

ORDINANCE NO. 3036

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 ENTITLED "ZONING" BY CREATING ARTICLE XII ENTITLED "ART IN PUBLIC PLACES PROGRAM"; ESTABLISHING PURPOSES; PROVIDING DEFINITIONS; ESTABLISHING AN ADVISORY COMMITTEE; ESTABLISHING POWERS AND DUTIES; ESTABLISHING COMMITTEE MEMBERS; ESTABLISHING FEES; PROVIDING FOR EXEMPTIONS AND WAIVER OF FEES; ESTABLISHING SELECTION CRITERIA; ESTABLISHING USES AND OWNERSHIP; ESTABLISHING GUIDELINES; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

**ORDINANCE TABLED AT THE JANUARY 16, 2008 REGULAR CITY
COUNCIL MEETING**

Table 4-1
1st ST SIGN

CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY

MEETING DATE: January 16, 2008

AGENDA ITEM SUMMARY NO. I-08-012-2

- | | |
|--|--|
| <input type="checkbox"/> AWARDS / PRESENTATIONS / PETITIONS | <input checked="" type="checkbox"/> REGULAR |
| <input type="checkbox"/> CONSENT | <input type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> DISCUSSION & DELIBERATION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> BOARD APPOINTMENT |
| <input checked="" type="checkbox"/> ORDINANCE ON FIRST HEARING | <input type="checkbox"/> WORKSHOP |

SUBJECT: AN ORDINANCE AMENDING CHAPTER 31 ENTITLED "ZONING" BY CREATING ARTICLE XII ENTITLED "ART IN PUBLIC PLACES PROGRAM"; ESTABLISHING PURPOSES; PROVIDING DEFINITIONS; ESTABLISHING AN ADVISORY BOARD; ESTABLISHING POWERS AND DUTIES; ESTABLISHING COMMITTEE MEMBERS; ESTABLISHING FEES; PROVIDING FOR EXEMPTIONS AND WAIVER OF FEES; ESTABLISHING SELECTION CRITERIA; ESTABLISHING USES AND OWNERSHIP; ESTABLISHING GUIDELINES; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

RECOMMENDATION / MOTION: STAFF RECOMMENDS MOTION TO APPROVE ON PRELIMINARY READING AND ADVERTISE FOR PUBLIC HEARING.

•City Attorney <i>PHL 1/8/08</i>	Library
•City Clerk <i>CA</i>	Marina
Community Development	Police
•Finance <i>2-7-08</i>	Public Works
Fire	Purchasing
Human Resources	Recreation & Parks
Assistant City Manager <i>PHW 1/10/08</i>	Utilities District

APPROVED BY CITY MANAGER: *William E. Williams* \$ 250 per 250,000 = 1%
DATE: *1-09-08*

Originating Dept. Community Development <i>[Signature]</i>	Costs: None to City Current FY: <u>2007-2008</u> Funding Source: <input type="checkbox"/> Capital Improvement <input type="checkbox"/> Operating <input type="checkbox"/> Other:	City Council Actions: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/conditions <input type="checkbox"/> Denied <input type="checkbox"/> Tabled to <input type="checkbox"/> Referred to Staff
Advertised: YES Date: January 4, 2008 Paper: Palm Beach Post <input type="checkbox"/> Not Required	Budget Account Number: <i>REGULAR 2 ALTERNATE 5 MUST RESIDE IN CITY</i>	Attachments: 1. Ordinance <i>OTHER CAN BE BUSINESS OWNERS MUST BE STUDENT BETWEEN 14 & 22</i>
Affected Parties <input type="checkbox"/> Notified <input checked="" type="checkbox"/> Not Required		

SUMMARY: The Art in Public Places Program for the City of Riviera Beach is intended to generate a funding source to be used to install works of art around the City. The goal is to develop public art projects that will enhance the urban environment of the City as well as to evoke a sense of civic pride. The program also functions to promote open spaces; enhance building projects; educate the community on the arts; improve the quality of life for residents; attract artists to the City; and preserve the City's history. To fund the project, a fee of 1% will be assessed to private developments that have a total construction value of over \$250,000, with some exceptions.

Arts in Public Places Advisory Committee will be created by the City Council that will be responsible for developing guidelines and providing a plan that will govern how the public art is selected and make recommendations to the City Council.

Item No. 08

BACKGROUND: Staff has reviewed Art in Public Places programs in other local municipalities, including West Palm Beach, Boynton Beach, and Palm Beach Gardens. The attached ordinance is crafted to reflect most of the major elements that other municipalities incorporate as well as features unique to Riviera Beach. This ordinance was presented to the Planning and Zoning Board in March 2007, April 2007, and October 2007. The Planning and Zoning Board voted to approve the ordinance on October 11, 2007.

RECOMMENDATION: Staff recommends motion to approve on first reading.

EXHIBIT A-1

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact: Art in Public Places Ordinance

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (City)					
Cash Match (City)					
NET FISCAL IMPACT					

NO. ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes -- No X

Budget Account No.: Fund Dept/Div. Org. Object

Reporting Category

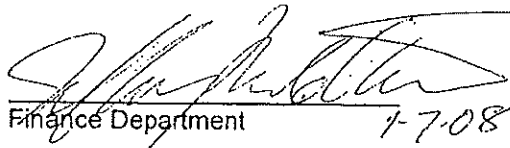
B. Recommended Sources of Funds/Summary of Fiscal Impact:

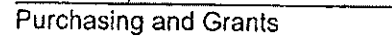
C. Departmental Fiscal Review:


Mary McKinney, Dir. of Community Development

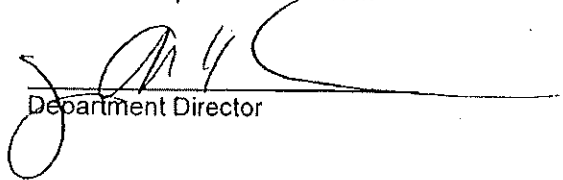
III. REVIEW COMMENTS

A. Finance Department and/or Purchasing/Intergovernmental Relations/Grants Comments:

 Finance Department 1-7-08

 Purchasing and Grants

B. Other Department Review:


Department Director

ORDINANCE NO: _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 ENTITLED "ZONING" BY CREATING ARTICLE XII ENTITLED "ART IN PUBLIC PLACES PROGRAM"; ESTABLISHING PURPOSES; PROVIDING DEFINITIONS; ESTABLISHING AN ADVISORY COMMITTEE; ESTABLISHING POWERS AND DUTIES; ESTABLISHING COMMITTEE MEMBERS; ESTABLISHING FEES; PROVIDING FOR EXEMPTIONS; ESTABLISHING SELECTION CRITERIA; ESTABLISHING USES AND OWNERSHIP; ESTABLISHING GUIDELINES; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, This ordinance is intended to establish and implement the City of Riviera Beach's Art in Public Places Program; and

WHEREAS, The City of Riviera Beach is committed to enhancing public spaces and ensuring visually pleasing areas for residents; and

WHEREAS, In order to ensure the continual installation of public art the City has identified a funding source for public art projects; and

WHEREAS, The Planning and Zoning Board voted to approve this ordinance on October 11, 2007.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 31 entitled "Zoning" is hereby amended by creating Article XII of the City of Riviera Beach Code of Ordinances entitled "Art in Public Places Program" and shall read as follows:

Article XII
Art in Public Places Program

1. INTENT AND PURPOSE

It is the intent and purpose of this article to promote the aesthetic value of the City of Riviera Beach and to afford the residents of and visitors to the City an opportunity to enjoy and appreciate works of art.

2. DEFINITIONS

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

Arts Committee means the Art in Public Places advisory committee appointed by the City Council.

Artist or Professional Artist means 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 in the art field, and training in the arts.

Construction cost means all private development, redevelopment, reconstruction or remodeling projects that have a total construction value of \$250,000 or greater. The public art fee shall be equal to 1% of the construction value of the project and shall be collected by the Community Development Department prior to, and as a condition of, building permit issuance.

Development means any construction or remodeling of any private development, except single family residential, or any portion thereof within the limits of the city, where total construction costs equal or exceeds \$250,000.

Public Art Fund means a separate account set up by the city to receive monies for the Art in Public Places Program.

Remodeling means alterations made to a building, including but not limited to, changes to the façade of a building, changes to the interior of a building, increases or decreases in the floor area of a building and changes to exterior improvements.

Works of art, Art or Artwork means all forms of the visual arts conceived in any medium, material, or combination thereof, including but not limited to painting, sculpture, fountains, engraving, carving, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, and collaborative design projects between architects and/or landscape architects and artists. The following shall not be

ORDINANCE NO. _____

PAGE 3

considered works of arts for purposes of this article: reproductions or mass produced art objects.

3. CREATION OF ART IN PUBLIC PLACES ADVISORY BOARD

The City Council in accordance with the powers vested in it hereby creates and establishes the Art in Public Places Advisory Committee herein referred to as the "Arts Committee". The Arts Committee shall function and operate as an advisory board providing advice to the City Council on matters relating to the visual arts and are appointed by the City Council.

4. PURPOSE, POWERS AND DUTIES

The Art in Public Places advisory committee shall have the following purpose, powers and duties:

- (a) The purpose of the Arts Committee is to advise the City Council on matters related to the arts, to develop a plan and programs to promote and support art in public places, and to recommend guidelines for implementation;
- (b) The Arts Committee shall recommend to the City Council projects to approve, approve with conditions or disapprove;
- (c) The Arts Committee shall create guidelines for public art and develop public art programs for the City;
- (d) The Arts Committee shall recommend to the City Council locations for works of art and establish priority order for such works;
- (e) The Arts Committee may recommend funding sources, including private sources, and expenditures for maintaining and implementing the Arts in Public Places Program;
- (f) The Arts Committee shall be responsible for establishing a youth advisory council for the purpose of involving the youth of the community to provide a venue to display, promote, and encourage future artists.

5. COMMITTEE MEMBERS

- (a) The Arts Committee shall consist of seven (7) regular members and two (2) alternate members. Of the nine (9) members, five (5) of those members must reside in the City, one (1) member must be a student between the ages of 14 and 22 and all shall serve at the pleasure of the City Council.

- (b) Of the seven (7) appointed members four (4) shall be for a term of three (3) years and three (3) shall be for a term of (2) years. Their successors shall be appointed for a term of three (3) years. Alternate members shall be appointed for a period of one (1) year. All members may be reappointed at the pleasure of the City Council at the termination of their appointment with no limit as to the number of terms they may serve.
- (c) In cases of vacancies by resignation, removal or otherwise, the City Council shall fill such vacancy for the unexpired term. The City Council may remove any member for cause. Any member of the board who fails to attend three regular meetings without cause and without prior notification to the committee shall automatically forfeit their appointment to serve on the Arts Committee board and such vacancy shall promptly be filled.
- (d) Of the nine (9) appointed members of the Arts Committee, all of them shall be residents or business owners within the City with the following backgrounds such as; artist; art instructor; architect; engineer; art student; urban/city planner; private developer; or any interested resident.
- (e) A Chairperson and Vice-Chairperson shall be selected by majority vote of the committee members. The Chairperson and Vice-Chairperson shall be selected annually at the first meeting in March. A majority shall be a quorum.

6. FEE IMPOSED ON DEVELOPMENTS

All budgets for the new construction or remodeling of private developments in the City which have total construction costs exceeding \$250,000 shall include an amount of one percent (1%) of the total budgets as a fee for art in public places. The fee shall be collected by the Community Development Department prior to the issuance of building permits. All fees collected are to be deposited in the Public Art Fund account.

- (a) Deposit of funds. The developer shall submit to the City a deposit in the amount of money equal to the art fee prior to the issuance of the first building permit.
- (b) If the final development project cost is higher than the cost figure originally used by the developer to calculate the preliminary art budget, the art budget must be increased as necessary to equal one percent (1%) of the actual total project cost. The additional funds must be submitted to the city by the developer prior to the issuance of the first Certificate of Occupancy.

ORDINANCE NO. _____

PAGE 5

7. EXEMPTION FROM FEE IMPOSED ON DEVELOPMENT

The following types of projects are exempt from the payment of the public art fee:

- ✓(a) Structural damages resulting from fire, flood, wind, earthquake, tornado, or other calamity determined by the Building Official and City Engineer;
- ✓(b) Developments constructed for workforce/affordable housing based on the low to moderate income criteria as identified in the Minority Employment and Affordable Housing Opportunity Program (MEAHOP).
- ✓(c) Single family and two family in-fill housing.

8. STANDARDS FOR ARTWORK TO BE UTILIZED BY COMMITTEE

Installation of works of art shall be guided by the standards listed below.

- (a) Artwork shall be installed on public property in a location that is highly visible to the public and shall not be obstructed from view by walls, fences, landscaping, or other blockages.
- (b) Artwork shall be integrated into the overall landscaping plan, and landscaping shall be utilized to enhance the visibility of such works.
- (c) Artwork shall be lighted in an unobtrusive manner. At a minimum, artwork shall be illuminated from dusk until midnight. The lighting shall be designed and located in order to prevent excessive lighting, energy waste, glare, light trespass, and sky glow.
- (d) Artwork shall be maintained in good condition at all times, including any associated landscaping or related improvements.
- (e) The selection and commissions of the artists and artwork shall be by written agreement between the city and artists.
 - a. The artist of approved artwork shall grant the City an unlimited, perpetual, non-exclusive, royalty-free, irrevocable license to reproduce and distribute two-dimensional reproductions of the artwork for city-related purposes, and grant to the City the exclusive irrevocable ownership rights in any trademark, service mark, or trade dress rights regarding the artwork, pursuant to a license that shall be approved by

the city attorney. City approval of the artwork shall be deemed to be a grant of the artist for authorization of third parties to review and reproduce documents provided by the artist to the city which are deemed to be public records pursuant to public record laws of the state. The city shall also have the option of referring to the name and title of the artist and artwork in reproductions.

9. USE OF PURCHASED ART; OWNERSHIP OF ART

- (a) All artwork purchased by the City using art fee contributions shall be displayed on city-owned land, city-owned buildings, or city-leased or rented facilities. The artwork shall be displayed in a location visually accessible to both pedestrian and vehicular traffic in order for the public to receive the most enjoyment and benefit from the art.
- (b) Unless otherwise expressly agreed to in writing by the city, ownership of all art acquired through expending funds in the Public Art Fund shall be owned by the city.
- (c) Artwork installed in accordance with this chapter cannot be altered or removed from the site without approval of the City Council.
- (d) Proper insurance coverage shall be maintained by the City on artworks purchased with funds generated by this article.
- (e) To establish the value of art submitted to comply with this subsection, the Art in Public Places Advisory Board shall have the authority to employ an independent art appraiser to provide a written appraisal of the art submitted. Such appraisal will be paid from the developer's art fund contribution.

10. ART IN PUBLIC PLACES PROGRAM GUIDELINES

The selection and commissioning of artists shall be in accordance with the Art in Public Places implementation guidelines adopted by the Arts Committee.

ORDINANCE NO. _____
PAGE 7

SECTION 2. It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 3. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

SECTION 4. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 5. Specific authority is hereby granted to codify this ordinance.

SECTION 6. This ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on the first reading this _____ day of _____ 2008.

PASSED AND ADOPTED on second and final reading this _____ day of _____ 2008.

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ORDINANCE NO. _____

PAGE 8

APPROVED:

THOMAS A. MASTERS
MAYOR

SHELBY L. LOWE
CHAIRPERSON

ATTEST:

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

LYNNE L. HUBBARD
CHAIR PRO TEM

NORMA DUNCOMBE
COUNCILPERSON

CEDRICK THOMAS
COUNCILPERSON

JAMES "JIM" JACKSON
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

S. LOWE _____

L. HUBBARD _____

C. THOMAS _____

N. DUNCOMBE _____

J. JACKSON _____

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

ORDINANCE NO. _____
PAGE 9

MOTIONED BY: _____

MOTIONED BY: _____

SECONDED BY: _____

SECONDED BY: _____

1ST READING

2ND & FINAL READING

S. LOWE _____
L. HUBBARD _____
N. DUNCOMBE _____
C. THOMAS _____
J. JACKSON _____

ORDINANCE NO. _____
PAGE 10

CERTIFICATION OF PUBLICATION

I hereby certify that the notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

Carrie E. Ward
Master Municipal Clerk
City Clerk

Date

