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CALIFORNIA



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OLGA GARAY-ENGLISH
GENERAL MANAGER

July 29, 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 11-9023

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

The proposed ordinance amending Los Angeles Municipal Code (LAMC) Sections 14.4.2, 14.4.3, 14.4.4 and 14.4.20, and amending Los Angeles Administrative Code (LAAC) Sections 5.111.2 and 22.116 and adding Section 22.119 to the LAAC to allow for the creation of new original art murals and the preservation of existing original art murals on private property, authorizes and directs the Department of Cultural Affairs Department to adopt Mural Ordinance Administrative Rules that sets forth the framework for the Departments' review of applications for registration of Original Art Murals implementing Section 22.119.

At a regular meeting held on January 15, 2013 the Planning and Land Use Management Committee took the following actions:

1. Instructed the Department of Cultural Affairs (DCA) to:
 - Include/add a reference in the administrative rules and the registration application that VARA and CAPA (federal and state regulations) are to be upheld and nothing in the ordinance meant to remove compliance with them.
 - Provide notice to the entities with existing exterior murals on private property and to automatically process registration certificates to facilitate the registration in the DCA database.
2. Directed the DCA, in conjunction with the Department of Building and Safety (DBS) and the Department of City Planning (DCP), to notify the artist community, property owners with murals, to the full extent possible, including through the websites of DCA, DBS and DCP, newspaper, artist networks relative to the Vintage Mural Permit/Amnesty Program.



3. Instructed the DCA and the DBS, with the assistance of the DCP, to inform the Department of Public Works, Office of Community Beautification and other vandalism abatement agencies of the adopted ordinance and VARA and CAPA safeguard against mural removals.

The Department has prepared and now transmits for your consideration the enclosed Administrative Rules. The Department worked with the DCP, DBS and Office of the City Attorney to prepare the administrative rules to ensure they are consistent with Section 22.119, do not cause the City's regulatory system for murals to violate the First Amendment and contain the key provisions stated in the ordinance.

Administrative Rules

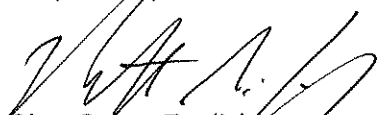
The administrative rules contain the principal parameters stated in Section 22.119 (d) Original Art Mural Regulations, and they can be used for Version A or B of the mural ordinance, whichever version is passed by City Council. The original Neighborhood Involvement requirement section in the administrative rules states the applicant must send a notice to the City Council District, Neighborhood Council and Business Improvement District, "not less than 14 calendar days prior to the meeting date."

This Neighborhood Involvement process has been significantly modified by the City Attorney to require that DCA send notice of an application for registration of a mural 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. If approved by the PLUM Committee, the Neighborhood Involvement process in the Administrative Rules will be revised to be consistent with this modification.

Moreover, the administrative rules includes a section called, "Mural Removal and 90-Day Advance Notice to Artists", which provides a reference to VARA and CAPA (federal and state regulations) as instructed by PLUM, and is intended only to give notice to the applicant of the federal and state artist protection laws. Last, the administrative rules also include registration provisions for Vintage Original Art Murals, should the Council decide to mandate a registration process for Vintage murals.

We believe great care has been taken to draft the Administrative Rules in accordance with all the key concerns and provisions of the mural ordinance and any future modifications to the ordinance can be addressed through the administrative rules. We strongly urge the passage of the mural ordinance.

Respectfully Submitted,



Olga Garay-English FOR ODE
General Manager

**DEPARTMENT OF CULTURAL AFFAIRS
ORIGINAL ART MURAL ORDINANCE
ADMINISTRATIVE RULES**

AUTHORITY

Section 22.119 of the Los Angeles Administrative Code ("LAAC") authorizes and directs the Department of Cultural Affairs ("Department") to adopt Mural Ordinance Administrative Rules setting forth the substantive and procedural requirements for Original Art Mural ("mural") registration for new and Vintage Original Art murals.

ORIGINAL ART MURAL REGISTRATION OVERVIEW

No person, firm, or corporation may commence a mural installation on a site without first registering the mural as an Original Art Mural with the Department. New murals not registered as an Original Art Mural as provided below, are considered signs and regulated by Article 4.4 of the Los Angeles Municipal Code.

Applications for Original Art Mural registration will be reviewed for compliance with the requirements of Municipal Code Section 14.4.20, Administrative Code Section 22.119, and these Administrative Rules. The mural application will be approved and the registration will be complete once the reviewer has ensured that all provisions have been met. The review is a non-discretionary administrative review. Decisions on the application are made by the Department and are final. Exceptions to the requirements of these rules are prohibited. Where the Department finds that a proposed mural does not comply with these Administrative Rules, it may deny the application.

Applications for registration must be made in writing on forms furnished by the Department. The applicant may not commence with a new mural installation before the Department has registered the Original Art Mural. A separate application is required for each mural on a site.

REQUIREMENTS AND REGULATIONS

NEIGHBORHOOD INVOLVEMENT FOR NEW ORIGINAL ART MURALS

The purpose of Original Art Murals include: public access to original works of art; community participation in the creation of original works of art; and community building through the presence of and identification with original works of art. In furtherance of these purposes, and pursuant to LAAC Section 22.119 B.3, the Neighborhood Involvement process provides a setting for a mural applicant and neighborhood residents to review a proposed mural in an informal manner, to enable community input into the process of the creation of the mural, and to allow neighborhood residents to share any concerns regarding the proposed mural with the mural applicant prior to commencing installation of the mural. The discussion at the meeting is advisory only and is not binding on the applicant.

1. Open Meeting. Prior to the fabrication and installation of the mural, the applicant shall schedule a meeting to discuss the mural proposal with interested persons at a location near where the mural is proposed. The meeting shall not be held in locations where any person attending the meetings would face discrimination on the basis of race, religion, color, sexual orientation, gender identity, age, disability, legal citizenship, national origin, income, or political affiliation. The meeting shall be held in a location accessible to people with disabilities, and the

meeting shall be held during evening or weekend hours, but in no case between the hours of 10:00 pm and 7:00 am. The mural registration application will not be processed until the open meeting has been held.

2. Mailed notice of the meeting. The applicant shall send a letter to the City Council District office, applicable Neighborhood Council, and applicable Business Improvement District in which the proposed mural is to be located announcing the meeting not less than 14 calendar days prior to the meeting date. The letter must describe the mural proposal and list the meeting location, date, and time. The letter must also include a copy of the site plan and building elevation or site photograph with a rendering showing the location and size of the proposed mural. The mural registration application will not be processed until the applicant provides a copy of the letter with a Certificate of Mailing provided by the Post Office for the meeting announcement.

3. Posted notice of the meeting. The applicant must post a notice of the meeting no less than 14 calendar days prior to the meeting date at the site of the proposed mural in a visible location on the street frontage of the proposed mural site but not blocking the public right-of-way. The posted notice shall contain:

- A. Applicant's name;
- B. Applicant's telephone number;
- C. Date, time and place of the meeting; and
- D. Building elevation or photo of the building facade showing the mural design.

4. Additional correspondence. The above notification process is mandatory. However, communication is not limited to only these channels. The applicant may elect to communicate further with the neighborhood and interested parties through a communication medium that is most convenient for all parties.

ORIGINAL ART MURALS TIME, PLACE, AND MANNER REGULATIONS

1. Duration for new murals. The new mural shall remain in place without alteration for a period of two years, except in limited circumstances articulated in Administrative Code 22.119. The applicant shall certify in the registration application that the applicant agrees to maintain the mural in place for a period of at least two years without alteration.

2. Parameters. The following parameters are required for new Original Art Murals as indicated below per Administrative Code 22.119. The mural application, drawings, and descriptive narrative shall confirm the proposed mural meets the following standards:

- 1. New Original Art Murals shall remain in place, without alterations, for a minimum period of two years.
- 2. No part of the new mural shall exceed the height of the structure to which it is tiled, painted, or affixed.
- 3. No part of the new or Vintage 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 the new mural shall exceed a height of 100 feet above grade.
- 5. No new or Vintage Original Art Mural shall consist of or contain electrical or mechanical components, or changing images.
- 6. No part of the new mural shall be placed over the exterior surface of any opening of a building, including its windows, doors, and vents.

7. No part of the new 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.
8. Digitally printed image murals shall receive approval of both the Los Angeles Fire Department and the Department of Building and Safety.

OTHER CITY OF LOS ANGELES DEPARTMENTS

The Office of Building Safety maintains specific requirements regarding the use of certain materials, and may have fabrication requirements for any murals intended to project outward from a wall, or for murals created on a substrate material. The Original Art Mural Parameters do not exempt the project from these requirements and may require final approval by Building and Safety.

Similarly, the mural may be subject to additional requirements if it is located within a Historic Preservation Overlay Zone or a Special Design Overlay Zone and may require special approval from the Department of City Planning.

If during mural construction, fabrication and installation the activity protrudes into the public right-of-way, the project may be subject to approval by the Department of Public Works pursuant to section 91.3201.3 of the Municipal Code.

Detailed questions regarding these requirements can be directed to the appropriate department office, accessed through the city 3-1-1 call center (dial 311).

HIERARCHY OF REGULATIONS

- A. Murals proposed on properties in legally adopted specific plans, supplemental use districts, and overlay districts shall meet any specific design requirements for Original Art Murals set forth in the ordinance(s) establishing the specific plan, supplemental use district, or overlay district.
- B. Murals proposed on properties in Historic Preservation Overlay Zones may be subject to review by the Department of City Planning's Office of Historic Resources.
- C. Murals proposed on properties listed in the National Register or California Register or properties determined eligible for listing in the National Register or California Register are subject to review by the Department of City Planning's Office of Historic Resources.

VIOLATIONS AND ENFORCEMENT

It is unlawful to violate any provision of LAAC Section 22.119, these Administrative Rules adopted by the Department of Cultural Affairs, or any representations made or conditions or criteria agreed to in an Original Art Mural or Vintage Original Art Mural registration application.

This applies to any applicant for an Original Art Mural or Vintage Original Art Mural registration, to the proprietor of a use or development on which a permitted Original Art Mural or Vintage Original Art Mural is located, or to the owner of the land on which the permitted Original Art Mural or Vintage Original Art Mural is located. For the ease of reference in this Article, all of these persons are referred to by the term "operator."

PROCESS AND SUBMITTAL ITEMS

NEW ORIGINAL ART MURALS

One copy of each of the following are required to initiate the application process and begin initial review by the Department of Cultural Affairs:

1. Completed application for Original Art Mural Registration form, including all necessary attachments and signatures. The registration form will require the attachment of a "Parcel Profile Report" from *zimas.lacity.org*. Instructions on how to locate this report will be provided on the form. The Department of Cultural Affairs may refer applicants to the Department of City Planning for appropriate clearances for planning and zoning compliance or to the Department of Building and Safety for safety compliance for murals created on a substrate other than paint or tile applied directly to the wall.
2. Initial photos that show both the façade to which the mural will be painted or affixed, as well as well as the surrounding site. The photos must include captions, or a legend to provide orientation to the photos. The photo showing the façade in which the mural will be placed must indicate the mural area and the height above grade for the highest point of the mural.
3. A sketch, drawing or rendering of the proposed mural showing the height, width, and depth of the project. This sketch should demonstrate the design and style of the proposed project to the greatest extent possible.
4. Written description of the mural proposal and type of mural (painted, mosaic, etc.) and details showing how the mural will be applied to the wall surface.
5. Documentation of the completion of the above Neighborhood Involvement, including:
 - A. Copy of each mailed notice with a Certificate of Mailing to the applicable City Council District Office, Neighborhood Council, and Business Improvement District offices.
 - B. Copy of posted notice with an indication of the posted locations and date of posting.
 - C. Copy of sign-in sheet for meeting attendees.
 - D. Copy of any other meeting announcement correspondence, email notices, etc. provided to the community (optional)
6. Application fee of \$60.00.

After the Department of Cultural Affairs reviews the above to ensure the mural conforms to the Original Art Murals Parameters, the department will issue a Notice to Proceed. The applicant may then commence with the mural fabrication and installation.

The following are to be submitted after the fabrication and installation of the Original Art Mural. *Registration is not complete until submission materials are received and approved by the Department of Cultural Affairs.*

1. Confirmation of Covenant registration, consisting of a Los Angeles County Recorder certified copy of the registered Covenant.
2. Final photo of the Original Art Mural in jpg format confirming that the completed artwork conforms to the Original Art Mural requirements, and is as presented in the application.

After the submission, review, and approval of the above items, the Department will issue a confirmation of the successful completion of the Original Art Mural registration.

The Original Art Mural Application is a binding contract between the applicant and the City. An application will not be accepted until it is complete, meaning that all elements of the application have been completed in full with appropriate signatures in all locations and all applicable fees have been paid. Applications will be registered after all applicable requirements have been met.

VINTAGE ORIGINAL ART MURALS REGISTRATION OVERVIEW

Pursuant to LAAC Section 22.119, murals created prior to the date of adoption of Ordinance No. _____ not registered with the Department of Cultural Affairs are not considered signs and therefore are not subject to the provisions of Article 4.4 of the Los Angeles Municipal Code, or any other ordinance that regulates signs. Vintage Original Art Mural registration is available from the Department of Cultural Affairs following the procedures below.

A separate application is required for each mural on a site. Application for registration must be made in writing on forms furnished by the Department. The application must contain the general information specified below.

One copy of each of the following are required to initiate the application process and begin initial review by the Department of Cultural Affairs:

1. Completed "Vintage Original Art Mural" registration form, including all necessary signatures.
2. Photographs of Vintage mural, identifying:
 - A. the façade on which the mural is located from multiple angles;
 - B. the mural dimensions;
 - C. the height of the mural above grade; and
 - D. captions or a legend showing the directions from which the photographs were taken.
3. Historic documentation of age, or date of completion of the mural. Such documentation may include any of the following:
 - A. A newspaper or media clippings documenting the mural's creation (original or photocopy).
 - B. The mural's official documentation within an anthology, documentary or other publication.
 - C. Records or receipts of any contractual agreements between the artists and property owners.
 - D. Record with date of registration if the mural received an official copy-right pursuant to Visual Artist Rights Act.
 - E. A confirmation from a City or Public Agency that they have a record of the mural prior to the adoption of the Original Art Murals ordinance.
 - F. Other documentation acknowledged by the Department of Cultural Affairs.
4. Written description of the type of mural (painted, mosaic, etc.) and details showing how the mural is applied or affixed to the wall surface.
5. The name(s) and contact information for all artists involved if available.

The Vintage Original Art Mural application is a binding contract between the applicant and the City. An application will not be accepted until it is complete, meaning that all elements of the

application have been completed in full with appropriate signatures in all locations. Applications will be registered after all applicable requirements have been met.

MAINTENANCE

The applicant is responsible for ensuring that a mural is maintained in good condition and is repaired in the case of vandalism or accidental destruction. The party providing maintenance to the mural is strongly recommended to apply an anti-graffiti coating to the mural, and is encouraged to provide other measures that will discourage vandalism or facilitate easier and less costly repair of the mural in the future.

MURAL REMOVAL AND 90-DAY ADVANCE NOTICE TO ARTISTS

PROCESS

A. Removal within two years:

Registered Original Art Murals may be removed within the first two years of registration under limited circumstances per Administrative Code 22.119.

The applicant must notify the Department of Cultural Affairs with a letter stating their Intent to remove the mural within the first two years including an explanation of the circumstances necessitating the removal. The Department of Cultural Affairs will confirm the removal conforms to the Administrative Code requirements and approve or deny the request accordingly.

Removal of the mural shall be in accordance with any applicable federal and state laws and regulations pertaining to intellectual property right protections of copyrighted works of visual art. All Applicable 90-day advance notice to the artist requirements pursuant to the California Arts Preservation Act, section 987 of the California Civil Code; and the Visual Artist Rights Act, section 106a of the United States Code, are the responsibility of the property owner, not the city.

B. Removal after two years:

Registered murals may be removed after the first two years of the date of completion. No letter of intent is necessary before removal of the mural. Removal of registered Original Art Murals and Vintage Original Art Murals shall be in accordance with any applicable federal and state laws and regulations pertaining to intellectual property rights protections of copyrighted works of visual art. All Applicable 90-day advance notice to the artist requirements pursuant to the California Arts Preservation Act, section 987 of the California Civil Code; and the Visual Artist Rights Act, section 106a of the United States Code, are the responsibility of the property owner, not the city.

C. Removal of materials:

Any associated materials that were used to affix or secure the mural to the wall must be removed at the time of the removal of the mural, including, but not limited to, mounting hardware or brackets, caulk or grout, and adhesives or glues.