

BCC Mtg. Date: January 14, 2020

EFFECTIVE DATE: January 24, 2020

ORDINANCE NO. 2020-02

AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA, BY AMENDING ORANGE COUNTY CODE PROVISIONS RELATED TO DYNAMIC ART IN THE I-DRIVE DISTRICT OVERLAY ZONE, INCLUDING DIVISION 4.5 OF ARTICLE VII OF CHAPTER 38 REGULATING DYNAMIC ART; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendments to the I-Drive District Overlay Zone. The I-Drive District Overlay Zone, codified at Division 4.5 of Article VII of Chapter 38 of the Orange County Code (Sections 38-860 through 38-875), is hereby amended to read as follows, with additions shown by underlines and deletions indicated with strike-throughs:

Sec. 38-864.1. Dynamic Art.

a. Intent and Purpose.

These regulations are intended to ~~provide~~ establish Dynamic Art standards within the I-Drive District Overlay Zone, with the purpose and goal of promoting broader-scale works of art that are visible to the public, encouraging creativity, ~~and~~ developing a stronger sense of place that activates the public realm and the built environment. ~~These regulations are also intended to balance and~~ balancing a unique tourism and entertainment experience with the need for traffic safety.

b. General Standards.

Subject to approval of an application submitted under subsection c., and subject to the application ~~meeting~~ satisfying any and all other regulatory jurisdiction's requirements, including the requirements of Chapter 479, Florida Statutes, to the extent those requirements may be deemed applicable by the State of Florida Department of Transportation. Dynamic Art may only be displayed

on an exterior surface area of a building or parking structure with a minimum height of 3 stories or 35 feet in I-Drive District Overlay Sub-Districts 1, 2, and 3.

- (1) Site and Building Requirements. Dynamic Art shall meet all applicable Site and Building Requirements of the I-Drive District Overlay Zone, unless otherwise stated in this Section.
- (2) Location. Dynamic Art shall comply with the requirements of Chapter 479, Florida Statutes, including for permitting, to the extent those requirements ~~are~~ may be deemed applicable by the State of Florida Department of Transportation. At a minimum, Dynamic Art that would be visible from any portion of the main-traveled way of Interstate 4 or S.R. 528 shall be prohibited within ~~660-600~~ 600 feet of the ~~nearest~~ right-of-way centerline of I-4 or S.R. 528, whichever the case may be, as measured from the applicable centerline to the nearest surface area of the Dynamic Art.
- (3) Brightness. Dynamic Art illumination may not exceed the brightness level of 0.3 foot candles above ambient light levels, as defined and as measured in Orange County Code Section 31.5-16(b)(2).
- (4) Performance. Dynamic Art that is displayed through a digital medium must be equipped and maintained with a default display that will, in the event of malfunction, either effectively hold a non-distorted and steady image at a light output level in compliance with brightness level limits or display a blank and lightless screen. Prior to the issuance of a permit for a digital screen, the applicant must provide written certification from the digital manufacturer that the light intensity has been factory preset not to exceed the standards and that the intensity level is protected from manipulation by password protected software or other security systems approved by the planning division manager.
- (5) Permission/Authorization. Projections onto a building or parking structure from a source located on a neighboring property or across or over a public right-of-way shall require appropriate written permission/authorization from

the County for public rights-of-way, and any affected property owner, entity, or organization.

- (6) Sight and Safety. Changes or movement within Dynamic Art imagery and any text shall occur only through subtle transitions, and not in a manner that would obstruct the view of, or could be confused with, any traffic signal, traffic control device, or emergency vehicle lights. In addition, changes or movement within Dynamic Art imagery and Text shall not create hazards or distractions to drivers of motor vehicles resulting from direct or reflected natural or artificial light, flashing, or intermittent or flickering lighting.
- (7) Text Acknowledgment of Artistic Sponsors; Artistic Sponsor Copy Area. ~~Text—Artistic Sponsors may be acknowledged only within Artistic Sponsor Copy Area, including by letters, words, and numbers, within Dynamic Art, and Artistic Sponsor Copy Area~~ shall adhere to the following criteria:
 - (A) A maximum of ten percent (10%), not to exceed 672 sq. ft., of the proposed Dynamic Art Surface Area displayed on a façade of a building or parking structure may be used as ~~Text Copy—Artistic Sponsor Copy Area~~;
 - (B) ~~Text—Artistic Sponsor Copy Area~~ shall not be displayed more than once per minute, and no more than thirty (30) consecutive seconds per minute;
 - (C) The end and beginning of consecutive displays of ~~Text—Artistic Sponsor Copy Area~~ shall be at least thirty (30) seconds apart; and
 - (D) ~~Text Copy—Artistic Sponsor Copy Area~~ shall not be located more than one hundred (100) feet above the finished grade at the base of the building or parking structure.

The County's sole intent in permitting ~~Text—Artistic Sponsor Copy Area~~ is to allow a limited duration of time, a limited amount of space, and a maximum height for the acknowledgment ~~recognition~~ of Artistic Sponsors.

including by letters, words, and numbers. However, the County does not regulate the content of Dynamic Art or of any associated Text Artistic Sponsor Copy Area.

- (8) Hours of Operation. Dynamic Art installations may only operate between 7:00 a.m. and 12:00 a.m. within Sub-Districts 1 and 2, and 7:00 a.m. and 2:00 a.m. of the following day within Sub-District 3.

c. Dynamic Art Application.

An application for a new Dynamic Art display, or for any material changes to an existing Dynamic Art display not included in an earlier approved application (other than changes to the content of Dynamic Art, which the County does not regulate), shall be submitted to the Planning Division for review on a County approved application form, along with payment of an application fee in an amount established by the Board of County Commissioners. The County does not regulate the content of Dynamic Art. The following items shall be included as part of any Dynamic Art application:

- (1) The proposed method or technology for displaying / projecting proposed Dynamic Art.
- (2) The exact physical location and placement of proposed Dynamic Art, including:
 - (A) A dimensioned building or parking structure elevation for all facades of the building or parking structure that will be used to display Dynamic Art and Text, including Dynamic Art Surface Area and Text Copy Artistic Sponsor Copy Area; and
 - (B) Colored graphical renderings or computer simulations of proposed Dynamic Art and Text Artistic Sponsor Copy Area for informational purposes, it being recognized that the County does not regulate the content of Dynamic Art or Artistic Sponsor Copy Area.
- (3) The time frame of proposed Dynamic Art exhibit (hours, days, weeks, months, permanent, etc.).

- (4) Details and specifications for proposed Dynamic Art, including:
 - (A) Narrative or explanation of the art work, concept and intent;
 - (B) Display medium, techniques and materials (provided that the applicant will not be required to reveal any proprietary intellectual property);
 - (C) Maintenance plan; and
 - (D) If applicable, information regarding the creative studio, design professional or artist.
- (5) A signed and notarized affidavit from the applicant agreeing to comply with all Dynamic Art standards and requirements; and
- (6) Completed Agent Authorization; Specific Project Expenditure Report; and Relationship Disclosure Forms, as may be applicable.

After an application has been reviewed and approved pursuant to subsection d., any proposed material changes to any of the items set forth in subsection c.(1) through (4) (other than changes to the content of Dynamic Art, which the County does not regulate) shall be presented to the Planning Manager for review pursuant to subsection d.

d. Dynamic Art Application Submittal, Review, Approval, and Appeal Process.

Within seven (7) days of receipt of a Dynamic Art application, the Planning Division will notify the applicant whether the application is complete or identify the specific items to be completed or additional information needed. Within thirty (30) days after a determination of completeness, the Planning Division Manager shall review the application for compliance with the standards for Dynamic Art as set forth in this section, and review any potential traffic safety hazard issues with the County Traffic Engineer pursuant to the traffic safety standards in Section 479.11(5) and (6), Florida Statutes. If the standards herein have been met, the Planning Division Manager shall approve the application. Should

the County Traffic Engineer determine that proposed Dynamic Art will result in a traffic safety hazard based upon ~~applicable~~ traffic safety standards in Section 479.11(5) and (6), Florida Statutes, the application shall be denied.

Furthermore, if any Dynamic Art is found to constitute a traffic safety hazard after installation based upon applicable traffic safety standards in Section 479.11(5) and (6), Florida Statutes, the County Traffic Engineer shall require the operator of the Dynamic Art to either reduce the intensity of the condition or effect that causes the hazard to an acceptable level, or if such reduction is not feasible or possible, to remove or alter the Dynamic Art to eliminate the hazard. Finally, the County Traffic Engineer may require an immediate cessation of such conditions or effects where the County determines that an imminent danger to the traveling public exists.

