

ORDINANCE NO. C-20-19

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 9, BUILDINGS AND CONSTRUCTION, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA BY CREATING ARTICLE X, TO BE ENTITLED, "PUBLIC ART AND PLACEMAKING PROGRAM," PROVIDING FOR DEFINITIONS, CREATING A PUBLIC ART FUND FOR NEW CONSTRUCTION AND RENOVATION OF CITY PROPERTY AND PROJECTS, ESTABLISHING A PUBLIC ART AND PLACEMENT ADVISORY BOARD, PROVIDING FOR GENERAL PROVISIONS, PROVIDING FOR OWNERSHIP AND MAINTENANCE AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

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WHEREAS, creative Public Art animates public spaces, rejuvenates structures and streetscapes, and improves local business viability; and

WHEREAS, placemaking is a process and philosophy towards the placement of public art that creates an adaptable approach to the planning, design and management of public spaces; and

WHEREAS, the City of Fort Lauderdale recognizes that a superior and diverse aesthetic character of the City's built environment is vital to the health, safety, welfare and quality of life of its citizens, the economic success of its businesses, an attraction for visitors and a benefit to tourism; and

WHEREAS a Public Art and Placemaking Program will contribute to the aesthetic enhancement of the City of Fort Lauderdale; and

WHEREAS, a Public Art and Placemaking Program will create an exciting cultural environment that reflects and enhances the City's vision, diversity and character through public artworks integrated in architecture, landscape and infrastructure that includes sensory and interactive art; and

WHEREAS, a successful and creative Public Art and Placemaking Program will build partnerships across sectors, missions, and levels of government; and

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions added after first reading.

WHEREAS, public development on City property shall contribute to a Public Art and Placemaking program to enhance and maintain the City's aesthetic character; and

WHEREAS, the City of Fort Lauderdale's vision "We are here" will mold the future by connecting the City's neighbors and developing community identity through seamless integration of public art and placemaking ideals; and

WHEREAS, the vision is to create strong identifiers, beautiful gateways, and iconic landmarks; and

WHEREAS, the City of Fort Lauderdale's strategic plan will integrate arts and culture elements into public places and create a Public Arts and Placemaking Ordinance to fund and maintain public art as part of municipal capital projects; and

WHEREAS, the City of Fort Lauderdale's strategic plan will guide decisions and allocation of resources for the implementation of public art opportunities.

WHEREAS, the proposed amendments to the Code of Ordinances of the City of Fort Lauderdale, Florida serves a public and municipal purpose; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article X. of the City of Fort Lauderdale, Florida, Code of Ordinances is hereby created to provide as follows:

**ARTICLE X. – IN GENERAL**

**Sec. 9-346. – Title.**

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

**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.

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- (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.

**Sec. 9-348. Exemptions.**

The Requirement of this article shall not apply to:

- (a) Public works and utilities non-facility infrastructure projects.
- (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.
- (c) Any project with a funding source that cannot fund public art due to restrictions by public bond covenant, federal, state or local laws and/or legal parameters.

**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.

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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.

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.

Project – 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.

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 accounts 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.

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.

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**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) Two percent of the approved Community Investment Plan (CIP) budget shall be allocated annually and deposited into the City's Public Art and Placemaking Fund.
- (b) Gifts, grants and donations.

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

- (a) The design and acquisition of 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.

**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 (7) members. Members shall hold office in accordance with procedures established by the City Commission.

**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.

**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; two (2) members shall be residents of the City of Fort Lauderdale knowledgeable in the field of public art or public art education; and the Chair of the Broward County's Public Art and Design committee, or his or her designee.

**Sec. 9-354. – Powers and Duties.**

The Parks and Recreation Department staff 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:

- (a) Public Art and Placemaking Guidelines and Amendments.
- (b) Public art and locations for public artworks, keeping in mind continuity around the City.
- (c) Expenditures of the Public Art Fund.
- (d) The maintenance and insurance necessary to preserve and protect public art and placemaking items.
- (e) The means by which artwork and placements may be obtained, including donations, designs, grants applications.

**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 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.

**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.
- (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.

**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.

**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.

**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.

**SECTION 2.** That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.



SECTION 3. That all ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be in full force and effect upon final passage

PASSED FIRST READING this 16<sup>th</sup> day of June, 2020.

PASSED SECOND READING this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Mayor  
DEAN J. TRANTALIS

ATTEST:

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City Clerk  
JEFFREY A. MODARELLI