



# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: May 16, 2017

Agenda Item 6M

Approvals: \_\_\_\_\_

City Manager [Signature]

Dept. Head [Signature]

Attorney \_\_\_\_\_

Finance \_\_\_\_\_

**Department:** Community Development Department, Planning Division  
**Prepared By:** Amber Gregg, City Planner and Scott Smith, City Attorney

**Subject:** INITIATION OF AN AMENDMENT TO THE ZONING ORDINANCE THAT ADDRESSES REGULATION OF MURALS ON PRIVATE PROPERTY.

**Fiscal Impact:** No fiscal impact.

**Summary:** This initiation of an amendment to the Zoning Ordinance authorizes the Planning Commission to consider new means and standards specific to the review and regulation of murals.

**Background:** The City processes applications for murals on private property as applications for a Minor Architectural Permit ("MAP"). (San Clemente Policy No. 304-1-1 (2009) § 6.3; SCMC § 17.16.100.) The City has recently seen an increase in murals painted without MAPs. Murals are distinguished from signs, which are regulated under the City's sign regulations. (SCMC ch. 17.84.)

**Discussion:** Under the Zoning Ordinance, a MAP is required for these projects: smaller additions (up to 2,000 square feet) to nonresidential buildings, new and expanded accessory structures to nonresidential buildings, minor exterior alterations to nonresidential buildings, and certain additions to nonconforming structures. (SCMC § 17.16.100, table 17.16.100(A).) Under City policy, a MAP is also required for installation of a mural on private property. (San Clemente Policy No. 304-1-1 (2009) § 6.3.) The criteria for approval of a MAP is broad, incorporating various provisions of the code relating to architectural compatibility, aesthetics, and other potentially subjective criteria. Although these standards can appropriately apply to architecture and design in general, they can present Constitutional pitfalls when it comes to expressive speech like murals.

This initiation of an amendment to the Zoning Ordinance authorizes the Planning Commission to consider means and standards for mural review and regulation that are specific to murals, recognize the First Amendment protections afforded such projects, and protects the general health, safety, and welfare. It also provides the Commission the opportunity to make recommendations to Council about (1) whether murals are appropriate at all in all parts of the City, (2) the process and criteria for permitting murals, (3) the appropriate duration of MAPs for murals, (4) the appropriate time for amortization of non-conforming murals and the restoration of buildings on which they are painted, and (5) penalties for painting murals without permits.

**Recommended**

**Action:** STAFF RECOMMENDS THAT the City Council initiate an amendment to the Zoning Ordinance that addresses regulation of murals on private property.

**Attachments:** No attachments.

**Notification:** Public notification is not required for initiation of an amendment to the Zoning Ordinance. The formal public hearing process with notification will occur when a proposed Zoning Amendment is considered by the Planning Commission and the City Council.