

AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH, TEXAS (1986), CHAPTER 2, "ADMINISTRATION," ARTICLE III, "BOARDS AND COMMISSIONS," DIVISION 2, "ART COMMISSION AND PUBLIC ART PROGRAM," TO AMEND THE DEFINITION OF "CITY OF FORT WORTH ART COLLECTION" AND CONFORM RELATED SECTIONS; TO CLARIFY THE COMPOSITION OF THE FORT WORTH ART COMMISSION; TO AMEND THE PERCENT SET ASIDE OF CAPITAL IMPROVEMENT PROJECT FUNDING FOR PROPOSITION ONE, "STREET AND TRANSPORTATION IMPROVEMENTS," OF THE 2014 CAPITAL IMPROVEMENT PROGRAM; TO AMEND FUNDING ALLOCATIONS AND APPROPRIATIONS; PROVIDING FOR A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 2, 2001, the Fort Worth City Council ("City Council") adopted Ordinance Number 14794 ("Public Art Ordinance"), as amended, implementing the Fort Worth Public Art Program ("Program");

WHEREAS, Section 2-61 of the City Code sets forth the funding mechanism for the Program, including an annual two percent (2%) set aside of capital improvement project funding to be added to the total cost of each proposition in the City of Fort Worth's bond programs;

WHEREAS, the City Council plans to call for a bond election to occur in May of 2014 to address funding for street and transportation improvements, parks, and facilities ("2014 Capital Improvement Program");

WHEREAS, the City has a limited debt capacity under which to issue bonds for the 2014 Capital Improvement Program;

WHEREAS, after an extensive public input process, the City Council assigned the highest priority among the 2014 Capital Improvement Program to projects involving street and transportation improvements, which will be included within Proposition One, "Street and Transportation Improvements," of the proposed bond election;

WHEREAS, to ensure adequate funding for the highest priority needs, the City Council wishes to amend Section 2-61 of the City Code to allow for a one-time adjustment to the percentage set aside for the Program from two percent (2%) to one percent (1%) for capital improvement project funding included in Proposition One, "Street and Transportation Improvements," of the 2014 Capital Improvement Project;

WHEREAS, this percent for art reallocation is only meant to apply to Proposition One, "Street and Transportation Improvements," of the 2014 Capital Improvement Program and shall not carry forward to any future bond programs or affect any other bond propositions in the 2014 Capital Improvement Program; and

WHEREAS, in the process of reviewing the City Code to formulate the proposed changes to Program funding, staff noted that a change would be required in Section 2-61(b) of the City Code and that additional provisions in Sections 2-57(b), 2-58, and 2-60 could be made clearer through revisions.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Chapter 2, "ADMINISTRATION," Article III, "BOARDS AND COMMISSIONS," Division 2, "ART COMMISSION AND PUBLIC ART PROGRAM," Section 2-57, "DEFINITIONS," of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by revising subsection (b) to read as follows:

(b) *City of Fort Worth* ~~art collection~~Public Art Collection means all ~~public works of art located in~~Artworks commissioned by the City of Fort Worth ~~through its designated public art program and Artworks purchased by or donated to the City of Fort Worth that have been accepted by the City of Fort Worth into its designated public art program.~~

SECTION 2.

Chapter 2, "ADMINISTRATION," Article III, "BOARDS AND COMMISSIONS," Division 2, "ART COMMISSION AND PUBLIC ART PROGRAM," Section 2-58, "FORT WORTH ART COMMISSION CREATED, COMPOSITION; TERM" of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by revising this section to read as follows:

Sec. 2-58. Fort Worth Art Commission created; composition; term

There is hereby created the Fort Worth Art Commission, comprised of nine members appointed by a majority vote of the City Council, with the following composition: ~~five~~(a) three art professionals, of which at least one must be a practicing artist and at least one a curator; ~~(b) two design professionals;~~ and ~~(c) four community representatives.~~ *Ex-officio*, non-voting members shall be the Fort Worth City Manager or ~~his/her~~that person's designee, and the director or designee of any City of Fort Worth department with an eligible project included in the Plan. Appointed members of the Fort Worth Art Commission shall serve without compensation. Terms shall be as prescribed in this Article for City boards and commissions. When any vacancies occur on the Fort Worth Art Commission by reason of death, resignation, or other cause, such vacancies shall be filled in the manner provided for original appointment for the unexpired term.

