

ORDINANCE 21-105

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, AMENDING TITLE XV “LAND USAGE”, CHAPTER 162 “ART IN PUBLIC PLACES”, SECTION 162.08 “PUBLIC ART ASSESSMENT FOR PRIVATE DEVELOPMENT” OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE (P21-141); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie, Florida adopted a Revised and Updated City of Port St. Lucie Comprehensive Plan by Ordinance 97-50, as subsequently amended (the “Comprehensive Plan”); and

WHEREAS, Section 163.3202, Florida Statutes, provides for the amendment and enforcement of land development regulations that are consistent with and implement the adopted comprehensive plan; and

WHEREAS, Section 163.3174, Florida Statutes, provides that the Local Planning Agency shall review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted Comprehensive Plan; and

WHEREAS, this City initiated code amendment, P21-141, proposes to amend Chapter 162 of the Code of Ordinances of the City of Port St. Lucie by amending Section 162.08 entitled “Public art assessment for private development”; and

WHEREAS, the proposed amendment was discussed by the Public Art Advisory Board at their meeting on August 16, 2021; and

WHEREAS, the Planning and Zoning Board, in its capacity as the Local Planning Agency, having held a public hearing on the proposed amendment to the Code of Ordinances (P21-141) and submitted its recommendations thereon to the City Council; and

WHEREAS, having considered the recommendations of the Public Art Advisory Board and the Planning and Zoning Board, the Port St. Lucie City Council has found and determined that the adoption of an amendment to Chapter 162 will foster and preserve the public health, safety and welfare; improve and protect the environment and value and character of the community; and implement the adopted Comprehensive Plan.

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

Section 1. **Ratification of Recitals.** The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

Section 2. **Amendment.** **Section 162.08 of the Code of Ordinances of the City of Port St. Lucie is amended as follows:**

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 ten (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 eighty 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.
- d. *Option 4. Alternative Equivalent Proposal.* Submit an alternative equivalent proposal to the planning and zoning director

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- i. The proposal shall be for installation freely accessible work of art on City public right-of-way, on property owned by other public agencies, or on another property under the control or ownership of the developer. The proposal may seek combination of the public art assessment associated with multiple projects into one larger work of art in lieu of several small works of art.
 - ii. The proposal shall contain all information and establish all criteria set forth in section 162.09 of this Chapter, excluding the document required by 162.09(3)(g).
 - iii. The developer must demonstrate that the cost of the proposal will equal the cost of the public art assessment otherwise required under Subsection 162.08 and not create unbudgeted costs for the City.
 - iv. The City may approve the proposal if it finds that:
 - a) the alternative equivalent proposal will further the purposes of this Chapter as set forth under Section 162.01;
 - b) The proposed location of the alternative equivalent proposal is in reasonable proximity to the location of the site(s) generating the work of art requirement, in order to avoid clustering of all public art in one location.
 - c) the cost of the proposal will be equal to or greater than the cost of the public art assessment that would otherwise be required under Subsection 162.08(2)(a)-(c); and
 - d) the developer has established to the satisfaction of the City that the alternative equivalent proposal will create freely accessible public art in the City to an equal or greater extent than installation of the public art on the individual project site or a contribution to the Fund.
 - v. In approving a proposal, the City may impose reasonable conditions of approval requiring the developer to enter into agreements with the City or other public agencies or private parties in order to memorialize the legal obligations of all parties involved with the alternative equivalent proposal.
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).

Section 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or

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unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

Section 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney