

**AN ORDINANCE AMENDING 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 (2015) TO REVISE THE MANNER IN WHICH THE WATER AND SEWER FUND CONTRIBUTES TO PUBLIC ART FUNDING BY MODIFYING THE ANNUAL CONTRIBUTION AMOUNT AND BY EXCLUDING THE COST OF THE PUBLIC ART CONTRIBUTION FROM THE CALCULATION OF SERVICE FEES FOR WHOLESALE CUSTOMERS; PROVIDING FOR A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Fort Worth Public Art Program ("Program") was established in 2001 with the adoption of the "Public Art Ordinance" (Ordinance Number 14794), which is codified at 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;

**WHEREAS**, Section 2-61 provides for the funding of the Program, including an annual allocation equal to two percent of the funding for cash financed capital projects that is included in the Water and Sewer Fund's annual operating budget;

**WHEREAS**, the Program budget includes funds to support program administration, the public art conservation fund, and various projects and initiatives as set forth in the Program's annual work plan;

**WHEREAS**, it has been the City's practice to exclude the cost of the Water and Sewer Fund's contribution to the Program when calculating service rates for the water and sewer system's wholesale customers, but that practice is not documented in the Public Art Ordinance;

**WHEREAS**, since the Public Art Ordinance was originally adopted, cash financing has come to play an increasingly larger and more critical role in meeting the capital needs of the City's water and sewer system;

**WHEREAS**, the greater role of cash financing has resulted in a corresponding increase in the Water and Sewer Fund's public art contribution, which has risen from less than half a million dollars in Fiscal Year 2003 to more than one million dollars in each of the last three fiscal years;

**WHEREAS**, the City Council desires to allow the water and sewer system to have greater flexibility in cash financing capital projects and preserving funds for that purpose while at the same time ensuring that meaningful Public Art funding continues to be available; and

**WHEREAS**, the City Council wishes to amend Section 2-61 of the City Code to modify the annual contribution amount for the Public Art funding from the Water and Sewer Fund in an

effort to balance the competing needs of the Program and the water and sewer system and also to amend the City Code to codify the practice of not passing Public Art contribution costs through to wholesale customers of the City's water and sewer system;

**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 2-61, "Funding" of the Code of the City of Fort Worth, Texas (2015) is hereby amended by revising subsection (a) to eliminate reference to public art funding from the Water and Sewer Fund and adding a new subsection (a-2) to prescribe the manner in which public art contributions are to be made from the Water and Sewer Fund:

(a) Except as otherwise provided in subsection (a-1) below, funding for the Fort Worth public art program shall be accomplished by annually setting aside 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-2)

- (1) Funding for the Fort Worth public art program shall also be accomplished by an annual transfer from the Water and Sewer Fund made in accordance with the terms of this paragraph (a-2).
- (2) In connection with the annual budget process, the department responsible for ensuring the administration of the Fort Worth public art program shall prepare and submit to the city manager a proposed program budget, including a proposed allocation from the Water and Sewer Fund.
- (3) The city manager shall review the requested program budget and shall include his recommended program budget as part of the proposed annual budget submitted to the city council.
- (4) Notwithstanding anything in this article or the City Code to the contrary, the costs of the Water and Sewer Fund's public art contribution provided under this subsection shall be excluded from the calculation of wholesale rates applicable to water and sewer services.

(5) References in this paragraph (a-2) to the "Water and Sewer Fund" shall include any successor funds thereto.

**SECTION 2.**

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 3.**

This ordinance shall be cumulative of all provisions of ordinances of the Code of the City of Fort Worth, Texas, (2015), 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 4.**

All rights 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 5.**

This ordinance shall take effect for the Fiscal Year 2016-2017 budget.

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Jessica Sangsvang, Assistant City Attorney

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Mary Kayser, City Secretary

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_