



## Legislation Text

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**File #:** 2020-18, **Version:** 2

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### MOTION TO PASS PROPOSED ORDINANCE 2020-18 ON SECOND AND FINAL READING.

PROPOSED ORDINANCE 2020-18 IS AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA, AMENDING CHAPTER 32 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "DEPARTMENTS BOARDS, AND COMMISSIONS;" SPECIFICALLY CREATING SECTION 32.180 - 32.183; PROVIDING FOR THE ESTABLISHMENT OF A PUBLIC ART COMMITTEE; PROVIDING FOR COMPOSITION; PROVIDING FOR MEETINGS; PROVIDING FOR DUTIES AND RESPONSIBILITIES; AMENDING CHAPTER 97 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "PARKS AND RECREATION;" ESTABLISHING A PUBLIC ART PROGRAM FOR THE CITY OF PEMBROKE PINES; CREATING SECTIONS 97.40 - 97.45; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROJECTS SUBJECT TO PUBLIC ART PROGRAM REQUIREMENTS; PROVIDING FOR A PUBLIC ART MASTER PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

### SUMMARY EXPLANATION AND BACKGROUND

1. Pembroke Pines has a robust Cultural Arts Program. The Frank Art Gallery showcases multi-disciplinary inclusive exhibitions and a variety of arts education programs, Studio 18 attracts beginning and emerging artists to become part of an arts community that offers workshops, lectures, cultural programming and exhibitions. The River of Grass Theatre is home to PPTOPA (Pembroke Pines Theatre of the Performing Arts) who was named "Best Community Theatre in the United States" by Broadway World Magazine. The Recreation and Cultural Arts Department also provides weekly art, music and drama classes. In addition to the cultural facilities, the City also offers events such as the Annual Artfest in the Pines, the Annual Art Competition, Children's Holiday in the Pines, the Summer Symphony Series and Storywalk in the Pines. Temporarily, the COVID-19 pandemic has shifted the Cultural Division's yearly programming and events to a virtual platform. Currently being offered are virtual exhibitions, lectures and workshops in addition to virtual art classes for students ages 8 -17.
2. One of the components missing from the Department's Cultural offerings is a defined Public Art Program. Over the past few years, Pembroke Pines has invested in Public Art with pieces such as the 9/11 Memorial Sculptures, the Gateway piece at City Center, several murals and traffic box wraps. While these examples are Public Art, the department is looking for guidelines and structure to further expand Public Art offerings to our residents.
3. On December 5, 2018 Department Director Sorensen presented a white paper titled "The Future of Public Art" (See Exhibit 2) which described various types of Public Art Programs and ways these

programs are funded. The paper also included a recommendation from staff to develop an ordinance that included funding the Public Art Program with two funding sources, Fixed and Variable Costs. Fixed costs would be funded through the City Budget, typically personnel, minor operating costs and the development of a Public Art Master Plan every five years. Funding of the variable costs would come from a percent for Art Program whereby all development, redevelopment, renovation and repair of public, residential and private development projects in Pembroke Pines would pay a 0.25% fee on the value of the project. Variable costs can include artist fees, project management, marketing, maintenance assessment and annual maintenance. Staff also recommended the establishment of a separate Public Art Committee to assist with the development of the Public Art Master Plan and the selection of Public Art pieces per the guidelines provided in the Public Art Master Plan.

4. At the December 5, 2018 the Commission directed the City Attorney to begin working with the department to draft a proposed ordinance with the department recommendations. Prior to finalizing a draft ordinance, in July of 2019, Florida House Bill #127 passed which amended the enforcement of the Florida Building Code and collection of permit fees. The Florida Legislature stated that enforcement of any fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. Therefore, any fees for programs not related to the Florida Building Code were not enforceable. This was verified by the City Attorney's Office. This ruled out the Department recommendation for a "Percent for Art" Funding Program as fees collected through the permit process could not be enforced. The Department had to go back and figure out alternative ways to fund Public Art. In early 2020, the COVID-19 Pandemic halted this research.

5. After analyzing the variations of Public Art Program Funding Sources, the Department is recommending funding the Public Program annually through the budget process. An appropriation of \$150,000 for Public Art was proposed for the FY 21 budget. The budget was adopted by Commission.

6. The City Commission at its February 3, 2021 meeting passed this item on first reading.

7. Below are the changes that have been made to the Public Art Ordinance since First Reading.

8. Section 32.181(a) was updated to reflect a recommendation of the Arts & Culture Advisory Board to have a representative from the Arts & Culture Advisory Board serve as a member on the Public Art Committee. Adding this member caused the number of members to be an even number so the alternates were removed and the number of individuals in category one was increased from two to three bringing the total number of members to seven. Additional language was also added to better define a professional artist and refer specifically to a resident for item number 3.

#### Sec. 32.181 Composition

(a) Notwithstanding Section 32.002 through Section 32.004, the Public Art Committee consists of ~~five~~ seven (~~75~~) regular members ~~and two (2) alternates~~, who live or conduct business in the city, with a strong commitment to the objectives of the public art program, who unless otherwise stated shall be appointed by the city manager, or his/her designee. Membership of the public art committee may include:

1. ~~Two~~ Three (~~32~~) individuals chosen from the following disciplines: landscape architecture, urban planning, engineering, or a related design discipline;

2. One (1) professional artist, whose primary source of income is through the sale of original art or art instruction;
3. One (1) ~~private citizen~~ resident, knowledgeable in the field of public art, education, or community affairs; and
4. One (1) private citizen from the development community.
5. One (1) member of the Arts and Culture Board selected by a majority of the Arts and Culture Board.

9. Section 32.182 (c) was updated to reflect the quorum number required as a result of the changes to the board membership from five to seven members.

Sec. 32.182      Meetings

- (c) ~~Three (3)~~ Four (4) members of the Public Art Committee shall constitute a quorum

10. Section 32.183 was updated to remove item #1 from the duties and responsibilities. The language in item #1 referred to the public art guidelines. The guidelines are a part of the Public Art Master Plan which is referenced in the second bullet.

Sec. 32.183      Duties and Responsibilities

The public art committee shall have the following powers and duties:

- (1) ~~Recommendations to the City Manager through the Department Director or Liaison, on revisions to the public art guidelines.~~
- (2) (1) Recommendations to the City Manager through the Department Director or Liaison, on revisions to the public art master plan, as set forth in Section 97.45.
- (3) (2) Recommendations to the City Manager through the Department Director or Liaison, on art and artist selection.

11. Section 32.184 was updated to include stronger language regarding committee members deriving financial gain.

Sec. 32.184      Conflicts of Interest Prohibited

No member of the Public Art Committee shall have his/her work of art considered or approved by the Public Art committee during their term of service on the committee or for one (1) year thereafter; nor shall any member of the Public Art Committee derive a financial gain as a result of their service on the committee during their term of service or for one (1) year thereafter.

12. Section 97.42(c) was updated to specifically include the Arts & Culture Advisory Board as a body with input on the development of the Public Art Master Plan.

Sec. 97.42. - Public Art Program Master Plan.

- (c) The plan shall be developed with input from stakeholders including, but not limited to, the Arts and Culture Advisory Board and the Public Art Committee and adopted by the commission.

13. During the discussion on first reading, the City Commission made several comments and suggestions. Below is some feedback on the comments for Commission consideration of the item on Second Reading.

(A) Commission requested input on the proposed ordinance from the Arts & Culture Advisory Board.

On February 9, 2021, the Arts & Culture Advisory Board convened. One of the items on their agenda was a staff presentation and discussion on the Public Art Ordinance. The Board approved a recommendation that one of the members of the Public Art Committee be a member of the Arts & Culture Advisory Board and the selection would be made by the members of the Arts & Culture Advisory Board. This recommendation was incorporated into the ordinance for second reading in Section 32.181 Composition.

(B) Commission requested additional language regarding conflict of interest to include prohibiting compensation.

Section 32.184 has been updated to prohibit Public Art Committee members from deriving a financial gain as a result of being on the committee.

(C) Under Section 32.181(a) Composition, the Commission questioned the term "private citizen" and whether this meant resident.

The first paragraph in Section 32.181(a) states that the Public Art Committee shall consist of seven regular members "who live or conduct business in the city". Therefore the residents are included in the composition of committee. Item number 3 under this section was changed from private citizen to resident to specifically refer to a resident.

(D) Commission questioned the similarities of the duties and responsibilities of the two boards, Arts & Culture Advisory Board and Public Art Committee, and questioned the input of the Arts & Culture Advisory Board in the selection of Public Art.

The duties and responsibilities of the Arts & Culture Advisory Board and the Public Art Committee are very different.

Below are the duties and responsibilities of the Arts & Culture Advisory Board according to Chapter 32.131 - Duties

The duties of the Arts and Culture Advisory Board shall include but not be limited to the following:

- (A) Identify artistic and cultural opportunities in the city and county.
- (B) Seek out artists and performers to exhibit or perform for the citizens residents and visitors of the city.
- (C) Assist and advise the City Commission in an effort to address the cultural needs of the city.
- (D) Develop opportunities and recommend initiatives in cooperation with the city for artisans to provide exposure to their craft.
- (E) Assist in the development of long range strategic plans to establish comprehensive vision of the city's cultural initiatives;
- (F) Assist and advise in development efforts including grant administration and other fund raising

All of these duties and responsibilities encompass more than just Public Art. The Arts & Culture Advisory Board is responsible for bringing ideas, opportunities, and recommendations to enhance the cultural arts in Pembroke Pines. These ideas can be art, music, events, performances, fundraising, budget recommendations, etc. The Board as a body does not get involved in any final artist or art selections nor do they get involved in the detailed planning of events or the budget process. These decisions are left to the City's professional cultural staff. The City liaison advises the Board on everything happening in the division and tasks the Board with bringing suggestions when needed. For example the Board made the suggestion to wrap the traffic boxes with the theme "Happiest City" and City staff carried out the suggestion. The Arts & Culture Advisory Board is also tasked with assisting in the development of long range strategic plans. The Public Art Master Plan is a long range strategic plan therefore the Arts & Cultural Advisory Board will be involved. Section 97.42(c) of the proposed ordinance was updated to specifically call out the Arts & Culture Advisory Board as providing input on the Public Art Master Plan.

The Public Art Committee will assist staff with the technical aspect of Public Art. Their duties are limited to recommendations on revisions to the Public Art Master Plan and recommendations on art and artist selection.

Below is an example to try and illustrate the difference between the two membership groups.

Once the City has a Public Art Master Plan that is created with input from residents, staff, Commissioners, stakeholders, the Arts & Culture Advisory Board, the Public Art Committee and is adopted by Commission, the Cultural Division will have a long range roadmap and guidelines for public art projects in Pembroke Pines. When staff is getting ready to start one of the projects, the staff liaison will bring the item to the Arts & Culture Advisory Board for their input and recommendations. The next step will be a Call to Artists. Depending on the value of the project, the Call to Artists may require compliance with the City's competitive procurement process. The Call to Artists will result in proposals from artists to include their qualifications and references in completing similar projects. Staff will convene the Public Art Committee to assist with selecting the most qualified artist to complete the project. Once the artist is selected and the procurement process is complete, staff will begin working with the artist to develop sketches or renderings of the project.

Staff will provide the sketches or renderings to the Public Art Committee for consideration of materials, construction, and provide feedback on maintenance requirements if any. If the Public Art Committee approves the proposed sketch, rendering, or design, the product will be brought before the Arts & Culture Advisory Board for their input prior to final notice to proceed is given to the artist. In the example above, the Arts & Culture Advisory Board is providing input to City staff on the project whereas the Public Art Committee is assisting the City's professional staff with the selection of artists and the approval of the art in accordance with the Public Art Master Plan Guidelines.

14. Recommend Commission approve revised ordinance 2020-18 on second and final reading.

**FINANCIAL IMPACT DETAIL:**

- a) Initial Cost:** \$30,000 for the Public Art Master Plan
- b) Amount budgeted for this item in Account No:** \$30,000 in 001-572-7001-531500
- c) Source of funding for difference, if not fully budgeted:** Not Applicable
- d) 5 year projection of the operational cost of the project:** The Recreation and Cultural Arts budget for FY 21 includes a Public Art budget of \$150,000. The plans for these funds are as follows:

1. 30 traffic boxes (design and wrap)	\$35,000
2. Three murals	\$30,000
3. Two Community Engaging Projects	\$20,000
4. One up to 10' Sculpture	\$50,000
5. Maintenance	\$15,000

The completion of the Public Art Master Plan will provide long term goals and recommended future budgets for the Public Art Program.

- e) Detail of additional staff requirements:** None