

**ORDINANCE NO. 17-023**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; **AMENDING ARTICLE XXII, CHAPTER 2, ART IN PUBLIC PLACES**, BY AMENDING SEC. 2-355 – DEFINITIONS, PROVIDING FOR THE CREATION OF AN ARTS AND CULTURE ADVISORY BOARD AND CREATION OF A 10-YEAR ARTS AND CULTURE STRATEGIC PLAN; AMENDING SEC. 2-356 ART IN PUBLIC PLACES PROGRAM, INCORPORATING THE STRATEGIC PLAN; PROVIDING A SEVERABILITY CLAUSE; AND REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Fort Pierce, Florida, a municipal corporation, adopted Chapter 2, Article XXII, as set forth in Section 2, establishing the Art in Public Places Program;

**WHEREAS**, the City Commission has determined that it is necessary to amend Chapter 2, Article XXII, Section 2 to establish an Arts and Culture Advisory Board; and

**WHEREAS**, the City Commission has determined that it is necessary to amend Chapter 2, Article XXII, Section 2 to authorize the creation of a 10-Year Arts and Culture Strategic Plan.

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

**SECTION 1:** Chapter 2, Article XXII, Section 2-355 of the Code of Ordinance of the City of Fort Pierce, Florida is hereby amended so that the same shall read thereafter as follows:

**Sec. 2-355 – Definitions.**

For the purposes of this article, the following words or terms are defined as follows:

*Artwork* means works in a variety of media produced by professional visual artists. Works may be permanent, temporary or functional.

*Board means Arts and Culture Advisory Board*

*Capital project* means any city capital improvement project costing more than one hundred thousand dollars (\$100,000.00) and paid for wholly or in part by funds appropriated by the city commission to construct or renovate any park, beach restoration, above grade utility, and to construct or renovate any city-owned building.

*Commission* means the city commission of the City of Fort Pierce, Florida.

~~*Council* means the St. Lucie Cultural Affairs Council.~~

*Eligible construction costs* means the total project appropriation, including engineering and design, but not including demolition costs, equipment costs except for the cost of custom designed equipment or equipment that creates a new use for a building or facility, real property acquisition costs, impact fees, enterprise funds, and soil remediation costs.

*Equipment costs* means for the purposes of the public art/design and transportation enhancement project calculation, those costs for the acquisition of mechanical equipment of standard manufacture.

~~*Master plan* means a manual of criteria for the selection of sites and artwork and transportation enhancement projects for public capital and transportation facilities to be developed by the council with public input and approved by the commission prior to its implementation. This manual shall also provide for a comprehensive program for art in public places which shall include the display of loaned art in appropriate public buildings.~~ means the Arts and Culture Master Plan.

*Renovation* means a capital project or transportation capital project which is a major redesign of a facility or system or a portion of a facility or system which is included in the city's capital program budget and which requires a building permit from the appropriate governmental jurisdiction. Renovation shall also include a capital project or transportation capital project which is an expansion or upgrading of the capacity of the facility or system, enlarging the facility, or creating new use for the facility. It shall not include repairs, maintenance, installation of mechanical equipment, or modifications required solely for ADA compliance.

*Strategic Plan* means a 10-Year manual of action criteria based on the Arts and Culture Master Plan for the selection of sites, artwork, public capital and transportation facilities, projects, programs, etc., to be developed by the Board with public input and approval by the Commission prior to its implementation. This manual shall provide for a comprehensive plan for the art in public places program which shall include the display of loaned art in appropriate public buildings.

*Transportation capital project* means any city capital transportation improvement project costing more than one hundred thousand dollars (\$100,000.00) and paid for wholly or in part by funds appropriated by the City of Fort Pierce to construct or renovate any highway or arterial, bridge or causeway, sidewalk, or bikeway or any road beautification project.

*Transportation enhancement project* means one or more of the following projects, prioritized in the following order:

- (a) Visual enhancement of facilities for pedestrians and bicycles.
- (b) Scenic or historic highway programs, including the provision of tourist and welcome center facilities.
- (c) Landscaping and other scenic beautification projects.
- (d) Historic preservation.
- (e) Rehabilitation and operation of historic transportation buildings, structure or facilities, including historic railroad facilities.
- (f) Preservation of abandoned railway corridors, including the conversion and use thereof for pedestrian or bicycle trails.

*Trust fund* means the art in public places trust fund created pursuant to this article and shall include all gifts and donations deposited in the trust fund.

**SECTION 2:** Chapter 2, Article XXII, Section 2-356 of the Code of Ordinance of the City of Fort Pierce, Florida is hereby amended so that the same shall read thereafter as follows:

**Sec. 2-356. – Art in public places program.**

(a) Appropriations for city capital projects shall include an amount equal to one per cent of the total eligible construction costs to be used for artist design services and for the selection, acquisition and display of artworks for related education programs, for the maintenance of city artworks, and for the administration of the master plan and the strategic plan. Funds appropriated pursuant to this section shall not exceed one hundred thousand dollars (\$100,000.00) per project. Funds appropriated for one capital project, but not deemed necessary or appropriate by the council in whole or in part for that project, may be expended on other public art projects approved under the master plan and the annual-master strategic plan, subject to any bond restrictions and legal or grant restrictions. Bond funds shall be appropriated and accounted for in the bond capital project accounts. Projects costing less than one hundred thousand dollars (\$100,000.00) shall be subject to the public art calculation and such funds will be pooled for other art projects. All city departments may opt to participate in the art in public places program for any improvement project not otherwise subject to this article.

(b) Appropriations for transportation capital projects shall include an amount equal to one per cent of the total eligible construction costs to be used for site specific transportation enhancement projects, including artist design services for such projects, for the maintenance of such projects, and for the administration of the master plan and the strategic plan, relating to such projects. Funds appropriated pursuant to this section shall not exceed one hundred thousand dollars (\$100,000.00) per project. Bond funds shall be appropriated and accounted for in the bond capital project accounts. Transportation projects costing less than one hundred thousand dollars (\$100,000.00) are subject to the transportation enhancement projects calculation and such funds shall be pooled for other transportation enhancement projects.

(c) The first priority for use of funds generated by a capital project shall be that capital project site. The monies appropriated under this article may be used for artist design services, for the development of design concepts and models, and for the selection, acquisition, purchase, commissioning, placement, installation, exhibition and/or display of artworks. Artworks and transportation enhancement projects shall be selected in accordance with the master plan and the strategic plan and may be temporary or permanent, may be integral to the architecture or may be incorporated into the project. Integration of the artists' design concepts into the project architecture and/or design should be ensured, insofar as is feasible, by the concurrent selection of the artist(s) with the architect, engineer, or project designer.

(d) In the case of a project which involves the use of grant or city bond proceeds issued after the effective date of this article, amounts for artist design services and artworks described in this article shall be used for projects and capital purposes consistent with state and federal laws, the resolutions and/or ordinances approved by the commission and the terms of the grant agreement.

(e) With the exception of transportation capital projects or as otherwise restricted by the commission, any applicable bond resolution or ordinance, local, state or federal law, or the conditions of a granting authority, monies generated under this article may be pooled and expended for any public art and design project in the city, subject to the ~~approved~~ master plan and approved strategic plan. Pooled funds may be used as seed money for artists' fees to initiate partnerships with private and other

public entities to provide public art and aesthetic enhancements in the City of Fort Pierce, pursuant to a written agreement.

(f) To the extent allowed by grant guidelines and by law, all city departments shall, from the effective date of this article, include in all applications for funding to outside granting organizations or governmental agencies, an amount equal to one per cent of eligible construction costs for a capital project, not to exceed one hundred thousand dollars (\$100,000.00), or an amount equal to one per cent of eligible construction costs for a transportation capital project, not to exceed one hundred thousand dollars (\$100,000.00), for artist design services and artworks or transportation enhancement projects, as specified herein.

(g) The minimum amount to be appropriated for artist design services, artworks, and transportation enhancement projects shall be the total eligible construction costs multiplied by 0.01. This calculation shall be made by the city department prior to the time of the appropriation for the city's capital program. An amount equal to fifteen (15) per cent of the eligible allocation of the construction project may be used for projects support and community participation activities. For public-owned property this may include staffing, artist selection-related costs (excluding travel of the selection committee), consultants, design/proposal/moquette costs, identifying plaques, project documentation, publicity, community education activities and other purposes as may be deemed appropriate for the administration of the program. An amount equal to fifteen (15) per cent of the eligible public art allocation of the construction project for a capital project shall be set aside in a separate account within the trust fund for curatorial services and the preservation and maintenance of city artworks. An amount equal to fifteen (15) per cent of the eligible public art allocation of the construction project for a transportation capital project shall be set aside in a separate account within the trust fund for curatorial services and the preservation and maintenance of the specific transportation enhancement project. The council shall recommend that any artwork or transportation enhancement project needing extraordinary operational or maintenance costs be reviewed by the appropriate city department prior to recommendation to the commission. The council shall also be responsible for conducting an annual maintenance survey of artworks and transportation enhancement projects. This survey shall include a condition report on each work, prioritized recommendations for the restoration or repair and maintenance, and estimated costs. Such repair and maintenance shall comply with any contractual obligations which may have been entered into by the city in the acquisition of the artworks. Expenditures of monies in the artwork and transportation enhancement projects maintenance and project support accounts shall be annually recommended by the council and included in the proposed annual budget submitted to the commission. Funds in the maintenance and conservation account not expended by the end of the close of any fiscal year shall be carried forward. The council shall also, review and update as necessary the insurance requirements for artworks at least every five (5) years.

**SECTION 3.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 4.** All Ordinances or parts of Ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 5.** This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM  
AND CORRECTNESS:

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James M. Messer, Esquire  
City Attorney

STATE OF FLORIDA)  
ST. LUCIE COUNTY)SS

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 17-023 was duly advertised by title only in the St. Lucie News Tribune on July 7, 2017; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on July 17, 2017; and was duly introduced, read by title only, and passed on second and final reading on August 7, 2017, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 7<sup>th</sup> day of August, 2017.

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Linda Hudson,  
Mayor Commissioner

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Linda W. Cox,  
City Clerk

(CITY SEAL)