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BEFORE THE BOARD OF COUNTY COMMISSIONERS

MARTIN COUNTY, FLORIDA

ORDINANCE NO.

AN ORDINANCE OF THE MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 13, ART IN PUBLIC PLACES, GENERAL ORDINANCES, MARTIN COUNTY CODE; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; APPLICABILITY; FILING WITH THE DEPARTMENT OF STATE; EFFECTIVE DATE AND CODIFICATION.

WHEREAS, the Board of County Commissioners of Martin County, Florida has determined that art is an integral part of Martin County; and

WHEREAS, the Board has determined that it is necessary to amend Chapter 13, Art in Public Places, in order to fulfill the goal of enhancing the visual environment in Martin County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

Part One: Chapter 13, Art in Public Places, General Ordinances, Martin County Code is hereby amended as follows:

CHAPTER 13 – ART IN PUBLIC PLACES

Sec. 13.1. Goals.

The mission of art in public places is to enhance the quality of the visual environment in the Martin County community, both natural and constructed; and in so doing:

- 13.1.A. To promote the spiritual, intellectual and aesthetic enrichment of the community through public art;
- 13.1.B. To select a diversity of public art for Martin County, Florida;
- 13.1.C. To select works of art which have aesthetic and technical merit and are appropriate in context to the location;
- 13.1.D. To select artists who are professionally and technically competent;

- 13.1.E. To disperse public art throughout Martin County, Florida, in such a manner that it is visible and accessible to the greatest number of people.

Sec. 13.2. Definitions.

For the purpose of this chapter, the terms listed below shall have the following definitions:

~~Architectural enhancement~~ is the physical result of the application of skill and taste according to aesthetic principles to the architectural embellishment of a building, the placement of works of art in the interior or exterior spaces of the building, or special landscape treatments such as parks, plazas or atriums. ~~Architectural enhancement may be an integral part of the building, situated within or outside the building, may be located in or near government facilities which have already been constructed, or may be located in other public places where numbers of people may experience them.~~

~~Art in Public Places Five-Year Siting Plan~~ Five-Year Plan is a plan developed by the Department of Administration, in consultation with the Education Foundation of Martin County, the Arts Council of Martin County, as well as other local arts organizations, in accordance with the Public Art Master Plan, reviewed by the Public Art Site Selection Committee and subject to review and approval by the Board of County Commissioners. ~~Such plan shall set forth a plan for the program development, participation and coordination with local education institutions and students, implementation, funding and placement of public art. This plan may be revised from time to time as may be necessary in order to accommodate grants or other non-County funding sources or other changes which the Board of County Commissioners deems necessary to further the goals of Art in Public Places. The plan shall be reviewed annually by the Public Art Site Selection Committee and the Board of County Commissioners and updated as required. Updates and revisions to the plan are subject to Board of County Commissioner approval.~~

~~Public Art Site Selection Committee~~ is the board created in this chapter.

~~Department of Administration~~ is the entity designated by the County Administrator to coordinate the County's Public Art Program.

Professional Artist is a person or group who meets at least 3 of the following criteria:

- A. the individual or group has received public or peer recognition:
 - 1. in the form of honors, awards, professional prizes, scholarships, honorable mentions, appointments to an adjudication committee or invitations to participate in a group exhibition or performance; OR
 - 2. by publicly disseminated critical appraisal;
- B. the individual's or group's artistic activity has been presented to the public by means of exhibitions, publications, performances, readings, screenings or any other means;
- C. the individual or group promotes or markets their work;

1. by means including attending auditions, seeking sponsorship, agents, engagements or exhibitions and similar activities appropriate to the nature of their work; OR
2. by being represented by a dealer, publisher, agent or similar representative appropriate to the nature of their artistic activity;
- D. the individual or group has received training or acquired traditional knowledge:
 1. in an educational institution or from a practitioner or teacher recognized within their profession; OR
 2. within the established practice of their cultural traditions;
- E. the individual or group holds copyright in their work and has received royalty or residual payments based on that copyright;
- F. the individual or group has a business license issued by the county or municipality in which they are carrying on business related to their artistic activity;
- G. the individual or group has membership in an organization representing their artistic activity whose membership, or categories of membership, is or are limited under standards established by the organization, or that is an artists' association.

Program Manual ~~*Public Art Master Plan*~~ is a plan manual containing written guidelines and procedures to govern the manner and the method of selection of artists, proposed sites, works of art, as well as architectural enhancements and special landscape treatments; the process for participation and coordination with local education institutions and students; and the process for ~~developing a five-year plan for program development funding, implementation and placement of public art. The plan will also provide for a comprehensive program for art in public places which shall include the display of, loaned art in appropriate public buildings. The plan shall be developed by the Department of Administration in consultation with the Education Foundation of Martin County, the Arts Council of Martin County, as well as other arts organizations and the Public Art Site Selection Committee, subject to approval by the Board of County Commissioners before its utilization by the Public Art Site Selection Committee.~~

Public Art is the architectural enhancement of a building, the placement of works of art in the interior or exterior spaces of the building, or special landscape treatments such as parks, plazas or atriums. Public art may be an integral part of the building, situated within or outside the building, may be located in or near government facilities which have already been constructed, or may be located in other public places where numbers of people may experience them.

Public capital facility is any capital improvement paid for wholly or in part by Martin County or paid for with monies granted to Martin County by other governmental agencies; limited to any project to construct or remodel a building, regional parks in excess of 50 acres which have not been purchased for passive recreational use, parking facility or any portion thereof within the County limits of Martin County, Florida.

Public places are properties located in Martin County in which Martin County or the State of Florida have an interest by ownership, easement or lease that serve a public purpose and provide an opportunity for placement of art that is visible and open to the

public, including but not limited to parks, buildings and roadways. ~~County-owned parks and buildings with high visibility and/or heavy pedestrian traffic that are open to the public.~~

Remodel means alterations or renovations to a public capital facility that exceed 50% of the building value, expansion or upgrading the capacity of a public capital facility by increasing the floor area of a building 5,000 square feet or 50%, whichever is less, or creating a new use for the public capital facility.

Special landscape treatment is landscaping that goes beyond the requirements of Martin County Land Development Regulations Article 4, Division 15, Landscaping, Buffering and Tree Protection, in order to create a park-like setting or plaza.

Works of art are tangible objects produced according to aesthetic principles, including paintings, sculpture, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, and drawings and eco-art installations.

Sec. 13.3. Public Art ~~Site Selection~~ Advisory Committee; creation, composition, responsibility.

- 13.3.A. A Public Art Site Selection Committee created by Ordinance No. 900, amending Section 13.3, is renamed the Public Art Advisory Committee ~~facilitated by the County's Department of Administration is hereby created~~ and shall have the duty and responsibility to review this Chapter and the Program Manual the Public Art Master Plan and the Art in Public Places Five-Year Siting Plan Five-Year Plan for review and approval by the Board of County Commissioners, to identify sites in accordance with the Program Manual, to identify sources of funding for art in public places exhibitions, and to hold public meetings to solicit public comment for specific public art projects. ~~and those contained in the Art in Public Places Five-Year Siting Plan.~~
- 13.3.B. The Public Art ~~Site Selection~~ Advisory Committee shall be comprised of the appointed seven members of the Martin County Community Redevelopment Agency.
- 13.3.C. The architect or other design professionals for a specific County project may advise the County during the selection process as it relates to the project.
- 13.3.D. Except as otherwise limited by the Program Manual ~~Public Art Master Plan~~, this chapter, or other law, rule, regulation or ordinance, the Public Art ~~Site Selection~~ Advisory Committee may adopt written policies and procedures to assist it in the performance of its duties.
- 13.3.E. The Public Art Advisory Committee will be responsible for review and recommending amendment to the Program Manual.

1. The Program Manual must provide for a comprehensive program for art in public places which shall include the display of donated, loaned or leased art in appropriate public places, including temporary installations.
2. The Program Manual shall be developed and reviewed annually with input from the Arts Council of Martin County, as well as other arts organizations, subject to approval by the Board of County Commissioners before its utilization by the Public Art Advisory Committee.
2. The Program Manual shall be updated as required, including to accommodate grants or other non-County funding sources. Updates and revisions to the Program Manual are subject to approval by the Board of County Commissioners.

Sec. 13.4 – ~~Architectural enhancement rules~~ Funding.

Except as provided herein, all estimates for the construction and/or remodel ~~renovation~~ of public capital facilities and all requests for appropriations for such projects shall include an amount for Art in Public Places, which amount represents an amount for public art ~~architectural enhancement~~, and including for restoration and maintenance of ~~works of public art~~, equal to one percent of the total estimated cost of each public capital facility, except such projects located at Martin County Airport, Witham Field. The one percent amount shall be calculated on the total cost of the construction and/or remodel, excluding the first \$5,000.00. This one percent of cost is to be spent on ~~architectural enhancement of~~ placement of public art at public capital facilities or other public places pursuant to the Program Manual Art in Public Places Five-Year Siting Plan. However, any construction or remodel of public capital facilities financed by funds derived from bond revenue or general obligation bond issues or from utility revenues or other special purpose funds or funds dedicated pursuant to the terms of a bond or other debt obligation resolution shall be not contribute to Art in Public Places expended pursuant to the bond covenants.

13.4.A. The requirement that one percent of the public capital facility's construction and/or remodel budget shall be encumbered shall only apply if such an expenditure is legally permissible for that project under the specific project funding sources. If the source of funding or other appropriate law with respect to any particular project precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the aforesaid calculation.

13.4.B. If it is determined that the public capital facility being constructed and/or remodeled is not an appropriate location for Public Art, the funds in that public capital facility's construction and/or remodel budget appropriated for Art in Public Places may be used for one or more public art projects in other public places pursuant to the Program Manual. Architectural enhancements donated or loaned to the County may be accepted for

~~installation only if the Department of Administration determines such enhancements are consistent with the Public Art Master Plan. This provision does not apply to architectural enhancements donated or loaned to the County before the effective date of this chapter.~~

- 13.4.C. In any fiscal year that the public capital facilities projects provide funds in an amount less than fifty thousand dollars (\$50,000.00) to the Art in Public Places Fund, the Board of County Commissioners shall budget from the General Fund to the Art in Public Places Fund the balance necessary to fund public art projects with at least fifty thousand dollars (\$50,000.00). The custodians of architectural enhancements in public capital facilities shall determine the location of donated or loaned architectural enhancements.

Sec. 13.5. Procedures.

- 13.5.A. For construction and/or remodel of public capital facilities ~~financed by Martin County~~, except such projects located at Martin County Airport, Witham Field and projects financed with bond revenue, general obligation bond issues, utility revenues or other special purpose funds or funds dedicated pursuant to the terms of a bond or other debt obligation resolution, the following procedures for selection of public art, artists, and sites in the Program Manual shall apply. ~~be complied with:~~

- 13.5.B. Public Art that is donated or loaned to the County may be accepted for installation only if the Department of Administration determines such Public Art is consistent with the Program Manual. This provision does not apply to Public Art donated or loaned to the County before the effective date of this chapter.

~~1. Early in the design of a project, the architect or other design professional retained for that project shall work with the Department of Administration and such County employees as the Board of County Commissioners may designate to develop a site plan for adding artworks, architectural enhancements or special landscape treatments to the projects in accordance with the Art in Public Places Five-Year Plan.~~

~~2. The staff of each public capital facility or public place shall be consulted by the Department of Administration about safety issues related to the art works, architectural enhancements or special landscape treatments. The public facility designer and the County Engineer shall also be consulted by the Department of Administration about such safety issues.~~

~~3. The Public Art Site Selection Committee shall conduct a public meeting to solicit public input concerning art works, architectural enhancements or special landscape treatments for the project in accordance with the Art in Public Places Five-Year Plan. The public input and recommendations shall be transmitted to the Department of~~

~~Administration. In no case shall the Public Art Site Selection Committee take such time to conduct the meeting as to delay or hinder the design or construction of the project.~~

~~4. Following the Public Art Site Selection Committee public meeting, the Department of Administration shall prepare a scope of work to be used in a solicitation for proposals from artists. In order to ensure competition, the Board of County Commissioners by and through the Department of Administration, and in coordination with the County Purchasing Division, shall publicize all County projects through use of the internet, the State of Florida, Division of Cultural Affairs' "Call to Artists," or other methods deemed appropriate by the Department of Administration. At a minimum, adequate notice shall be published in a newspaper of general circulation for a reasonable time prior to the time set for the submission of responses. Such notices shall include the locations of the artworks, architectural enhancements or special landscape treatments, the criteria by which such artworks, architectural enhancements or special landscape treatments will be evaluated, deadlines for submission, and cost range.~~

~~5. In addition, the Public Art Site Selection Committee shall hold a public meeting to evaluate the submissions and make recommendations to the Board of County Commissioners for the project. The Board of County Commissioners shall, in its discretion, accept or reject the recommendations from the Public Art Site Selection Committee. If such recommendations are rejected, the Board of County Commissioners may request the Department of Administration to solicit additional proposals or issue a revised scope of work.~~

13.5.C. ~~6.—All public art projects funded through the provisions of this chapter are open to professional artists.~~

Sec. 13.6. - Art in public places fund.

13.6.A. There is hereby established a fund designated as the "Art in Public Places Fund." All funds set aside pursuant to this ~~article~~ chapter from each public capital facility project, the construction and/or remodeling of which has not commenced as of the effective date of this chapter, together with such other funds as the Board of County Commissioners shall appropriate for ~~works of public art through the general fund, grants, bequests~~ and funds donated by the general public for ~~works of public art~~ shall be deposited into this fund. Interest accrued shall be allocated in accordance with the provisions of this chapter. These funds shall be expended by the Board of County Commissioners for public art capital facility projects as prescribed by the Program Manual guidelines. Any funds not expended by the end of any fiscal year shall be carried over to the next fiscal year. ~~Any funds derived from revenue or general obligation bond issues or from utility revenues or other special purpose funds or~~

~~funds dedicated pursuant to the terms of a bond or other debt obligation resolution shall be expended pursuant to the bond covenants and, if unexpended within five years, revert to the bond, fund or project from which appropriated.~~

- 13.6.B Funds contained within the Art in Public Places Fund shall be, as close as possible, allocated as follows: seventy percent (70%) for art construction, appropriation and/or installation, twenty percent (20%) for the administration of all facets of the Art in Public Places program (to include staff time, exhibit programming, education, signage, dedication, etc.) and ten percent (10%) for repair and maintenance of the art acquired under this chapter that is installed in public places. The total funds set aside for each public works project shall include public art fund administration costs, signage, dedication costs, insurance costs and repair and maintenance of any works or art acquired under this chapter.
- 13.6.C. Funds allocated to a designated public art project that is not commenced within three (3) years of the initial allocation will revert to the Art in Public Places Fund to be used toward another public art project.
- 13.6.D. Any funds carried over five (5) years that remain unexpended or are allocated to a project that has not commenced at the expiration of such period shall remain in the Art in Public Places Fund to be used only for maintenance of existing Martin County Art in Public Places inventory.

Sec. 13.7 – Selection Criteria for sites and public art.

During the selection process, the ~~Department of Administration~~ Public Art Advisory Committee shall consider the following criteria:

- 13.7.A. ~~Works of art~~ Art works, architectural enhancements and special landscape treatments shall be located in areas where residents and visitors live, work or congregate and shall be highly visible and accessible.
- 13.7.B. The appropriateness to the site, permanent or temporary nature ~~permanence~~ of the work relative to environmental conditions, maintenance requirements and costs, and the enduring nature of the artistic statement.
- 13.7.C. Sensitivity to the aesthetic and cultural traditions and the history of Martin County, Florida, and also to the surrounding neighborhood's character.
- 13.7.D. The artist's biography and resume, examples of existing works, technical competency, similarity to existing works of art and the following basics: form, texture, color, clarity, line and medium.
- 13.7.E. The opportunity for participation and coordination with local educational institutions and students.

Sec. 13.8. Ownership and maintenance.

- 13.8.A. Unless otherwise provided, ownership of all ~~works of public art and architectural enhancements~~ acquired by Martin County under this ~~chapter section~~ shall be vested in Martin County, including copyrights, patents and other reproduction rights. The Board of County Commissioners shall be responsible for managing the reproduction rights of each acquisition. Custody, supervision, maintenance, and preservation of the ~~works of public art~~ is the charge of the Board of County Commissioners and shall be carried out by ~~qualified art professionals~~ professional artists upon recommendation by the Public Art Advisory Committee.
- 13.8.B. Artists may have limited reproduction rights for portfolio purposes. Artists may not associate themselves or their work with Martin County without prior written permission from the County Administrator. Artists' use of the County seal is prohibited.
- 13.8.C. Public art may be decommissioned, surplus and sold or may be donated to a not-for-profit entity or governmental agency at the sole discretion of the Board of County Commissioners.

Part Two. Conflicting Provisions.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this Ordinance to the extent of such conflict except for ordinances concerning the adoption of or amendment of the Martin County Growth Management Plan.

Part Three. Severability.

If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

Part Four. Applicability.

This Ordinance shall be applicable throughout the unincorporated area of Martin County.

Part Five. Filing with the Department of State.

The Clerk shall be and is hereby directed forthwith to scan this Ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

Part Six. Effective Date.

This Ordinance shall take effect upon filing with the Department of State.

Part Seven. Codification.

Provisions of this Ordinance shall be incorporated in the Martin County Code, except parts Two through Seven shall not be codified. The word "ordinance" may be changed to "section", "article" or other word, and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions.

PASSED AND DULY ADOPTED THIS ____ DAY OF _____, 2019.

ATTEST

BOARD OF COMMISSIONERS OF
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

EDWARD V. CIAMPI, CHAIRMAN

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

KRISTA A. STOREY
ACTING COUNTY ATTORNEY