

inspected per re-inspection if any violation still exists after allowance of a reasonable time period for compliance.

(Ord. No. 6932-02, § 1, 4-4-02)

Section 3-2306. Penalties.

Failure to obtain or maintain an occupational license as required by Section 3-2302 or failure to maintain a property in compliance with the code requirements set forth in Section 3-2304, shall subject the violator to enforcement proceedings and penalties in accordance with Article 7 of the Community Development Code and with Code of Ordinances Section 1.12. The provision of this division shall provide an additional means of enforcement, but shall not prohibit the city from taking enforcement action under other code provisions.

(Ord. No. 6932-02, § 1, 4-4-02)

Section 3-2307. Revocation or denial of occupational license.

In addition to the enforcement proceedings and penalties provided for in section 3-2306, failure to comply with the provisions of this division shall be considered just cause for denial of the issuance of an occupational license for the subject property, and for revocation of an existing occupational license pertaining to the subject property in accordance with the procedure set forth in this section. Prior to revocation or denial, the city manager or his/her designee shall issue a notice of revocation or denial notifying the residential rental licensee of the city's intent to revoke or deny. The notice shall be sent certified mail, return receipt requested, to the last known address for the residential rental licensee. Within ten calendar days from the date of mailing of said notice, the license shall be automatically denied, revoked or nonrenewable, unless the residential rental licensee files with the city clerk a written statement setting forth the grounds for an appeal. Upon the filing of such written statement, the city clerk shall notify the city manager, who shall schedule and conduct a hearing before the city manager or designee within 30 calendar days from the date the written statement was filed. The residential rental licensee shall be given written notice of the hearing by certified mail, return receipt re-

quested, and shall have an opportunity to present evidence, cross examine witnesses, and be represented by counsel. The city shall have the burden of proof by a preponderance of the evidence, and the city manager or designee's decision shall be based solely on the evidence presented at the hearing. Within ten calendar days of the hearing, the city manager or designee shall file with the city clerk's office and serve on the residential rental licensee a written decision containing findings of fact and conclusions of the legal basis for the decision. The decision shall become final unless, within 30 days of the date the city manager or designee files the decision with the city clerk, the residential rental licensee files a petition for writ of certiorari in the Circuit Court for Pinellas County. The filing of a pleading seeking judicial review shall automatically stay the revocation until judicial review has been exhausted unless the city obtains injunctive relief. Any residential rental licensee who has had an occupational license revoked or denied under this section or under Code of Ordinances Section 29.41 shall not be eligible to submit an initial or renewal application for license to conduct residential rental business on the subject property in the city until one year has expired from the date the license was revoked or denied by the city or, if an appeal is taken while the business continues in operation, until one year from the later of the date of the last decision or order affirming the revocation or denial or the date the business ceases operations in compliance with the decision or order.

(Ord. No. 6932-02, § 1, 4-4-02)

DIVISION 24. PUBLIC ART AND DESIGN PROGRAM

Section 3-2401. Public art and design program.

The City of Clearwater recognizes that providing for public art and enhancing the appearance of buildings and spaces provides benefits to the community by expanding the historical, cultural, and creative knowledge of citizens. In keeping with its concern for the arts and quality of its environment, not less of one percent of the total construction budget of each eligible city capital project shall be allocated as the city public art

contribution for the incorporation of public works of art. Further, eligible private development projects shall also allocate not less than one percent of the aggregate job value for on-site public art to enhance the visual appeal of the project and city. An in-lieu-of contribution to the city's public art and design program, as provided for herein, will also satisfy this requirement.

(Ord. No. 7489-05, § 1, 10-6-05)

Section 3-2402. Definitions.

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

Affordable housing means housing development, which is supported in whole or part with funds from the housing division of the city's economic development and housing department.

Aggregate job value means the total of all construction costs associated with a particular site plan project regardless of the number of permits associated with the project, or whether it is a phased project. Construction costs include all labor, structural materials, plumbing, electrical, mechanical, infrastructure, and site work.

Annual public art and design plan means an itemized and prioritized list of anticipated art projects including the objectives, design approach, budgets and scheduling for the upcoming year. The annual public art and design program shall be developed by the public art and design board in consultation with city staff and shall be presented to the city council for approval during its annual budget review process.

Artist or professional artist means a practicing fine artist, 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.

Artwork or works of art means tangible creations by artists exhibiting the highest quality of

skill and aesthetic principles and includes all forms of visual art conceived in any medium, material, or combination thereof, including paintings, sculptures, statues, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetic, functional furnishings such as artist designed seating and pavers, architectural elements designed by an artist, and artist designed landforms or landscape elements.

Eligible city capital improvement projects means projects included in the approved Clearwater Capital Improvement Program, commencing with the city's Fiscal Year 2006/07 budget, for any new facility construction or renovation projects equal to or greater than \$500,000.00 including but not limited to buildings, greenways, roads, parking facilities, bridges or other above-ground projects. Specifically excluded from this definition are street resurfacing, major drainage, wastewater, below-grade utilities, annual repair and replacement projects and any other project where the funding source is restricted from being used for the purchase of public art.

Publicly accessible means locations that are open to the general public during normal business hours and visible by the general public at all times.

Public art and design board means the entity appointed by the city council to establish policy and administer the public art and design program.

Public art and design master plan means a master plan established by the public art and design board in cooperation with city staff. This plan will establish criteria, policies, and priorities for the public art and design program. The public art and design master plan will be subject to city council approval.

Renovation projects means those projects requiring a city building permit where 50 percent or more of the building footprint is being modified, rebuilt or improved by construction.

Total construction budget means the final approved budget amount for all eligible city capital

improvement projects as submitted and approved by the city council in the city's annual capital improvement program budget.
(Ord. No. 7489-05, § 1, 10-6-05)

Section 3-2403. Public art and design funds.

1. The city shall maintain a separate accounting of monies received for the public art and design program which shall consist of the following:

- a. Allocations received from eligible city capital improvement projects;
- b. Allocations received from private development;
- c. All funds donated to the city for public art;
- d. Other funds allocated by the city through the budgetary process

2. Public art and design monies shall be used solely for expenses associated with the selection, commissioning, acquisition, installation, maintenance, administration, removal and insurance of the works of art or public education in relation thereto. Such funds shall be administered by the city. Custody of the public art and design funds shall at all times remain with the city and all city policies and procedures shall be strictly adhered to regarding the oversight of such funds.

3. Programming of public art and design expenditures shall be included in the annual capital budget of the city as recommended by the public art and design board or as may otherwise be approved by the city council.

4. Interest earned on funds for the public art and design program that was allocated from private development or donated from outside donors shall be deposited into the public art and design program accounts. Unless otherwise required by law, interest earned on funds received from or allocated by the city from capital improvement projects or other funds shall be returned to the original funding source (Penny for Pinellas, general fund, etc.). All funds shall be used only as permitted by law.

5. Ten percent of all non-restricted public art and design program funds which are applied to city-owned public art projects shall be deposited into a public art and design program maintenance account. The maintenance account shall be administered as a public art and design program fund as set forth herein.

(Ord. No. 7489-05, § 1, 10-6-05)

Section 3-2404. Appropriation of city capital improvement project (CIP) funds.

1. Commencing with City of Clearwater Fiscal Year 2006/07, all appropriations for eligible city capital improvement projects shall include a city public art contribution of not less than one percent of the total construction budget before the addition of the public art cost but not to exceed the sum of \$200,000.00 per project, subject to the city budgeting and appropriating such funds. If the funding source for the project is not legally permitted to be used for artwork or specifically prohibits the use of the monies for designed elements exposed to public view, then for the purpose of calculating the amount of the city public art contribution for the project only, the total construction budget shall be reduced by that portion of the funding so restricted.

