

ORDINANCE No. 2015-09

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING CHAPTER 75, ARTICLE 1, DIVISION 100 OF THE LAND DEVELOPMENT CODE OF THE CITY DORAL ENTITLED “PUBLIC ARTS PROGRAM,” CREATING PUBLIC ART PROGRAM FOR NEW DEVELOPMENT AND REDEVELOPMENT IN NON-RESIDENTIAL, MIXED-USE, AND MULTI-FAMILY DISTRICTS ON PARCELS GREATER THAN ONE ACRE; PROVIDING FOR GENERAL PROVISIONS FOR ITS ORGANIZATION AND OPERATION; CREATING A PUBLIC ART ADVISORY BOARD; SELECTION OF WORK OF ARTS; PROVIDING FOR PROCEDURES FOR PLACEMENT OF ARTWORKS; PROVIDING FOR A PUBLIC ART FEE FOR THE CONSTRUCTION AND INSTALLATION OF ART; PROVIDING FOR PUBLIC ART PROGRAM FUND; PROVIDING GUIDELINES FOR DONATION OF ARTWORKS; PROVIDING GUIDELINES FOR OWNERSHIP AND MAINTENANCE OF ARTWORKS; PROVIDING GUIDELINES FOR ARTISTS RESPONSIBILITIES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, various local governments throughout the country have implemented public art programs committing to the placement of public art in urban environments; 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, public art enhances the quality of life through artistic opportunities and creates a cultural legacy for future generations through the collection and exhibition of high-quality art pieces that reflect diverse styles, chronicling history through the collection of artifacts, documents and memorabilia that will acknowledge the past and create programs and activities that will further these goals; and

WHEREAS, the public art requirements found in this Article are design standards based on the aesthetic needs of the community and are not intended to be either an impact fee or a tax; and,

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

WHEREAS, the Mayor and City Council of the City of Doral finds it to be in the best interest 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 COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. The City of Doral is hereby creating Chapter 75, Article 1, Division 100-125, entitled "Public Arts Program" which shall read as follows:

DIVISION 100-125

PUBLIC ARTS PROGRAM

Sec. 75-100 PURPOSE

The purpose of the Doral's Public Arts Program is to promote the general welfare of the community, increase property values, and enhance the built environment through artistic opportunities that will create a cultural legacy for future generations through the collection and exhibition of high-quality art pieces.

Sec. 75-101 DEFINITIONS

(a) "Art Work" means durable creations that can be original or limited editions of art including, but not be limited to, sculptures, murals, monuments, frescoes, fountains, paintings, stained glass, or ceramics and may include architectural designs, components or structures. The "Art Work" medium can include, but not be limited to, glass, steel, bronze, wood, stone and concrete. For purposes of the art program, "Art Work" does not include the following:

- (1) Directional elements, such as signage or graphics.
- (2) Objects that are mass produced in a standard design.
- (3) Landscape gardening, unless substantially comprising durable elements defined as "Art Work" under this section.

(b) "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.

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

(d) “Construction Cost” shall mean the total value of the construction of, or reconstruction work on, structures as determined by the City’s Building Official in issuance of a building permit for construction or reconstruction, architectural and engineering fees, and site work, and contingency allowances for a development project. ~~It shall not include the cost of land acquisition or subsequent cost changes to the Construction Cost and/or architectural contract(s) for the development project, including phased projects and all elements of an approved development order or agreement.~~

(e) “City Manager” means the City Manager, Assistant City Manager, or any public officer designated by the City Manager.

(f) “Development Project” or “Project” means any development, including but not limited to remodeling(s), which requires a building permit or permits as described on the precise plan submitted for approval to the City. Where a development has been approved in phases or with multiple buildings in a single project, Development Project or Project shall refer to the entire development in the aggregate.

(g) “Durable” means lasting, enduring and highly resistant to deterioration due to weather or the passage of time.

(h) “Extraordinary Maintenance” means any non-routine repair or restoration to sound condition of Public Art that requires specialized professional services.

(i) “Life Cycle” of an art piece shall mean the natural deterioration period for a piece of Art Work. Artworks created under this Ordinance are meant to be permanent and should last at least 25 years, when properly designed and maintained. Artwork reaches the end of its Life Cycle when the artist, or the artist’s estate, and/or a qualified art conservator verifies that the artwork has aged or deteriorated to a point where it cannot reasonably be conserved or repaired. Artwork life span cannot be less than 25 years.

(j) “Ordinary Maintenance” means any routine maintenance necessary to maintain the public art which is undertaken on a regular basis.

(k) “Project Developer” means the owner, including its successor and assigns, of the subject property, or the Developer designated in a Development of Regional Impact (DRI) Development Order or Downtown Mixed Use, Community Mixed Use, or Planned Unit Development (PUD) Master Development Agreement (MDA) approved by the City.

(l) “Project Valuation” means the total value of the improvements approved for a Development Project submitted to the City in order to obtain a building permit or permits for the development project, which shall consist of the Construction Costs.

(m) “Public Arts Collection ” means the works of public art owned by the City.

(n) “Public Art In-Lieu Fee” means a fee paid to the City pursuant to this Division equal to one (1%) percent of construction costs as defined herein for those non-municipal projects with an aggregate project value of five ~~two~~ hundred fifty thousand dollars (\$500~~250~~,000.00) or more.

(o) “Public Arts Program Board” means the entity appointed by the Mayor, pursuant to the Charter, to help administer the Art Program, and make recommendations to the Mayor and Council regarding dedication, donations, installations, maintenance and acquisitions of public art to fulfill the requirements of this Article.

(p) “Public Arts Fund” means a separate, interest bearing set of accounts set up by the City to receive monies for the Public Arts Program.

(q) “Public Arts Program Guidelines” shall mean a set of standards, criteria and policies related to the consideration of donations, recommendations, dedication, and acceptance of the public art, and which shall be adopted by the City Council and recommended by the Public Arts Program Board, and amended from time to time. The Guidelines shall govern the manner and method of the submission of the proposed art to the Board, the process by which the Board shall make recommendations to the City Council and the process by which the City Council shall approve dedication, recommendations, donations, and/or acquisitions of public art to fulfill the requirements of this Division.

(r) “Public Art Master Plan” shall mean a plan adopted by the City Council, pursuant to a recommendation by the Art Program Advisory Board, which shall identify locations for public art and establish a priority order to the City Council, and which shall be amended from time to time, to ensure a coherent program for dedication, donations, installation, maintenance and acquisition of public art, and program implementation guidelines.

(s) “Public Place” means any exterior area on public or private 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 for a period of ten hours per day seven days per week with the option of excluding national holiday.

(t) “Public Accessible” means locations that are highly visible and accessible in areas where people congregate at no charge to the public.

(u) "Temporary Art Installation" means works of art selected by the Art Program Advisory Board for temporary display within the public realm.

Sec. 75-103 ADMINISTRATION OF THE PROGRAM

The City's Public Arts Program shall be administered by the City's Parks and Recreation Department.

Sec. 75-104 MEMBERSHIP IN THE ART PROGRAM ADVISORY BOARD

(a) **Membership.** The Mayor and each member of the City Council shall recommend a member to the Public Arts Program Advisory Board. The Advisory Board shall consist of five (5) members. The Mayor and City Council shall vote on the selection of each member. The Board members shall serve for two (2) year, under staggered terms, serving without compensation. Each Board Member must be knowledgeable in one of the identified fields of: fine art, be employed by any art dealer, art gallery, artists' representative, museum or other entity which derives income from the sale or display of Art Work, be a professional in the field of art, architecture, art history, architectural history, urban planning, landscape architecture, interior design, graphic or product design, and possess a minimum of a bachelor's degree in said field from an accredited university. To ensure a balanced and diverse Board it is recommended that two of the Board Members be architects (landscape architect, architect, architectural historian, or urban planner); two be skilled in fine art (fine art history, art dealer, art gallery, artists' representative, museum curator, art collector, etc.); and one be an interior designer or professor of art or art history.

