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January 4, 2013

Council of the City of Los Angeles
Planning and Land Use Management (PLUM) Committee
200 North Spring Street
Los Angeles, CA 90012

**RE: MURAL ORDINANCE
CF 11-0923**

Honorable Members of the Planning and Land Use Management (PLUM) Committee:

For your consideration, this report introduces several revisions to the proposed Mural Ordinance. The revisions include an expanded purpose statement to justify regulating murals based on aesthetic and public safety concerns and a severability clause designed to preserve the remainder of the Mural Ordinance (and other provisions of the municipal code that are also challenged) in the event that a court invalidates a portion of the Mural Ordinance. The revisions also include several changes recommended by Councilmember Huizar.

Additionally, this report identifies outstanding issues related to the proposed Mural Ordinance that include an update on a letter and motion by Councilmember Huizar and an unresolved item from the November 20, 2012 PLUM Committee hearing.

The Mural Ordinance was heard by the City Planning Commission (CPC) on July 12, 2012 and October 10, 2012. At the October 10 meeting, the CPC approved the ordinance with the following modifications:

1. compensation to property owners and/or artists be allowed
2. murals must comply with billboard lighting standards and zoning regulations
3. digitally printed murals shall be permitted with LAFD and LADBS approval
4. murals shall be banned only on single-family residences
5. existing murals may exceed the height of the structure

Additionally, Councilmember Huizar submitted a letter to the CPC on October 10, 2012 with six recommended changes to the Mural Ordinance summarized below:

1. include a separate definition for *Vintage Murals*
2. include a separate definition for *Original Art Installations*
3. include a reference to the City's "works of art" both to the definition of *Public Art Installation* and an exemption from the Sign Code
4. include the phrase "original work of visual art" in definition of *Original Art Mural*
5. allow existing murals to exceed the height of the structure
6. delete the 5-unit minimum requirement for murals on residential buildings

The CPC concurred with the recommended change to item #5 above and lowered the minimum unit requirement in a residential building for a mural from five to two in response to item #6. Items 1-4 were not incorporated into the amended ordinance that was forwarded to PLUM.

Subsequently, the Planning Department, the Department of Cultural Affairs, and the City Attorney's Office reviewed the remaining four recommended changes (items 1-4) and are making the following recommendations to PLUM for further amendments to the ordinance.

Item 1. Amend the ordinance as recommended. Including a vintage mural program will prevent unregistered murals from being regulated as signs. Existing murals in the DCA database would be considered registered and the vintage mural program will specify a 6 month amnesty period for other existing murals to be registered. DCA will confirm the murals pre-existing status following procedures established in the Administrative Rules. To implement this change, the two regulations for existing murals (LAAC Section 22.119 B 2 and 3) will be removed.

Item 2. Do not amend the ordinance as recommended. A third category is unnecessary and confusing. Digitally printed images should be categorized as Original Art Installations that require DBS and LAFD approval.

Item 3. Amend the ordinance as recommended. Including references to "works of art" sets up a future City commissioned art easement program that will exempt public murals from sign regulations.

Item 4. Do not amend the ordinance as recommended. Ambiguous terms like "art" are hard to legislate and too likely to give City officials unfettered discretion to pick and choose which murals they like and which they do not. We recommend modifying the ordinance to state that murals must be "one-of-a-kind".

At the November 20, 2012 PLUM hearing, Councilmember Huizar submitted a motion instructing the Planning Department to modify the ordinance as follows:

1. murals created prior to adoption of the Mural Ordinance (Vintage Murals) shall not be considered signs
2. include the phrase "original work of visual art" in the definitions of *Original Art Mural* and *Vintage Art Mural*
3. include reference to "works of art" in the definition of *Public Art Installation*

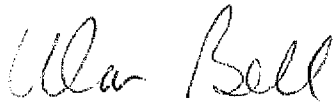
These three issues are addressed in response to items 1, 3, and 4 above.

An outstanding issue from the November 20, 2012 PLUM hearing is the minimum number of units for a residential building to be allowed to display a mural. The original proposed ordinance recommended that no residential buildings with fewer than five units be allowed and that was reduced to two units by the CPC. There was significant discussion at PLUM regarding such a ban of murals on single-family homes.

Should you have any questions about this report, please contact Tom Rothmann at (213) 978-1891.

Sincerely,

MICHAEL J. LOGRANDE
Director



ALAN BELL, AICP
Deputy Director

AB:TR

Attachment

APPENDIX B

A proposed ordinance amending Sections 14.4.2, 14.4.3, 14.4.4, and 14.4.20 of the Los Angeles Municipal Code and amending Sections 5.111.2 & 22.116 of and adding Section 22.119 to the Los Angeles Administrative Code to allow for the creation of new Original Art Murals and the preservation of existing Original Art Murals on private property.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. The following definition is deleted from Section 14.4.2 of the Los Angeles Municipal Code:

~~**Mural Sign.** A sign that is painted on or applied to and made integral with a wall, the written message of which does not exceed three percent of the total area of the sign.~~

Sec. 2. The following definitions are added to Section 14.4.2 of the Los Angeles Municipal Code:

Original Art Mural. A hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message. For definition purposes, a commercial message is any message that advertises a business conducted, services rendered, or goods produced or sold.

Public Art Installation. A facility, amenity, or project that does not contain any commercial message and which is either an "approved public arts project" as defined by Section 19.85.4 of the Los Angeles Administrative Code or approved pursuant to Section 91.107.4.6 of the Los Angeles Municipal Code. For definition purposes, a commercial message is any message that advertises a business conducted, services rendered, or goods produced or sold.

Sec. 3. Subsection E of Section 14.4.3 of the Los Angeles Municipal Code is deleted:

~~**Mural Signs.** The following provisions of this Code, as applicable, shall apply to mural signs: Section 14.4.4A.; 14.4.5; 14.4.6; 14.4.20; 91.6205; and 91.6207.~~

Sec. 4. Subdivision 10 of Subsection B of Section 14.4.4 of the Los Angeles Municipal Code is deleted:

~~10.— Are mural signs, except when mural signs are specifically permitted pursuant to a legally adopted specific plan, supplemental use district or an approved development agreement.~~

Sec. 5. Section 14.4.20 of the Los Angeles Municipal Code is amended to read:

SEC. 14.4.20. MURAL SIGNS. ORIGINAL ART MURALS and PUBLIC ART INSTALLATIONS.

Approval for mural signs shall be obtained from the Cultural Affairs Commission. The placement, height, and overall area of a mural sign shall be as approved by the Cultural Affairs Commission. In making its determination, the Cultural Affairs Commission shall find that the proposed sign does not conflict with the purposes and objectives set forth in Section 14.4.1 of this Code. Original Art Murals registered pursuant to the requirements of Section 22.119 of the Los Angeles Administrative Code are not considered signs and therefore are not subject to the provisions of this Article or any other ordinance that regulates signs. "Murals" that are not registered pursuant to the requirements of Section 22.119 of the Los Angeles Administrative Code shall be considered signs and are subject to the provisions of this Article or any other ordinance that regulates signs and digital displays. Public Art Installations that are registered pursuant to the requirements of Section 19.85.4 of the Los Angeles Administrative Code or the requirements of Section 91.107.4.6 of the Los Angeles Municipal Code are not signs but are subject to Section 14.4.4-E of this Article and any other applicable zoning and land use regulations set forth in the Los Angeles Municipal Code. A building permit from the Department of Building and Safety is required for new hand-tiled or digitally printed Original Art Murals and all Public Art Installations.

Severability. If any part, sentence, phrase, clause, term, or word of this Section 14.4.20 of the Code relating to Original Art Murals is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of this Section 14.4.20 of the Code or any other section of this Code regulating signage, billboards, or Original Art Murals.

Sec. 6. Subsection h of Section 5.111.2 of the Los Angeles Administrative Code is added to read:

(h) Fees charged for the registration of new and existing Original Art Murals, pursuant to Section 22.116(b) of the Los Angeles Administrative Code, shall be placed in the Fund and allocated for mural registration program implementation.

Sec. 7. Section 22.116 of the Los Angeles Administrative Code is amended to read:

SEC. 22.116. Design Approval Fees

(a) SCHEDULE OF FEES FOR APPLICATION FOR ARCHITECTURAL APPROVAL

As required by Section 22.109 of this Code, each application for approval of the design or location of any arch, bridge, structure, or approach belonging to any private individual

or corporation by the Board of Cultural Affairs Commissioners shall be accompanied by the payment of a fee in accordance with the following schedule:

SCHEDULE OF FEES FOR APPLICATION FOR ARCHITECTURAL APPROVAL

TOTAL VALUATION OF PROJECT

| Total Valuation of Project | | Fee |
|----------------------------|--------------|---------|
| From | To | |
| \$0.00 | \$1,500.00 | \$60.00 |
| 1,500.01 | 10,000.00 | 80.00 |
| 10,000.01 | 25,000.00 | 100.00 |
| 25,000.01 | 50,000.00 | 120.00 |
| 50,000.01 | 150,000.00 | 140.00 |
| 150,000.01 | 250,000.00 | 160.00 |
| 250,000.01 | 500,000.00 | 200.00 |
| 500,000.01 | 1,000,000.00 | 300.00 |
| 1,000,000.01 | over | 400.00 |

b) FEE FOR NEW MURAL REGISTRATION

As required by Section 22.119 of this Code, each application for registration with the Department of Cultural Affairs of an Original Art Mural on private property shall be accompanied by the payment of a \$60 fee. Monies collected from each application for mural registration shall be deposited into the Cultural Affairs Department Trust Fund, as established by Section 5.111.2 of the Los Angeles Administrative Code, for mural registration program implementation.

Sec. 8. Section 22.119 of the Los Angeles Administrative Code is added to read:

SEC. 22.119. Original Art Murals on Private Property

Purposes.

A. These regulations relating to murals in the City of Los Angeles further the following purposes: (1) encouraging artistic expression, (2) fostering a sense of pride both in the City as a whole and in particular ethnic or cultural communities which are represented in specific murals, (3) preventing vandalism at mural sites through the

installation of murals that vandals are reluctant to disturb, and (4) preserving existing murals which are a valued part of the history of the City of Los Angeles.

