

TO: JAMES L. APP, CITY MANAGER  
FROM: ANN ROBB, INTERIM DIRECTOR, LIBRARY & RECREATION SERVICES  
SUBJECT: VISUAL ART IN PUBLIC PLACES

DATE: June 20, 2006

Needs: For the City Council to review Visual Art in Public Places ordinance.

Facts:

1. In March, 2005, City Council adopted a Visual Art in Public Places ordinance that provides for acquisition of public art.
2. The funding mechanism for acquisition is 1% of municipal public construction projects, deposited into a "Municipal Arts Fund".
3. The ordinance states that after one year, City Council will review the program.
4. There is currently \$4467 in the Municipal Arts Fund. Parks and Recreation Advisory Committee voted to postpone acquiring public art until the amount is enough to fund a larger project.
5. At their April 11 meeting, the Parks and Recreation Advisory Committee recommended that City Council permanently continue the Visual Arts in Public Places program.

Analysis  
and

Conclusion: City Council adopted a Visual Art in Public Places ordinance in March, 2005. Part of the ordinance is a one year review by City Council. The Parks and Recreation Advisory Committee recommends continuing the program.

Policy

Reference: Visual Arts in Public Places ordinance

Fiscal

Impact: Continuation of existing 1% of total cost of capital projects.

Options: For the City Council to:

- a. Designate the Visual Arts in Public Places program as a permanent program and continue to accumulate funds for art projects.
- b. Amend, modify or reject the foregoing option.

ORDINANCE NO. 897 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
ADOPTING CHAPTER 3.21 REGARDING  
A VISUAL ARTS IN PUBLIC PLACES PROGRAM

WHEREAS, the City wishes to maintain and preserve the character of the City and create the best possible environment for the residents; and

WHEREAS, the City recognizes the substantial economic benefits to be gained through aesthetic enhancement of its public spaces; and

WHEREAS, the arts can humanize, provide social involvement, educate and create community well being; and

WHEREAS, the City desires to further enhance the aesthetic environment of the City by incorporating works of art into public areas.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.21, Title 3 of the City of El Paso de Robles Municipal Code is hereby adopted to read as follows:

**3.21.010 Intent and Purpose.**

This chapter shall be known as the "Visual Art in Public Places Program of the City of El Paso de Robles." The public health, morals, safety and welfare, as well as the popularity and prosperity of the community, are dependent upon and enhanced by visually pleasing and high quality public art. Therefore, the city council declares that in the interest of the public health, morals safety, and welfare, it is the policy of the city to acquire and install public art works as provided in this chapter.

**3.21.020 Definitions.**

The following words and expressions when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them as follows:

- (a) "Visual Art in Public Places" or "Public Art" means any visual work of art displayed in a publicly visible location in a city-owned area.
- (b) "Works of Art" include, but are not limited to, ornamental landscaping, sculpture, monument, mural, fresco, bas-relief, mobiles, photography, drawing, handcrafts, painting, fountain, landscape composition, banners, mosaic, ceramic, weaving, carving and stained glass. "Works of art" are the creative result of individual or group effort, and are either unique or of limited-issue nature, and are normally not mass-produced or intended primarily for a commercial market. "Works of art" do not normally include landscaping, paving, architectural ornamentation, or signs.
- (c) "Construction Project" means any project listed in the City's Capital Improvement Program, and paid for in whole or in part by the City for public benefit. Construction Projects include but are not limited to building construction, building addition, building remodel, parks, plazas, creek improvements, flood protection projects, bridges, streets, sidewalks, bikeways, trails, other public transportation improvements, parking facilities, and similar public facilities as determined by the Community Development Director.
- (d) "Construction Cost" means the cost in dollars to construct a Capital Construction Project, as approved by the City Council or the City Administrative Officer. "Construction Cost" shall not include land acquisition, design, or maintenance costs.

(d) "Committee" means the City of El Paso de Robles Parks and Recreation Advisory Committee.

### **3.21.030 Requests and Authorization for Appropriations.**

(a) All city department heads shall include in all estimates of necessary expenditures and all requests for authorization or appropriations for Construction Projects, an amount for works of art equal to at least one percent of the total cost of any such Construction Project as estimated in the Capital Improvement Program for the year in which such estimate or request is made. If the source of funding or other appropriate law with respect to any particular project precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the total project cost in making the aforesaid calculation.

(b) The City Council may make appropriations for works of art to be selected and implemented by the Committee in connection with Construction Projects as provided in this chapter.

(c) For small Construction Projects, or Construction Projects in which the City Council or City Administrative Officer determines that it is not feasible or desirable to include Works of Art due to site limitations or the project's location or design, the City Council may appropriate one percent (1%) of their Construction Cost to the "Public Arts Fund" established in section 3.21.050 for Works of Art to be selected and implemented by the commission as provided in sections 3.21.070 and 3.21.080.

### **3.21.40 Exempt projects.**

The following types of projects are exempt from this chapter:

- a. Utility projects, such as public water or sewer system improvements, pumps, and wells;
- b. Underground projects, such as storage tanks and storm drains and similar items;

### **3.21.050 Public Art Fund.**

There is established a special fund designated "Public Art Fund" into which funds appropriated pursuant to this chapter shall be deposited. The Public Art Fund shall be maintained by the Director of Administrative Services and shall be used solely for the acquisition, commission, design, installation, improvement, maintenance, and insurance of Public Art.

### **3.21.060 Guidelines for Acquisition and Installation of Public Art.**

Guidelines for the approval and maintenance of Works of Art shall include, but are not limited to, the following criteria:

- a. The Works of Art shall be clearly visible and easily accessible to the public.
- b. The composition of the Works of Art shall be of permanent-type materials in order to be durable against vandalism, theft, and weather, and in order to require a low level of maintenance.
- c. The Works of Art shall be related in terms of scale, material, form, and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.
- d. The Works of Art shall be compatible with the unified design character or historical character of the site;
- e. The Works of Art shall be designed and constructed by persons experienced in the production of such art work and recognized by critics and by his or her peers as one who produces Works of Art.
- f. The Works of Art shall be maintained in a neat and orderly manner acceptable to the City.

The following items are not to be considered Works of Art for the purposes of this chapter:

- a. Art objects which are mass produced from a standard design.
- b. Reproductions of original art works.
- c. Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for the purpose of creating the Works of Art.
- d. Services or utilities necessary to operate or maintain the Works of Art.

### **3.21.070 Committee [Commission] Authority**

To carry out its responsibilities hereunder, the Committee shall:

- a. At least annually, make recommendations to the city council on the expenditure of funds in the "Municipal Arts Fund."
- b. Determine a method or methods of recommending the selection and commissioning of artists with respect to the design, execution and placement of Works of Art for which appropriations have been made, and pursuant to such method or methods, recommend to the city council selection of artists by contract for such purposes.
- c. Recommend to the City Council the specific location and/or amounts to be expended on Works of Art.
- d. Require that any proposed Work of Art requiring extraordinary operation or maintenance expenses be brought to the city council's attention.
- e. Recommend the placement of Works of Art consistent with the provisions of section 3.21.080.
- f. Prior to payment for Works of Art, review such works to report on the conformity of the finished work with the approved plans or other documents describing the Work of Art to be carried out.

### **3.21.080 Placement of Works of Art**

Works of art selected and implemented pursuant to the provisions of this article and any amendment thereto may be placed in, on or about any municipal construction project or other municipally owned, leased, or rented property. They may be attached or detached within or about such property, and may be either temporary or permanent. Placement of works of art shall be authorized by the city council after a report of the Committee

### **3.21.090 Program Evaluation.**

The City Clerk shall schedule the Public Art program for City Council review within one year of the date this chapter goes into effect. At such review, the Council may modify or suspend the program.

SECTION 2. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published, and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on March 1, 2005, and passed and adopted by the City Council of the City of El Paso de Robles on the 15th day of March 2005 by the following roll call vote:

AYES:	Heggarty, Nemeth, and Strong
NOES:	Picanco and Mecham
ABSTAIN:	None
ABSENT:	None

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk