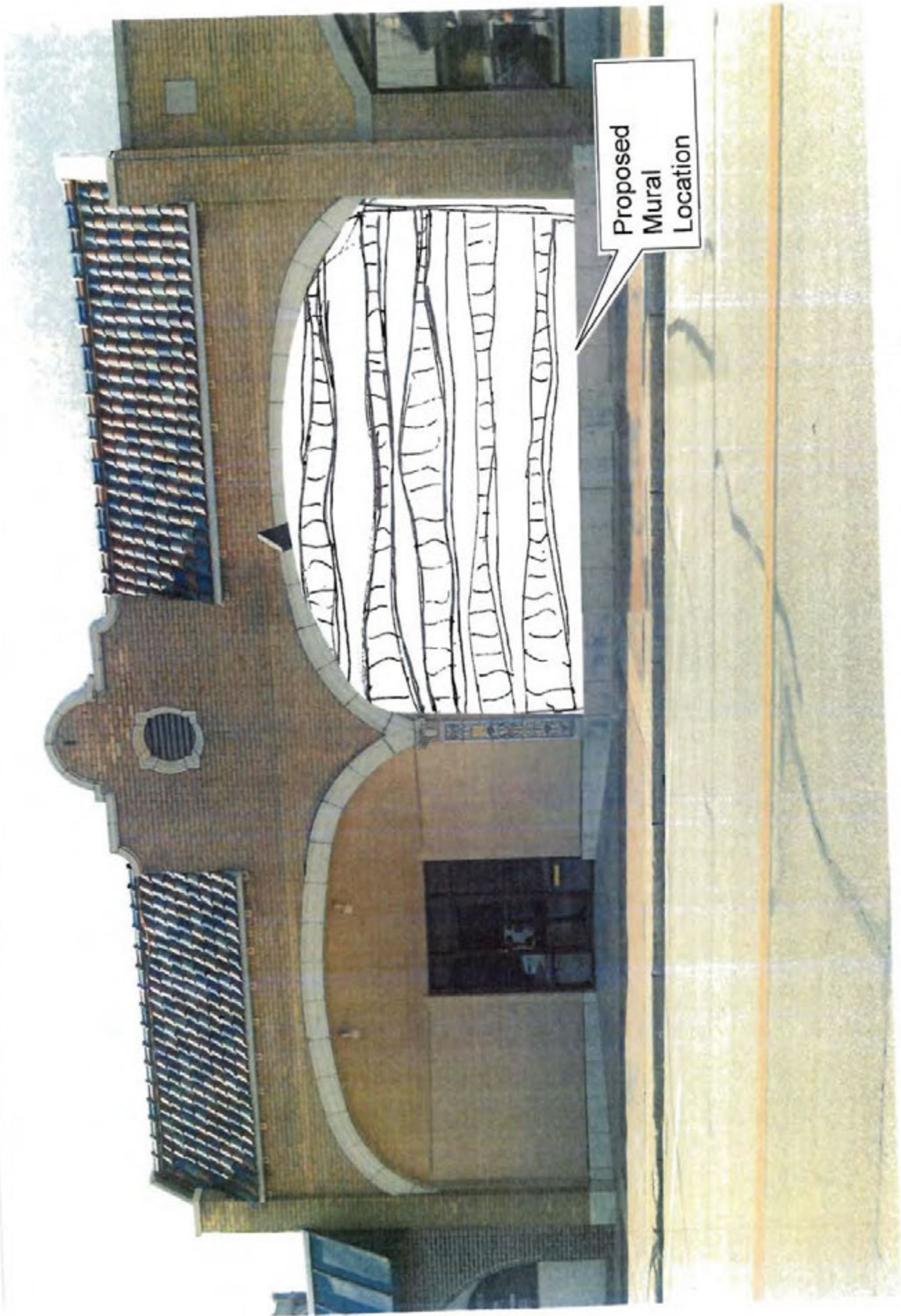




Salina Art Center, 242 S. Santa Fe, proposed mural site







Salina Art Center, 242 S. Santa Fe, proposed mural site







Sample Mural Design



**CONRAD SNIDER  
STUDIO WEBSITE**







# Conrad Snider

Welcome to my website. Thank you for visiting and come back again, new photos are added periodically.

Here you will be able to [visit my studio](#), see one-of-a-kind large scale ceramic sculptures and vessels, and [see how the vessels are made](#).

Click on the images below to see other pieces. Scroll down to read about my work.

**Conrad Snider**  
Large Scale Ceramic Sculpture,  
Hand Made Tile Murals, and Wheel  
Thrown Vessels

[Write to me here](#)

Visit Soldner  
Equipment



Figures



Tile Murals



Wheel Thrown  
Vessels



Public and Private Projects



Hand Built  
Vessels



Studio and Home

My work is all large scale and ranges from clay vessels, both thrown on the potter's wheel and hand built, to figurative pieces and hand-pounded tile murals. Each of these aspects is important to me and feeds a different part of my personality. When I work on a piece I try to let the clay speak, sharing its natural behaviors, sensuality, visual strength, and power. I want each piece to have its own individual presence.

The process from wet clay to a finished piece takes 6 months to a year, ending with the final glaze firing in a gas reduction kiln to 2300 degrees Fahrenheit. Some pieces will be fired multiple times to enhance the glazed surfaces and textures. The surfaces are equally important to the form for the overall effect of the piece. High fired clay is impervious to fingerprints, water, and paints, which allows tactile exploration to be as much a part of the viewers' experience as visual interpretation. These same attributes also make clay ideal for public art installations.

I make most of my pieces ahead and find homes for them later on. Most of my sales are to individuals, though I have done a number of public commissions, and have pieces in several Public and Corporate collections. Because each piece is personal to me, and they spend so much time in the studio, they become like my children. I want them to go to good homes where they will be appreciated for years to come.

[Read more](#) [Resume](#)

This page is currently being modified. Some links are not yet completed. Please bear with us and come back soon.

### Tile Murals

These tile wall murals are ideal for architectural accents and can be custom commissioned. Most of the tiles are made to fit on a one foot grid, including grout lines. These tiles are hand-pounded individually and fired to Cone 10, 2300 degrees Fahrenheit.

[Back to Home](#)



72" X 96"



72" X 96" X 5"



98" X 147"



72" X 96"



72" X 120"



72" x 96"



**SALINA DOWNTOWN, INC.  
DEVELOPMENT INCENTIVE PROGRAM**



**Salina Downtown, Inc.  
DEVELOPMENT INCENTIVE PROGRAMS**

**Forgivable Loan Program for Major Projects**

This grant program is designed for *large* scale projects for new construction, and for renovation of façades and interiors of existing historic buildings (see definition below) within the Lee District. Salina Downtown, Inc. recognizes that property owners and tenants may need assistance making costly improvements and enhancements to the exterior of their buildings and to the interior of historic buildings. This program is designed primarily for façade improvements and new construction. However, interior improvements to historical or locally historically significant buildings (50 years or older) may qualify. The amount of any grant is contingent on the scale of the project and available funds through the Development Incentive Program.

**ELIGIBILITY:** Property owners and/or tenants who are in good standing with the Lee District (service fees are current) are eligible to apply. However, non-profit Salina Downtown, Inc. partner businesses located within the Lee District boundary are also eligible to apply for DIP funds.

**AVAILABLE FUNDS:** \$35,000 annually 2008-2010. Maximum single project award \$15,000.

**MATCHING REQUIREMENT:** All applications are competitive and require a minimum cash only match of 1.5:1 private to Development Incentive Program (DIP) grant funds. In-kind contributions will NOT count towards the required match. This is a reimbursement program. Upon completion of the project the applicant is required to pay the full amount of the project up front and submit proof of paid bills before reimbursement will be made. (See Reimbursement Policy)

**ELIGIBLE USE OF FUNDS:** Projects may include but are not limited to:

- New building construction
- Building expansion
- Vacant building redevelopment
- Facade renovation and restoration (emphasis on removal of metal siding and metal awnings) and/or replacement with new coverings or roll-ups
- \* • Work complying with Salina Downtown Design Guidelines, contingent on Design Review Board approval
- Pressure cleaning
- Stucco: new or restoration
- Painting
- Window, Door or transom replacements or repairs.
- Re-pointing of mortar joints for brick or stone
- Awnings (including the removal/installation of old awnings and canopies)
- Alley entry way improvements
- Entry way tile in exterior doorways
- Interior code related work.
- Interior work to historical buildings or buildings deemed to be historically significant (50 years or older) and work preserves historical interior aspects of the building

