

ORDINANCE NO. 25-5558

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE ZONING CODE (2002 EDITION), ARTICLE VII, REGULATIONS OF GENERAL APPLICABILITY, DIVISION 7, PUBLIC ART, SO AS TO ALLOW ADDITIONAL DEVELOPER OPTIONS TO PROVIDE PUBLIC ART, DEFINE THE ROLE OF THE PLANNING DIRECTOR, CLARIFY THE PUBLIC ART APPROVAL PROCESS, EXCEPTIONS, AND ADDITIONS, AND TO ALLOW THE PUBLIC ART FUND TO SUPPORT THE ADVANCEMENT OF THE ADOPTED 2030 PUBLIC ART PLAN AND ALL ACTIONS ASSOCIATED WITH OPERATIONS AND STEWARDSHIP OF THE PUBLIC ART COLLECTION; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 02-4357, which adopted a new Zoning Code for the City of Sarasota [hereinafter the Zoning Code (2002 edition)] was adopted by the City Commission on April 29, 2002; and

WHEREAS, Mary Davis Wallace, Public Art Manager, pursuant to request of the City Commission, filed Zoning Text Amendment 24-ZTA-07 to allow additional developer options to provide public art, define the role of the Planning Director, clarify the public art approval process, exceptions, and additions, and to allow the Public Art Fund to support the advancement of the adopted 2030 Public Art Plan and all actions associated with operations and stewardship of the public art collection; and

WHEREAS, the Planning Board, acting in its capacity as the Local Planning Agency for the City of Sarasota, held a duly noticed public hearing on December 11, 2024, in accordance with Article IV, Division 12, of the Zoning Code (2002 edition) to review the proposed Zoning Text Amendments contained herein and made its recommendation to the City Commission as to which of such amendments satisfy the standards for review set forth in Section IV-1206, Zoning Code (2002 edition); and

WHEREAS, the City Commission hereby finds that based upon the foregoing recitals, it is in the best interest of the citizens of the City of Sarasota to amend the Zoning Code (2002 edition) as requested by Zoning Text Amendment Application No. 24-ZTA-07; and

WHEREAS, the City Commission held a duly noticed public hearing on February 3, 2025 to receive public comment, has considered the recommendations of the Planning Board and Planning staff and has found and determined that the adoption of the proposed amendments to the Zoning Code (2002 edition) as set forth herein would promote the public health, safety and welfare and the redevelopment of the City and would thus serve a valid public purpose.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. Findings of Fact: The City Commission hereby finds that the recitations contained in the preamble to this Ordinance as set forth above are true and correct and adopts said recitations as findings of fact.

Section 2. Adoption of Text Amendments: The following provisions within the Zoning Code (2002 edition) included within Application No. 24-ZTA-07 are hereby amended. Article VII, Regulations of General Applicability, Division 7, Public Art, is amended to allow developer options to provide public art, define the role of the Planning Director, clarify the public art approval process, exceptions, and additions, and to allow the Public Art Fund to support the advancement of the adopted 2030 Public Art Plan and all actions associated with operations and stewardship of the public art collection. The City Commission hereby adopts the above-described amendments to the text of the Zoning Code (2002 edition) which are more fully set forth in Exhibit A, a copy of which is attached hereto and incorporated by reference herein. Exhibit A contains the portions of the above-referenced Zoning Code sections in which the proposed amendments would be codified with modifications shown in “black line” format by which deletions from existing texts are shown by ~~strike through~~ and additions to existing text are shown by underline.

Section 3. Severability: It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent

jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

Section 4. Effective Date: This Ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting for public viewing at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 3rd day of February, 2025.

PASSED on second reading and finally adopted this 3rd day of March, 2025.


Liz Alpert, Mayor

ATTEST:

Shayla Griggs
City Auditor and Clerk

Yes Mayor Liz Alpert
No Vice Mayor Debbie Trice
Yes Commissioner Jen Ahearn-Koch
Yes Commissioner Kyle Scott Battie
Yes Commissioner Kathy Kelley Ohlrich

Sec. VII-701. Public art ~~required~~.

(a) Intent. It is the intent and purpose of this division to further the commitment of the city to the aesthetic enrichment of the community through the private and public acquisition of works of art so that citizens and visitors to the city will be afforded an opportunity to experience unique and engaging public art ~~enjoy and appreciate works of art~~. The requirements of this division shall be construed to reflect the goals, vision, and intent of the adopted Public Art Plan and the City Commission to promote the aesthetic values of the entire community, to encourage the preservation and protection of public art. As used in this Article, the Public Art Plan means the Public Art Plan 2030 adopted by the City Commission on August 21, 2023, a copy of which is on file with the city auditor and clerk's office, as amended from time to time.

(b) Public art required. Any property owner or developer who applies to the city for a building permit to construct, ~~or renovate, or~~ make improvements ~~of that exceed \$1,000,000.00 or greater~~ in construction value to a multi-dwelling ~~structured development~~, mixed use development, ~~or commercial development building or non-residential portion of a mixed-use building~~ located within the city limits, shall be required to do one of the following:

- (1) ~~Make a payment~~ Contribute an amount equal to one-half of one percent of the construction cost for the project to the city public art fund established by section VII-704 of this division. The word "project," as used herein, shall mean the improvements that are authorized by the issuance of a single building permit.
 - a. Payments to the public art fund exceeding \$500,000 may be used for public art on publicly owned land or public rights-of-way in proximity to the development project site. The developer shall enter into an agreement and make a payment into the public art fund with certain provisions as provided in the public art developer agreement. This agreement will be between the project owner and the City of Sarasota, as approved by the city manager or designee. The public art developer agreement allows the project owner to satisfy the requirements of the public art fee while subsequently contributing to the future installation of public art projects within the proximity of the project site. All artwork installed as a part of the public art developer agreement will be owned, maintained, and insured by the city public art program and such public art shall be reviewed by the public art committee. All works of art provided above shall become the sole property of the city.
- (2) Provide public art on the development site provided that:
 - a. The value of such public art shall be equal to or greater than one-half of one percent of the construction costs for the project. The word "project," as used herein, shall mean the improvements that are authorized by the issuance of a single building permit.
 - b. ~~Such The~~ public art is approved by the public art committee ~~hereinafter established~~ prior to the placement on the site. The public art committee shall be authorized to approve proposed public art prior to its fabrication or acquisition. Nothing herein shall be construed to require that public art be in existence and subject to examination at the time of its approval by the public art committee.
 - c. ~~Provided however, that buildings or portions of buildings (based on square footage) that include dwelling units designated for households with an income at or below 120~~

~~percent of the Area Median Income (AMI) in the North Port-Sarasota-Bradenton MSA for a period of at least 30 years shall not be required to conform to the requirements of this section.~~

~~As a condition of the exemption from conformity to the requirements of this section VII-701 pursuant to this subsection c, an agreement between the developer/landowner and the City of Sarasota shall be recorded in the Official Records of Sarasota County. The agreement shall provide that a buyer or a renter of a dwelling unit designated for households with an income at or below 120 percent of the Area Median Income (AMI) shall not have a household income greater than the income range designated for the unit that is specified in the agreement. The agreement shall further provide that a dwelling unit designated for households with an income at or below 120 percent of AMI shall have an appreciation limit applicable upon resale and that a rental unit designated for households with an income at or below 120 percent of the AMI shall be monitored for rent levels for 30 years. The agreement shall also provide for monitoring of occupant income levels for a period of 30 years.~~

- ~~d. Provided however, that building permits for individual condominium units shall not be required to conform to the requirements of this section.~~
 - ~~e. Provided however, that the county shall not be required to conform to the requirements of this section so long as the county provides public art upon the construction of its public buildings in conformity with the county public art program and so long as the public art proposed by the county is approved by the board of county commissioners after receiving and considering the comments of the city public art committee.~~
 - ~~f. Provided however, that the city shall not be required to conform to the requirements of this section so long as the city provides public art upon the construction of its public buildings in conformity with the city public art program and so long as the public art proposed by the city is approved by the city commission after receiving and considering comments and recommendations of the city public art committee.~~
 - ~~cg. All works of art located on private parcels shall be installed outside of any and all buildings and shall be completely visible from the adjacent public right-of-way.~~
 - d. Maintenance and insurance agreement. All works of art provided and located on private property, while considered to be part of the city's public art collection, shall be and remain the sole property of the private landowner at the time of installation of the work of art. The private property owner shall have the sole responsibility for maintenance and insurance of such works of art in perpetuity and shall enter into a maintenance and insurance agreement with the city prior to the acceptance of the public art contribution. The work of art will be considered by the city to be a fixture of the real property upon which it is located such that title to the work of art shall run with the title to the real property upon which the work of art is located. Consequently, all subsequent owners of the real property upon which the work of art is located will be deemed by the city to be the private property owner of the work of art. The City Manager is authorized to execute the agreement.
- (3) To provide public art on publicly owned land or public right-of-way in a public place on property other than the zoning lot proposed for development provided that:

- a. The value of such public art shall be equal to or greater than one-half of one percent of the construction costs for the project. The word "project," as used herein, shall mean the improvements that are authorized by the issuance of a single building permit.
- b. If the value of the artwork exceeds \$250,000, sSuch public art is approved by the city commission after receiving the recommendation of the public art committee prior to the placement on the site publicly owned land or right-of-way approved by the city commission ~~pursuant to paragraph c. below~~. The city commission shall be authorized to approve proposed public art prior to its fabrication or acquisition. Nothing herein shall be construed to require that public art be in existence and subject to examination at the time of its approval by the public art committee.
- ~~e. Such public art is located in a public place off the development site which is approved by the city commission after receiving the recommendation of the public art committee.~~
- c. Public artwork that does not exceed the value of \$250,000 shall be reviewed by the public art committee.
- d. All works of art provided above shall become the sole property of the city.

(c) Exceptions and additions to public art requirements:

- (1) Affordable housing. Provided that those portions of buildings (calculated by square footage) that include dwelling units designated for households with an income at or below 120 percent of the Area Median Income (AMI) in the North Port-Sarasota-Bradenton MSA for a period of at least 30 years shall not be required to conform to the requirements of Section VII-701.

As a condition of the exemption from conformity to the requirements of section VII-701, an agreement between the developer/landowner and the City of Sarasota shall be recorded in the Official Records of Sarasota County. The agreement shall provide that a buyer or a renter of a dwelling unit designated for households with an income at or below 120 percent of the Area Median Income (AMI) shall not have a household income greater than the income range designated for the unit that is specified in the agreement. The agreement shall further provide that a dwelling unit designated for households with an income at or below 120 percent of AMI shall have an appreciation limit applicable upon resale and that a rental unit designated for households with an income at or below 120 percent of the AMI shall be monitored for rent levels for 30 years. The agreement shall also provide for monitoring of occupant income levels for a period of 30 years.

- (2) Building permits for individual condominium units shall not be required to conform to the requirements of section VII-701.
- (3) Enhanced public art contribution. In accordance with section VI-912, developments located within the boundary of the Rosemary Residential Overlay District (RROD) shall provide enhanced funding equal to one-quarter of one percent of the construction cost in addition to the contribution required in section VII-701.

~~All works of art provided in accordance with subsection (2) above or provided in accordance with subsection (3) above and located on private property shall be and remain the sole property~~

~~of the private land owner. The private property owner shall have the sole responsibility for maintenance and insurance of such works of art. All works of art provided in accordance with subsection (3) above shall be and remain the sole property of the city.~~

(Ord. No. 02-4357, 4-29-02; Ord. No. 04-4534, § 3, 6-7-04; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 10-4927, § 2(att. 1), 2-22-11; Ord. No. 17-5208, § 1, 8-21-17; Ord. No. 19-5290, § 1, 10-7-19)

Sec. VII-702. Removal, relocation, or replacement of public art ~~prohibited~~.

(a) All works of art in the city's public art collection, whether on public property, private property, or public right-of-way, After a work of art has been approved by the public art committee or city commission in accordance with section VII-701, such work of art shall be retained on site in its approved location and shall not be removed, relocated, or replaced without prior approval of the public art committee. However, works of art relocated less than 500 feet away from the previously approved location may be approved by the planning director or designee. All removal, relocation, and replacement proposals will be subject to review by the planning director or designee. and city commission of a reasonably equivalent replacement work of art. Replacement of public art on development sites must be of reasonable equivalent value.

(Ord. No. 02-4357, 4-29-02; Ord. No. 17-5208, § 1, 8-21-17)

Sec. VII-703. Additional work of public art permitted.

After public art ~~which meets the requirements of this division~~ has been installed on a development site, nothing herein shall be construed to prohibit the installation and placement of additional works of art on site, provided all applicable codes and permits are met.

Sec. VII-704. Public art fund.

(a) There is hereby created a public art fund which shall consist of all contributions received pursuant to section VII-701(b)(1), cash grants to the city for public art projects from governmental or private sources, and all other funds donated to the city for the provision of public art ~~by private parties~~. The public art fund shall be used solely for the ~~selection, acquisition, transportation, installation, maintenance and promotion of works of art to be displayed in the city~~ advancement of the public art program and all actions associated with operation and stewardship of the public art collection including public art programs, program administration, promotions, grants, and education. All expenditures from the fund shall be approved by the city commission after the recommendation of the public art committee as part of the annual budget process. Any works of art purchased with such funds shall be and remain the sole property of the city.

(b) Disbursement of public art fund. Disbursements of the public art fund shall be at least seventy percent (70%) towards the acquisition of public art, and a combination of no more than thirty percent (30%) shall be used towards the administration of the public art program and the maintenance and upkeep of the public art collection. The public art fund shall be kept in an interest bearing account, separate from general revenues and all accrued interest shall be deposited in the public art fund. The cost of insurance for public art located on public property shall be paid from the city's general fund.

(Ord. No. 02-4357, 4-29-02; Ord. No. 17-5208, § 1, 8-21-17)

Sec. VII-705. Application for building permits.

~~Developments required to provide public art in accordance with this article shall:~~

- (1) If a ~~contribution payment~~ to the public art fund is to be made, then, prior to the issuance of a building permit, the property owner or developer shall make the ~~contribution payment~~ as ~~provided outlined for~~ in section VII-701(b)(1) ~~and (b)(1)(a.)~~.
- (2) If the public art has not been created, produced, or rendered, ~~then at the same time as the application for a permit is submitted to the director of development services,~~ the property owner or developer shall submit ~~the following public art proposal items~~ to the ~~public art committee~~Planning Department:
 - a. A description, in writing, of the process by which the artist(s) will be selected;
 - b. A proposed schedule for the creation, completion, and installation of the approved public art at the development site;
 - c. The location where the public art is to be installed;
 - d. Written evidence of a deposit with the city finance department in the form of cash or cashier's check the amount of 115 percent of the value of the public art, as required in section VII-701(b)(2) or (3).

The application for a building permit shall certify that such public art proposal has been submitted to the Planning Department ~~submittal to the public art committee~~ and the required deposit has been made.

~~Either prior to or subsequent to the~~After the issuance of the building permit, the public art committee will review the public art proposal and all documentation submitted by the property owner or developer, including photographic examples of existing work of the proposed artist and such other documentary material as may be requested by the public art committee. The public art committee shall approve, approve with conditions, or disapprove the installation of the public art according to the standards set forth in section VII-706 and shall so advise the director of development services ~~in writing~~. A contract between the artist and the developer must be submitted to the Planning Department prior to the release of payments.

Upon installation, the planning director or designee ~~director of development services~~ will certify that the artwork is properly installed according to the plans and specifications previously submitted and approved.

The director of development services will not issue a certificate of occupancy until the public art is properly installed or an extension of time up to one year for the installation has been granted by the planning director or designee ~~public art committee~~ or the funds deposited with the finance department have been forfeited to the city, as provided ~~d for~~ in this section.

- (3) If the public art has been created, produced, or rendered, ~~then at the same time as the application for a building permit is submitted to the director of development services,~~ the property owner or developer shall submit the following public art proposal items to the Planning Department:
 - a. Graphic, photographic, or architectural renderings;

- b. A description of the proposed public art which is to be installed at the development site or other public place;
- c. The location where the public art is to be installed;
- d. An independent professional appraisal of the value of the art work to the public art committee or other evidence of value;

The application for a building permit shall certify that such ~~submittal to the public art committee has been made~~ public art proposal has been submitted to the Planning Department. The cost of the appraisal shall be the sole responsibility of the property owner or the developer.

~~Prior to the~~ After the issuance of the building permit, the public art committee will review the public art proposal and all documentation submitted by the property owner or developer. The public art committee shall approve, approve with conditions, or disapprove the installation of the public art according to the standards set forth in section VII-706 and shall so advise the director of development services ~~in writing. No building permit shall be issued prior to the approval of the public art by the public art committee.~~

Upon installation, the planning director ~~or designee of development services~~ will certify that the art-work is properly installed according to the plans and specifications previously submitted and approved. The director of development services will not issue a certificate of occupancy until the public art is properly installed or an extension of time up to one year for the installation has been granted by the planning director or designee public art committee. Any such extension shall be conditioned upon the property owner or developer depositing with the city finance department, in the form of cash or cashier's check, the amount of 115 percent of the value of the public art, as required in section VII-701 (b)(2) or (3).

- (4) Funds of the property owner or developer deposited with the finance department, as provided for in subsection VII-701(b)(2) or (3), shall be released when the planning director ~~of development services~~ certifies to the finance director that the public art has been installed as required.
- (5) If the public art has not been installed as required herein and any extensions for such installation have elapsed, the director of development services shall petition the city commission for authorization to forfeit all monies deposited with the finance department. Such deposit shall be ordered forfeited by the city commission if it determines, after notice to the property owner or developer, that the public art was not installed as required by this section.
- (6) All decisions of the public art committee made pursuant to this section shall be appealable to the city commission within 30 days of the oral rendering of such decision.

Sec. VII-706. Standards for approval or disapproval of public art.

The public art committee shall be governed by the following mandatory and non-mandatory criteria in the exercise of its discretion to approve, approve with conditions, or disapprove the proposed installation of public art as required by this division. The public art committee must find that each element of the mandatory criteria has been satisfied. In addition, the public art committee shall determine whether or not the proposed installation of the public art, on balance, comports generally with the elements of the non-mandatory criteria.

(1) *Mandatory criteria.*

- a. Whether the proposed public art conforms to the definition of public art set forth in section II-201;
- b. Whether the proposed public art meets or exceeds the value requirements of section VII-701;
- c. Whether the proposed public art is compatible with the neighborhood and not injurious to the neighborhood or otherwise detrimental to the public welfare;
- d. Whether the proposed public art presents a safety hazard to the public;
- e. Whether signs or other encroachments are or should be set back a certain distance from the proposed public art.

(2) *Non-mandatory criteria.*

- a. Whether the proposed public art is of exceptional quality and enduring value;
- b. Whether the proposed public art serves to further the city's goal of promoting cultural diversity;
- c. Whether the proposed public art serves to further the city's goal of promoting a broad range of artistic styles and media from traditional to contemporary works of art in order to maintain overall balance within the city;
- d. Whether the proposed public art is supportive of the city's vision and goals;
- e. Whether the proposed public art is appropriate to the site;
- f. Whether the proposed public art should be installed at the proposed location on a site or at a different location;
- g. Whether the proposed public art requires extraordinary maintenance, such as any special servicing due to periodic adjustment, repainting, or repair or replacement of moving parts.

(Ord. No. 02-4357, 4-29-02; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 17-5208, § 1, 8-21-17)

Sec. VII-707. Acquisition of required public art by combining private and public funds.

Any property owner or developer who exercises the option to provide required public art in accordance with section VII-701(b)(3) may request a contribution from the public art fund to be combined with the property owner or developer's private funds to provide public art, provided that:

- (1) The property owner or developer contributes the maximum amount required by section VII-701(b)(3)(a) so that the private contribution is at least equal to the minimum value of public art required by this section.
- (2) The contribution from the public art fund is approved by the city commission after receiving the recommendation of the public art committee.
- (3) The public art to be provided satisfies the requirements of section VII-701(b)(3)(b) and is located on either on city-owned property or on property in which the city has an easement allowing public access to the art which has been approved and accepted by the city commission.

- (4) The city commission and the developer execute a written agreement setting forth the rights and obligations of the city and the developer as to the ownership maintenance and location of the public art and the provision of insurance for the public art.