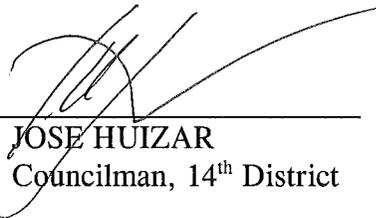


ITEM No. 7 - E

MOTION

I MOVE that the matter of the Continued Consideration of Categorical Exemption, Planning and Land Use Management Committee Report and Ordinance First Consideration relative to the creation of new original art murals and the preservation of existing original art murals on private property, Item No. 7 on today's Special Council Agenda (CF's 11-0923), BE AMENDED to PRESENT AND ADOPT the attached ordinance in lieu of the Ordinance identified as Alternative B attached to the file.

PRESENTED BY:



JOSE HUIZAR
Councilman, 14th District

SECONDED BY:



August 28, 2013_{ak}

ORIGINAL

ORDINANCE NO. _____

An ordinance amending Sections 14.4.2, 14.4.3 and 14.4.20 of the Los Angeles Municipal Code; and amending Sections 5.111.2 and 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 Vintage Original Art Murals on private property.

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

Section 1. The definition of "Mural Sign" is deleted from Section 14.4.2 of the Los Angeles Municipal Code.

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

Original Art Mural. A one-of-a-kind, 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.

Vintage Original Art Mural. An Original Art Mural that existed prior to the operative date of this definition.

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

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

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

SEC. 14.4.20. ORIGINAL ART MURALS, VINTAGE ORIGINAL ART MURALS, AND PUBLIC ART INSTALLATIONS.

An Original Art Mural that conforms to the requirements of Section 22.119 of the Los Angeles Administrative Code is not considered a sign and therefore is not subject to the provisions of this Article or any other ordinance that regulates signs. Any supposed "mural" that does not conform to the requirements of Section 22.119 of the Los Angeles Administrative Code shall be considered a sign and subject to the provisions of this Article or any other ordinance that regulates signs and digital displays. A Public Art Installation 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 is not a sign, but is 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 a new hand-tiled or digitally printed Original Art Mural or any Public Art Installation.

Severability. If any part, sentence, phrase, clause, term or word in Section 14.4.2 or Section 14.4.20 of this 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 Code, the Los Angeles Administrative Code or any other City regulation regulating signage, billboards or Original Art Murals.

Sec. 6. Section 5.111.2 of the Los Angeles Administrative Code is amended to add a new Subsection (h) to read as follows:

(h) Fees charged for the registration of 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 as follows:

Sec. 22.116. 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:

Total Valuation of Project		Fee
From	To	
\$0.00	\$1,500.00	\$60.00
1,500.01	10,000.00	80.00
Sss10,000.01	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 \$60.00 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. A new Section 22.119 of the Los Angeles Administrative Code is added to read as follows:

Sec. 22.119. Original Art Murals on Private Property.

(a) **Purposes.**

(1) These regulations relating to Original Art Murals in the City of Los Angeles further the following purposes: (1) encouraging artistic expression; (2) fostering a sense of pride; (3) preventing vandalism at mural sites through the installation of murals that vandals are reluctant to disturb; and (4) preserving existing murals that are a valued part of the history of the City of Los Angeles.

(2) 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 an off-site commercial sign on a mural. 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.

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

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

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

(iii) 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.

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

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

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

(vii) To provide registration requirements and regulations for Original Art Murals as defined in Section 14.4.2 of the Los Angeles Municipal Code.

(b) **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 or Vintage Original Art Mural meets all of the applicable registration requirements as established in the Mural Ordinance Administrative Rules.

(2) **Administrative Rules.** The Department of Cultural Affairs is authorized and directed to adopt Mural Ordinance Administrative Rules implementing this section.

(3) **Neighborhood Involvement Requirement.** The Mural Ordinance Administrative Rules to be adopted by the Department of Cultural Affairs shall include a neighborhood involvement requirement. Specifically, the rules shall include a requirement that an applicant for mural approval send notice of that application to the Neighborhood Council which has jurisdiction over the area of the City in which the proposed mural will be installed at least 45 days prior to the Department registering the mural. No mural shall be registered until the applicant certifies that he or she has completed this neighborhood involvement requirement. This is a procedural requirement only, and the General Manager shall at all times retain sole authority to approve or deny an application for a mural based on the criteria in Section 22.119 of the Los Angeles Administrative Code and any Mural Ordinance Administrative Rules promulgated by the Department of Cultural Affairs. Further, in no event will registration of a mural be granted or denied based upon the content of the mural.

(4) **Covenant.** In connection with the installation of a new Original Art Mural, the applicant shall be required to record a covenant with the Office of the County Recorder and the Department of Cultural Affairs. The covenant shall require that the mural comply at all times with all provisions of the Original Art Mural Regulations specified in Subsection (b) of this Section 22.119. In addition, the covenant shall remain in force for as long as the mural exists.

(5) **Change of Ownership.** Upon a change of ownership of the property to which an Original Art Mural is affixed, a new owner may, at the owner's election and without the need for permission from the Department of Cultural Affairs, de-register the mural with that department and terminate the covenant.

(c) **Grandfathering of Vintage Original Art Murals.** Any Vintage Original Art Mural installed prior to the effective date of this section, shall have legal nonconforming status and, notwithstanding any provision of this Section 22.119 to the contrary, not require registration under this Section 22.119. But a Vintage Original Art Mural which has not gained legal nonconforming status through law other than this Section 22.119 cannot qualify for legal nonconforming status under this Section 22.119 if it consists or contains any of the following: 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).

(d) **Original Art Mural Regulations.** An Original Art Mural that meets all of the following requirements will be allowed upon satisfaction of the applicable registration procedures:

(1) The mural shall remain in place, without alteration, for a minimum period of two-years. "Alterations" include 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 an "alteration." Such minor changes may include slight 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. A mural may be removed within the first two years of the date of registration under the following circumstances:

- (i) the property on which the mural is located is sold; or
- (ii) the structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
- (iii) the property undergoes a change of use authorized by the Department of Building and Safety.
- (iv) the owner of a mural may request permission from the Department of Cultural Affairs to remove a mural prior to the expiration of the two year period, which the Department may grant upon making a finding that the continued maintenance of the mural is not feasible and that the early removal of the mural is not in furtherance of off-site commercial advertising.

(2) No part of a mural shall exceed the height of the structure to which it is tiled, painted or affixed.

(3) No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted or affixed.

(4) No part of a mural shall exceed a height of 100 feet above grade.

(5) No 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 mural shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors, and vents.

(7) No mural shall be placed on a lot that is improved with only one single-family residential structure and accessory structures.

(8) No 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 image murals shall receive approval of both the Los Angeles Fire Department and the Department of Building and Safety.

(e) **Severability.** If any part, sentence, phrase, clause, term, or word of this Section 22.119 is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such invalidity or unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of this Administrative Code, the Los Angeles Municipal Code, or any other City regulation regulating signage, billboards, or Original Art Murals.

Sec. 9. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, by a vote of not less than two-thirds of all of its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

Pursuant to Charter Section 559, I **disapprove** this ordinance on behalf of the City Planning Commission and recommend that it not be adopted

August 19, 2013

See attached report.

By Kenneth T. Fong
KENNETH T. FONG
Deputy City Attorney

Ala Bell for
Michael LoGrande
Director of Planning

Date August 19, 2013

File No(s). CF Nos. 08-0515, 08-0530, 08-1233 and 11-0923