

ORDINANCE 18 - 67

COUNCIL ITEM 10E
DATE 11-26-2018

COUNCIL ITEM 8E
DATE 12-10-2018

AN ORDINANCE REPEALING TITLE XV “LAND USAGE”, CHAPTER 162 “ART IN PUBLIC PLACES” OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE AND REPLACING IT WITH A NEW ART IN PUBLIC PLACES ORDINANCE (P18-072); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the intent and purpose of this ordinance to further the commitment of the City of Port St. Lucie to the aesthetic, historical, cultural, and economic enrichment of the community through the creation of works of art so that citizens and visitors to the City of Port St. Lucie are afforded an opportunity to enjoy and appreciate works of art; and

WHEREAS, the City of Port St. Lucie recognizes that a superior and diverse aesthetic character of the City’s built environment is vital to the quality of life of its citizen, and the economic success of its businesses, and serves as an attraction for visitors; and

WHEREAS, a public art program contributes to the aesthetic enhancement of the community; and

WHEREAS, the City Council desires to repeal and replace its current art in public places ordinance Chapter 162, Art in Public Places, of the City of Port St. Lucie Code of Ordinances by adopting a new art in public places ordinance (P18-072).

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. That the Code of Ordinances, City of Port St. Lucie, Florida, is hereby amended by adding a new chapter under Title XV (Land Usage) of the Code of Ordinances of the City of Port St. Lucie, and such chapter shall read as follows:

CHAPTER 162. - ART IN PUBLIC PLACES

Sec. 162.01 – Purpose.

The purpose of the art in public places program is to establish a program for the integration of public art in both public and private development projects throughout the

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city to visually enliven the city, illuminate the city's history, diversity and culture, and foster economic development.

Sec. 162.02 – Definitions.

For the purposes of this chapter, the words and phrases listed below have the following definitions:

Art, artwork or work of art means an original physical work created or produced by an Artist (as defined hereinafter), including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass and glass works, mosaics, mobiles, murals, collages, statues, bas reliefs, tapestries, photographs, video projections, drawings, fountains, landscape designs, artifacts of historical or cultural significance, monuments erected to commemorate a person or event, 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. 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.
6. Temporary artwork or installation that serve the purpose of providing community and educational outreach.
7. 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 are not considered artwork:

1. Art objects which are mass produced or are 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.

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2. Reproductions, by mechanical or other means, of original artwork, except in the case 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.

Artist means a person 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.

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 means an artist, as defined in this chapter, who resides in Martin County, St. Lucie County, Indian River County, or Okeechobee 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, including but not limited to, painting, repair, replacement, or 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, replacement, or installation of mechanical equipment.

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

Project means new construction, renovation work, or façade improvements requiring a building permit where fifty percent (50%) or more of a building is being modified, renovated, expanded, rebuilt or improved by construction. For purposes of this chapter, "project" does 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.

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Public art assessment means one percent of the total dollar amount of the total construction costs of private development.

Public art master plan means the plan generated by the public art advisory board and approved by the city council, which presents selected sites and criteria for the selection of works of art.

Renovation means a project requiring a building permit where 50 percent (50%) or more of the exterior building area is being modified, rebuilt or improved by construction. For purposes of this chapter, "renovation" does 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. Development activity on existing, previously approved developments for the sole purpose of complying with Chapter 553, Part II, Accessibility by Handicapped Persons of the Florida Statutes.

Temporary artwork means 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 (2) years.

Total construction costs means the total cost of the improvements, excluding land costs, approved for a development project, as indicated on the construction contract(s) for the subject improvements.

Sec. 162.03 – Public art advisory board, creation, and composition.

1. A public art advisory board is hereby created as a body of individuals appointed by the mayor and consented to by city council that shall have the duty and responsibility to make recommendations to the city council on public art projects.
2. The public art advisory board must be comprised of seven (7) members and two (2) alternates as follow:
 - a. A representative of the St. Lucie County Chamber of Commerce.
 - b. A representative of the Treasure Coast Builders' Association.
 - c. Whenever possible, the remaining members should be representative of one (1) or more of the following classifications:
 - i. Architect, or interior designer
 - ii. Landscape architect or land use planner
 - iii. Professional in the field of art
 - iv. Art or architectural historian

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- v. Art educator
 - vi. Artist
3. All members and alternates of the public art advisory board must reside within the city limits for a minimum of one (1) year preceding appointment.
 4. Each member of the public art advisory board serves without compensation.
 5. No member of the public art advisory board may be the artist, provide the artwork, provide art consulting services, or have any interest in any artwork to be reviewed by the board, whether proposed by a private developer or the city.
 6. The public art advisory board may be suspended by the city council if the appointed membership is less than three (3) members or at least two (2) consecutive meetings have been canceled due to the lack of a quorum for the transaction of business. In the event the public art advisory board is suspended, the city manager or their designee shall assume the duties and responsibilities of the public art advisory board as provided under this chapter.
 7. All meetings of the public art advisory board must comply with Florida law.

Sec. 162.04 – Public art advisory powers, duties, and functions.

1. The public art advisory board shall:
 - a. Advise the city council on the adoption of policies and procedures to acquire, commission, and maintain works of art in public places.
 - b. Advise the city council regarding applications for the installation of art as part of private projects pursuant to this chapter.
 - c. Advise the city council regarding installation of art as part of public projects pursuant to this chapter.
 - d. Advise the city council regarding proposed donations of art pursuant to this chapter.
 - e. Recommend sites for location of public art in accordance with the public art master plan.
 - f. Provide recommendations and guidance in implementation of the public art master plan.
 - g. From time to time, recommend to the city council updates or revisions to the public art 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 (5) years.
 - h. Conduct, with the assistance of city staff, calls to artists regarding installation of art as part of public projects and regarding installation of art using the Art Fund pursuant to this chapter.
 - i. Provide recommendations to the city council on the maintenance of city-owned artwork to preserve and protect the public art in the city's collection.
 - j. Provide recommendations to the city council on the deaccessioning, removal, or replacement of public art owned by the city.

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- k. Advise the city council regarding murals to be installed on city property.
 - l. Propose recommendations to the city council regarding the art in public places ordinance and program.
 - m. Report to the city council, on an annual basis, the status of the art in public places program, the application of the master plan, the use of art in public places funds and the fund balance.
2. The recommendations of the public art advisory board to the city council are advisory only and may or may not be consistent with similar recommendations made to the city council by other city boards.

Sec. 162.05 – Criteria for art.

The public art advisory board shall consider the following criteria in recommending approval or disapproval of a work of art:

1. *Complies*. The proposed art conforms to the definition of art contained in this chapter and will be created by an artist or local artist as defined in this chapter.
2. *Master plan*. The proposed art meets the qualities described in the art in public places master plan, if applicable to the project.
3. *Visual accessibility*. The proposed art will be readily visible to the public and meet the location requirements of this chapter.
4. *Quality*. The proposed artist is professionally recognized in the medium, and the proposed art is of quality and enduring value.
5. *Appropriateness to site*. The proposed art is of design, scale, and material appropriate to the site.
6. *Compatibility*. The proposed art is compatible with surrounding neighborhoods.
7. *Public Welfare*. The proposed art is not detrimental to the public welfare and will not constitute a safety hazard.
8. *Maintenance*. The proposed art will not require extraordinary maintenance.
9. *Valuation*. The proposed art meets or exceeds the public art assessment requirements of this chapter.
10. *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 element(s), has or can reasonably accommodate any necessary supporting infrastructure and is in compliance with applicable city code requirements such as visibility triangle. Notwithstanding the foregoing, art purchased with the art in public places fund or for public construction projects may be located inside publicly owned buildings.

Sec. 162.06 – Art in public places fund.

1. *Fund established*. A separate art in public places fund must be established by the city. All art assessment deposits from private and public development must be deposited into this fund and the funds must be kept separate from any other city

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funds. Fifteen percent (15%) of all funds deposited into the art in public places fund must be allocated and restricted to use for maintenance, relocation and removal costs of city owned art. This does not prohibit the remaining funds from also being used for these purposes.

2. *Use of funds.* The art in public places fund shall be used by the city for the selection, commission, acquisition, and maintenance of art in public places anywhere in the city. Such funds may be spent on artworks or art-related costs including, but not limited to:
 - a. *Selection.* Selection processes for public art to be owned by the city, including but not limited to advertising, selection panelist fees, completion stipends, outside consultant fees, and/or travel expenses for artists or experts.
 - b. *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 public art owned by the city or on loan to the city.
 - c. *Maintenance.* Maintenance of public art owned by the city or on loan to the city, including but not limited to evaluation fees for professional conservators, costs of repair, cleaning and conservation.
 - d. *Relocation, removal & storage.* Costs directly related to the transportation and relocation or removal of public art owned by the city or on loan to the city or storage of public art owned or on loan to the city.
 - e. *Insurance and security.* The costs for damage and theft insurance for public art owned by the city or on loan to the city, and, as appropriate, costs for security for installations or exhibitions for art owned by the city or on loan to the city.
 - f. *Consulting.* The fees and costs for consultants, appraisers, and curators as may be necessary.
 - g. *Promotion.* Costs to promote the public art in the art in public places program, including but not limited to implementation of programs educating the public on the art in public places program, public art tours, public lectures, descriptive on-site plaques, social media, brochures and other methods.
 - h. *Program administration.* All personnel costs for the management and staffing, as needed, to support the art in public places program.
3. *Use of art purchased with public art funds.* All artwork purchased with public art funds must be displayed on city-owned land, a city-owned building, a city-leased facility, a city rented facility or on another governmental entity's property that is located within the city. Artwork may be placed on another governmental entity's property so long as the property is located within City limits and an interlocal agreement between the City and the governmental entity that owns the property is executed and approved by the city council. All artwork purchased with public art

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funds must be displayed in a visually accessible location for the public to receive the most enjoyment and benefit from the art.

4. *Prohibited uses.* Funds cannot 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. In the event city owned artwork is placed on property owned by another governmental entity, the fund may be utilized to maintain the City's work of art provided an interlocal agreement between the city and the governmental entity that owns the property is executed and approved by the city council.
5. *Procurement.* The procurement of goods, services or construction for the art in public places program or using art in public places funds must comply with the city's procurement regulations and Florida law, as applicable.
6. *Carryover.* Any monies not expended in the fund in any fiscal year must be carried over in the fund into the following year. Any interest earned on the funds must be retained in the fund.
7. *Contracts for artwork.* Artists, as part of any commission or contract with the city for the provision of artwork, are required to submit to the city a "maintenance and inventory sheet," which must include an annual cost estimate for the annual maintenance necessary in order to properly preserve and maintain the artwork in substantially the same condition that it was in when accepted by the city.
8. *Insurance.* Proper insurance coverage must be maintained by the city on artwork purchased with Public Art Fund monies, on artwork whose ownership has been transferred to the city or on artwork that has been loaned to the city.