2. All appropriations for public art will be used solely for public art and design.

3. Funds appropriated from the budget for one capital improvement project, but not deemed necessary or appropriate for that project, may be used for other areas in the city as prioritized by the public art and design master plan and as permitted by law and in accordance with restrictions on the original funding source.

4. The city council shall review and approve a public art and design master plan, and amendments thereto, to be prepared by city staff and the public art and design board, for the expenditure of funds appropriated and fees collected for public art. The annual public art and design program shall be developed by the public art and design board in consultation with city staff and shall be presented to the city council for approval during its annual budget review process.

(Ord. No. 7489-05, § 1, 10-6-05)

Section 3-2405. Public art and design allocations for private construction projects and developments.

1. All projects and developments, as listed below, which are submitted for building permits must allocate not less than one percent of the aggregate job value up to the sum of \$200,000.00 per project for the provision of public art.

- a. New construction of, or renovation projects related to commercial, industrial, mixed-use projects and developments, and residential projects and developments, any of which equal or exceed an aggregate job value of \$5,000,000.00. If renovations affect multiple structures on a project site, which may be permitted separately, the aggregate job value is based on the construction valuation of all permits for the site.

2. When a project is subject to the requirement of a public art allocation, the developer shall have two options:

- a. The developer may contract with a professional artist to create a permanent public artwork as part of the development project. Artworks must be located in publicly accessible locations. If desired, support will be available from both city staff and the public art and design board to assist in the selection of an artist. Before contracting with the artist, the property owner will submit for approval by the public art and design board the artist qualifications, the artist's proposal, a statement of how the project satisfies the parameters of the public art and design program, and a budget reflecting that the allocation of funds required by the program has been met. Such artwork may include amenities such as streetscapes, paving treatments, architecturally integrated water features as well as mosaics, murals, or sculpture, etc. The artwork must be completed or commissioned before a certificate of occupancy will be issued.
- b. In lieu of an on-site project, a developer may contribute .75 percent of the aggregate

job value to the city's public art and design program. This in lieu fee must be paid prior to the issuance of building permit.

3. Excluded from this requirement shall be:

- a. Projects with an aggregate job value under \$5,000,000.00.
- b. Residential developments of new construction for affordable housing.
- c. Eligible projects pending approval for a building permit that have submitted a complete application prior to October 1, 2006 provided that:
 - 1. The application is approved within six months of the date of application.
 - 2. Construction begins within six months of the issuance of such approval and is diligently pursued to completion.

(Ord. No. 7489-05, § 1, 10-6-05)

Section 3-2406. Ownership and maintenance.

1. Ownership of all works of art acquired on behalf of the city shall be vested in the city, which shall retain title to each work of art.

2. All contracts for artwork that will be acquired or accepted for ownership by the city must be reviewed and approved by the city's legal department.

3. Ownership of all works of art incorporated into private construction projects shall be vested in the property owner who shall retain title to each work of art. If the property is sold, the seller may either include restrictions in the deed that require maintenance of the artwork and prevent its removal from the property, transfer ownership of the artwork to the City of Clearwater to be maintained as a public artwork, or remove the artwork and make a contribution to the public art and design fund in an amount equal to .75 percent of the initial Aggregate Job Value. If the title is passed to a subsequent owner and, as a result, a deed restriction exists as to the artwork, the subsequent owner shall maintain the artwork in accordance with applicable law or other estab-

lished guidelines. The artwork cannot be altered, modified, relocated or removed other than as provided herein without the prior approval of the public art and design board.

4. Property owners will be required to maintain the work of art in good condition in the approved location, as required by law or other applicable guidelines including but not limited to normal code enforcement rules, to ensure that proper maintenance is provided.

5. The owner may request that the artwork be removed from the site due to hardship with the approval of the public art and design board. In addition, in the event there is a condition that occurs outside the reasonable control of the owner such as an Act of God, then this provision may be implemented with the approval of the board.
(Ord. No. 7489-05, § 1, 10-6-05)

