



DATE: January 27, 2015

AGENDA ITEM # SS1

**TO:** City Council  
**FROM:** Jon Maginot, City Clerk  
**SUBJECT:** Public art funding

**RECOMMENDATION:**

Receive a recommendation from the Public Arts Commission to establish a development fee to fund public art and direct staff accordingly

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**SUMMARY:**

**Estimated Fiscal Impact:**

**Amount:** Unknown at this time

**Budgeted:** No

**Public Hearing Notice:** Not applicable

**Previous Council Consideration:** Not applicable

**CEQA Status:** Not applicable

**Attachments:**

1. Examples of public art funding in California
2. Draft ordinance

## **BACKGROUND**

Public art programs are a way for cities to develop and provide dynamic cultural opportunities for residents and visitors. Cities with strong public art programs experience increases in visitors to the community which helps promote a strong economic climate within the city. The City of Los Altos experienced this during the San Francisco Museum of Modern Art Project Los Altos exhibit. During the four-month exhibit, an estimated 20,000 people visited the various installations.

A strong public art program includes a variety of art mediums and could include sculptures, murals, mosaics, sidewalk installations, indoor displays, theatrical presentations, photography, etc. Having a variety of mediums allows a program to attract a broad range of visitors to the installations.

For many years, the public art program in the City of Los Altos has consisted of the Outdoor Public Sculpture Program. This program consists of sculptures which are loaned to the City by the artist or acquired by the City through a variety of methods. Of the 30 sculptures currently located in Los Altos, two were purchased by the City. This focus on loaning of artwork limits the ability of the City to consistently attract accomplished artists and obtain high quality sculpture pieces.

The Public Arts Commission's (PAC) 2014/15 Work Plan includes an assignment to "explore and recommend funding options for public art projects." Throughout 2014, the PAC reviewed and discussed different options for funding public art in the City of Los Altos. A variety of options were researched and discussed including funding through the City's General Fund or Capital Improvement Fund, various grants, private development, and private fundraising.

## **DISCUSSION**

Many cities throughout California require developers to pay some sort of fee related to public art. These funds are then used by the city to acquire, install and maintain public art. Potential uses of funds could include commissioning of an artwork (mural, sculpture, mosaic, etc.), acquisition of art, development of community art projects, art competitions, maintenance of existing artwork, and higher stipends for art loans.

Cities which require installation of public art in private developments or payment in-lieu use a variety of methods to calculate the fee amount or value of art required to be installed. These methods include basing the fee on the value of the development, basing the fee on square footage of construction, or providing design incentives. As well, many cities provide a minimum project value for which fees apply. This ensures that a fee does not apply to small projects, such as remodels. Examples of public art funding are included in Attachment 1.

In order to develop and grow the public art program in the City of Los Altos, and to avoid additional financial burden on the City's Capital Improvement Fund, an outside, dedicated funding source is recommended. Following examination of current practices in other cities and a thorough review of various funding options, the PAC recommends adoption of an

ordinance (Attachment 2) establishing a development fee for the purpose of funding public art in Los Altos.

The proposed ordinance would allow developers to either place art in the development or pay an in-lieu fee. The PAC recommends that the requirement to install publicly accessible art on the development site or pay an in-lieu fee be limited to private, nonresidential developments in excess of \$300,000 and multi-family residential developments of four or more units. The proposed requirement is that developers include public art in value of not less than one percent (1%) of project costs. Should the developer choose to, they may contribute funds in-lieu of placement of art on-site. The PAC felt that these minimum standards for which the public art requirement would apply was best for the type and scope of development that occurs within the City of Los Altos. Also, the PAC felt that 1% is in line with fees required by other cities.

The proposed ordinance includes procedures for a developer to place public art on private property. An application to do so would then be reviewed by the PAC to ensure compliance with the ordinance. This review would solely focus on the proposed art installation. Developers who choose to place art rather than contribute an in-lieu fee would be required to maintain the art and continue to provide public access to the art. This would most likely be included as a condition of approval.

Should a developer choose to pay the in-lieu fee, these dollars would go into the City's Art Fund for use at the discretion of the City. There would be no obligation for the City to install art at the subject development site.

If the Council desires to proceed with establishing a development requirement and fee, it is necessary to incorporate this into the City's Zoning Code. This would require a public hearing before the Planning and Transportation Commission as all amendments to the Zoning Code are required to be considered by that body.

## **FISCAL IMPACT**

While it is unknown at this time the exact impact to the City, establishing a development fee would increase City revenues, which would then be used in projects related to the City's planned public art efforts.

## **PUBLIC CONTACT**

The Public Arts Commission discussed various funding options for public art, including the draft ordinance, at its July 24, 2014, August 28, 2014, September 25, 2014, October 23, 2014 and December 11, 2014 meetings.

Posting of the meeting agenda serves as notice to the general public.

## Examples of public art funding in California

City	Public Development \$	Private Development \$
Alameda	1% for >250K, max 150K	1% for >250K, max 150K
Albany	1.75% of construction >300K	1.75% of construction >300K
Brea	1%	1% of construction >1.5M
Berkeley	Bond Measure	
Beverly Hills	1%	
Burbank	1%	1% of construction >500K
Claremont	1%	.5% of residential >200K and single-family track on >5 lots
Culver City		1% of construction >500K (indust.) and >250K (comm.)
Davis	1%	
Emeryville	1.50%	1% of construction >300K
Escondido		\$0.15 per sqf of new contr >2000 sqf
Lodi	2% of construction >50K	
Long Beach		1% of construction >250K
Mountain View	1% of construction > 1 000 K	Design incentives encourage use of art in major new commercial and industrial projects. This program has resulted in the largest component of art in the City.
Oakland	1.50%	
Palm Desert	1%	.25% of construction > 100K .5% of commercial construction
Palo Alto	1%	1% (for on-site art or for in-lieu fund for projects > 200K and 10K sqf)
Petaluma		1% of construction >500K
Pomona		1% of construction >750K
Redwood City	Funding though grants	
Richmond	1.5% of construction >300K	
Sacramento	2%	2% of redevelopment agency private projects
San Diego	2% of construction >250K	1% of non-residential develop >5M
San Francisco	2%	

San Jose	2%	1%
Santa Cruz	2%	
Santa Barbara	1%	1% of construction >500K
San Luis Obispo	1%	.5% of total cost, nonres. >100K
Santa Monica	1%	2% for on-site art work or 1% construction to cultural trust fund
Stockton	2%	1%
Sunnyvale	1%	
Ventura	2%	
Walnut Creek	1%	1% for >25K sqf, 15-25K sqf .5% to pedestrian retail district or core area development zone
West Hollywood	Voluntary	1%

**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 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. “Nonresidential development” shall mean the construction of commercial, mixed-use, office and industrial projects, which are not intended for residential purposes.
- 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. Private Developments. Private nonresidential building developments with total construction costs in excess of three hundred thousand dollars (\$300,000) and subject to design review approval shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. Private residential and live-work building developments of four (4) or more units and subject to design review approval shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of public accessible art on the development site.
  - 1. 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 for acquisition and placement of public art throughout the City.

**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 as part of the plans and application for design review submitted pursuant to Chapter 14.78.030.D 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 to demonstrate that the public art will be displayed in an open area and freely available to the general public, or that public accessibility will be provided in an equivalent manner based on the characteristics of the artwork or its placement on the site.

**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 \_\_\_\_\_, 2014 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2014 passed and adopted by the following vote:

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

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

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK