

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, CREATING A NEW CHAPTER 160, OF TITLE XV OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH TO BE ENTITLED, "PUBLIC ART," CREATING A PUBLIC ART PROGRAM FOR NEW CONSTRUCTION; PROVIDING GENERAL PROVISIONS FOR ITS ORGANIZATION AND OPERATION; PROVIDING FOR A PUBLIC ART COMMITTEE; PROVIDING FOR PURPOSE AND APPROPRIATIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Chapter 160, of Title XV of the Code of Ordinances of the City of Pompano Beach, Florida, is hereby created to read as follows:

**CHAPTER 160: PUBLIC ART**

**§ 160.01 STATEMENT OF INTENT.**

This chapter shall be known and cited as the "Public Art Program."

It is the intent and purpose of this chapter to enhance the aesthetic and cultural value of the city by including works of art on public properties within the city. Benefits of public art are both aesthetic and economic. By increasing the public art offerings throughout the community, the City is committed to developing cultural resources to maintain community well-being. The economic benefits of public art have been identified by the National Endowment for the

Arts, which reports that every dollar spent by local government on the arts generates more than \$11 from the private sector in ticket sales and philanthropic donations. Further, Americans for the Arts' research revealed that cultural tourists tend to stay longer at their destinations, stay at higher quality hotels, and spend more time and money in restaurants and on retail.

#### **§ 160.02 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:

***ART OR WORKS OF ART.*** A tangible object including but not limited to paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings, or combinations thereof, and artist-designed public facilities, buildings, and/or spaces and functional elements, either as integral parts of a larger project or as a separate entity.

***CITY CONSTRUCTION PROJECT.*** Any capital improvement project paid for wholly or in part by the city to construct or remodel any building, structure, park, utility, street sidewalk, or parking facility, or any portion thereof, within the limits of the City of Pompano Beach. The definition of city construction project shall also be deemed to include construction projects that are developed by persons or entities other than the city, but which require the participation of the city as a party to a development agreement or ground lease.

***ESTIMATED IN PLACE COST OF CONSTRUCTION.*** As described in Chapter 152.12 .

***PUBLIC ART.*** Works of art of an appropriate scale and for general public access in public places.

***PUBLIC ART COMMITTEE.*** The advisory committee appointed by the City Commission to carry out the duties and functions set forth in this article.

#### **§ 160.03 PUBLIC ART COMMITTEE.**

(A) There is hereby established a committee to be known as the public art committee. The composition and rules governing the public art committee are to be established by resolution.

#### **§ 160.04 POWERS AND DUTIES OF THE COMMITTEE.**

The public art committee shall have the following powers and duties:

(A) Recommendations to the City Commission on public art guidelines and amendments there to;

(B) Recommendations to the City Commission on a Public Art Master Plan, and amendments there to;

(C) Recommendations to the City Commission on art and artist selection;

(D) Recommendations to the City Commission on the maintenance and insurance necessary to preserve and protect the public art;

(E) Recommendations to the City Commission for other expenditures of the public art fund; and

(F) The public art committee is responsible for submitting an annual report to the City Commission each year at the end of the 12-month term. The report will describe the committee's accomplishments over the past year, give the status of current projects, provide information on any future plans, and include an inventory of public art in the city.

(G) Recommendations to the City Commission on location of public art.

#### **§ 160.05. PUBLIC ART FUND ESTABLISHED.**

(A) There is hereby established a fund to be known as the public art fund.

(B) All appropriations of city funding for city construction projects shall include an appropriation of funds to the art in public places fund as follows:

(1) The amount appropriated to the art in public places fund shall be two percent (2%) of the estimated in place construction cost of the city construction project.

(2) The appropriation to the fund shall be made at the time each Capital Improvement Plan budget is adopted by the City Commission. If projects are added to the Capital Improvement Plan outside of annual adoption period, the appropriation shall be made at the time the project is added.

#### **§ 160.06. PUBLIC ART FUND PURPOSE.**

Funds placed in the public art fund shall be used only for the following purposes:

(A) Acquisition of works of art to be located on public property within the city, inside publicly accessible areas of public buildings, or public facilities

within the city, or in publicly accessible areas of private property within the city, in accordance with the procedures in this section. The location for public artwork shall be made in accordance with the adopted Public Art Master Plan and does not need to be associated with the city construction project that contributed the funding.

(B) Insurance and/or maintenance of existing works of art acquired by the city under this section in accordance with a yearly budget for such insurance and/or maintenance to be approved by the City Commission. The city manager and public art committee shall provide the City Commission with a yearly recommendation regarding this budget.

(C) Expenses relating to the following:

(1) Research and evaluation by the public art committee pertaining to proposed works of art, including opinions when necessary from outside experts and/or professional advisory committees;

(2) Administrative expenses relating to the operations of the committee, including but not limited to salaries, supplies and equipment for the keeping of minutes and printing and distribution of board agendas and correspondence;

(D) All such expenses shall be approved as part of the yearly budget for the fund by the City Commission after considering the recommended budget submitted by the city manager, the Development Services Department, and the public art committee.

(E) The amount budgeted for administration, maintenance, insurance, and preservation of works of art acquired by the city pursuant to this article as part of the total appropriations for art in public places shall not be more than 25 percent of funds placed in the public art fund.

#### **§ 160.07 PROJECTS SUBJECT TO REQUIREMENTS OF THE PUBLIC ART PROGRAM.**

(A) Unless specifically exempted below in subsection B, the requirements of this chapter shall apply to all City construction projects.

(B) Exemptions. The requirements of this chapter shall not apply to the following activities:

(1) Affordable housing construction, remodel, repair, or reconstruction projects, as defined by federal, state, or local projects.

(2) Any project with a funding source that cannot fund public art due to restrictions by public bond covenants; federal, state or local laws; and/or legal parameters.

**§ 160.08 ART AND ARTIST SELECTION CRITERIA.**

(A) The following criteria, at minimum, shall be considered by the public art committee in the selection of artwork:

- (1) Appropriateness of the artwork to the site and site environmental conditions;
- (2) Maximum visual accessibility to pedestrian or vehicular traffic, as set forth in the public art program guidelines;
- (3) Quality of the artwork;
- (4) Maintenance requirements; and
- (5) Any potential conflicts of the artwork resembling any corporate, business or private logos or themes.

(B) The following criteria, at minimum, shall be considered by the public art committee in the selection of an artist:

- (1) Ability of the artist to complete the project within a specified schedule and budget;
- (2) Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions; and
- (3) Any other criteria set forth in the public art program guidelines, as amended from time to time.

**§ 160.09 OWNERSHIP OF PUBLIC ART.**

Unless otherwise expressly agreed to in writing by the city, ownership of all art acquired through expending funds in the public art fund shall be vested in the city, which shall obtain title to each work of art.

**§ 160.10 PUBLIC ART MASTER PLAN.**

The City Commission shall adopt a public art master plan that identifies locations for public artworks, establishes a priority order of location and art type, and any potential themes, concepts or goals relating to the public art program.


**SECTION 2.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 3.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 26th day of June, 2012.

**PASSED SECOND READING** this 10th day of July, 2012.

  
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**LAMAR FISHER, MAYOR**

**ATTEST:**

  
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**MARY L. CHAMBERS, CITY CLERK**

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**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH RELATING TO A COMMITTEE KNOWN AS THE PUBLIC ART COMMITTEE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, public art is of great value to the constituents of the City of Pompano Beach and enriches the quality of all our lives; and

**WHEREAS**, the City Commission of the City of Pompano Beach deems it appropriate pursuant to this resolution for the Public Art Committee to promote, encourage and advocate for public art in the city and to make appropriate recommendations to the City Commission as to actions which might be taken for provision of same; now, therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** There has been established by ordinance a new committee to be known as the Public Art Committee.

**SECTION 2.** Generally, it shall be the duty and responsibility of the Public Art Committee to promote and advocate public art within the City. The goals of the committee should be to promote public art, to provide and find a forum for public art, to seek grant and funding for public art, to develop and implement our public art program, and to advocate for public art, and to undertake such other duties and projects and responsibilities regarding public art within the city as provided by ordinance or as may be from time to time assigned to said

committee by the City Commission. The committee shall have the powers and duties as provided by city ordinance.

**SECTION 3.** The Public Art Committee is hereby empowered and encouraged to establish subcommittees as may be deemed advisable to assist the committee in carrying out its assigned functions. Members of such subcommittees shall serve at the pleasure of the committee and any subcommittee so established may be abolished at any time upon a determination by the committee that such subcommittee no longer serves any useful function. The committee shall appoint by majority vote a chairperson of each subcommittee created. Members of the committee may also be members of any subcommittee. The City Clerk shall maintain an active file containing the names and addresses and other pertinent information as to persons who have expressed an interest in serving on such subcommittees.

**SECTION 4.** The membership of the Public Art Committee shall consist of seven (7) members, plus an additional two (2) alternates with a strong commitment to the objectives of the Public Art Program, who shall be appointed at large by the City Commission. The alternate members may substitute for any member of the committee who is unable to be present at a scheduled committee meeting. Membership of the Public Art Committee may include individuals chosen from the following disciplines: arts professionals (designer, curator, collector, public art administrator, historian, gallery owner or other persons determined to meet the artists or arts professionals category by the City Commission), landscape architecture, urban planning, architecture, engineering or a related design discipline; private citizen, knowledgeable in the field of public art, education or community affairs; and private citizen from the development community.



The City Manager shall designate a city staff member to act as the city's liaison with the committee. The liaison will be responsible for budget development and monitoring.

**SECTION 5.** The initial membership terms shall be staggered with four (4) members having two-year terms and three (3) members having one-year terms. Initially, alternates will have two-year terms. The staff liaison member's term is not limited. After initial terms, all future terms will be for two years, with staggered terminations. Consecutive reappointments are permissible. Should any vacancy occur on this committee during the term of its existence, such vacancy shall be filled by the City Commission for the remainder of the unexpired term.

**SECTION 6.** The members of this committee shall meet as soon as practicable after adoption of this resolution and organize by electing from the membership a chairperson. The committee may adopt rules and regulations for the conduct of its meetings including the methods of calling a meeting. The committee shall keep minutes of its meetings, copies of such minutes to be provided to the City Commission upon request. The committee shall submit its findings and recommendations to the City Commission from time to time as the committee may deem advisable or as requested by the City Commission.

**SECTION 7.** In all matters coming before the committee, the affirmative vote of a majority of those present and voting is the action of the committee, provided a quorum consisting of four members is present. In the event that any members have personal interests in matters of acquisition or commissioning of artwork before the committee that constitutes a conflict of interest, those members shall excuse themselves from voting. If any member of the Public Art Committee shall find that his or her private or personal interests are involved in the matter coming before the committee, they shall disqualify themselves from all participation in that matter. No member of the Public Art Committee shall have his or her work of art considered or

approved by the Public Art Committee during his or her term of service on the committee or one year thereafter.

**SECTION 8.** A committee member is required to attend a majority of meetings scheduled within each 12-month time period of his or her appointed term. Failure of a committee member to regularly attend meetings could result in removal from the position at the discretion of the City Commission. Public Art Committee meetings will be open to the public.

**SECTION 9.** If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this resolution that can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

**SECTION 10.** This resolution shall become effective upon passage.

**PASSED AND ADOPTED** this 11th day of September, 2012.

  
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**LAMAR FISHER, MAYOR**

**ATTEST:**

  
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**MARY L. CHAMBERS, CITY CLERK**

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