**INELIGIBLE USE OF FUNDS:**

- Signage
- Projects with no minimum 1.5:1 match
- Projects outside the Lee District boundaries
- Any in-kind expenses including labor of property/business owners
- Roofing
- HVAC

**Salina Downtown, Inc.  
DEVELOPMENT INCENTIVE PROGRAMS**

**Forgivable Loan Program for Major Projects (continued)**

**SELECTION CRITERIA:** All projects will be judged on their individual merits and components. The following criteria will serve as the basis of consideration:

- Ratio of matching funds minimum 1.5 private to 1 DIP. Additional consideration given to applicants providing more than the minimum match requirements.
- Projects creating new businesses and/or additional employment in downtown will receive additional consideration or priority.
- Project's adherence to Salina Downtown Design Guidelines
- Improvements to façade given priority
- Interior work may be included at the discretion of the review committee if the building is Historic or deemed historically significant (at least 50 years old) and the interior work preserves historic characteristics.

**APPROVAL:**

Applications are subject to review and approval by the DIP Review Committee with final approval of the Salina Downtown, Inc. Board of Directors. The DIP Grant Review Committee includes two members of the SDI Business Support and Recruitment Committee, one SDI Board member, one Design Review Board member and one member appointed by the Salina City Commission. Applications awarded DIP funding will officially be notified by letter.

**ADDITIONAL REQUIREMENTS:**

- Provide an architectural drawing or sketch
- Provide a five minute oral presentation to the application review committee.
- All projects awarded grants must be completed within one calendar year from the award letter date.
- Two professional contractor estimates of the cost of the intended improvements are required.
- Application must include a professional architectural design including color and material choices.
- All work must meet all City Building code requirements.
- All applicants are responsible for acquiring and completing all necessary city permits.
- Taxes and Lee District Fees must be current.
- Written approval of building owner, specifying work, must be included in application (if applicable).
- A contract must be signed between Salina Downtown, Inc. and applicant within three months of approval from SDI Board and prior to work commencing.
- The SDI office will be notified in advance of commencement of all work on the project
- Representatives of SDI will be allowed on the work site at all reasonable times.
- Environmental assessment must be completed
- Work must be completed within one year of signed Grant Reimbursement contract.

**APPLICATION DEADLINE:** Application forms are available from Salina Downtown, Inc. (SDI), PO Box 1065, 205 West Ash Street, Salina, Kansas 67401 and on line at [www.salinadowntown.com](http://www.salinadowntown.com). Completed applications are due at the SDI office by 12:00 noon the third Wednesday of April and August. Awards will be made twice annually in May and September. Applications awarded DIP funding will officially be notified by letter.

**Salina Downtown, Inc.  
DEVELOPMENT INCENTIVE PROGRAMS**

**Forgivable Loan Program for Major Projects (continued)**

**REIMBURSEMENT POLICY**

Successful applicants receive disbursement of DIP funds after completion of project, approval of work by a final City inspection, receipt of Certificate of Completion, and submittal of copies of paid invoices for approved expenses to the SDI Executive Director. To receive reimbursement, the property owner must sign an agreement to maintain the funded building improvements for a period of at least 3 years for a DIP Forgivable Loan Program for Major Projects (\$3,500 and above). This agreement shall provide for a lien against the property in an amount equal to the reimbursement amount.

**REPAYMENT/GRANT FORGIVENESS POLICY**

For reimbursement totaling \$3,500 and above, one third (33.3%) of said lien for improvements shall be forgiven annually on the anniversary date of the Certificate of Completion. Should the property be sold or refinanced prior to the full forgiveness of the lien, the remaining amount of the lien shall be paid to SDI upon sale, or closing of the refinancing Grant. The agreement shall be filed with Saline County Register of Deeds and transferred upon sale of the property.





## Exhibit D

**Greater Downtown Artwork List**

(Approximately 70 permanent and temporary pieces and 4 SculptureTour ballot boxes which contain all the current sculptures on display along Santa Fe)

**Santa Fe from South to North (Prescott to Elm)**

1. SW corner of Santa Fe and Prescott- Fish Tale, Gregory Johnson, purchased 2011 by Bank of Tescott. Bronze sculpture of boy with fishing pole.

