

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, CREATING A NEW CHAPTER 160, OF TITLE XV OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH TO BE ENTITLED, "PUBLIC ART," CREATING A PUBLIC ART PROGRAM FOR NEW CONSTRUCTION; PROVIDING GENERAL PROVISIONS FOR ITS ORGANIZATION AND OPERATION; PROVIDING FOR A PUBLIC ART COMMITTEE; PROVIDING FOR PURPOSE AND APPROPRIATIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Chapter 160, of Title XV of the Code of Ordinances of the City of Pompano Beach, Florida, is hereby created to read as follows:

CHAPTER 160: PUBLIC ART

§ 160.01 STATEMENT OF INTENT.

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

It is the intent and purpose of this chapter to enhance the aesthetic and cultural value of the city by including works of art on public properties within the city. Benefits of public art are both aesthetic and economic. By increasing the public art offerings throughout the community, the City is committed to developing cultural resources to maintain community well-being. The economic benefits of public art have been identified by the National Endowment for the

Arts, which reports that every dollar spent by local government on the arts generates more than \$11 from the private sector in ticket sales and philanthropic donations. Further, Americans for the Arts' research revealed that cultural tourists tend to stay longer at their destinations, stay at higher quality hotels, and spend more time and money in restaurants and on retail.

§ 160.02 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ART OR WORKS OF ART. A tangible object including but not limited to paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings, or combinations thereof, and artist-designed public facilities, buildings, and/or spaces and functional elements, either as integral parts of a larger project or as a separate entity.

CITY CONSTRUCTION PROJECT. Any capital improvement project paid for wholly or in part by the city to construct or remodel any building, structure, park, utility, street sidewalk, or parking facility, or any portion thereof, within the limits of the City of Pompano Beach. The definition of city construction project 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 development agreement or ground lease.

ESTIMATED IN PLACE COST OF CONSTRUCTION. As described in Chapter 152.12 .

PUBLIC ART. Works of art of an appropriate scale and for general public access in public places.

PUBLIC ART COMMITTEE. The advisory committee appointed by the City Commission to carry out the duties and functions set forth in this article.

§ 160.03 PUBLIC ART COMMITTEE.

(A) There is hereby established a committee to be known as the public art committee. The composition and rules governing the public art committee are to be established by resolution.

§ 160.04 POWERS AND DUTIES OF THE COMMITTEE.

The public art committee shall have the following powers and duties:

(A) Recommendations to the City Commission on public art guidelines and amendments there to;

(B) Recommendations to the City Commission on a Public Art Master Plan, and amendments there to;

(C) Recommendations to the City Commission on art and artist selection;

(D) Recommendations to the City Commission on the maintenance and insurance necessary to preserve and protect the public art;

(E) Recommendations to the City Commission for other expenditures of the public art fund; and

(F) The public art committee is responsible for submitting an annual report to the City Commission each year at the end of the 12-month term. The report will describe the committee's accomplishments over the past year, give the status of current projects, provide information on any future plans, and include an inventory of public art in the city.

§ 160.05. PUBLIC ART FUND ESTABLISHED.

(A) There is hereby established a fund to be known as the public art fund.

(B) All appropriations of city funding for city construction projects shall include an appropriation of funds to the art in public places fund as follows:

(1) The amount appropriated to the art in public places fund shall be two percent (2%) of the estimated in place construction cost of the city construction project.

(2) The appropriation to the fund shall be made at the time each Capital Improvement Plan budget is adopted by the City Commission. If projects are added to the Capital Improvement Plan outside of annual adoption period, the appropriation shall be made at the time the project is added.

§ 160.06. PUBLIC ART FUND PURPOSE.

Funds placed in the public art fund shall be used only for the following purposes:

(A) Acquisition of works of art to be located on public property within the city, inside publicly accessible areas of public buildings, or public facilities within the city, or in publicly accessible areas of private property within the city, in accordance with the procedures in this section. The location for public artwork

shall be made in accordance with the adopted Public Art Master Plan and does not need to be associated with the city construction project that contributed the funding.

(B) Insurance and/or maintenance of existing works of art acquired by the city under this section in accordance with a yearly budget for such insurance and/or maintenance to be approved by the City Commission. The city manager and public art committee shall provide the City Commission with a yearly recommendation regarding this budget.

(C) Expenses relating to the following:

(1) Research and evaluation by the public art committee pertaining to proposed works of art, including opinions when necessary from outside experts and/or professional advisory committees;

(2) Administrative expenses relating to the operations of the committee, including but not limited to salaries, supplies and equipment for the keeping of minutes and printing and distribution of board agendas and correspondence;

(D) All such expenses shall be approved as part of the yearly budget for the fund by the City Commission after considering the recommended budget submitted by the city manager, the Development Services Department, and the public art committee.

(E) The amount budgeted for administration, maintenance, insurance, and preservation of works of art acquired by the city pursuant to this article as part of the total appropriations for art in public places shall not be more than 25 percent of funds placed in the public art fund.

§ 160.07 PROJECTS SUBJECT TO REQUIREMENTS OF THE PUBLIC ART PROGRAM.

(A) Unless specifically exempted below in subsection B, the requirements of this chapter shall apply to all City construction projects.

(B) Exemptions. The requirements of this chapter shall not apply to the following activities:

(1) Affordable housing construction, remodel, repair, or reconstruction projects, as defined by federal, state, or local projects.

(2) Any project with a funding source that cannot fund public art due to restrictions by public bond covenants; federal, state or local laws; and/or legal parameters.

§ 160.08 ART AND ARTIST SELECTION CRITERIA.

(A) The following criteria, at minimum, shall be considered by the public art committee in the selection of artwork:

- (1) Appropriateness of the artwork to the site and site environmental conditions;
- (2) Maximum visual accessibility to pedestrian or vehicular traffic, as set forth in the public art program guidelines;
- (3) Quality of the artwork;
- (4) Maintenance requirements; and
- (5) Any potential conflicts of the artwork resembling any corporate, business or private logos or themes.

(B) The following criteria, at minimum, shall be considered by the public art committee in the selection of an artist:

- (1) Ability of the artist to complete the project within a specified schedule and budget;
- (2) Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions; and
- (3) Any other criteria set forth in the public art program guidelines, as amended from time to time.

§ 160.09 OWNERSHIP OF PUBLIC ART.

Unless otherwise expressly agreed to in writing by the city, ownership of all art acquired through expending funds in the public art fund shall be vested in the city, which shall obtain title to each work of art.

§ 160.10 PUBLIC ART MASTER PLAN.

The City Commission shall adopt a public art master plan that identifies locations for public artworks, establishes a priority order of location and art type, and any potential themes, concepts or goals relating to the public art program.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2012.

PASSED SECOND READING this _____ day of _____, 2012.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

/jrm
6/29/12
L:ord/ch160/2012-320

ORDINANCE NO. 2003-114

AN ORDINANCE OF THE CITY COMISSION OF THE CITY OF CORAL SPRINGS, FLORIDA, CREATING CHAPTER 6 OF THE LAND DEVELOPMENT CODE OF THE CITY OF CORAL SPRINGS ENTITLED "PUBLIC ART PROGRAM," CREATING A PUBLIC ART PROGRAM FOR NEW DEVELOPMENT AND REDEVELOPMENT IN NON-RESIDENTIAL DISTRICTS AND IN MIXED USE AND MULTI-FAMILY DISTRICTS ON PLOTS GREATER THAN ONE ACRE; PROVIDING GENERAL PROVISIONS FOR ITS ORGANIZATION AND OPERATION; CREATING A PUBLIC ART COMMITTEE; PROVIDING FOR A PUBLIC ART FEE FOR THE CONSTRUCTION AND INSTALLATION OF ART; PROVIDING CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, over three hundred communities throughout the United States have implemented public art programs committing to the placement of public art in urban environments; and

WHEREAS, the City of Coral Springs recognizes that a superior and diverse aesthetic character of a City's built environment is vital to the quality of the life of its citizens, vital to the economic success of its businesses, an attraction for visitors, and will assist the City fulfill its mission to make Coral Springs "the premier City in Florida in which to live, work and raise a family;" and

WHEREAS, a public art program would contribute to the aesthetic character of the built environment and the cultural enrichment of the community; and

WHEREAS, a public art program would create a stimulating cultural environment that reflects and enhances the City's heritage, diversity, and character through public artworks integrated in the architecture, infrastructure and landscape; and

WHEREAS, public and private development shall contribute to a public art program to enhance and maintain the City's aesthetic character; and

WHEREAS, the City Commission of the City of Coral Springs finds it to be in the best interests of the citizens of this community to amend the Land Development Code by creating a public art program; now, therefore

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CORAL SPRINGS, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Chapter 6 of the Land Development Code of the City of Coral Springs, entitled "Public Art Program," is hereby created to read as follows:

Sec. 601. Short title; intent.

(A) This chapter shall be known and cited as the "Public Art Program."

(B) It is the intent and purpose of this chapter to further the commitment of the City of Coral Springs to the aesthetic enrichment of the community through the creation of works of art so that citizens and visitors to the City of Coral Springs are afforded an opportunity to enjoy and appreciate works of art. The requirements of this chapter shall be construed to promote the aesthetic values of the entire community and to encourage the preservation and protection of works of art.

Sec. 602. Definitions.

(A) Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

(1) Artist or Professional Artist means 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.

(2) Art, Artwork or Works of Art means tangible creations by artists exhibiting the highest quality of skill and aesthetic principles and includes all forms of the visual arts conceived in any medium, material, or combination thereof, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetics, collages, drawings, monuments erected to commemorate a person or an event, 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 artwork or works of art for purposes of this chapter:

(a) Reproductions or unlimited copies of original artwork.

(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.

(3) Building means any structure that encloses space and is used or built for the shelter or enclosure of persons, businesses, chattel or property.

(4) Development means any construction, or redevelopment of any private or public building within the limits of the City.

(5) Public Art Committee means the entity appointed by the City Commission to administer the Public Art Program.

(6) Public Art Fund means a separate, interest bearing account set up by the City to receive monies for the Public Art Program.

(7) Remodeling or converting means changes to the façade of a building, changes to the interior of a building, increases or decreases in the floor area of a building and changes to exterior improvements.

Sec. 603. Public art committee.

(A) There is hereby established a committee to be known as the Public Art Committee.

(B) The Public Art Committee shall consist of five (5) members plus an additional two (2) alternates and one (1) non-voting high school student who shall be appointed by the City Commission. The alternate members may substitute for any member of the Committee who is unable to be present at a scheduled committee meeting. Membership of the Public Art Committee shall include:

- (1) two (2) individuals chosen from the following disciplines: landscape architecture, urban planning, engineering, or a related design discipline;
- (2) one (1) professional artist; and
- (3) one (1) private citizen, knowledgeable in the field of public art, education, or community affairs.
- (4) one (1) private citizen from the development community.
- (5) one (1) high school student who shall be a non-voting member.

(C) All members shall reside, own property, or work in the City. However, three (3) of the five (5) voting members must be residents or property owners in the City of Coral Springs. Appointments for voting members shall be made for three (3) years. The non-voting member shall be appointed for a one (1) year term. A member may be reappointed upon approval of the City Commission.

Sec. 604. Powers and duties of committee.

- (A) The Public Art Committee shall have the following powers and duties:
 - (1) Adoption of Public Art Program Guidelines and amendments thereto;
 - (2) Adoption of a Public Art Master Plan identifying locations for public artworks and establishing a priority order;
 - (3) Authorize expenditures of \$20,000.00 or less in furtherance of the Public Art Program;
 - (4) Recommend other expenditures of the Public Art Fund to the City Commission over \$20,000.00,
 - (5) Exercise their authority to approve, approve with conditions or disapprove proposed installation of artwork based on Public Art Program Guidelines; and
 - (6) Follow the approved Public Art Program Guidelines.

Sec. 605. Procedures.

- (A) Chairman The members shall elect a chairman from among its members.
- (B) Quorum. The presence of three (3) or more members shall constitute a quorum.

(C) Expenses. Members shall serve without compensation, but may be reimbursed for such pre-approved travel, mileage and per diem expenses as may be authorized by the City Commission.

(D) Meetings. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the Committee shall declare the member's office vacant, and the City Commission shall promptly fill that vacancy.

(E) Conflict of Interest. If any member of the Public Art Committee shall find that his private or personal interests are involved in the matter coming before the Committee, he shall disqualify himself from all participation in that matter. No member of the Public Art Committee shall have his or her work of art considered or approved by the Public Art Committee during their term of service on the Committee or for one (1) year thereafter.

Sec. 606. Art fee for development and redevelopment.

(A) All development, redevelopment, remodeling or converting greater than 12,500 square feet in gross floor area which are in non-residential districts, or in mixed use or multi-family districts on plots greater than one (1) acre as of the effective date of this Section, shall participate in the Public Art Program. When construction is phased, the aggregate gross square footage of the entire project or development shall be added together to determine whether the 12,500 square foot threshold is reached.

(B) Owners have the choice of participating in the Public Art Program as follows:

(1) The owner of a development may pay forty cents (\$0.40) per square foot of estimated gross floor area as an art fee to the City's Public Art Fund prior to the issuance of a building permit. Owners who are remodeling or converting may pay twenty cents (\$0.20) per square foot of estimated gross floor area being remodeled or converted as an art fee to the City's Public Art Fund prior to the issuance of a building permit; or

(2) The owner of a development may provide artwork on the development site equal to or greater than fifty cents (\$0.50) per square foot of estimated gross floor area for the development. Owners who are remodeling or converting may provide artwork on the development site equal to or greater than twenty five cents (\$0.25) per square foot of estimated gross floor area being remodeled or converted as an art fee to the City's Public Art Fund prior to the issuance of a building permit.

(a) The owner shall provide documentation to the City that the art fee has been deposited into an escrow account for said purpose prior to the issuance of a building permit.

(b) Prior to placement on the development site, the artwork must be approved by the Public Art Committee and conform to adopted Public Art Guidelines. The Guidelines include a requirement that the artwork be accessible and readily visible to the public based on location of artwork and normal traffic of vehicles/pedestrians in the proposed location.

(c) A minimum of seventy five percent (75%) of the total value of the art requirement shall be placed in areas that are clearly visible from the public sidewalk or public space.

(d) The owner shall be given up to six (6) months after issuance of the building permit to obtain approval of the proposed artwork from the Public Art Committee, unless the committee grants an extension for good cause as determined in their sole discretion. If no such approval is obtained within the time period, the City shall require transfer of aforementioned funds to the Public Art Fund.

(e) The owner shall be given up to six (6) months after the issuance of a Certificate of Occupancy to install artwork, as approved by the Public Art Committee in accordance with adopted Public Art Program Guidelines unless the Committee grants an extension for good cause as determined in their sole discretion. If no installation occurs within the time period, said funds shall be transferred to the Public Art Fund.

(3) Prior to the issuance of the Certificate of Occupancy, any discrepancy between estimated gross floor area and actual gross floor area must be reconciled. The reconciliation may include an additional art fee contribution or a refund.

(4) The contributions referenced in this Section are calculated in 2003 dollars and shall be adjusted by the Consumer Price Index on an annual basis.

Sec. 607. Art and artist selection criteria.

(A) The following criteria, at minimum, shall be considered by the Public Art Committee in the selection of artwork:

(1) Appropriateness of the artwork to the site and site environmental conditions;

(2) Maximum visual accessibility to pedestrian or vehicular traffic, as set forth in the Public Art Program Guidelines;

(3) Quality of the artwork;

(4) Maintenance requirements;

(5) Whether the artwork too closely resembles a business logo or sign and should, therefore, be rejected; and

(6) Any other criteria set forth in the Public Art Program Guidelines, as amended from time to time.

(B) The following criteria, at minimum, shall be considered by the Public Art Committee in the selection of an artist:

(1) Ability of the artist to complete the project within a specified schedule and budget;

(2) Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions; and

(3) Any other criteria set forth in the Public Art Program Guidelines, as amended from time to time.

Sec. 608. Public art fund.

(1) There is hereby created a public art fund administered by the Public Art Committee which shall consist of all contributions received from art fees for development and redevelopment greater than 12,500 square feet in gross floor area from public and private development, cash grants and donations to the City for public art projects from governmental or private resources, and all other funds allocated by the City through the budgetary process for the provision of public art.

(2) The public art fund shall be used solely for expenses associated with the selection, commissioning, acquisition, transportation, maintenance, public education, promotion, administration, removal and insurance of the works of art or in relation thereto. The Public Art Committee can authorize expenditures of \$20,000.00 or less in furtherance of the Public Art Program. All expenditures in excess of \$20,000.00 must have prior approval from the City Commission.

Sec. 609. Ownership of artwork.

Unless otherwise expressly agreed to in writing by the City, ownership of all art acquired through expending funds in the Public Art Fund shall be vested in the City, which shall obtain title to each work of art.

Sec. 610. Public art program guidelines.

The Public Art Committee shall prepare, and from time to time revise, Public Art Program Guidelines and make the same available to the public, which shall provide guidance for program organization; organizational governance and staffing responsibilities; procedures for project planning; artist selection; art selection criteria; art

placement criteria; donations; loans and memorials; collection management; and, administration of the Public Art Fund.

Sec. 611. Public art master plan.

The Public Art Committee shall prepare, and, from time to time, revise a Public Art Master Plan that identifies locations for public artworks and establishes a priority order.

Section 3. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Inclusion in Code.

It is the intention of the City Commission of the City of Coral Springs, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral

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Springs Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered and the work "ordinance" may be changed to "section," "article," or such other appropriate work or phrase in order to accomplish such intentions.

Section 5. Effective Date.

This Ordinance shall become effective upon adoption by the City Commission.

PUBLISHED the 11 day of October, 2003.

PASSED FIRST READING the 21 day of October, 2003.

PASSED SECOND READING the 18 day of November, 2003.

CITY OF CORAL SPRINGS, FLORIDA


JOHN SOMMERER, MAYOR

ATTEST:


PETER M.J. RICHARDSON, CMC, CITY CLERK

Unanimous
Motion 2nd
Yes No

—	—	Mayor Sommerer	—	—
—	—	Vice Mayor Polin	—	—
✓	—	Commissioner Brook	—	—
—	—	Commissioner Berk	—	—
—	✓	Commissioner Calhoun	—	—

ARTICLE V. - ART IN PUBLIC PLACES^[2]

Footnotes:

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Editor's note— Ord. No. 4635-16, § 1, adopted May 9, 2016, amended Art. V in its entirety to read as herein set out. Former Art. V, §§ 78-121—78-132, pertained to similar subject matter, and derived from Ord. No. 4504-14, § 1, adopted Mar. 31, 2014.

Sec. 78-121. - Purpose and intent.

The purpose of the art in public places program is to establish a program for the integration of public art into both public and private development projects throughout the city to visually enliven the city, illuminate the city's history, diversity and culture, and foster economic development. The art in public places committee is established as an advisory committee for the program.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-122. - Definitions.

Unless qualified in the text, the following definitions shall apply to this article:

Affordable housing means housing that is affordable for households at or below 140 percent of the area median income as defined by the U.S. Department of Housing and Urban Development (HUD) income limits per household size and that meets maximum housing payments established by HUD, Florida Housing Finance or local ordinance. Housing payments generally do not exceed 35 percent of household's gross monthly income.

Art, artwork or work of art means an original physical work created or produced by a professional artist, including, but not limited to, paintings, sculpture, engravings, carvings, frescos, stained glass and glass work, mosaics, mobiles, murals, collages, mosaics, statues, bas reliefs, photographs, video projections, drawings, fountains, landscape design, artifacts of historical or cultural significance, functional furnishings such as artist-designed seating, or other media. Artwork may be free-standing or integrated with the work of other design professionals into a building or site. Artwork may be new or may be an existing work of art. Artwork may include, but is not limited to:

1. Sculpture: Free-standing, wall supported or suspended; kinetic, electronic; in any material or combination of materials.
2. Murals or portable paintings: in any material or variety of materials.
3. Fiber works, neon, glass, mosaics, photographs, prints, calligraphy, earthworks, any combination of forms of media, including: light, sound, literary elements, film, holographic images, and video systems; hybrids of any media and new genres.
4. Furnishings or fixtures, including, but not limited to: gates, railings, lighting, street lights, signage, seating, if created by artists as unique elements or limited editions.
5. Historically important elements, as determined by the city's historic preservation board.
6. Culturally significant elements.
7. Artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or a design team that includes a professional visual artist. Such design elements may include pools, paths, benches, planters, and fixtures and vegetative materials

where designed by a professional visual artist and/or are an integral part of the artwork by the artist.

8. Temporary artwork or installations, that serve the purpose of providing community and educational outreach.
9. The incremental costs of infrastructure elements, such as sound walls, utility structures, roadway elements, and other items if designed by an artist as a co-designer.

Ineligible Artwork: The following shall not be considered artwork:

1. Art objects which are mass produced or of standard manufacture, such as playground equipment, fountains, statuary elements, signage, maps, corporate logos or other functional elements, unless incorporated into an artwork by an artist commissioned for that purpose.
2. Reproductions, by mechanical or other means, of original artwork, except in the cases of limited editions controlled by the artist, cast sculpture, film, video, photography, printmaking, or other media arts.
3. Decorative, ornamental, architectural, or functional elements which are designed by the building architect, as opposed to elements created by an artist commissioned for that purpose.
4. Services or utilities necessary to operate and maintain an artwork over time.
5. Works of art not visible to the public from a public right-of-way, except for private art programs, as provided in this article.

Artist means a professional 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. The term "artist" includes local artists.

Exterior place means any place, public or private, outdoor and exterior to buildings or structures and exposed to public view, including, but not limited to, buildings, parks, right-of-way medians and open spaces.

Local artist is an artist, as defined in this section, who resides in Palm Beach County.

Maintenance, with respect to artwork, means 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.

Maintenance, with respect to ordinary property maintenance, means ordinary repairs or maintenance of a structure, including but not limited to, painting, roof repair or replacement, installation of mechanical equipment.

Master plan mean the art in public places master plan, as approved by the city commission from time to time.

Mural means any drawing, artwork, inscription, or marking that is marked, etched, drawn or painted on any building or structure.

Private art program means an art program established by a corporation, foundation, or other organization which:

1. Is located in an enclosed campus or development with a fence, wall, or other form of screening which borders the perimeter of the development;
2. Consists of a collection of artwork, as defined in this article, with an appraised value of at least \$750,000.00;
3. Artwork was created by artists, as defined in this article;

4. Is located within the development and outdoors;
5. Has a professional art curator on retainer;
6. Has at least one work of art visible from a public street;
7. Opens the art collection to view by the public, by open house or scheduled visits, at least once each calendar quarter.

Project means new construction, renovation work, or façade improvements requiring a building permit where 50 percent or more of a building is being modified, renovated, expanded, rebuilt or improved by construction. For purposes of this article, project shall not include the following:

1. Repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other casualty;
2. Historic preservation or restoration;
3. Interior renovation;
4. Flood protection work items;
5. Fire sprinkler installation work items as defined by the city code.

Each phase of a residential planned development shall be a separate project. If a developer is constructing four or more residential units in a residential planned development, or phase of such development, that did not previously comply with this article, such new construction shall be considered a project for purposes of this article. A residential unit shall be considered part of a project if the certificate of occupancy for the residential unit is not issued prior to the submittal of a building permit application for the remaining residential units in a group of four or more.

Public art assessment means one percent of the total dollar amount of the total construction costs of private development that equals or exceeds \$750,000.00, which may be discounted as provided in this article.

Public place means any place, public or private, exposed to public view, including, but not limited to, buildings, parks, right-of-way medians and open spaces.

Renovation means a project requiring a building permit where 50 percent or more of the exterior building area is being modified, rebuilt or improved by construction. For purposes of this article, renovation shall not include the following:

1. Repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other casualty;
2. Historic preservation or restoration;

Temporary artwork is artwork created for a specific timeframe or event, and which is situated at a particular site on a temporary basis, not to exceed a period of two years.

Total construction costs means the total project construction costs, excluding demolition costs, real property acquisition costs and soil remediation costs. Calculations shall be based on construction and site improvement costs as declared on all building permit applications for the project. For purposes of calculating the public art assessment, construction costs shall include, but not be limited to, all building, plumbing, mechanical, and electrical permit applications for the project. The costs of grading and site preparation shall not be included in the costs.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 1, 2-12-2018)

Sec. 78-123. - Art in public places committee; membership and organization.

- (a) There is hereby created the art in public places committee as an advisory committee to the city. The committee shall be composed of seven members and two alternate members appointed by the

mayor. Committee members shall either live or work in the city. The first three appointees shall serve a term of one year, the second two appointees shall serve a term of two years, and the last two appointees shall serve a term of three years. Thereafter, all terms shall be for three years expiring on a staggered basis. The mayor may appoint and remove members at the mayor's discretion.

- (b) The art in public places committee shall designate one of its members to act as chair for a term of one year, or until a successor is elected and qualified. The art in public places committee shall maintain minutes of all of its meetings.
- (c) Each member of the art in public places committee shall serve without compensation.
- (d) Four members or alternate members shall constitute a quorum necessary to make approvals and recommendations to the city commission.
- (e) Alternate members shall attend all meetings of the art in public places committee and the presence of alternate members shall count toward a quorum. The first alternate member shall have the privilege of voting only upon the absence of a regular member. The second alternate member shall have the privilege of voting only upon the absence of two of the regular members or the absence of one regular member and the first alternate.
- (f) The committee shall meet at least once each calendar quarter, and may meet more often on a regular basis which date shall be established by its members. The committee may hold special meetings at the direction of its chair upon not less than 24-hour notice.
- (g) Members shall be required to attend all regular and special meetings of the committee. The chair shall notify the mayor when a member accumulates three consecutive absences or when a member fails to attend 60 percent of the committee meetings. Such member may be removed, and, upon such removal, the mayor shall appoint a new member to complete the unexpired term of office.
- (h) Each committee meeting shall be noticed as a public meeting of the city and minutes shall be taken.
- (i) No committee member may be the artist, provide the artwork, provide consulting services, or have any interest in any artwork to be reviewed by the committee, whether proposed by a private developer or the city.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-124. - Powers, duties and functions.

- (a) The art in public places committee shall:
 - (1) Advise the city commission on the adoption of policies and procedures to acquire, commission and maintain works of art in public places.
 - (2) Advise the city commission regarding applications for the installation of art as part of a private projects pursuant to this article.
 - (3) Advise the city commission regarding installation of art as part of a public projects pursuant to this article.
 - (4) Advise the city commission regarding proposed donations of art pursuant to this article.
 - (5) Recommend sites for location of public art in accordance with the art in public places master plan.
 - (6) Conduct, with the assistance of city staff, calls to artists regarding installation of art as part of public projects pursuant to this article.
 - (7) Provide recommendations and guidance in implementation of art in public places master plan.
 - (8) From time to time, recommend to the city commission updates or revisions to the art in public places master plan that identify proposed locations and criteria for public artwork, art selection

and placement criteria, and other program recommendations, to reflect the changing environment of the city. It is the intent that such master plan be updated every five years.

- (9) Provide recommendations to the city commission on the maintenance of city-owned artwork to preserve and protect the public art in the city's collection.
 - (10) Provide recommendations to the city commission on the deaccessioning, removal or replacement of public art owned by the city.
 - (11) Advise the city commission and/or the city building official regarding murals to be installed on city or city agency owned property, or murals to be installed on private property with the use of city or agency funds.
 - (12) Propose recommendations to the city commission regarding the art in public places ordinance and program.
 - (13) Report to the city commission, on a semi-annual basis: i) the status of the art in public places program, ii) the application of the master plan, iii) the use of art in public places funds and iv) the AiPP fund balance.
- (b) The recommendations of the art in public places committee to the city commission shall be advisory only, and may or may not be consistent with similar recommendations made to the city commission by the city planning board, zoning board, downtown action committee, historic preservation board and/or the city parks and recreation committee relating to art in public places.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 2, 2-12-2018)

Sec. 78-125. - Criteria for art and elements.

The art in public places committee shall consider the following criteria in recommending approval or disapproval of a work or art, artwork, or historic or cultural element. In specific cases, the committee may recommend approval of a work of art that the committee considers exceptional, but does not meet all of the criteria.

- a) *Complies*. The proposed art conforms to the definition of art contained in this article and will be created by an artist or local artist, as defined in this article;
- b) *Master plan*. The proposed art meets the typologies and qualities described in the art in public places master plan.
- c) *Historic significance*. The proposed historic element is historically important, reflects the history of the city or the character of the surrounding neighborhood.
- d) *Cultural significance*. The proposed element is culturally significant and reflects the aesthetic and cultural traditions and diversity of the city or the surrounding neighborhood.
- e) *Visual accessibility*. The proposed art/element will be readily visible to the public and meet the location requirements of this article.
- f) *Quality*. The proposed artist is professionally recognized in the medium and the proposed art/element is of quality and enduring value.
- g) *Appropriateness to site*. The proposed art/element is of design, scale and material appropriate scale to the site.
- h) *Compatibility*. The proposed art/element is compatible with the surrounding neighborhood.
- i) *Public welfare*. The proposed art/element is not detrimental to the public welfare and will not constitute a safety hazard. Complies with public accessibility requirements, if applicable.
- j) *Maintenance*. The proposed art/element will not require extraordinary maintenance and the maintenance plan addresses vandalism, weathering, and the life of the artwork.

- k) *Valuation.* The proposed art and/or element(s) meet or exceed the valuation requirements of this article.
- l) *Location .* The proposed location of the art and/ or element(s) is in an exterior place and is appropriate to accommodate the size and scale of the proposed art and/or elements(s), has or can reasonably accommodate any necessary supporting infrastructure, is in compliance with applicable City Code requirements such as visibility triangle, and complies with the locations identified in the art in public places master plan.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 3, 2-12-2018)

Sec. 78-126. - Art in public places fund.

- (a) *Fund established.* A separate art in public places fund shall be established by the city. All art assessment deposits from private and public development shall be deposited into this fund and the funds shall be kept separate from any other city funds.
- (b) *Use of funds .* The art in public places fund shall be used by the city for the selection, commission, acquisition and maintenance of works of art on city property or exterior places in the city. Such funds may be spent on artworks which comply with the master plan and the criteria established in this article or art-related costs including, but not limited to,
 - (1) *Selection.* Selection processes for public art including advertising, selection panelist fees, completion stipends, outside consultant fees, and/or travel expenses for artists or experts.
 - (2) *Commissioning, acquisition and installation.* Artist and engineering design fees, permit fees, purchase price, fabrication, transportation, installation, site preparation and improvement, lighting and other costs directly related to the installation of the public art.
 - (3) *Maintenance.* Maintenance of public art owned by the city, including evaluation fees for professional conservators, costs of repair, cleaning and conservation.
 - (4) *Relocation or removal.* Costs directly related to the transportation and relocation or removal of public art.
 - (5) *Insurance and security.* The costs for damage and theft insurance for public art owned by the city, and, as appropriate, costs for security for installations or exhibitions.
 - (6) *Consulting.* The fees and costs for consultants, appraisers and curators as may be necessary.
 - (7) *Promotion.* Costs to promote the public art in the art in public places program including public art tours, lectures, descriptive on-site plaques, social media, brochures and other methods.
 - (8) *Program administration.* All personnel costs for the management and staffing, as needed, to support the AiPP Program.