SECTION 3.

Chapter 2, "ADMINISTRATION," Article III, "BOARDS AND COMMISSIONS," Division 2, "ART COMMISSION AND PUBLIC ART PROGRAM," Section 2-60, "ADMINISTRATION OF THE PUBLIC ART PLAN," of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by revising subsections (g), (h), and (j) to read as follows:

(g) Conducting surveys of the condition of the ~~public art collection~~City of Fort Worth Public Art Collection every two years. Each survey would include a report on the condition of each ~~artwork~~Artwork, prioritized recommendations for the restoration, repair, and maintenance of the ~~artwork~~Artwork and estimated cost for that restoration, repair, and maintenance. The report shall be reviewed by the Fort Worth Art Commission and approved by the Fort Worth City Manager.

(h) Conducting ~~Insurance~~insurance and ~~Conservation Surveys~~conservation surveys on the condition of the ~~artwork~~Artwork in the City ~~collection~~of Fort Worth Public Art

Collection. Coordinated with the city's risk management function, these surveys will be updated at least once every five years.

(j) Development of a ~~Conservation Plan~~conservation plan for the City of Fort Worth Public Art collection~~Collection~~ in consultation with the Fort Worth Art Commission, with particular attention to any ~~artwork~~Artwork requiring extraordinary operations or maintenance costs. The ~~Conservation Plan~~conservation plan shall be reviewed by the Fort Worth City Manager and approved by the Fort Worth City Council.

SECTION 4.

Chapter 2, "ADMINISTRATION," Article III, "BOARDS AND COMMISSIONS," Division 2, "ART COMMISSION AND PUBLIC ART PROGRAM," Section 2-61, "FUNDING" of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by revising subsection (a) and adding subsection (a-1) to read as follows:

~~(a) Funding~~(a) Except as otherwise provided in subsection (a-1), funding for the Fort Worth Public Art Program shall be accomplished by annually setting aside two percent (2%) of Capital Improvement Project funding for public art. The percentage, approved in advance by the City Council for the Public Art Program, shall be added to the total cost of each proposition in City of Fort Worth Capital Project programs. The same percentage will be allocated from funds included in the operating budget of the Water and Sewer Fund for cash financing of capital projects.

(a-1) With respect to capital improvement projects included in Proposition One, "Street and Transportation Improvements," of the 2014 Capital Improvement Program, funding for the Fort Worth Public Art Program shall be accomplished by setting aside for public art one (1) percent of the Capital Improvement Project funding. The percentage, approved in advance by the City Council for the Public Art Program, shall be added to the total cost of such proposition in City of Fort Worth Capital Project program.

SECTION 5.

Chapter 2, "ADMINISTRATION," Article III, "BOARDS AND COMMISSIONS," Division 2, "ART COMMISSION AND PUBLIC ART PROGRAM," Section 2-61, "FUNDING" of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by revising subsection (b) to read as follows:

(b) Funds shall be used for artist fees and costs related to the production and maintenance of ~~artwork~~Artwork. Funds shall not be used for professional graphics, mass produced work or work not produced by an approved artist. ~~Allocations shall be calculated based on the total of all engineering, design and construction costs, minus all costs for demolition and real property acquisition. The appropriation for the Public Art Program will be calculated only on the original appropriation for design and construction services, excluding any subsequent amounts appropriated for amendments and change orders.~~

SECTION 6.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any section, paragraph, sentence, clause or phrase shall be declared to be unconstitutional by the valid judgment or decree of any court of competent

jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7.

That, this ordinance shall be cumulative of all provisions of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 8.

All right and remedies of the City of Fort Worth, Texas are expressly saved as to any and all violations of the Code of the City of Fort Worth, or any other ordinances of the City, that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not under such ordinances, same shall not be affected by this ordinance, but may be prosecuted until final disposition by the courts.

SECTION 9.

This ordinance shall take effect upon adoption.

APPROVED AS TO FORM AND LEGALITY:

Assistant City Attorney

ADOPTED AND EFFECTIVE: _____