

ORDINANCE NO. _____

(24-T-70)

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING ARTICLE 3 OF THE ZONING AND LAND DEVELOPMENT REGULATIONS TO REVISE STANDARDS FOR THE PAINTING AND COLOR OF EXTERIOR SURFACES OF BUILDINGS AND STRUCTURES AND ART IN PUBLIC PLACES AND PROVIDING FOR A SEVERABILITY CLAUSE.

WHEREAS, City staff was directed by the City Commission to evaluate the City's Art in Public Places regulations; and

WHEREAS, the purpose of the regulations for Art in Public Places of the Zoning and Land Development Regulations ("ZLDR") is set forth in Article 3 of the ZLDR; and

WHEREAS, the ZLDR provide that an application for a zoning text change of regulatory controls may be filed; and

WHEREAS, the Applicant, City of Hollywood, has submitted a proposed text amendment to Article 3 of the ZLDR as set forth below; and

WHEREAS, on April 8, 2025, the Planning and Zoning Board, acting as the City's local planning agency, reviewed the proposed text changes to Article 3 of the ZLDR and have forwarded a recommendation of approval to the City Commission; and

WHEREAS, Section 166.041(3)(c)(2), Florida Statutes, requires that the local governing body shall hold two advertised public hearings on the proposed ordinance and at least one hearing shall be held after 5:00 P.M. unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day; and

WHEREAS, the City Commission following a review of the proposed text amendment at the two duly noticed public hearings, accepts such recommendations as set forth herein and finds them to be in the best interest of the citizens of Hollywood.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated into this Ordinance.

Section 2: That Article 3 of the Zoning and Land Development Regulations entitled "Public Art" is hereby amended as follows¹:

ARTICLE 3: GENERAL PROVISIONS

...

§ 3.22 Standards for the Painting and Color of Exterior Surfaces of Buildings and Structures and Art in Public Places Regulations.

...

J. Art in ~~p~~Public ~~p~~Places.

1. Intent and ~~p~~Purpose.

...

c. This section governs placement of ~~artwork~~Artwork in public places and areas which are visible from a Public Place. Public art in the city's Community Redevelopment Districts is addressed elsewhere in the Code, and the Community Redevelopment Agency (CRA) program provides an additional means for eligible property owners to display and promote public art -- until such time as the CRA is dissolved. When the CRA is dissolved, this section shall govern art installations city-wide.

2. Definitions. For purposes of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

...

PUBLIC PLACE. Any city property, public right-of-way, and/or any city easement on an exterior area of private property in a non-residential zoning district within the city that is easily accessible or clearly visible to the general public from adjacent public property, such as a street or other public thoroughfare or sidewalk, for a period of ten hours per day, seven days per week, with the property owner's option of excluding access or visibility on national holidays.

...

3. Public art.

a. Applicability.

(1) Project size. This subsection shall apply to all development projects, as defined in J.2. of this subsection, that are 20,000 gross square feet or more.

¹ (Coding: Words and figures underscored are additions to existing law; words and figures ~~struck through~~ are deletions, and words that are shaded are changes between first and second readings.)

(2) Exemptions. Notwithstanding the foregoing, the City Commission may ~~partially or totally exempt~~ grant a full or partial exemption ~~a project~~ from the public art program ~~for projects involving that consists of~~ (i) the reconstruction or replacement of buildings or structures that have been damaged by fire, flood, wind, or other natural disaster—unless the development previously included a required piece of Public Art. In such cases, a new piece of Public Art shall be installed based on the appraised value of the original artwork prior to the damage or destruction, or a payment-in-lieu shall be provided in the amount of the appraised value., (ii) ~~Projects involving~~ improvements required to address sea-level rise, and (iii) ~~projects on public property, may be granted an exemption of these requirements, by City Commission, provided a minimum payment of \$5,000 is made. Affordable housing developments in which at least 60% of the total units are reserved for households earning 60% or less of the Area Median Income (AMI) may be granted a waiver from the public art requirements by the City Commission, pursuant to the recommendation of the Community Development Division Manager, provided that a minimum payment of \$5,000 is submitted.~~

(3) Method of compliance. A developer may propose to install ~~artwork~~ Artwork in a public place on the site of its development project pursuant to all applicable regulations of this subsection. Alternatively, an in-lieu art fee may be paid into the ~~City's~~ City's Public Art Fund, or a developer may comply with a combination of provision of ~~artwork~~ Artwork and payment of an in-lieu art fee.

(4) Voluntary Art Permit ~~provision of artwork~~. A proponent not otherwise subject to this subsection may propose to install ~~artwork~~ Artwork ~~in a visible from~~ a public place on the ~~site of its development project~~ subject property with the exception of single-family homes. ~~Voluntary provision of artwork shall be governed by the policy for "voluntary provision of artwork," which shall be prepared by the City Manager or designee. A~~ Voluntary Art Permit shall be required to create, install, modify, or remove Artwork on the exterior façade or on the site of private property that is visible from a Public Place. The Voluntary Art Permit shall be subject to:

- i. All Public Art Permit Application Requirements of this section except the requirements of an appraisal and an easement agreement, at the discretion of the Director of Development Services;
- ii. All Review Guidelines of this section shall apply, except e. (1) Content. The following content provisions shall apply to voluntary art permit reviews:
 - a. The Artwork shall not be deemed a sign, nor shall such Artwork identify a specific business or establishment or contain a commercial message;
 - b. The Artwork shall not intend to incite violence or include sexually explicit material that violates fundamental notions of decency.; and
- iii. All Maintenance requirements of this section.

b. Timeframes for compliance; amount of fee or value of ~~artwork~~ Artwork subject to issuance of a Public Art Permit.

(1) Building permits. Prior to issuance of a final building permit, the developer shall be required to comply with one of the following:

(i) In-lieu public art fee shall be established pursuant to the city's Comprehensive Schedule of Fees; or

(ii) Placement of ~~artwork~~ Artwork on site. Placement of ~~artwork~~ Artwork on the site of the development project with a minimum value in accordance with the city's Comprehensive Schedule of Fees; or

(iii) Combination of in-lieu public art fee and placement of ~~artwork~~ Artwork on site. Placement of ~~artwork~~ Artwork in a city easement on the development project, when combined with payment of the in-lieu public art fee, must have a minimum value that complies with the city's Comprehensive Schedule of Fees.

(iv) Where placement of ~~artwork~~ Artwork is proposed, the owner shall provide documentation that the escrow funds have been paid into an escrow account.

(2) Certificates of occupancy. No final approval, such as a final inspection or a certificate of occupancy for any development project shall be issued unless one or more of the following has been achieved in compliance with the ~~public art permit~~ Public Art Permit:

(i) The approved ~~artwork~~ Artwork has been installed in a manner satisfactory to the City Manager or designee in compliance with this subsection.

(ii) In-lieu art fees have been paid in compliance with this subsection.

(iii) Financial security, in an amount equal to the acquisition and installation costs of an ~~artwork~~ Artwork approved in accordance with this subsection, has been provided to the city in a form approved by the City Attorney.

(3) Timeframe for placement of ~~artwork~~ Artwork on site. If ~~artwork~~ Artwork is to be placed on the development project site, the ~~public art permit~~ Public Art Permit for the ~~artwork~~ Artwork shall first be approved by the Public Art Review Committee, and the ~~artwork~~ Artwork shall be provided within the following timeframes and otherwise comply with this subsection.

(i) The developer shall be given up to nine months after issuance of the building permit to obtain approval of the proposed ~~public art permit~~ Public Art Permit, unless the City Manager or designee grants an extension for good cause as determined in their sole discretion. If approval is obtained within the time period, then the escrow funds will be transferred back to the developer. If no such approval is obtained within the time period, the city shall transfer the escrow funds to the fund, and they shall be used in accordance with the regulations established for the fund.

(4) ~~public art permit~~ Public Art Permit. A ~~public art permit~~ Public Art Permit shall be required for the creation, installation, modification, or removal of ~~artwork~~ Artwork in a public place. As determined by the Building Official, the installation of ~~artwork~~ Artwork

may require a building permit to be obtained after the Public Art Permit and prior to installation.

(5) ~~public art permit~~ Public Art Permit application requirements. Prior to the issuance of any ~~public art permit~~ Public Art Permit, the developer or an agent with the consent of the developer shall apply, in the form provided by the city, to the Planning and Urban Design Division, together with the following:

(i) A narrative of sufficient descriptive clarity to indicate the nature and meaning of the proposed ~~artwork~~ Artwork;

(ii) Drawings, photographs, and specifications as are necessary to demonstrate that the ~~artwork~~ Artwork complies with the requirements of this section. Such drawings (surveys, site plans, elevations, sketches, and other illustrations) shall be to scale and fully dimensioned; illustrate property lines, rights-of-way, internal streets, sidewalks, overhead utility lines (if ~~artwork~~ Artwork is three dimensional), and parking areas immediately surrounding the intended location of the ~~artwork~~ Artwork. Drawings shall also indicate the setting and location, design, media and materials, methods of construction, and methods of application, securing, or fastening of the ~~artwork~~ Artwork.

(iii) A detailed description and evidence demonstrating that the proposed ~~artwork~~ Artwork is weatherproof and will withstand environmental conditions in the location where it is to be installed. This should include information on the materials, construction methods, and any additional protective measures that will be taken to ensure the ~~artwork~~ Artwork's durability and resistance to weather-related damage.

(iv) Schedule of completion outlining the schedule of work that includes the proposed date of completion.

(v) If the ~~artwork~~ Artwork is proposed to be placed on a new or existing city easement on private property, then a proposed ~~artwork~~ Artwork easement shall be submitted in the form provided by the City Attorney's Office.

(vi) If the ~~artwork~~ Artwork is a mural, the amount and type of building signs that could have been placed on the façade devoted to the mural may be transferred to use on other façades or on a freestanding sign for the building. The applicant shall separately submit the requisite applications for and obtain approval for any proposed relocation of sign area pursuant to the Sign Code.

(vii) An appraisal or other evidence of the value of the proposed ~~artwork~~ Artwork, including acquisition and installation costs. Alternatively, to establish the value of Artwork submitted to comply with the program's requirements, the city may contract with an independent art appraiser to provide a written appraisal of the art. Such appraisal shall be funded by the developer as part of the overall art contribution.

(viii) A narrative statement demonstrating that the ~~artwork~~ Artwork will be displayed in a public place.

(ix) A statement indicating the property owner's willingness to maintain compliance with this subsection.

c. Public Art Review Committee.

(1) Membership. A Public Art Review Committee shall be established that consists of representatives from the following administrative departments/divisions of the city: City Manager's Office or the Department of Development Services; Planning and

Urban Design Division; Building Division; Communications, Marketing and Economic Development; Design and Construction Management; the Department of Parks, Recreation and Cultural Arts; Engineering, Transportation and Mobility Division (as applicable), a representative of the Hollywood Art and Culture Center, and an appointed public representative of the city's Art Selection Committee. The Committee will be chaired by the Planning and Urban Design Division.

A member of the public or a local civic organization from the neighborhood where the ~~artwork~~-Artwork is proposed shall serve as a non-voting member of the Public Art Review Committee. However, such member shall not be counted for the purposes of achieving quorum.

(2) Authority. The Public Art Review Committee shall have the authority to review all Public Art and Voluntary Art Permit applications.

~~(2)(3)~~ Meetings. The Public Art Review Committee shall meet, as necessary, to review and approve, approve with conditions, or deny a ~~public art permit application~~ Public Art and Voluntary Art Permit Application based upon the application, the city staff report evaluating the application, and information received at the Committee meeting. Applications shall be considered at the first Committee meeting that is more than 30 days following staff's determination that the application is complete. The Committee's decision shall be based upon the review guidelines set forth in subsection J.3.e. below.

(4) Quorum. The virtual or in-person attendance of at least four (4) voting members of the Public Art Review Committee shall constitute a quorum.

d. Notice of decisions.

(1) Approval. Upon approval of a ~~public art permit~~ Public Art Permit or Voluntary Art Permit application, the applicant will receive written notification of such approval along with information regarding whether the Chief Building Official or designee has determined a building permit for the ~~artwork~~-Artwork is also necessary.

(2) Denial. In the event that a ~~public art permit~~ Public Art Permit or Voluntary Art Permit application is denied, the applicant shall receive written notification of such denial and the reasons for such denial based upon the review guidelines set forth in subsection J.3.e. below.

(3) Appeal. ~~Upon receipt of the denial notification, the applicant may file an appeal to the Planning and Development Board or Historic Preservation Board, as applicable, within ten days from the denial notification. City staff shall review and prepare a response to the appeal within 14 days of the appeal being filed. The applicable Board shall review whether the Committee's decision was based upon the review guidelines set forth in subsection J.3.e. below at its next scheduled meeting that is more than 14 days after the appeal was filed and may reverse a denial upon finding that it was not based on such guidelines. An applicant may appeal a decision made by the Public Art Review Committee regarding a denial of a Public Art Permit or Voluntary Art Permit to the~~

Planning and Development Board; however, appeals relating to properties located in a Local Historic District or listed as a Historic Site shall be to the Historic Preservation Board.

The appeal shall be filed with the Director or his/her designee within ten days of the date of the decision. The basis of the appeal is whether the Public Art Review Committee acted arbitrarily or capriciously in granting or denying a Public Art Permit or Voluntary Art Permit. Appeal of a Committee decision shall be made pursuant to the procedures as set forth in Article 5 of the Zoning and Land Development Regulations.

e. Permit application review guidelines. The Public Art Review Committee shall review all applications based upon the following:

(1) Content.

(i) The ~~artwork~~Artwork shall not be deemed a sign, nor shall such ~~artwork~~Artwork identify a specific business or establishment or contain a commercial message;

(ii) The ~~artwork~~Artwork shall not contain a religious or political message. This guideline shall be applied regardless of the viewpoint expressed; and

(iii) The ~~artwork~~Artwork shall not include any alcohol, tobacco, adult entertainment, or obscene or offensive materials.

(2) Context.

(i) The design, location, scale, and content of the ~~artwork~~Artwork shall be contextual and complement the design and architecture of the building or site;

(ii) The ~~artwork~~Artwork should enhance and contribute to the character of the area;

(iii) The ~~artwork~~Artwork shall be in compliance with all life safety requirements and with the vision clearance requirements of § 4.23.B.7.c. of this Code;

(iv) The ~~artwork~~Artwork shall not cover windows, doors, or otherwise mask architectural details in a manner that detracts from the architecture of the building; and

(v) If the ~~artwork~~Artwork is placed on a façade, the façade must be visible to the public from a safe place and must have enough suitable blank wall space in good repair. The Public Art Committee shall consider whether it blocks access or required parking, and whether the façade is lit.

(3) Design.

(i) The quality of the ~~artwork~~Artwork, media, materials, and methods of installation used shall be of high quality and durable. Painted ~~artwork~~Artwork shall include an ultraviolet fade-resistant clear coat; and

(ii) The permanence of the ~~artwork~~Artwork, considering environmental conditions of the site and maintenance requirements.

f. Extension by Public Art Review Committee. All ~~artwork~~Artwork shall be completed and installed in accordance with the schedule of completion as approved through the ~~public art permit~~Public Art Permit. The Public Art Review Committee may approve extensions after showing just cause, if the applicant has exhausted all other extensions available under this subsection.

(1) Ownership.

(i) Ownership of ~~artwork~~ Artwork acquired on behalf of the city for public property pursuant to the requirements of this subsection shall be vested in the city, which shall retain title to all ~~artwork~~ Artwork. Such ~~artwork~~ Artwork shall be donated to the city, and title shall be transferred pursuant to a standard city public art contract reviewed and approved as to form by the City Attorney.

(ii) Ownership of all ~~artwork~~ Artwork incorporated into development projects shall be vested in the property owner who shall retain title to the ~~artwork~~ Artwork. Property owners retaining title to the ~~artwork~~ Artwork shall provide proof of insurance in the amount of the appraised value of the ~~artwork~~ Artwork.

(iii) As a condition of approval of the ~~public art permit~~ Public Art Permit, the developer shall record a covenant running with the land in a form approved by the City Attorney, requiring maintenance and insurance of the ~~artwork~~ Artwork and preventing its removal from the property, or if the ~~artwork~~ Artwork is to be removed, a contribution to the fund in an amount equal to the amount of the in-lieu public art fee that would have initially been required based on the project cost shall be made.

~~(iv) The artwork shall not be altered, modified, relocated or removed other than as provided herein without the prior approval of the Public Art Review Committee.~~

g. Maintenance.

(1) Obligation. For ~~artwork~~ Artwork incorporated into development projects, the obligation for maintenance to preserve the ~~artwork~~ Artwork in good condition shall remain with the property owner and the owner's successors and assigns. The city shall ensure the maintenance of ~~artwork~~ Artwork on public property.

(2) Standards. All ~~artwork~~ Artwork shall be maintained to ensure its appearance and shall not show evidence of deterioration, weathering, discoloration, rust, or other conditions reflective of deterioration or inadequate maintenance. Maintenance shall not result in changes or alterations to the approved ~~artwork~~ Artwork.

(3) The Artwork shall not be altered, modified, relocated or removed other than as provided herein without the prior approval of the Public Art Review Committee.

~~(34)~~ Enforcement. Failure of any persons or entities to comply with the regulations pertaining to the ~~artwork~~ Artwork as set forth in this subsection shall be subject to enforcement procedures set forth in Chapter 36 of the Code of Ordinances, Section 10.3 of the Zoning and Land Development Regulations, and the removal requirements set forth in subsection J.3.h. below.

h. Removal of ~~artwork~~ Artwork.

(1) After ~~artwork~~ Artwork has been approved by the Public Art Review Committee in accordance with these regulations, such ~~artwork~~ Artwork shall be retained and maintained on site in its approved location and shall not be removed or relocated without prior approval of the Public Art Review Committee. Removal of Artwork required pursuant

to building permit issuance shall require the substitution of a reasonably equivalent replacement ~~artwork~~ Artwork, unless subsection h(4) has been complied with. Removal of installations approved through a Voluntary Art Permit shall only require approval of the Public Art Review Committee.

(2) Responsibility. The property owner shall be responsible for removal of the ~~artwork~~ Artwork that is not maintained in good condition and appearance, showing evidence of deterioration, weathering, discoloration, rust, or other conditions reflective of deterioration or inadequate maintenance.

(3) Enforcement and penalties. Failure to remove the ~~artwork~~ Artwork upon notification by the city shall subject the property owner to all enforcement procedures.

(4) Payment of in lieu fee. If ~~artwork~~ Artwork is removed, the property owner shall make a contribution to the fund in an amount equal to the amount of the in lieu public art fee that would have initially been required based on the project cost. Such fee shall be paid within 30 days of notification from the city that the ~~artwork~~ Artwork was removed.

4. Public Art Fund. The city shall establish a Public Art Fund. This fund shall be maintained by the city and shall be used solely for the acquisition, installation, improvement, maintenance and insurance of ~~artwork~~ Artwork as follows:

a. All money received by the city pursuant to the public art program, or from endowments or gifts to the city designated for the arts, shall be placed in the fund. All money shall be deposited, invested, and accounted for.

b. All money received shall be deposited in the fund in a manner to avoid any commingling with other revenues of the city, and all money in the fund shall be expended solely for the purposes of implementing public art and administration of the program. Any interest income earned by the money in the fund shall be expended only for the purpose for which the money was originally collected.

c. The fund shall be used solely for expenses associated with the selection, commissioning, acquisition, transportation, maintenance, public appraisal, education, promotion, administration, removal and insurance of the ~~artwork~~ Artwork.

~~— 5. All completed and submitted building permit applications for development projects that have been accepted by the city within 30 days following the final adoption of this subsection will be exempt from the requirements of this subsection.~~

Section 3: That it is the intention of the City Commission, and it is hereby ordained that the provisions of this section shall be made a part of the Zoning and Land Development Regulations, and the section of the Regulations may be renumbered to accomplish such intention.

Section 4: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not

affect the validity of any remaining portions of this ordinance.

Section 5: That all sections or parts of sections of the Zoning and Land Development Regulations, all regulations or parts of regulations, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That the City Commission, pursuant to Section 166.041(3)(c) F.S., elects, by a majority plus one vote, to conduct the second reading prior to 5:00 p.m. at a regularly scheduled City Commission public hearing.

Section 7: That this Ordinance shall be in full force and effect 60 days following its passage and adoption.

ADVERTISED on _____, 2025.

PASSED on first reading this _____ day of _____, 2025.

PASSED AND ADOPTED on second reading this _____ day of _____, 2025.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

DAMARIS HENLON
CITY ATTORNEY