

**ORDINANCE NO. 875  
(AS AMENDED THROUGH 875.1)  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE TO  
ESTABLISH A LOCAL DEVELOPMENT MITIGATION FEE  
FOR FUNDING THE PRESERVATION OF NATURAL  
ECOSYSTEMS IN ACCORDANCE WITH THE COACHELLA  
VALLEY MULTIPLE SPECIES HABITAT CONSERVATION  
PLAN**

**WHEREAS**, the Board of Supervisors of the County of Riverside finds that the ecosystems of the Coachella Valley and surrounding mountains located in central Riverside County, and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents;

**WHEREAS**, these vegetation communities and natural areas contain habitat value which contributes to the County's and the region's environmental resources;

**WHEREAS**, special protections for these vegetation communities and natural areas must be established to prevent future endangerment of the plant and animal species that are dependent upon them;

**WHEREAS**, adoption and implementation of this Ordinance will help to enable the County to achieve the conservation goals set forth in the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan ("MSHCP"), adopted by the Board of Supervisors on October 2, 2007, to implement the associated Implementing Agreement executed by the Chairman of the Board of Supervisors on October 2, 2007, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of applicable laws, which could include the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA") and the California Natural Community Conservation Planning Act ("NCCP Act");

**WHEREAS**, 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 County, Coachella Valley and surrounding mountains located in central 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 unincorporated are of Riverside County by providing a streamlined regulatory process from which development can proceed in an orderly process; and the protection of the existing character of the County 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;

**WHEREAS**, the findings set forth herein are based on the MSHCP and the studies referenced therein, and the estimated acquisition costs for such property as set forth in the MSHCP, a copy of which is on file in the Clerk of the Board's office;

**WHEREAS**, pursuant to Article 11, Section 7 of the California Constitution, the County is authorized to enact measures that protect the health, safety and welfare of its citizens;

**WHEREAS**, pursuant to Government Code sections 66000 et seq., the County is empowered to impose fees and other exactions to provide necessary funding and public facilities required to mitigate the negative effect of new development projects;

**WHEREAS**, on October 2, 2007 the Board of Supervisors took action on the MSHCP and the associated Implementing Agreement, and made appropriate findings pursuant to CEQA; and;

**WHEREAS**, pursuant to Government Code sections 66016, 66017 and 66018, the City has: (a) made available to the public, at least ten (10) days prior to its public hearing, data indicating the estimated cost required to provide the facilities and infrastructure; (b) mailed notice at least fourteen (14) days prior to this meeting to all interested parties that have requested notice of new or increased development fees; and (c) held a duly noticed, regularly scheduled public hearing at which oral and written testimony was received regarding the proposed fees.

**NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE DOES ORDAIN AS FOLLOWS:**

**SECTION 1. SHORT TITLE.** This ordinance shall be known as the "Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan Mitigation Fee Ordinance."

**SECTION 2. FINDINGS.**

**A.** In order to implement the goals and objectives of the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan ("MSHCP") and to mitigate the impacts caused by new development in the unincorporated area of Riverside County, lands supporting species covered by the MSHCP must be acquired, monitored and managed in order to achieve habitat conservation in perpetuity.

**B.** The Local Development Mitigation Fee is necessary in order to supplement the financing of the acquisition of lands supporting species covered by the MSHCP and related public services as well as to pay for new development's fair share of the cost of acquisition and perpetual conservation.

**C.** The appropriate source of funding for the costs associated with mitigating the impacts of new development to the natural ecosystems and covered species within the County, as identified in the MSHCP, is a mitigation fee paid for by residential, commercial and industrial development. The amount of the Fee is determined by the

nature and extent of the impacts from the development to the identified natural ecosystems and the relative cost of mitigating such impacts.

**D.** The Fee does not reflect the entire cost of the lands which need to be acquired and perpetually conserved in order to implement the MSHCP and mitigate the impacts caused by new development. Additional revenues will be required from other sources. The County finds that the benefit to each development project is greater than the amount of the Fee to be paid by that project.

**E.** The MSHCP and Mitigation Fee Nexus Report, a copy of which is on file in the Clerk of the Board's office, provide the basis for the imposition of the Fee on new developments.

**F.** The use of the Fee is apportioned relative to the type and extent of impacts caused by the development.

**G.** The costs of funding the proper mitigation for natural ecosystems and covered species identified in the MSHCP which are impacted by new development are apportioned relative to the type and extent of impacts caused by the development.

**H.** The facts and evidence provided to and considered by the Board of Supervisors establish that there is a reasonable relationship between the need for acquiring and conserving in perpetuity the natural ecosystems and covered species identified in the MSHCP, and the impacts to such natural ecosystems and species created by the types of development on which the Fee will be imposed; and that there is a reasonable relationship between the Fee's use and the types of development for which the Fee is charged. This reasonable relationship is described in more detail in the MSHCP and Mitigation Fee Nexus Report.

**I.** The Fees collected pursuant to this Ordinance are reasonable and will not exceed the estimated total cost of the acquisition and perpetual conservation of the lands necessary to protect natural ecosystems and covered species set forth in the MSHCP. Conservation of the land shall require monitoring and management beyond the life of the MSHCP permit.

**J.** The Fees shall be used to finance the acquisition and perpetual conservation of lands and certain improvements necessary to implement the goals and objectives of the MSHCP.

**K.** To ensure fair implementation of the development impact fees established in this Ordinance, it may be necessary for the County to defer or waive such fees in special cases as may be permitted in accordance with procedures and guidelines established by the Coachella Valley Conservation Commission.

**L.** Even though second units on existing single family lots may also contribute to the need for acquisition of lands necessary to implement the MSHCP, the County refrains from imposing the Fee on such development at this time, and in this regard finds that second units: (1) provide a cost effective means of serving development through the use of existing infrastructure, as contrasted to requiring the construction of new costly infrastructure to serve development in undeveloped areas; and (2) provide relatively affordable housing for low and moderate income households without public subsidy.

**SECTION 3. ADMINISTRATIVE RESPONSIBILITY.** The County Executive Officer shall serve as chief administrator and be responsible for the administration of this Ordinance. The Director of the Department of Building and Safety shall insure that the Fee is properly collected. Detailed administrative procedures concerning the

implementation of this Ordinance may be established and set forth in a resolution adopted by the Board of Supervisors.

**SECTION 4. DEFINITIONS.** As used in this Ordinance, the following terms shall have the following meanings:

"Board" or "Board of Supervisors" means the Board of Supervisors of the County of Riverside, California.

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

"Coachella Valley Conservation Commission" or "Commission" means the governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the MSHCP."

"Conservation" means all the actions necessary for the permanent protection of species, natural communities and habitat land as required of the Commission under the MSHCP including land acquisition, land management, biological monitoring, law enforcement and administration."

"County" mean the County of Riverside, California

"Credit" means a credit allowed pursuant to Section 12 of this Ordinance, which may be applied against the Fee paid.

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

"Final Inspection" means a final inspection of a project as defined by the Riverside County Ordinance No. 457.

"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 Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan, adopted by the Board of Supervisors on October 2, 2007.

"Conservation Areas" has the same meaning and intent as such term is defined and utilized in the MSHCP.

"Ordinance" means this Ordinance No. 875 of the County of Riverside, California.

"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 County pursuant to this Ordinance and/or other applicable development ordinance or regulation of the County 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 dwelling, multiple-family dwellings, and mobile homes on permanent foundations, but not including hotels and motels.

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

## **SECTION 5. LOCAL DEVELOPMENT MITIGATION FEE.**

A. To assist in providing revenue to acquire and conserve in perpetuity lands necessary to implement the MSHCP, the Fee shall be paid for each residential unit, Development Project or portion thereof to be constructed within the County. Five categories of the Fee are defined and include: residential units, density less than 8.0 dwelling units per acre; residential units, density between 8.1 and 14.0 dwelling units per acre; residential units, density greater than 14.1 dwelling units per acre; commercial acreage; and industrial acreage. Because there can be mixed traditional commercial, industrial and residential uses within the same project, for Fee assessment purposes only, the Fee which is applicable to commercial or industrial Development Projects shall be applied to the whole Project based upon the existing underlying zoning classification of the property at the time of issuance of a building permit. The following Fee shall be paid for each Development Project to be constructed within the boundaries of the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan fee area. The fees are calculated using an Equivalent Benefit Unit methodology:

1. Residential, density less than 8.0 dwelling units per acre - \$1,254.00 per dwelling unit.
2. Residential, density between 8.1 and 14.0 dwelling units per acre – \$521.00 per dwelling unit.
3. Residential, density greater than 14.1 dwelling units per acre – \$230.00 per dwelling unit.
4. Commercial - \$5,600.00 per acre.
5. Industrial - \$5,600.00 per acre.

B. The amount of the Local Development Mitigation Fee for a commercial or industrial Development Project required to be paid shall be based on the acreage to be developed and shall be calculated on the basis of Project Area, in accordance with the following:

1. The Project Area shall be determined by County staff based on the subdivision map, plot plan, and other information submitted to or required by the County.
2. If the difference between the net acreage, as exhibited on the plot plan, and the Project Area is less than one-quarter acre, the Fee shall be paid on the full gross acreage.
3. 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 County shall review submitted documents. If the Project Area dimensions, the letter of certificate, and the plot plan are acceptable to the County, the County shall calculate the Local Development Mitigation Fee required to be paid based on the certified Project Area. If the Project Area dimensions, the letter of certification, and the plot plan are not acceptable to the County, the applicant shall perform such actions as directed by the County in order to resolve any deficiencies perceived by the County.

4. 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 floodways 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.”

**SECTION 6. COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN FEE AREA BOUNDARY.** The boundary of the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan fee area is the same as the MSHCP boundary set forth in the MSHCP and in Exhibit A which is attached hereto and incorporated herein by this reference.

**SECTION 7. IMPOSITION OF THE LOCAL DEVELOPMENT MITIGATION FEE.** No building 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 in accordance with the provisions of this Ordinance.

**SECTION 8. PAYMENT OF LOCAL DEVELOPMENT MITIGATION FEE.**

**A.** The Local Development Mitigation Fee shall be paid in full at the time a certificate of occupancy is issued for the residential unit or development project or upon final inspection, whichever occurs first. No final inspection shall be made, and no certificate of occupancy shall be issued, prior to full payment of the Fee. However, this section shall not be construed to prevent payment of the Fee prior to the issuance of an occupancy permit or final inspection.

**B.** The Local Development Mitigation Fee shall be assessed one time per lot or parcel, except in cases of changes in land use. The Fee required to be paid when there is a change in land use shall be reduced by the amount of any previously paid Fee for that property. No refunds shall be provided for changes in land use to a lower Fee category. It shall be the responsibility of the applicant to provide documentation of any previously paid Fee.

**C.** The Local Development Mitigation Fee for commercial and industrial development projects shall be paid in its entirety for the Project Area and shall not be prorated.

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

**E.** There shall be no deferment of the Fee beyond final inspection or issuance of certificate(s) of occupancy.

**F.** Notwithstanding anything in the County's ordinances, 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 County imposing the requirement to pay the Fee.

**G.** 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.

**H.** For Development Projects which the County does not require a final inspection or issuance of a certificate of occupancy, the Fee shall be paid prior to any use or occupancy.

**I.** For purposes of this Ordinance, congregate care residential facilities and recreational vehicle parks shall pay the commercial acreage Fee.

**J.** The Local Development Mitigation Fee for wind turbines and other structures and disturbances related to the location or siting of wind turbines shall be calculated solely upon the net permanent above ground disturbance area. Said Fee shall not in this instance be calculated based upon the size of the parcel of land containing the wind turbine, other related structures or disturbances.

**SECTION 9. 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.

**SECTION 10. ACCOUNTING AND DISBURSEMENT OF COLLECTED LOCAL DEVELOPMENT MITIGATION FEES.**

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

**B.** Subject to the provisions of this section, all Fees collected pursuant to this Ordinance shall be remitted monthly to the Coachella Valley Conservation Commission and will be expended solely for the purpose of conservation of the vegetation communities and natural areas within the County and the region which support species covered in the MSHCP in accordance with the provisions of the MSHCP.

**C.** The County 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 Coachella Valley Conservation Commission.

**SECTION 11. 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 "All Urban Consumers" in 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 this Ordinance. The Fee, as revised annually, shall be compiled by the Coachella Valley

Conservation Commission and shall be included in an annual report to the Board of Supervisors pertaining to the accounting for the MSHCP Fee as required by Government Code section 66006.

**SECTION 12. EXEMPTIONS.** The following types of construction shall be exempt from the provisions of this Ordinance:

**A.** Reconstruction of a residential unit or commercial or industrial building damaged or destroyed by fire or other natural causes.

**B.** Rehabilitation or remodeling to an existing residential unit, commercial or industrial building, and additions to an existing residential unit or commercial or industrial building.

**C.** Secondary residential units, constructed on developed residential property and meeting all state and County 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 within a Project Area that was being improved or had been improved prior to the effective date of this Ordinance.

**F.** Construction of a family residential unit upon property wherein a mobile-home, installed pursuant to an installation permit, was previously located prior to the effect date of this Ordinance.

**G.** Guest Quarters as defined in Section 21.35a of Ordinance No. 348.

**H.** Additional single family residential units located on the same parcel pursuant to the provisions of any agricultural zoning classifications set forth in Ordinance No. 348.

**I.** Kennels and Catteries established in connection with an existing single family residential unit and as defined in Sections 21.20 and 21.40a of Ordinance No. 348.

**SECTION 13. FEE CREDITS.** The County may grant to owners or developers of real property, a Credit against the Fee that would otherwise be charged pursuant to this Ordinance, for the dedication of land determined to be necessary for inclusion in the MSHCP Conservation Area, provided, however, that no Credit shall be given unless 1. the dedication is secured by a conservation easement acceptable to a grantee legally authorized to accept and hold such easements pursuant to Civil Code section 815.3 or pursuant to another legal instrument that ensures the area will be conserved in perpetuity; 2. the land to be dedicated is appropriate for conservation and dedication thereof is consistent with and furthers the goals of the MSHCP; and 3. the dedication and Credit complies with all procedures and policies of the Coachella Valley Conservation Commission. The amount of the Credit granted shall be determined by an estimate of the fair market value of the land dedicated. Any Credit granted by the County shall be given in stated dollar amounts only. An applicant for a proposed Development Project may apply for Credit to reduce the amount of the Fee required to be paid prior to approval of the Development Project. Any Credit granted and the amount of the Fee to be paid shall be included as a condition of approval for the Development Project. However, if an applicant has already received approval from the County and has not previously applied for a Credit to reduce the amount of the Fee required to be paid, an applicant may apply

for such Credit at any time prior to issuance of a grading permit for the Development Project. Any Credit granted and the amount of the Fee required to be paid shall be included as a condition of approval on the grading permit issued for the Development Project.

**SECTION 14. 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 Board of Supervisors 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.

**SECTION 15. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon issuance of the appropriate permits authorizing take in connection with the MSHCP by the U.S. Fish and Wildlife Service and California Department of Fish and Game including, without limitations, the incidental take permits for covered species pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act and section 2800 of the California Fish and Game Code. However, in no event shall this Ordinance take effect prior to sixty (60) days after the date of its adoption.

**Adopted:** 875 Item 3.48 of 01/29/2008 (Eff: 03/30/2008)  
875.1 Item 3.74 of 07/26/2011 (Eff: 09/01/2011)