

1 **Division 20. Art in Public Places Program**

2  
3 **Section 3-2001. Purpose.**

4 The City of Coral Gables has adopted a municipal program providing for the acquisition and  
5 maintenance of art in public places, as contemplated by, and consistent with, Section 2-11.15 of  
6 the Miami-Dade County Code of Ordinances entitled "Works of Art in Public Places," as it shall be  
7 amended from time to time. It is the purpose of this Division to establish a formal requirement for  
8 the City pertaining to the funding, acquisition, placement and maintenance of Public Art and  
9 Historic Public Art. This requirement, and the policies and procedures that implement it, are  
10 referred to as the City of Coral Gables Art in Public Places Program.

11  
12 The policies and procedures for this program are outlined in the Guidelines, which may be  
13 revised and clarified from time to time upon the recommendation of the Cultural Development  
14 Board and final approval by Resolution of the City Commission. It is the intention of this program  
15 to preserve the City's artistic heritage, enhance its character and identity, contribute to economic  
16 development and tourism, add beauty and interest to spaces visible to the public and increase  
17 opportunities for the public to experience and participate in the arts through the acquisition and  
18 installation of world-class art in publicly accessible areas.

19  
20 **Section 3-2002. Applicability.**

21 The Art in Public Places Program applies to Municipal and Non-Municipal Construction Projects.  
22 The minimum requirements for new governmental buildings are governed by the Miami-Dade  
23 County Code as amended, namely Ordinance No. 94-12, which requires not less than one and  
24 one-half percent (1½%) of the construction cost of new governmental buildings be devoted  
25 towards the acquisition, repair, and maintenance of public art. The provisions in this Division are  
26 supplemental to and generally more restrictive than Miami-Dade County Code provisions. If the  
27 Miami-Dade County Code provisions relating to new governmental buildings are not enforced by  
28 the City, Miami-Dade County may enforce the same. Should a conflict arise between these  
29 provisions and Miami-Dade County provisions, the more restrictive shall apply. A commercial  
30 property owner who is not subject to the Art in Public Places Program may opt into the Program  
31 by submitting proposed Public Art to the review process outlined in Section 3-2003, as such  
32 section applies to the acquisition or commissioning of Public Art; provided, however, the  
33 requirements regarding value shall not apply.

34  
35 **Section 3-2003. Art in Public Places Fund Requirements, Waivers, and Exemptions.**

36 A. Fund Requirements. Two funds will be established for the Art in Public Places Program (each  
37 a "Fund" and collectively "Funds"). The first fund will be entitled Historic Public Art Fund and will  
38 be funded through payments from budgets of one percent (1%) of Municipal Construction  
39 Projects. The second fund will be entitled Art Acquisition Fund and will be funded through Art in  
40 Public Places Fees as well as one-half percent (½%) of Municipal Construction Projects. Each  
41 of these funds will be interest bearing and revolving and may only be used for the purposes  
42 outlined in the Guidelines. Persons or entities other than those required to make payments to the  
43 Funds pursuant to this Ordinance may make a voluntary donation to either of the Funds by  
44 specifying that the use of such donation shall be deposited in the expressly identified Fund.

45 | - 1. Historic Public Art Fund. One (1.0%) percent of the Aggregate Project Value for City of  
46 Coral Gables Municipal Construction Projects shall be transferred to an account entitled  
47 Historic Public Art Fund which will be used for the restoration, Extraordinary and Ordinary  
48 Maintenance and acquisition of Historic Public Art. Application of this Fund shall be  
49 approved by the City Commission with recommendations from the Historic Preservation  
50 Board and the Historical Resources Department.

51 2. Art Acquisition Fund. The Developer of any Non-Municipal Construction Project with an  
52 Aggregate Project Value of one million dollars (\$1,000,000.00) or more and not exempted  
53 as provided in subsection C below, shall contribute One (1.0%) percent of the Aggregate  
54 Project Value to the Art Acquisition Fund established by the City. In addition, one-half  
55 percent (½%) of Municipal Construction Projects that fall under the Miami-Dade County  
56 Code provisions described in Section 3-2002, shall be deposited in the Art Acquisition  
57 Fund. A Developer may seek a waiver of the requirement of this Section A-2 as provided in  
58 subsection B below. Application of this Fund shall be in accordance with the Guidelines  
59 and Master Art Plan.

60 B. Waiver of the Art in Public Places Fee. A Developer of a Non-Municipal Construction Project  
61 that is not exempt as set forth in subsection C below may petition to waive the Art in Public  
62 Places Fee requirement by one or more of the following:

- 63 1. Acquiring or commissioning artwork, which has an appraised value equal to or greater  
64 than the amount of the Art in Public Places Fee that otherwise would be required, with such  
65 artwork to be incorporated within the Developer's project; or
- 66 2. Donating and installing artwork to the City with an appraised value equal to or greater  
67 than the amount of the Art in Public Places Fee that otherwise would be required, and  
68 providing for the perpetual maintenance of such artwork; or
- 69 3. Causing the purchase, designation, restoration, or perpetual maintenance of historically  
70 significant buildings in an amount equal to or greater than the amount of the Art in Public  
71 Places Fee that otherwise would be required; or
- 72 4. Causing the purchase of parcels identified in the City's Parks and Open Space Inventory  
73 Analysis in an amount equal to or greater than the amount of the Art in Public Places Fee  
74 that otherwise would be required and donating such parcels to the City.

75 A Developer seeking a waiver pursuant to subsections B1 or B2 herein shall submit the proposed  
76 Artist and artwork concept to the Cultural Development Board for review, with assistance of the  
77 Arts Advisory Panel, in accordance with the Guidelines. The Cultural Development Board shall  
78 recommend to the City Commission whether to approve, deny, request further information or  
79 approve with conditions, the selection and location of artwork, and the City Commission shall  
80 have final approval of the concept (if work is to be commissioned) or the artwork (if the artwork is  
81 extant). The value of donated or acquired artwork shall be confirmed by a certified art appraiser  
82 (or person with professional arts credentials otherwise acceptable to the City), with the cost of  
83 such appraisal to be borne by the Developer and which shall not be included in the 1% budget for  
84 art. The value of ~~the~~ commissioned work will be determined by the value of the ~~artist~~  
85 ~~such commission, including construction, design, engineering, permitting, legal, artist fees and~~  
86 ~~expenses incurred by the artist for subcontractors, travel/expenses, materials, fabrication,~~  
87 ~~transportation~~ and installation costs. ~~Landscaping and Developer costs for art consultant fees in~~  
88 ~~excess of ten percent of the Art in Public Places Fee, project management, coordination with~~  
89 ~~other design professionals, site preparation, lighting, unless integral to the art piece structure, are~~  
90 ~~of the artwork, maintenance, operation and other in-house costs or fees will not be considered~~  
91 ~~part of the value of the commissioned work. In the event that the commissioned work is~~  
92 ~~integrated into the project and/or is an artist-designed treatment for architectural, landscape or~~  
93 ~~hardscape components of the project, and in the event that the work results in the artist~~  
94 ~~specifying different materials for those components, only the marginal costs for materials and~~  
95 ~~installation that exceed the costs of materials and installation that would have otherwise been~~  
96 ~~incurred in the construction of the project shall be considered part of the value of the~~  
97 ~~commissioned work.~~ Ownership and title of works incorporated into private construction shall  
98 remain with the property owner, who will be required to maintain the artwork in good condition.  
99 The property owner's obligations regarding maintenance and access for such artwork shall be set  
100 forth in a recorded restrictive covenant acceptable to the City Attorney's Office, which obligations  
101 shall run with the land. Removal or alteration of artwork incorporated into private property shall  
102 only be permitted with City approval in accordance with the Guidelines, and shall require payment  
103 to the Art Acquisition Fund of the Art in Public Places Fee that otherwise would have been

104 originally required. Ownership of works donated to the City and placed on City property shall be  
105 owned by the City. Any Public Art created or installed through a partnership between a  
106 Developer and the City to place free-standing Public Art on City property to satisfy all or part of  
107 that Developer's Art in Public Places Fee requirement may be presented to the City Commission  
108 for review and approval without any prior board review. All contracts for artwork that will be  
109 acquired or accepted for ownership by the City must be reviewed and approved as to form and  
110 legal sufficiency by the City Attorney's Office,

111

112 A Developer seeking waiver pursuant to subsections B3 or B4 herein shall submit the request to  
113 the City Commission for approval with a recommendation of the Historic Preservation Board for  
114 B3 and Parks and Recreation Advisory Board for B4, as well as staff. The value of donations  
115 shall be determined by a qualified appraiser acceptable to the City, which in the case of real  
116 estate shall be by an appraiser who is an Appraisal Institute member holding the MAI designation  
117 and the cost of such appraisal will be borne by the Developer.

118

119 No other waivers of the Art in Public Places Fee shall be permitted.

120

121 C. Exemptions from the City of Coral Gables Art in Public Places Program. The following are  
122 exempt from the requirements of this Division and are not required to pay into a Fund or seek a  
123 waiver from paying into a Fund:

124

1. New construction, additions and modifications to single-family residences;

125

2. Construction projects, which are required to pay a public art fee pursuant to other  
126 applicable Miami-Dade County regulations, provided payment has been paid, documented  
127 and approved to the City's satisfaction;

128

3. Non-Municipal Construction Projects with an Aggregate Project Value of less than one  
129 million dollars (\$1,000,000.00); and

130

4. Construction Projects at an accredited college and/or university that maintains at its  
131 campus a publicly accessible permanent collection of art of at least thirty (30) sculptures  
132 and/or other Public Art in accordance with a Campus Art Master Plan. In order to maintain  
133 this exempt status, the accredited college and/or university must satisfy all of the following  
134 criteria:

135

a. A Campus Art Master Plan shall initially be submitted for review and approval by  
136 the City Commission to confirm the sufficiency of the Campus Art Master Plan; and

137

b. A report of the Campus Art Master Plan, demonstrating changes to the collection  
138 of Public Art on the campus shall be made to the City Commission in December  
139 2010, and every third (3<sup>rd</sup>) year thereafter.

140

141 D. Applicants wishing to pursue installation of Art in Public Places must meet the special design  
142 and administrative considerations discussed below in Section 3-2004. After submission to and  
143 review by the applicable boards, the City Commission, in its sole and absolute discretion, may  
144 approve the submitted concept for Public Art. It is the intention and direction of the City that  
145 Public Art approved through the City's Art in Public Places Program shall be permitted with regard  
146 to aesthetic characteristics after a review is conducted and a determination is made that the  
147 Public Art is appropriate in design and proposed construction.

148

#### 149 **Section 3-2004. Administration.**

150

A. Annual Inventory Priorities. The Historic Preservation Board or its designee, as determined by  
151 the City Manager, shall submit to the City Commission an annual report that recommends

152 priorities for the disbursement of Historic Public Art Funds as they become available.

153 B. Master Art Plan and Guidelines. The Cultural Development Board shall recommend a Public  
154 Art Master Art Plan, which shall be reviewed and recommended by the Board of Architects  
155 specifically to consider locations recommended for future placement of artwork. The  
156 recommendation of each Board shall be subject to final review and approval by the City  
157 Commission. If approved, the Master Art Plan will govern location and selection criteria for art  
158 work. Written Guidelines shall include policies and procedures for managing City-initiated public  
159 art projects, guiding Developers who have an Art in Public Places requirement, and managing the  
160 Art Acquisition Fund and Historic Public Art Fund. The Guidelines shall govern the manner and  
161 method of submission of proposed works of art to the Cultural Development Board, the process  
162 by which the Arts Advisory Panel shall make recommendations to the Cultural Development  
163 Board, and the process by which the Cultural Development Board shall recommend to the Coral  
164 Gables City Commission.

165 C. Accounting. The Historic Preservation Board and the Cultural Development Board, or their  
166 designees as determined by the City Manager, shall each submit an annual report providing a  
167 detailed accounting of monies spent or earmarked for future expenditures from the Funds to the  
168 City Manager.

169 D. Selection of Public Art by the City Using the Art Acquisition Fund. The selection of Public Art  
170 using the Art Acquisition Fund, shall be by Resolution of the Coral Gables City Commission upon  
171 recommendation by the Economic Sustainability Department and Cultural Development Board  
172 with the assistance of the Arts Advisory Panel, as needed. The principles governing selection  
173 criteria for Public Art are more fully set forth in the Guidelines and Master Art Plan, but at a  
174 minimum shall require that works of art satisfy all of the following:

- 175 1. Are publicly accessible.
- 176 2. Are created by an Artist.
- 177 3. Demonstrate excellence in aesthetic quality, workmanship, innovation and creativity;
- 178 4. Are appropriate in scale, form, content and of materials/media suitable for the site;
- 179 5. Demonstrate feasibility in terms of budget, timeline, safety, durability, operation,  
180 maintenance, conservation, security and/or storage and siting; and
- 181 6. Bring diversity to the City's public art collection in terms of media, artistic discipline  
182 and/or artistic approach.

183

184 E. Ownership and Maintenance.

185 1. The City shall be deemed the owner of and shall retain title to each work of Public  
186 Art acquired using either of the Funds. The City is charged with the custody,  
187 supervision, and preservation of such works of art.

188 2. Artists, as part of any contractual agreement with the City for the provision of a  
189 work of art, shall be required to submit to the Cultural Development Board a  
190 "Maintenance and Inventory Sheet", including the annual cost projections, which  
191 details the maintenance and ongoing care of the work and signage/credit  
192 recommendations. The City may require an assessment by a professional  
193 conservator.

194

195 **Section 3-2005. Enforcement.**

196

197 A. The City shall not issue a building permit for a Municipal or Non-Municipal Construction  
198 Project where the Developer has chosen to pay the Art in Public Places Fee until the required  
199 contribution has been deposited in the appropriate Fund as described herein and in the

200 Guidelines and Master Art Plan. There shall be no reimbursements of Art in Public Places Fees  
201 once deposited in the appropriate Fund.

202

203 B. The City shall not issue a building permit for a Non-Municipal Construction Project where the  
204 Developer has chosen to obtain a waiver of the Art in Public Places Fee payment until the City  
205 Commission has by Resolution approved the waiver by approving a concept plan for  
206 incorporation of Public Art into the Project, approving a concept plan and location of Public Art  
207 elsewhere in the City, or accepting a waiver for contribution to a historically significant building or  
208 purchase of a parcel of land for the City's parks and open space, as outlined above.

209

210 C. The City shall not issue a certificate of occupancy for a Non-Municipal Construction Project  
211 where the Developer has chosen to obtain a waiver of the Art in Public Places Fee payment until  
212 all approved Public Art has been installed in accordance with approved plans and/or required  
213 documentation regarding the waiver and/or Public Artwork has been provided to the City.

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218

219 Aggregate Project Value means the total of all ~~hard and soft construction and design~~  
220 ~~costs~~ Construction Cost associated with a particular construction or renovation project regardless  
221 of the number of permits associated with the project, or whether it is a phased project.

222

223 Arts Advisory Panel means a panel composed of art experts who shall make recommendations to  
224 the Cultural Development Board on commissions and acquisitions of individual artwork projects.  
225 Arts Advisory Panel members are professionals in the visual arts, art history, design, architecture,  
226 landscape architecture or urban design.

227

228 Art Acquisition Fund means a separate, dedicated, interest bearing and revolving fund  
229 established in the City Treasury into which Art in Public Places Fees are collected and deposited  
230 for acquisition, commissioning, exhibition, Extraordinary Maintenance and Conservation of Public  
231 Art.

232 Art in Public Places or Public Art means tangible creations by artists that exhibit the highest  
233 quality of skill and aesthetic principles, including but not limited to the following: paintings,  
234 sculptures, stained glass, projections, light pieces, statues, bas reliefs, engravings, carvings,  
235 frescoes, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, monuments and  
236 fountains or combinations thereof, and that are one-of-a-kind or part of an original, numbered  
237 series. The artwork must be created for placement in a public place or publicly accessible private  
238 space, or integrated into the underlying architecture, landscape design or site. 'Art in Public  
239 Places" and "Public Art" do not include items manufactured in large quantities by the means of  
240 industrial machines, reproductions or architectural elements unless designed by a professional  
241 Artist. Works of art may be permanent, temporary or functional, and can encompass the  
242 broadest range of expression, media and materials.

243

244 Art in Public Places Fee means the amount paid by a Developer for a non-exempt Non-Municipal  
245 Construction Project to the City in fulfillment of the Art in Public Places Program requirements, as  
246 set forth in Section 3-2003.

247

248 *Artist* means an individual generally recognized by critics and peers as a professional practitioner  
249 of the visual arts, as judged by the quality of that professional practitioner's body of work,  
250 educational background, experience, past public commissions, exhibition record, publications,  
251 receipt of honors and awards, training in the arts, and production of artwork.

252

253 *Campus Art Master Plan* means a plan prepared by an accredited college or university in the City  
254 that outlines the selection, criteria, placement and maintenance of a permanent collection and  
255 future sculptures and other Public Art on the campus, and describes plans for the evolution and  
256 growth of such Public Art collection over time.

257

258 *Developer* means the person or entity undertaking a Non-Municipal Construction Project or  
259 Public-Private Joint Venture Project that is subject to the Art in Public Places Fee.

260

261 *Guidelines* means *The City of Coral Gables Art in Public Places Program: Funding, Goals, and*  
262 *Implementation Guidelines*, which is a guide that outlines policies and procedures for the Art in  
263 Public Places program. The Guidelines may be revised from time to time and may be approved  
264 by Resolution of the City Commission upon recommendation of the Cultural Development Board.

265

266 *Construction Cost* means the total cost of a construction or renovation project, as determined by  
267 the Building Official in issuing a building permit for construction or renovation. ~~plus soft costs of~~  
268 ~~architectural and engineering fees.~~ The Construction Cost includes all labor, structural materials,  
269 plumbing, electrical, mechanical, infrastructure, ~~design, permitting, architecture, engineering,~~  
270 ~~lighting, signage, and site work, architectural design, engineering, financing, legal fees prior to~~  
271 ~~permitting and other costs.~~ All construction and renovation costs shall be calculated based on  
272 good faith projections for the whole project, and paid as of the date the building permit is issued.  
273 This definition is not intended to include the Florida Building Code definition for Construction  
274 Cost.

275

276 *Extraordinary Maintenance* means any non-routine repair or restoration to sound condition of  
277 Public Art or Historic Public Art that requires specialized professional services.

278

279 *Historic Public Art* means plazas, entrances, fountains, murals, sculptures and other decorative  
280 features that have been designated as local historic landmarks or fine arts such as paintings and  
281 ceramics that represent the original civic art of the City or the history of the City. Murals,  
282 sculptures and decorative features must be an integral component of the original architecture,  
283 landscape design or urban design of the designated landmark feature. Appropriate historical  
284 furniture may be considered Historic Public Art.

285

286 *Historic Public Art Fund* means a separate, dedicated, interest bearing and revolving fund  
287 established in the City Treasury into which Public Art payments generated by Municipal Project  
288 Construction Projects are collected and deposited, and will be used for the restoration,  
289 maintenance and acquisition of Historic Public Art.

290

291 *Municipal Construction Project(s)* means any remodel project over \$100,000 or new construction  
292 project to the extent paid for wholly or in part by the City or other governmental entity, regardless  
293 of the source of the monies, for any public buildings, public decorative structures, public parking  
294 facilities and parks or that portion of a Public-Private Joint Venture Project determined by the City  
295 to be a public portion of the project. Notwithstanding the foregoing, "Municipal Construction  
296 Projects" do not include projects to the extent funded from the Historic Public Art Fund or historic

297 related grant funding or projects that solely consist of historic restoration, utility, drainage or  
298 roadway work.

299

300 *Non-Municipal Construction Project(s)* means as any construction or renovation project to the  
301 extent not paid wholly or in part by the City of one million dollars (\$1,000,000.00) or more,  
302 excluding single-family homes. "Non-Municipal Construction Projects" includes the private portion  
303 of any Public-Private Joint Venture Project.

304

305 *Ordinary Maintenance* means any routine maintenance necessary to maintain the Public Art or  
306 Historic Public Art that is undertaken on a regular basis.

307

308 *Public Art Collection* means the works of Public Art that are commissioned, acquired, or accepted  
309 by the City pursuant to the requirements of this Ordinance, or when Public Art is expressly  
310 accepted into the collection using the City's Donation Policy.

311

312 *Public-Private Joint Venture Project* means a project where a construction or renovation project  
313 undertaken by a private entity occurs on City-owned land, or where the City is a party to a public-  
314 private joint venture agreement on City-owned land. To the extent a Public-Private Joint Venture  
315 Project can be divided into public and private portions, the public portions shall be considered a  
316 Municipal Construction Project and the private portions shall be considered a Non-Municipal  
317 Construction Project, the percentage of each to be determined by the City. It is acknowledged  
318 that Miami-Dade County's Art in Public Place Ordinance may apply to public portions of the  
319 Public-Private Joint Venture Projects.

320

321 *Public Art Master Art Plan or Master Art Plan* means a five-year plan developed to further define  
322 the City as a unique city of artistry and beauty while ensuring open access to Public Art. The  
323 Master Art Plan identifies locational placement priorities, standards for installation, detailed  
324 criteria for Artist and artwork selection, and a Conservation/Extraordinary and Ordinary  
325 Maintenance protocol.

326

327 *Publicly Accessible* with regard to Art in Public Places means exterior locations that are highly  
328 visible and accessible twenty-four hours a day, seven days a week at no charge to public.

329

330 *Remodel* with regard to Art in Public Places means any construction or renovation to an existing  
331 structure other than repair or maintenance.

332