Sec. 162.07 – Applicability.

1. The art in public places program assessments set forth in this chapter apply to the following activities:
 - a. Private non-residential development projects as set forth in section 162.08.
 - b. Residential development projects with more than 10 units as set forth in section 162.08.
 - c. Public construction projects as set forth in section 162.12.
2. Exceptions. The art in public places program assessments set forth in this chapter do not apply to the following development or activities:
 - a. Residential development projects with 10 units or less.
 - b. Ordinary property maintenance.
 - c. Repairs and restoration resulting from fire, flood, windstorm or other casualty or natural disaster, as determined by the building official.
 - d. 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.

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Sec. 162.08 – Public art assessment for private development.

1. *Applicability.*
 - a. The provisions of this chapter and the public art assessment apply to all private non-residential development projects and all residential development projects with more than 10 units, including new construction, or the renovation or improvement of an existing building where fifty percent (50%) or more of a building is being modified, renovated, expanded, rebuilt or improved by construction.
 - b. The provisions of this section apply to new development or new construction within existing planned developments.
2. *Requirements.* All private development meeting the applicability requirements of this section must elect one of the following assessment methods within ninety (90) days of the issuance of the first building permit or site work permit for a subdivision plat for any portion of the project:
 - a. *Option 1. On-site Artwork.* Submit documentation evidencing the escrow of funds for a work of art valued in an amount not less than one percent (1%) of the total construction costs and submit an application for approval of the work of art in compliance with this chapter. If a local artist will be commissioned to provide a work of art, the value of the work of art cannot be less than ninety percent (90%) of one percent (1%) of the total construction costs; or
 - b. *Option 2. Contribute to Fund.* Contribute an amount equal to eighty percent (80%) of one percent (1%) of the total construction costs for deposit to the art in public places funds. The public art assessment must be paid in full prior to the issuance of a certificate of occupancy except for subdivision plats which are required to submit the public art assessment in full at the time of recording of the final plat; or
 - c. *Option 3. On-site Artwork and Contribute to Fund.* Submit documentation evidencing the escrow of funds for a work of art valued in an amount less than one percent (1%) of the total construction costs and contribute 80 percent (80%) of the balance of the public art assessment (one percent (1%) of the total construction costs) for deposit in the art in public places fund.
3. The public art assessment for residential development projects will be calculated on a plat by plat basis. Total construction costs for purposes of calculating the public art assessment will be based on the total construction costs for all property depicted on each plat included within the residential development project.
4. Notwithstanding the foregoing, the public art assessment for any single project, cannot exceed one hundred thousand dollars (\$100,000.00).

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Sec. 162.09 – Inclusion of art at private development site.

1. *Location.* Artwork must be located in an exterior place.
2. *Process.* If the developer chooses to provide artwork at the site of the private development, the developer must comply with the following process:
 - a. *Escrow and accounting of funds for artwork.* The developer must submit documentation to the city showing a deposit for public art was made with the developer's attorney or escrow agent into an escrow account not more than ninety (90) days after the issuance of the first building permit or site work permit for subdivision plats, in an amount equal to one percent (1%) of the total construction costs.
 - b. *Art consultant.* If the developer chooses to provide artwork on site, the developer may utilize up to twelve percent (12%) 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 cannot have a financial or other relationship with the artist or developer, or any ownership in the artwork purchased by the developer. The artist is not entitled to the art consultant fee.
 - c. *Artist selection.* Selection of the artist will be the responsibility of the developer. The selected artist must be an artist as defined in this chapter. The commission of the artist must be by written contract between the developer and artist.
3. *Application for approval of proposed art.* An application for approval of the work of art must be made to the public art advisory board within ninety (90) days of the issuance of the first building permit or site work permit for subdivision plats. The application must include:
 - a. Artist's qualifications, including resume and portfolio establishing the artist's credentials.
 - b. Detailed description and depiction of the work of art and its location on the site.
 - c. 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.
 - d. Appraisal of the value of the art.
 - e. Documentation showing that a deposit for public art was made into an escrow account.
 - f. Maintenance program required for the artwork.
 - g. Proposed restrictive covenant running with the land that binds the property owner's successors and assigns to retain and maintain the artwork in compliance with this chapter, as more specifically described in section 162.10.
 - h. Compliance with public accessibility (ADA) requirements.

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4. *Board review of contribution of art.* The public art advisory board shall review the proposed artwork based on the criteria established in section 162.05 and shall recommend to the city council whether to approve, deny, or approve with conditions the selection and location of the artwork with sensitivity to the aesthetic and cultural traditions and the history of the city and to the character of the surrounding neighborhoods.
5. *Appraisal.* To establish the value of the artwork to be installed or retained by the developer to comply with this section, the city may employ an independent art appraiser to provide a written appraisal of the art work(s) submitted. Such appraisal will be paid for by the developer from the escrowed art deposit.

Sec. 162.10 – Ownership and maintenance of artwork installed on private property.

1. Artwork installed on private property pursuant to the requirements of this chapter is the property of the property owner. Title and ownership of the artwork transfers in whole or in part to any successor in interest of the property. The property owner shall be responsible for maintenance of the artwork in good condition at all times, as determined by the city. The property owner shall be responsible for ensuring that the public's view of the artwork is maintained, and that no vegetation or additional construction obstructs the public's view. Maintenance includes any associated landscaping or related improvements.
2. The owner of any property containing artwork installed in compliance with this chapter must include restrictions by recorded covenant that require retention and maintenance of the artwork in compliance with this chapter to run with the land and be binding on the owner's successors and assigns. The restrictive covenant must be recorded within ten (10) days of the issuance of the certificate of occupancy for the project. Any such restrictive covenant must be approved by the city attorney prior to recordation.

Sec. 162.11 – Removal or replacement of artwork installed on private property.

1. Artwork installed in accordance with this chapter must remain on site in the approved location and cannot be altered, replaced, or removed except as provided in this chapter, or when deemed to be unsafe by the city building official, or require replacement due to destruction or casualty to the artwork.
2. All replacement art must equal or exceed the value of the original artwork and must not be less than the original public art assessment requirement. If the artwork is to be replaced, the public art advisory board shall review the proposed artwork and shall recommend to the city council whether to approve, deny, or approve with conditions the selection of the artwork in accordance with the art in public places implementation guidelines.

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Sec. 162.12 – Public art assessment for public construction projects and inclusion of art on public construction projects.

1. *Eligibility.* All appropriations and authorizations for the new construction, renovation, or remodeling of eligible public improvements by the city must include an amount of not less than one percent (1%) of total construction costs to be deposited in the art in public places fund.
 - a. Eligible public projects subject to the public art assessment are any public building, facility, or structure which permits public occupancy of all or a portion thereof, including but not limited to police stations, office buildings, recreation and community centers.
 - b. A sidewalk, pedestrian or bicycle path project where sufficient location, spaces, utilities and other elements to accommodate public art exist, as determined by engineering and planning staff.
 - c. Ineligible public improvements that are not subject to the public art assessment are:
 - i. Any road project, including but not limited to construction, resurfacing, curbing, drainage, striping, lighting and signalization.
 - ii. Any public utility project, including water, wastewater and storm water projects.
 - iii. Any electrical and communication substations and switching houses.
 - iv. 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.
 - v. Any public building, facility, or structure which is not accessible to the public.
 - vi. Any project funded by a revenue source which by law cannot be utilized for the acquisition of works of art.
 - vii. Any acquisition of land.
 - viii. Any eligible public construction project where the city council determines the project appropriation cannot accommodate the art assessment, or the assessment will result in a cost overrun.
 - ix. Any project constructed using federal funds which cannot be utilized for public art.
 - x. Public construction projects outside of the geographical boundaries of the city.
2. *Budget.* For eligible projects, an estimate of the public art assessment must be calculated, included and detailed in the project budget. At the start of the fiscal year, or after adoption of a project budget amendment, the public art assessment will be transferred to the art in public places fund.

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3. *Process.* For eligible projects, the public art advisory board shall recommend, for approval by the city council, whether the public project should include a work of art. If approved by the city council, the public art advisory board, with the assistance of city staff, shall conduct a call to artists, requests 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 board shall not recommend works of art for installation on public property which cannot be reasonably maintained within the resources allocated by the city. The board shall review the proposed artwork based on the criteria established in section 162.05 and shall recommend to the city council whether to approve, deny, or approve with conditions the selection and location of the artwork with sensitivity to the aesthetic and cultural traditions and the history of the city and to the character of the surrounding neighborhoods. The city council shall have the final decision of the selection of the artists and/or selection of the artwork. If the assessment for a particular public 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 council determines, the public art assessment from a public project must 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 council.
4. *Ownership and maintenance.* All artwork acquired pursuant to this section must be titled in the name of the city. The city is responsible for maintaining its artwork.

Sec. 162.13 – Artist grant of license to City.

1. The artist of artwork to be owned by the city and approved and installed under the art in public places program must:
 - a. 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;
 - b. Grant to the city irrevocable ownership rights in any copyright or other intellectual property right regarding the artwork; and
 - c. Waive and release in favor of the city all rights, including the right of attribution or integrity, which artist may have in the artwork.
 - d. The City shall make all reasonable efforts to attribute the artwork to the artist in all uses.
2. The Artist retains 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 documentation regarding the above shall be approved by the city attorney.

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3. The city shall have the option of acknowledging the artist and the artwork title in reproductions.
4. By participating in the art in public places process, the artist authorizes review by the public art advisory board and compliance with public records laws.

Sec. 162.14 – Enforcement.

1. *Certificate of Occupancy.* Unless an alternative deadline is established in a development order, or a time extension is granted by the planning and zoning director, no certificate of occupancy for a project subject to the public art assessment pursuant to section 162.08 will be issued until the artwork is installed and/or the full art assessment has been paid to the city.
2. *Other remedies.* The provisions of this chapter 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 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 chapter or any rule or regulation promulgated under this chapter, to enjoin and prohibit said violation or to compel the performance of actions which will result in compliance with this chapter. These remedies are cumulative, and the use of any appropriate remedy does not constitute an election of remedies by the city. The use of one remedy does not preclude the use of any others.

Sec. 162.15 – Private Gifts of Art to the City.

The donation of works of art to the city is encouraged. The acceptance of donations of art by the city and the placement of art on city property carry certain responsibilities. Some of the issues to be considered include the creativity, style, durability, diversity historical relevance and maintenance of the work of art. This section provides guidelines for the acceptance of private donations of art to the city.

1. *Application process.* An application for donation of a work of art must include the following documentation:
 - a. A written description of the work of art.
 - b. Not less than five (5) visual representations of the work of art.
 - c. A list of proposed installation sites.
 - d. Biographical information about the artist including, if available, a list of the artist's works of art placed in public places.
 - e. Information about the private donor including the full name, current and complete contact information.
 - f. Any terms or conditions imposed by the donor which the donation of the work of art may be subject to.
2. *Gifts Panel.*
 - a. The public art advisory board shall act as the gift panel responsible for review and for making a recommendation concerning acceptance of

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proposed donations of art to the city and the placement of donated art on city property.

- b. *Guidelines for review.* Works of art proposed for donation to the city must be evaluated based on the following criteria:
 - i. The proposed artist is professionally recognized in the medium and the proposed art is of quality and enduring value.
 - ii. Value and condition of the work of art.
 - iii. Historical relevance/relationship to the city.
 - iv. Relationship to the city's existing public art collection.
 - v. It conforms to the definition of art contained in this chapter and will be created by an artist as defined in this chapter.
 - vi. The proposed art meets the qualities described in the art in public places master plan, if applicable to the project.
 - vii. Conditions imposed by the donor.
 - viii. The proposed art will not require extraordinary maintenance.
- c. When considering placement of art donated to the city, the public art advisory board shall consider the following:
 - i. Appropriateness of the location for works of art and that the proposed art is of design, scale, and material appropriate to the site.
 - ii. Physical layout of the site and/or building.
 - iii. Recommendation by architect of the project.
 - iv. The proposed art will be readily visible to the public and meet the location requirements of this chapter.
 - v. The proposed art is compatible with surrounding neighborhoods.
 - vi. The proposed art is not detrimental to the public welfare and will not constitute a safety hazard.
- d. *Assignment of rights.* All donations of works of art to the city must include an artist grant of license in conformity with section 162.13.
- e. All works of art acquired pursuant to this section must be acquired in the name of the city, and title must vest to the city.

Section 2. Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Code of Ordinances of the City of Port St. Lucie, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 3. Severability. The provisions of the Ordinance are severable and, if any section, sentence, clause or phrase is held to be unconstitutional, invalid or

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ineffective, this holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Council's intent that it would have passed the valid portions of this Ordinance without inclusion of any invalid portion or portions.

Section 4. Codification. It is the intention of the City Council of the City of Port St. Lucie, and it is hereby ordained, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Port St. Lucie, Florida, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and the word "ordinance" may be changed to "section" or other appropriate word as may be necessary.

Section 5. Effective Date. This Ordinance shall become effective ten (10) days after final adoption on second reading.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 10th day of December, 2018.

ORDINANCE 18 - 67

CITY COUNCIL
CITY OF PORT ST. LUCIE, FLORIDA

BY: 

Gregory J. Oravec, Mayor

ATTEST:





Karen A. Phillips, City Clerk

APPROVED AS TO FORM:



James D. Stokes, Interim City Attorney



PORT ST. LUCIE CITY COUNCIL

AGENDA ITEM SUMMARY

Meeting Date: November 26, 2018

Agenda Item #: 10E

PLACEMENT: First Reading of Ordinances

ACTION REQUESTED: Motion / Vote

ADOPT ORDINANCE TO REPEAL CHAPTER 162 AND REPLACE WITH NEW ART IN PUBLIC PLACES ORDINANCE

SUBMITTED BY: Bridget Kean, AICP, Senior Planner

STRATEGIC PLAN LINK: The City's Goal of a high-performing city government organization.

EXECUTIVE SUMMARY (General Business): This ordinance will repeal the existing Chapter 162 "Art in Public Places Ordinance" and replace it with a new Chapter 162 "Art in Public Places Ordinance."

PRESENTATION INFORMATION: Staff may provide a presentation.

STAFF RECOMMENDATION: Move that the Council adopt the ordinance.

ALTERNATE RECOMMENDATIONS:

1. Move that the Council amend the recommendation and adopt the ordinance.
2. Move that the Council not adopt the ordinance and provide staff direction.

BACKGROUND: In 2007, the City adopted an Art in Public Places Ordinance to provide for the creation of a Public Art Advisory Board and the inclusion of public art in public capital improvement projects. In 2010, the ordinance was amended to require a public art component for private commercial development. In 2015, the Public Art Advisory Board was suspended due to lack of attendance. Following reinstatement in 2017, the Public Art Advisory Board was tasked by the City Council with providing recommendations for revising the City's existing Art in Public Places Ordinance.

The Public Art Advisory Board completed its review of the existing art in public places ordinance in May 2018 and prepared a new art in public places ordinance containing the Board's recommended changes. The proposed ordinance will repeal and replace the existing ordinance. The proposed ordinance was approved by the Planning and Zoning Board at their August 7, 2018 meeting.

Following Planning and Zoning Board review, the proposed ordinance was scheduled for City Council discussion at the August 20, 2018 Special City Council meeting.

Per Council's discussion at the August 20, 2018 meeting, the following changes were made to the proposed ordinance:

- The cap on the public art assessment has been reduced from \$200,000 to \$100,000.
- Residential development with more than 10 units will be subject to the public art requirement.
- Art purchased with the art in public places fund or for public construction projects may be located inside publicly owned buildings.
- The requirement for a project to reach a threshold of one million dollars (\$1,000,000) in construction costs to be subject to the public art assessment was removed.

Following City Council discussion, the proposed ordinance was emailed to the St. Lucie County Chamber of Commerce and the Treasure Coast Builders Association. To date, staff has not received any official response from either of these organizations despite repeated requests for comment.

ISSUES/ANALYSIS: The Public Art Advisory Board's recommendations are included in the form of a revised ordinance that repeals and replaces the existing ordinance. The new ordinance includes:

- An expanded list of definitions including definitions for art and artist.
- Places a cap of \$100,000 on the public art assessment. (The PAAB had proposed \$200,000.) Under the current ordinance, the cap is \$50,000.
- Removes a minimum threshold for program applicability. In the existing ordinance, a project is assessed a public art fee based on total square footage with no fee required for projects under 10,000 square feet that meet the citywide design standards. In the new ordinance the public art assessment will apply to all private non-residential development projects, all residential development projects with more than 10 units, and renovations where 50 percent or more of a building is being modified or renovated.
- Requires artwork to be in an exterior place and exposed to public view.
- Incentivizes the use of local artists and contributions to the Art in Public Places fund by providing a ten percent (10%) discount if a local artist is used and a twenty percent (20%) discount for payment into the fund in lieu of providing public art on site.
- Defines total construction costs as the total cost of the improvements, excluding land costs, approved for a development project as indicated on the construction cost contract(s) for the subject improvements.
- Sets a cap of fifteen percent (15%) of public art funds for maintenance, relocation, and removal costs.
- The fee in lieu of providing public art must be paid in full prior to the issuance of a certificate of occupancy.
- Requires one percent (1%) of total construction costs contribution for public construction projects.

The proposed ordinance is attached as Exhibit "A". Exhibit "B" is a comparison table of existing and proposed changes. The minutes from the August 20, 2018 Special City Council meeting are attached as Exhibit "C". The existing art in public places ordinance, Chapter 162 of the Land Development

Regulations, is attached as Exhibit "E".

FINANCIAL INFORMATION: N/A

SPECIAL CONSIDERATION: N/A

LOCATION OF PROJECT: N/A

ATTACHMENTS:

- Exhibit "A" Proposed Ordinance
- Exhibit "B" Comparison of existing and proposed ordinances
- Exhibit "C" August 20, 2018 Special City Council meeting minutes
- Exhibit "D" August 7, 2018 P&Z Board staff report
- Exhibit "E" Existing Chapter 162 - Art in Public Places Ordinance

***NOTE:** All of the listed items in the "Attachment" section above are in the custody of the City Clerk. Any item(s) not provided in City Council packets are available upon request from the City Clerk.*

LEGAL SUFFICIENCY REVIEW:

Reviewed by Elizabeth Hertz, Deputy City Attorney. Approved as to Legal form and sufficiency by James D. Stokes, Interim City Attorney.

ROUTING:

1. Department requesting Agenda Item: N/A

APPROVAL(S):




2. Department preparing Agenda Item: Planning and Zoning Director Patricia A. Tobin 
3. Secondary Department Approval: N/A
4. City Manager's Office: Patricia Roebling, Assistant City Manager 
5. City Manager's Office: N/A
6. City Manager: Russ Blackburn 

EXHIBIT "A"
(Proposed Ordinance)

EXHIBIT "B"

(Comparison of existing and proposed ordinances)

Exhibit “B”: Comparison Existing and Proposed Art in Public Places Ordinance

	Current Ordinance	New Ordinance (Proposed)
Definition – Artist	None	A person 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 income through commission of artwork, frequent art exhibitions, placement of artwork in public institutions or museums, awards, and training in the arts.
Definition – Art	Works of Art are defined as the application of skill and taste to tangible objects produced according to aesthetic principles and include, but are not limited to, paintings, sculpture, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas reliefs, tapestries, photographs and drawings	Art, artwork, or work of art means an original physical work created or produced by an Artist, including paintings, sculptures, engravings, carvings, frescos, stained glass and glass works, mosaics, mobiles, murals, collages, statues, bas reliefs, tapestries, photographs, video projections, drawings, fountains, landscape designs, artifacts of historical or cultural significance, monuments erected to commemorate a person or event, functional furnishings such as artist-designed seating, or other media.
Ineligible artwork	Not addressed	<ul style="list-style-type: none"> • Art objects which are mass produced or are 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 • Reproductions, by mechanical or other means, of original artwork, except in the case of limited editions controlled by the artist • Decorative, ornamental, architectural, or functional elements which are designed by the building architect • Works of art not visible to the public from an exterior place

	Current Ordinance	New Ordinance (Proposed)
Public Art Assessment	<p>Based on square footage:</p> <ul style="list-style-type: none"> Minor site plans less than 10,000 S.F., no public art requirement if the project complies with citywide design standards ½% Minor site plans less than 10,000 S.F., if the project does not comply with citywide design standards Site plan projects 10,000 S.F. to 50,000 S.F., ½% of total estimated cost of project, excluding land costs Site plans greater than 50,000 S.F. fee is 1% of total estimated cost of the project, excluding land costs 	Assessed at 1% of total construction costs
Definition – Total Construction Costs	None but identifies public art assessment is based on total estimated cost of the project, excluding land costs	Total cost of the improvements, excluding land costs, approved for a development project, as indicated on the construction contract(s) for the subject improvements.
Public Art Assessment Cap for Private Development Applicability	<p>\$50,000</p> <p>Private sector projects subject to compliance are:</p> <ul style="list-style-type: none"> Residential development, including two or more single-family dwellings being built concurrently in the same subdivision, PUD, or multi-family units by the same owner or contractor All non-residential development All major site plan amendments for either residential or non-residential developments Public works projects 	<p>\$100,000</p> <ul style="list-style-type: none"> Private non-residential development projects Residential development projects with more than 10 units Public construction projects <p>Exempts:</p> <ul style="list-style-type: none"> Residential development with 10 units or less 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

	Current Ordinance	New Ordinance (Proposed)
Options for Fulfilling Public Art Assessment	<ul style="list-style-type: none"> • Artwork on Site • Art Donated to the City • Fees In Lieu of Artwork on Site 	<ul style="list-style-type: none"> • On-site Artwork. <ul style="list-style-type: none"> ○ 10% discount for using local artist (Value of the work of art cannot be less than ninety 90% of 1% of construction costs) • Contribute to fund <ul style="list-style-type: none"> ○ 20% discount (Contribute an amount equal to 80% of 1% of construction costs) • On-site Artwork and Contribute to Fund <ul style="list-style-type: none"> ○ 20% discount w .contribution
Location of Public Artwork	Allows for artwork to be located in interior accessible to the public during normal business hours	<ul style="list-style-type: none"> • Requires artwork to be located in exterior place and be readily visible to the public based on normal traffic of vehicles and pedestrians in the area • Exterior place defined as: 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 • Art purchased with the art in public places fund or for public construction projects may be located inside publicly owned buildings
Timeframe	<ul style="list-style-type: none"> • Fee in lieu is due prior to issuance of any building permits • Art work on site must be in place prior to issuance of certificate of occupancy • In practice, owners pay fee in lieu to receive a building permit and then request refund to provide for onsite art work 	<ul style="list-style-type: none"> • Fee in lieu is due prior to issuance of C.O. except for subdivision plats which are required to submit the public art assessment in full at the time of recording of the final plat. • For art work on site, applicant must submit documentation showing a deposit for public art was made with the developer's attorney or escrow agent into an escrow account not more than 90 days after the issuance of the first building permit or site work permit for subdivision plats, in an amount equal to 1% of the total construction costs.

Maintenance Requirements for Art at Private Development Site	Current Ordinance	New Ordinance (Proposed)
<p>Maintenance Requirements for Art at Private Development Site</p> <ul style="list-style-type: none"> All privately sited artworks shall remain the property of the owner for the life of the Certificate of Occupancy and title and ownership transfer to any successor in interest Owner responsible for maintenance Failure to maintain the artwork is a violation of and will be prosecuted by the Code Compliance Division 	<p>City</p>	<ul style="list-style-type: none"> Artwork installed on private property is property of owner and owner responsible for maintenance and for ensuring that the public's view of the artwork is maintained, and no vegetation or additional construction obstructs the public's view. Requires a restrictive covenant for retention, maintenance and binding any successors in interest.
<p>Maintenance Requirements for Publicly Owned Art</p>	<p>City</p>	<p>City</p> <ul style="list-style-type: none"> 15% of funds contributed to the art in public places fund will be specifically earmarked and restricted to be used for maintenance of public art owned by the city
<p>Public Works Projects</p>	<p>Based on square footage:</p> <ul style="list-style-type: none"> Minor site plans less than 10,000 S.F., no public art requirement if the project complies with citywide design standards ½% Minor site plans less than 10,000 S.F., if the project does not comply with citywide design standards Site plan projects 10,000 S.F. to 50,000 S.F., ½% of total estimated cost of project, excluding land costs Site plans greater than 50,000 S.F. fee is 1% of total estimated cost of the project, excluding land costs Applies to all public works projects and based on the first \$5,000,000 for any single project which has an estimated construction cost exceeding \$5,000,000 Only applies if such expenditure is legally permissible for that project and under the specific project funding sources 	<p>New construction, renovation, or remodeling of eligible public improvements must include an amount of not less than 1% of total construction costs to be deposited in the art in public places fund.</p> <p>Eligible public improvements include:</p> <ul style="list-style-type: none"> Any public building or facility which permits public occupancy including police stations, office buildings, recreation and community centers. A sidewalk, pedestrian or bicycle path project with space to accommodate public art as determined by engineering and planning staff <p>Ineligible public improvements include:</p> <ul style="list-style-type: none"> Any road project Any public utility project or public building not accessible to the public Any project funded by a revenue source which by law cannot be utilized for the acquisition of art Any acquisition of land Any eligible public construction project where the city council determines the project appropriation cannot accommodate the art assessment or the assessment will result in a cost overrun.

EXHIBIT "C"

(Minutes from the August 20, 2018
Special City Council Meeting)

(**Clerk's Note:** A PowerPoint presentation was shown at this time.) Chief Bolduc stated that Florida State Statute 791 and Port St. Lucie City Code, Sections 93.04 and 96.81, outlined the requirements for fireworks. He explained that if a waiver was signed when purchasing fireworks, it would not be considered a crime. Chief Bolduc said that a police officer would have to physically see a person setting off fireworks, in order to enforce it, which was difficult to do, as well as storing explosives once they were confiscated could be expensive and dangerous.

Councilwoman Caraballo suggested an educational campaign be developed to promote awareness regarding fireworks affecting animals and Veterans.

Mayor Oravec encouraged the citizens to lobby the state legislature to change the law. He requested that the PowerPoint presentation and/or a fact sheet be provided to the Council Office, in order to share with the citizens, as well as posting it on the City's website. Chief Bolduc said that he would put a 1-page fact sheet together that could be distributed to the residents.

8. **PUBLIC ART UPDATE, PLANNING & ZONING DEPARTMENT**

The City Manager stated that Ms. Kean would be making a presentation regarding the proposed changes to the Public Art ordinance.

Ms. Kean said that the PAAB had been working on the ordinance for the last 5 months, and that it was presented to the Planning and Zoning Board in August, with a 6-1 vote in favor. She stated that it would now provide a Definition of Artist, which was not included in the ordinance initially. Ms. Kean explained that the Public Art fee was based on the size and/or square footage of a project and proposed that it be based on the actual amount of the project. She stated that the projects that were 50,000 square feet or greater, who contributed 1%, were capped at \$50,000, and suggested that it be changed to \$200,000, as well 15% of the project's funds be set aside for maintenance. Ms. Kean stated that the proposed ordinance removed single-family residential from the Public Art requirement, as well as multi-family developments that were 10 acres or less, and that multi-family developments that were 10 acres or more and public construction projects would now contribute to the program.

Mayor Oravec asked if anyone wished to speak on this item.

Maddie Williams, Treasure Coast Builders Association, stated that she was a member of the Public Art Advisory Committee, and that her only concern was that the cap was being proposed to be raised from \$50,000 to \$200,000.

Councilwoman Morgan stated that under the Public Art Assessment, where it indicated that 1% would be assessed for the total construction costs where total construction costs were equal to or greater than \$1 million, she didn't think that a minimum of \$1 million should be required.

Mayor Oravec clarified that Councilwoman Morgan suggested that there be no exclusions below 1%, but that she was in favor of carving out all single-family developments. Councilwoman Morgan stated that single-family homes were not required to donate to the art fund, but that it was intended more for the commercial projects. Mayor Oravec stated that when large-scale builders constructed thousands of single-family units, they should contribute to Public Art in the same way that the commercial did.

Vice Mayor Martin said that she was okay with separating the single-family portion and agreed with Mayor Oravec and Councilwoman Morgan that the cap was too high. She stated that she had some issues with the restrictive covenant, but that it wasn't a hill to die on, and wanted to make sure that the funds were being used to implement the plan.

Mayor Oravec requested a discussion regarding a future museum when the item was brought back, in conjunction with the implementation of the PAAB Master Plan.

It was the **consensus** of the Council to have the threshold of the Public Art Assessment Fee to be 1% of \$1,000,000 for new construction or 50% or more of major restoration.

It was the **consensus** of the Council to have a \$100,000 assessment cap for private development.

It was the **consensus** of the Council to have Single-Family or Multi-Family exempt that were 10 units or less.

9. ADJOURN

There being no further business, the meeting was adjourned at 4:10 p.m.



Karen A. Phillips, City Clerk



April C. Stoncius, Deputy City Clerk Supervisor

To view this meeting in its entirety, please click on the link below:
http://psl.granicus.com/MediaPlayer.php?view_id=10&clip_id=5069

EXHIBIT "D"

(August 7, 2018 P&Z Board staff report)



City of Port St. Lucie

Planning and Zoning Department Memorandum

TO: PLANNING AND ZONING BOARD - MEETING OF AUGUST 7, 2018

FROM: BRIDGET KEAN, AICP, SENIOR PLANNER BK

RE: P18-072 – CHAPTER 162. ART IN PUBLIC PLACES TEXT AMENDMENT

DATE: JULY 26, 2018

At the July 3, 2018 Planning and Zoning Board meeting, the Planning and Zoning Board voted to table a proposed ordinance revising Chapter 162 Art in Public Places. The proposed ordinance was prepared by the Public Art Advisory Board following review of the City's current art in public places requirements as requested by the City Council. At their July 3, 2018 meeting, the Planning and Zoning Board asked the Public Art Advisory Board to re-examine how the fee would affect developers of small projects under 10,000 square feet and the proposed exclusion of single-family residential development from the City's public art requirements.

In the existing ordinance, the public art requirement is assessed based on the square footage of a project. For minor site plans less than 10,000 square feet, there is no public art requirement if the project complies with the citywide design standards or the design standards of a DRI (development of regional impact). For site plan projects 10,000 square feet to 50,000 square feet, the fee is a half a percent (½%) of the total estimated cost of the project, excluding land costs. For site plans greater than 50,000 square feet, the fee is one percent (1%) of the total estimated cost of the project, excluding land costs. The fee is capped at \$50,000.

In the proposed ordinance, the public art fee is assessed based on a minimum threshold of project construction costs and not on size or square footage. The public art assessment is defined as one percent of the total amount of the total construction costs of private development that equals or exceeds a minimum threshold. Total construction costs are defined as the total cost of the improvements, excluding land costs, approved

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for a development project as indicated on the construction cost contract(s) for the subject improvements. In the ordinance that was submitted to the Planning and Zoning Board on July 3, 2018, the minimum threshold was set at \$500,000. At their July 16, 2018 meeting, the Public Art Advisory Board voted to amend the proposed ordinance to increase the minimum threshold to \$1,000,000. It means that any non-exempt project with construction costs equal to or greater than \$1,000,000 shall provide art valued in an amount of one percent of the total construction costs. There will be no public art requirement for projects that do not meet the \$1,000,000 threshold.

In the existing ordinance, the City's public art requirement applies to all residential development, including two or more single-family dwellings being built concurrently in the same subdivision, planned unit development, multifamily units by the same owner or contractor and non-residential development. The proposed ordinance exempts single-family residential development and multi-family development with 10 units or less from the City's public art requirements. At the July 16, 2018 Public Art Advisory Board meeting, the Public Art Advisory Board voted to maintain the exemptions for single-family residential development and multi-family residential development with 10 units or less.

In summary, the proposed ordinance has been revised to increase the minimum threshold for a project to provide public art from \$500,000 in total construction costs to \$1,000,000 in total construction costs. There were no other changes to the proposed ordinance.

The proposed ordinance is attached as Exhibit "1", the minutes from the July 3, 2018 Planning and Zoning Board hearing are attached as Exhibit "2", the minutes from the July 16, 2018 Public Art Advisory Board meeting are attached as Exhibit "3", and the staff report from the July 3 Planning and Zoning Board hearing is attached as Exhibit "4".

EXHIBIT "E"

(Existing Chapter 162 - Art in Public Places
Ordinance (to be repealed))

Port St. Lucie, FL Code of Ordinances

CHAPTER 162. - ART IN PUBLIC PLACES

Sec. 162.01 - Goals.

- (A) The city council has determined that art, which may include architectural enhancement and special landscape treatment, should be planned as an integral part of the city. The mission of this chapter is to enhance the quality of the visual environment in the Port St. Lucie community, both natural and built; and in so doing add to the quality of life and raise the level of citizen awareness of the importance of aesthetic experiences in their everyday lives.
- (B) The principal goals of this chapter are:
 - (1) To increase public access to art and the aesthetically designed environment, and to promote understanding and awareness of the visual arts in the public environment.
 - (2) To contribute to the civic pride and economic development of our community.
 - (3) To enhance the climate for artistic creativity in our community.
 - (4) To enrich the public environment for both residents and visitors to the area through incorporation of the visual arts.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.02. - Definitions.

For the purpose of this chapter, the words and phrases listed below shall have the following definitions:

Architectural enhancement is the physical result of the application of skill and taste according to aesthetic principles to the architectural embellishment of a building, the placement of works of art in the interior or exterior spaces of the building, or special landscape treatments such as parks, plazas or atriums.

Public works projects means any development project, including remodeling, or any capital project, excluding transportation and utility projects, paid for wholly or in part by the city or paid for with monies granted to the city by other governmental agencies; including but not limited to any project to construct or remodel a building, a decorative or commemorative structure, park, parking facility or beautification project or any portion thereof within the city limits.

Private or commercial development means any project subject to sections 158.235 through 158.245 of the city land development regulations (site plan review).

Public art advisory board is defined as a body of individuals appointed by the mayor and confirmed by city council which has the duty and responsibility to generate a public art master plan and make recommendations on specific public art projects.

Public art master plan is defined as the plan generated by the public art advisory board and approved by the city council, which presents selected sites and criteria for the selection of works of art, architectural enhancement and special landscape treatments.

Public places are defined to be city-owned parks and buildings with high visibility and/or heavy pedestrian traffic or privately-owned property with high visibility and/or levels of pedestrian traffic that is consistently and constantly open to the public.

Special landscape treatment shall be defined as landscaping that creates a park-like setting or plaza, as opposed to the landscaping requirements normally associated with the siting of a public facility, private or commercial development.

Works of art are defined as the application of skill and taste to tangible objects produced according to aesthetic principles and include, but are not limited to, paintings, sculpture, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas reliefs, tapestries, photographs and drawings.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.03. - Public art advisory board, creation, composition, responsibility.

- (A) A public art advisory board is hereby created as a body of individuals appointed by the mayor and confirmed by city council which shall have the duty and responsibility to generate a public art master plan for review and approval by the planning and zoning board and city council and to make recommendations on specific public art projects, including the selection of works of art, architectural enhancements and special landscape treatments.
- (B) The public art advisory board shall be composed of seven (7) members and two (2) alternate members as follows:
 - (1) A representative of the St. Lucie County Chamber of Commerce.
 - (2) A representative of the Treasure Coast Builders' Association.

- (3) Wherever possible, the remaining members shall be representative of one (1) or more of the following classifications:
 - (a) Architect or interior designer
 - (b) Landscape architect or land use planner
 - (c) Professional in the field of art
 - (d) Art or architectural historian
 - (e) Art educator
 - (f) Artist
- (C) The architect or other design professional for a specific city project may advise the board during the selection process as it relates to his/her project but shall not be a voting member of the board.
- (D) Subject to city council approval, the public art advisory board shall develop written bylaws, guidelines, and procedures to govern the manner and method of selection of proposed sites, works of art, architectural enhancement and special landscape treatment; and the process by which the recommendations shall be made to city council and by which council shall approve acquisitions.
- (E) The public art advisory board may be suspended by the city council if the appointed membership is less than five (5) members or at least two (2) consecutive meetings have been canceled due to the lack of a quorum for the transaction of business. In the event the public art advisory board is suspended, the city manager or their designee shall assume the duties and responsibilities of the public art advisory board as provided under this chapter.

(Ord. No. 13-18, § 1, 4-22-13; Ord. No. 15-25, § 1, 4-13-15; Ord. No. 17-38, § 1, 7-10-17)

Sec. 162.04. - Funds for works of art, architectural enhancement and special landscaping treatment.

(A) Public art fund.

- (1) *Fund.* There is hereby created a public art fund consisting of all funds deposited to the public art fund in connection with the construction or major renovation of public places, private or commercial projects. The fund is also authorized to accept gifts, grants, and donations made to the city for art in public places. All appropriations, gifts, grants, and awards of monies for art in

public places shall be deposited in an interest-bearing account entitled the city public art fund account, which shall be a separate account established and maintained apart from the general revenue funds and accounts of the city. All interest earned in said account shall accrue to the use and benefit of the public art fund account. Funds deposited or credited to the public art fund account and not expended by the close of any fiscal year shall be carried forward into the next succeeding fiscal year.

- (2) *Terms of existence.* The public art fund account shall be self-perpetuating from year to year unless specifically terminated by the city council.
 - (3) *Fund expenditures.* Monies may be used in accordance with the requirements of this chapter for all costs associated with acquiring and commissioning art for public places, including costs for administration, travel, training, postage, printing, grants match, and education workshops. Any gifts, grants, and awards received subject to a condition shall be expended strictly in accordance with that condition. If an appropriation is not used for the acquisition of art for the public place for which it was appropriated, it shall be retained in the public art fund to supplement other appropriations for the acquisition of art or to place art in, at, or near public buildings which are already in existence.
- (B) *Public works projects.* All estimates for the construction or renovation of capital projects and all requests for authorizations or appropriations for such projects may include an amount for a public art fund which represents a combined amount for works of art, architectural enhancement or special landscaping treatment equal to the following percentages of the total estimated cost of the project, excluding land costs:
- (1) 0% for minor site plans less than 10,000 square feet that comply with the city citywide design standards or the design standards of a DRI (development of regional impact).
 - (2) ½% for minor site plans less than 10,000 square feet that don't comply with the city citywide design standards or the design standards of a DRI (development of regional impact).
 - (3) ½% for major site plans 10,000 square feet to 50,000 square feet.
 - (4) 1% for major site plans over 50,000 square feet.

The percentage calculations shall apply to all public work projects but shall only apply to the first \$5,000,000.00 for any single project which has an estimated construction cost exceeding \$5,000,000.00. The public art fund appropriation shall only apply if such expenditure is legally permissible for that project and under the specific project funding sources. If the source of funding or other appropriate law with respect to any particular project precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the aforesaid calculation. Said works of art, architectural enhancement or special landscape treatment may be integral parts of the building, situated within or outside the building, may be located in or near government facilities which have already been constructed, or may be located in other public places where numbers of people may experience them. The location of works of art, architectural enhancement or special landscape treatment paid for out of project funds at a site other than the specific project site requires a prior finding by the city council that the location of works of art, architectural enhancement or special landscape treatment at the specific project site is inappropriate for that particular project, that it serves a municipal purpose to locate such art objects or improvements elsewhere, and that it is an appropriate use of those particular funds.

- (C) *Private or commercial projects.* Private or commercial projects shall include an amount for a public art component which represents a combined amount for works of art, architectural enhancement or special landscaping treatment equal to the following percentages of the total estimated cost of the project, excluding land costs:
- (1) 0% for minor site plans less than 10,000 square feet that comply with the city citywide design standards or the design standards of a DRI (development of regional impact).
 - (2) ½% for minor site plans less than 10,000 square feet that don't comply with the city citywide design standards or the design standards of a DRI (development of regional impact).
 - (3) ½% for major site plans 10,000 square feet to 50,000 square feet.
 - (4) 1% for major site plans over 50,000 square feet.
 - (5) A cap of \$50,000.00 applies to all site plans.

The percentage calculations shall apply to all private and commercial development projects but shall only apply to the first \$5,000,000.00 for any single project which has an estimated construction cost exceeding \$5,000,000.00. A fee may be paid in lieu of artwork placement upon approval of city council. The fee is due prior to the issuance of any building permits.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.05. - Procedures.

- (A) *Requirements.* Capital improvement projects (CIP), including the community redevelopment agency (CRA), and private and commercial development projects, including remodeling of commercial property, are required to contribute a percentage of the overall construction budget, excluding land costs, toward enhancing the visual aesthetics of the project which may be integral parts of the building, situated within or as an interior/exterior feature. Exclusions are only limited to those allowed by law or funding sources that preclude this contribution. A public art fund was established as a depository for public art fees paid by the city and private entities prior to securing a building permit from the city.

For the private sector, this fee may be refunded if a city approved artwork of equal or greater value has been either placed on the site or donated to, and accepted by, the city by the property owner. All fees remain in the public art fund for the discretionary use of the city. City generated funds will generally be designated to the project, but any unspent funds may be pooled with other unspent funds and utilized for public art at another site.

- (B) For construction of public work projects financed by the city, the following procedure shall be complied with:
- (1) Early in the design of a project with a public art appropriation, the architect or other design professional retained for that project shall work with the public art advisory board to develop a site plan for adding art works, architectural enhancements or special landscape treatments to the project.
 - (2)

The public art advisory board shall recommend to the city council those works of art, architectural enhancements or special landscape treatments it deems are appropriate to the project in accordance with the public art master plan. In no case shall the public art advisory board take such time to render its findings as to delay or hinder the design or construction of the project.

- (3) The city council shall, in its discretion, accept or reject the recommendations of the public art advisory board. If such recommendations are rejected, the city council may request the public art advisory board to submit alternative recommendations. When recommendations are accepted, the city council may designate the manner by which artists, sculptors, designers, craftsmen or contractors are retained for each project, but in no case shall the city council be required to comply with the purchasing requirements of section 35.01, et seq., of this Code unless the city council determines it appropriate under the circumstances.
- (C) For construction of private or commercial projects, the following procedure shall be complied with:
- (1) Early in the design of a project the architect or other design professional retained for that project shall work with the public art advisory board to develop a site plan for adding art works, architectural enhancements or special landscape treatments to the project.
 - (2) The public art advisory board shall recommend to the city council those works of art, architectural enhancements, or special landscape treatments it deems are appropriate to the project in accordance with the public art master plan. In no case shall the public art advisory board take such time to render its findings as to delay or hinder the design or construction of the project.
 - (3) The city council shall, in its discretion, accept or reject the recommendations of the public art advisory board. If such recommendations are rejected, the city council may request the public art advisory board to submit alternative recommendations.
- (D) *Program requirements.* The public art requirement shall remain the obligation of the owner of the particular property for the life of the certificate of occupancy. This obligation will transfer to any successive owner of the property. Once the artwork

has been accepted by the city and installed it cannot be removed, altered or replaced without specific written approval of the city council. Private sector projects subject to compliance are:

- (1) Residential development, including two or more single-family dwellings being built concurrently in the same subdivision, planned unit development, or multi family units by the same owner or contractor.
 - (2) All non-residential development.
 - (3) All major site plan amendments for either residential or non-residential developments.
- (E) *Developer options.* All proposals require the review of PAAB and approval of the city council. Several options are available to private developers to meet the city's art requirement. They are:

- (1) *Artwork on site.*

Upon assessment of the public art fee, the developer may elect to site a permanent public artwork as part of the development project. Using this option, the developer may:

- (a) Utilize the city's artist registry to find artists.
- (b) Select the artist directly.
- (c) Hire a professional consultant to select artists to commission site-specific, architecturally integrated artworks.
- (d) Purchase artworks for permanent installation.

