



DATE: May 24, 2018

AGENDA ITEM # 4

**TO:** Public Arts Commission

**FROM:** Jon Maginot, Staff Liaison

**SUBJECT:** Public Art Development Fee

**RECOMMENDATION:** Discuss options related to creation of Public Art Development Fee and make a recommendation to be presented to the City Council

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## **BACKGROUND**

On May 8, 2018, the Public Arts Commission (PAC) presented a draft Public Art Tactical Plan to the City Council in response to direction provided previously by the Council. As part of the Tactical Plan, the PAC recommended establishing a Public Art Development Fee to fund the various projects and activities.

## **DISCUSSION**

A majority of Council supported the concept of a Public Art Development Fee. In 2015, the PAC developed a draft ordinance for a development fee which can serve as the foundation for a new proposal.

Attachment: Draft Ordinance

**ORDINANCE NO. 2018-xxx**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
ESTABLISHING A DEVELOPMENT FEE OF 1% FOR PUBLIC ART,  
CREATING A PUBLIC ART FUND AND ESTABLISHING REQUIREMENTS  
FOR INCLUSION OF PUBLIC ART IN DEVELOPMENT PROJECTS**

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

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

**WHEREAS**, public art provides an intersection between the past, present and future as well as between disciplines and ideas; 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 for the enjoyment of residents and visitors; 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. “Publicly 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 City of Los Altos Building Valuation Fee Schedule.

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

There is hereby created a Los Altos Public Art Fund, which funds shall be restricted to 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 one million dollars (\$1,000,000) 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. Such contribution shall not exceed two hundred thousand dollars (\$200,000).
- 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. Such contribution shall not exceed two hundred thousand dollars (\$200,000). Construction costs for Below Market Rate units shall not be included in valuation.
- C. OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, PUD. Private building developments with total construction costs in excess of one million dollars (\$1,000,000) and subject to design review approval within the OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, and PUD districts 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. 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. Such contribution or installation shall not exceed two hundred thousand dollars (\$200,000). Construction costs for Below Market Rate units shall not be included in valuation.

**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 publicly accessible manner. Publicly 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**

General type and placement of public art on private property shall be reviewed by the Public Arts Commission for recommendation prior to final review of the application as a whole by the City Council. A formal application for final placement of public art on private property shall be submitted to and approved by the Public Arts Commission 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 \_\_\_\_\_, 2018 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2018 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Jean Mordo, MAYOR

Attest:

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