

RESOLUTION NO. 2022 – 4007

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, EXTENDING ZONING IN PROGRESS FOR PREPARATION AND EVALUATION OF AMENDMENTS TO CHAPTER 150, “ZONING CODE” FOR MURALS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 11, 2022, the City of Miami Springs (the “City”) Council adopted Resolution No. 2022-3986 declaring zoning in progress for preparation and evaluation of amendments to Chapter 150, “Zoning Code” for murals after a mural was installed in the NW 36th Street zoning district; and

WHEREAS, at its April 25, 2022 City Council meeting, the City Council directed the City Attorney to prepare an ordinance prohibiting murals throughout the City (the “Proposed Ordinance”); and

WHEREAS, due to continued study and research of relevant case law, the City requires additional time to finalize the Propose Ordinance; and

WHEREAS, pending the adoption of the Proposed Ordinance, the City desires to continue to invoke the zoning in progress or pending ordinance doctrine, as referenced in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2nd DCA 1980), with respect to the Zoning Code, thereby deferring the acceptance, processing and approval of all applications to establish, alter, expand, or intensify any mural(s) in the City for an additional period of 45 days, or until the City Council adopts on second reading, the Proposed Ordinance and such ordinance become effective, whichever occurs earlier, except as specifically provided in this Resolution; and

WHEREAS, the City Council finds that this Resolution is in the best interest and welfare of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Extension of Zoning in Progress/Pending Ordinance Doctrine. The City Council adopts this Resolution and continues to invoke the zoning in progress or pending ordinance doctrine, thereby deferring the acceptance, processing and approval of all applications not filed as of the effective date of this Resolution to establish, alter, expand or intensify any mural(s) in the City. This extended deferral shall last for 45 days, or until the City Council adopts on second reading the Proposed Ordinance under

review and such ordinance becomes effective, whichever occurs earlier, except as provided below.

Section 3. Relief from Zoning In Progress.

A. Application for Relief. Property owners claiming infringement with vested or constitutional rights may request relief from this Resolution through written application to the City Manager, setting forth in detail the bases for such claim and attaching supportive documentation. Such application shall be an administrative remedy and condition precedent to all judicial relief sought arising from this Resolution.

B. City Manager Review. With input from the City Attorney, the City Manager shall promptly review and determine whether to approve such applications for relief no later than ten (10) business days following receipt of the application. The City Manager may grant relief only upon findings based on competent substantial evidence establishing that such infringement will in fact occur, or has in fact occurred. The City Manager will not consider the content of the mural, and shall make specific findings to support his decision.

C. Notice to Council; Council Review or Appeal. The City Council shall be promptly informed of any determinations made pursuant to this paragraph, and any member of the City Council may request that the City Manager's determination be reviewed at the next available City Council meeting. The applicant may file an appeal of the City Manager's decision under this Resolution to the City Council pursuant to Section 150-113 of the City Code of Ordinances. In reviewing the City Manager's decision or considering an appeal from an applicant, the City Council shall only consider the record before the City Manager, and shall only reverse the decision if the record does not support his determination using the criteria set forth in B. If the City Council reverses his determination, it shall make specific findings to support its decision.

Section 4. Authorization. The appropriate City Officials are authorized to take all actions necessary to implement the intent and purpose of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Fajet who moved its adoption. The motion was seconded by Councilwoman Bravo and upon being put to a vote, the vote was as follows:

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|-----------------------------|------------|
| Vice Mayor Dr. Walter Fajet | <u>YES</u> |
| Councilman Bob Best | <u>NO</u> |
| Councilwoman Jacky Bravo | <u>YES</u> |

Councilman Dr. Victor Vazquez
Mayor Maria Puente Mitchell

ABSENT
YES

PASSED AND ADOPTED this 23rd day of May, 2022.



MARIA PUENTE MITCHELL
MAYOR

ATTEST:



ERIKA GONZALEZ, MMC
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:



WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