Any decision of the Planning Division Manager to deny an application for Dynamic Art, or the Planning Division Manager's failure to render a decision in accordance with the time requirements of this section, may be appealed by the applicant to the Board of County Commissioners for a de novo determination of whether the application complies with the criteria in this Section. Appeals of any decision of the Planning Division Manager to deny a Dynamic Art application ~~for reasons associated with First Amendment protections~~, may also be immediately reviewed as a matter of right by a court of competent jurisdiction upon the filing of an appropriate pleading by an aggrieved party the applicant when the applicant alleges First Amendment violations relating to the denial. ~~Likewise, a~~Any determination by the County Traffic Engineer about a traffic safety hazard may be appealed to the Board ~~or a court of competent jurisdiction, whichever by~~ the operator of the Dynamic Art ~~deems appropriate~~.

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Sec. 38-869. Definitions.

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b. Defined Terms.

For the purposes of Sections 38-860 through 38-875, the following terms shall have the following meanings.

- (1) Accessory Use or Structure. A use or structure customarily, incidental, and subordinate to the principal use or structure and located on the same lot with such principal use or structure.
- (2) Applicant. A developer or an authorized agent of a developer.
- (3) Artistic Sponsor. Any person, business, organization, corporation, or other entity or party that creates, subsidizes, develops, or otherwise financially supports the installation, presentation and/or exhibition of Dynamic Art within the I-Drive District Overlay Zone.
- (4) Artistic Sponsor Copy Area. The portion of the Dynamic Art Surface Area on a building or parking structure façade for the acknowledgment of an Artistic Sponsor, including by letters, words, and numbers, as set forth in Section 38-864.1. Artistic Sponsor Copy Area shall be measured by the perimeter of the overall area within which such copy may be displayed.
- (45) Block. The aggregate of lots, passages, lanes, and Alleys bounded on all sides by streets.
- (56) Block Depth. A block measurement that is the horizontal distance between the front property line on a block face and the front property line of the parallel or approximately parallel block face.
- (67) Block Ends. The lots located on the end of a block; these lots are often larger than the lots in the interior of the block or those at the opposite end of the block and can be located on a more intense street type. They are typically more suitable for more intensive development, such as multiple family or mixed use development.
- (78) Block Face. The aggregate of all the building facades on one side of a block.
- (89) Block Length. A block measurement that is the horizontal distance along the front property lines of the lots comprising the block.

- (910) Build-to-Zone. An area in which the front or corner side facade of a building shall be placed; it may or may not be located directly adjacent to a property line. The transect dictates the minimum and maximum distance a structure may be placed from a property line. Refer to Figure (51) Build-to-Zone vs. Setback Line.
- (1011) Coverage, Building. The percentage of a lot developed with a principal or accessory structure.
- (1112) Coverage, Impervious. The percentage of a lot developed with principal or accessory structures and impervious surfaces, such as driveways, sidewalks, and patios.
- (1213) Dedication. The intentional appropriation of land by the owner to the county for public use and/or ownership.
- (1314) Density. The number of dwelling units located in an area of land, usually denoted as units per acre.
- (1415) Dwelling Unit. A building or portion thereof, designed or used exclusively for residential occupancy, but not including hotels, lodging houses, motels, or mobile homes.
- (1516) Dynamic Art. Designs or images on a building or parking structure that employ lighting displays, projections, videos or other electronic images and graphics, or any combination thereof. Such designs or images shall consist of subtle changing or moving elements of color, shapes, symbols, images, graphics and patterns, as created by artists, creative agencies or studios, design professionals or others.
- (1617) Dynamic Art Surface Area. The cumulative surface area of any one building or parking structure elevation used for Dynamic Art, as defined in this Section.
- (1718) Easement. A legal interest in land, granted by the owner to another person or entity, which allows for the use of all or a portion of the owner's land for such purposes as access or placement of utilities.

- (~~18~~19) Expression Line. An architectural feature. A decorative, three dimensional, linear element, horizontal or vertical, protruding or indented at least two inches from the exterior facade or a building typically utilized to delineate floors or stories of a building.
- (~~19~~20) Facade. The exterior face of a building, including but not limited to the wall, windows, windowsills, doorways, and design elements such as expression lines. The front facade is any building face adjacent to the front property line.
- (~~20~~21) Frontage Type. The permitted treatment types of the ground floor facade of a building. Refer to the Transects section for more information and a list of permitted Entrance Types.
- (~~21~~22) Grade. The average level of the finished surface of the ground story adjacent to the exterior walls of a building.
- (~~22~~23) Gross Floor Area. The sum of all areas of a building, including accessory storage areas or closets within sales spaces, working spaces, or living spaces and any basement floor area used for retailing activities, the production or processing of goods, or business offices. It shall not include attic space having headroom of seven feet or less and areas devoted primarily to storage, balconies, off-street parking and loading areas, enclosed porches, roof decks, roof gardens, or basement floor area other than specified above.
- (~~23~~24) Impervious Surface. Also referred to as impervious material. Any hard surface, man-made area that does not absorb water, including building roofs, sidewalks, parking, driveways, and other paved surfaces.
- (~~24~~25) Landscape Area. Area on a lot not dedicated to a structure, parking or loading facility, frontage buffer, side and rear buffer, or interior parking lot landscaping.
- (~~25~~26) Lot. A parcel of land occupied or intended for occupancy by a use permitted in this chapter. Refer to Figure (50) Lots.

