

**FINANCIAL IMPACT STATEMENT  
For Council Action Items**

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Phil Nameny		2. Telephone No. 503-823-7709	3. Bureau/Office/Dept. Planning & Sustainability
4a. To be filed (date) 6/12/09 (w/Mayor)	4b. Calendar (Check One) Regular      Consent      4/5ths X <input type="checkbox"/> <input type="checkbox"/>		5. Date Submitted to FPD Budget Analyst: 6/10/2009

**1) Legislation Title:**

Establish a new Original Art Mural regulatory and permitting program (Ordinance; create new Title 4, amend Titles 3, 32 and 33)

**2) Purpose of the Proposed Legislation:**

The Original Art Murals Project creates a new mural regulatory code and permitting process. This process is distinct from the city's sign regulations and complements the existing city program to promote public art murals, administered by the Regional Arts and Culture Council (RACC). An Original Art Mural will be defined specifically as a hand produced work of visual art that is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. Murals reviewed under this process will need to stay intact and in place for a period of at least five years, with the building owner receiving no compensation for the display of the mural. This new process will establish a mural permit, with administrative rules, a fee structure and inspections. To be considered an original art mural, the mural will have to be permitted under this process.

**3) Revenue:**

**Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.**

This legislation includes a provision to give the Bureau of Development Services authority to adopt and administer administrative rules to implement the new mural code and process, including the development of permit fees to cover the costs of administration. These fees will be collected as part of the review of the mural permit. The amount of revenue generated will depend on the number and types of murals proposed. Basic fees are proposed to be \$250 per permit, with an additional \$150 fee to review murals against the standards that apply within design overlay zones or on non-contributing structures in Historic or Conservation Districts. If the mural requires a structural review, a fee to cover the cost of that review will also be applied. These fees are being incorporated into BDS's 2009-2010 fee schedule.

**4) Expense:**

**What are the costs to the City as a result of this legislation? What is the source of funding for the expense?** As stated in item #3 above, BDS will be in charge of administering the mural program, and will incur costs related to the review, processing and inspection of the new mural permits. The intent is to have the fees for the permits cover the cost of administration, with the hope that the fees can remain affordable to those who wish to install an original art mural.

**Staffing Requirements:**

**5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** BDS is currently going through a reorganization of its permit review staff. BDS intends to incorporate the mural program within existing permit review programs, and no special positions will be created as part of this program.

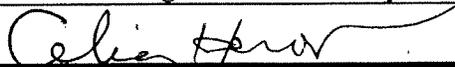
**6) Will positions be created or eliminated in future years as a result of this legislation?**

The review of mural permits will only make up a portion of any position located within the development services center. It is unlikely that the volume of mural permits will force the elimination or creation of positions in future years.

**Change in Appropriations**

Permit fees to cover costs of administrating the Mural Program have been requested under separate ordinance.

Celia Heron, Bureau Operations Manager



APPROPRIATION UNIT HEAD (Typed name and signature)



City of Portland  
Bureau of  
**Planning and  
Sustainability**

Sam Adams, Mayor  
Susan Anderson, Director

**Planning**  
1900 S.W. 4th Ave., Ste. 7100  
Portland, OR 97201-5350  
Phone 503-823-7700  
FAX 503-823-7800  
TTY 503-823-6868

**Sustainability**  
721 N.W. 9th Ave., Ste. 195  
Portland, OR 97209-3447  
Phone 503-823-7222  
FAX 503-823-5311  
TTY 503-823-6868

[www.portlandonline.com/bps](http://www.portlandonline.com/bps)

An equal opportunity employer  
Printed on recycled paper

MEMORANDUM

To: Mayor Sam Adams  
From: Susan Anderson, Director  
Date: June 5, 2009

1. Establish a new Original Art Mural regulatory and permitting program (Ordinance; create new Title 4, amend Titles 3, 32, and 33)
2. Contact Name, Department, & Phone Number: Phil Nameny, BPS, 503-823-7709
3. Requested Council Date: June 24, 2009

Consent Agenda Item: \_\_\_\_\_ or Regular Agenda Item:  X

Emergency Item (answer below): \_\_\_\_\_ or Non- Emergency Item:  X

*If emergency, why does this need to take effect immediately:*

4. History of Agenda Item/Background:

Prior to 1998, murals were exempted from the city's regulations, including the sign code. A lawsuit in 1998 found this distinction between signs and murals unconstitutional since it relied on a review of the content of the image. Between 1998 and 2005, murals were regulated the same as signs, which limited the number of murals proposed.

In 2005, the city adopted a program to allow murals to be considered by RACC as part of the city's public art program. While this program provided an avenue in some cases for murals (25 and counting) to be placed on walls in the city, it has a limited application. Under this program, the city adds the murals to its public art collection. The murals must either be on the walls of public buildings or on walls where an easement is granted to the city. This program does not work as well in situations where a mural is proposed on private property and no funding is required.

The Original Art Murals Project creates a new process to allow murals to be permitted separately from sign regulations. The process will complement the existing city public art mural program, by providing an option for privately funded murals not intended for the city's art collection. Original Art Murals will be defined specifically as a hand produced work of visual art that is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. Murals reviewed under this process will need to stay intact and in place for a period of at least five years, with the building owner receiving no compensation for the display of the mural.

This new process will establish a mural permit, with administrative rules, a fee structure and inspections. To be considered an original art mural, the mural will have to be permitted under this new process. The Bureau of Development Services (BDS) will administer the program. Murals that are not approved under this process (or are not part of the RACC Public Art program) will still be classified as signs.

5. **Purpose of Agenda Item:**  
The purpose of the agenda item is to hold a hearing on the amendments to the City Titles and to take testimony from the public. Council will be voting on the ordinance to implement the program and the changes to Titles 3, 32 and 33. Council also will be voting on the implementation of a new murals title, Title 4. Council may also review the Administrative Rule that accompanies the exhibit and make suggestions on this rule. However, the hearing on this rule will be held separately by BDS in July.
  
6. **Legal Issues:**  
Murals and Signs have a long litigious history that would be difficult to summarize here. The Recommended Draft includes more information on this background. However, a recent legal opinion has stated that the city may be able to regulate various types of expression without having to look at content. Examples include looking at the methods of application, the length of display of the expression and so on. The Original Art Murals project attempts to create a new regulatory structure that is content-neutral by specifically defining an Original Art Mural as having certain characteristics, without identifying content.
  
7. **What individuals or groups are or would be opposed to this resolution? Supportive?**  
The city has worked with the murals community in drafting up this proposal. While they may have some reservations, they plan to offer their support. The Landmarks Commission may be opposed to the Planning Commission's recommendation to allow application of the program to non-contributing buildings in historic or conservation districts. We have received inquiries from sign companies but do not know their position on the ordinance. Neighborhood representatives have generally been supportive of encouraging murals, but it remains to be seen if the lack of content regulation may have an effect on that support as the program gets rolled out.
  
8. **How Does This Relate to Current City Policies?**  
This new permitting program does not affect existing sign code and policies. It provides an alternative to the sign code for murals meeting the definition of Original Art Mural. It also complements the existing Public Art Mural process by providing an option for private murals on private property to gain permission to be installed without having to meet the criteria of the city's public art program.
  
9. **Community Participation:**  
In January, 2008, City Council established a murals working group that included mural artists and community activists. Once the initial proposal was created, the city held a Murals Town Hall in December, 2008 and invited members of the community who previously expressed interest in murals, mural artists, and the standard list of people interested in legislative projects, which includes neighborhood and business associations. At this town hall, staff provided a background and overview of murals in Portland and the initial proposal. Staff welcomed attendees to participate and discuss the issues.  
  
Several briefings have been held with the Planning Commission, Design Commission and Landmarks Commission. These briefings were publicized on the Planning & Sustainability Bureau's (BPS) website. Both the BPS and Mayor's website have included updates and documents for the public to review and download. In addition, a press release on the project was sent to media outlets, which resulted in several newspaper articles written on the project.  
  
Finally, the Planning Commission held a hearing on the proposal on May 12, 2009. Notice of this hearing was provided to the same list as the open house above, and the date of the hearing was included in many of the media articles.

10. Other Government Participation:  
BPS has worked closely with BDS in developing the code language and the administrative rule. This tandem approach is important because BDS will be in charge of the administration and enforcement of the program and needs a set of objective and workable regulations to implement. BPS has also worked closely with the city attorney's office and RACC to ensure that this program has a legal backing and works in concert with the existing public art program.
  
11. Financial Impact:  
There will be both revenue and cost impacts that will be administered through BDS. Mural permits will be assigned a set of fees that are intended to cover the cost of implementation and inspection. Base fees will be \$250 for a mural permit. Murals proposed that are subject to the special design standards will be assessed an additional review fee of \$150. Murals that require a structural review will also be charged for that review. Enforcement of violations will be administered by the code compliance section of BDS.