

ORDINANCE 2012-03

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CREATING CHAPTER 70, ARTICLE 3, SECTIONS 70-150 THROUGH 70-154 OF THE CITY CODE OF ORDINANCES ESTABLISHING AN ART IN PUBLIC PLACES PROGRAM, PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ESTABLISHING COMMITTEE ROLES AND RESPONSIBILITIES; PROVIDING FOR OWNERSHIP AND MAINTENANCE; ESTABLISHING AN ART IN PUBLIC PLACES FUND; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent and purpose of this ordinance to further the commitment of the City of Fernandina Beach to the aesthetic, historical, cultural, and economic enrichment of the community through the creation of works of art so that citizens and visitors to the City of Fernandina Beach are afforded an opportunity to enjoy and appreciate works of art. The requirements of this chapter shall be construed to promote the aesthetic values of the community and to encourage the preservation and protection of works of art.

WHEREAS, the City of Fernandina Beach recognizes that a superior and diverse aesthetic character of the City's built environment is vital to the quality of life of its citizens, and the economic successes of its businesses, and serves as an attraction for visitors and a benefit to tourism; and that a public art and design program would contribute to the aesthetic enhancement of the community; and

WHEREAS, the City Commission desires to create an Art in Public Places Program that reflects and enhances the City's diversity, character, and heritage through the artworks and designs by artists integrated in architecture, infrastructure, and landscape throughout the City of Fernandina Beach on public property; and

WHEREAS, the City's public art and design program shall promote and unite the community through art, bring public art and education to the community, and create public arts community partnerships; and

WHEREAS, section 70-150 through 70-154 of the City Code of Ordinances shall be known and cited as the "Art in Public Places Program".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH AS FOLLOWS:

SECTION 1. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a new article under Chapter 70, and such article shall read as follows:

Article III. Art in Public Places

SECTION 2. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 70-150 which section shall read as follows:

Sec. 70-150. Purpose

The City of Fernandina Beach recognizes that providing for public art and enhancing the appearance of buildings and spaces provides benefits to the community by expanding the historical, cultural, and creative knowledge of citizens. It further recognizes the diverse aesthetic character of the City's built environment is vital to the quality of the life of its citizens, the economic successes of its businesses, an attraction for visitors and a benefit to tourism; and that a public art and design program contributes to the aesthetic enhancement of the community.

SECTION 3. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 70-151 which section shall read as follows:

Sec. 70-151. Definitions

1. Aggregate Job Value means the total of all construction costs associated with a particular permanent art installation. Construction costs shall include all labor, structural materials, plumbing, electrical, mechanical, infrastructure, and site work.
2. Artist or Professional Artist means a practitioner in the visual arts, generally recognized by critics and peers as a professional in the field. Indications of a person's status as a professional artist include, but are not limited to, income realized through sole commission of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of honors and awards, and training in the arts.
3. Art, Artwork, or Works of Art means tangible creations by an artist exhibiting the highest quality of skill and aesthetic principles and includes all forms of the visual arts conceived in any medium, material, or combination thereof, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetics, collages, drawings, monuments erected to commemorate a person or an event, functional furnishings, such as artist designed seating and pavers, unique or original architectural elements and artist designed landforms or landscape elements. The following shall not be considered artwork or works of art for purpose of this ordinance:
 - a. Reproductions or unlimited copies of original artwork,
 - b. Art objects, which are mass-produced, or
 - c. Works that are decorative, ornamental, or functional elements of the architecture or landscape design, except when commissioned from an artist or designed as an integral aspect of a structure or site.
4. Arts and Culture Nassau is the advisory board established by the City of Fernandina Beach City Commission, pursuant to Resolution 2007-102 as amended, shall oversee and administer the Art in Public Places Guidelines.

5. Art Permit Fee shall be a one-time fee to be paid by the artist or entity applying for each temporary art installation. The fee shall go into the Art in Public Places maintenance fund and be utilized for the creation of artist recognition plaques and insurance coverage.
6. License Agreement shall be a temporary agreement between the City and an Artist to place Art in Temporary Art Locations on City property.
7. Permanent Art means artwork created either as a donation to the City or by the City and intended to be in place for a period greater than one (1) year. Permanent Art shall be installed in cooperation with the artist. The City shall be responsible for ongoing maintenance activities for the life of the artwork.
8. Publicly Accessible means locations that are open to the general public during normal business hours and are visible by the general public at all times.
9. Art in Public Places Program Fund means a separate, non-interest bearing account set-up by the City to receive monies for the Art in Public Places Program.
10. Art in Public Places Design Guidelines means a set of guidelines established by the Arts and Culture Nassau in cooperation with the City Attorney and City staff to provide procedures for the review and approval of public art.
11. Temporary Art Locations means artwork intended to be temporary in nature and lasting no longer than one (1) year. Temporary artwork must be installed, maintained, and removed in compliance with the approval received by the Arts and Culture Nassau. Any temporary artwork which becomes defaced, altered from its original approval, or destroyed is subject to immediate removal and loss of its approved status.

SECTION 4. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 70-152 which section shall read as follows:

Sec. 70-152. Committee Roles and Responsibilities.

The Arts and Culture Nassau committee shall administer the Art in Public Places Program. Its purpose, functions, role, and responsibilities within the Art in Public Places Program shall be as follows:

1. Develop guidelines, selection procedures, and organizational policies for both temporary and permanent artwork to facilitate the Art in Public Places Program.
2. Review and approve temporary art installations for compliance with the established Art in Public Places guidelines with final approval granted by the Arts and Culture Nassau. Temporary art locations shall be determined by the City Manager or his/her designee. Temporary art locations will be specific and are subject to change. The Arts and Culture Nassau may issue recommendations for extending or relocating temporary art to the City Commission.
3. Review and issue a recommendation on all permanent art installations pending review by the Historic District Council, if located within a designated historic district or the Community Redevelopment Area (CRA), and provide notice to applicants that all permanent works of art are subject to final approval by the City Commission. Permanent art locations shall be determined on a case by case basis.
4. Establish artist recognition procedures for the placement of plaques. This shall apply to both temporary artwork and permanent art installations. Plaques recognizing the artist shall become property of the City.

5. Prepares an annual Art in Public Places Program expenditure plan for the monies in the Art in Public Places fund for approval by the City Commission during its annual budget review process.
6. Related to City construction projects, in concert with City staff, is responsible for working with appropriate department program planning; designating temporary public art locations and long-term/ permanent public art locations; provide support in determining project scope and budget; managing the artist selection process; commission artworks; approve design, execution and placement of artworks from the City's public art collection.
7. Issue recommendations to the City Commission on final selection of permanent art installations for purchase. Any approvals for purchase are then guided by the City's purchasing requirements.
8. Recruit professionals in the visual arts and design fields to serve in the artist selection process in order to ensure works of highest quality.
9. Encourage public art throughout the City and shall educate and stimulate participation of all citizens in a joint public and private effort to promote art in public places.
10. Ensure appropriate community participation in this process and provides public education activities as part of public art projects.
11. Coordinate, investigate, review, and recommend to the City Commission other means by which artworks may be obtained, including donations to the Art in Public Places Program, and grant applications for public art projects.
12. Administer the City's donation policy for artwork in cooperation with the City Attorney's Office and the City's Finance Department.
13. Special Events as permitted by the City, in which artwork may be displayed as part of the event on City rights-of-way or within public parks, are exempt from necessary public art permitting requirements. All artwork exempt from public art permit requirements must be removed within 24 hours of the end of the permitted special event.

SECTION 5. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 70-153 which section shall read as follows:

Sec. 70-153 Ownership and maintenance.

1. The City shall retain ownership of all permanent works of art acquired and shall retain title to each work of art.
2. Artwork which has been donated to the City as a permanent art installation becomes property of the City upon formal acceptance by the City Commission. The City, in cooperation with the artist shall install the artwork. All maintenance activities will be conducted by the City indefinitely or until the artwork is removed.
3. All contracts for artwork that will be acquired or accepted for ownership by the City must be reviewed and approved by the City Attorney's Office.
4. Ownership of all works of art incorporated into private construction projects, as may be required for development approval, shall be vested in the property owner who shall retain title to each work of art. If the property is sold, the seller may either:
 - a. include restrictions in the deed that require maintenance of the artwork and prevent its removal from the property;
 - b. transfer ownership of the artwork to the City of Fernandina Beach to be maintained as public artwork; or

- c. remove the artwork and make a contribution to the Art in Public Places Program fund in an amount equal to 0.75% of its initial Aggregate Job Value.
5. If the title is passed to a subsequent owner and, as a result, a deed restriction exists as to the artwork, the subsequent owner shall maintain the artwork in accordance with applicable codes or other established guidelines. The artwork cannot be altered, modified, relocated, or removed other than as provided herein without prior approval of the Arts and Culture Nassau.
6. Artwork owners will be required to maintain the work of art in good condition in the approved location, as required by code or other applicable guidelines for all temporary artwork installations including, but not limited to, normal code enforcement rules, to ensure that proper maintenance is provided.
7. The artwork owner may request that artwork be removed from the site due to hardship with the approval of the Arts and Culture Nassau. In addition, in the event there is a condition that occurs outside of reasonable control of the owner, then this provision may be implemented with the approval of the Arts and Culture Nassau.

