

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING THE MARGATE CODE OF ORDINANCES, CHAPTER 2 - ADMINISTRATION, ARTICLE IV. BOARDS, COMMITTEES ETC., BY ADDING DIVISION 11, SECTIONS 2-124 - 2-135, CREATING THE PUBLIC ART PROGRAM; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR ARTS IN PUBLIC PLACES COMMITTEE; PROVIDING FOR RESPONSIBILITIES OF COMMITTEE; PROVIDING FOR PROCEDURES; PROVIDING FOR ARTWORK AND ARTIST SELECTION CRITERIA; PROVIDING FOR PUBLIC ART FUNDING AND SPECIAL ACCOUNT; PROVIDING FOR FUNDRAISING; PROVIDING FOR OWNERSHIP OF ARTWORK; PROVIDING FOR PUBLIC ART PROGRAM GUIDELINES; PROVIDING FOR PUBLIC ART MASTER PLAN; PROVIDING FOR RECOMMENDATION TO THE CITY COMMISSION; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1: That Article IV. Boards, Committees, Etc., is hereby amended by adding Section 2-124 - 2-135 to read as follows:

Section 2-124 Intent.

- (A) This chapter shall be known and cited as the "public art program."
- (B) It is the intent and purpose of this chapter to foster creative placemaking within the City's built environment and further the City's commitment to use the aesthetic, historical, cultural, and economic enrichment of the arts as a way to support the arts in the community and continue to improve the quality of life for all citizens and visitors through the promotion, preservation and protection of the arts.

(C) The goals of the program should be to promote public art, to provide and find a forum for public art, to seek grant and funding opportunities for public art, to foster partnerships, to develop and implement the public art program, and to advocate for public art.

Section 2-125 Definitions.

For the purposes of this section, the following words and phrases shall have the following meanings:

Artist or professional artist: A practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and ability. Indications of a person's status as a professional artist include, but are not limited to, income realized through the 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.

Art, artwork or works of art: Tangible creations by artists 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, painting, 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, architectural elements designed by an artist, and artist designed landforms or landscape elements. The following shall not be considered artwork or works of art for purposes of this chapter:

(a) Reproductions or unlimited copies of original artwork.

(b) Art objects which are mass produced.

(c) Works that are decorative, ornamental, or functional elements of the architecture or landscape design, except when commissioned from an

1 artist as an integral aspect of a structure or
2 site.
3

4 *Arts in Public Places Committee:* The entity appointed by the
5 City Commission to administer the public art program.
6

7 *Building:* Any structure that encloses space and is used or built
8 for the shelter or enclosure of persons, businesses,
9 chattel or property.
10

11 *Development:* Any construction, or redevelopment of any private
12 or public building within the limits of the city.
13

14 *Public art fund:* A separate, interest bearing account set up by
15 the city to receive monies for the public art program.
16

17 *Remodeling or converting:* Changes to the façade of a building,
18 changes to the interior of a building, increases or
19 decreases in the floor area of a building and changes to
20 exterior improvements.
21

22 **Section 2-126 Arts in public places committee.**

23 (A) *Establishment, number of members, appointment.* There is
24 established the Arts in Public Places Committee. The
25 committee shall be an advisory committee consisting of seven
26 (7) members, all shall be appointed by the City Commission.
27

28 (B) *Terms.* The members shall serve without compensation and shall
29 be appointed to terms of three (3) years, unless otherwise
30 noted in this article.
31

32 (C) *Member qualification.* Committee members shall be individuals
33 who live or work in the city and who by career choice,
34 personal interest, or civic participation have demonstrated
35 an interest in creating or supporting art. No one profession
36 or background trait shall dominate the membership at any one
37 time. The interests or careers may include, but shall not be
38 limited to the following: visual artists, arts educators,
39 arts administrators, gallery owners, museum professionals,
40 curators, designers, fundraising professionals, members of
41 professional arts organizations, developers, architects,
42 landscape architects, urban planners, engineers, and persons
43 who regularly acquire or sponsor art.
44

(a)One (1) member of the committee shall be a non-voting staff liaison with a term not limited.

(b)One (1) member of the committee shall be a non-voting student representative appointed for a one-year term. The member may be reappointed upon approval of the City Commission.

Section 2-127 Responsibilities of committee.

The responsibilities of the committee shall be as follows:

(A)Adoption of public art program guidelines and amendments thereto;

(B)Evaluate and recommend specific pieces of art for placement throughout the city;

(C)Develop, adopt, and periodically revise a public art master plan for the identification of strategic sites for the placement of objects of public art and establishing a priority order;

(D)Establish partnerships and funding opportunities for public art;

(E)Promote awareness of art, and public art in particular, in the community;

(F)Exercise their authority to approve, approve with conditions or deny proposed installation of artwork based on public art program guidelines; and

(I)Follow the approved public art program guidelines.

Section 2-128 Procedures.

(A)*Chairman*. The members shall elect a chairman from among its members.

(B)*Quorum*. The presence of three (3) or more voting members shall constitute a quorum.

(C)*Meetings*. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the staff liaison, the committee shall declare the

member's office vacant, and the City Commission shall promptly fill that vacancy.

(D) *Conflict of interest.* If any member of the Arts in Public Places Committee shall find that his private or personal interests are involved in the matter coming before the committee, he shall disqualify himself from all participation in that matter. No member of the Arts in Public Places Committee shall have his or her work of art considered or approved by the Arts in Public Places Committee during their term of service on the committee or for one (1) year thereafter.

Section 2-129 Artwork and artist selection criteria.

In addition to the below criteria, the art and artist selection criteria shall be in compliance with the Arts in Public Places Committee master plan.

Artwork selection. The following criteria, at minimum, shall be considered by the Arts in Public Places Committee in the selection of artwork:

(A) Appropriateness of the artwork to the site and site environmental conditions;

(B) Maximum visual accessibility to pedestrian or vehicular traffic, as set forth in the public art program guidelines;

(C) Quality of the artwork;

(D) Maintenance requirements;

(E) Whether the artwork too closely resembles a business logo or sign and should, therefore, be rejected; and

(F) Any other criteria set forth in the public art program guidelines, as amended from time to time.

Artist selection. The following criteria, at minimum, shall be considered by the Arts in Public Places Committee in the selection of an artist:

(A) Ability of the artist to complete the project within a specified schedule and budget;

(B)Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions; and

(C)Any other criteria set forth in the public art program guidelines, as amended from time to time.

Section 2-130 Public art funding and special account.

Public art funding.

All nonresidential and nonresidential components of mixed-use development and redevelopment projects that exceed two hundred thousand dollars (\$200,000.00) in vertical construction costs shall participate in the public art program. When construction is phased, the project's aggregate vertical construction cost shall be added together to determine whether the two hundred thousand dollars (\$200,000.00) threshold is reached.

(A)One percent of all qualifying projects shall be dedicated to the design, installation, and maintenance of public art. The one percent allocation shall be transferred to a separate account for use in installing public art.

(B)All funds derived from the process of subsection (A) above shall be pooled together for the express purpose of providing for art in public places for the benefit of the public at large. The revenue derived from a particular development or redevelopment project may be used for public art associated with the project or may also be used for other public art.

(C)The provisions of subsection (A) shall not apply to the following circumstances:

(a)The projected cost of the development or redevelopment project is less than two hundred thousand dollars (\$200,000.00);

(b)The cost of the project is funded in whole part or by state or federal funds;

(c)The costs attributed to below-grade improvements such as sanitary sewer and stormwater drainage, as

1 well as project costs incurred in coming into
2 compliance with state and federal environmental
3 regulations; or
4

5 (d) Costs for projects intended to rehabilitate or
6 extend the useful life of an existing improvement
7 without substantially changing the overall
8 character of its appearance.
9

10 (D) The owner shall provide documentation to the City that
11 the art fee has been deposited into the public art
12 account prior to the issuance of a building permit.
13

14 (E) Prior to placement on the development site, if said
15 artwork is part of the proposed project, the artwork
16 must be approved by the Arts in Public Places Committee
17 and conform to adopted public art guidelines.
18

19 (a) The owner shall be given up to six (6) months after
20 issuance of the building permit to obtain approval
21 of the proposed artwork from the Arts in Public
22 Places Committee, unless the committee grants an
23 extension as determined in their sole discretion.
24

25 (b) The owner shall install artwork prior to the
26 issuance of a certificate of occupancy, as approved
27 by the Arts in Public Places Committee, unless the
28 committee grants an extension as determined in
29 their sole discretion.
30

31 *Special account.*

32 There is hereby created a public art fund administered by
33 the Arts in Public Places Committee which shall consist of all
34 contributions received from art fees for development and
35 redevelopment greater than two hundred thousand dollars
36 (\$200,000.00), cash grants and donations to the city for public
37 art projects from governmental or private resources, and all
38 other funds allocated by the city through the budgetary process
39 for the provision of public art.
40

41 (A) The public art fund shall be used solely for expenses
42 associated with the selection, commissioning,
43 acquisitions, transportation, maintenance, public
44 education, promotion, administration, removal and
45 insurance of the works of art or in relation thereto.
46

1 **Section 2-131 Fundraising.**

2 The Arts in Public Places Committee shall undertake
3 fundraising efforts to secure the financial support of
4 individuals, businesses, governmental grants for the arts, and
5 support from nonprofit organizations which directly or
6 indirectly fund the arts. The funds so secured may be used for
7 specific objects of public art, for the enhancement of specific
8 site locations for public art, or for the general purpose of
9 public art in compliance with the public art master plan.
10

11 **Section 2-132 Ownership of artwork.**

12 Unless otherwise expressly agreed to in writing by the
13 City, ownership of all art acquired through expending funds in
14 the public art fund shall be vested in the City, which shall
15 obtain title to each work of art.
16

17 **Section 2-133 Public art program guidelines.**

18 The Arts in Public Places Committee shall prepare, and from
19 time to time, revise public art guidelines and make the same
20 available to the public, which shall provide guidance for:

- 21 (A) Program organization;
22
23 (B) Organizational governance and staffing responsibilities;
24
25 (C) Procedures for project planning;
26
27 (D) Artist selection;
28
29 (E) Artwork selection criteria;
30
31 (F) Art placement criteria;
32
33 (G) Donations;
34
35 (H) Loans and memorials;
36
37 (I) Collection management;
38
39 (J) Administration of the public art fund.
40
41

42 **Section 2-134 Public art master plan.**

1 All placements and expenditures for public art shall comply
2 with the public art master plan, as approved by the City
3 Commission and from time to time amended. The plan shall be
4 established and implemented to bring art to the people of the
5 City of Margate and to those visiting the city in a manner that
6 makes the art readily visible to the public at large. For
7 purposes of this division, art is public when it is situated
8 upon public property or on private property with rights of
9 access or viewing, or both, afforded to the city on behalf of
10 the public at large.
11

12 **Section 2-135 Recommendation to the City Commission.**

13 When the Arts in Public Places Committee approves a specific
14 object of public art for placement, the committee shall make a
15 recommendation to the City Commission to that effect and provide
16 a visual representation of the art and a description of how it
17 complies with the master art plan. The City Commission shall
18 have final approval on the placement of public art.
19

20 In addition, Image Committee staff recommendation shall be
21 required for those projects specified in the public art master
22 plan needing coordination with said committee before seeking
23 final approval with the City Commission.
24

25
26 **SECTION 3:** All ordinances or parts of ordinances in
27 conflict herewith are, and the same is, here by repealed to
28 the extent of such conflict.
29

30 **SECTION 4:** If any section, clause or phrase of this
31 ordinance is held to be invalid or unconstitutional by a
32 court of competent jurisdiction, then said holding shall in
33 no way affect the validity of the remaining portions of this
34 ordinance.
35

36 **SECTION 5:** It is the intention of the City Commission
37 that the provisions of this ordinance shall become and be
38 made a part of the City of Margate Code, and that the
39 sections of this ordinance may be renumbered or re-lettered
40 and the word "ordinance" may be changed to "section",
41 "article" or such other appropriate word or phrase in order
42 to accomplish such intentions.
43

44 **SECTION 6:** This ordinance shall become effective
45 immediately upon adoption at its second reading.
46

47 PASSED ON FIRST READING THIS _____ day of _____ 2015.

1 PASSED ON SECOND READING THIS _____ day of _____ 2015.

2 ATTEST:

3
4 _____
5 JOSEPH J. KAVANAGH
6 CITY CLERK

MAYOR JOANNE SIMONE

7
8 RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

9
10 Talerico _____ Talerico _____
11 Bryan _____ Bryan _____
12 Ruzzano _____ Ruzzano _____
13 Simone _____ Simone _____
14 Peerman _____ Peerman _____
15
16