

ORDINANCE NO. 2010-22-230

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ESTABLISHING AN ART IN PUBLIC PLACES FUND; ESTABLISHING PERMITTED USES OF FUNDS; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXCLUSIONS; ESTABLISHING A COMMITTEE; ESTABLISHING GUIDELINES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Miami-Dade County implemented the "Art in Public Places" ("AIPP") requirements in 1973, to capture and enhance local artistic culture, and

WHEREAS, in accordance with Section 2-11.15, Miami-Dade County Code of Ordinances, each municipality within Miami-Dade County is required to provide funds, for the acquisition of works of arts, equivalent to not less than one and one-half (1 1/2) percent of the construction cost of a new public building, and

WHEREAS, the City of Miami Gardens will soon embark on several capital projects for which compliance with the County's Art in Public Places Ordinance is a requirement, and

WHEREAS, the City desires to implement its own Art in Public Places Program, which will allow Council and City staff to have full control of the allocation of funds and the artwork selection process,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. CREATION OF ORDINANCE: The City Council of the City of Miami Gardens hereby establishes an Art In Public Places Ordinance as follows:

A. Intent.

The purpose of this Ordinance is to enhance the aesthetic environment of the City of Miami Gardens by including works of art on public property within the City on City construction projects.

B. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. *City construction project* means any construction contract to which the City is a party for the new construction of any City-owned building, facility, or other City-owned property, including but not limited to, parks, pools, recreation trails and golf courses.
2. *Construction cost* is defined to include architectural and engineering fees, and site work. It does not include land acquisition or subsequent changes to the construction contract. All construction costs shall be calculated as of the date the contract is executed.
3. *Works of art* is defined as the application of skill and taste to production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, lighting designs and drawings.

C. Establishment of Art In Public Places Fund.

The City's Art In Public Places Fund shall consist of the following:

1. Monies appropriated to the fund by the City Council in accordance with this Ordinance.
2. Monies donated to the fund by private individuals and organizations.
3. Monies received by the City from award of federal or state grants for the acquisition or maintenance of works of art on public property or at public facilities in the City.

D. Appropriations By the City to the Fund.

1. All appropriations of City funding for City construction projects shall include an appropriation of funds to the Art In Public Places Fund. The amount appropriated to the Art In Public Places Fund shall not be less than 1 1/2 percent of the construction cost of any City construction project, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund. The appropriation to the fund shall be made at the time of the award of the construction contract for said City construction project.
2. For City construction projects that are developed by persons and entities other than the City, but that are developed pursuant to a development agreement entered into with the City, or which involve the participation of the City as a ground lessor, the required appropriation shall be made at the same time as the appropriation of funding for the construction project and be based upon the construction cost, regardless of whether the construction cost is funded by the city or the person or entity other than the City.
3. In considering the required appropriation for a particular City construction project, the City Council may, by resolution:
  - a. Waive the required appropriation, finding such waiver to be in the best interest of the City;
  - b. Reduce the required appropriation amount; or
  - c. Find that the particular City construction project is not an appropriate site for works of art, and place all or a portion of the required appropriation in the Art in Public Places Fund for use at another site.
4. The City Council shall also consider whether the funding source for a particular City construction project is restricted by public bond covenants; federal, state or local laws; and/or legal parameters which would require that the appropriation be utilized on the particular City construction project site.
5. Prior to making a final determination as to the required appropriation for a City construction project, the City Council may consider the recommendation of the Art in Public Places Advisory Committee.

E. Permitted Uses of Art In Public Places Funds.

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

1. Acquisition of works of art to be located on City construction projects or on public property in the City or located in public buildings or in public facilities within the City in accordance with this Ordinance.
2. Insurance, maintenance and preservation of works of art acquired by the City pursuant to this Ordinance.
3. Expenses relating to the following:
  - a. Research and evaluation by the City pertaining to proposed works of art, including opinions when necessary from outside experts and/or professional advisory committees;
  - b. Expenses related to art contests sponsored by the City in connection with acquisitions of works of art, including related printing and distribution expenses;
  - c. Administrative expenses relating to the operations of the Art in Public Places Program, including but not limited to supplies and equipment for the keeping of minutes and printing and distribution of board agendas and correspondence;
  - d. Selected artist travel expenses, at the rates used Citywide and approved in advance by the City Manager.

F. Exclusions.

The provisions of this Ordinance shall not include the following types of City construction projects:

1. Water and sewer related facilities, such as pump stations, water mains, water lines, sewer lines, treatment facilities, etc.
2. Storm drainage infrastructure.
3. Road construction or bridges.
4. Streetscape beautification projects, which include but are not limited to, one or all of the following elements: resurfacing, new curbs, gutters,

pavers, sidewalks, landscaping, lighting, bus shelters, bus benches, street furniture and signage.

5. City construction projects undertaken to reconstruct, or repair an existing public building or facility damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstance.
6. The construction, remodeling, repair or improvement to a public electric or gas utility system.
7. City construction projects undertaken to remodel, repair, or maintain of an existing public building or facility.

G. Program Administration.

The Art-in-Public-Places program shall be administered by the City Manager, or his or her designee.

1. The City Manager shall act in the public interest upon all matters relating to the program and shall support the program's goals and objectives. The Department's responsibilities include the selection, planning, public education and curating of all works of art acquired by the program.
2. The City Manager shall have the following powers and duties:
  - a. To recommend to the City Council whether a particular proposed City construction project is an appropriate site for works of art and whether all or part of the appropriation required by this Ordinance should be utilized at the site, or reduced or waived in its entirety, or placed, whether in its entirety or a portion thereof, in the Art in Public Places fund for other acceptable uses.
  - b. To recommend to the City Council the selection of existing works of art or to determine whether to recommend the selection of new works of art, and screen submissions therefore, for the fulfillment of the requirements of this Ordinance.
  - c. To conduct contests and competitions in order to select works of art to be recommended for a particular site.
  - d. To recommend to the City Council the maintenance and insurance necessary to preserve and protect works of art.

- e. To make a recommendation to the City Council regarding proposed projects that include works of art and to participate in the planning of such projects.
- f. To recommend legislation concerning public works of art in the City.
- g. To make recommendations to the City Council regarding the placement of proposed donations of works of art for placement on public property in the City.
- h. To perform all other duties and functions as requested by the City Council.

H. Establishment of Art in Public Places Advisory Committee (APPAC).

The APPAC shall be composed of seven (7) members appointed by the Mayor and City Council.

- 1. The Mayor and Council members shall each appoint one (1) member to serve on the APPAC.
- 2. Each member of the APPAC shall be a professional in the field of art, architecture, art history, or architectural history.
- 3. Each APPAC member shall serve a two-year term and may be reappointed for a total of two (2) consecutive terms.
- 4. APPAC will screen submissions and will recommend to the City Council for each acquisition not more than three (3) possible selections, which may be existing works of art or new commissions.
- 5. For each acquisition, the City Council shall direct the APPAC to act as a committee of the whole in determining selected works of art for recommended acquisition.

I. Procedures for the Selection of Art.

- 1. The City Manager shall extend a formal Call to Artists for each public art project to be implemented in conjunction with an applicable City construction project. The Call to Artist shall invite artists to compete in the form of an open entry or limited entry competition for the award of a public art project.
- 2. The APPAC shall perform an initial evaluation and a secondary evaluation of artists' submission in response to a Call to Artists. The

initial evaluation shall rank each artist's submission and result in the APPAC's recommendations of no less than three artists, who shall each be asked to submit an extended proposal of the work of art to be designed. The secondary evaluation shall rank each of the requested proposals, which were selected as a result of the initial evaluation. The highest ranked submission as a result of the secondary evaluation may be recommended to City Council for award.

3. The evaluations to be conducted by the APPAC in order to rank each Art in Public Places submission shall be performed in conjunction with the following evaluation criteria:

EVALUATION CRITERIA	POINTS AWARDED
Artistic design	0 – 40
Artist's approach for the goal to be accomplished	0 – 20
Ability of artist to achieve the goal of this project	0 – 20
Experience, qualifications, and references of the artist	0 – 10
City of Miami Gardens Local Preference	0 – 10

J. Guidelines for the Selection of Works of Art.

During the selection process, the following principles shall be observed:

1. Works of art shall be located in areas where residents and visitors congregate and shall be highly visible.
2. The inherently intrusive nature of public art on the lives of those frequenting public places should be considered when selecting works of art. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
3. Selected works of art must reflect the cultural and ethnic diversity of the City without deviation from a standard of excellence.
4. Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, diversity of artwork already acquired by the City, and the likelihood that the artist can successfully complete the work with available funding.

K. Ownership and Upkeep.

Ownership of all works of art acquired by the City pursuant to this Ordinance is vested in the City of Miami Gardens. The City is charged with the custody, supervision, maintenance and preservation of such works of art. In each instance, the City shall acquire title to each work of art acquired.

L. Personnel.

The City Manager shall provide adequate and competent clerical and administrative personnel as may be reasonably required for the proper performance of its duties, subject to budget limitations.

Section 3. CONFLICT: All ordinances or code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Ordinance" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 28<sup>th</sup> DAY OF JULY, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 8<sup>th</sup> DAY OF SEPTEMBER, 2010.

  
SHIRLEY GIBSON, MAYOR

**ATTEST:**

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DR. DANNY CREW, CITY MANAGER

Moved by: Councilman Gilbert  
Second by: Vice Mayor Campbell

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  X  </u> (Yes)	<u>    </u> (No)
Vice Mayor Aaron Campbell, Jr.	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilwoman Lisa Davis	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilman André Williams	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilwoman Felicia Robinson	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilman Oliver Gilbert, III	<u>  X  </u> (Yes)	<u>    </u> (No)