

ORDINANCE 2021-9

AN ORDINANCE TO AMEND CHAPTER 23, SMART CODE ZONING, OF THE CODE OF ORDINANCES, GERMANTOWN, TENNESSEE RELATED TO PUBLIC ART (“PERCENT FOR ART”)

WHEREAS, a proposed Ordinance (2021-9) to amend Chapter 23, Zoning, of the Code of Ordinances, Germantown, Tennessee, has been submitted to the Germantown Planning Commission; and

WHEREAS, the Planning Commission on May 4, 2021, recommended the adoption of said Ordinance to the Board of Mayor and Aldermen; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF GERMANTOWN that Chapter 23 of the Zoning Ordinance be amended as follows:

(UNDERLINED text refers to amendments to Chapter 23 Article VII of the ordinance.)

CHAPTER 23

ARTICLE VII. - SMART GROWTH ZONING DISTRICTS (SMART CODE)

SEC. 23-797. - Public art ("percent for art").

(a) *Applicability.*

- (1) In the T5 and T6 zones, all private development is required to commit 0.5% of its threshold value to public art, not to exceed \$200,000.00. Façade improvements and interior renovations are exempt from this requirement. An in-lieu of fee may be paid to the City of Germantown valued at 0.45% of the development's threshold value, not to exceed \$200,000.00, in support of other public artwork throughout the city.
- (2) Threshold value is the sum of all construction costs shown on all building permits associated with the project, including site preparation. For alterations to existing development, the threshold value is the sum of all construction cost as defined above plus the value of existing improvements to the property, as listed in the county assessor's records.
- (3) Per section 2-295.4, the Public Arts Commission shall make recommendations regarding the use of public art where public art is a required component of the private development process.
- (4) To ensure compliance with Sec. 23-797(c), works of art proposed at the development site shall require the review and approval of the Public Arts Commission.
- (5) Appeals of review decisions made by the Public Art Commission pertaining to works of art at the development site shall be made to the Board of Mayor and Aldermen.

(b) *Requirements.* Public art must meet the following requirements:

- (1) Works of art must be placed on the outside of the building or at a location clearly visible and freely accessible to the public. Public art shall be installed either on the

development site or on public property, including but not limited to parks, medians, and civic spaces.

- (2) The public art may not also be used to satisfy other requirements of city, state, or federal law.
- (3) The contract between the city and the developer shall ensure the installation, preservation, maintenance, and replacement, if necessary, of any qualifying public art installed as part of the development.

(c) Definition.

Public Art means, for the purposes of this section, a work of art that is visible and accessible to the public for a minimum of 40 hours per week and may include sculpture, painting, installations, photography, video, works of light or sound, or any other work or project determined by the Public Arts Commission.

None of the following shall be considered public art for the purposes of this chapter and therefore, will not satisfy the intended purposes of the above requirements.

- (1) Objects that are mass produced or standard design, such as banners, signs, playground equipment, benches, statuary, street or sidewalk barriers, or fountains;
- (2) Reproduction, by mechanical or other means, of original works of art, except as incorporated into film, video, photography, printmaking or other derivative works as approved by the Public Arts Commission;
- (3) Decorative, architectural, or functional elements that are designed by the building architect or landscape architect as opposed to an artist commissioned for this purpose; or
- (4) Landscape architecture or gardening, except where these elements are designed by an artist and are an integral part of a work of art.

(Ord. No. 2013-13, § 1, 11-11-13; Ord. No. 2015-05, § 1(Att.), 4-27-15)

NOW THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen that this Ordinance shall become effective upon its passage by the Board of Mayor and Aldermen of the City of Germantown, Tennessee, and the public welfare demanding it.

First Reading: May 24, 2021

Second Reading: June 28, 2021

Third Reading: July 12, 2021

Mike Palazzolo, Mayor

Michele Betty, City Clerk/Recorder