

Chapter 16.72**WESTERN RIVERSIDE MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE PROGRAM****Sections:**

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Section 16.72.010 Title.

This Ordinance shall be known as the "Western Riverside County Multiple Species Habitat Conservation Plan Fee Program Ordinance". (Ord. 6709 § 1, 2003)

Section 16.72.020 Purpose.

The purpose and intent of this Ordinance is to establish a Local Development Mitigation Fee to assist in the maintenance of biological diversity and the natural ecosystem processes that support this diversity; the protection of vegetation communities and natural areas within the City and western Riverside County which are known to support threatened, endangered or key sensitive populations of plant and wildlife species; the maintenance of economic development within the City by providing a streamlined regulatory process from which development can proceed in an orderly process; and the protection of the existing character of the City and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP. (Ord. 6709 § 1, 2003)

Section 16.72.030 Definitions.

As used in this Ordinance, the following terms shall have the following meanings:

"Certificate of Occupancy" means a certificate of occupancy issued by the City in accordance with all applicable ordinances, regulations, and rules of the City and state law.

"Credit" means a credit allowed pursuant to this Ordinance, which may be applied against the development impact fee paid.

"Development Project" or "Project" means any project undertaken for the purpose of development pursuant to the issuance of a building permit by the City pursuant to all applicable ordinances, regulations, and rules of the City and state law.

"Final Inspection" means a final inspection of a project as defined by the building codes of the City.

"Gross Acreage" means the total property area as shown on a land division map of record, or described through a recorded legal description of the property. This area shall be bounded by road right-of-way and/or legal property lines.

"Local Development Mitigation Fee" or "Fee" means the development impact fee imposed pursuant to the provisions of this Ordinance.

“Multiple Species Habitat Conservation Plan” or “MSHCP” means the Western Riverside County Multiple Species Habitat Conservation Plan, adopted by the City Council on September 23, 2003.

“MSHCP Conservation Area” has the same meaning and intent as such term is defined and utilized in the MSHCP.

“Ordinance” means this Ordinance No. 6709 of the City of Riverside, California.

“Private University Project” means a development project by a post secondary educational institution accredited by the Western Association of Schools and Colleges (WASC), with a minimum campus size of 75 acres, located within the City of Riverside, for any project built on university owned land, sponsored or co-sponsored by the university and the planned use of the project is solely for the delivery of university services, including classrooms and other teaching facilities, student housing, student dining facilities and faculty and administrative and university administrative offices, gymnasiums or athletic facilities and performing arts venues.

“Project Area” means the area, measured in acres, from the adjacent road right-of-way line to the limits of project improvements. Project Area includes all project improvements and areas that are disturbed as a result of the project improvements on an owner’s Gross Acreage, including all areas depicted on the forms required to be submitted to the City pursuant to this Ordinance and/or other applicable development ordinance or regulation of the City. Except as otherwise provided herein, the Project Area is the area upon which the project will be assessed the Local Development Mitigation Fee.

“Residential Unit” means a building or portion thereof used by one family and containing but one kitchen, which unit is designed or occupied for residential purposes, including single-family, multiple-family dwellings, and mobile homes on a permanent foundations, but not including hotels and motels.

“Revenue” or “Revenues” means any funds received by the City pursuant to the provisions of this Ordinance for the purpose of defraying all or a portion of the cost of acquiring and preserving vegetation communities and natural areas within the City and the region which are known to support threatened, endangered or key sensitive populations of plant and wildlife species.

“Western Riverside County Regional Conservation Authority” means the governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the MSHCP. (Ord. 6709 § 1, 2003)

Section 16.72.040 Establishment of the Multiple Species Habitat Conservation Plan Fee.

Establishment of the Multiple Species Habitat Conservation Plan Fee. The following fee shall be paid for each Development Project to be constructed within the City:

A. Adoption. To assist in providing revenue to acquire and preserve vegetation communities and natural area within the City and western Riverside County which are known to support threatened, endangered, or key sensitive populations of plant and wildlife species, a Local Development Mitigation Fee shall be paid for each Development Project or portion thereon constructed within the City.

B. Fees. Automatic annual fee adjustments will be set by resolution and will be adjusted as provided for in Riverside Municipal Code Section 16.72.050.

C. Fee Calculation. The fees are calculated using an Equivalent Benefit Unit methodology. The amount of the Local Development Mitigation Fee shall be calculated on the basis of the acreage of the Project Area, in accordance with the following:

1. The City staff shall determine the Project Area based on the subdivision map, plot plan, and other information submitted to or required by the City.

2. An applicant may elect, at his or her own expense, to have a Project Area dimensioned, calculated, and certified by a registered civil engineer or licensed land surveyor. The engineer or land surveyor shall prepare a wet-stamped letter of certification of the Project Area dimensions and a plot plan exhibit thereto that clearly delineates the Project Area. Upon receipt of the letter of certification and plot plan exhibit, the City shall calculate the Local Development Mitigation Fee required to be paid based on the certified Project Area.

3. Where construction or other improvements on Project Area are prohibited due to legal restrictions on the Project Area, such as Federal Emergency Management Agency designated flood ways or areas legally required to remain in their natural state, that portion of the Project Area so restricted shall be excluded for the purpose of calculating the Local Development Mitigation Fee.

