

# Ordinance No. 1325-17

Council Members McCormack and Cummins

## AN EMERGENCY ORDINANCE

To amend Section 516.06 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 1397-14, passed October 19, 2015, to expand the eligible locations of the Decorative Street Painting Program.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Section 516.06 of the Codified Ordinances of Cleveland, Ohio 1976, as enacted by Ordinance No. 1397-14, passed October 19, 2015, is amended as follows:

### Section 516.06      License Conditions

A license to paint decorative designs on certain City streets shall be subject to the following conditions:

- (a) *Eligible Locations.* A design may be located at the intersection of two residential streets or a mid-block location of a residential street, and/or a crosswalk marked with two white horizontal lines, and/or a designated bicycle lane.
- (b) *Paint and Design Elements.* The proposed design shall include decorative designs and patterns only, and shall contain no numerals, text, or commercial messages.
- (c) *Prohibited Paint or Design Features.*
  - (1) The paint and resulting design shall not include any relief or texture (except anti-skid texturizing material), or retroreflectivity;
  - (2) The design shall not create a three (3) dimensional or multi-dimensional effect or other optical illusion; and
  - (3) The design shall not mimic or imitate an official traffic control device or street signage.
- (d) The licensee shall notify all households and businesses within a two hundred (200) foot radius from the design location at least fourteen (14) days prior to any painting of the street.
- (e) The licensee shall be responsible for all costs associated with the painting of the street including, but not limited to, costs of labor, paint, other materials, and cleanup of the street area upon completion of the painting.
- (f) *Project Installation Procedure.* Once the license has been granted under this Chapter, the licensee must apply for and obtain any permits necessary for the use of the public right-of-way.
  - (1) The licensee shall maintain, at no cost to the City, all aspects of the project and shall apply for and obtain any permits necessary for the use of the public right-of-way during maintenance.

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(2) The licensee assumes all risk in placing the painted design on the City street including any damages, vandalism, and/or destruction of the painted design.

(g) *Indemnification.* If a license is approved, the licensee shall agree to indemnify the City of Cleveland.

(h) The City shall not be responsible for damage to the design regardless of cause, including but not limited to damage caused by any utility or contractor performing work in the right-of-way, or resulting from street surface maintenance. Additionally, if any portion of the design creates a hazard, the Director may require the removal of the painted design, and demand that the use of the City street for decorative street painting be discontinued without recourse against the City for any loss or damage occasioned by any such requirement.

(i) No license shall be transferable in any manner.

(j) Licensees and their agents shall comply with all the requirements of this Chapter.

(k) *Duration.* A license issued under this Chapter authorizes the design as approved for as long as the design exists, as long as the design does not change and it is repaired and maintained as required under the provisions of this Chapter. A request to change the originally-approved design will require an application for a new license, a new license application fee, processing as a new application, and acceptance by the City of the new donation.

(l) *License Revocation.* A license under this Chapter may be revoked by the Director at any time if the licensee violates the conditions of the approved license. Upon revocation of a license, the licensee shall, at no cost to the City, remove all aspects and/or features of a project. Prior to revocation of a license under this division, the City shall send written notice to the licensee.

Section 2. That existing Section 516.06 of the Codified Ordinances of Cleveland, Ohio 1976, as enacted by Ordinance No. 1397-14, passed October 19, 2015, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

