



City Council Staff Report

DATE: May 21, 2014 CONSENT CALENDAR

SUBJECT: ADOPT ORDINANCE NO. 1853, PROPOSED AMENDMENT TO THE PALM SPRINGS MUNICIPAL CODE SECTION 93.20.00 AND 93.20.03 AND ADD CHAPTER 5.81 REGARDING THE REGULATION OF ORIGINAL ART MURALS AND APPROVING A CEQA CATEGORICAL EXEMPTION (CASE 5.1335 ZTA):

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider the adoption of Ordinance No. 1853, regarding original art murals.

RECOMMENDATION:

Waive the reading of the ordinance text and adopt by title only, Ordinance No. 1853, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 93.20.00 AND 93.20.03 OF, AND ADDING CHAPTER 5.81 TO, THE PALM SPRINGS MUNICIPAL CODE REGARDING THE REGULATION OF ORIGINAL ART MURALS."

STAFF ANALYSIS:

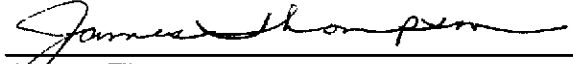
2.D. REINTRODUCTION OF ORDINANCE NO. 1853, PROPOSED AMENDMENT TO THE PALM SPRINGS MUNICIPAL CODE SECTION 93.20.00 AND 93.20.03 AND ADD CHAPTER 5.81 REGARDING THE REGULATION OF ORIGINAL ART MURALS AND APPROVING A CEQA CATEGORICAL EXEMPTION (CASE 5.1335 ZTA):

ACTION: Waive the reading of the ordinance text in its entirety and re-introduce by title only, Ordinance No. 1853, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 93.20.00 AND 93.20.03 OF, AND ADDING CHAPTER 5.81 TO, THE PALM SPRINGS MUNICIPAL CODE REGARDING THE REGULATION OF ORIGINAL ART MURALS."

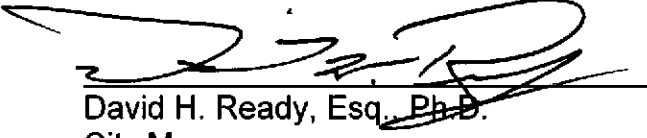
Motion Councilmember Mills, seconded by Mayor Pougnet and carried 3-2 on a roll call vote.

AYES: Councilmember Mills, Mayor Pro Tem Hutcheson, and Mayor Pougnet.

NOES: Councilmember Foat and Councilmember Lewin.



James Thompson
City Clerk



David H. Ready, Esq., Ph.D.
City Manager

/kdh

Attachment: Ordinance No. 1853

ORDINANCE NO. 1853

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA,
AMENDING SECTIONS 93.20.00 AND 93.20.03 OF, AND ADDING
CHAPTER 5.81 TO, THE PALM SPRINGS MUNICIPAL CODE
REGARDING THE REGULATION OF ORIGINAL ART MURALS.**

City Attorney Summary

Currently the Palm Springs Municipal Code does not differentiate murals from signage. This Ordinance establishes and definition for murals and establishes a process for approving original art murals on private property including their maintenance and lifespan.

The City Council of the City of Palm Springs finds:

A. Pursuant to CEQA, the City Council determines the proposed Zone Text Amendment (Case 5.1335 ZTA) is Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act, because the proposed Zone Text Amendment proposes only insignificant changes to the title and provides for new definitions of signs and murals.

B. The Zone Text Amendment is consistent with the intent of the Zoning Code, because, according to Section 91.00.00, the Zoning Code is adopted "for the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources . . .;" and the amendment proposes to add a definition for murals.

C. The Zone Text Amendment is consistent with the intent of the General Plan, because, the General Plan goals include:

1. Convey a positive image through the use of attractive and well-designed public and private informational signage.
2. Create active, vibrant and attractive gathering places.
3. Encourage a varied collection of public art murals that add to the charm and character of the City.

The City Council of the City of Palm Springs ordains:

SECTION 1. Paragraph 19 of Section 93.20.03 of the Palm Springs Municipal Code is amended by adding a definition of "mural" as follows:

19. "Mural" means a painting or artwork temporarily or permanently affixed to a building wall, freestanding wall, or fence, distinguished from signage in that it

does not advertise a business, commercial endeavor, or product sold or offered on the site or off-site.

SECTION 2. Existing Paragraphs 19 through 30 of Section 93.20.00 of the Palm Springs Municipal Code are renumbered as Paragraphs 20 through 31.

SECTION 3. Paragraph 27.b of Section 93.20.03 of the Palm Springs Municipal Code is added to read:

b. This definition shall not include murals as reviewed and approved by the City Council pursuant to Chapter 5.81 of this Code.

SECTION 4. Chapter 5.81 is added to the Palm Springs Municipal Code to read:

Chapter 5.81

ART MURALS ON PRIVATE PROPERTY

- 5.81.010 Purpose.**
- 5.81.020 Permit Required.**
- 5.81.030 Procedure.**
- 5.81.040 Requirements.**
- 5.81.050 Regulations.**

5.81.010 Purpose.

(a) This Chapter is intended to enact a process and procedures for the installation of original art murals on private property and further the public interest by: (i) encouraging artistic expression; (ii) fostering a sense of pride; (iii) preventing vandalism at mural sites through the installation of murals that vandals are reluctant to disturb; and (iv) preserving existing murals that are a valued part of the history of the City.

(b) The City may consider the installation of murals and, , at the same time, wishes to prevent the proliferation of off-site commercial signs. Therefore, the City's mural regulations do not allow commercial advertising.

(c) Mural regulations also promote public safety and welfare by ensuring the following objectives are achieved:

1. The design, construction, installation, repair, and maintenance of such displays will not interfere with traffic safety or otherwise endanger public safety.
2. Regulation will provide reasonable protection to the visual environment by controlling the size, height, spacing, and locations of such displays.

3. The public will enjoy the aesthetic benefits of being able to view such displays in numbers and sizes that are reasonably and appropriately regulated.
4. To impose permit requirements and regulations for murals.

5.81.020 Permit required.

(a) It is unlawful for any person, firm, or corporation to authorize, erect, construct, maintain, move, alter, change, place, suspend, or attach any mural within the City without first obtaining the necessary permits.

(b) An application for a mural shall be submitted to the Planning Department to be assessed by City staff for compliance with this Code. The application shall include a maintenance plan to be submitted for review and approval.

(c) An application for a mural shall be submitted with the Mural Application Permit Fee, as established by resolution of the City Council.

5.81.030 Procedure.

(a) Prior to any action by the Planning Commission, the Applicant shall send notice of such application to all property owners within one-half mile of the location of the mural at least 30-days prior to the Planning Commission consideration of the mural. No mural shall be permitted until the applicant has certified that notification has been completed.

(b) The Planning Department shall submit the application to the Planning Commission for review as to the compatibility of the proposed mural in the location and on the specific structure the mural is proposed, and all other applicable requirements of the Zoning Code.

(c) The Planning Commission shall refer the application to the Architectural Advisory Committee for comment, and may submit the application to the Historic Site Preservation Board as necessary.

(d) The Planning Department shall submit the application to the Public Arts Commission who shall provide input and comment on the appropriateness of the proposed art.

(e) The Planning Department shall submit the application to the City Council for final approval.

5.81.040 Requirements.

(a) The owner of the property on which a mural is installed, shall execute and deliver to the Office of the City Clerk a covenant for recordation in a form approved by the City Attorney. The covenant shall provide that the mural will be installed and maintained at

all times in full compliance with this Chapter. In addition, the covenant shall remain in force for as long as the mural exists.

(b) Upon a change of ownership of the property to which a Mural is installed, the new owner may, at the owner's election and without the need for permission from the City, terminate the covenant and remove the mural, subject to the provisions of this Chapter.

5.81.050 Regulations.

An approved mural shall comply with all of the provisions of this Section:

A. The mural shall remain in place, without alteration, for a minimum period of two years. An "alteration" 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 or that result from the maintenance or repair of the mural. 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.

B. A mural may be removed within the first two years of the date of registration under the following circumstances.

1. The property on which the mural is located is sold; or
2. The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
3. The property undergoes a change of use authorized by the Department of Building and Safety.
4. The owner of a mural may request permission from the City Manager to remove a mural prior to the expiration of the two year period, which the City Manager 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 a furtherance of off-site commercial advertising.

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

D. 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.

E. 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).

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

G. No mural shall be arranged and illuminated in a manner that will produce light intensity of greater than three foot candles above ambient lighting, as measured at the property line of the nearest residentially zoned property.

H. Digitally printed image murals shall receive approval of both the Fire Department and Department of Building and Safety.

I. A mural shall not be created without the final authorization of the Palm Springs City Council.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 21ST DAY OF MAY, 2014.

STEPHEN P. POUINET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and introduced by the City Council at a regular meeting held May 7, 2014, and adopted at a regular meeting of the City Council held on the May 21, 2014, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California