B. The City wishes to encourage the installation of murals and, at the same time, prevent the proliferation of off-site commercial signs. Therefore, the City's mural regulations exclude commercial advertising on murals to prevent the installation of the equivalent of off-site commercial signs. This restriction on commercial advertising is intended to work in tandem with and help preserve the Citywide ban on off-site commercial signs set forth in Section 14.4.4 of the Los Angeles Municipal Code. Both the ban and the exclusion of commercial advertising on murals are supported by the United States Supreme Court's ruling in *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981). In *Metromedia*, the Supreme Court ruled that the only reasonable way that cities can stop the proliferation of off-site commercial signs is to ban them. The Supreme Court also ruled that cities can carve out exemptions to such a ban for noncommercial signs and on-site commercial signs.

C. These mural regulations also promote public safety and welfare by regulating such displays in keeping with the following objectives:

(1) That the design, construction, installation, repair and maintenance of such displays will not interfere with traffic safety or otherwise endanger public safety.

(2) That the regulations will provide reasonable protection to the visual environment by controlling the size, height, spacing and location of such displays.

(3) That the public will enjoy the aesthetic benefits of being able to view such displays in numbers and sizes that are reasonably and appropriately regulated without having to endure visual blight and traffic safety impacts that would be caused by such displays that are not reasonably and appropriately regulated.

(4) That consideration will be given to equalizing the opportunity for messages to be displayed.

(5) That adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area.

(6) That the regulations will conform to judicial decisions, thereby limiting further costly litigation and facilitating enforcement of these regulations.

(7) To provide registration requirements and regulations for new and existing Original Art Murals as defined in Section 14.4.2 of this Code.

Severability. If any part, sentence, phrase, clause, term, or word of this Section 22.119 of the Code relating to Original Art Murals is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of this Section 22.119 of the Code or any other section of this Code regulating signage, billboards, or Original Art Murals.

A. Original Art Mural Registration.

1. Authority. The Department of Cultural Affairs shall have the authority to determine that an application for an Original Art Mural meets all of the applicable registration requirements following procedures established in the Administrative Rules.

2. Administrative Rules. The Department of Cultural Affairs is authorized and directed to adopt Mural Ordinance Administrative Rules implementing this Section. Existing murals cited for non-compliance by the Department of Building and Safety shall be given the option of registering the mural retroactively.

3. Neighborhood Involvement Requirement. The Mural Ordinance Administrative Rules to be adopted by the Department of Cultural Affairs shall include a neighborhood involvement requirement for any applicant of a new Original Art Mural to provide notice of and to hold a community meeting on the mural proposal at which interested members of the public may review and comment upon the proposed mural. No new Original Art Mural shall be registered until the applicant certifies that he or she has completed the Neighborhood Involvement Requirement. This is a procedural requirement only and in no event will Original Art Mural registration be granted or denied based upon the content of the mural.

4. Covenant. The applicant shall record a covenant with the Office of the County Recorder and the Department of Cultural Affairs. The covenant shall be valid as long as the mural exists and shall affirm that the mural complies with the Original Art Mural Regulations specified in Subsection B of this Section.

5. Change of Ownership. Upon a change of ownership of the property to which the mural is affixed, a new owner may deregister the mural with the Department of Cultural Affairs and terminate the covenant.

B. Original Art Mural Regulations. Original Art Murals that meet all of the following requirements will be allowed upon satisfaction of the applicable registration procedures:

1. The new Original Art Mural shall remain in place, without alteration, for a minimum period of two years. "Alterations" includes any change to a permitted mural, including but not limited to any change to the image(s), materials, colors, or size of the permitted mural. "Alteration" does not include naturally occurring changes to the mural caused by exposure to the elements or the passage of time. Minor changes to the permitted mural that result from the maintenance or repair of the mural shall not constitute "alteration." Such minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of vandalism. New Original Art Murals may be removed within the first two years of the date of registration under the following circumstances:

- a. the property on which the mural is located is sold; or
 - b. the structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
 - c. the property undergoes a change of use authorized by the Department of Building and Safety.
2. No part of a new Original Art Mural shall exceed the height of the structure to which it is tiled, painted, or affixed
 3. No part of a new Original Art Mural shall extend more than 6 inches from the plane of the wall upon which it is tiled, painted, or affixed.
 4. No part of a new Original Art Mural shall exceed a height of 100 feet above grade.
 5. No new or existing Original Art Mural may consist of, or contain, electrical or mechanical components, or changing images (moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every 24 hours).
 6. No new Original Art Mural shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors, and vents.
 7. No new Original Art Mural shall be placed on a single family residence.
 8. No new Original Art Mural shall be arranged and illuminated in a manner that will produce a light intensity of greater than three foot candles above ambient lighting, as measured at the property line of the nearest residentially zoned property.
 9. Digitally printed restorative image murals shall receive LAFD and LADBS approval.

Sec. 9. The City Clerk shall certify ...