
CHAPTER 112 PUBLIC ART

ARTICLE I. IN GENERAL

Sec. 112-1. Legislative Findings and Intent.

- (1) The City Commission of the City of Deltona hereby adopts and incorporates into this Article the city staff reports and City Commission agenda memorandums relating to this Article.
- (2) The provisions of this Article are enacted pursuant to the statutory and home rule powers of the City to establish and maintain the appropriate operations of the city.
- (3) The City of Deltona has complied with all requirements and procedures of Florida law in enacting and advertising this article.
- (4) The City hereby finds that it possesses the unique cultural and artistic character and wishes to increase its potential by increasing the quantity and quality of public art works on display in Deltona's public places as government speech, catalyze high quality arts programming, provide support for existing arts organizations, arts initiatives and artists, and to increase "arts and culture" tourism.
- (5) The City hereby establishes that the intent of the City in establishing this article is to establish a policy of the City which is complementary to the vitality and cultural ambiance for which it is highly recognized, to enhance and expand public experience and exposure to culture through various art forms, to enhance the appearance of public facilities and places and improve the artistic and cultural environment of the city for its citizens through a variety of art forms, including, but not limited to, visual and performing arts all as expressed as government speech.
- (6) The City shall administer the Public Art Program in accordance with this Article and all applicable federal, state, and local laws, regulations, standards, and permitting requirements. All public art installations approved pursuant to this Article shall comply with applicable requirements of the Federal Highway Administration (FHWA), the Florida Department of Transportation (FDOT), and other governmental agencies with jurisdiction.
- (7) The City's Public Art Program shall be administered in compliance with Section 166.04971, Florida Statutes (F.S.). The selection, acquisition, and placement of public art shall be governed by content-neutral aesthetic, contextual, and technical criteria as set forth in this Chapter
- (8) The City further hereby finds that the following goals and objectives are important to the health, safety and welfare of its citizenry:
 - a. Advance "arts and culture tourism" in Deltona.
 - b. Increase public awareness of and interest in the arts.
 - c. Foster artistic creativity.
 - d. "Creative placemaking" by using public art to develop Deltona as an area where people want to live, work and play.
 - e. Attract and retain a creative workforce.
 - f. Improve the quality of life within the city through arts.
 - g. Broaden the role of the artist in the community.
 - h. ~~Develop an image of the city as an arts destination.~~

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- i. Reflect and celebrate the history, culture, heritage, character, and shared civic identity of the City of Deltona and its residents.
 - j. Incubate arts programs and arts related businesses.
 - k. Encourage civic engagement while inspiring creativity and conversation.
 - l. Improve the quality of the urban environment and increase real property values.
 - m. Ignite community engagement.
 - ~~n. Provide for public displays of art, including, but not limited to, murals as government speech.~~

Sec. 112-2. Definitions.

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

Artist or professional artist means a practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income derived substantially from artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts. An individual not meeting this definition may be otherwise approved as an artist or professional artist by the City Manager or designee.

Building means have the meaning set forth in [Land Development Code \(LDC\)](#) Section 70-30.

Obscene shall have the same meaning as set forth in F.S. 847, as amended from time to time, and means material that:

- (1) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- (2) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Permanent Artwork means a public work of art intended to remain in place for an indefinite period and incorporated as a lasting feature of a site, building, structure, or public space and intended to remain in place for an indefinite period, subject to maintenance and replacement requirements of this Chapter.

Public art means original works of art [located on nonresidential property](#) that are accessible to the public and which may possess functional as well as aesthetic qualities. Public works of art may include the production of permanent, innovative, tangible objects including but not limited to paintings, sculptures, mosaics, engravings, carvings, mobiles, murals, collages, fountains (if of unique design), bas-reliefs, dedicated public space (such as plaza surfaces), and site specific installations.

Public art *does not* mean:

- (1) Directional elements such as signage except where these elements are integral parts of the original work of art or are executed by artists in unique or limited editions;
- (2) Art objects which are mass produced of standard design such as playground equipment or fountains;
- (3) Reproductions or unlimited copies of original art work;
- (4) Decorative or functional elements which are designed by the building architect as opposed to an artist commissioned for this purpose;
- (5) Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist; or
- (6) Architectural rehabilitation or historical preservation.

Public Art Advisory Committee ("PAAC") means the entity appointed by the City Commission to serve as the advisory board to help administer the Public Art Program and make recommendations regarding dedication, donations, and acquisition of public art to fulfill the requirements of this Chapter.

Public Art Fund ("the fund") means a separate, interest bearing set of accounts set up by the city to receive monies for the Public Art Program.

Public Art Program means the City's organized program for the planning, funding, acquisition, commissioning, review, installation, maintenance, preservation, and management of public art. The Public Art Program includes the administration of the Public Art Fund, public art program guidelines, development-related public art requirements, and the acceptance of public art donations and dedications.

Public art program guidelines shall mean a set of standards, criteria and policies related to the consideration of donations, dedication, and acceptance of public art, and which shall be adopted and amended by the City Commission upon recommendation of the Planning and Zoning Board following review and recommendation by the PAAC. The guidelines shall govern the manner and method of the submission of proposed art to the Planning and Zoning Board, the process by which the Planning and Zoning Board shall make recommendations to the City Commission and the process by which the City Commission shall approve dedication, donations, and acquisition of public art to fulfill the requirements of this Article.

Public-Facing, for the purpose of this Article, means any exterior area, wall, façade, or surface on public or private property that is oriented toward and visible from adjacent public property, such as a street or other public thoroughfare or sidewalk.

Public Place, for the purpose of this Article, means any exterior area on public or private property that is easily accessible to the general public or clearly visible to the general public from adjacent public property, such as a public right-of-way, park and/or sidewalk.

Redevelopment means the renovation, expansion, conversion, reconstruction, alteration, or replacement of an existing non-residential development that requires development approval or a building permit and is subject to the applicability requirements of Article III.

Temporary Artwork means a public work of art installed or displayed for a limited duration of 30 days and not intended to remain as a permanent feature of a site.

Sec. 112-3. Planning and Zoning Board as Public Art Board

The Planning and Zoning Board shall review and serve as the final decision-making body pursuant to this Chapter. The Planning and Zoning Board shall have the following powers and duties:

- (1) Recommend adoption and amendment of the Public Art Program and Public Art Design Guidelines to the City Commission;
- (2) Approve expenditures from the Public Art Fund in accordance with this Article;
- (3) Approve, approve with conditions, or deny proposed public art installations based on the requirements of this Article and *Appendix A Public Art Design Guidelines*; and
- (4) Apply and administer the adopted Public Art Program and Public Art Design Guidelines.

Sec. 112-4. Public Art Advisory Committee (PAAC).

The City Commission hereby establishes a Public Art Advisory Committee to provide specialized expertise and community perspective in the administration of the Public Art Program. Public art decisions benefit from the informed judgment of individuals with backgrounds in the visual arts, design, planning, and community affairs. The PAAC ensures that public art proposals are evaluated by knowledgeable advisors before advancing to the Planning and Zoning Board, resulting in better outcomes for the community and a more efficient review process.

- (1) Each member of the City Commission shall recommend a member to the PAAC, which shall consist of five (5) members and may include:
 - a. Two (2) individuals chosen from the following disciplines: landscape architecture, urban planning, engineering, or a related design discipline;
 - b. One (1) professional artist;
 - c. One (1) private citizen, knowledgeable in the field of public art, education, or community affairs; and
- (2) One (1) private citizen from the development community. The PAAC shall have the following powers and duties:
 - a. Recommendation of public art program guidelines and amendments thereto to the Planning and Zoning Board.
 - b. Recommendation of expenditures of the public art fund to the Planning and Zoning Board.
 - c. Recommendation of approval, approval with conditions or disapproval of proposed installation dedication, or donation of art based on public art program guidelines.
 - d. Maintain a current list of approved public art permits.
 - e. Act on any other related matter assigned by the City Manager, Planning and Zoning Board, or City Commission.
- (3) Conflict of Interest
 - a. If any member of the PAAC shall find that his or her private or personal interests are involved in the matter coming before the PAAC, he or she shall disqualify himself or herself from all participation in that matter. No member of the PAAC shall have his or her work of art considered or approved by the PAAC during their term of service on the PAAC or for six (6) months thereafter.

Sec. 112-5. Public Art Design Guidelines.

- (1) Public Art Design Guidelines per Appendix A and shall apply to all public art as defined in this Chapter. ~~Public Art Guidelines are incorporated as Appendix A Public Art Guidelines.~~ The Planning and Zoning Board, in coordination with the PAAC may periodically review and recommend amendments to the Public Art Design Guidelines. The PAAC may also initiate and recommend amendments to the Public Art Design Guidelines for consideration by the Planning and Zoning Board. Any amendment to the Public Art Design Guidelines shall be reviewed and adopted in the same manner as the original guidelines.
- (2) The following criteria shall be considered when granting a Public Art Permit:
 - a. Compatibility of the artwork's size, materials, construction methods, and installation requirements with the physical characteristics and environmental conditions of the site;
 - b. Visibility and accessibility of the artwork from public rights-of-way or areas accessible to pedestrians;
 - c. Size and scale of the artwork to nearby buildings, open spaces, pedestrian areas, and rights-of-way;
 - d. Quality of the artwork;

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- e. Maintenance requirements; and
 - f. Whether the artwork functions as, or could reasonably be construed as, advertising, a commercial message, or a sign regulated by the LDC.
- (3) The following criteria, at minimum, shall be considered in the selection of an artist:
- g. Ability of the artist to complete the project within a specified schedule and budget;
 - h. Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions; and
 - i. Any other criteria set forth in the public art program guidelines, as amended from time to time.

Sec. 112-6. Maintenance and Ownership.

- (1) All artwork placed on the site of a development project shall remain the property of the owner of the site and its successor and assigns; all art acquired through expending funds in the Public Art Fund and or placed on City property shall be vested in the City.
- (2) The obligation to provide all maintenance necessary to preserve and maintain the public art in good condition shall remain with the owner of that site and the owner's successors, unless otherwise provided in a written agreement approved and executed by the City Manager or designee
- (3) The obligation to maintain the artwork shall be enforced as follows:
 - a. The property owner shall maintain all public art in good condition, free of damage, deterioration, or defacement. Failure to maintain artwork may result in enforcement action, including repair, replacement, or removal.
 - b. ~~Code enforcement may determine that artwork is not being maintained in accordance with this Chapter and may initiate enforcement proceedings pursuant to the City's code enforcement procedures.~~ Any artwork that is not properly maintained or has been defaced shall be deemed graffiti and shall be subject to the provisions of Chapter 38 Article V. The property owner shall remove or remediate such graffiti within fifteen (15) calendar days following notice per Sec. 38-129.
- (4) In the event artwork is removed, destroyed, stolen, substantially damaged, or otherwise rendered incapable of serving its intended purpose, the property owner shall, subject to approval by the City Manager or designee, either:
 - a. Restore the artwork;
 - b. Replace the artwork with artwork of comparable value and quality; or
 - c. Make a contribution to the Public Art Fund in an amount determined sufficient to satisfy the public art obligation.

ARTICLE III. PUBLIC ART PERMIT

Sec. 112-7. Applicability.

- (1) A Public Art Permit shall be required for the installation of any permanent or temporary public art on public or private property that is visible from a public right-of-way, street, sidewalk, trail, park, or other publicly accessible area. Artwork approved pursuant to Article III of this Chapter shall satisfy the Public Art Permit requirement.

Sec. 112-8. Procedures.

- (1) A property owner or authorized agent shall submit a Public Art Permit application to the City. The application shall be forwarded to the PAAC for review and recommendation and thereafter to the Planning and Zoning Board for final consideration. Public Art Permit applications shall be reviewed and processed in accordance with the requirements and procedures per LDC Section 74-7.

Sec. 112-9. Application.

- (1) Submittal requirements.
 - a. The application shall specify whether the proposed artwork is permanent or temporary.
 - i. In addition to the requirements per subsections b through i, temporary artwork shall comply with the following:
 - ~~a. Temporary artwork.~~
 2. Temporary artwork may be displayed for a period not to exceed thirty (30) days from the date of installation. Installation of the temporary artwork shall occur within seven (7) days following issuance of the Public Art Permit.
 3. Upon written request by the applicant and approval of the City Manager or designee, the public art permit may be extended one (1) time for an additional period not to exceed fifteen (15) days.
 4. The temporary artwork and all related installations shall be removed by the applicant no later than the expiration date of the permit, including any approved extension.
 - b. Name and address of artist
 - c. Name and address of the owner, operator, and person in possession of the premises where the public work of art is to be located.
 - d. Graphic, photographic or architectural rendering of the artwork;
 - e. Narrative description;
 - f. Proposed location on the project site;
 - g. Proposed theme and colors;
 - h. Independent appraisal; and
 - i. Drawings and specifications reflecting the manner in which the artwork will be installed on the site.

ARTICLE III. PUBLIC ART PROGRAM

Sec. 112-10 Intent.

- (1) The Public Art Program intends to enhance the aesthetic quality, cultural identity, and visual character of the City through the planning, funding, acquisition, commissioning, review, installation, maintenance, preservation, and management of public art; encourage the integration of public art into the built environment; promote community engagement and cultural enrichment; support artists and artistic expression; and contribute to the creation of distinctive public spaces.
- (2) The Public Art Program shall include the administration of the Public Art Fund, public art design guidelines, and the acceptance, dedication, donation, acquisition, and preservation of public art.

Sec. 112-11. Applicability.

- (1) Participation in the Public Art Program shall be required for all non-residential development and redevelopment projects at or exceeding 10,000 square feet of gross floor area.
 - a. Non-residential projects. Projects containing new, non-residential square footage shall be subject to the requirements described herein. Mixed use projects are subject to this section to the extent that non-residential square footage is included. Parking structures and other accessory uses serving an on site residential use shall not be included. Projects subject to this Article shall provide one of the following:
 - i. Pay the established fee into the Public Art Fund. Under this option the fee is non-refundable.
 - ii. Obtain approval to acquire and install artwork on site for the proposed project. This artwork can be either an existing piece or a commissioned piece of art that is of equal or greater value than the established fee. Under this option the established fee will be held in escrow and reimbursed according to the conditions contained herein.
- (2) Non-residential development and redevelopment projects containing less than 10,000 square feet of gross floor area shall be exempt from the mandatory requirements of this Article. However, such projects may voluntarily participate in the Public Art Program and shall comply with the applicable provisions of this Article and *Appendix A Public Art Design Guidelines*.
 - a. Voluntary participants may:
 - i. Install public art on-site in accordance with this Article; and
 - ii. Make a voluntary contribution to the Public Art Fund in an amount determined by the property owner.
- (3) Nothing in this Article shall be construed to require participation in the Public Art Program for public art installations that are voluntarily provided and are not associated with a development project subject to the requirements herein.

Sec. 112-12. Procedures.

- (1) Non-residential development and redevelopment projects at or exceeding 10,000 square feet of gross floor area are subject to a pre-application meeting under this Chapter. The pre-application meeting shall include a discussion of the Public Art Program. During the meeting, the developer or property owner shall be provided information, including visual examples, regarding the public art requirements, review process, and available compliance options set forth in this Article.

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- (2) Where the public art is to be placed on-site for the proposed project, the following procedures shall be followed:
- a. The Applicant shall submit a public art proposal to the City with an application for development review for a project located on private property. City staff shall review the proposed location to verify that the artwork does not interfere with sight visibility, public safety, utilities, drainage facilities, or other public infrastructure. Upon completion of the staff review, the proposal shall be forwarded to the PAAC for review and recommendation.
 - b. The PAAC shall review the proposed location and provide comments to the Planning and Zoning Board.
 - c. ~~Where artwork on public property has not been designed, the proposal shall be presented to the PAAC for preliminary review. The PAAC shall review the proposal for consistency with the standards and grant the petitioner preliminary approval or request additional information.~~
 - d. Once the artwork to be located on public property has been designed the proposal shall be presented to the Planning and Zoning Board for final determination. The Planning and Zoning Board will review the proposal for consistency with this Chapter and *Appendix A Public Art Design Guidelines* and shall approve, approval with conditions or denial. The Planning and Zoning Board may request additional information and continue the item until a final recommendation can be made.
 - e. Decisions of the Planning and Zoning Board shall constitute final action unless otherwise appealed pursuant to this Code.
- (3) For all applicable projects payment of the established fee is required at the time a building permit for the project is issued. If artwork is not to be placed on site, the fee shall be directly deposited in to the Public Art Fund.
- (4) Where the public art is to be placed on site for the proposed project, the established fee will be placed in an escrow account and may be refunded provided that:
- a. The artwork has been completed prior to, or within six (6) months following the issuance of a certificate of occupancy for the project; and
 - b. The artwork has been inspected by the City and determined to have been installed in accordance with the description, drawings and specifications submitted in conjunction with the approval process.
 - c. If no artwork has been completed on site within six months following the issuance of a certificate of occupancy, the fee will be forfeited and moved from the escrow account to the Public Art Fund.

Sec. 112-13 Public Art Fund.

- (1) There is hereby created a Public Art Fund to be administered by the City Manager or designee in accordance with this Article. The Planning and Zoning Board shall approve expenditures from the Public Art Fund as required by this Article.
- (2) Owners have the choice of participating in the Public Art Program as follows:
 - a. The owner of a development may pay a public art fee, \$1.00 per square foot of estimated gross floor area as an art fee to the city's Public Art Fund prior to the issuance of a building permit. Owners who are remodeling or converting may pay an amount established from time to time by resolution adopted by the City Commission per square foot of estimated gross floor area being

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- remodeled or converted as an art fee to the city's Public Art Fund prior to the issuance of a building permit; or
- b. The owner of a development may provide artwork on the development site equal to or greater than \$1.00 per square foot of estimated gross floor area for the development. Owners who are remodeling or converting may provide artwork on the development site equal to or greater than an amount established from time to time by resolution adopted by the City Commission per square foot of estimated gross floor area being remodeled or converted as an art fee to the City's Public Art Fund prior to the issuance of a building permit.
- (3) The owner shall provide documentation to the City that the art fee has been deposited into an escrow account for said purpose prior to the issuance of a building permit.
- (4) Prior to placement on the development site, the artwork must be approved by the Planning and Zoning Board and conform to *Appendix A Public Art Design Guidelines*. The guidelines include a requirement that the artwork be accessible and readily visible to the public based on location of artwork and normal traffic of vehicles/pedestrians in the proposed location.
- (5) A minimum of seventy-five (75) percent of the total value of the art requirement shall be placed in areas that are clearly visible from the public sidewalk or public space.
- (6) The owner shall be given up to six (6) months after the issuance of a certificate of occupancy to install artwork, as approved by the Planning and Zoning Board in accordance with adopted public art program guidelines unless the Planning and Zoning Board grants an extension for good cause as determined in their sole discretion. If no installation occurs within the time period, said funds shall be transferred to the Public Art Fund.
- a. Prior to the issuance of the certificate of occupancy, any discrepancy between estimated gross floor area and actual gross floor area must be reconciled. The reconciliation may include an additional art fee contribution or a refund.
- b. The contributions referenced in this section shall be adjusted by the Consumer Price Index on an annual basis.
- (7) The Public Art Fund shall be used solely for expenses associated with the selection, commissioning, acquisition, transportation, maintenance, public education, promotion, administration, removal and of public art, insurance coverage of the works of art or in relation thereto, of City-owned works of public art, or expenses directly related thereto.