

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2010-01

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING THE OFFICIAL ZONING CODE, ARTICLE 3, DIVISION 20, ENTITLED "ART IN PUBLIC PLACES," IN PARTICULAR SECTION 3-2002, ENTITLED "DEFINITIONS"; SECTION 3-2003, ENTITLED "ART FUNDS", FOR THE PURPOSE OF ALLOWING THE COLLECTION OF FUNDS TO THE HISTORIC PUBLIC ART FUND AND ART ACQUISITION FUND; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission on October 23, 2007, considered on First Reading the Art in Public Places Ordinance and recommended approval by a 5 – 0 vote to approve the Ordinance; and

WHEREAS, the City Commission on December 11, 2007, considered on Second Reading the Art in Public Places Ordinance and recommended approval by a 5 – 0 vote to approve the Ordinance; and

WHEREAS, the City wishes to amend the Article to allow for collection of funds to the Historic Public Art Fund and Art Acquisition Fund; and

WHEREAS, the City Commission was presented with a text amendment to the Zoning Code on December 15, 2009, and after due consideration and discussion, approved the amendment on First reading (vote: 4 – 0); and

WHEREAS, after notice of a public hearing being duly published, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on January 13, 2010 at which all interested parties were afforded the opportunity to be heard; and

WHEREAS, at the January 13, 2010 meeting, the Planning and Zoning Board considered and recommended by a 5-0 vote approval of the Ordinance as referenced and provided in the January 13, 2010 Planning Department Staff Report, Attachment 01 13 10 PZB Excerpt minutes, subject to amending the text to add language providing that developers who are subject to the Ordinance prior to adoption of the Public Art Master Plan and who place the required funds in the art acquisition fund would have the option after approval by the City Commission of the Public Art Master Plan to either (i) leave the funds in the art acquisition fund or (ii) to use those funds to incorporate public art into that developer's project in accordance with the approval process required by the Art in Public Places Ordinance and the Public Art Master Plan; and

WHEREAS, City Staff is amenable to the amendment recommended by the Planning and Zoning Board;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That the Zoning Code of the City of Coral Gables, Florida entitled "Art in Public Places" Section 3-2002, entitled "Definitions" and Section 3-2003, entitled "Art Funds" are hereby amended to replace the definition of "Art acquisition fund" and "Non-municipal construction project(s)"; and replace paragraph A. entitled "Art Funds" with the following:

Section 3-2002. Definitions.

Art acquisition fund means a separate, dedicated, interest bearing and revolving fund established in the City Treasury into which non-City contributions (those from developers, individuals, foundations, business, etc.) are collected and deposited for the purposes of supporting the City's public art program, including but not limited to, acquiring, installing, maintaining, and promoting world-class public art.

Non-municipal construction project(s) is defined as any non-City construction or renovation in Coral Gables in excess of one million dollars (\$1,000,000.00), excluding single-family homes.

1. Developers may petition to have the public art acquisition incorporated within their project provided there is regular public access at no charge to the public.
2. If the developer seeks to incorporate the art within his/her project, the artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
3. The art acquisition to be incorporated within the project shall have a minimum appraised value of one (1.0%) percent of the construction costs. The value of the artwork shall be confirmed by a certified art appraiser (or a person with professional arts credentials) as determined by the City whose evaluation fee shall be paid by the developer and reviewed by the City. If the appraised value of the artwork is less than one (1.0%) percent of the construction costs of the project, the difference in the value of the artwork and the one (1.0%) percent shall be contributed to the Art Acquisition Fund.
4. Instead of providing credentialed artwork on the project site, the developer may choose to contribute one (1.0%) percent of the aggregate project value as the required art fee.
5. In Lieu of providing artwork on the project site or contributing a one (1%) percent art fee, the developer may choose to donate artwork to the City. The artwork shall be valued at one (1%) percent of the aggregate project value inclusive of the cost of maintenance, insurance, lighting and signage. The artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
6. The Non-Municipal Construction Project one million dollar (\$1,000,000.00) threshold shall be adjusted annually based upon the consumer price index.

Prior to City Commission approval of the Public Art Master Plan, items 1., 2., 3., and 5. will be deferred so that developers during that period shall donate to the art acquisition fund in accordance with item 4., but may elect to proceed pursuant to items 1., 2., 3., and/or 5. within thirty (30) days after the City Commission approval of the Public Art Master Plan, in which case, the previously paid funds will be returned upon City Commission approval of artwork pursuant to items 1., 2., 3., and/or 5. above.

**Paragraph A of
Section 3-2003. Art funds.**

A. General. Two funds will be established for the Art in Public Places Program. The first fund will be entitled Historic Public Art Fund and will be funded through Municipal Construction Projects. The second fund will be entitled Art Acquisition Fund and will be funded through Non-Municipal Construction Projects over one million dollars (\$1,000,000.00), excluding single family homes. Each of these funds will be interest bearing and revolving and may only be used for the purposes outlined in "The City of Coral Gables Art In Public Places Program: Funding, Goals, and Implementation Guidelines."

SECTION 3. Applicability of the Ordinance. The provisions of this ordinance are effective immediately upon approval of this amendment by the City Commission. Applicants who have secured a building permit prior to City Commission approval of this amendment shall not be subject to provisions of this Ordinance.

SECTION 4. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

SECTION 6. Codification.

It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-37 as amended and known as the "Zoning Code" of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 7. Effective Date.

That this ordinance shall become effective ten (10) days after final reading and adoption thereof.

PASSED AND ADOPTED THIS TENTH DAY OF FEBRUARY, A.D., 2010.

(Moved: Anderson / Seconded: Kerdyk)

(Yea: Anderson, Cabrera, Kerdyk, Withers, Slesnick)

(Unanimous: 5-0 Vote

(Agenda Item: E-1)

APPROVED:

DONALD D. SLESNICK II
MAYOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY

ATTEST:



WALTER J. FOEMAN
CITY CLERK