



## City of North Port

### ORDINANCE NO. 2022-27

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, REPEALING AND REPLACING CHAPTER 59 OF THE UNIFIED LAND DEVELOPMENT CODE REGARDING PUBLIC ART; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 26, 2022 the City Commission reviewed Chapter 59 and the need for amendments: and

WHEREAS, the Planning and Zoning Advisory Board, designated as the local planning agency, held a properly noticed public hearing on November 3, 2022 to receive public comment on the subject matter of this ordinance and to make its recommendation to the City Commission; and

WHEREAS, the City Commission of the City of North Port held properly noticed public hearings at first and second reading of this ordinance to review the recommendations of the Planning and Zoning Advisory Board and to receive public comment on the subject matter of this ordinance; and

WHEREAS, the City Commission finds that its action serves the public health, safety, and welfare of the citizens of the City of North Port, Florida.

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

#### SECTION 1 – FINDINGS

- 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
- 1.02 The City Commission finds the regulations in this ordinance to be consistent with the North Port Comprehensive Plan.

#### SECTION 2 – REPEAL AND REPLACEMENT OF CHAPTER 59 - PUBLIC ART REGULATIONS

- 2.01 Chapter 59, entitled “Public Art Regulations,” of the Unified Land Development Code is repealed and replaced in its entirety as follows:

“Chapter 59 – PUBLIC ART REGULATIONS

**Sec. 59-1. Intent.**

The City of North Port intends to promote aesthetic enrichment of the community by supporting the private acquisition, installation, and maintenance of public art on private property accessible to the public for citizens' and visitors' appreciation and enjoyment and to encourage the preservation and protection of existing works of art.

**Sec. 59-2. Applicability and exemptions.**

A. Public art is required for commercial, multi-family, and mixed-use development in Activity Centers as follows:

- (1) New construction with a combined site and building construction value exceeding \$250,000.00; and
- (2) Existing development subject to repair, reconstruction, rehabilitation, addition, or improvement, having a construction value exceeding fifty percent (50%) of the structure's fair market value calculated prior to commencement of construction.

B. The following development types are exempt from public art requirements:

- (1) One- and two-family residential subdivisions.
- (2) Affordable housing wherein at least twenty percent (20%) of the dwelling units are affordable to families having incomes less than eighty percent (80%) of the Sarasota County Area Median Income (AMI), or where at least fifty percent (50%) of the dwelling units are affordable to families having incomes less than one hundred twenty percent (120%) of the Sarasota County average mean income.
- (3) Sarasota County public facilities that incorporate public art pursuant to Sarasota County's public art program.
- (4) Public facilities where funding sources prohibit art expenditures, or other applicable regulations that discourage or prohibit public art.

**Sec. 59-3. General requirements.**

A. Public art has a proportionate value of \$0.25 per square-foot of gross building area, not to exceed one hundred fifty thousand dollars (\$150,000.00);

B. Public art must comply with the definition of public art in the Unified Land Development Code; and

C. Public art must adhere to the following themes:

- (1) Animal or plant species native to Florida;

(2) Culturally, socially, or historically significant to the City of North Port, the region, or its persons; or

(3) Related to the architectural style of the Activity Center where the art is located.

D. Installation. Public art must be:

(1) Positioned on the development site outside a structure or building as a pedestrian amenity;

(2) Visible at all times from a public right-of-way, sidewalk, walkway, open space or from privately owned publicly accessible open space; and

(3) Located a minimum of fifty feet (50') from freestanding signs. If site constraints prevent the placement of public art fifty (50) feet from freestanding signs, the director responsible for land development services, or designee, may approve an exception, provided no visibility conflicts exist.

E. Public art must be proportioned for public view with a minimum size of four feet (4') tall and two feet (2') wide.

F. Public art must be illuminated for night viewing. Lighting may be internal or external.

Sec. 59-4. Procedures.

A. An application for public art is required prior to development order approval.

B. Minimum submittal requirements include:

(1) Application form;

(2) Dimensioned site plan showing proposed placement of public art and location of freestanding signs; the distance of the public art from signs;

(3) Narrative description of public art;

(4) Three-dimensional rendering of proposed public art indicating height, width, and perspective from all sides;

(5) Documentation of public art valuation (i.e., appraisal, contract, engineer's estimate);

(6) Schedule for the acquisitions, creation, fabrication, and installation of the public art.

C. Standards for approval:

(1) Public art applications are reviewed for compliance with the general requirements in section 59-3 of the Unified Land Development Code. The director responsible for land development services, or designee, will approve compliant public art applications.

(2) Public art departing from the general requirements in section 59-3 of the Unified Land Development Code will require review and recommendation from the Art Advisory Board, followed by City Commission consideration. In approving public art that deviates from the general requirements in section 59-3 of the Unified Land Development Code, the City Commission must make the following required findings, that the proposed public art:

(a) Furthers the City's goal to promote a broad range of artistic styles and media from traditional to contemporary works of art to provide overall balance within the City; and

(b) Is compatible with the architectural style of the development (i.e., color, construction materials, design, height, mass); and

(c) Is not injurious to the public health, safety, or welfare.

D. Certification of public art installation.

(1) Prior to request for a certificate of occupancy, the applicant must obtain:

(a) A certificate indicating that the installation of the public art is complete; or

(b) An approved deferral pursuant to this section.

(2) To obtain the certification of public art installation, the applicant must notify the City that the public art installation is complete;

(3) If the installation is consistent with the approved public art application, then the City will issue a certification of public art installation.

E. Deferred public art installation.

(1) Prior to request for a certificate of occupancy, the applicant may request a public art installation deferral for one (1) year.

(2) The City may approve a deferral subject to the applicant posting security (bond) in the amount of one hundred fifteen percent (115%) of the value of the public art. The City's Finance Department will hold the security.

(3) The City may issue a certificate of occupancy following receipt of security.

(4) Upon issuing a certification of public art installation, the City will release the bond.

(5) Failure to install the required public art before the deferral period has lapsed will result in the security being deposited in the public art fund and will become the property of the city.

**Sec. 59-5. Additional public art.**

Additional public art is allowed on a development parcel, provided public art is not placed within an easement or visibility triangle.

**Sec. 59-6. Removal, replacement, or relocation.**

Removal of required public art is prohibited. Replacement or relocation of public art requires application, review, and approval consistent with the general requirements and procedures in this chapter 59. Relocated art must be positioned on the same property initially subject to public art regulations.

**Sec. 59-7. Maintenance and repair.**

To ensure public art maintains its integrity, the property owner must perform maintenance and repair as necessary. Failure to maintain public art constitutes a public nuisance.

**Sec. 59-8. - Public art fund.**

The public art fund established by Ordinance No. 2010-14 is reserved solely for the acquisition, transportation, installation, maintenance, and promotion of works of art displayed in the City. The City Commission must approve all expenditures from the fund after considering the Art Advisory Board recommendations. Any works of art purchased with such funds will remain the sole property of the City. The City must hold public art funds in an interest-bearing account, separate from general revenue, and must deposit all accrued interest into the public art fund. The City must pay insurance costs from the City's general fund for public art located on public property."

**SECTION 3 – CONFLICTS**

- 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

**SECTION 4 – SEVERABILITY**

- 4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

**SECTION 5 – CODIFICATION**

- 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

**SECTION 6 – EFFECTIVE DATE**

6.01 This ordinance takes effect immediately upon adoption.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on November 8, 2022.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on November 22, 2022.

CITY OF NORTH PORT, FLORIDA

  
PETE EMRICH Barbara Langdon  
MAYOR

ATTEST

  
HEATHER FAUST, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

  
AMBER L. SLAYTON, B.C.S.  
CITY ATTORNEY