(b) **Meetings.** The Public Arts Program Advisory Board shall hold at least one meeting quarterly, except for the month of August, on days to be determined by the Board. Other regularly scheduled may be set by the Board, and additional meetings may be held at the call of the chairman and at such other times as the Board may determine. Meetings that are not regularly scheduled shall not be held without at least ten (10) days written notice to each member provided that upon concurrence of the chairman of the Board and the City Manager, an emergency meeting may be call at any time with appropriate notice. If the agenda for a regularly scheduled meeting does not contain any items on which the Board needs to take action, the staff liaison to the Board may cancel the meeting and provide notice to each member, the Manager, Parks and Recreation Director or his/her designee, and the City Clerk.

(c) **Quorum.** The Quorum requirements shall be govern by the provisions found in the Code. The staff liaison to the Board shall keep minutes of the Board proceedings, showing the vote of each member on items requiring Board action.

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

(e) Conflict of interest. If any member of the Board shall find that his private or personal interests are involved in the matter coming before the Board, he/she shall disqualify himself from all participation in that matter. No member of the Board shall have his or her work of art considered or approved by the Public Arts Program Advisory Board during their term of service on the Board or for one (1) year thereafter. No member should represent an artist while they are a member of the board or for one (1) year thereafter.

(f) Duties. The Board shall review and propose Art Work items to be acquired under the City's Public Arts Program. The Board shall issue a recommendation to the City Council for all Art Work program acquisitions in accordance with this division. The Board shall oversee the public education, and curatorial aspects of the program. The Parks and Recreation Director, or his/her designee, or consultant shall be the liaison to the Board, shall prepare a budget for staff and other expenditures necessary to operate the program and shall deliver an annual report to the City Council. The Board shall screen submissions and will recommend to the City Council for final authorization for each acquisition not more than three (3) possible selections, which can be existing works of art or new commissions.

(g) Vacancies. Any vacancies in the membership of the Public Arts Advisory Board shall be filled by the Mayor and City Council by appointment for the unexpired term of the member affected.

Sec. 75-104.1 PUBLIC ART MASTER PLAN AND IMPLEMENTATION GUIDELINES

(a) Public Art Master Plan and implementation guidelines. Should the program fund grows to over a \$500,000, the Board shall prepare a Master Art Plan to ensure a coherent acquisition program and implementation guidelines, both of which must be presented to the City Council for final approval. The City Council, with the assistance of the Board shall adopt and publish a Master Art Plan and written uniform guidelines to govern the manner and method of the submission of proposed works of art to the Board, the process by which the Board shall make recommendations to the City Council and the process by which the City Council shall approve acquisition.

Sec. 75-105 SELECTIONS OF WORKS OF ART

All acquisitions will be in accordance with the criteria identified in this division. The City Council shall approve each acquisition from those elections recommended by the Board. The City Manager and City Attorney will negotiate and execute appropriate

contracts to acquire each approved work of art. Funds shall be aggregated to acquire works of art.

(a) Selection Process. The City Council shall establish procedures for selecting Art Works to be purchased from the resources of the City's "Public Arts Fund." Those procedures can include the following means:

- (1) Open competition;
- (2) Limited competition;
- (3) Invitation;
- (4) Direct purchase;
- (5) Donation; and
- (6) Any combination of the above.

All board members, City Council members, artists, applicants, and respective agents shall comply with the City's code of silence regulations.

(b) Selection criteria. In the selection process, the following principles shall be observed:

- (1) Permanent and temporary works of art shall be located in areas where residents and visitors live and congregate and shall be Public Accessible and visible (maximum visual accessibility to pedestrian or vehicular traffic).
- (2) Areas used by tourists, including parks and thoroughfares, at public or governmental facilities.
- (3) The Board should consider the inherently intrusive nature of public art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
- (4) The Board's selections must reflect the cultural and ethnic diversity of the City and South Florida without deviation from a standard of excellence.
- (5) Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the City, diversity of the artists whose work has been acquired by the City.
- (6) Quality of the artwork.
- (7) Maintenance requirements.

