

ORDINANCE NO. 1660

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING CEQA FINDINGS AND FOR A CITY-INITIATED AMENDMENT (ZA 17-203) TO THE MUNICIPAL CODE CHAPTER 17.84 SIGN REGULATIONS TO INCLUDE A MURAL PERMIT AND CHAPTER 17.88.030 DEFINITIONS TO AMEND THE DEFINITIONS OF MURALS

WHEREAS, on May 16, 2017, the City Council initiated a Zoning Amendment for regulation of murals on private property in response to new murals that were instituted on commercial buildings without the appropriate permits;

WHEREAS, the amendment is exempt from further review of the California Environmental Quality Act (CEQA) because it is an administrative activity which will not result in a direct or reasonably foreseeable indirect physical change to the environment and is not a "project" as defined by section 15378 pursuant to State CEQA Guidelines 15060(c)(2 and 3). The project is also exempt pursuant to State CEQA Guidelines Section 15301 (Class1: Existing Facilities). The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination;

WHEREAS, on October 4, 2017, March 21, 2018, May 2, 2018 and June 20, 2018 the Planning Commission of the City of San Clemente held study sessions on the use of private property and how murals may be applied and regulated and set a public hearing for July 18, 2018;

WHEREAS, on July 18, 2018, the Planning Commission of the City of San Clemente held a duly noticed public hearing on an amendment to San Clemente Municipal Code Title 17 hereinafter referred to as Zoning Amendment 17-203, and considered evidence presented by City staff and other interested parties and adopted Resolution No. PC 18-019 recommending that the City Council adopt Zoning Amendment 17-203;

WHEREAS, on August 21, 2018, the City Council held a duly noticed public hearing on the subject recommendation, and considered evidence presented by City staff, and other interested parties and the recommendation of the Planning Commission; and

NOW, THEREFORE, the City Council of the City of San Clemente hereby ordains as follows:

Section 1: CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby recommends that the City Council find and determine that the amendment on use of private property and how murals may be applied and regulated is exempt from further review of the California Environmental Quality Act (CEQA) because it is an administrative activity which will not result in a direct or reasonably foreseeable indirect physical change to the environment and is not a "project" as defined by section 15378 pursuant to State CEQA Guidelines 15060(c)(2 and 3);

The zoning amendment is also exempt pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. Here, the proposal is an ordinance that would allow for a mural to be applied to an existing structure (building wall) that will not result in an increase of the structure's floor area. Therefore, the project would not increase or otherwise change the existing use of a site. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15301 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. There are no especially sensitive resources on the project site or in the vicinity. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 2: The following findings are made regarding the amendments to the Zoning Ordinance, as set forth in Section 3, Section 4 and Section 5 herein:

- A. The proposed amendments are consistent with the General Plan pursuant to Government Code Section 65860(c), since they implement the Centennial General Plan (as adopted on February 14, 2014 and subsequent amendments thereto adopted on November 3, 2015). Specifically, this amendment

implements General Plan Policy Land Use Element Residential Land Uses Goal: Land Use Policy LU-13.07. Art in Public and Private Places. "We encourage the incorporation of art in public and private spaces that reflects the City's heritage and small town beach character."

- B. The subject zoning amendment will not adversely impact the public health, safety, and welfare since it furthers the Centennial General Plan objectives of (1) meeting community values, needs and conditions; (2) guiding long-term public and private land use, economic development, urban design and other public policy actions; and (3) reflects the City Council's review, direction and independent judgement regarding land use, economic development, coastal issues, historic preservation, urban design, and governance.

Section 3: The San Clemente Municipal Code, Title 17, Chapter 17.84 and 17.88.030 are hereby amended to read in its entirety as set forth and incorporated herein, such amendments being generally described as follows:

Section Table 17.84.030A is amended as follows:

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Sign Permits Required	Other Special Considerations
Mural Signs	<u>Maximum of one mural per legal parcel, or one mural per building, whichever is more restrictive.</u>	64-sq. ft. <u>Mural area is not to exceed a single wall plane.</u>	<u>Shall not exceed the maximum height of the zone or exceed the height of the structure on which it is applied, whichever is more restrictive</u>	Adm. Sign Permit and Discretionary Sign Permit for mural signs 25 to 64 sq. ft. within an Architectural Overlay District <u>Mural Permit</u>	Mural Signs <u>Materials or paint shall be weatherproof or resistant to wear.</u> <u>May only be permitted in non-residential zones.</u> <u>Shall not include integrated illumination, electrical, or moving components but may be illuminated by non-integrated light.</u> <u>Permit expires two years from issuance, at which time, a new permit may be</u>

					<p><u>obtained or the mural removed.</u></p> <p><u>The mural shall be properly maintained through repair, paint, or any necessary treatment, so as to prevent decay. Defective or insufficient weather protection for exterior treatments and facades, including faded paint or materials and graffiti, shall be promptly addressed, and repaired or stabilized to prevent further deterioration.</u></p>
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Section 17.88.030 is amended, in part, as follows:

67. ~~"Mural" means a display or illustration painted on a building or wall within a public view not intended to advertise a product, service or business, and therefore is not considered a sign.~~ "Mural" or "mural sign" means any non-commercial display or illustration applied directly on a wall, ceiling or other permanent surface. The media used may be, but is not limited to, paint, dye, or ink. It may be applied using different medium, including but not limited to tile, stone, ceramic, porcelain, glass and/or metal tiles.

68. ~~"Mural sign" means a display or illustration painted on a building or wall intended to advertise a product, service or business.~~ Reserved

Section 4: If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable, such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases would be declared invalid or unenforceable.

Section 5: The City Clerk shall certify to the passage of this Ordinance and publish the same in the manner required by law, and this Ordinance shall take effect as provided by law.

APPROVED, ADOPTED AND SIGNED this 4th day of September, 2018.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimately waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____,

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY