

ORDINANCE NO. 2024-006

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA, CREATING ARTICLE 185 OF THE UNIFIED LAND DEVELOPMENT REGULATIONS ("ULDR") ENTITLED "PUBLIC ART PROGRAM," CREATING PUBLIC ART PROGRAM REQUIREMENTS FOR NEW DEVELOPMENT AND REDEVELOPMENT IN NON-RESIDENTIAL, MIXED-USE, AND MULTI-FAMILY ZONING DISTRICTS; PROVIDING FOR GENERAL PROVISIONS FOR PUBLIC ART PUBLIC ORGANIZATION, OPERATION AND IMPLEMENTATION; PROVIDING FOR A PUBLIC ART FEE FOR THE CREATION, ACQUISITION AND INSTALLATION OF PUBLIC ART IN THE CITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provide municipalities the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

**WHEREAS**, Article 5. "General Provisions" of the ULDR provides that the City of Wilton Manors will maintain land development regulations and zoning regulations to implement the City's Comprehensive Plan; and

**WHEREAS**, the City Commission of the City of Wilton Manors ("City Commission") finds it periodically necessary to amend its Code of Ordinances and Land Development Regulations ("Regulations") in order to update regulations and procedures to implement municipal goals and objectives; and

**WHEREAS**, various local governments throughout Florida have implemented public art programs committing to the placement of public art in urban environments; and

**WHEREAS**, the City Commission recognizes that a superior and diverse aesthetic character of a city's built environment is vital to the quality of the life of its citizens and to the economic success of its businesses, creates an attraction for visitors, and will assist the City to fulfill its mission to make Wilton Manors one of the premier cities in Florida in which to live, work, visit, and raise a family; and

**WHEREAS**, a public art program would contribute to the aesthetic character of the built environment and the cultural enrichment of the community; and

**WHEREAS**, a public art program would create a stimulating cultural environment that reflects and enhances the City's heritage, diversity, and character through public artworks integrated in the architecture, infrastructure and landscape; and

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

3       **WHEREAS**, in *Metromedia, Inc. v. San Diego*, 453 U.S. 490 (1980), the U.S. Supreme  
4 Court previously held that land development regulations which require development to meet  
5 aesthetic conditions have been generally found to be supported by a legitimate public purpose; and

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

9       **WHEREAS**, the City Commission desires to establish Article 185, entitled "Public Art  
10 Program" to enhance the quality of life through artistic opportunities and to create a cultural legacy  
11 for future generations through the collection and exhibition of high-quality art pieces that reflect  
12 diverse styles, chronicling history through the collection of artifacts, documents and memorabilia  
13 that will acknowledge the past and create programs and activities that will further these goals; and

14       **WHEREAS**, the Public Art requirements found in this Article are design standards based  
15 on the aesthetic needs of the community and are not intended to be either an impact fee or a tax;  
16 and

17       **WHEREAS**, City staff recommends approval of the proposed changes; and

18       **WHEREAS**, the Planning and Zoning Board, sitting as the City's Local Planning Agency,  
19 has reviewed this Ordinance, and has determined that it is consistent with the City's  
20 Comprehensive Plan; and

21       **WHEREAS**, pursuant to Section 166.041 (3)(a), Florida Statutes, notice has been given  
22 by publication in a paper of general circulation in the City, notifying the public of this proposed  
23 Ordinance and of the time and dates of the public hearing; and

24       **WHEREAS**, one (1) public hearing was held before the City Commission pursuant to the  
25 published notice described above; and

26       **WHEREAS**, the City Commission finds that adoption of this Ordinance through its police  
27 powers will protect the public health, safety, and welfare of the residents of the City, and furthers  
28 the purpose, goals, objectives, and policies of the City's Comprehensive Development Plan;

29       **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
30 **CITY OF WILTON MANORS, FLORIDA:**

31       **Section 1.** The foregoing "WHEREAS" clauses are hereby ratified as being true and  
32 correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** That Article 185, entitled "Public Art Program" of "Unified Land Development Regulations" of the City Code of Ordinances is created to read as follows:

**ARTICLE 185. - Public Art Program**

**Sec. 185-10. - Intent and purpose.**

(a) This article shall be known and cited as the "Public Art Program."

(b) It is the intent and purpose of the Article to further the commitment of the City of Wilton Manors to the aesthetic enrichment of the community through the creation and display of works of art and artifacts so that citizens and visitors to the City of Wilton Manors are afforded an opportunity to enjoy and appreciate works of art. The requirements of this Article shall be construed to promote the aesthetic values of the entire community and to encourage the preservation and protection of works of art. The public art requirements found in this Article are development standards based upon the aesthetic needs of the community and are not intended to be either an impact fee or a tax.

(c) It is the intent and purpose of this Article to promote the general welfare by encouraging pride in the community, increasing property values, enhancing the quality of life through artistic opportunities, uniting the community through shared cultural experiences, and creating a cultural and historical legacy for future generations through the collection and exhibition of high-quality art that reflects diverse styles, chronicling history through the collection of artifacts, documents and memorabilia that will acknowledge the past and create programs and activities that will further these goals.

**Sec. 185-20. - Definitions.**

For the purposes of this section, the following words and phrases shall have the following meanings:

Artist shall mean 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 an artist include, but are not limited to, income realized through the sole commission of art, frequent or consistent art exhibitions, placement of art in public institutions or museums, receipt of honors and awards, and training in the arts.

Art shall mean tangible creations by artists exhibiting the highest quality of skill and aesthetic principles and includes all forms of the visual arts conceived in any medium, material, or combination thereof, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, stained glass, mosaics, mobiles, tapestries, murals, photographs, video projections, digital images, bas-relief, high relief, fountains, kinetics, collages, drawings, monuments erected to commemorate a person or an event, functional furnishings, such as artist designed seating, lighting, and clocks. The following shall not be considered as art for purposes of this Article:

1 (a) Reproductions or unlimited copies of original art.

2 (b) Art objects which are mass produced.

3 (c) Works that are decorative, ornamental, or functional elements of the architecture or  
4 landscape design, except when commissioned from an artist as an integral aspect of a structure  
5 or site.

6 Building shall mean any structure that encloses space and is used or built for the shelter or  
7 enclosure of persons, businesses, or property.

8 Development project shall mean any development, including remodeling, construction, or  
9 redevelopment, which requires a building permit or permits as described on the precise plan  
10 submitted for approval to the City. For purposes of this Article, development projects shall also  
11 include all new construction and tenant improvements for commercial, industrial, multi-family,  
12 institutional and mixed-use development.

13 Durable shall mean lasting, enduring and highly resistant to deterioration due to weather or the  
14 passage of time.

15 Developer shall mean the owner, including its successor and assigns, of the subject development  
16 project.

17 Project cost shall mean the total cost of the improvements, excluding land costs, approved for a  
18 development project, as approved for the building permit(s) for the subject improvements.

19 Public Art Board ("PAB"), or other body as approved by the City Commission, shall mean an  
20 entity appointed by the City Commission to help administer the Public Art Program and make  
21 recommendations to the City Commission regarding acquisition of public art to fulfill the  
22 requirements of this Article.

23 Public art fund ("the fund") shall mean a separate, interest bearing set of accounts set up by the  
24 City to receive monies for the Public Art Program.

25 Public Art Program guidelines shall mean a set of standards, criteria and policies related to the  
26 acquisition and installation of public art as defined in the public art master plan, and which shall  
27 be adopted by the City Commission The guidelines shall govern the standards and process by  
28 which the City Commission shall approve the acquisition and installation of public art to fulfill the  
29 requirements of this Article.

30 Public art master plan shall mean a plan adopted by the City Commission, which shall identify  
31 locations for public art and establish a priority order to the City Commission, and which shall be  
32 amended from time to time, to ensure a coherent program for acquisition of public art, and program  
33 implementation guidelines.

Public place shall mean any exterior area on public or private property within the City which is easily accessible or clearly visible to the general public from adjacent public property such as a street or other public thoroughfare or sidewalk.

Sec. 185-30. -Master Art Plan and implementation guidelines.

(a) The City Commission shall adopt a public art master plan and program guidelines. The public art master plan and program guidelines shall be adopted by resolution of the City Commission. Amendments to the public art master plan and program guidelines shall be reviewed and adopted in the same manner as the initial public art master plan and program guidelines.

(b) The City Commission shall make final decisions for all public art acquisitions in accordance with this Article and the public art master plan and implementation guidelines. The City Commission shall oversee the public education, and curatorial aspects of the program. The City Commission shall have authorization for each acquisition.

Sec. 185-40. - Art and artist selection criteria; public art program guidelines.

The City Commission shall establish procedures and selection criteria for selection and acquisition of art to be purchased from the resources of the public art fund in accordance with the criteria and standards set forth in the adopted Public Art Program guidelines, as may be amended from time to time. The City Manager and City Attorney will negotiate and execute appropriate contracts necessary for the acquisition of public art. Funds may be aggregated to acquire public art.

Sec. 185-50. - Application procedures for placement of art on private property.

An application for placement of art on private property shall be submitted to the Community Development Services Director or designee and shall include:

(a) Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed art;

(b) An appraisal or other evidence of the value of the proposed art including acquisition and installation costs (to establish the value of art submitted to comply with this program's requirements, the City may contract with an independent art appraiser to provide a written appraisal of the art. Such appraisal shall either be funded from the public art fund or by the developer as part of the overall art contribution);

(c) Preliminary plans containing such detailed information as may be required by the City to adequately evaluate the location of the art and its compatibility with the proposed development project and/or with the character of adjacent developed parcels and the existing neighborhood;

(d) A narrative statement to be submitted to the City to demonstrate that the art will be displayed in a public place; and



(e) A statement indicating the property owner's willingness to maintain the art in compliance with all applicable City Codes.

Sec. 185-60. - Applicability.

(a) All development projects, as defined in Section 185-20 of this Article.

(b) The City Commission hereby exempts the following from the Public Art Program:

(1) New or remodeled single-family dwelling units and duplexes;

(2) The project consists of the development, redevelopment, reconstruction, or remodeling under \$750,000.00;

(3) The project consists of the reconstruction, remodeling, or repairs of structures which have been damaged due to fire, flood, wind, or other natural disaster;

(4) Non-profit organizations;

(5) Religious institutions and places of worship;

(6) Governmental entities;

(7) Existing applications for placement of art on private property prior to the enactment of this ordinance;

Sec. 185-70. - Building permits.

(a) Prior to issuance of the first building permit, the applicant or developer for projects subject to this Article shall be required to comply with one of the following:

(1) *In-Lieu Public Art Fee.* Pay zero point five percent (0.5%) of the cost of the proposed development project, as an "in lieu" public art fee, with a maximum payment of \$100,000; or

(2) *Combination of In-Lieu Public Art Fee and Placement of Art on Site.* Placement of art on the site of the development project, which shall have a minimum value of one-quarter of one percent (0.25%) of the cost of the proposed development project combined along with a one-quarter of one percent (0.25%) payment of an "in-lieu" public art fee, with a maximum payment of \$50,000. The owner shall provide documentation to the City that the art fee has been deposited into an escrow account for said purpose prior to the issuance of the first building permit. Prior to placement on the development site, the art must be approved by the Community Development Services Director or designee and conform to the adopted public art guidelines.

(i) If the art is to be placed on site, the owner shall obtain approval of the proposed placement of art from the Community Development Services Director or designee, unless the Community Development Services Director or designee grants an extension for good cause as determined in their sole discretion, prior to issuance of

1 the building permit. If no such approval is obtained within the time period, the City  
2 shall require transfer of required art fee funds to the fund.

3 (ii) The owner shall install the art, as approved by the Community Development  
4 Services Director or designee in accordance with adopted public art program  
5 guidelines, prior to issuance of the certificate of occupancy. If no installation occurs  
6 within the required time period, art fee funds shall be transferred from the City  
7 escrow account to the fund.

8 Sec. 185-80. - Certificates of occupancy.

9 No final approval, such as a final inspection, temporary certificate of occupancy, or a certificate  
10 of occupancy, for any development project subject to the City's Public Art Program pursuant to  
11 Section 185-70, shall be issued unless one (1) or more of the following has been achieved:

12 (a) The approved art has been installed in a manner satisfactory to the Community  
13 Development Services Director or designee in compliance with this Article.

14 (b) In-lieu art fees have been paid.

15 (c) Financial security, in an amount equal to the acquisition and installation costs of an  
16 approved art selection, has been provided to the City in a form approved by the City Attorney  
17 and the Community Development Services Director.

18 Sec. 185-90. - Creation of public art fund.

19 There is hereby created within the City a set of accounts to be known as the City of Wilton Manors  
20 Public Art Fund (hereinafter the "fund"). This fund shall be maintained by the City and shall be  
21 used solely for the acquisition, installation, improvement, maintenance and insurance of art as  
22 follows:

23 (a) All funds received by the City pursuant to Public Art Program or from endowments or gifts  
24 to the City designated for the arts shall be placed in the fund. All funds shall be deposited,  
25 invested, accounted for and expended as follows:

26 (1) All money received shall be deposited in the fund in a manner to avoid any  
27 commingling with other revenues of the City and all funds shall be expended solely for the  
28 purposes for which they were collected. Any interest income earned by the money in the  
29 fund shall be expended only for the purpose for which the money was originally collected.

30 (2) The fund shall be used solely for expenses associated with the selection,  
31 commissioning, acquisition, transportation, maintenance, public appraisal, education,  
32 promotion, administration, removal, repair, and insurance of the art.

33 (3) The City may contribute general funds to the fund. The amount of the contribution  
34 shall be at the City Commission's discretion as provided for in the budget.

1 Sec. 185-100. - Art provided in lieu of a public art fee.

2 Art that is placed on private property in lieu of a public art fee must qualify as art under this Article  
3 and the public art master plan and public art guidelines, as may be amended from time to time.  
4 Public art shall be operated and maintained at all times in substantial conformity with this Article,  
5 the public art master plan and public art guidelines, and the terms of the approval of the art by the  
6 Community Development Services Director or designee, in accordance with Section 185-70(2).

7 Sec. 185-110. - Ownership of art.

8 (a) Ownership of all art acquired on behalf of the City pursuant to the requirements of this  
9 Article shall be vested in the City, which shall retain title to each work of art.

10 (b) All works of art acquired on behalf of the City pursuant to the requirements of this Article  
11 shall be donated and title shall be transferred pursuant to a standard City public art contract  
12 reviewed and approved as to form by the City Attorney.

13 (c) Ownership of all art incorporated into development projects shall be vested in the property  
14 owner who shall retain title to the art. Property owners retaining title to the subject art shall  
15 provide proof of insurance in the amount of the appraised value of the art. If the property is  
16 sold, the seller shall either include restrictions in the deed that require maintenance and  
17 insurance of the art and prevent its removal from the property, or remove the art and make a  
18 contribution to the fund in an amount equal to the amount of the in-lieu public art fee which  
19 would have initially been required based on the project cost within 30 days of transfer of  
20 property title. If the title is passed to a subsequent owner and, as a result, a deed restriction  
21 exists as to the art, the subsequent owner shall maintain the art in accordance with the deed  
22 restriction, applicable law and other established guidelines. The art shall not be altered,  
23 modified, relocated or removed other than as provided herein without the prior approval of the  
24 City Commission.

25 (d) Property owners retaining title to the subject art will be required to maintain the art in good  
26 condition in the approved location, as required by law or other applicable guidelines including  
27 but not limited to normal code enforcement rules, to ensure that proper maintenance is  
28 provided.

29 Sec. 185-120. – Enforcement.; fines for violations.

30 There is hereby established the following schedule of fines for violations of this Article:

31 First offense .....\$250.00

32 Second or greater offense .....\$500.00

33 However, if the Code Compliance Special Magistrate finds the violation to be irreparable or  
34 irreversible in nature, it may impose a fine not to exceed five thousand dollars (\$5,000.00) per  
35 violation.



1 In addition to the fines provided for herein, the Community Development Services Director may  
2 use any administrative remedy available for enforcement of this Article.

3 Sec. 185-130. - Effective Date.

4 All provisions of this Ordinance will be in effect upon final adoption of this Ordinance. All  
5 completed and submitted building permit applications for development projects that have been  
6 accepted by the Community Development Department within 45 days of the final adoption of this  
7 Ordinance will be exempt from the requirements of this Ordinance.

8 **Section 3: Codification.** It is the intention of the City Commission of the City  
9 of Wilton Manors, and it is hereby ordained that the provisions of this Ordinance shall become and  
10 be made a part of the Code and Ordinances of the City of Wilton Manors, Florida, and that Sections  
11 of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to  
12 "Section," "Article," or such other word or phrase in order to accomplish such intention.

13 **Section 4: Severability.** If any clause, section, or other part of this Ordinance  
14 shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such  
15 unconstitutional or invalid part shall be considered as eliminated and in no way affecting the  
16 validity of the other provisions of this Ordinance.

17 **Section 5: Conflicts.** That all Ordinances or parts of Ordinances, Resolutions, or  
18 parts of Resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

19 **Section 6. Effective Date.** That this Ordinance shall take effect immediately  
20 upon passage and adoption.

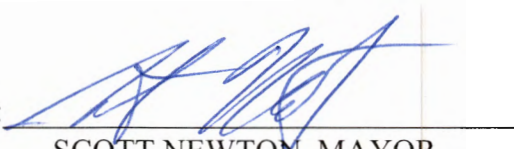
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22 **[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**  
23

1 PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF  
2 WILTON MANORS, FLORIDA, THIS 23<sup>rd</sup> DAY OF JULY, 2024.

3  
4 PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY  
5 COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS 27<sup>th</sup> DAY OF  
6 August, 2024.

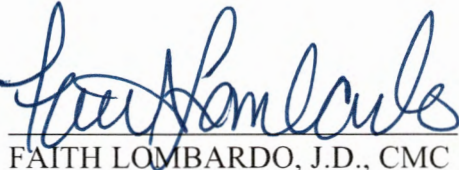
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8 CITY OF WILTON MANORS, FLORIDA

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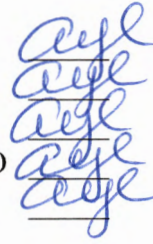
12   
13 SCOTT NEWTON, MAYOR

14 ATTEST:

RECORD OF COMMISSION VOTE: 1<sup>ST</sup> Reading

15  
16   
17  
18 FAITH LOMBARDO, J.D., CMC  
19 CITY CLERK

20 MAYOR NEWTON  
21 VICE MAYOR BRACCHI  
22 COMMISSIONER CAPUTO  
COMMISSIONER D'ARMINIO  
COMMISSIONER ROLLI

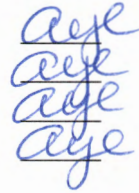


23 I HEREBY CERTIFY that I have  
24 approved the form of this Ordinance.

RECORD OF COMMISSION VOTE: 2<sup>ND</sup>  
Reading

25  
26 /s/ Kerry L. Ezrol  
27 KERRY L. EZROL, ESQ.  
28 CITY ATTORNEY

29 MAYOR NEWTON  
30 VICE MAYOR BRACCHI  
31 COMMISSIONER CAPUTO  
COMMISSIONER D'ARMINIO  
COMMISSIONER ROLLI





City of Wilton Manors  
Business Impact Estimate

*Note: The business impact estimate must be posted on the City's website no later than the date the notice of proposed enactment is published per Section 166.041(4) Florida Statutes. This business impact estimate may be revised following its initial posting.*

***Ordinance title/reference:***

Creation of Article 185 of the City of Wilton Manors Unified Land Development Regulations entitled "Public Art Policy".

**Does any of the following exceptions to the Business Impact Estimate requirement apply? If so, check the applicable box and leave the remainder of the form blank.**

- ☐ The ordinance is required for compliance with federal or state law or regulation;
- ☐ The ordinance relates to the issuance or refinancing of debt;
- ☐ The ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The ordinance is required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by the County;
- ☐ The ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
  - b. Sections 190.005 and 190.046, regarding community development districts;
  - c. Section 553.73, relating to the Florida Building Code; or
  - d. Section 633.202, relating to the Florida Fire Prevention Code.

Business Impact:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):
2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Wilton Manors (each is required):
  - 2.1 An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted
  - 2.2 Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible
  - 2.3 An estimate of the City's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:
3. A good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
4. Additional information (if any):