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Title 5 BUSINESS REGULATIONS						

Chapter 5.81 ART MURALS ON PRIVATE PROPERTY

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; (iv) preserving existing murals that are a valued part of the history of the City; and (v) visually activating dormant and/or vacant properties and construction sites.
- (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. (Ord. 1948 § 1, 2018; Ord. 1853 § 4, 2014)

5.81.020 Definition.

Pursuant to Section 93.20.03 of this Code, a "mural" means a painting or artwork temporarily or permanently affixed to a building wall, freestanding wall, or fence, which can be seen from the public right-of-way, and is distinguished from signage in that it does not advertise a business, commercial endeavor, or product sold or offered on the site or off-site. (Ord. 1948 § 1, 2018)

5.81.030 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 be submitted for review and approval.
- (c) An application for a mural shall be submitted with the notification fees and Mural Application Permit Fee, as established by resolution of the City Council.
- (d) Applications for short-term, "event specific" murals may also be approved, with a time duration as established by the City Council. All fees, permits, procedures, and requirements as otherwise specified in this Chapter shall apply to short-term event specific murals. (Ord. 1948 § 1, 2018; Ord. 1853 § 4, 2014)

5.81.040 Procedure.

- (a) Prior to any action by the Public Arts Commission, the Planning Department shall send notice of such application to all property owners within 500 feet of the location of the mural at least 10 days prior to the Public Arts Commission consideration of the mural. No mural shall be permitted until the Planning Department has certified that notification has been completed.
- (b) The Planning Department shall submit the application to the Public Arts Commission who shall review the proposal, solicit public comment, and make a recommendation to the City Council based on the artistic merit and execution of the proposed art.
- (c) The Planning Department shall submit the application to the City Council for authorization.
- (d) For a proposed mural on any Class 1 historic site, the application shall be referred to the Historic Site Preservation Board for recommendation prior to authorization by the City Council. (Ord. 1948 § 1, 2018; Ord. 1853 § 4, 2014)

5.81.050 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. (Ord. 1948 § 1, 2018; Ord. 1853 § 4, 2014)

5.81.060 Regulations.

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

- (a) Any alteration to an approved mural shall require approval in accordance with the procedures listed in Section [5.81.040](#). 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) No part of a mural shall exceed the height of the structure to which it is tiled, painted, or affixed.
- (c) 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.
- (d) Unless otherwise authorized by City Council upon making findings of no resulting impacts, 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).
- (e) No mural shall be placed on a lot that is improved with only one single-family residential structure and accessory structures.
- (f) 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.
- (g) Digitally printed image murals shall receive approval of both the Fire Department and Department of Building and Safety.
- (h) A mural shall not be created without the final authorization of the Palm Springs City Council. (Ord. 1948 § 1, 2018; Ord. 1853 § 4, 2014)

5.81.070 Violations.

- (a) Nuisance. Any mural created and installed without City approval pursuant to this Chapter, or any mural that is not maintained in accordance with the approved maintenance plan, is and shall be deemed "graffiti" as that term is defined by Section [11.72.172](#) of this Code, and is a public nuisance pursuant to Section [11.72.174](#), subject to abatement pursuant to Chapter [11.72](#) and the specific penalties and remedies enumerated herein, including without limitation collection by lien or special assessment.
- (b) Administrative Penalty. Any person who creates, allows to be created, causes or otherwise maintains any mural identified as a public nuisance pursuant to this Chapter is guilty of a violation of this Subsection, and is subject to an issuance of administrative citation as follows. Prior to the issuance of a citation hereunder, the City shall issue notice to any person that violates this Subsection (b), giving that person thirty (30) days from the issuance of the notice to remove the mural created and installed without City approval. If the mural is timely removed in compliance with the City notice issued, no citation shall issue. If the mural is not timely removed, an administrative citation shall issue with a fine in the amount of one thousand dollars (\$1,000.00). In the event the mural is not removed within forty five (45) days of the issuance of the City's notice, a second administrative citation shall issue with a fine in the amount of two thousand five hundred dollars (\$2,500.00). In the event the mural is not removed within sixty (60) days of the issuance of the City's notice, a third administrative citation shall issue with a

fine in the amount of five thousand dollars (\$5,000.00). As an alternative to removing the mural, a person subject to administrative penalty and citation may apply to the City for approval of the mural pursuant to Section [5.81.040](#). No mural that has been subject to administrative penalty and citation, however, shall be approved unless the applicable fine has been paid in full.

(c) Civil Actions. Any person who creates, allows to be created, causes or otherwise maintains any mural identified as a public nuisance pursuant to this Chapter shall be subject to a civil action undertaken pursuant to Section [1.01.240](#), including reimbursement of city costs and an award of attorneys' fees.

(d) Cumulative Remedies. In addition to, and not in lieu of, any other remedy allowed by law, all remedies prescribed under this Section [5.81.070](#) are cumulative, and the election of one or more remedies does not bar the City from pursuit of any other remedy, criminal, administrative or civil, which may be pursued by the City to enforce this Chapter and/or address any violation hereof. (Ord. 1948 § 1, 2018)

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