SECTION 6. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 70-154 which section shall read as follows:

Sec. 70-154. Art in Public Places Program fund.

1. The City shall maintain a separate accounting of monies received for the Art in Public Places program which shall consist of the following:
 - a. All funds received as part of the art permit fee.
 - b. All funds donated to the City for purposes of the creation or maintenance of public art or for purposes of community outreach and education furthering the mission of the Arts and Culture Nassau; and
 - c. Any funds allocated by the City for the Art in Public Places Program through the budgetary process.

The Art in Public Places monies shall be used solely for expenses associated with the selection, commissioning, acquisition, installation, maintenance, administration, removal, and insurance of work of art or public education in relation thereto at the discretion of the City Commission. Such funds shall be administered by the City in consultation with Arts and Culture Nassau. Custody of the Art in Public Places funds shall remain with the City and all City policies and procedures shall be strictly adhered to regarding the oversight of such funds. Programming of Art in Public Places expenditures for new artwork shall be included in the annual capital improvements plan and expenditures related to ongoing maintenance of the Art in Public Places program shall be included in the operating budget of the City.

A minimum of ten percent (10%) of all non-restricted Art in Public Places Program funds which are applied to City-owned public art projects shall be deposited into an Art in Public Places "maintenance" account. The "maintenance account" shall be administered by City staff as a function of the Art in Public Places Program.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof, shall be held invalid by any court, administrative agency or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses and phrases under application shall not be affected thereby.

SECTION 8. This Ordinance shall become effective immediately upon final adoption.

ADOPTED this 1st day of May, 2012

CITY OF FERNANDINA BEACH



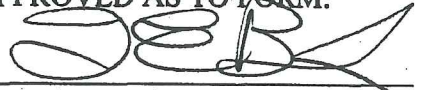
Arlene R. Filkoff
Mayor - Commissioner

ATTEST:



Mary L. Mercer
City Clerk

APPROVED AS TO FORM:



Tammi E. Bach
City Attorney

Date of First Reading:	April 3, 2012
Date of Legal Ad:	April 18, 2012
Date of Second Reading And Public Hearing:	May 1, 2012

CITY COMMISSION AGENDA ITEM
CITY OF FERNANDINA BEACH

SUBJECT: ORDINANCE 2012-03
ESTABLISHING ART IN PUBLIC PLACES PROGRAM

DEPARTMENT: PLANNING DEPARTMENT

ATTACHMENTS: X Ordinance Resolution
 Support Documents Other

SUMMARY: Over the past two years, several private groups and/or individuals have proposed projects that can be described as public art, i.e. artistic medium placed on public property. The most recognizable public art installed to date is the Micah's Place Shrimp Expressions project, which placed shrimp statues on public and private property. The City currently has no process for addressing public art. Many communities provide for a public art program through a public art ordinance, which provides for an application and review process.

Staff planners Kelly Gibson and Adrienne Dessy met with the Arts and Culture Nassau committee on August 1st and 9th to discuss pursuing the creation of a public art ordinance and gather input. City Attorney Bach also participated in the discussions. Based on these discussions and some research of other communities, planning staff created a brief outline of what a City public art ordinance may encompass. This outline was provided to the City Commission for discussion and direction at its October 18, 2011 regular meeting. At that meeting, the Commission directed staff to conduct additional research and begin preparing an ordinance in order to provide for a uniform process for review and approval of art in public locations within the City.

Staff planners and the City Attorney collectively developed draft versions of the ordinance and presented the ordinance language to Arts and Culture Nassau at its February 6, 2012 regular meeting. Arts and Culture Nassau suggested some clarifying language which was incorporated into the ordinance. The proposed ordinance establishes a program identified as "Art in Public Places."

The ordinance provides for definitions pertaining to the "Art in Public Places" program. It also establishes that review guidelines and application processes will be created by Arts and Culture Nassau to support the program. Further, the Art in Public Places ordinance incorporates provisions for ownership and maintenance of public art (temporary and permanent) and establishes an "Art in Public Places" fund to collect monies obtained from a nominal permitting fee or any donations received.

The "Art in Public Places" program will be supported and facilitated by Arts and Culture Nassau to review and approve temporary public art installations. Working with the Historic District Council, Arts and Culture Nassau will establish acceptable locations for the installation of temporary public art throughout the City and present them to the City Commission for approval. With respect to permanent public art installations, this group will also review and make recommendations to the City Commission and/or Historic District Council, as may be needed. Ms. Gibson and Ms. Dessy will attend the meeting to address any questions from the City Commission.

CITY ATTORNEY COMMENTS: NO ADDITIONAL COMMENTS

RECOMMENDED ACTION: Approve Ordinance 2012-03

DEPARTMENT HEAD:	Submitted: Kelly N. Gibson, Senior Planner	Date: 3/26/2012
	Requested Agenda:	Date: 4/3/2012
FINANCE DEPARTMENT:	Budgeted <u> </u> Yes <u> </u> No <u>X</u> N/A	Date: <u>3/28/12</u>
CITY ATTORNEY:	Approved for Form <u>JEB</u>	Date: <u>3/28/12</u>
CITY MANAGER:	Approved Agenda Item for <u>Rand W. Hart</u>	Date: <u>3/28/12</u>
COMMISSION ACTION:	<input checked="" type="checkbox"/> Approved As Recommended	<input type="checkbox"/> Disapproved
	<input type="checkbox"/> Approved With Modification	<input type="checkbox"/> Tabled To Time Certain
	<input type="checkbox"/> Other	

Approved at the City Commission
Meeting
Held on 3-28-12
Voted: 5-0 Initial: mw

Accepted by: J. Medda Time: 4:45 Date: 4-5-12

NOTICE OF PUBLIC HEARING
CITY COMMISSION
CITY OF FERNANDINA BEACH

NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Tuesday, May 1, 2012 at 6:00 PM** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following application:

ORDINANCE 2012-02

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING CHAPTER 22, ARTICLE II, SECTION 22-26, ADOPTION OF CODES BY REFERENCE; REPEALING SECTION 22-29, AMENDMENTS TO BUILDING CODE; ENACTING A NEW SECTION 22-29 AMENDMENTS TO THE BUILDING CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2012- 03

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CREATING CHAPTER 70, ARTICLE 3, SECTIONS 70-150 THROUGH 70-154 OF THE CITY CODE OF ORDINANCES ESTABLISHING AN ART IN PUBLIC PLACES PROGRAM, PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ESTABLISHING COMMITTEE ROLES AND RESPONSIBILITIES; PROVIDING FOR OWNERSHIP AND MAINTENANCE; ESTABLISHING AN ART IN PUBLIC PLACES FUND; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2012-04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, CHANGING THE FUTURE LAND USE MAP FROM GENERAL COMMERCIAL (GC) TO CENTRAL BUSINESS DISTRICT (CBD), FOR TWO PARCELS TOTALING 0.11 ACRES OF LAND LOCATED AT 109 NORTH THIRD STREET, PARCEL ID NUMBERS 00-00-31-1800-0009-0270 AND 00-00-31-1800-0009-0272 AND; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 277-7305, TTY 277-7399, (TTY number for all City offices) or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD/COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, S/HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Copies of the applications may be inspected in the office of the City Clerk, City Hall, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday. For information on the application, please contact the Staff of the City Clerk's Office at 277-7305.

Note:

Please run as a Legal in the April 18, 2012 edition of the NewsLeader.

Please send proof of publication to:
City Clerk's Office
City Hall, 204 Ash Street
Fernandina Beach, FL 32034
904-277-7305

LEGAL NOTICES

NOTICE OF PUBLIC HEARING CITY COMMISSION

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ORDINANCE 2012-03

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11-04-18-2012

CC: Kelly Gibson

Sent
5/3/12
(m)CITY COMMISSION AGENDA ITEM
CITY OF FERNANDINA BEACHSUBJECT: Ordinance 2012-03 Art in Public Places Program *Art Ordinance*

DEPARTMENT: Community Development Department

ATTACHMENTS: ☒ Ordinance ☐ Resolution
☐ Support Documents ☐ Other

SUMMARY: Over the past two years, several private groups and/or individuals have proposed projects that can be described as public art, i.e. artistic medium placed on public property. The most recognizable public art installed to date is the Micah's Place Shrimp Expressions project, which placed shrimp statues on public and private property. The City currently has no process for addressing public art. Many communities provide for a public art program through a public art ordinance, which provides for an application and review process.

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CITY ATTORNEY COMMENTS: No additional comments

RECOMMENDED ACTION: Approve Ordinance 2012-03 at 2nd Reading

DEPARTMENT HEAD	Submitted: Kelly N. Gibson	Date: 4/10/2012
	Requested Agenda	Date: 5/1/2012
FINANCE DEPARTMENT	Approved as to Budget Requirements	Date:
CITY ATTORNEY	Approved as to Form <i>TEB</i>	Date: 4/19/12
CITY MANAGER	Approved Agenda Item For 5/1/12 <i>Dawson</i>	Date: 4/25/12

COMMISSION ACTION: ☒ Approved As Recommended ☐ Disapproved
☐ Approved With Modification ☐ Tabled to Time Certain
☐ Other

2nd Reading
 Approved at the City Commission Meeting
 5/1/12
 Held on
 Voted: 5-0 Initial: *KG*