



## Council Agenda Report

**From:** Warren Frace, Community Development Director  
Julie Dahlen, Community Services Director

**Subject:** City Mural and Public Art Policy Review

**Date:** April 17, 2018

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### Facts

1. In December 1999, City Council adopted the Art in Public Places Policy as recommended by the Parks and Recreation Advisory Committee to provide guidelines “for the acquisition and display visual art in City-operated public places such as City office buildings and parks.”
2. In March 2005, City Council passed and adopted Ordinance 897, the *Visual Arts in Public Places Program*, augmenting the 1999 policy and underscoring the City’s appreciation for the economic and social benefits of incorporating works of art into public areas.
3. The Visual Arts in Public Places Program provides well-defined guidelines for the “acquisition, commission, design, installation, improvement, maintenance, and insurance of public art” as well as a funding mechanism for these functions; the program does not include a process to approve murals installed on private property. The City’s current mural approval process involves review and approval by the Paso Robles Main Street Design Committee, the Development Review Committee, and the City Planning Commission, and is not formalized by a City Council adopted policy.
4. The Visual Arts in Public Places Program stipulates that all City department heads add at least one percent of the total cost of any construction project as estimated in the capital improvement program for the year in which such estimate is made to support and sustain the Public Art Fund.
5. Contributions to the Public Art Fund were suspended during the Great Recession, and the fund currently holds just over \$600.
6. Murals are typically public art located on private property (building walls).
7. The City has an informal mural review process that is combined with the Main Street Mural Program, and requires the Development Review Committee and the Planning Commission review and approve murals.
8. Murals are mentioned in the City sign ordinance only as a form of commercial signage.
9. Some communities such as Portland, Oregon have adopted streamlined mural permitting processes that eliminate City discretionary review of a mural’s artistic content, but require the artist to hold a neighborhood meeting to hear public comments on the proposed art.
10. In February 2018, an existing mural on the Shoemaker Building (1215 Spring St.) was repainted utilizing the Portland neighborhood meeting process.

- On March 27, 2018, the Planning Commission voted 7-0 to recommend that City Council direct staff and the Planning Commission to draft a new public art ordinance to create a streamlined mural approval process based on the Portland, Oregon model and to clarify the City's Visual Arts in Public Places Program.

**Options**

- Take no action;
- Direct staff to work with Main Street and the Planning Commission to develop an ordinance with a streamlined mural approval process; and b) Authorize the resumption of contributions to the Public Art Fund as stipulated in Ordinance 897;
- Provide alternative direction to staff.

**Analysis and Conclusions**

General Plan Policy LU-2J (Public Art) states that “Art in public places is an essential element of the Community's quality of life, contributing to what makes Paso Robles a special place to live, work, and shop.”

Incorporating works of art into public areas has the potential of providing substantial economic and social benefits. While the City currently has a process for approval of public art, the Visual Arts in Public Places Program does not adequately provide for murals on private property, and contributions to the Public Art Fund were suspended several years ago.

The City's current informal mural approval process is complicated with three separate approval steps. As a result, the City has few murals, potentially limiting the City's economic vitality and the public's cultural opportunities. Cities such as Portland, Denver, San Francisco, and Lompoc have recognized that murals are tourist attractions that work well with social media and enhance economic vitality.



Recognizing these opportunities and gaps, the Planning Commission recommended the City Council direct staff and the Planning Commission to draft a new mural ordinance based in part on the Portland,

Oregon model. The Portland model is appealing in that it defines time, place and manner concerning murals and establishes a succinct approval/permitting process. The neighborhood meeting process used for the Shoemaker Building mural, yielded favorable results and allowed the mural to quickly completed.



### February 23, 2018 Neighborhood Mural Meeting

City staff also recommends the resumption of the funding mechanism for the Public Art Fund to further support visual arts in our community.

**Policy References**

- Art in Public Places Policy, adopted 12/7/99 by City Council.
- Ordinance 897: Visual Arts in Public Places Program.
- City Council Goals, adopted 3/6/18 :
  - Promote “the visitor economy” and “a thriving downtown.”
  - “Support, attract, and expand recreational, cultural, and educational opportunities.”

**Fiscal Impact**

To be determined. Should City Council authorize the resumption of contributions to the Public Art Fund, at least one percent of the total cost of City construction projects would be garnered from the City’s General Fund for the purpose of supporting the installation of art in public places.

**Recommendation**

1. Direct staff to work with Main Street and the Planning Commission to develop an ordinance with a streamlined mural approval process.
2. Authorize the resumption of contributions to the Public Art Fund as stipulated in Ordinance 897.

**Attachments**

1. City of Portland, Oregon’s Original Art Mural program policy.
2. City of Paso Robles Art in Public Places Policy.
3. Ordinance 897: Visual Arts in Public Places Program.



# Original Art Murals Information Sheet

## What is an Original Art Mural?

A hand-produced work of visual art which is tiled or painted by hand directly upon or affixed directly to an exterior wall of a building.

### In addition, Original Art Murals:

- must be maintained on the building for at least five years, and the building owner cannot receive compensation for the display of the mural;
- cannot exceed a height of 30 feet above grade (no other size limits apply); and
- must meet additional standards if located in a Design Overlay Zone or on a noncontributing building in a historic or conservation district.



Artists: Angelina Marino, Gary Herd, Joel Heidel, Marlys Mick: (detail): located at NE 72nd and Sandy



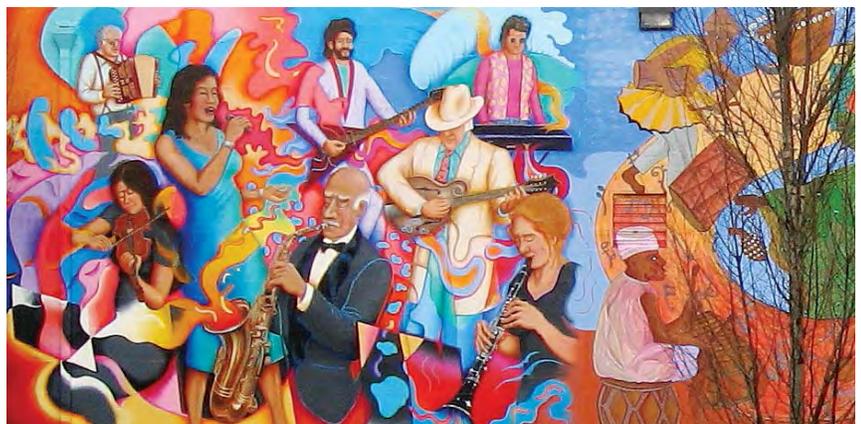
Artist: Bruce Orr: located at NE Williams and Failing

## Original Art Murals are not:

- mechanically produced or computer generated prints or images, including but not limited to digitally printed vinyl;
- murals containing electrical or mechanical components; or
- changing image murals.

## Original Art Murals are not permitted:

- on residential buildings with four or fewer units;
- on historic or conservation landmarks, or on contributing buildings in a historic or conservation district; or
- within public rights-of-way.



Artist: Joe Cotter: (detail): located at NE 20th and Everett

## Link to more information

For more information on the Original Art Mural program, log onto [www.portlandonline.com/bds/muralpermit](http://www.portlandonline.com/bds/muralpermit).

# How to obtain a permit for an Original Art Mural

## Attachment 1

- 1 Submit mural permit to Bureau of Development Services (BDS)**  
Applicant
  - Application form and fee.
  - Site plan and building elevation drawings.
  - Description of mural and details of installation.
- 2 Schedule a neighborhood meeting**  
Applicant
  - Must be at an open and accessible location within the neighborhood boundary.
  - Scheduled during an evening or weekend only, and not between 10 pm and 7 am.
- 3 Send letter to neighborhood association**  
Applicant
  - Letter must be sent at least 21 calendar days before the scheduled meeting to neighborhood association.
  - Letter must contain a description of the mural proposal, date, time and location of meeting, and building elevation or photograph showing mural location.
  - Certificate of Mailing verifying the letter was sent is required.
- 4 Post notice of open meeting**  
Applicant
  - Applicant obtains posting board from BDS at time of permit submittal.
  - Notice must be posted at the mural location, at least 21 calendar days before the meeting.
- 5 Notify BDS**  
Applicant
  - After neighborhood contact requirements are completed, applicant must notify BDS in order to finalize the permit.
  - A copy of the letter sent to the neighborhood association announcing the meeting must be provided to BDS with the Certificate of Mailing.
- 6 Issuance of permit**  
BDS
  - BDS will issue the mural permit if all provisions of Title 4, Original Art Murals, and the administrative rule are met.
  - Structural review is required if any element weighs more than 7 pounds per square foot, or in total weighs more than 400 pounds.
  - BDS review is nondiscretionary; the decision is final, with no local appeal.
- 7 Create the mural**  
Applicant

*Lead artist: Isaka Shamsud-Din*
- 8 Inspection of completed mural**  
BDS and Applicant
  - The permit holder must call BDS for an inspection after completion of the mural.
  - Inspection must occur within one year after permit issuance, or permit expires.
  - Follow-up inspections may occur to enforce provisions of Title 4.

## CITY OF PASO ROBLES ART IN PUBLIC PLACES POLICY

The purpose of the Art in Public Places (APP) policy is to facilitate the acquisition and display of visual art in City operated public places such as City office buildings and parks. The Policy follows the following definitions and guidelines:

### **ART DISPLAY DEFINITIONS**

*Art for Permanent Display* ~ Art which is donated or commissioned and remains on display for more than one year.

*Art for Temporary Display* ~ Art which is loaned, leased, rented, or otherwise obtained and is displayed for up to one year.

### **PUBLIC ART REVIEW COMMITTEE (PARC)**

- PARC is a quorum of the Paso Robles Parks and Recreation Advisory Committee at a regularly scheduled meeting.
- Proposals for permanent or temporary art display are made to and considered by PARC on a case by case basis.

### **THE PROCESS**

- Upon receipt of a complete proposal for placement of art in a public place, PARC creates an agenda item to consider the proposal at the next regularly scheduled Advisory Committee meeting.
- PARC notifies media and potentially interested parties of the agenda item.
- PARC reviews proposal at the regularly scheduled public meeting, seeking input and opinion from interested parties.
- PARC's recommendations for permanent and temporary artwork display are forwarded to the City Council for consideration and final dispensation.

### **THE CRITERIA FOR SELECTION**

Included, but are not limited to:

- Artistic Quality
- Appropriateness of design to the function of the site
- Durability
- Size
- Material
- Site & Setting
- Maintenance Considerations
- Location

## 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