

City of San Pablo

Art in Public Places Ordinance

City Council Economic Development and Project Management Standing Committee

July 27, 2017

Subject	Existing City Ordinance	Decision Points
1. Retention of Ordinance		<p>The Arts in Public Places ordinance provides an opportunity to enrich the quality of life and liven the built environment. The main downside is the cost to development and whether it serves as a disincentive to private investment.</p> <p>At least seven cities in the east bay including Walnut Creek, Emeryville, Dublin, Albany, Union City, Alameda, and Oakland, have a public art requirement, and Richmond is set to adopt a new ordinance on July 11. There is limited commercial activity in San Pablo, and the art requirement may not have much impact, but is one tool to increase the quality of development.</p> <p>Decision Point: Does the City want to retain a Public Art ordinance?</p> <p>Recommendation: Retain Public Art ordinance.</p>
2. Applicability of Fee	Commercial and industrial with a valuation of \$200,000 or more	<p>The vast majority of new development projects have a valuation of \$30-120K. Only two projects since July 1, 2015 were over \$200K. If the City collected in-lieu fees for the two projects, the total amount in the Arts Fund would be \$37,567.50 based on 1 percent.</p>

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		<p>Most other cities have a minimum valuation of \$250-300K, but most include housing developments. The City of Richmond's proposed ordinance has a minimum valuation of \$500K, and includes a requirement for multi-family housing.</p> <p>Decision Point: Should the City increase or decrease the minimum valuation?</p> <p>Recommendation: Retain the minimum valuation of \$200,000. The number of projects subject to the requirement is small and raising the minimum to \$250,000- \$300,000 would not have an appreciable effect.</p>
3. Percentage	1 percent of project construction valuation	<p>There has been consideration to reducing the burden on development projects by either decreasing the percentage to .5% or having a maximum fee of \$25,000. Most other cities with a public art ordinance have a 1% fee, although Dublin has a .5% requirement. The proposed Richmond ordinance has a 1% fee. Based on the two projects noted above, a reduction to .5 percent would have resulted in \$18,783.75 to the Art Fund instead of \$37,567.50.</p> <p>Alameda is the only city with a maximum amount of \$150,000 but they are considering eliminating the maximum to allow more flexibility for larger projects. None of the recent projects in San Pablo would have had a requirement over \$150,000. For the future, there may be key economic development projects that would result</p>

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		<p>in a requirement over \$150,000 so maintaining flexibility without a cap is recommended.</p> <p>Decision point: Should the percentage be decreased to .5 percent or should there be a maximum payment?</p> <p>Recommendation: Retain a 1 percent requirement. Do not add a maximum amount of \$150,000.</p>
<p>4. Implementation</p>	<p>Requirement may be satisfied by:</p> <ul style="list-style-type: none"> ▪ On-site art ▪ Payment of fee ▪ Off-site art 	<p>Another consideration is deleting the off-site option. This option allows an applicant to provide public art off-site on either private or public property, such as parks, center medians, city hall, or other public buildings. None of the other cities in the east bay area have the off-site option. Payment of the in lieu fee could fund art at off-site locations, in particular public property.</p> <p>Decision Point: Should the City delete the option for construction of off-site art?</p> <p>Recommendation: Delete option for construction of off-site art.</p>
<p>5. Logistics of Art Fund/ Mural Fund</p>	<p>Public Arts Fund: uses the proceeds from the in lieu fee. City Public Mural Fund: includes City funds in addition to private funds.</p>	<p>There is confusion about the difference between the Public Arts Fund and the Mural Fund. The Mural Fund was included to fund a separate Community Services program for historic murals throughout the City. The City has never provided City funds for murals. The Public Arts Fund can be used for murals.</p>

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		<p>Also, the ordinance is silent on how long the funds can be kept by the City. No other cities have a limitation on how long funds can be kept. It anticipated that once funds are available, they will be used expeditiously.</p> <p>Decision Point: Should the section creating a separate mural fund be deleted and should there be a maximum length of time the funds can be held by the City?</p> <p>Recommendation: Delete reference to a separate mural fund. Do not include maximum length of time funds can be held.</p>
<p>6. Location of art on private property</p>	<p>Appropriate locations may include, but are not limited to, vehicular entryways to the property, plazas, greenbelts and building facades. The location selected should allow reasonable accessibility to the art, including visibility of the art from the public street. The location shall be exterior and installation of the art piece shall enhance the art and allow for unobstructed public viewing from as many angles as possible. When located in proximity to major traffic thoroughfares, the art should be at a motorist's scale and oriented toward the view corridor of the motorist. The</p>	<p>Other cities allow an option for public art to be indoors in private buildings (e.g. office buildings, hospitals) as long as it is accessible to the public during normal business hours (eight hours a day).</p> <p>Decision Point: Should the City allow public art to be installed within a private building as long as it is accessible to the public during business hours?</p> <p>Recommendation: Allow this option.</p>

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	<p>art shall be an integral part of the landscaping and/or architecture of the buildings.</p>	
<p>7. Selection Process</p>	<p>Art is selected by the reviewing body as part of the approval process for the project. This could be either staff or the Planning Commission, but most likely the Planning Commission. Goes to City Council if there is no other approval process or upon appeal.</p>	<p>Most other cities have a Public Art Commission or Committee that selects the art apart from the approval process for the project. That Commission/Committee includes a jury qualified to evaluate art. San Pablo does not have a Public Art Committee. The City Art Curator could be consulted and be part of the selection process.</p> <p>Decision Point: Should the City establish a Public Art Committee or alter the selection process?</p> <p>Recommendation: Modify the selection process so that the City Council selects public art, after a recommendation from the Planning Commission and consultation with the City Art Curator. Reassess the need for a Public Art Committee after more experience with the program.</p>

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<p>8. Exceptions</p>	<p>No requirement for housing developments. Other exceptions include:</p> <ul style="list-style-type: none"> A. Remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity; B. Financed with Public Funds. Alteration, construction, or repair of structures to perform rehabilitation of private property if that rehabilitation is primarily financed with public funds; C. Projects whose primary tasks are seismic retrofit or fire sprinkler installation; D. Capital Improvement Projects. Capital improvement projects performed by the city; E. Nonprofit Service Providers. Projects that are intended primarily to provide facilities for nonprofit public service providers. 	<p>The San Pablo ordinance has more exceptions than many other cities. Most cities include housing development but have exceptions for affordable housing. Several other cities do not exempt public or non-profit buildings.</p> <p>Decision Point: Should the City reduce the number of exceptions?</p> <p>Recommendation: Keep the exceptions as written. Reevaluate after more experience with the implementation of the ordinance.</p>

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9. Waivers	No provision for a general waiver based on hardship.	<p>One option is for a broad waiver provision, where an applicant can petition the Council for a waiver based on demonstrated hardship. Emeryville has such an option although there have been no requests recently. Other cities are considering adding a waiver provision to respond to developer concerns.</p> <p>Decision Point: Should the ordinance include a mechanism that allows for an appeal of a determination to require public art?</p> <p>Recommendation: Include an appeal procedure to the City Council that allows for a waiver of the public art requirement based on demonstrated hardship.</p>
10. Identification of Local Artists/ Preference for Local Art	Not addressed.	<p>There has been a desire to create a list of local artists who would be given priority. No other cities indicate a preference for local artists.</p> <p>Another option is to include a policy statement indicating a preference for art that is reminiscent of San Pablo history.</p> <p>Decision Point: Should preference be given to local artists, or to art reminiscent of local history?</p> <p>Recommendation: Do not include any amendments that express preference to local artists or to local art. Consultation with the City Art Curator would provide an opportunity to connect to local art committees.</p>