

ARTICLE X. IN GENERAL

Sec. 9-346. Title.

This article shall be known and cited as the "Public Art and Placemaking Program."

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-347. Purpose and intent.

- (1) The City of Fort Lauderdale recognizes that providing for public art and enhancing the appearance of buildings and spaces benefits the community by expanding the historical, cultural and creative knowledge of its citizens.
- (2) The requirements of this article shall be construed to promote the aesthetic values of the entire community and to encourage the preservation and protection of works of art.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-348. Exemptions.

The requirement of this article shall not apply to:

- (a) (a) Public works and utilities non-facility infrastructure projects defined as:
 1. Water and sewer related infrastructure.
 2. Storm drainage infrastructure.
 3. Road construction or bridges.
 4. The construction, remodeling, repair or improvement to a public electric, water or gas utility system.
- (b) Projects using funds from grants, loans, bonds, enterprise funds, or other funding sources which by the terms of their applicable covenants and conditions prohibit their expenditure on artwork. If funding cannot be transferred from a project by the terms of their applicable covenant, the public art component equal to two (2) percent of the total project cost may remain within that specific project.
- (c) Private Development unless the development is a Public Private Partnership or utilizes City funding or land.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-349. Definitions.

The following words and phrases, when used in this article, shall for the purpose of this article have the following meanings, except where the context clearly indicates a different meaning:

Art, artwork or works of art - tangible creations by artists exhibiting skill and aesthetic principles and includes all forms of visual art conceived in any medium, multi-medium, multi-sensory, material, or combination thereof, including paintings, sculptures, statues, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, moldings, high relief, fountains, kinetic, functional furnishings such as artist designed seating and pavers, architectural elements designed by an artist, and artist designed landforms or landscape elements. The following shall not be considered as art for purposes of this article:

- (a) Reproductions or unlimited copies of original art.
- (b) Art objects which are mass produced.
- (c) Works that are decorative, ornamental, or functional elements of the architecture or landscape design, except when commissioned from an artist as an integral aspect of a structure or site.

Artist or professional artist - a practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the sole commission of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts.

Community investment plan - an annually prepared summary and list of capital improvement projects such as street or park improvements, building construction, and major facility maintenance.

Government Funded Development Projects: any construction, redevelopment, or structural alteration of any public building or site within the limits of the City. The definition shall also be deemed to include construction projects that are developed by persons or entities other than the city, but which require the participation of the city as a party to a (i) development agreement, to (ii) management agreement for a city-owned building or facility having a term of ten years or more (including renewal terms).

Maintenance: the required repairs or cleaning to keep a work of art in its intended condition, including preventative maintenance at scheduled intervals to curtail future deterioration, ordinary repairs or maintenance of a structure, including but not limited to, painting, repair or replacement, installation of mechanical equipment.

Professional Advisory Committee: A group of arts professionals selected by the Public Art and Placement Advisory Board to recommend works of art or artists for one or more, projects, acquisitions, or commissions.
Project: new construction, renovation work, or facade improvements requiring a building permit where fifty (50) percent or more of a building is being modified, renovated, expanded, rebuilt or improved by construction.

Public art: original works of art that are accessible to the public and which may possess functional as well as aesthetic qualities that typically reflect an awareness of its site, both physically and socially.

Public art fund - a separate, interest bearing account established by the city to receive monies for the public art and placemaking program.

Public development: any construction, redevelopment, or structural alteration of any public building or site within the limits of the City. The definition shall also be deemed to include construction projects that are developed by persons or entities other than the city, but which require the participation of the city as a party to a (i) development agreement, or (ii) management agreement for a city owned building or facility having a term of ten (10) years or more (including renewal terms).

Public place: any exterior area on public property within the city which is easily accessible or clearly visible to the general public from adjacent public property such as a street or other public thoroughfare or sidewalk.

Public property: any property that is not owned by a private individual or a company. It belongs to the public at large and not to any one person. It covers premises and facilities that are owned by the government or a community.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-350. Public Art Fund.

There is hereby created a public art fund consisting of all funds received for the design, acquisition, repair and maintenance of public art.

(1) Funding sources for the public art fund:

(a) Development projects as described below are to contribute to the Public Art Fund or provide either Public Art or Sense of Place Elements as described herein, as applicable, to each project.

(a) Government funded development projects. All publicly funded development projects must contribute (a) Two (2) percent of the approved community investment plan (CIP) budget shall be allocated annually and deposited into the city's public art and placemaking fund project costs for the placement of public art on or within the project site.

i All appropriations of city funding for the construction projects of the approved community investment plan (CIP) budget shall include an appropriation of funds to the Public Art Fund. The amount appropriated to the public art fund shall not be less than two (2) percent of the construction cost of the city construction project. The appropriation to the fund shall be made at the time of the award of the construction contract for said city construction project. For City requested changes in scope requiring additional appropriations more than \$250,000.00 in the aggregate, at the time of appropriation of monies for the subject changes in scope, the applicable public art funding allocation shall be transferred to the public art fund.

ii For city construction projects that are developed by persons allocated annually and entities other than the city, but that are developed pursuant to a development agreement entered, deposited into with the city; or which are developed pursuant to a management agreement having a term (including renewal terms) of ten years or more, and which agreement requires design and construction of a city building or facility, the required appropriation shall be made at the same time as the appropriation funding for the construction project and be based upon construction cost, regardless of whether the construction cost is funded by the city of the person or entity other than the city placemaking fund.

(b) Gifts, grants and donations.

(2) Eligible uses for the public art fund include:

(a)

(a) The design and acquisition of temporary or permanent art, including: sculptures, murals, portable paintings, art incorporated into project designs, earthworks, neon, mosaics, photographs, prints, film, sound, video; standardized fixtures such as grates, streetlights and other design enhancements as are rendered by an artist for unique or limited editions, and cultural and artistic facilities such as public exhibition or performance spaces; performing arts, literary arts, media arts and arts education.

(b) The repair, maintenance, insurance, and removal of works of art acquired under this article. The amount budgeted for maintenance, insurance, and preservation of works of art acquired by the City pursuant to this article as part of the total appropriations for public art shall not be more than Twenty-five (25) percent of monies placed in the Public Art Fund.

(c) Expenses relating to the following:

- (i) Research and evaluation by the committee pertaining to proposed works of art, including opinions (when necessary) from outside experts and/or professional advisory committees;
- (ii) Expenses related to art contests by the committee in connection with acquisitions of works of art, including printing and distribution expenses.
- (iii) Administrative expenses relating to the operations of the public art and placemaking advisory board including but not limited to subscriptions and memberships.
- (iv) Selected artist travel expenses.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-351. Public art and placemaking advisory board.

There is hereby established a public art and placemaking advisory board to serve in an advisory capacity to the city commission. The public art and placemaking advisory board shall consist of a maximum of seven (9) members. Members shall hold office in accordance with procedures established by the city commission.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-352. Compensation; term.

The members of the public art and placemaking board shall serve without compensation, and each member shall serve for a term of one (1) year from the date of his or her appointment.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-353. Qualifications.

- (1) Members of the public art and placemaking board shall be residents of, own property in, or be employed in the city and have a deep concern for public art.
- (2) Four (4) members shall be from one (1) of the following occupations: a registered architect, landscape architect, professional artist, urban planner, or an engineer; four (4) members shall be residents of the City of Fort Lauderdale knowledgeable in the field of public art, arts administration or public art education; and the chair of the Broward County's Public Art and Design committee, or his or her designee.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-354. Powers and duties.

The Cultural Affairs Officer will serve as a liaison to the public art and placemaking advisory board. The public art and placemaking advisory board have the power of making recommendations to the city commission. Such board shall have authority to make recommendations to the city commission as to the following:

- (1) Public art and placemaking guidelines, policies and amendments.
- (2) Public art and locations for public artworks, keeping in mind continuity around the city.
- (3) Expenditures of the public art fund.
- (4) The maintenance and insurance necessary to preserve and protect public art and placemaking items.
- (5) The means by which artwork and placements may be obtained, including donations, designs, grants applications.
- (6) To make recommendations to the city commission regarding the placement of proposed donations of works of art for placement on public property in the city.
- (7) To provide an advisory recommendation to private nonprofit applicants seeking to install works of public art and/or noncommercial artistic murals, graphics, and images on city-owned buildings, which mural, graphic or image art is not funded by the city.
- (8) To perform all other duties and functions as requested by the city commission.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-355. Meetings and procedures.

- (1) *Chairman.* The members shall elect a chair from among its members.
- (2) *Quorum.* The presence of four (4) or more members shall constitute a quorum.
- (3) *Meetings.* Meetings will be called on a monthly basis at city hall, or at such other locations as designated by resolution of the City Commission, so long as the board has business to discuss.
- (4) *Conflict of interest.* If any member of the public art and placemaking advisory board shall find that his or her private or personal interests are involved in a matter for consideration before the public art and placemaking advisory board, such member shall disqualify himself or herself from all participation in that matter. No member of the public art and placemaking advisory board shall have his or her work of art considered or approved by the public art and placemaking advisory board during their term of service on the board or for one (1) year thereafter.

(Ord. No. C-20-19, § 1, 7-7-20; Ord. No. C-23-23, § 3, 6-6-23)

Sec. 9-356. Art selection criteria.

The public art and placemaking advisory board shall consider the following criteria in the recommendation of artwork:

- (a) Maximum visual accessibility to pedestrian or vehicular traffic.
- (b) Quality of artwork where visual appeal, use of reputable materials and sustainable works of art are at the forefront.

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- (c) Maintenance requirements.
 - (d) Appropriateness of artwork to the site and site environmental conditions.
 - (e) Location of areas used by tourists, including parks, thoroughfares, and at public or governmental facilities.
 - (f) Compatibility with the surrounding neighborhood.
 - (g) The proposed art or element is not detrimental to the public welfare and will not constitute a safety hazard.
 - (h) Any other criteria set forth in the public art and placemaking program guidelines, as may be amended from time to time.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-357. Artist selection.

The public art and placemaking advisory board shall consider the following criteria in the selection of an artist:

- (a) Ability of the artist to complete the project within a specified schedule and budget.
- (b) Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions.
- (c) Any other criteria set forth in the public art and placemaking program guidelines, as may be amended from time to time.
- (1) Selection process. The public art and placemaking advisory board shall establish procedures for selecting art works to be purchased or commissioned from the resources of the city's public arts fund. Those Procedures can include the following:
 - (a) Open competition;
 - (b) Limited competition;
 - (c) Invitation;
 - (d) Direct Selection;
 - (e) Direct purchase;
 - (f) Donation;
 - (g) The establishment of a subcommittee or artist selection committee to make recommendations to the board
- (h) Any combination of the above.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-358. Visibility of public art and placemaking projects.

Public art shall be placed in areas that are clearly visible from the public sidewalk or public place.

(Ord. No. C-20-19, § 1, 7-7-20)

Sec. 9-359. Ownership of public art and placemaking projects.

- (1) Unless otherwise expressly agreed to in writing and approved by the city commission, the city shall be deemed the owner of and shall retain title to each work of public art acquired using public art and placemaking funds as allowed by law.
- (2) Prior to the use of any funds for artwork on public property, a written agreement detailing the use of funds, the scope of work, intellectual property indemnification, the ownership and maintenance responsibilities and other terms as determined and prepared by the city attorney, shall be entered into with the artist and approved by the city commission.
- (3) Artists, as part of any contractual agreement with city for the provision of a work of art, shall be required to submit to the public art and placemaking advisory board a "Maintenance and Inventory Sheet" including the annual cost projections which outline the maintenance and ongoing care of the work of art upon completion of the project

Sec. 9-360 Sense of Place Element.

Sense of place elements. Development projects are encouraged to incorporate creative design elements into their design. Such elements should be an artistic, social, and functional component of a development project and surrounding neighborhood context. Building illumination should also be encouraged as a sense of place element. Future branding of the area should also focus on creating a unique representation of the project area.

(Ord. No. C-20-19, § 1, 7-7-20)