



DATE: June 25, 2015

AGENDA ITEM # 2

**TO:** Public Arts Commission  
**FROM:** Jon Maginot, Staff Liaison  
**SUBJECT:** Public art funding options

### **RECOMMENDATION:**

Discuss the proposed revisions by the Planning and Transportation Commission to the public art funding ordinance

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### **BACKGROUND**

The Public Arts Commission (PAC) 2015/16 Work Plan includes an assignment to “explore and recommend funding options for public art projects.”

### **DISCUSSION**

On December 11, 2014, the PAC discussed and recommended the City Council adopt an ordinance establishing a development fee to fund public art. On January 27, 2015, the City Council reviewed the proposed ordinance and asked staff to provide additional information related to implementing an ordinance. This information was presented to the City Council on April 28, 2015. At that meeting, the Council directed that staff present a variety of questions to the PAC. After receiving further input from the PAC, the ordinance is to be presented to the Planning and Transportation Commission (PTC) for their review. The ordinance was reviewed by the PAC on May 28, 2015 and sent to the PTC on June 18, 2015.

The PTC discussed several potential changes to the ordinance including raising the minimum value of construction for which the ordinance would apply, implementing a sliding scale and/or cap for the fee and exempting Below Market Rate (BMR) unit costs from the fee.

Ultimately, the PTC voted 6-1 to approve the ordinance with the following changes: 1) raise the minimum construction value for which the fee would apply from \$300,000 to \$1 million; 2) establish a maximum amount of fees which can be collected from one project of \$200,000; and 3) exempt the cost of BMR units from calculation of the public art fee.

Should the PAC agree with the proposed changes, the ordinance will be forwarded to the City Council for their consideration. Any substantive changes will be referred back to the PTC.

Attachment: Draft public art financing ordinance presented to PTC

**ORDINANCE NO. 2015-\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LOS ALTOS TO PROVIDE PUBLIC ART**

**WHEREAS**, public art enhances the quality of life in a community, fosters economic development and creates inventive and/or stimulating public spaces; and

**WHEREAS**, public art provides an intersection between the past, present and future as well as between disciplines and ideas; and

**WHEREAS**, published data strongly indicates that cities with an active and dynamic cultural scene are more attractive to individuals and businesses; and

**WHEREAS**, Los Altos can create diverse interactive and exciting art experiences for the community with public art in the civic center, community plazas, parks, buildings and other public spaces throughout the City; and

**WHEREAS**, private, non-residential construction projects in the City of Los Altos can contribute to funding the creation, installation, and administration of public art; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter XX.XX “Public Art Funding” is hereby added as follows:

**“Chapter XX.XX – “Public Art Funding”**

**XX.XX.010 – Definitions**

The definitions set forth in this Section shall govern the application and interpretation of this Chapter XX.XX.

- A. “Publically accessible art” shall mean art which can be reasonably viewed or experienced from within the public right-of-way or to which access is unrestricted to members of the public at any time of day.
- B. “Total construction costs” shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent Building Valuation Data from the Uniform Building Code (UBC).

**XX.XX.020 – Los Altos Public Art Fund**

There is hereby created a Los Altos Public Art Fund, which funds shall be restricted to the implementation of the Los Altos Public Art Program, as set forth in the Los Altos Capital Improvement Program. Such funds may be used to acquire, place, maintain and promote temporary and permanent art on public property throughout the City.

**XX.XX.030 – Contribution Requirements**

- A. R1-10, R1-H, R1-20, R1-40. Private single-family developments within the R1-10, R1-H, R1-20 and R1-40 districts shall be exempt from the requirements of this chapter. Private, non-single family developments with total construction costs in excess of three hundred thousand dollars (\$300,000) and subject to design review approval within the R1-10, R1-H, R1-20 and R1-40 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section XX.XX.020
- B. R3-4.5, R3-5, R-3-3, R3-1.8, R3-1. Private developments of four (4) or more units and subject to design review approval within the R3-4.5, R3-5, R-3-3, R3-1.8 and R3-1 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section XX.XX.020.
- C. OA, CD/R3, CN, CD, CT, CRS, CRS/OAD, PCF, PCF/R1-10. Private building developments with total construction costs in excess of three hundred thousand dollars (\$300,000) and subject to design review approval within the OA, CD/R3, CN, CD, CT, CRS, CRS/OAD, PCF, PCF/R1-10 districts shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publically accessible art on the development site. At the discretion of the owner or developer, and in-lieu of developing on-site public artwork, a Public Art in-lieu contribution may be placed into the Los Altos Public Art Fund to be used pursuant to Section XX.XX.020.

**XX.XX.040 – Application procedures for placement of required public art on private property**

An application for placement of public art on private property shall be submitted in a form and manner as prescribed by the Public Arts Commission staff liaison and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
- B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods; and

- D. A narrative statement or plan that demonstrates the public art will be displayed in a publically accessible manner. Publically accessible shall mean an area or form which is reasonably open to the general public at all times of day.

**XX.XX.050 – Approval for placement of public art on private property**

Applications for placement of public art on private property shall be reviewed by the Public Arts Commission for recommendation of approval prior to final review of the application as a whole by the City Council. All approvals for placement of public art on private property shall be obtained prior to issuance of a building permit.

**XX.XX.060 – Violations of this Chapter**

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this Chapter.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 3. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2015 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2015 passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Jan Pepper, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK