

Legistar #

170526

ORDINANCE NO: 170526

An ordinance of the City of Gainesville, Florida, amending Sections 2-281 through 2-285, related to the Gainesville-Alachua County Cultural Affairs Board to align with changes made by Alachua County regarding the local arts agency; amending Sections 5.5-2 through 5.5-5, related to Art in Public Places Trust to align with changes made by Alachua County regarding the local arts agency; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Sections 2-281 through 2-285 are amended to read as follows:

ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 3. ~~GAINESVILLE-ALACHUA COUNTY~~ CULTURAL AFFAIRS BOARD

Sec. 2-281. - Created.

The Gainesville Ceultural Affairs Board is hereby created.

Sec. 2-282. - Composition; appointment, term of members; filling of vacancies.

The Gainesville Ceultural Affairs Board shall be composed of ten (10)5 persons, ~~ten of whom shall be~~ appointed for three-year terms by the city commission. Members ~~appointed by the city commission~~ should have a strong interest in the arts and should represent a broad spectrum of society; including, but not limited to, practicing artists, recreation specialists,

1 business persons, educators, art historians, tourism professionals and citizens interested in arts
2 advocacy.

3 No member ~~appointed by the city commission~~ may be the owner or operator of, or
4 consultant for, a for-profit enterprise engaged in the appraisal, sale, leasing or showing of art to
5 the public on a retail or wholesale basis. ~~Five appointments to the board shall be made by the~~
6 ~~county commission.~~ The city ~~Each~~ commission shall fill vacancies for the unexpired terms of
7 members ~~it appoints~~.

8 **Sec. 2-283. - Duties generally.**

9 The duties of the Gainesville Cultural Affairs Board shall be to advise the city
10 commission in regard to interest in and promotion of the arts and eco-heritage tourism, to
11 develop local cultural resources and to assist the ~~director of cultural affairs~~ Cultural Affairs
12 Manager in the planning and implementation of community cultural involvement.

13 **Sec. 2-284. - Committees.**

14 The Gainesville Cultural Affairs Board ~~director of cultural affairs~~ may create, alter and
15 abolish committees, which bodies shall advise the board ~~and the director~~ on matters concerning
16 the cultural activities or programs desired by the citizens of the area. The board ~~director~~ shall
17 determine the committees' composition, structure and duties, ~~which shall be in full force and~~
18 ~~effect after approval by the chairperson of the cultural affairs board.~~

19 **Sec. 2-285. - Selection of officers; meetings.**

20 (a) The Gainesville Cultural Affairs Board and its committees shall select one of their
21 members as chairperson and such other officers as they may determine.

22 (b) The board and its committees shall meet at such time and place as provided in their rules
23 or procedures which rules shall also provide for the transaction of the business. Such
24 rules and procedures shall become effective after approval by the city commission.

25

26 **Section 2.** Sections 5.5-2 through 5.5-5 are amended to read as follows:

27 **Chapter 5.5 ART IN PUBLIC PLACES**

28 **Sec. 5.5-2. - Establishment of the Gainesville Art in Public Places Trust.**

29 (a) *Creation.* There is hereby created and established an Gainesville Art in Public Places
30 Trust.

1 (b) *Membership.* ~~Except as provided in subsection (1)a. below, the~~ The Gainesville Art in
 2 Public Places Trust shall consist of five (5) regular members, plus up to three (3)
 3 temporary members for each project, as described below. No member of the Gainesville
 4 Art in Public Places Trust may be the owner or operator of, or consultant for a for-
 5 profit enterprise engaged in the appraisal, sale, leasing or showing of art to the public on
 6 a retail or wholesale basis. All trust members shall serve without compensation.

7 (1) *Regular members.*

8 ~~a. Transition. In order to implement a consolidated City of Gainesville/Alachua~~
 9 ~~County Art in Public Places Trust, the number of regular members shall be temporarily~~
 10 ~~increased to seven as of April 1, 2001. The board of county commissioners shall appoint~~
 11 ~~two regular members to serve along with the five regular members already appointed by~~
 12 ~~the city commission. The two new members shall have terms ending September 30,~~
 13 ~~2002. The city appointed members of the art in public places trust whose terms are~~
 14 ~~scheduled to end on September 30, 2002 shall be replaced as of October 1, 2002 by two~~
 15 ~~members appointed by the board of county commissioners, and the number of regular~~
 16 ~~members shall then be reduced back to five.~~

17 The 5 regular members shall be appointed for three-year terms by the city commission.

18 ~~b. General. The city~~ Each commission shall fill vacancies for the expired or
 19 unexpired terms of the members ~~it appointed.~~ ~~Except as provided in subsection (1)a.~~
 20 ~~above, the terms of office of the regular members shall be three years. Each term shall~~
 21 ~~end on September 30 of its respective year. No regular member shall serve more than~~
 22 ~~two consecutive three-year terms. Whenever possible, two of the five appointed~~
 23 ~~members shall be citizens with appreciation for the visual arts and three of the five~~
 24 ~~appointed members shall represent one or more of the following classifications: architect,~~
 25 ~~landscape architect or interior designer, professional in the field of art, and art or~~
 26 ~~architectural historian.~~

27 (2) *Temporary members.* Temporary members shall change for each project and shall
 28 include the director of the division having jurisdiction over the public building being
 29 constructed and the authorized architect for the project, if the project is in or around the
 30 structure generating the funds. If there is no architect for the project, the city commission
 31 ~~with jurisdiction over the project~~ shall appoint an additional member representing one or

1 more of the classifications set out in subsection (b)(1). The city commission with
 2 ~~jurisdiction over the project~~ may appoint up to three citizen experts for each project that
 3 is not associated with a particular building. All temporary members will have voting
 4 privileges only for the particular project for which they were designated or appointed and
 5 will serve on the trust only for the project for which they were designated or appointed.

6 (c) *Duties.*

7 (1) The trust will be responsible for development and implementation of the city public
 8 art master plan, through the art in public places trust program and for the management of
 9 the Gainesville Art in Public Places Trust Fund. The public art master plan must be
 10 reviewed by the city plan board and approved by the city commission.

11 (2) The trust shall evaluate and select ~~recommend~~ works of art to ~~the city commission or~~
 12 ~~board of county commissioners~~ as described in section 5.5-4 below. Early in the design
 13 of a project, the ~~architect and department representative for the project shall work with~~
 14 ~~the other trust members to~~ shall develop a plan for adding art to the project. ~~When~~
 15 ~~selecting works of art for a city project, the trust shall recommend to the city commission~~
 16 ~~works of art that are in accordance with the public art master plan.~~

17 (3) The trust shall also review any art project suggested, or offered to be donated, by
 18 another board or committee of the city or county, or by any citizen or group of citizens,
 19 or by the city commission or board of county commissioners, and make a decision
 20 ~~recommendation to the city commission or board of county commissioners, as~~
 21 ~~appropriate~~, on the suitability of the proposed project and any conditions to place on its
 22 execution.

23 **Sec. 5.5-3. - Art in public places trust fund.**

24 (a) *Fund.* There is hereby created an Gainesville Art in Public Places Trust Fund
 25 consisting of all funds appropriated and deposited to the trust fund in connection with the
 26 construction or major renovation of public places. The trust fund is also authorized to
 27 accept gifts, grants and donations made to the city for art in public places. All
 28 appropriations, gifts, grants and awards of moneys for art in public places shall be
 29 deposited in an interest bearing account entitled the City of Gainesville Art in Public
 30 Places Trust Fund Account, which shall be a separate account established and maintained
 31 apart from the general revenue funds and accounts of the city. All interest earned in said

1 account shall accrue to the use and benefit of the trust fund account. Funds deposited or
 2 credited to the City of Gainesville Art in Public Places Trust Fund Account and not
 3 expended by the close of any fiscal year shall be carried forward into the next succeeding
 4 fiscal year.

5 (b) *Terms of existence.* The City of Gainesville Art in Public Places Trust Fund
 6 Account shall be self-perpetuating from year to year unless specifically terminated by
 7 the city commission.

8 (c) *Trust fund income.* Each appropriation for the original construction or major renovation
 9 of a city building where public employees work on a regular basis or that the general
 10 public uses shall include an amount of at least one percent of the total construction
 11 budget for the art in public places trust. The total appropriation for the trust fund from
 12 any single project shall not exceed \$100,000.00. All city departments and agencies shall
 13 include, in all budgets or applications for funding for capital improvement projects to
 14 granting organizations or governmental agencies, an amount equal to at least one percent
 15 of eligible construction costs for the Gainesville Art in Public Places Trust. All
 16 appropriations shall be deposited in the City of Gainesville Art in Public Places Trust
 17 Fund Account when the construction or renovation begins.

18 (d) *Trust fund expenditures.* Monies may be used in accordance with the requirements of
 19 this section for all costs associated with acquiring and commissioning art for public
 20 places, including costs for administration, travel, training, postage, printing, grants match,
 21 and education workshops. These costs may not exceed 20 percent of the total budget.
 22 Bond funds shall be appropriated and accounted for in the bond capital project accounts.
 23 Any gifts, grants and awards received subject to a condition shall be expended strictly in
 24 accordance with that condition. If an appropriation is not used for the acquisition of art
 25 for the public place for which it was appropriated, it shall be retained in the trust fund to
 26 supplement other appropriations for the acquisition of art under this section or to place art
 27 in, at, or near public buildings which are already in existence. ~~Upon request of a charter~~
 28 ~~officer, the trust city commission~~ may authorize the trust to suggest projects to be paid
 29 for from retained funds. ~~The charter officer or designee appointed by the city~~
 30 ~~commission and representing one or more of the classifications set out in subsection 5.5-~~
 31 ~~2(b)(1) will be substituted for the division manager and architect usually on the~~

1 ~~committee.~~ It is not the intent of this section to prohibit the expenditure of an amount
2 greater than the amount allocated pursuant to section 5.5-3(ca).

3 **Sec. 5.5-4. - Selection procedures.**

4 All acquisitions shall be in accordance with the terms of this chapter. ~~Additionally,~~
5 ~~acquisitions for county projects shall be in accordance with the terms of the county's art in public~~
6 ~~places program.~~ Whenever possible, a national call to artist request for qualification (RFQ) or
7 other formal solicitation should be widely broadcast. Finalists, and ultimately the final
8 selection(s), are made by the trust through a deliberative process, or the trust shall recommend
9 ~~three possible selections for each acquisition to the commission having jurisdiction over the~~
10 ~~project. The commission shall then make the final selection for each acquisition from the~~
11 ~~recommended selections, or the commission may reject all recommended selections. The charter~~
12 ~~officer or designee shall negotiate and execute all appropriate contracts for art selected by the~~
13 ~~city commission.~~ Funds from multiple capital projects may be aggregated to acquire the art.

- 14 (1) *Selection criteria.* The intent of the art in public places program is to select and
15 provide works of art through a creative collaboration among the public, artist and
16 architect and/or project representative. Therefore, the trust discusses physical and
17 aesthetic considerations including the following:
18 a. Art shall be located in areas where residents and visitors live and congregate and
19 shall be in accordance with the goals of the public art master plan.
20 b. The trustees should consider the impact of public art on the lives of those
21 frequenting public places. Art reflecting enduring artistic concepts, not transitory
22 ones, should be sought.
23 c. The trust's selections must reflect the cultural and ethnic diversity of this city
24 without deviation from a standard of excellence.
25 d. Final selection shall also take into account appropriateness to the site,
26 permanence of the art in light of environmental conditions at the site, maintenance
27 requirements, quality of art, likelihood that the artist can successfully complete
28 the art within the available funding, diversity of art already acquired by the trust,
29 and diversity of the artists whose art has been acquired by the trust.

30 (2) *Supervision of contracts.* The charter officer is responsible for contracting with the
31 artist for the commission or purchase of art by the city. The contract is negotiated

1 between the City of Gainesville, ~~the originating agency,~~ and the artist and includes
2 the following:

- 3 a. A description of the art to be commissioned or purchased.
- 4 b. Site and base or footing preparation.
- 5 c. A price and payment schedule.
- 6 d. An installation and time schedule.
- 7 e. The transfer of ownership to the city.
- 8 f. The artist's right to claim authorship and all rights secured under federal copyright
9 laws.
- 10 g. The artist's rights regarding changes, repairs or relocation of the art.
- 11 h. The charter officer is responsible for contract supervision and for the performance
12 of the work specified in the contract. The charter officer facilitates installation of
13 the art with the artist advising concerning the installation. The charter officer
14 shall supply personnel and technical support. After the art is in place and has
15 been formally accepted by the city agency, the charter officer is responsible for
16 security and maintenance of the art. The artist will provide a technical description
17 of materials used in the art and instructions for general maintenance.

18 **Sec. 5.5-5. - Ownership and maintenance.**

19 Unless otherwise provided, ownership of all art and architectural enhancements acquired
20 by the city under this chapter is vested in the city, including copyrights, patents and other
21 reproduction rights. The city shall be responsible for managing the reproduction rights of each
22 acquisition with advice and counsel from the art in public places trust. The responsibility for
23 maintenance, insurance and restoration of each artwork shall rest with the city and the art shall
24 be maintained by the charter officer with advice from the Gainesville Art in Public Places
25 Trust.
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27 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
28 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
29 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
30 renumbered or relettered in order to accomplish such intentions.

1 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
 2 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
 3 finding shall not affect the other provisions or application of the ordinance which can be given
 4 effect without the invalid or unconstitutional provisions or application, and to this end the
 5 provisions of this ordinance are declared severable.

6 **Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
 7 such conflict hereby repealed.

8 **Section 6.** This ordinance shall become effective immediately upon final adoption.

9 **PASSED AND ADOPTED THIS ____ DAY OF _____, 2018.**

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 LAUREN POE
 MAYOR

ATTEST:

Approved as to form and legality

 OMICHELE D. GAINEY
 CLERK OF THE COMMISSION

 NICOLLE M. SHALLEY
 CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2018.

This ordinance passed on second reading this ____ day of _____, 2018.