Artworks may be:

- (a) Singular objects (sculpture);
- (b) Artist designed amenities (streetscapes, paving treatments, lighting standards and treatments, benches, way finders, architecturally integrated water features, artist designed landscape treatments or other artist designed amenities or aesthetic treatments).
- (c) Artworks must further the idea of public art by being located in publicly accessible locations.

The artwork on site approach allows the developer to:

- (a) Maximize and return the outlay of art fees by bringing a signature artwork to the development as an identifying and prestige feature.

- (b) Increase the scope of work of a particular project or feature within the development by using art allocations to supplement and enhance the budget (for example, bringing an artist in to design an already budgeted water or entry feature).

(2) *Art donated to the city.*

Upon assessment of the public art fee, the developer may elect to purchase an existing artwork or commission an original artwork for donation as a gift to the city's public art collection. Donations to the city must be approved for acceptance by the city and are reviewed by the public art advisory board and city council to determine the aesthetic quality of the donation, the work's maintenance requirements and the appropriateness of the donation to the overall goals of the PAAB. This approach allows the developer to increase public awareness of the developer as a civic benefactor.

(3) *Fees in lieu of artwork on site.*

Upon assessment of the public art fee, the developer, at the discretion of the PAAB and city council, may elect to pay the fee to the public art fund with no intention of placing artwork on site or donating a work of art to the city. The fee is due prior to the issuance of any building permits. These funds are subsequently used by the city and the public art advisory board on publicly-sited projects of their choosing through the review and approval process. Artworks placed at sites on city property become a city maintenance responsibility for the lifetime of the art. This approach allows the developer to by-pass completely the public art process.

(F) *Site criteria for developers.*

(1) *Eligible public art location.*

- (a) Spaces may be interior, accessible to the public during normal business hours.
- (b) Locations can include surface treatments of buildings, retaining walls, and bridges. The definition of "location" can also be expanded by an artist's ability to extend the possibilities for public art, and would then be determined on a case-by-case basis.

(c)

Projects can also include artist-designed features provided by commercial sources, such as gates, water fountains, tile and surface materials, doors, furniture, clocks, lighting fixtures, railings, signage, etc.

- (d) Designated public art receiving areas may be approved for large projects, e.g., developments of regional impact and/or planned unit developments. Such public art receiving areas may be designated for projects within the developments of regional impact and/or planned unit developments to locate their respective public art requirements instead of placing them on their own property.

(2) *Eligible public art components.*

- (a) *On-site art in public places.* The PAAB encourages imaginative interpretations of media. The possible media and materials, which might be used for permanent installation, decorative or functional purpose, include:

- (i) Sculpture: Free standing, wall supported or suspended; kinetic, electronic, etc., in any material or combination of materials.
- (ii) Painted and mosaic murals.
- (iii) Earthworks, fiberworks, neon, glass, mosaics, photographs, prints, any combination of forms of media including sound, film, holographic and video systems, hybrids of any media and new genres.
- (iv) Standardized fixtures such as gates, streetlights, signage, etc., may be contracted to artists for unique or limited editions.
- (v) Special landscaping treatments as designed by a state registered landscape architect.
- (vi) Unique art installations that are not categorized in the above list may be considered by the board in its discretion.

- (b) All public art components are subject to the Florida Building Code and wind load specifications.

(G) *Budgetary guidelines for developers.*

- (1) *Eligible costs.* The following eligible costs/expenses shall be considered by the PAAB:

- (a) Structures, which enable the display of artwork(s).

- (b) Artists' budgets for projects, which will be expected to cover:
 - (i) Professional fees for the artist(s).
 - (ii) Labor of assistants, materials, and contracted services required of the production and installation of the work of art.
 - (iii) Any required permit.
 - (iv) Business and legal costs directly related to the project.
 - (v) Studio and operating costs.
 - (vi) Communication and other indirect costs (insurance, utilities).
 - (vii) Travel expenses of the artist for site visitation and research.
 - (viii) Transportation of the work of art to the site.
 - (ix) Preparation of site to receive artwork.
 - (x) Installation of the completed work of art.
 - (xi) Documentation (photos) of the artwork.
- (2) *Ineligible costs.*
 - (a) Directional elements such as supergraphics, signage, or color-coding except where these elements are integral parts of the original work of art.
 - (b) "Art objects" which are mass-produced of standard design such as playground equipment, fountains, or non-bronze statuary objects.
 - (c) Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
 - (d) Decorative, ornamental, or functional elements that are designed by the building architect as opposed to an artist commissioned for this purpose, that are in addition to any city or other entity design standard requirement(s).
 - (e) Landscape architecture and landscape gardening except where these elements are designed by the artist and/or are an integral part of the work of art by the artist.
 - (f) Services or utilities necessary to power, operate or maintain the artwork over time.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.06. - Review and approval process.

- (A) *Public art advisory board.* The public art advisory board serves in an advisory capacity to the city council, providing recommendations for art placement in the city. The city council, in its discretion, may accept or reject the board's recommendations.
- (B) *Application review.* An application shall include:
 - (1) Preliminary sketches or other documents of sufficient clarity that indicates the nature of the artwork.
 - (2) An appraisal or other evidence of the value of the proposed artwork.
 - (3) Upon final review of application, the PAAB shall forward a recommendation to the city council, which shall have sole authority to accept or reject the recommendation.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.07. - Selection criteria for sites and public art.

In the selection process, the art advisory board shall consider the following criteria:

- (A) Works of art, architectural enhancements and special landscape treatments shall be located in areas where residents and visitors live, work or congregate and shall be highly visible and accessible.
- (B) The public art advisory board shall consider the intrusive nature of public art on the lives of those who frequent public places. Works of art, architectural enhancements or special landscape treatments shall take into account appropriateness to the site, permanence of the work relative to environmental conditions, maintenance requirements and costs, and the enduring nature of the artistic statement.
- (C) Wherever possible, the selection should show sensitivity to the aesthetic and cultural traditions of the city, to its history and to the environmental and geographic characteristics that make it unique.
- (D) *Site selection.* General criteria for the selection of an art site include:
 - (1) Location, installation and identification.
 - (a)

Artworks for public and private projects must be located in an area which is accessible to the public. The PAAB master plan sites include commercial and residential buildings and adjoining plazas, parks, sidewalks, traffic islands, public buildings, power stations, etc.

- (b) Installation of the artwork should be planned to complement the work.
 - (c) Potential obstruction of growing trees, shrubbery, or future construction should be taken into account.
 - (d) Each artwork shall be identified by a plaque stating the artist's name, artwork title, and date the artwork was dedicated. The plaque will be placed in an appropriate location near the artwork that can be easily accessed by pedestrians.
- (2) Public placement.
 - (a) An artwork site for public projects is selected for its aesthetic possibilities as recommended by the PAAB to city council.
 - (b) Sites may include urban gateways, bridges, vistas, public spaces and plazas or other publicly accessible places.
 - (c) Particular attention will be given to providing artwork at major intersections, corridors and entrances to the city.
 - (d) Artwork sites for city capital improvement projects including CRA or private donations may include public facilities such as the civic center, senior center, schools, parks and recreation buildings or other sites as appropriate.
- (E) *Artwork selection.*
 - (1) *Selection criteria for artists.* General criteria for the PAAB and developer to consider in selecting artists for public or private projects should include:
 - (a) The aesthetic and technical quality and originality of the artist's previous work as evidenced by photos and other supporting materials;
 - (b) The artist's previous experience with public art projects of a similar scale and scope;

- (c) The artist's demonstrated ability to execute and complete a project in a timely and professional manner;
 - (d) The artist's ability to communicate ideas verbally and visually, and work effectively in a team environment;
 - (e) The appropriateness of the artist's proposal to the particular project and its probability of successful completion;
 - (f) A wide variety of nationally known artists as well as local artists.
- (2) *Selection criteria for artwork.* General criteria for the PAAB and developer to consider in selecting artwork for public or private projects should include:
- (a) Creativity: artwork demonstrates originality, artistic excellence, and quality.
 - (b) Media: all visual forms and media may be considered, subject to the recommendation of the PAAB and approval of city council.
 - (c) Style: artworks of all schools, styles, and tastes should be considered.
 - (d) Response to site: artworks and art places should be appropriate in scale, material, form, content, and value for the immediate, general, social, and physical environments with which they are to relate.
 - (e) Team approach: encourage the early involvement of the artist as a member of the project design team of architect, engineer, landscape architect, etc.
 - (f) Durability: consideration should be given to structural and surface integrity, permanence, protection against theft, vandalism, weathering, excessive maintenance, and repair costs.
 - (g) Elements of design: consider that public art, in addition to meeting aesthetic requirements, may also serve to establish focal points, terminate areas, modify, enhance, or define specific spaces or establish identity.
 - (h) Public liability: artworks and art places should be examined for unsafe conditions or factors that may bear on public liability.
 - (i)

Diversity: strive for diversity of style, scale, media, artists, community values, forms of expression, and equitable distribution of artworks throughout the city.

- (3) *Selection methods.* Artworks for public and private projects may be selected in a variety of methods. In addition to advertising of projects, the artist registry is a resource that may be reviewed for direct selection of an artist or artwork. Other selection methods may include but are not limited to:
 - (a) Open competition: The project is advertised locally, regionally, nationally or internationally and through the artist data bank. Interested artists may submit materials for review, which include jpg. images on CD, letter of interest, resume and supplementary materials such as reviews, articles, books or brochures.
 - (b) Limited invitational: A selected number of artists are invited to submit materials for review. Finalists may be selected to submit detailed models (maquettes) for the project for which they may be paid a fee as recommended by PAAB to city council for approval.
 - (c) Invitation: (Sole source exception). One artist is invited to submit materials for review, and may be commissioned to create a detailed proposal.
 - (d) Direct purchase: An existing work is purchased for a specific project.

Selection of the artwork for city sponsored projects is subject to the artist (s) providing materials and completion bond, as well as completing a contract as set forth by the city attorney.

- (4) *Selection process.*
 - (a) Artist(s) solicited.
 - (b) Materials reviewed by PAAB, finalists shortlisted (as appropriate) with selection forwarded as recommendation for commission or purchase to the city council.
 - (c) Review by city council with direction to staff to proceed with contract if approved.
 - (d) City council determination of final acceptance upon project

completion.

- (5) *Art in public places art selection guidelines.* Criteria that may be considered by the PAAB, in its discretion, include but are not limited to the following:
- (a) Will the art component be concentrated in one area or distributed throughout the public spaces?
 - (b) Is the proposed project/program a collaborative effort? If so, specify the participants, responsibilities, and proposed arts budget allocation to non-arts components, if applicable.
 - (c) How will the art component function within the whole development? Activate a space? Provide a landmark? Serve a function (gateway, seating, etc.)?
 - (d) Who are the primary and secondary audiences for the artwork (pedestrians, building users, tourists, automobile traffic, etc.)?
 - (e) How has the anticipated audience influenced your choice of artwork?
 - (d) If applicable, describe plans for artwork to conform to necessary safety and functional requirements. Who will assist on these requirements?
 - (e) Describe plans for fabrication and installation of the artwork.
 - (f) Describe needs and plans for ongoing maintenance responsibilities and identify what entity will handle those duties.
 - (g) Please submit a reduced schematic design, limited to 11" x 17" folded, with model, if appropriate.

(Ord. No. 13-18, § 1, 4-22-13)

Sec. 162.08. - Ownership and maintenance.

- (A) *City ownership and maintenance.* Unless otherwise provided, ownership of all works of art and architectural enhancements acquired by the city under this section is vested in the city including copyrights, patents, and other reproduction rights. The city shall be responsible for managing the reproduction rights of each acquisition with advice and counsel from the public art advisory board. Privately sited art works shall remain the property of the property owner for the life of the

certificate of occupancy and title to the art work shall pass to any new owner of the property upon which it is situated. The owner must maintain the work in good condition. Failure to maintain the artwork may result in a violation of this ordinance and penalties as provided in section 10.99 of this Code.

(B) *Private Ownership and Maintenance Requirements.*

- (1) *Maintenance.* All privately sited artworks shall remain the property of the owner for the life of the Certificate of Occupancy. Title and ownership of the artwork shall transfer in whole or in part to any successor in interest of the structure. The owner of the artwork shall provide all maintenance necessary to preserve the work in good condition. In addition, the owner of artwork shall maintain in full force and effect fire and extended insurance coverage, including but not limited to vandalism coverage, in a minimum amount of the purchase price of said artwork. Failure to maintain the artwork will constitute a violation of this ordinance and will be prosecuted by the code compliance division pursuant to chapter 37.
- (2) *Removal or alteration of the work.* The artwork shall be a permanent, fixed asset to the property. Public art installed onto or integrated into a private construction project shall not be removed, altered or replaced without the approval of the city council. If the art is knowingly removed or altered without prior approval, a code compliance case will be brought as outlined above, and a fine may be imposed. In addition, if artwork is removed by the property owner without the approval of the city council, the owner may be required to contribute funds equal to the current appraised value, or replace the work with another of equal value, as approved by the city.

(Ord. No. 13-18, § 1, 4-22-13)



ST. LUCIE COUNTY Chamber of Commerce

The Unified Chamber of Fort Pierce,
Port St. Lucie and all of St. Lucie County

November 20, 2018

ADDITIONAL INFORMATION

Gregory Oravec, Mayor
City of Port St. Lucie
121 Port St. Lucie Blvd.
Port St. Lucie, FL 34984

COUNCIL ITEM 10E
DATE 11/26/18

Re: Public Art

To Whom It May Concern:

On behalf of the Saint Lucie County Chamber of Commerce, I am writing to inform you of the position of our organization in reference to Art in Public Places

The Chamber believes projects less than 10,000 square feet should not be subject to the Art in Public Places Assessment nor should Planned Unit Developments fewer than 25 units. Additionally, the maximum cost of any Art in Public Places assessment should not exceed \$50,000.

In a competitive market, we must protect the process for new business and growth projects in St. Lucie County. Art in Public Places is an additional cost or "impact fee" if you will and the Chamber continually fights to keep these costs down in order to stimulate job growth. As a pro-business organization, we must be supportive of job growth while not diminishing quality of life for our residents.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Aronson".

Terissa C. Aronson
President/CEO

Karen Phillips

From: Russ Blackburn
Sent: Monday, November 26, 2018 2:53 PM
To: Karen Phillips
Cc: MaryAnn Verillo; Bridget Kean
Subject: FW: Public art ordinance
Attachments: ArtinPublic.docx

Karen,

Please update the 12-26 Art in Public Places Ordinance agenda item to include the attached letter from the Chamber of Commerce. Also, please distribute the letter to the City Council.

Thanks,

Russ

From: Terissa Aronson <director@stluciechamber.org>
Sent: Monday, November 26, 2018 2:44 PM
To: Bridget Kean <BKean@cityofpsl.com>
Cc: Greg Oravec <Mayor@cityofpsl.com>; stephanie@cityofpsl.com; Council <Council@cityofpsl.com>; Council <Council@cityofpsl.com>; Council <Council@cityofpsl.com>; Council <Council@cityofpsl.com>; Patti Tobin <PTobin@cityofpsl.com>; Russ Blackburn <rblackburn@cityofpsl.com>
Subject: RE: Public art ordinance

Please find attached a copy of the letter from the St. Lucie County Chamber of Commerce in reference to Art in Public Places.

Terissa C. Aronson
President/CEO
St. Lucie County Chamber of Commerce
2937 W Midway Road
Fort Pierce, FL 34981
772.595.9999 x 314; fax 772.595.9990
www.StLucieChamber.org
www.facebook.com/#!/SLCChamber
www.twitter.com/SLCChamber



From: Bridget Kean [<mailto:BKean@cityofpsl.com>]
Sent: Monday, November 26, 2018 11:24 AM
To: Terissa Aronson
Subject: RE: Public art ordinance

Thanks, Terissa. If you hand anything out, please make sure I get a copy for P&Z file.

Bridget Kean, AICP
Senior Planner
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099
772-873-6489 (Office) 772-418-3987 (Cell)

From: Terissa Aronson <director@stluciechamber.org>
Sent: Monday, November 26, 2018 11:23 AM
To: Bridget Kean <BKean@cityofpsl.com>
Subject: RE: Public art ordinance

Yes, we are finishing it up.

Terissa C. Aronson
President/CEO
St. Lucie County Chamber of Commerce
2937 W Midway Road
Fort Pierce, FL 34981
772.595.9999 x 314; fax 772.595.9990
www.StLucieChamber.org
www.facebook.com/#!/SLCChamber
www.twitter.com/SLCChamber



From: Bridget Kean [<mailto:BKean@cityofpsl.com>]
Sent: Monday, November 26, 2018 11:16 AM
To: Maddie Williams; Terissa Aronson
Cc: Patti Tobin
Subject: Public art ordinance

Hi,
As a reminder, the proposed public art ordinance is scheduled for tonight's City Council meeting for the first reading of the ordinance. The public hearing/adoption hearing is scheduled for December 10 City Council meeting.

Bridget Kean, AICP
Senior Planner
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099
772-873-6489 (Office) 772-418-3987 (Cell)



ST. LUCIE COUNTY Chamber of Commerce

The Unified Chamber of Fort Pierce,
Port St. Lucie and all of St. Lucie County

November 20, 2018

Gregory Oravec, Mayor
City of Port St. Lucie
121 Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: Public Art

To Whom It May Concern:

On behalf of the Saint Lucie County Chamber of Commerce, I am writing to inform you of the position of our organization in reference to Art in Public Places

The Chamber believes projects less than 10,000 square feet should not be subject to the Art in Public Places Assessment nor should residential projects. Additionally, the maximum cost of any Art in Public Places assessment should not exceed \$50,000.

In a competitive market, we must protect the process for new business and growth projects in St. Lucie County. Art in Public Places is an additional cost or "impact fee" if you will and the Chamber continually fights to keep these costs down in order to stimulate job growth. As a pro-business organization, we must be supportive of job growth while not diminishing quality of life for our residents.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Aronson", is placed above the typed name.

Terissa C. Aronson
President/CEO

Karen Phillips

From: Bridget Kean
Sent: Tuesday, November 27, 2018 10:47 AM
To: Russ Blackburn
Cc: Karen Phillips
Subject: FW: Art in Public Places Amended Ltr
Attachments: ArtinPublic.docx

*Bridget Kean, AICP
Senior Planner
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099
772-873-6489 (Office) 772-418-3987 (Cell)*

From: Terissa Aronson <director@stluciechamber.org>
Sent: Tuesday, November 27, 2018 10:24 AM
To: Greg Oravec <Mayor@cityofpsl.com>; Stephanie Morgan <Stephanie.Morgan@cityofpsl.com>; Shannon Martin <Shannon.Martin@cityofpsl.com>; John Carvelli <John.Carvelli@cityofpsl.com>; Jolien Caraballo <Jolien.Caraballo@cityofpsl.com>
Cc: Patti Tobin <PTobin@cityofpsl.com>; Bridget Kean <BKean@cityofpsl.com>
Subject: Art in Public Places Amended Ltr

Please find attached the amended letter from the St. Lucie County Chamber of Commerce in reference to Art in Public Places.

Terissa C. Aronson
President/CEO
St. Lucie County Chamber of Commerce
2937 W Midway Road
Fort Pierce, FL 34981
772.595.9999 x 314; fax 772.595.9990
www.StLucieChamber.org
www.facebook.com/#!/SLCChamber
www.twitter.com/SLCChamber



The Unified Chamber of St. Lucie County



TREASURE COAST BUILDERS ASSOCIATION

James Brann
President

November 26, 2018

Michael Johnston
First Vice President

Mayor Greg Oravec
City of Port St. Lucie
6001 Highway A1A
Indian River Shores, FL 32963

Wendy Dittmar
Second Vice President

RE: Public Art Ordinance 18-67

P. Scott McCracken
Treasurer

Mayor Oravec,

Mari Huff
Secretary

Please accept this letter into the public record as the Treasure Coast Builders Associations opposition for the changes to the updated proposed Art in Public Places Ordinance, as it relates to the changes to Section 162.07, applicability of assessments. The draft of the proposed ordinance that was discussed at the City Council meeting on August 20, 2018 specifically excluded single family residential development projects from the assessment. Agenda item 10E, Ordinance 18-67 being considered at tonight's council meeting has been amended to include residential developments to the list of projects that will be subject to the assessment.

Lloyd Rogers
Immediate Past President

Maddie Williams
Executive Director

There are many opposing factors to this proposal. The first and most important is home affordability. All fees that are assessed by any government entity on new home construction including impact fees, permit costs, development costs etc. are always passed on to the homeowner. With home prices already on a steady rise these additional fees will make the dream of homeownership in the City of Port St. Lucie that much harder to obtain. The ordinance also states that the fee will be assessed on each plat within a residential project. Most projects are built in stages because of the high infrastructure costs paid for by the developer therefore they have multiple plats. The way the ordinance is written it would require the same developer to pay multiple assessments. Also, there are several projects currently under construction that have multiple plats and these additional costs were not anticipated nor budgeted for.



772/336-8222
St. Lucie/Martin

In closing, assessing residential construction is not a common practice in any other of our local association's territories that have similar ordinances for the reasons stated above. Therefore, we request that Ordinance 18-67 be revised to exclude residential construction. Thank you for your consideration.

772/562-8222
Indian River

863/467-2007
Okeechobee

Sincerely,

772/461-4054
Fax

James Brann
President

CC:
Vice Mayor Shannon Martin
Councilmember John Carvelli
Councilmember Stephanie Morgan
Councilmember Jolene Caraballo



ADDITIONAL INFORMATION

COUNCIL ITEM 8E
DATE 12/10/18

CITY OF PORT ST. LUCIE

Planning and Zoning Department
121 S.W. Port St. Lucie Blvd., Building B
Port St. Lucie, FL 34984-5099
www.cityofpsl.com



MEMORANDUM

RECEIVED

DEC 05 2018

CITY MANAGER'S OFFICE

TO: Mayor and City Council

VIA: Russ Blackburn, City Manager

VIA: Patricia A. Tobin, AICP, Director of Planning and Zoning *PT*

FROM: Bridget Kean, Senior Planner *BK*

DATE: December 5, 2018

RE: P18-172 – Art in Public Places Ordinance

The Public Art Advisory Board has prepared a new art in public places ordinance to replace the existing art in public places ordinance. The first reading of the proposed ordinance was held on November 26, 2018. At that meeting, the City Council received correspondence from the Treasure Coast Builders Association (TCBA) and the St. Lucie County Chamber of Commerce (Chamber) expressing concerns about certain proposed changes. The TCBA is requesting the ordinance be revised to exclude residential construction from the public art assessment. The Chamber is requesting the exclusion of both residential construction and site plans under 10,000 square feet.

In their proposal, the Public Art Advisory Board had proposed the removal of single-family residential development and multi-family residential development ten (10) units or less from the City's public art requirements. At the August 20, 2018 Special City Council meeting, the City Council directed staff to include all residential development greater than 10 units in the City's public art requirements.

As the Council is aware, residential development is currently subject to the City's public art requirements. Under the current ordinance, two or more single-family dwellings being built concurrently in the same subdivision, planned unit development, or multi-family units by same owner or contractor are subject to the public art assessment. Therefore, the new ordinance creates less of an impact on residential development because it increases the number of units to qualify. Under the proposed ordinance, the public art assessment for residential development will be calculated on a plat by plat basis. The TCBA expressed concern that a developer with multiple plats would be subject to multiple assessments. As set forth in Section 162.08 (4) of the proposed ordinance, the public art assessment for any single project cannot exceed one hundred thousand dollars (\$100,000.00).

Under the existing ordinance, public art is assessed based on a percentage of the total estimated cost of a project, excluding land costs. Minor site plans under 10,000 square feet that meet the Citywide Design Standards do not pay a public art fee. Site plans between 10,000 to 50,000 square feet are assessed at

one-half (1/2) a percent and site plans over 50,000 square feet are assessed at one (1) percent. Under the proposed ordinance, all private non-residential development projects and all residential development greater than 10 units will contribute to the City's public art program and be subject to the same assessment of one (1) percent of total construction costs. The amount of the contribution will depend on a project's construction costs.

The Public Art Advisory Board had proposed the public art assessment be capped at \$200,000. In reviewing the Board's recommendations at the August 20, 2018 Special City Council meeting, the City Council reduced the cap to \$100,000. The proposed ordinance does provide for a discount of twenty (20) percent for payment into the City's public art fund. It reduces the cap for payment in lieu to \$80,000. For public art onsite, there is a discount of ten (10) percent for using a local artist. Consequently, the proposed ordinance does increase the assessment, but the amount of the increase is dependent on the method an applicant chooses to utilize to fulfill the public art requirement.

Correspondence from the TCBA and Chamber is attached.



TREASURE COAST BUILDERS ASSOCIATION

James Brann
President

Michael Johnston
First Vice President

Wendy Dittmar
Second Vice President

P. Scott McCracken
Treasurer

Mari Huff
Secretary

Lloyd Rogers
Immediate Past President

Maddie Williams
Executive Director



772/336-8222
St. Lucie/Martin

772/562-8222
Indian River

863/467-2007
Okeechobee

772/461-4054
Fax

November 26, 2018

Mayor Greg Oravec
City of Port St. Lucie
6001 Highway A1A
Indian River Shores, FL 32963

RE: Public Art Ordinance 18-67

Mayor Oravec,

Please accept this letter into the public record as the Treasure Coast Builders Associations opposition for the changes to the updated proposed Art in Public Places Ordinance, as it relates to the changes to Section 162.07, applicability of assessments. The draft of the proposed ordinance that was discussed at the City Council meeting on August 20, 2018 specifically excluded single family residential development projects from the assessment. Agenda item 10E, Ordinance 18-67 being considered at tonight's council meeting has been amended to include residential developments to the list of projects that will be subject to the assessment.

There are many opposing factors to this proposal. The first and most important is home affordability. All fees that are assessed by any government entity on new home construction including impact fees, permit costs, development costs etc. are always passed on to the homeowner. With home prices already on a steady rise these additional fees will make the dream of homeownership in the City of Port St. Lucie that much harder to obtain. The ordinance also states that the fee will be assessed on each plat within a residential project. Most projects are built in stages because of the high infrastructure costs paid for by the developer therefore they have multiple plats. The way the ordinance is written it would require the same developer to pay multiple assessments. Also, there are several projects currently under construction that have multiple plats and these additional costs were not anticipated nor budgeted for.

In closing, assessing residential construction is not a common practice in any other of our local association's territories that have similar ordinances for the reasons stated above. Therefore, we request that Ordinance 18-67 be revised to exclude residential construction. Thank you for your consideration.

Sincerely,

James Brann
President

CC:
Vice Mayor Shannon Martin
Councilmember John Carvelli
Councilmember Stephanie Morgan
Councilmember Jolene Caraballo



ST. LUCIE COUNTY Chamber of Commerce

The Unified Chamber of Fort Pierce,
Port St. Lucie and all of St. Lucie County

November 20, 2018

Gregory Oravec, Mayor
City of Port St. Lucie
121 Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: Public Art

To Whom It May Concern:

On behalf of the Saint Lucie County Chamber of Commerce, I am writing to inform you of the position of our organization in reference to Art in Public Places

The Chamber believes projects less than 10,000 square feet should not be subject to the Art in Public Places Assessment nor should residential projects. Additionally, the maximum cost of any Art in Public Places assessment should not exceed \$50,000.

In a competitive market, we must protect the process for new business and growth projects in St. Lucie County. Art in Public Places is an additional cost or "impact fee" if you will and the Chamber continually fights to keep these costs down in order to stimulate job growth. As a pro-business organization, we must be supportive of job growth while not diminishing quality of life for our residents.

Sincerely,

Terissa C. Aronson
President/CEO

Bridget Kean

From: Terissa Aronson <director@stluciechamber.org>
Sent: Monday, November 26, 2018 3:54 PM
To: Bridget Kean
Cc: Greg Oravec; stephanie@cityofpsl.com; Council; Council; Council; Council; Patti Tobin; Russ Blackburn
Subject: Re: Public art ordinance

After further discussion, we have decided to amend our position to present a United front with the TCBA. We will be asking that all residential be exempt from Art in Public Places.

Sent from my iPhone

On Nov 26, 2018, at 2:44 PM, Terissa Aronson <director@stluciechamber.org> wrote:

Please find attached a copy of the letter from the St. Lucie County Chamber of Commerce in reference to Art in Public Places.

Terissa C. Aronson
President/CEO
St. Lucie County Chamber of Commerce
2937 W Midway Road
Fort Pierce, FL 34981
772.595.9999 x 314; fax 772.595.9990
www.StLucieChamber.org
www.facebook.com/#!/SLCChamber
www.twitter.com/SLCChamber
<image001.jpg>

The Unified Chamber of St. Lucie County

From: Bridget Kean [<mailto:BKean@cityofpsl.com>]
Sent: Monday, November 26, 2018 11:24 AM
To: Terissa Aronson
Subject: RE: Public art ordinance

Thanks, Terissa. If you hand anything out, please make sure I get a copy for P&Z file.

*Bridget Kean, AICP
Senior Planner
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099
772-873-6489 (Office) 772-418-3987 (Cell)*

From: Terissa Aronson <director@stluciechamber.org>
Sent: Monday, November 26, 2018 11:23 AM
To: Bridget Kean <BKean@cityofpsl.com>
Subject: RE: Public art ordinance

Yes, we are finishing it up.

Terissa C. Aronson
President/CEO
St. Lucie County Chamber of Commerce
2937 W Midway Road
Fort Pierce, FL 34981
772.595.9999 x 314; fax 772.595.9990
www.StLucieChamber.org
www.facebook.com/#!/SLCChamber
www.twitter.com/SLCChamber
<image001.jpg>

The Unified Chamber of St. Lucie County

From: Bridget Kean [<mailto:BKean@cityofpsl.com>]
Sent: Monday, November 26, 2018 11:16 AM
To: Maddie Williams; Terissa Aronson
Cc: Patti Tobin
Subject: Public art ordinance

Hi,

As a reminder, the proposed public art ordinance is scheduled for tonight's City Council meeting for the first reading of the ordinance. The public hearing/adoption hearing is scheduled for December 10 City Council meeting.

*Bridget Kean, AICP
Senior Planner
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099
772-873-6489 (Office) 772-418-3987 (Cell)*

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ST. LUCIE COUNTY Chamber of Commerce

The Unified Chamber of Fort Pierce,
Port St. Lucie and all of St. Lucie County

November 20, 2018

Gregory Oravec, Mayor
City of Port St. Lucie
121 Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: Public Art

To Whom It May Concern:

On behalf of the Saint Lucie County Chamber of Commerce, I am writing to inform you of the position of our organization in reference to Art in Public Places

The Chamber believes projects less than 10,000 square feet should not be subject to the Art in Public Places Assessment nor should Planned Unit Developments fewer than 25 units. Additionally, the maximum cost of any Art in Public Places assessment should not exceed \$50,000.

In a competitive market, we must protect the process for new business and growth projects in St. Lucie County. Art in Public Places is an additional cost or "impact fee" if you will and the Chamber continually fights to keep these costs down in order to stimulate job growth. As a pro-business organization, we must be supportive of job growth while not diminishing quality of life for our residents.

Sincerely,

Terissa C. Aronson
President/CEO