Funds shall not be utilized for artist receptions, dedication art events, promotional materials for the artist, or expenses for the operation or maintenance of public art on private property.

- (c) *Committee funds .* The art in public places committee is authorized to spend not more than \$15,000.00 per fiscal year from the fund, which may be used by the committee for small projects distributed among the art districts identified in the art in public places master plan, and in compliance with the master plan, or for other authorized committee duties.
- (d) *Commission approval .* Except for the use of committee funds, as provided above, use of the art in public places funds shall be approved by the city commission.
- (e) *Procurement.* The procurement of goods, services or construction for the art in public places program or using art in public places funds shall comply with the procurement code, as applicable.
- (f) *Carryover.* Any monies not expended in the fund in any fiscal year shall be carried over in the fund into the following year. Any interest earned on the funds shall be retained in the fund.

- (g) *Contract required.* Prior to the use of any funds for artwork on private property, a written agreement detailing the use of funds, the ownership and maintenance responsibilities and other terms as determined by the city attorney shall be entered into with the property owner and approved by the city commission.
- (h) *No general grants or sponsorships .* The art in public places funds are not intended to provide general grant funding or sponsorships to artists, but shall be utilized in accordance with the master plan and the requirements of this article.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 4, 2-12-2018)

Sec. 78-127. - Enforcement.

- (a) Certificate of occupancy. Unless an alternative deadline is established in a development order, or a time extension is granted by the director of development services, no certificate of occupancy for the project shall be issued until the artwork is installed, the final revised construction cost affidavit and accounting of the escrowed art funds has been provided; and/or the full art assessment has been paid to the city.
- (b) The provisions of this article may also be enforced through any remedy available to the city in law or in equity. Violations may also be enforced through the code enforcement provisions of chapter 26 of this Code; or through the provisions of section 1-13 of this Code; or the city may institute a civil action in a court of competent jurisdiction to seek injunctive or other relief to enforce compliance with the terms of this article or any rule or regulation promulgated under this section, to enjoin and prohibit said violation or to compel the performance of actions which will result in compliance with the terms of this article. The city shall recover its court costs and reasonable attorneys' fees in any legal proceedings commenced to enforce this article. These remedies are cumulative and the use of any appropriate remedy shall not constitute an election of other remedies by the city. The use of one remedy shall not preclude the use of any others.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-128. - Applicability.

- (a) The art in public places program requirements defined in this section shall apply to the following activities:
 - (1) Private development projects as set forth in section 78-129
 - (2) Public construction projects as set forth in section 78-133.
- (b) Exceptions. The requirements of this article shall not apply to the following development or activities:
 - (1) Single-family residences not developed as a planned development;
 - (2) Ordinary property maintenance;
 - (3) Repairs and restoration resulting from fire, flood, windstorm or other casualty or natural disaster, as determined by the building official;
 - (4) Affordable residential housing units where at least 51 percent of the units are reserved for affordable housing;
 - (5) Institutional uses, such as churches, hospitals, and public or not-for-profit private schools;
 - (6) Premises which are owned or leased solely by a non-profit entity and used in furtherance of the non-profit purpose;

- (7) Industrial and commercial development that is not open or accessible to the general public due to the storage or use of hazardous, radiological, or infectious materials, national security reasons, or other reasons related to the health, safety or security of the public.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 5, 2-12-2018)

Sec. 78-129. - Public art assessment for private development.

- (a) *Applicability.* The provisions of this article and the public art assessment section shall apply to all private development projects, including new construction, or the renovation or improvement of an existing building, where total construction costs are equal to or greater than \$750,000.00. All buildings within new planned developments shall be assessed cumulatively towards this art in public places requirement, even if the buildings are permitted separately or developed in phases. The provisions of this section apply to new development or new construction within existing planned developments.
- (b) *Requirements.* All private development meeting the applicability requirements of this section shall be assessed a sum in accordance with this section, which funds shall be utilized for public art in accordance with this article. Notwithstanding the foregoing, the public art assessment for any single project shall not exceed \$2 million. All applicable private development shall be required to elect one of the following within 90 days of the issuance of the first building permit for any portion of the project:
 - (1) *Option 1:* Submit documentation evidencing the escrow of funds for a work of art or historic or cultural elements valued in an amount not less than one percent of the total construction costs, and submit an application for approval of the work of art or historic or cultural elements, in compliance with this article. If a local artist will be commissioned to provide a work of art, the work of art shall be valued at not less than 90 percent of one percent of the total construction costs; or
 - (2) *Option 2:* Contribute an amount equal to 80 percent of one percent of the total construction costs for deposit to the art in public places fund. The public art assessment shall be paid in full prior to the issuance of a certificate of occupancy; or
 - (3) *Option 3:* Submit documentation evidencing the escrow of funds for a work of art or historic or cultural elements valued in an amount less than one percent of the total construction costs and contribute 80 percent of the balance of the public art assessment (one percent of the total construction costs) for deposit in the art in public places fund.
 - (4) *Option 4:* Submit documentation evidencing the escrow of funds for a work of art or historic or cultural elements valued in an amount not less than one percent of the total construction costs, which art will be part of a private art program that meets all requirements of a private art program.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-130. - Inclusion of art or elements in the project.

- (a) *Historical or cultural elements .* The developer may choose to retain or incorporate historically important or culturally significant elements in the project in lieu of or in addition to artwork. Historical or cultural elements may include distinctive exterior features, finishes, and construction techniques or examples of craftsmanship that characterize a historic period or culture. The total value of all historical or cultural elements and/or artwork must equal one percent of the total construction costs.
- (b) *Location.* Artwork and/or historical or cultural elements must be located to be readily visible to the public based on normal traffic of vehicles and pedestrians in the area.

(c) *Process.* If the developer chooses to provide artwork or historical or cultural elements, the developer shall follow the following process:

- (1) *Escrow and accounting of funds for artwork.* The developer shall submit documentation to the city showing that a deposit for public art was made with the developer's attorney into an escrow account not more than 90 after the issuance of the first building permit, in an amount equal to one percent of the total construction costs. If the amount to be escrowed exceeds \$500,000.00, then in lieu of a deposit of the full amount of the art assessment, a payment bond in an amount not less than the full required deposit amount, which references this city code section, from a surety acceptable to the city, may be provided. Such bond shall provide for payment of the bond amount to the city in the event that public art, or historical or cultural elements, which complies with the requirements of this article is not installed within 36 months of issuance of the building permit, unless such time is extended in writing by the building official.
- (2) *Art consultant.* If the developer chooses to provide artwork, the developer may utilize up to 12 percent of the escrowed art deposit to retain an art consultant to assist in the selection and procurement of the required work of art. The art consultant shall have no financial or other relationship with the artist or developer, nor any ownership in the artwork purchased by the developer. The artist shall not be entitled to the art consultant fee.
- (3) *Artist selection.* Selection of the artist will be the responsibility of the developer. The selected artist shall be an artist as defined in this article. The commission of the artist shall be by written contract between the developer and artist.
- (4) *Application for approval of proposed art or elements.* An application for approval of the work of art or historic or cultural elements shall be made to the arts in public places committee within 90 days of the issuance of the first building permit. The application shall include:
 - i) Artist's qualifications, including resume and portfolio establishing the artist's credentials;
 - ii) Detailed description and depiction of the work of art and its location on the site;
 - iii) Drawings and renderings of the proposed work of art, in terms of size, scale, color, shape, and materials in sufficient detail to provide a clear understanding of the art or elements proposed;
 - iv) Appraisal of the value of the art or element;
 - v) Documentation showing that a deposit for public art was made into an escrow account;
 - vi) Maintenance program required for the artwork or elements;
 - vii) Compliance with public accessibility (ADA) requirements.
- (5) *Committee review of contribution of art and elements.* The art in public places advisory committee shall review the proposed artwork or historical or cultural elements based on the standards established in this article and shall recommend to the city commission whether to approve, deny, or approve with conditions the selection and location of the artwork or elements with sensitivity to the aesthetic and cultural traditions and the history of the city and to the character of the surrounding neighborhood.
- (6) *Appraisal.* To establish the value of the artwork to be installed or historical or cultural elements to be installed or retained by developer to comply with this article, the city may employ an independent art appraiser to provide a written appraisal of the art work(s) submitted or cultural or historic elements. Such appraisal will be paid for by the developer from the escrowed art deposit.
- (7) *Construction cost overruns.* If the final cost of the total construction for the project is higher than the initial project cost estimate used to calculate the art assessment or escrowed art deposit, the developer shall either: i) provide additional art for the project valued at one percent of the increase in the total construction cost or ii) provide an additional deposit to the art in public places fund valued at one percent of the increase in the total construction cost. The

additional art shall be installed or the deposit shall be made prior to issuance of the final certificate of occupancy.

- (8) *Accounting of escrow* . Prior to the issuance of the final certificate of occupancy for a project, the developer shall submit a revised construction cost affidavit, which shall be submitted whether developer elected to pay the art assessment or install artwork. The developer's attorney or escrow agent will provide the city a final written affidavit and accounting of the payment for art and any art consulting fees from the escrowed art deposit at the conclusion of the placement of artwork. This affidavit shall be in a form acceptable to the city. Any surplus balance in the escrow account after the developer has completed the installation of the required art work shall be disbursed to the city and deposited into the art in public places fund. In the event that public art, or historical or cultural elements, which complies with the requirements of this article is not installed within 36 months of issuance of the building permit for the project, all escrow funds shall be disbursed to the city, unless such time is extended in writing by the art in public places coordinator.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 6, 2-12-2018)

Sec. 78-131. - Ownership and maintenance of private art.

Artwork installed on private property pursuant to the requirements of this article shall be the property of the property owner. Title and ownership of the artwork shall transfer in whole or in part to any successor in interest of the property. The property owner shall be responsible for maintenance of the art work in good condition at all times, as determined by the city's code enforcement official. The property owner shall be responsible for ensuring that the public's view of the artwork is maintained and no vegetation or additional construction shall obstruct the public's view. Maintenance shall include any associated landscaping or related improvements. In the event of destruction or casualty to the artwork, the property owner shall repair or replace the artwork with art equal in value to the value of the artwork originally installed. If the artwork is to be replaced, the art in public places advisory board shall review the proposed artwork and shall recommend to the city commission whether to approve, deny, or approve with conditions the selection of the artwork in accordance with the art in public places implementation guidelines.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-132. - Removal or replacement of art.

- (a) Artwork or elements installed in accordance with this section shall remain on site in the approved location and cannot be altered, replaced or removed except as provided in this article, or when deemed to be unsafe by the city building official, or necessary replacement due to damage from natural disasters. The seller of any property containing artwork installed in compliance with this article shall include restrictions by deed or other instrument that requires retention and maintenance of the artwork or elements in compliance with this article.
- (b) All replacement art and elements shall equal or exceed the value of the original artwork and shall not be less than the original public art assessment requirement. The replacement art shall meet the all of the requirements of this article. All replacement art and elements must be approved by the art in public places committee and the city commission. The replacement art shall be installed and be available for public view not more than six months after the existing artwork is removed, unless this period is extended by the city's director of development services.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-133. - Public projects.

- (a) *Applicability.* All appropriations and authorizations for the new construction, renovation or remodeling of eligible public improvements by the city shall include an amount of not less than one percent of the total construction costs to be deposited in the art in public places fund.
- (1) Eligible public projects subject to the public art assessment shall be:
- (i) Any public building, facility or structure which permits public occupancy of all or a portion thereof, including but not limited to fire stations, police stations, and public community centers.
 - (ii) Any vertical construction within a public park or recreation facility.
 - (iii) A sidewalk, pedestrian or bicycle path project where sufficient location, space, utilities and other elements to accommodate public art exist, as determined by engineering and planning staff and the art in public places coordinator.
- (2) Ineligible public improvements that are not subject to the art assessment are:
- (i) Any minor road project, including but not limited to construction, resurfacing, curbing, drainage, striping, lighting and signalization.
 - (ii) Any public utility project, including water, waste water and stormwater projects.
 - (iii) A streetscape, sidewalk, pedestrian or bicycle path project where there is not sufficient space, utilities and other elements to accommodate public art, as determined by engineering and planning staff and the art in public places coordinator.
 - (iv) Any public building, facility or structure which is not accessible to the public.
 - (v) Any project funded by a revenue source which by law cannot be utilized for the acquisition of works of art.
 - (vi) Any acquisition of land.
 - (vii) Any eligible public construction project where the city commission determines that the project appropriation cannot accommodate the art assessment, or the assessment will result in a cost overrun.
 - (viii) Any affordable housing project or project constructed using federal funds which cannot be utilized for public art.
- (b) *Budget.* For eligible projects, an estimate of the public art assessment shall be calculated, included and detailed in the project budget. At the start of the fiscal year, or after the adoption of a project budget amendment, the art assessment will be transferred to the art in public places fund.
- (c) *Process.* For eligible projects, the art in public places committee shall recommend, for approval by the city commission, whether the public project should include a work of art or historic or cultural element. If approved by the city commission, the art in public places committee shall, with the assistance of city staff, conduct a call to artists, request for proposals or direct invitation for proposals for works of art to be incorporated into the project within the budget and in compliance with the art in public places master plan. The committee shall not recommend works or art for installation on public property which cannot be reasonably maintained within the resources allocated by the city. The city commission shall have the final decision of the selection of the artist and/or the selection of the artwork. If the assessment from a project is not sufficient to acquire a work of art which would comply with the master plan or be appropriate for the city, or if the city commission so determines, the public art assessment from a public project shall be deposited into the art in public places fund and may be pooled with other such funds for the acquisition of a work of art for display at another city facility, in compliance with the public art master plan and at the time and place determined by the city commission.
- (d) *Ownership and maintenance.* All artwork acquired pursuant to this article shall be titled in the name of the city. Artwork installed on city property shall be owned by the city. The city shall be responsible for maintaining its artwork.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 7, 2-12-2018)

Sec. 78-134. - Artist grant of license.

The artist of artwork approved and installed on city property under the art in public places program shall grant to the city an unlimited, perpetual, non-exclusive, royalty-free license to reproduce and distribute two-dimensional reproductions of the artwork, in photos, videos and related media, for city-related purposes; shall grant to the city irrevocable ownership rights in any copyright or other intellectual property right regarding the artwork; and shall waive and release in favor of the city all rights, including the right of attribution or integrity, which artist may have in the artwork as provided by 17 U.S.C. §§ 106A and 113(d)(Visual Artist Rights Act). The city shall make all reasonable efforts to attribute the artwork to the artist in all uses. Artist shall retain a perpetual, royalty-free license to reproduce two-dimensional reproductions of the artwork, in photos, videos and related media, for demonstration of artist's artwork. Any such documentation shall be approved by the city attorney. The city shall have the option of acknowledging the artist and the artwork title in reproductions. By participating in the art in public places process, the artist authorizes review by the art in public places committee and compliance with public records laws.

(Ord. No. 4635-16, § 1, 5-9-2016; Ord. No. 4754-17, § 8, 2-12-2018)

Sec. 78-135. - Mural art.

- (a) Applicability. The provisions of this section apply to murals to be installed on city or city agency owned property, or murals to be installed on private property with the use of city or agency funds. Murals to be installed on private property without government funding are governed by section 94-410 of this code and require a mural permit from the city.
- (b) Application. An application for approval of a mural by the art in public places committee shall include the following information:
 - (1) Professional resume;
 - (2) Examples of past work (five to ten images);
 - (3) Image of building location;
 - (4) Description of materials to be utilized;
 - (5) A statement describing the mural project, its location, and application process;
 - (6) A final rendering of the proposed work to scale on the location site;
 - (7) A letter of other document from the property owner agreeing to the installation of the mural;
 - (8) Maintenance plan from the artist;
- (c) The art in public places committee shall meet and review the application. The art in public places committee shall recommend to the city building official that a mural permit be issued upon findings that:
 - (1) The mural will not serve as a sign or advertisement in violation of the city sign ordinances;
 - (2) The mural will enhance the aesthetic beauty of the area of its proposed location;
 - (3) The size of the mural is appropriate for its location;
 - (4) The artist is capable of completing the work in accordance with the plans and specification;
 - (5) The proposed materials are durable and graffiti and weather resistant;
 - (6) Any structural support or attachments have been approved by a professional structural engineer;

(7) It is not expected that excessive or costly maintenance will be required.

(Ord. No. 4635-16, § 1, 5-9-2016)

Sec. 78-136. - Permits and building code.

- (a) Building permit. A building permit and inspections shall be required for artwork and foundation work when necessitated by the work, as determined by the building official.
- (b) Electrical components. An electrical permit and inspections are required for artwork that uses electrical components. Either the entire electrical system or each electrical component used shall be listed by Underwriter's Laboratory (UL), or similar nationally recognized testing laboratory, and shall only be used in accordance with such listing. Alternatively, the electrical drawings and installation shall demonstrate that the electrical system complies with the version of the National Electrical Code referenced in the current Florida Building Code. The electrical power supply must be installed by a licensed electrical contractor in accordance with the current Florida Building Code. The electrical system configuration shall provide access for maintenance of the electrical system in accordance with the current Florida Building Code.
- (c) When the artwork media is lighting or text-based art, and is not a sign, the art is not required to meet code requirements for signs, but must be determined by city inspectors to be safe.

(Ord. No. 4754-17, § 9, 2-12-2018)

Sec. 78-137. - Unsolicited public art proposals.

- (a) *Applicability* . The provisions of this section apply to unsolicited proposals for public art on city or city agency owned property,
- (b) *Application review periods* . Unsolicited applications for public art will be considered by the art in public places committee as received, on a monthly basis.
- (c) *Application* . An application for consideration of an unsolicited proposal for public art by the art in public places committee shall include sufficient information to allow the art in public places to consider the proposal in light of each of the criteria set forth in section 78-125. It shall be the responsibility of the proposer to ensure that sufficient information is provided.
- (c) *Review* . The art in public places committee shall not be obligated to recommend approval of any unsolicited proposals, but may recommend an unsolicited proposal, if such proposal meets each of the following criteria:
 - (1) The proposed artwork complies with each criteria listed in section 78-125 of this article, excepting valuation; and
 - (2) There is sufficient funding for the design, creation, fabrication, and installation of the proposed artwork and all structural and supporting elements.

(Ord. No. 4754-17, § 10, 2-12-2018)

Secs. 78-138—78-150. - Reserved.