D. Imposition of the Local Development Mitigation. Notwithstanding any other provision of the City's Municipal Code, no permit shall be issued for any Development Project except upon the condition that the Local Development Mitigation Fee applicable to such Development Project has been paid.

E. Payment of the Local Development Mitigation Fee.

1. The Local Development Mitigation Fee shall be paid in full at the issuance of building permits and in accordance with applicable law.

2. The Local Development Mitigation Fee shall be assessed one time per lot or parcel, except when additional construction or improvement on the lot or parcel results in the disturbance of additional area.

3. The Local Development Mitigation Fee required to be paid under this Ordinance shall be the fee in effect at the time of payment.

4. Notwithstanding anything in the City's Municipal Code, or any other written documentation to the contrary, the Local Development Mitigation Fee shall be paid whether or not the Development Project is subject to conditions of approval by the City imposing the requirement to pay the fee.

5. If all or part of the Development Project is sold prior to payment of the Local Development Mitigation Fee, the Project shall continue to be subject to the requirement to pay the fee as provided herein.

F. Refunds. There shall be no refund of all or part of any Local Development Mitigation Fee paid under this Ordinance except in cases of overpayment or miscalculation of the applicable fee. Only in cases of overpayment or miscalculation of the fee will the person or entity that paid the Local Development Mitigation Fee be entitled to a refund.

G. Accounting and Local Disbursement of Collected Local Development Mitigation Fees.

1. All fees paid pursuant to this Ordinance shall be deposited, invested, accounted for, and expended in accordance with Section 66006 of the Government Code and all other applicable provisions of law.

2. Subject to the provisions of this section, all fees collected pursuant to this Ordinance shall be remitted to the Western Riverside County Regional Conservation Authority at least quarterly, and will be expended solely for the purpose of acquiring and preserving vegetation communities and natural areas within the City and the region which species covered in the MSHCP in accordance with the provisions of the MSHCP.

3. The City may recover the costs of administering the provisions of this Ordinance using the Revenues generated by the fees, in an amount and subject to the rules and regulations established by the Western Riverside County Regional Conservation Authority. (Ord. 6945 § 1, 2007; Ord. 6709 § 1, 2003)

Section 16.72.050 Automatic Annual Fee Adjustment.

The fee established by this Ordinance shall be revised annually by means of an automatic adjustment at the beginning of each fiscal year based on the average percentage change over the previous calendar year set forth in the Consumer Price Index for the Los Angeles-Anaheim-Riverside area, measured as of the month of December in the calendar year which ends in the previous fiscal year. The first fee adjustment shall not be made prior to a minimum of ten (10) months subsequent to the effective date of the ordinance codified in this Ordinance. (Ord. 6904 § 1, 2006; Ord. 6709 §1, 2003)

Section 16.72.060 Exemptions.

The following types of construction shall be exempt from the provisions of this Ordinance:

- A. Reconstruction or improvements that are damaged or destroyed by fire or other natural causes.
- B. Rehabilitation, remodeling, or minor additions to an existing Development Project.
- C. Secondary residential units, constructed on developed residential property and meeting all state and City requirements for such units.
- D. Existing improvements that are converted from an existing permitted use to a different permitted use, provided that no additional area of the property is disturbed as a result of such conversion.
- E. Development on a Project Area that is currently or has been previously improved.
- F. Guest houses or dwellings, as permitted by law.
- G. Projects determined by the City to be in the City Plan Check process as of the date of September 23, 2003, that have not expired pursuant to current City regulations or ordinances.
- H. Projects determined by the City to be submitted for the City Design Review process as evidenced by a completed application as of the date of October 7, 2003, and submitted, as evidenced by a completed grading application, for issuance of a grading permit by November 21, 2003, and such grading permit has been issued by the City by no later than March 22, 2004.
- I. Private University Project, as defined by this ordinance, with a covenant and agreement to be recorded upon the property on which development is occurring that identifies the MSHCP fee applicable to the project, and providing that should the development or facility being constructed be converted to a non-university use, the MSHCP fee that would have been assessed on the project at the time of the development, shall be paid to the City upon the conversion or change of use of facility, unless the MSHCP Program is no longer in effect as determined by Western Riverside County Regional Conservation Authority or its successor. (Ord. 6709 § 1, 2003)

Section 16.72.070 Fee credit and waivers.

Any Local Development Mitigation Fee credit that may be applicable to a Development Project, or any partial or full waiver of a Local Development Mitigation Fee that may be applicable to a Development Project, shall be determined by the City in cooperation with the Western Riverside County Regional Conservation Authority, which shall have an auditing role in this process. (Ord. 6709 § 1, 2003)

Section 16.72.080 Severability.

This Ordinance and the various parts, sections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby. If any part, sentence, paragraph, section, or clause of this Ordinance, or its application to any person entity is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall affect

only such part, sentence, paragraph, section, or clause of this Ordinance, or person or entity; and shall not affect or impair any of the remaining provision, parts, sentences, paragraphs, sections, or clauses of this Ordinance, or its application to other persons or entities. The City Council hereby declares that this Ordinance would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section, or clause of this Ordinance not been included herein; or had such person or entity been expressly exempted from the application of this Ordinance. (Ord. 6709 § 1, 2003)