- (~~2627~~) Lot, Corner. A parcel of land abutting at least two vehicular rights-of-way, excluding an Alley, at their intersection. Refer to Figure (50) Lots.
- (~~2728~~) Lot, Flag. A parcel of land having its only access to the adjacent vehicular right-of-way, excluding an Alley, through a narrow strip of land. Refer to Figure (50) Lots.
- (~~2829~~) Lot, Interior. A parcel of land abutting a vehicular Right-of-way, excluding an Alley, along one (1) Property Line; surrounded by Lots along the remaining Property Lines.
- (~~2930~~) Lot, Through. Also referred to as a double frontage lot. An interior lot having frontage on two approximately parallel vehicular rights-of-way, excluding an Alley. Refer to Figure (50) Lots.
- (~~3031~~) Lot Area. The computed area contained within the property lines; it is typically denoted in square feet or acres.
- (~~3132~~) Lot Depth. The distance measured from the midpoint of the front line to the midpoint of the opposite rear line of the lot. Refer to Figure (50) Lots.
- (~~3233~~) Lot Frontage. The horizontal distance between the Side Property Lines, measured at the Front Property Lines. Through lots may have two frontages. Refer to Figure (50) Lots.
- (~~3334~~) Nonconformance. A structure, use, lot, or site characteristic that was legally constructed or operated prior to the effective date of or Amendment to this code, but that cannot be constructed, platted, or operated after the effective date of or Amendment to this code.
- (~~3435~~) Occupancy. The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.
- (~~3536~~) Open Space Type. The permitted and regulated types of open spaces in this code.
- (~~3637~~) Open Water. A pond, lake, reservoir, or other water feature with the water surface fully exposed.

- (~~3738~~) Package sale vendor. A “package sale vendor” means as defined at Section 38-1414(a).
- (~~3839~~) Passageway. A pathway designed for use by pedestrians; it can be located mid-block allowing pedestrian movement from one street to another without traveling along the block’s perimeter.
- (~~3940~~) Pervious Surface. Also referred to as pervious material. A material or surface that allows for the absorption of water into the ground or plant material, such as permeable pavers or a vegetated roof.
- (~~4041~~) Plat. A map, drawing, or delineated representation of the division or subdivision of lands, being a complete and exact representation of the division or subdivision and other information in compliance with the requirements of all applicable provisions of any applicable ordinance and Part I, Chapter 177, Florida Statutes
- (~~4142~~) Primary Street. A street designated on the Regulating Plan that receives priority over other streets in terms of setting front property lines and locating building entrances.
- (~~4243~~) Principal Use or Structure. Also referred to as the principal building. A building that contains the dominant use of the Lot. It is typically located toward the front of the Lot in the front Build-to Zone or behind the Front Yard Setback.
- (~~4344~~) Property Line. Also referred to as lot line. A boundary line of a parcel of land or lot. Refer to Figure (50) Lots.
- (~~4445~~) Property Line, Corner. A boundary of a lot that is approximately perpendicular to the front property line and is directly adjacent to a public right-of-way, other than an Alley or railroad. Refer to Figure (50) Lots.
- (~~4546~~) Property Line, Front. The boundary abutting a right-of-way, other than an Alley, from which the required setback or build-to transect is measured, with the following exceptions.

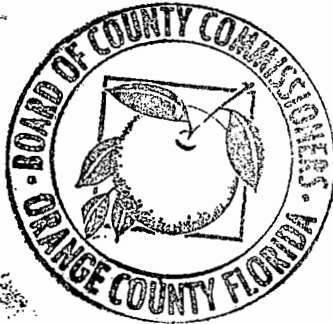
- (A) Corner and Through Lots that abut a Primary Street shall have the front property line on that Primary Street.
 - (B) Corner and Through Lots that abut two Primary Streets or do not abut a Primary Street shall utilize the orientation of the two directly adjacent lots, or shall have the front property line determined by the Zoning Administrator.
- (4647) Property Line, Rear. The boundary of a lot that is approximately parallel to the front property line; this line separates lots from one another or separates a lot from an Alley. Refer to Figure (50) Lots.
- (4748) Property Line, Side. The boundary of a lot that is approximately perpendicular to the front and rear property lines; it is not adjacent to the public right-of-way. Refer to Figure (50) Lots.
- (4849) Right-of-way. A strip of land acquired by the state, county or any municipality by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied or occupied by a road, crosswalk, sidewalk, bike path, electric transmission lines, oil or gas pipeline, water pipeline, sanitary sewer, storm sewer, or other similar uses.
- (4950) Roof Type. The detail at the top of a building that finishes a Facade, including a pitch roof with various permitted slopes and a parapet. Refer to the Transects section for more information and a list of the permitted Roof Types.
- (5051) Scale. The relative size of a building, street, sign, or other element of the built environment.
- (5152) Setback. The horizontal distance from a property line inward, beyond which a structure may be placed. Structures or other impervious surfaces are not permitted within a setback, unless specifically permitted in this code (e.g. sidewalks). Refer to Figure (51) Build-to Zone vs. Setback Line.

- (~~5253~~) Sign. See Ch. 31.5, Orange County Code.
- (~~5354~~) Solar Reflectance Index (SRI). A measure of a constructed surface's ability to reflect solar heat, as shown by a small temperature rise. The measure utilizes a scale from 0 to 100 and is defined so that a standard black surface is 0 and a standard white surface is 100. To calculate for a given material, obtain the reflectance value and emittance value for the material; calculate the SRI according to ASTM E 1980-01 or the latest version.
- (~~5455~~) Story. A habitable level within a building measured from finished floor to finished floor.
- (~~5556~~) Story, Ground. Also referred to as ground floor. The first floor of a building that is level to or elevated above the finished grade on the frontage, excluding basements or cellars.
- (~~5657~~) Story, Half. A story either in the base of the building, partially below grade and partially above grade, or a story fully within the roof structure with transparency facing the street.
- (~~5758~~) Story, Upper. Also referred to as upper floor. The floors located above the ground story of a building.
- (~~5859~~) Street Face. The facade of a building that faces a public right-of-way.
- (~~5960~~) Street Frontage. Also refer to lot frontage. The portion of a building or lot directly adjacent to a vehicular right-of-way.
- (~~6061~~) Street Type. The permitted and regulated types of streets in this code. Refer to the Street Types section for more information and a list of the permitted Street Types.
- (~~6162~~) Structure, Principal. Also referred to as the principal building. A building that contains the dominant use of the Lot. It is typically located toward the front of the Lot in the front Build-to Zone or behind the Front Yard Setback.

- (~~6263~~) Swale. A low lying, naturally planted area with gradual slopes that facilitate the transport, absorption, and/or filtration of stormwater.
- ~~(63) Text. Letters, logos, trademarks, symbols, numbers and the like displayed within the Text Copy Area.~~
- ~~(64) Text Copy Area. The portion of the Dynamic Art Surface Area on a building or parking structure façade within which Text may be displayed, subject to the requirements of Section 38-864.1. Text Copy Area is measured by the perimeter of the overall area within which Text may be displayed, and not by the area covered by the actual Text.~~
- (~~6564~~) Transect. A designation given to each lot within the district that dictates the standards for development on that Lot. Refer to the Transects section for more information and a list of permitted Transects.
- (~~6665~~) Transit Shed. An area that is centered around an existing, or planned and funded, transit stop using a quarter mile or half mile distance meant to demonstrate 5-10 minute walking distances. Also referred to as the “Pedestrian Shed.”
- (~~6766~~) Tree Canopy. The uppermost area of spreading branches and leaves of a tree.
- (~~6867~~) Tree Canopy Coverage. The area of ground covered or shaded by a tree’s canopy, measured in square feet.
- (~~6968~~) Use. Also referred to as land use. A purpose or activity that may occur within a building or a lot.
- (~~7069~~) Visible Basement. A half story partially below grade and partially exposed above with required transparency on the street facade.
- (~~7170~~) Water Body. A body of water, such as a river, pond, or lake that may be man-made or naturally occurring.

Section 2. Effective date. This Ordinance shall become effective as provided by general law.

ADOPTED THIS 14th DAY OF JANUARY, 2020.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katei Smith*
Deputy Clerk