

ORDINANCE 18-14

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, CREATING CHAPTER 110 OF THE LAND DEVELOPMENT CODE; ESTABLISHING A PUBLIC ART PROGRAM; PROVIDING FOR INTENT, DEFINITIONS AND ADMINISTRATION; PROVIDING FOR A REQUIREMENT OF THE CITY AND PRIVATE DEVELOPERS TO CONTRIBUTE TO THE PUBLIC ART PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, over three hundred and fifty communities throughout the United States have implemented public art programs committing to the placement of public art in urban environments; and

WHEREAS, the City of Dunedin ("City") recognizes that a superior and diverse aesthetic character of the City's built environment is vital to the quality of life of its citizens, the economic success of its businesses, an attraction for visitors and a benefit to tourism; and that a Public Art Program would contribute to the aesthetic enhancement of the community; and

WHEREAS, the City has adopted, in concept, a Cultural Plan that establishes a framework for the incorporation of art and culture into the fabric of the local community; and

WHEREAS, the City shall create a Public Art Program that reflects and enhances the City's diversity, character and heritage through the artworks and designs by artists integrated in the architecture, infrastructure and landscape throughout the City of Dunedin on public and private property; and

WHEREAS, the City's Public Art Program shall promote and unite the community through art; bring public art and art education to the entire community; create public arts community partnerships linking across lines of race, ethnicity, age, gender, sexual orientation, profession, and economic levels; and

WHEREAS, the City recognizes that the aesthetic diversity provided by art within the City's built environment is vital to the quality of the life of its residents and to the economic success of its businesses as it attracts visitors and potential residents, fuels the local economy by creating job opportunities, and assists the City in fulfilling its mission to make the City a great place in which to live, work, and raise a family; and

WHEREAS, in *Metromedia, Inc. v. San Diego*, 453 U.S. 490 (1980), the United States Supreme Court held that land development regulations which

require development to meet aesthetic conditions have been generally found to be supported by a legitimate public purpose; and

WHEREAS, in *Ehrlich v. City of Culver City*, 911 P. 2d 429 (Cal. 1996), the California Supreme Court held that an art fee on private development is a legitimate aesthetic regulation which does not require the same level of legal scrutiny as an impact fee; and

WHEREAS, the requirements found in this Ordinance are design standards based on the aesthetic need of the City and its communities and are not intended to be construed as either an impact fee or a tax; and

WHEREAS, public and private development projects shall contribute to a public art program to enhance and maintain the City's aesthetic diversity and character; and

WHEREAS, the Public Art Program as set forth in this Ordinance is essential to the public health, safety, or welfare; and

WHEREAS, the City Commission hereby finds and declares that the adoption of this Ordinance is consistent with the City's Comprehensive Plan, and that it is necessary, appropriate, and advances the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. The recitals and findings contained above are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. That Chapter 110 of the Land Development Code of the City of Dunedin is hereby created to establish a Public Art Program and shall read as follows:

Chapter 110 – PUBLIC ART PROGRAM

DIVISION 1: - GENERAL

110-10 - INTENT

The City desires to expand public experience and exposure to culture through various art forms, to enhance the appearance of public facilities and to improve the aesthetic environment of the City on behalf of its citizens, and it therefore intends to provide for the incorporation of art in the design and construction of public and private facilities within the City.

110-11 - DEFINITIONS

Public Art Program consists of the Public Art Program Ordinance, Public Art Master Plan and the procedures contained within.

Public Art Master Plan refers to a structured program by which the City plans for and manages the aesthetic enhancement of the community through public art and design of facilities constructed in the community.

Project Cost means the total cost of construction but not land acquisition costs.

Public Art means original artwork which is accessible to the public and/or public employees, and which has been approved as public art approved by the City Commission, acting on behalf of the City of Dunedin.

Public Art Collection means all works of art owned by the City of Dunedin that are site specific, part of the portable collection or documentation of temporary works of art.

Public Art Fund means a separate account set up by the City with the sole purpose of receiving monies designated for the Public Art Program.

Eligible Capital Improvement Project shall mean any construction project undertaken by the City of Dunedin that involves the construction of a building or structure used directly by the general public.

Eligible City Commission Design Review Project shall mean any project that meets the definition in section 104-24.4 (Applicability) of the city's Land Development Code.

Public Art Project Subcommittee shall mean a group responsible for reviewing proposed Public Art and making recommendations to the Arts & Culture Committee on the selection of Public Art.

110-12 - ADMINISTRATION

- A. The inaugural City of Dunedin Public Art Master Plan, including appropriate Appendices and including all subsequent revisions and amendments thereto, are adopted and incorporated in this Section by reference.
- B. Administration of the Public Art Program will be governed by the Guidelines of the City of Dunedin's Public Art Master Plan.

DIVISION 2: - CITY PARTICIPATION IN THE PUBLIC ART PROGRAM.

110-20 - CITY PROJECTS

In keeping with the City's intent for art and culture, the City shall provide for the acquisition of art equivalent in value to not less than 0.5%

percent of the Project Cost for all Capital Improvement Project budgets with vertical construction. The contribution shall be capped at \$500,000.00.

110-21 - EXEMPTIONS TO PUBLIC ART PROGRAM REQUIREMENTS

- A. Street, alley, sidewalk or sewer projects conceived and executed as projects independent of any other projects which may qualify as a public works project.
- B. Stormwater management projects or any portion of a water or storm sewer project that is built below ground level.
- C. The purchase and installation of equipment that is not attached to, or is not an integral part of, the facility and could be easily removed.

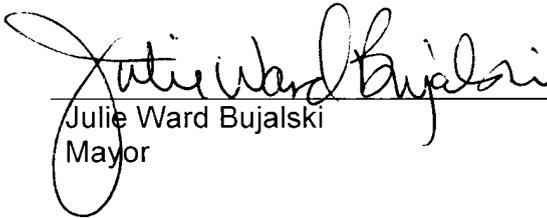
DIVISION 3: - PRIVATE DEVELOPMENT PARTICIPATION IN THE PUBLIC ART PROGRAM

110-30 - PRIVATE OWNERS AND DEVELOPERS

Private owners and developers who are subject to City Commission Design Review shall contribute 0.5% of the Project Cost for public art enhancement in private development. The 0.5% public art requirement may be satisfied by the financing of on-site stand alone or integrated artwork OR the developer may elect to deposit 0.5 % into the Public Art Fund account to be used for the public art enrichment of the City's public spaces. The contribution shall be capped at \$500,000.00.

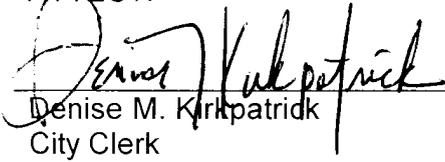
Section 3. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 6th day of December , 2018.



Julie Ward Bujalski
Mayor

ATTEST:



Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: _____ November 1, 2018

READ SECOND TIME AND ADOPTED: _____ December 6, 2018