

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE FOR PUBLIC ART

City Attorney Analysis

The proposed Ordinance for Public Art establishes a program to provide for the placement of visual art in public places throughout the City. Through this Ordinance, the City would place one-half percent of the total value of each of its Capital Improvement Program Projects into a reserve account for use in promoting public art. The proposed Ordinance would establish a Public Art Commission to oversee the program, with final determination of matters involving public art to be made by the City Council.

WHEREAS, State law provides that cities have the responsibility to use the powers vested in them to regulate the aesthetic conditions of the community; and

WHEREAS, the Salinas City Council finds that public artwork should be visible throughout the community to inspire civic pride among the City's residents, to strengthen the City's regional identity by enhancing public spaces, to give character to neighborhoods and business districts, and to provide opportunities for residents and visitors to experience visual art; and

WHEREAS, the Salinas City Council finds that the visual and aesthetic quality of development projects, both public and private, significantly affects the property value and the economic condition of the City; and

WHEREAS, the Salinas City Council finds that public art can be used to strengthen the unique character of business districts and transit corridors by relating the artwork to the site's purpose, history, and natural environment; and

WHEREAS, the Salinas City Council finds that the incorporation of public art into City and private development projects promotes the public interest and general welfare and improves the quality of life for persons living and working in and visiting the City; and

WHEREAS, the Salinas City Council finds that a diverse selection of artwork increases the understanding, enjoyment, and experience of cultural diversity among persons living and working in and visiting the City; and

WHEREAS, the Salinas City Council finds that the adoption of a public art ordinance is necessary to increase the City's aesthetic environment through public art; to provide funding to support public art projects throughout the City; and to establish public art contribution requirements and procedures; and

WHEREAS, the Salinas City Council finds that the adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Salinas City Council finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, the activity is not subject to CEQA. (CEQA Guidelines Section 15061.)

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

Article 1 is hereby added to Chapter 5 of the Salinas Municipal Code and shall read as follows:

Article 1. Public Art Program.

Sec. 5-01.01 Findings; Purposes.

The City of Salinas accepts responsibility for expanding the opportunities for its residents and its visitors to experience public art resulting from the creative expression of its artists in public places throughout the City. A policy is hereby established to direct the inclusion of works of art in public spaces throughout the City. To fulfill that responsibility, the City Council hereby makes the following findings and hereby adopts this Article of the Municipal Code for the following purposes:

(a) To enhance the appearance of public places by incorporating visual art of varying types in or about such places in order to support the increased use of public spaces that will result from development projects.

(b) To encourage and to support the placement of visual art, whether through temporary or permanent installations, and to engage artists to create works which contribute culturally and to the appearance of the City.

(c) To make Salinas a regional destination for public art through strategic placement of public art to maximize public access.

(d) To enhance the vitality of the City, with a focus on main commercial areas (Downtown, Alisal, North Main Street), and support economic development.

(e) To provide an opportunity for residents and visitors to experience the cultural, educational, and social benefits provided by quality visual art installations and to provide opportunities for local artists to display work in a public setting.

Sec. 5-01.02 Definitions.

(a) For the purpose of this Article, unless it is plainly evident from the context that a different meaning is intended, certain terms as used in this Article are defined as follows:

(1) "Public Art" means any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas.

(2) "Capital Improvement Program Project" means a construction-related project included in the City's adopted Capital Improvement Program Budget paid for wholly or in part by funds appropriated by the City of Salinas. Capital Improvement Program Project, for purposes of this Article, does not include projects that are maintenance or that are non-construction-related projects. Capital Improvement Program Project also does not include projects where prohibited by federal or state law, including projects or portions of projects funded by grants from non-City sources that prohibit expenditure of funds for art.

(3) "Capital Improvement Costs" means the total price of a construction-related Capital Improvement Program Project and for purposes of public works projects identified as a Capital Improvement Program Project all construction costs as well as architectural and

engineering fees and site work associated with Capital Improvement Program Projects. Capital improvement costs do not include administrative costs or costs related to the investigation and the remediation of hazardous materials or the cost of environmental review, whether or not the environmental review is related to a construction-related project. Capital improvement costs also do not include costs of non-construction-related activities such as the purchase of goods, services, or equipment; studies, reports, leases, and easements; including, without limitation, activities or purchases in the City's Capital Improvement Program budget which are non-construction-related.

(4) "Permanent installation" means a work of art in a public place intended to remain or remaining for one year or more.

(5) "Public area" or "Publicly accessible location" means any location that art work is accessible to and available for use by the general public during normal hours of operation consistent with the operation and use of the premises.

(6) "Public Art Fee" means the fee derived from calculating the value of 0.5% of the construction cost or total purchase price of a Capital Improvement Program Project.

(7) "Temporary installation" means a work of art in a public place intended to remain for less than one year.

(8) "Work of art" means and includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving, and stained glass. "Work of art" normally would not include landscaping, paving, architectural ornamentation, or signs.

Sec. 5-01.03 Public Art Fund.

(a) Special Reserve Account. The City Manager shall a special reserve account designated as the "Public Art Reserve Account." Said reserve account shall be credited annually pursuant to this Article with all funds received by the City for public art, whether contributed, earned, secured through grants, or otherwise obtained.

(b) Use of Funds. It is intended that funds in the Public Art Reserve Account may be appropriated in the annual budget to obtain and install public art, to maintain and refurbish public art when the cost of such maintenance exceeds funds currently available for the maintenance of public property in general, to obtain professional consultants to assist the city and the Public Art Commission in selecting artists and public art, to preserve selected works of public art, and to defray such other capital expenses which are, or may become, an integral part of the public art program.

(c) Review of Disbursements. Each proposed appropriation for public art and each disbursement from the public art reserve account shall receive the prior review and a recommendation of the public arts commission.

