

RESOLUTION NO. 26-16

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING THAT THE CITY OF DELRAY BEACH IS CONSIDERING AMENDMENTS TO THE CITY'S LAND DEVELOPMENT REGULATIONS (LDR) WITH RESPECT TO THE OPERATION AND LOCATION OF TATTOO STUDIOS; INVOKING THE ZONING IN PROGRESS DOCTRINE WITH RESPECT TO THE CITY'S LDR'S; PROVIDING THAT, FROM MAY 17, 2016 AND DURING THE PENDENCY OF THE CITY'S CONSIDERATION OF THE NEW LDR AMENDMENTS, THE CITY WILL DEFER THE PROCESSING AND APPROVAL OF ALL APPLICATIONS FOR TATTOO STUDIOS INCONSISTENT WITH THE LDR'S; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach, Florida ("City") since at least May 17, 2016 has been actively engaged in the process of undertaking a review and update of the existing Land Development Regulations (LDRs) with respect regulations regarding the location and zoning of Tattoo Studios, and

WHEREAS, the City recognizes the legal precedent of the Court in the recent decision rendered in the case of Buehrle v. City of Key West, wherein the Court found that tattooing is recognized as a form of artistic expression, subject to the protection of the First Amendment and subject to regulation as permitted by law; and

WHEREAS, as a result of this decision, the City is conducting a review of the subject matter and its LDRs with respect to adopting the appropriate regulations and zoning rules to the existing LDRs; and

WHEREAS, in accordance with these considerations, the City of Delray Beach Department of Planning and Zoning ("Department") will be proposing amendments to the City's LDRs with respect to this subject matter; and

WHEREAS, all persons or entities that may want to submit an application with respect to the location or operation of a Tattoo Studio are on notice that the City is considering the adoption of amended LDRs with respect to this subject matter, and that this subject matter should be considered zoning in progress; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitals above are true and correct and incorporated into the findings of this Resolution as if set forth in full herein.

Section 2. Zoning in Progress. That pursuant to the pending ordinance doctrine and Florida law, the City Commission hereby acknowledges that the City of Delray Beach no later than May 17, 2016 commenced preparing and considering the adoption of ordinance amendments to the LDRs with respect to the location and zoning of tattoo studios within the City.

Section 3. That the City process currently ongoing and in effect with regard to the creation, development and consideration of amended LDRs for this subject matter constitutes zoning in progress.

Section 4. That the acceptance and processing of applications, permits, or any other approvals for Tattoo Studios after May 17, shall be deferred from consideration by the City until the ending as set forth in Section 5 below.

Section 5. That this zoning in progress shall remain in effect until new or amended LDRs are adopted by the City Commission with respect to this subject matter or until the passage of 90 days, whichever occurs first. This policy may be extended by Resolution of the City Commission for additional periods of time in order to complete the tasks outlined herein.

Section 6. That this Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED by the City Commission of the City of Delray Beach this _____ day of _____, 2016.

M A Y O R

ATTEST:

City Clerk