

AN ORDINANCE

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF GOOSE CREEK, SOUTH CAROLINA, TO PROVIDE FOR CHANGES TO THE ORDINANCE BY REPEALING TITLE XV: LAND USAGE, CHAPTER 151.088 MURALS ON PRIVATE PROPERTY AND ADOPTING TITLE XV: LAND USAGE, CHAPTER 154 PUBLIC ART ON PRIVATE PROPERTY.

WHEREAS, in order to establish the Goose Creek Art Fund and to enact a process and procedures for the installation of original works of art on private property and further the public interest by promoting cultural heritage and artistic expression in the City, enhance the City’s character and identity, contribute to economic development and tourism, add warmth, dignity, beauty, and accessibility to public spaces, and expand the experience and participation of citizens with the community and visual arts; and

WHEREAS, the Planning Commission of the City of Goose Creek held a public hearing on May 2, 2023, to receive public comment and to consider repealing Chapter 151.088 MURALS ON PRIVATE PROPERTY and adopting Chapter 154 PUBLIC ART ON PRIVATE PROPERTY; and

WHEREAS, pursuant to said public hearing, the Planning Commission has recommended the Zoning Ordinance be amended as follows:

1. Repeal in its entirety Section 151.088 MURALS ON PRIVATE PROPERTY.
2. Adopt in its entirety Chapter 154 PUBLIC ART ON PRIVATE PROPERTY.

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and City Council of the City of Goose Creek, South Carolina, is hereby amended per attached “Exhibit A”. This Ordinance is subject to the pending ordinance doctrine.

All ordinances and provisions in conflict herewith are repealed, and if any sentence, clause, phrase or word contained herein shall be held invalid, such invalidity shall not affect the validity of the remainder of this ordinance.

This ordinance shall become effective immediately upon adoption.

INTRODUCED the 11th day of April 2023.

DONE the 9th day of May 2023.

Mayor Gregory S. Habib

Attest:

Kelly J. Lovette, MMC, City Clerk

Mayor Pro Tem Debra Green-Fletcher

Councilmember Jerry Tekac

Councilmember Christopher Harmon

Councilmember Gayla S.L. McSwain

Councilmember Hannah J. Cox

Councilmember Melissa Enos

EXHIBIT A

TITLE XV: LAND USAGE, CHAPTER 154: PUBLIC ART ON PRIVATE PROPERTY

(A) Purpose. This chapter is intended to establish the Goose Creek Art Fund and to enact a process and procedures for the installation of original works of art on private property and further the public interest by:

- (1) Promoting cultural heritage and artistic expression in the City;
- (2) Enhance the City's character and identity;
- (3) Contribute to economic development and tourism;
- (4) Add warmth, dignity, beauty, and accessibility to public spaces; and
- (5) Expand the experience and participation of citizens with the community and visual arts.

(B) Definitions.

ADMINISTRATIVE FEES. Include art consultant, conservator, legal fees, travel and out-of-pocket expenses.

ALLOCATION FOR PUBLIC ART FUND. The percentage of the construction costs which are set aside for the City's Public Art program in lieu of incorporating Public Art into the build.

ARTIST. Shall mean an individual who creates original art and is recognized by professional peers and critics as a professional practitioner of the visual craft, literary, musical, conceptual or performing arts, as judged by the quality of that practitioner's body of work and experience.

ARTWORK. Includes but is not limited to paintings, drawings, murals in any media, stained glass, statues, bas-relief or other sculptures, and any creation under "new genres" as defined herein; environmental artworks or public spaces; monuments, fountains, arches or other structures intended for ornament or commemoration; integrated and functional architectural, video and other media-based elements designed by a qualified artist. For projects that involve no structures, artwork may include a combination of landscape design, natural and manufactured materials including but not limited to rocks, fountains, reflecting pools, sculptures, screens, benches, and other types of street furniture, provided they have been designed by a qualified artist.

DESIGN FEES. Include but are not limited to those fees paid to an artist, architect, structural engineer or an appropriate party for the development of a design concept and the preparation of construction drawings. Design fees are separate and apart from the cost of the fabrication and installation of an artwork.

PERFORMING ARTS. Performances presented by professional or amateur performers, including theater performance (any form of dramatic presentation, spoken or silent); musical theater/opera (any dramatic performance of which music is an integral part); dance (any form of rhythmical movement); music or concert (any musical performance with live musicians and/or signers).

PERMANENT INSTALLATION. Artwork designed and fabricated to remain installed for one (1) or more years.

PUBLIC ART. Shall mean publicly accessibly original art that enriches the City and evokes meaning. It may include permanent visual art, performances, installations, events and other temporary works, preservation or restoration of unique architectural features, ornamentation or details. It may also include the artist-designed infrastructure and structures themselves. Public Art should consider the site, its context and audience. Public Art may possess functional as well as aesthetic qualities; it may be integrated into the site or a discrete work.

PUBLIC ART SIZE CATEGORIES. Small and large art pieces are defined as follows:

(1) "Small Public Art Piece". A small Public Art piece is a Public Art piece where the sum of the height, width and depth of the object is no more than eight (8) feet. A small Public Art piece also includes a mural where the area of the mural face is no more than 200 square feet. Refer to Section (F) for other qualifying pieces.

(2) "Large Public Art Piece". A large Public Art piece is a Public Art piece where the sum of the height, width and depth is at least nine (9) feet. A large Public Art piece also includes a mural where the area of the mural face is at least 201 square feet.

TEMPORARY INSTALLATION. Artwork designed and fabricated to remain installed for less than one (1) year.

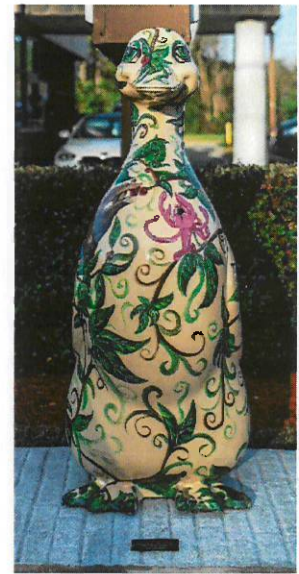


Figure 1: Example of a small public art piece.



Figure 2: Example of a large public art piece.



Figure 3: Example of a sculpture that would be defined as a large public art piece.

(C) Goose Creek Art Fund Created. There is hereby created a fund to be known as the "Goose Creek Art Fund" (hereinafter "Art Fund") to account for fees paid pursuant to this Chapter. The Art Fund shall be used solely:

- (1) For the design fees, acquisition, commission, installation, improvement, relocation, conservation, utility charges, insurance of artwork acquired, and administrative fees or funded by the City, either permanent or temporary, through the Goose Creek Public Art Program;
- (2) To sponsor or support the performing arts;
- (3) For the acquisition and improvement of real property for the purpose of displaying artwork or conducting performing arts activities, which has been or may be approved by the City;
- (4) Other City-produced cultural programs pursuant to the requirements of this Chapter.
- (5) If real property purchased with monies from the Goose Creek Art Fund is subsequently sold, the proceeds from the sale shall be returned to the Art Fund.

(D) Developments Subject to Provisions of Section (E) Public Art Requirements.

- (1) All new residential development projects of one hundred (100) or more units, all commercial and all public building development projects, with a construction valuation (as reflected in the building permit documents) of five hundred thousand dollars (\$500,000) or more shall be subject to the provisions of this Chapter. This figure excludes land acquisition costs.
 - (a) For Multifamily Developments the threshold is based on the construction valuation of one (1) apartment building.
 - (b) For Townhome Developments the threshold is based on the construction valuation of the largest number of attached dwellings in the development.
- (2) All remodeling of existing commercial and public buildings shall be subject to the provisions of this Chapter when remodeling has a construction valuation (as reflected in the building permit documents) of two hundred fifty thousand dollars (\$250,000) or more, excluding rehabilitation due to an act of nature.
- (3) Developments and projects that are using the Low-Income Housing Tax Credit (LIHTC) through the State of South Carolina and senior citizen housing shall be

exempted from the requirements of this Section for as long as it is used for that purpose.

- (4) Multiple building permits issued within a three-year period for a single project shall be considered in the aggregate in determining developments subjected to this provision.

(E) Public Art Requirements. All Public Art installed on property within the City of Goose Creek shall meet the following additional requirements. The intent of these requirements is to ensure that the Public Art required on property is of high quality and durability and will promote the objectives stated in Section (A). The following requirements are intended to require that private developers invest time, effort and money into the Public Art displayed on their sites, recognizing that the art will not only become integral, lasting components of the City, but will be intrinsic value to their developments.

- (1) The Public Art shall be created by an artist as defined above.
- (2) No Public Art shall be installed without the final authorization of the Goose Creek Cultural Arts Commission.
- (3) The Public Art shall be constructed of high-quality, durable and weather-resistant materials. The Public Art shall be designed to maintain its structural and artistic quality for a period of at least ten years notwithstanding the effects of the local climate and weather conditions. The Public Art shall be maintained in a neat and attractive manner and shall be kept free of dirt, rust and graffiti. In the event that the Public Art deteriorates to a point where it loses its artistic and/or aesthetic appeal (as determined by the Cultural Arts Commission) and cannot be restored or repaired by the owner/developer, the owner/developer shall replace the Public Art with an equivalent piece of Public Art in accordance with the requirements of this section.
- (4) The Public Art shall reflect a high level of artistic and aesthetic quality as reflected by the artistic skill and aesthetic principles employed in its creation.
- (5) The Public Art shall be designed to be compatible with the immediate environment of the site, particularly in regard to size, scale, materials used, location on the site, etc. The intent of this requirement is that the Public Art should enhance the aesthetic quality of the property rather than detract from it.
- (6) The Public Art shall be situated on the property in such a way that it is readily visible to the public from a required sidewalk or "space open to the public" as well as to patrons/employees of the uses on the property.

- (7) The materials, textures, colors and design employed in the Public Art shall be appropriate to the expression of the design concept.
- (8) The city may consider the installation of Public Art and, at the same time, wishes to prevent the proliferation of off-site commercial signs. The city's Public Art regulations allow for commercial advertising murals only on the site where the business is located.
- (9) The Public Art must not create a hazard to the health, safety, or welfare of the public or otherwise create a nuisance.
- (10) In order to ensure that the Public Art required by this section is of high quality and proportional to the scope and scale of the development, the owner/developer shall:
 - (a) Submit a proposal to and receive approval from the Cultural Arts Commission regarding the Public Art to be installed on the property. The proposal shall provide a general description of the art that is proposed to be installed on the property, a preliminary design of the proposed art (where practicable), the name and credentials of the artist(s) who will be creating the art, the proposed location of the art on the property, a description of the dimensions, location, materials, colors to be employed in the creation of the art, and an estimate of the cost of creating the art; and
 - (b) Invest an amount of money in the design, creation and installation of Public Art on the subject property that is equal to or greater than one percent (1%) of the construction valuation costs (as reflected in the building permit documents) up to \$20,000 of the proposed development activity on the property and provide documentation to the City verifying the amount spent on such Public Art; or
 - (c) If the owner/developer of the property subject to the provisions of this Chapter does not wish to install Public Art on its property, the owner/developer may, in lieu of such requirement, donate to the Goose Creek Art Fund an amount equal to one percent (1%) of the total construction valuation costs (as reflected in the building permit documents) up to \$20,000 of the proposed development on the property. Any funds contributed to the Goose Creek Art Fund in accordance with this subsection shall be used exclusively for the creation and installation of Public Art as outlined in Section (C) Goose Creek Art Fund Created; or

- (d) A combination of items (b) and (c) totaling one percent (1%) of the total projected construction valuation costs up to \$20,000.
- (e) If the owner/developer chooses to incorporate Public Art in the development, as described in this section, they are encouraged to mix in small and large Public Art pieces where appropriate.

(F) Other qualifying Small Public Art pieces. The following qualify as a Public Art piece if the following are met:

- (1) Benches. Benches qualify as a Small Public Art Piece if they are permanently affixed to the ground, accessible to the public during regular business hours, and incorporate two or more of the following design elements: curved or looping metalwork; lights; custom concrete or woodwork; sculpture; over-scaled design; or wording formed by the structural design of the bench. Any wording formed cannot be of a commercial nature as outlined in this Chapter.



Figure 4: Examples of benches that could qualify as a small public art piece.

- (2) Bike racks. Bike racks qualify as a Small Public Art Piece if they are permanently affixed to the ground, have capacity to collectively accommodate at least five (5) bicycles, are accessible to the public during regular business hours, and incorporate two or more of the following design elements: curved or looping metalwork; lights; custom concrete or woodwork; sculpture; over-scaled design; electric charging; or wording formed by the structural design of the bike rack. Any wording formed cannot be of a commercial nature as outlined in this chapter.



Figure 5: Examples of bicycle racks that could qualify as a small public art piece.

(3) Raised planter boxes. Raised planter boxes qualify as a Small Public Art Piece, if they are permanently affixed to the ground, contain 50% coverage of living vegetation, are readily visible from a public right-of-way or “space open to the public”, and incorporate two or more of the following design elements: lighting; sculpture; custom concrete or woodwork; water features such as fountains or man-made streams.



Figure 6: Examples of raised planter boxes that could qualify as a small public art piece.



(4) Fountains. Fountains qualify as a Small Public Art Piece, if they are permanently affixed to the ground, are readily visible from a public right-of-way, or “space open to the public”, and incorporate two or more of the following design elements: lighting; sculpture, custom mosaic; or custom concrete or woodwork.

Figure 7: Examples of fountains that could qualify as a small public art piece.

(G) Procedure. The Planning and Zoning Department shall submit applications for visual Public Art pieces to the Cultural Arts Commission (CAC) on behalf of the owner/developer, who shall review the proposal, solicit public input if necessary, and decide to approve, approve with conditions or deny the application. Visual art installations that are temporary in nature, where they are visible from the public right-of-way will require submission to the Cultural Arts Commission via the Planning and Zoning Department; a special event permit may also be required. Public Art that is “performance art” will not require submission to the Cultural Arts Commission; if it takes place on City-owned property the organizer will be required to work with City Staff.

(H) Violations.

- (1) Nuisance. Any Public Art created and installed without city approval pursuant to this Chapter, or any Public Art that is not maintained in accordance with the approved maintenance plan, is and shall be deemed "graffiti" and is a public nuisance pursuant to §137.01(B), subject to abatement pursuant to §137.22 and the specific penalties and remedies enumerated herein, including without limitation collection by lien or special assessment.
- (2) Administrative citation. Any person who creates, allows to be created, causes or otherwise installs any Public Art without first obtaining city approval pursuant to this chapter is guilty of a violation and is subject to the issuance of an administrative citation as follows:
 - (a) Prior to the issuance of a citation hereunder, the city shall issue written notice to any person that violates this chapter,
 - (b) Giving that person 30 days from the issuance of the notice to remove the mural created and installed without city approval. If the illegal mural is removed in compliance with the city notice issued, no citation shall be issued. If the mural is not removed within 30 days, an administrative citation shall be issued with a fine in the amount of \$500.00.
 - (c) In addition to the penalty herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this section, shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that the condition continues shall be regarded as a new and separate offense.