(d) Additional Funding. The Library and Community Services Director, or such other person as designated by the City Manager, shall explore on a continuing basis the availability of funds for the public art program from such organizations as the National Endowment for the Arts, the California Arts Commission, and other public and private agencies.

Sec. 5-01.04 Duties of the Public Art Commission.

(a) The duties of the public art commission with respect to the art in public places program shall be as follows:

(1) To advise the city council in matters pertaining to the quality, quantity, scope, and style of public art;

(2) To devise methods of selecting and commissioning artists with respect to the design, execution, and placement of art in public places and, pursuant to such methods, to advise the City Council on the selection and commissioning of artists for such purposes;

(3) To advise the City Council regarding the amounts to be expended on public art;

(4) To advise and assist the City Council in obtaining financial assistance for art in public places from private, corporate, and governmental sources;

(5) To review plans for the installation of public art;

(6) To review the inventory of public art and to advise the City Council in matters pertaining to the maintenance, placement, alteration, sale, transfer, ownership, and acceptance or refusal of donations of, and other matters pertaining to, public art;

(7) To recommend the retention of consultants, consistent with the city's consultant selection procedures, to assist the City Council in making decisions concerning the public art program;

(8) To advise the City Council on such other matters pertaining to the public art program as may be appropriate;

(9) To advise and assist private property owners who desire such advice and assistance regarding the selection and installation of works of art to be located on their property in the public view;

(10) To act as a liaison between local artists and private property owners desiring to install works of art on their private property in public view;

(11) To give recognition to, and to maintain, an inventory of selected works of art in the public view;

(12) To endeavor to preserve selected works of art in the public view through agreements with the property owner and/or the artist.

(b) Composition. The Public Art Commission shall consist of seven persons having professional qualifications in fields such as art, art history, architecture, or the performing arts and a demonstrated interest, competence, or knowledge in art or the arts. The Mayor and each Council member shall select a representative to serve on the Commission. Commission members may reside within or without the boundaries of the city of Salinas. Vacancies shall be filled in the same manner.

Sec. 5-01.05 Standards for review.

(a) In performing its duties with respect to the public art, the public art commission shall give special attention to the following manners:

- (1) The purposes of this Article;
- (2) Conceptual compatibility of the design with the immediate environment of the site;
- (3) Appropriateness of the design to the function of the site;
- (4) Compatibility of the design and location within a unified design character or historical character of the site;
- (5) Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
- (6) Preservation and integration of natural features with the project;
- (7) Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
- (8) Representation of a broad variety of tastes within the community and the provision of a balanced inventory of public art to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community.

Sec. 5-01.06 General rules for art in public places.

(a) Review of Permanent and Temporary Installations. Permanent and temporary installations shall receive the prior review and advice of the public art commission. Extensions of time for temporary installations to remain for one year or more may be granted by the public art commission. Permanent installations shall not be removed, altered, or changed without the prior review and advice of the public art commission.

(b) Private Sites for Public Art. No work of art financed or installed either wholly or in part with city funds or with grants procured by the city shall be permanently installed on privately owned property without a written agreement between the city and the owner specifying the proprietary interests in the work of art, binding the owner to the general rules for public art, and specifying other provisions deemed necessary or desirable by the City Attorney. Additionally, such written agreements, except those for murals which shall be exempt from the requirements imposed by this sentence, shall specify that the private property owner shall assure:

- (1) That the installation of the work of art will be done in a manner which will protect the work of art and the public;
- (2) That the work of art will be maintained in good condition; and
- (3) That the insurance and indemnification will be provided as is appropriate.

(c) Consultation with the Artist. Installation, maintenance, alteration, refinishing, and moving of art in public places shall be done in consultation with the artist whenever feasible.

(d) Inventory of Public Art. The Public Art Commission shall maintain a detailed record of all public art, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. Appropriate recognition shall be given to the artists in publicity and promotion regarding public art.

Sec. 5-01.07 City Council Review of Artistic Matters in the Public Art Program.

(a) Recognizing that professional expertise is necessary and desirable in artistic matters, such as the selection of artists for a project, the selection of particular works of art, and the approval of designs and plans for works of art under the public art program, it is a policy that:

(1) Decisions on artistic matters will be made by the public art commission, subject to the oversight and the review of the City Council which shall have the final determination over such matters;

(2) The city council reserves the right to exercise its independent judgment on artistic matters as they become agendized for its review;

(3) All sketches, designs, photographs, precise plans, art examples, and similar items on artistic matters will be transmitted to the city council as a matter of course in conjunction with projects before the city council;

(4) The city council will refer questions, suggestions, requests, complaints, and similar items pertaining to the public art program to the public art commission for their review and response.

Sec. 5-01.08 Appropriation of Funds.

(a) All appropriations for Capital Improvement Program Projects shall include an amount equal to one-half percent (0.5%) of the total capital improvement program project cost to be dedicated to the Public Art Reserve Account.

Funds appropriated may be used for either of the following:

(1) The purchase and installation of publicly accessible artwork as a part of the project;
or

(2) Payment of a fee into the Public Art Reserve Account (in lieu fee). In lieu fees shall only be expended on public art per this Article and for no other purpose.

(3) Split the required commitment of art between on-site and the in-lieu fee.

(b) Exclusions. If the source of funding or other applicable law or regulation with respect to any particular Capital Improvement Program Project or portion thereof prohibits or restricts the use of the dedication of such funds for public art, this Article shall not apply to the project's expenses, so prohibited or restricted.

(c) The city manager may adopt administrative regulations to implement this section.

(d) The City Manager may request that the City Council exclude certain Capital Improvement Program Projects from the provisions of this Article by the passage of a resolution authorizing such waiver.

PASSED AND ADOPTED THIS _____ day of February 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney