

Arts Development Ordinance

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District2Atlanta

The Heart of the City

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Arts Development Ordinance (ADO): At a Glance

What is an ADO?

“Percent for the arts” ordinances create dedicated funding streams for public art. Money can come from both municipal and/or private sources. The name refers to the percent of the city’s capital budget that must be spent on public art, or percent of project costs in the private case.

Several U.S. cities, including New York, Seattle, Philadelphia, Charlotte, and Atlanta, have adopted ordinances that require a percent of the city’s capital improvement budget be spent on public art. One percent is the typical set aside. Atlanta apportions 1.5%.

Some cities have expanded these ordinances to include private development. These are what we refer to as Arts Development Ordinances (ADO). ADOs vary greatly as they include different contribution triggers and definitions of qualifying public art contributions.

What are the Key Benefits?

An ADO adds more total revenue. It forces private developers to contribute to the cultural fabric of the city and become civically engaged. It holds everyone accountable for neighborhood improvement.

Cities that have an ADO recognize just how important the arts are to resident wellbeing. One study found that public art enhances novelty and complexity, making spaces more active and engaging.¹ Public art helps increase community engagement, inviting community members to interact with their surroundings.

Moreover, public art helps increase economic development. One study found that most investors consider public art to be an important distinguishing factor between competing buildings. It helps secure quality tenants, reducing investment risk.² Speaking more broadly, in Atlanta, nonprofit arts and culture organizations and audience spent \$604,555,935 in taxable dollars in 2018. The sector supported 19,392 jobs.

¹ Motoyama, Y., & Hanyu, K. (2014, December). Does public art enrich landscapes? The effect of public art on visual properties and affective appraisals of landscapes. *Journal of Environmental Psychology*, 40, 14-25. doi:10.1016/j.jenvp.2014.04.008

² Roberts, M., & Marsh, C. (1995, May). For art's sake: Public art, planning policies and the benefits for commercial property. *Planning Practice & Research*, 10(2), 189-198. doi:10.1080/02697459550036702

Why Is This Particularly Important for Atlanta?

Below is a partial list of cities that dedicate a portion of their budget to the arts. In it's FY19 and FY20 budgets, Atlanta increased spending to \$2 million. Yet, you can see that we still fall well behind.

Contribution to the Arts in FY 2018		
	Cultural Budget (\$)	Per-capita Funding (\$)*
New York	188,584,697	9.44
Miami-Dade**	41,551,000	6.70
Chicago	33,147,199	3.49
San Jose***	27,240,390	13.63
Dallas	22,091,911	2.93
San Diego	14,600,000	4.37
Seattle	13,766,040	3.49
Los Angeles	13,130,438	0.99
San Antonio	10,735,501	4.26
Phoenix	4,428,000	0.91
Philadelphia	4,152,056	0.68
Atlanta****	995,000	0.17

*According to Metro Area Population

**County

***Includes Convention Fund

****In FY 2019, Atlanta's cultural budget increased to \$2,000,000

Atlanta must find additional dollars to be competitive. The chief policy pursued in the past to accomplish this goal has been a push for a tenth of a penny sales tax for the arts. Unfortunately, this required state approval, which has to date proved an insurmountable obstacle.

ADOs do not require state involvement but still have the capacity to grow the public art budget in a meaningful way. Further, the additional draw is on developers, rather than individual taxpayers.

Moreover, the funds from our percent for the arts ordinance cannot be used for arts programming, only physical art installations. This is an issue because public art investment shouldn't be about just murals and statues. Things like music, dance, and theater should be included; as should support for non-profit organizations as well as square footage and infrastructure that bolsters all of the above. The ADO can be written to incorporate this broader definition.

Core Considerations Moving Forward

An ADO that requires a public art contribution from private development has five essential questions, which are answered in this document via our proposed ADO legislation for Atlanta, outlined later in this document:

- 1) *Contribution Trigger* - What type of development will trigger the contribution requirement?
- 2) *Total Contribution* - How should we calculate a qualifying development's Arts Development Fee (ADF)?
- 3) *Contribution Options* - In which way(s) should developers be allowed to meet their arts contribution?
- 4) *Exemptions* - Which types of developments should be exempt from ADFs?
- 5) *Administration* - What governing body, in consultation with the public, should oversee the funds collected from the ADF and assist developers who pursue additional options? Further, how should those funds be accounted for?

To answer these questions, we reached out to other cities that have an ADO in place. The next section, Domestic Case Studies, shows our findings.

Domestic Case Studies

Coconut Creek, FL

Date Founded: 2008³

Learn More: [Coconut Creek Public Art Ordinance](#)

Notable Aspects: Under Coconut Creek Public Art Ordinance, all construction greater than 12,500 square feet is subject to a per-square-foot public art fee. To comply with the ordinance, developers or remodelers have two contribution options: install publicly accessible and readily visible art on-site; or contribute to the city's public art fund. Remodelers pay a lower fee than new developers. Likewise, those who contribute to the public art fund pay a lower fee. The fund can only be used to commission, acquire, and maintain physical works of public art. Reconstruction to repair damage caused by natural and man-made disasters is exempt from the fee requirement.

Los Angeles, CA

Date Founded: 1991⁴

Learn More: [Los Angeles Arts Development Fee Ordinance](#)

Notable Aspects: Under Los Angeles Arts Development Fee Ordinance, private development projects valued at \$500,000 or more are subject to a public art fee. Per-square-foot fees vary by construction type. Alternatively, developers can pay 1% of the project's valuation, if that is lower than the appropriate fee. To comply with the ordinance, developers have three contribution options: commission art on site that is publicly accessible; contribute to the Art Development Fee Trust Fund; or a combination of the two preceding options. Residential property and a variety of renovations for code compliance are exempt from the fee requirement.

Under the previous Arts Development Fee Program, which the Director of Public Arts sites as her ideal "percent for art program," developers were required to contribute 1% of their total construction costs to a Cultural Trust Fund. Only 60% of this contribution could be spent for on-site art. The remaining 40% was required to be given to the Trust Fund. The Trust Fund could be used to support either public visual art within the project area or to support Cultural Facilities, such as museums. The Program also provided a more direct path for public engagement, requiring artist selection panels. Exemptions included historic rehabilitation projects and projects for very low- to moderate-income housing in addition to the program's current exemptions. The change from the Program to the Ordinance resulted from changes in state legislation.

³ [City of Coconut Creek City Commission Minutes, Meeting No. 2008-02](#)

⁴ [Private Arts Development Fee Program](#)

Rockville, MD

Date Founded: 1978⁵

Learn More: [Rockville Public Art Ordinance](#)

Notable Aspects: Under Rockville Public Art Ordinance, all new construction is subject to a public art fee. Public art contribution levels vary by the type and size of development. To comply with the ordinance, developers have six contribution options: permanent visual art on-site or within the same planning area; temporary art presentations; monetary contribution; provision of arts space; provision of arts-based infrastructure; or any combination of the preceding options. Monetary contributions can be made to the City of Rockville Art in Public Place Project, to an eligible arts organization, or to the City of Rockville Friends of the Arts Fund. The latter is a private-public partnership. Notable exemptions include places of worship, accessory parking structures, and renovations to a building that has already made a publicly accessible art expenditure within the past 10 years.

San Francisco, CA

Date Founded: 1985⁶

Learn More: [San Francisco Public Art Ordinance](#)

Notable Aspects: Under San Francisco Public Art Ordinance, new building construction or floor addition greater than 25,000 square feet is subject to a public art fee. Developers must contribute 1% of construction costs. Similar to Los Angeles, developers have three contribution options to comply with the ordinance: commission art on site that is publicly accessible; contribute to the Public Art Trust Fund; or a combination of the two preceding options. Developers typically choose to install art on-site that directly increases their property value, rather than contribute to the Trust.

The next section, Lessons from Other Cities, summarizes the findings from these case studies into a few main takeaways.

⁵ [City of Rockville Public Art](#)

⁶ [Public art enhances the beauty of San Francisco's public buildings and spaces.](#)

Lessons from Other Cities

Some themes have emerged from these ADO case studies:

Provide some flexibility in contribution options. Los Angeles learned that each project is unique and every developer has different needs and capacities.⁷ A bill's language should reflect that point.

But, too much flexibility is not good. San Francisco shows us that too much flexibility can make it very difficult to build an large enough trust. Without a minimum contribution requirement, developers will opt to install art on-site that directly increases their property value and pay less attention to the enrichment of a broader area. In fact, only an estimated 10% of developers choose to contribute to the fund in San Francisco.⁸ With a minimum requirement, on the other hand, 100% of developers must contribute at some level.

Don't exempt all residential development. At first glance, it makes sense to exempt residential properties; and this is certainly true for things like single family homes or importantly, affordable housing. But Los Angeles warns that large residential developments often benefit the most from art on-site. They also account for a significant share of private development. Rockville, Maryland, which determines its ADF based on development size, only exempts residential projects with fewer than 10 units.

But, don't only exempt affordable housing. As we have learned from other cities, that policy would create inequities. Exempting developments that include affordable artist housing, however, would promote both low-income housing and art expenditure. Similarly, the private development of cultural facilities intended to foster and showcase art should also be exempt.

⁷ Interview with Susan Gray, Former Arts Development Fee Program Director for Los Angeles

⁸ Interview with Jill Manton, Director of Public Art Trust Fund and Special Initiatives for San Francisco Arts Commission

An ADO for Atlanta

Based on our analysis, I suggest the following for our city:

1) Contribution Trigger - The Arts Development Fee (ADF) is imposed on private developments receiving public funds. All municipal development, regardless of cost or size, is subject to Atlanta's Percent for the Arts ordinance. It reasons that publicly subsidized private development be treated similarly, barring exemptions as laid out in Section 4 below. Because accepting public assistance is a voluntary decision, this legislation will not be struck down for claims of "exaction," or charging a fee to approve a building permit.

2) Total Contribution - The ADF is set based on 1.5% of the project's total construction costs, a value determined by the Office of Buildings. This aligns with current legislation that requires 1.5% of municipal construction costs be spent on public art. Cities that use a percentage-based fee structure set contribution levels between 0.5% and 2% of construction costs. Atlanta could use 1.5% as a simple extension of its current Percent for the Arts ordinance.

3) Contribution Options - The ADO requires developers to meet their contribution by first paying 50% of their total Fee to a Public Arts Trust Fund (discussed further in Section 5). The remaining 50% can be spent either on art on-site, arts space or infrastructure, or given to a qualifying arts organization. If installing art on-site, developers can choose from any art discipline so long as they have the administrative capacity to execute the installation in a professional manner. On-site is defined as within 1/3rd mile of the project on either private or public property in partnership with the City.

These options allow flexibility for developers, while still guaranteeing that half of the ADF will go to the Public Arts Trust Fund. We follow Rockville's example of broadly defining art to ensure that art in all forms has the opportunity to receive support.

4) Exemptions - Small-scale residential development, development that includes affordable artist housing, cultural facilities, and construction related to disaster recovery and code upkeep, are exempt from paying the ADO. Some cities exempt all residential development from public art requirements. However, we learned from Los Angeles not to exempt all residential development because they often benefit the most from art on-site. They also account for a significant share of private development. Thus, we follow Rockville's example of exempting small-scale residential development.

In an effort to promote affordable housing, cities often exempt low-income residential development without exempting other residential development. This policy creates inequities in art expenditure. Exempting developments that include affordable artist housing, however, would promote both low-income housing and art expenditure. Similarly, the private development of cultural facilities intended to foster and showcase art should also be exempt.

5) Administration - The ADO establishes a new Arts Development Commission to serve as a public process in overseeing the Arts Development Fees in partnership with the Office of Cultural Affairs. Creating a new commission allows members with an appropriate professional background to inform the use of a Public Arts Trust Fund. This fund will comprise of both the public Percent for the Arts contributions and the private ADF contributions.

Ending Notes

A local government that cares for the wellbeing of its residents and the community as a whole has the duty to actively support public art. Atlanta does not presently dedicate enough or do so with enough dynamism or transparency.

The ADO will introduce a new revenue stream. It will guarantee that this stream is dedicated to public art, defined in the broadest terms. It will add fairness to the public investment process and streamline the spending of taxpayer dollars as it pertains to art in the public space.

I believe that this would be a promising and necessary change in our investment strategy. Atlanta can join the ranks of San Francisco, Los Angeles, and other great cities embracing ADOs. It can blaze the trail as a Southern city with an increasingly global artistic and cultural footprint.