- (8) Whether the artwork too closely resembles a business logo or sign and should, therefore, be rejected.
- (9) Any other criteria set forth in the public art program guidelines, as amended from time to time.
- (10) Ability of the artist to complete the project within a specified schedule and budget.
- (11) Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions.
- (12) Any other criteria set forth in the public art program guidelines, as amended from time to time.

Sec. 75-106 APPLICATION PROCEDURES FOR PLACEMENT OF ART WORK ON PRIVATE PROPERTY; DONATIONS OF ART WORK

An application for placement of Art Works on private property but within “public space” or for the donation of Art Work to the City (as a gift or in lieu of a fee), shall be submitted to the City Council, after review and recommendation by the Board, and shall include:

- (a) Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed Art Work;
- (b) An appraisal or other evidence of the value of the proposed Art Work including acquisition and installation costs (to establish the value of art submitted to comply with this program’s requirements, the City shall employ an independent art appraiser to provide a written appraisal of the art piece. Such appraisal shall either be funded from the Public Art Fund or by the developer as part of the overall art contribution);
- (c) Preliminary plans containing such detailed information required by the City to adequately evaluate the location of the Art Work and its compatibility with the proposed Development Project and/or with the character of adjacent developed parcels and the existing neighborhood;
- (d) A written agreement executed by the artist who created the Art Work, in which he or she expressly waives all rights that can be waived under applicable state and federal laws. The artist of approved artwork shall grant to the City an unlimited, perpetual, non-exclusive, royalty-free, irrevocable license to reproduce and distribute two-dimensional reproductions of the artwork for City-related purposes, and grant to the City the exclusive irrevocable ownership rights in any trademark, service mark, or trade dress rights regarding the artwork, pursuant to a license that shall be approved by the City Attorney. City approval of the artwork shall be deemed to be a grant of the artist for

authorization by third parties to review and reproduce documents provided by the artist to the City which are deemed to be public records pursuant to the public records laws of the state. The City shall also have the option of referring to the name and title of the artist and artwork in reproductions;

(e) When Art Work is to be placed on private property, a written statement executed by the property owner and approved by the City Attorney that requires the landowner or his or her successors and assigns to defend, indemnify and hold the City harmless against any liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from any claim, action or liability related to the Art Work;

(f) A narrative statement to be submitted to the City to demonstrate that the Art Work will be displayed in a public place; and

(g) A statement indicating the property owner's willingness to maintain the Art Work in compliance with Sec. 75-114.

(h) Ownership and Upkeep. Ownership of all works of art acquired by the City under this program is vested in the City. The Public Arts Program Board and the City Council are charged with the custody, supervision, maintenance and preservation of such works of art. In each instance, the City shall acquire title to each work of art acquired.

Sec. 75-107 APPLICABILITY

(a) Government development projects. All government development projects shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1.5%) percent of the Construction Cost of the project, provided that no funds shall be appropriated for this purpose from the ad valorem tax operations fund.

(b) Non-municipal construction projects are defined as any non-City construction or renovation in the City of Doral in excess of five ~~two~~ hundred and fifty thousand (\$500~~250~~,000) dollars.

(1) Developers may petition to have the public art acquisition incorporated within their Project provided there is regular public access at no charge to the public.

(2) If the developer seeks to incorporate the art within its Project, the artwork shall be reviewed by the Public Arts Program Board. The Board shall recommend to the City Council whether to approve, deny, or approve with conditions the selection and location of the artwork.

- (3) The art acquisition to be incorporated within the Project shall have a minimum appraised value of one (1%) percent of the Construction Costs. The value of the artwork shall be confirmed by a certified art appraiser (or a person with professional arts credentials) as determined by the City whose evaluation fee shall be paid by the developer and reviewed by the City. If the appraised value of the artwork is less than one (1%) percent of the Construction Costs of the project, the difference in the value of the artwork and the one (1%) percent shall be contributed to the Public Arts Fund. The evaluation fee of the certified art appraiser (or person with professional arts credentials) shall be applied to the art fee contribution for the project, not to exceed 10% of the value of the required contribution.
- (4) Instead of providing credentialed artwork on the project site, the developer may choose to contribute one (1%) percent of the Construction Cost ~~aggregate project value~~ as the required art fee.
- (5) In lieu of providing artwork on the project site or contributing a one (1%) percent art fee, the developer may choose to donate artwork to the City. The artwork shall be valued at one (1%) percent of the Construction Cost ~~aggregate project value~~ inclusive of the cost of maintenance, insurance, lighting and signage. The artwork shall be reviewed by the Public Arts Program Board. The Public Arts Program Board shall recommend to the City Council whether to approve, deny, or approve with conditions the selection and location of the artwork.
- (6) In lieu of providing artwork on the project site or contributing a one (1%) percent art fee, the developer may opt to donate land to the City for the placement of artwork or to support art related activities. The land shall be valued at one (1%) percent of the Construction Cost ~~aggregate project value~~ inclusive of the cost of maintenance, insurance, lighting and signage. The land proposal shall be reviewed by the Public Arts Program Board. The Public Arts Program Board shall recommend to the City Council whether to approve, deny, or approve with conditions the proposed land acquisition.
- (7) Projects that have received site plan approval, or that have received conceptual site plan approval, prior or on the Effective Date of this ordinance shall be exempt from the requirements of this Ordinance if

their development is issued a building permit for the project within (2) years of the effective date of this Ordinance

(c) Waiver of Requirements. A developer may seek a reduction, adjustment or complete waiver of the requirements of this ordinance from the City Council. The reduction, adjustment or complete waiver shall be made by Resolution of the City Commission. Before considering any request for waiver of the art allocation, the City Council will seek a recommendation from the Public Arts Program Board and City Manager.

~~(c) All nongovernmental and private sector development projects (including interior or exterior modifications, additions, or new construction) including: parking structures, residential developments of more than two units, mixed use projects, and/or commercial sites shall provide for the acquisition of works of art in value to not less than one and quarter (1%) percent of the construction costs, for artwork provided on site, or one (1%) percent of the construction costs for either Art Work provided off site or a contribution to the art fund or some combination thereof, subject to the Project Valuation schedule below:~~

~~(1) Project development with construction costs exceeding \$250,000 shall be subject to the provisions of this Division.~~

~~(2) A single Residential Development unit (including interior or exterior modifications, additions or new construction) with Construction Cost exceeding \$750,000 shall also be subject to the provisions of this Division.~~

~~(d) Exemptions. Government and Non-municipal governmental and private sector development projects can be are exempt from this Division by the City Council, provided~~

~~(1) The structure is intended primarily to house one or more social service agency providers, affordable housing projects, or religious facilities; or~~

~~(2) Construction projects, which are required to pay a public art fee under other applicable Miami-Dade County regulations, provided payment has been documented and approved to the City's satisfaction; or~~

~~(3) Non-municipal projects whose aggregate Project value is less than five ~~two~~ hundred and ~~fifty~~ thousand dollars (\$500~~250~~,000); or~~

~~(4) The project consists of the reconstruction of structures which have been damaged by fire, flood, wind, or other force majeure occurrence; or~~

~~(3) Government development projects or portions thereof that do not include buildings.~~

(e) In order to determine the value of construction, the applicant(s) shall provide total project Construction Cost information to the ~~Parks and Recreation Department and Building Department~~ a copy of the executed architectural, engineering and construction services contract(s) for the Development Project so that the City can accurately determine the value of the project so that the Public Arts Program fee. is properly calculated based upon the anticipated construction costs.

Sec. 75-108 BUILDING PERMITS

(a) Copies of this division shall be made available upon request to the public and shall be provided to any party applying for approval of a Development Project within the City.

(b) Prior to issuance of a final building permit, ~~a temporary certificate of occupancy or certificate of occupancy~~, the applicant or developer for Projects subject to this Division shall be required to either:

- (1) Pay the fee identified in 75-107.
- (2) Provide financial security (including but not limited to a performance bond, letter of credit, or similar instrument) sufficient to ensure that prior to final building permit, the developer will either:
 - (a) Donate the artworks which have been approved by the Board and City Council.
 - (b) Place artwork, which shall have been approved by the Board and City Council.
 - (c) A combination of the above subject to the approval of the City Council.
- (3) Any party can contribute amounts or artworks valued at amounts greater than those required by this section.

Sec. 75-108.1 CERTIFICATE OF OCCUPANCY

(a) Final approval. No final approval, such as a final inspection or a certificate of occupancy, for Development Projects subject to the City's Public Arts Program requirements shall be issued unless one (1) or more of the following has been achieved:

- (1) The approved art has been installed in a manner that is compliance with the requirements set forth in this ordinance and the Public Arts Program Guidelines; or
- (2) All in-lieu art fees have been paid; or
- (3) Financial security (including but not limited to a performance bond, letter of credit, or similar instrument) in an amount equal to the acquisition and installation costs of an approved art selection, has been provided to the City in a form approved by the City Attorney and Parks and Recreation Director or his/her designee and placed into escrow account; or
- (4) Donation of art which have been approved the Board are delivered by the applicant to the City, and are accepted by the City in accordance with this Ordinance.

Sec. 75-109 DONATION OF ARTS

Any art proposed to be donated to the City in lieu of payment of a fee to the art in public places fund, or otherwise to fulfill the obligations set forth in Sec. 75-107, must qualify as an artwork, and must be approved by the Board and City Council as provided for under Sec. 75-105 thru Sec. 75-106.

Sec. 75-110 CREATION OF FUND

There is hereby created within the City a special banking account(s) to be known as the City of Doral Public Arts Program Fund. This fund shall be maintained by the City and shall be used solely for the acquisition, installation, improvement, maintenance and insurance of Art Works as follows:

(a) All money received by the City pursuant under the Public Arts Program or from endowments or gifts to the City designated for the arts shall be placed in the Public Arts Program Fund. All money shall be deposited, invested, accounted for and expended as follows:

- (1) Funds received shall be deposited in the art in public places fund in a manner to avoid any commingling with other revenues and funds of the City, except for temporary investments, and all funds shall be expended solely for the purposes for which they were collected. Any interest income earned by the money in the art in public places fund shall be deposited in the art in public places fund and shall be expended only for the purpose for which the money was originally collected.

- (2) The public art fund shall be used solely for expenses associated with the selection, installation, commissioning, acquisition, transportation, maintenance, restoration or rehabilitation, public education, community outreach, promotion, administration, removal and insurance of the works of art or in relation thereto. The following provides the process by which monies within the fund can be dispensed:

(2.1) Ten percent (10%) of the fees collected annually shall be allocated for education, community outreach and activities designed to promote visual and performing arts through youth programs base programming involving academic institutions or non-profit art organizations.

(2.2) Five percent (5%) of the fees collected annually shall be allocated for cultural events that promote public arts.

(2.3) Fifteen percent (15%) of the fees collected annually shall be allocated towards operating and administrative costs associated with the Public Arts Program

(2.4) Seventy percent (70%) of the fees collected annually shall be allocated towards the commission, selection, acquisition, transportation, installation, removal, appraisal, collection and exhibition of art consistent with the requirements of this Ordinance.

- (3) If real property purchase with monies from the Fund is subsequently sold, the proceeds from the sale shall be return to the Fund.

Sec. 75-111 ART PROVIDED IN LIEU OF A FEE.

Art that is placed on private property in lieu of a fee, or that is donated to the City in lieu of a fee, must qualify as Art Work under this Division and shall be operated and maintained at all times in substantial conformity with the manner in which the Art Work was originally approved by the City Council. Such art on private property must be located in an area designated as "Public Space."

Sec. 75-113 APPROVAL FOR PLACEMENT OF ART WORK ON PRIVATE PROPERTY; DONATIONS OF ART WORK IN LIEU OF A FEE; DONATIONS

(a) Completed applications shall be submitted to the board as provided for under ~~30-160.6~~ Sec. 75-106 and ultimately to the City of Doral City Council for review and approval of the Art Work including consideration of the Art Work's conformity to the definition of "Art Work," its aesthetic quality and harmony with the existing on-site improvements and neighborhood, and its proposed location and public accessibility.

(b) If, after review, the applicant proposes, or the City Council subsequently recommends, significant revisions to the architecture or physical design and layout of the proposed Project, the revised application shall be returned to the City Council for further review and recommendation concerning the revised proposal.

Sec. 75-114 OWNERSHIP AND MAINTENANCE OF ART WORK PLACED ON THE SITE OF A PROJECT

(a) All artwork placed on the site of a Development Project shall remain the property of the owner of the site; artwork acquired by the City pursuant to Section 75-106 shall remain the property of the City. The obligation to provide all maintenance necessary to preserve and maintain the artwork in good condition shall remain with the owner of that site and the owner's successors and assigns, unless agreed to otherwise by resolution of the City Mayor and Council. Application for such request and all associated fees with processing same shall be borne by the applicant.

(b) The obligation to maintain the artwork shall be enforced as follows:

- (1) Prior to the placement of the artwork on a Development Project, the property owner shall record a document with the county recorder setting forth a description of the artwork and acknowledging the obligation of the property owner to repair and maintain it. This document and the underlying covenant shall run with the land for a minimum of five (5) years, and shall provide notice to future property owners of the obligation to repair and maintain the artwork and of certain limitations related to any federal, state or local laws governing the rights of the artists including but not limited to rights regarding the alteration, modification or relocation of subject artwork. The City shall be a signatory party to this document, and its final form and content shall be approved by the City Attorney.
- (2) Maintenance of artwork, as used in this Division, shall include, without limitation, preserving the artwork in good condition to the satisfaction of the City, protecting the artwork against physical defacement, mutilation or alteration, and securing and maintaining insurance coverage for fire, wind, vandalism and extended liability in an amount to be determined by the City Attorney. Maintenance requirements shall be enforced by the City for the "Life Cycle " of the specific artwork.
- (3) At any time the City Council determines that artwork has not been maintained in substantial conformity with the manner in which it was originally approved, the code compliance Division of the City, as authorized by the City Council, shall require the current property owner to either:
 - a. Repair or maintain the Art Work; or

- b. After reasonable notice, pay the lesser of either the costs estimated by the Council to be required to repair and maintain the Art Work and/or secure and maintain insurance for the Art Work, or the percent for the art fee required under this Division, based upon the current fee schedule and the current fair market value of the building, structure or improvement for which the Art Work was required, as determined by the county tax assessor.

The Council can additionally issue notices of civil infraction for failure to maintain the artwork in accordance with the City's Code of Ordinances.

(c) Stolen or removed artworks are to be replaced by the owner. Replaced pieces are to be reviewed and approved by the City Council subject to the criteria set forth in this Division.

(d) All artwork donated to the City shall become the property of the City upon acceptance by the City Council.

Sec. 75-115 ARTIST RESPONSIBILITIES

Artists under contract with the City to provide artwork are responsible to adhere to:

- (a) The requirements of the Public Arts Program Guidelines.
- (b) Provide to City officials all require information pertaining to the art installation.
- (c) Provide a maintenance plan which details appropriate maintenance procedures and annual cost ~~procedures and annual cost~~ projections to maintain the art installation.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

Section 4. This ordinance shall be codified and included in the Code of Ordinances.

Section 5. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

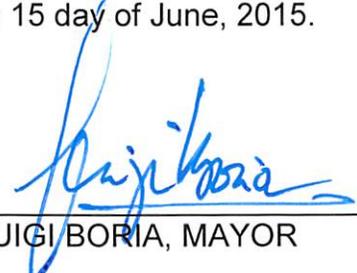
Section 6. This ordinance shall take effect immediately upon adoption.

The foregoing Ordinance was offered by Mayor Boria, who moved its adoption. The motion was seconded by Councilmember Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Absent/Excused
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED on first reading this 18 day of January, 2015.

PASSED AND ADOPTED on second reading this 15 day of June, 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE CITY OF DORAL



WEISS, SEROTA, HELFMAN, COLE, & BIERMAN, PL
CITY ATTORNEY