2. Front of Tammy Walker Cancer Center-511 S. Santa Fe- Bronze sculpture of running girl. Private commission. Artwork inside the building includes four local artists commissioned to personalize and warm the space.

3. NW corner of South St. and Santa Fe (in front of the Temple) Mixed Media sculpture on pedestal by Jodie Bliss. "Picasso's Violin". 2018 People's Choice purchase by City of Salina. (First abstract or non-representational work selected in the 8<sup>th</sup> year of the program)



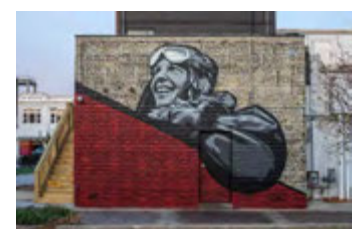
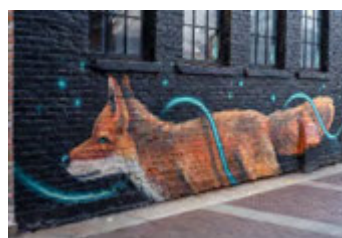
4. NE Corner of Santa Fe and Mulberry- "Off the Merry-Go-Round" by Jodie Bliss. Rearing horse sculpture in front of Starbucks. Private SculptureTour purchase in 2019.

Conrad Snider, Newton, KS tile wall tile sculpture at the Salina Art Center (242 S. Santa Fe). Snider and community members collaborated on this mural. Impressions are from downtown architecture and prairie ecosystem. Snider did multiple sculptures and tile additions to the law enforcement center and municipal court buildings in the early phases of the public art program.

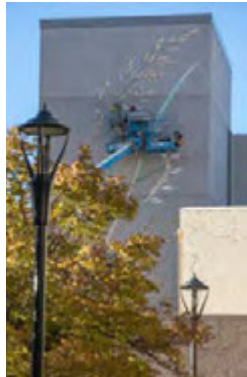
5. 200 block of S. Santa Fe- mid-block crosswalk has ballots for sculpture tour. Spillman Plaza mixed media sculpture, "Clarence the Catfish", the 2022 People's Choice award winner by Joe and Terry Malesky, Springfield, Missouri.

6. Spillman Plaza south facing wall across from Seraphim- Super Girl painted stencil on brick wall. Joe Lurato, New Jersey. (2022 Boom mural Festival)

7. Campbell Plaza-100 block- Large mural "Open Book", by Telmo-Miel for the 2022 Boom! Mural Festival. On the back of the Campbell Plaza Stage is the "Love Salina" mural by Salina artist Eric Montoy. Amelia Earhart mural by Logan Hicks and Jo Lurato on back wall of Prickly Pear during the 2022 Boom! Mural Festival, and red fox mural on back wall of Lauren Quinn floral shop by Brady Scott from Hutchinson, KS during 2022 Boom! (This plaza has been granted to Prickly Pear in license agreement, but City still has first-use rights for the stage)



8. Across the street in Strand Plaza- large butterfly mural by Mantra. The mid-block crossing has SculptureTour ballots. Also an additional sculpture is in the seating area behind Barollo Grill. This was a Friends of SculptureTour purchase and donation. (The four downtown plazas were named for early founders or early business leaders.)



9. Behind 100 S. Santa Fe- native prairie mural by Mona Caron (2022 Boom Mural Festival) Directly north in the alley north of Iron Ave is a wall mural by the KC artist Gear.

10. Mid-block crosswalk in 100 N. block has sculpture tour ballots.



11. Arcade tunnel between 137 and 141 N. Santa Fe also has two paintings by the mural artist Gear. No title info at this time. (The Smoky Hill River Festival regularly commissions mural artists who create work

that is placed elsewhere in the community. Schools, animal shelter, arcades, and other public spaces.)



Parking lot north of 141 N. Santa Fe- 67401 painted mural by Salina artists Robin and Julie Cates. City Lights Stage, mural by Dave Lowenstein, Lawrence, KS completed in June of 2022. Across the street on the north wall of the KU Medical School is a 2023 Boom mural by Add Fuel, a Portuguese artist.



12. 217 N. Santa Fe “Three Kinds of Sons”, Acrylic and latex sprayed mural by Tony Sjoman, Manhattan, NY. (2022 Boom Mural Festival)

13. Mid-block crossing has SculptureTour ballots

14. 249 N. Santa Fe- “For the Love of Steel” motorcycle sculpture. Sonny Corbett, Salina Kansas. 2020 SculptureTour

People’s Choice purchase by the City of Salina. Sonny passed away a few months before his work was selected for the 2020-21 show. His friends submitted the work on his behalf. (Point out the reuse of historic Lee Buildings for apartments and commercial retail space. 53 apartments are complete and another 70 will commence soon. Ground floor space for restaurants, retail, or professional office space is also being developed.)

15. Approximately 341 N. Santa Fe- “Mural at the Mill” by Guido Van Helton. Completed in the fall of 2021. Privately funded project by the Salina Kanvas Project. (This was the first major mural project as part of the private Kanvas Project initiative. Based on a photo taken of kids playing Ring Around the Rosie. Mention that the same kids are featured on all sides of the building.) One block north on the east side of the street is a mural of a railroad worker by Chris Stain and a portrait of Martha Cooper by Joe Lurato. In the 500 block of N. Santa Fe on the west side of the street is a mural by PichiAvo from Valencia, Spain.



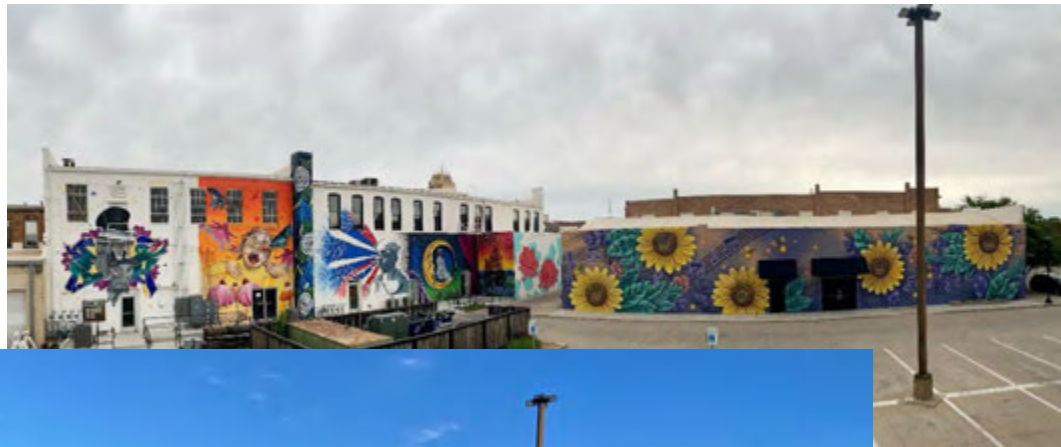
### 5<sup>th</sup> Street from Ash to Mulberry

16. Mid-block west side parking lot. Steel and limestone untitled sculpture by Richie Bergen (harmonica). Friends of SculptureTour purchase as part of pre-tour workshop. Three-bladed steel sculpture “Silver Streaks” by Oklahoma artist Jim Stewart. SculptureTour purchase by Rotary Club gifted to the City.

17. Salina Field House- Perforated metal wall. Designed by Lawrence and Kansas City artist Jeremy Rockwell and fabricated by Zahner, Kansas City, MO Capital Improvement Project Public artwork. (CAD Committee formed a site committee that commissioned a designer to integrate art that also served as a sun block (functional purpose) as well as an aesthetic enhancement to the building).

18. In the 100 block of S. 5<sup>th</sup> St. at the west entrance of The Garage- large tire sculpture. Artist unknown. More sculpture on the 4<sup>th</sup> St. entrance of The Garage. A mural by Salina artist Eric Montoy is also featured on a west facing wall of the Garage. Directly across the street to the west in a parking lot behind Campbell Plaza is a mural by Mad C, a German artist from the 2023 Boom Mural Festival.

19. Behind the Stiefel Theatre is Artwork Alley. This is a pre-Festival event completed in May of 2022. with 9 murals by nine different artists. Left to right facing West: Ray Albarez (Saeb), Jeremy Fields (Sadat), Brady Scott, Darren Morawitz, Kamela Eaton, Anthony Parker (Amp), Hannah Scott, north wall “Symphony of Sunflowers” by Brady Scott who also curated the event, and the trash corral by Colin Benson and Chase Wheeler. A majority of funds for this project came from private sources and the Kansas Creative Arts Industries Commission Reimagined Spaces Grant. Additionally, the small figure by the Stiefel Theatre back door is by Joe Lurato. He has another pop-up just to the south in a niche across the alley. At the end of the alley at Walnut is another mural by Mindy Allen, Junction City, KS. On the back wall of the Stiefel Theatre is a 2023 Boom mural by California artist El Mac.



20. Approximately 215 S 5<sup>th</sup>. Large buffalo mural on wall at back of vacant lots. Artist unknown.

21. SE Corner of South Street and 5<sup>th</sup> Salina Water Treatment Plant- Public art installation. Found on Salina Arts & Humanities public art page. Artist/fabricator Kent Williams, Wichita, KS.

**Additional locations in the greater downtown area**

22. Corner of 7<sup>th</sup> and Elm St. Fire Station #1 Salina Firefighter Tribute Plaza. Artist: Benjamin Victor Custom bronze sculpture of a firefighter.

23. City/County/Library grounds. Butterfly Tree, 2021 People's Choice sculpture at South Library entrance; "Trifinity" bronze by Salinan, Richard Bergen in Caldwell Plaza, and "Wheat Harvest", by James Mages of Hays, KS wheat sculpture in the south drive of the government building. Inside the building is the bronze sculpture "Daughters of Peace", by Benjamin Victor, the 2015 People's Choice.

24. Salina Senior Center (across from "Trifinity" sculpture) on west side 9<sup>th</sup> St. "Farmer", 2013 People's Choice bronze statue by Lawrence Starck.

25. 211 W. Iron Ave (Smoky Hill Museum) "Patches"-a mixed media sculpture of a hippo by Dale Lewis. The 2018 People's Choice award winner.

26. 232 N. 3<sup>rd</sup> St is a mural by Pat Perry featuring a collection of images from Salina and Saline, County.

27. 805 The Midway (north side of complex) "We're Better Together" mural by Queen Andrea.

**Additional items of interest:**

- More than \$250 million in public and private investment is taking place throughout the greater downtown in less than 10 years.
- Each of the four blocks of sidewalk downtown have a different art deco inspired design.
- The KU Med Center Salina held a nationwide competition to commission original work for the new medical school.
- The local school district recently included \$120,000 (1%) of a school improvement bond project and integrated art in all 16 buildings in the district. They have an articulation agreement stating their intent to include art when they do capital projects.
- Eight new mural artists will be coming to Salina in the first week of October for Boom!
- Funds through Salina Arts & Humanities and Salina Downtown Inc. help provide support for businesses, artists, or performers to make the arts unavoidable throughout the community.
- Since SculptureTour began in 2011, there are now more than 50 pieces of art throughout the community in publicly visible spaces. (This is a private program)
- A new ACE District (Arts, Commerce, and Entertainment) was recently formed and encourages creative acts and more commerce outside of buildings throughout the greater downtown area.
- The Smoky Hill River renewal is underway which will include 7 miles of urban waterway and trails to be completed within the next 8 years. New plazas, artwork, and a restored river with boating and fishing is being developed.
- Salina is projecting \$1 billion in capital projects citywide over the next 10 years.
- The first series of murals by Boom! artists intentionally developed content that reflected aspects of the people or geography of this place.

**Resources for further study:**

Boom! Mural Festival

<https://www.boomsalina.art/>

Salina Arts & Humanities public art webpage:

<https://www.salinaarts.com/public-art/>

A page with links to multiple local and regional cultural arts offerings:

<https://www.salinaarts.com/resources/>

SculptureTour Salina website

<https://www.sculpturetoursalina.net/>

Salina Art Center

<https://www.salinaartcenter.org/>

Salina Community Theatre

<https://salinatheatre.com/>

Stiefel Theatre for the Performing Arts

<https://www.stiefeltheatre.org/>

Salina Symphony

<https://www.salinasymphony.org/main/>

Travel and Tourism information:

<https://www.salinakansas.org/visit-salina.html>