



**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Transportation and Land
Management Agency

SUBMITTAL DATE: June 19, 2003

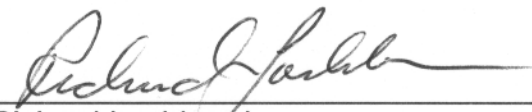
SUBJECT: Amend Ordinance 810 to Establish the Multiple Species Habitat Conservation
Plan Mitigation Fee

RECOMMENDED MOTION: That the Board close the public hearing and introduce and adopt
Ordinance 810.2 on successive weeks.

BACKGROUND: As part of the adoption of the Multiple Species Habitat Conservation Plan
(MSHCP), it is a requirement to establish a local development mitigation fee to contribute
to the local obligation of funding the MSHCP. It is proposed to amend Ordinance 810 to
eliminate the Interim Open Space Mitigation Fee and to replace it with the MSHCP fee. A
fee nexus study was prepared by David Taussig and Associates to justify the fee in
conformance with Government Code 66000 et seq. requirements. This nexus study was
reviewed by the Planning Directors of all the MSHCP participating jurisdictions, and all
pertinent comments were incorporated into the document. In addition, staff has arranged
to meet and discuss the proposed fee and nexus study with Building Industry
representatives prior to the public hearing at the Board of Supervisors. The nexus study

(Continued)

Attachments


Richard Lashbrook
TLMA Director

- Consent
- Policy
- Consent
- Policy

FINANCIAL DATA:
CURRENT YEAR COST
NET COUNTY COST

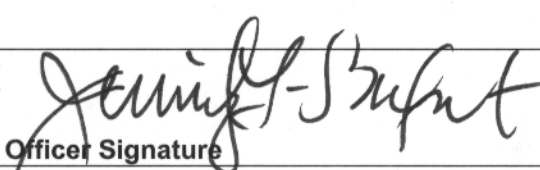
\$ -0-	ANNUAL COST:		
\$ -0-	IN CURRENT YEAR BUDGET:	Yes/	No/
	BUDGET ADJUSTMENT FY:	Yes/	No/

SOURCE OF FUNDS:

C.E.O. RECOMMENDATION:

APPROVE

County Executive Officer Signature



Department Recommendation:
Per Executive Office:

Amend Ordinance 810 to Establish the Multiple Species Habitat Conservation Plan
Mitigation Fee

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analyzed several different methodologies for establishing the fee, with the consultant and staff recommending the adoption of the Equivalent Benefit Unit (EBU) methodology (see attached nexus study). The fees being recommended by the consultant and staff are as follows:

Residential (density 0 to 8 DU / Acre)	-	\$1,651 per unit
Residential (density 8.1 to 14 DU / Acre)	-	\$1,057 per unit
Residential (density > 14.1 DU / Acre)	-	\$859 per unit
Commercial/Industrial Property	-	\$5,620 per acre

1 E. The MSHCP and Mitigation Fee Nexus Report, a copy of which is on file in the
2 Clerk of the Board's Office, provide a basis for the imposition of the Fee on new
3 development.

4 F. The use of the Fee to mitigate the impacts to the County's natural ecosystems and
5 covered species identified in the MSHCP is reasonably related to the type and extent of
6 impacts caused by development within the unincorporated area of western Riverside
7 County.

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

11 H. The facts and evidence provided to and considered by the Board establish that there
12 is a reasonable relationship between the need for preserving the natural ecosystems and
13 covered species identified in the MSHCP, and the impacts to such natural ecosystems and
14 species created by the types of development on which the Fee will be imposed, and that
15 there is a reasonable relationship between the Fee's use and the types of development for
16 which the Fee is charged. This reasonable relationship is described in more detail in the
17 MSHCP and Mitigation Fee Nexus Report.

18 I. The cost estimates for mitigating the impact of new development on the County's
19 natural ecosystems and covered species, as set forth in the MSHCP, are reasonable and
20 will not exceed the reasonably estimated total of these costs.

21 J. The Fees collected pursuant to this Ordinance shall be used to finance the
22 acquisition of lands and certain improvements necessary to implement the goals and
23 objectives of the MSHCP.

24 K. Even though second units on existing single family lots may also contribute to the
25 need for acquisition of lands necessary to implement the MSHCP, the Board refrains from
26 imposing the Fee on such development at this time, and in this regard finds that second
27 units: (1) provide a cost effective means of serving development through the use of
28 existing infrastructure, as contrasted to requiring the construction of new costly

1 infrastructure to serve development in undeveloped areas; and (2) provide relatively
2 affordable housing for low and moderate income households without public subsidy.

3 Section 3. Authority. This Ordinance is established under the authority of Title 7,
4 Division 1, Chapter 5 of the Government Code, beginning with Section 66000, which provides that a local
5 agency may establish fees for the purpose of defraying all or a portion of the cost of public facilities
6 related to development projects.

7 Section 4. Purpose. This Ordinance establishes and sets forth policies, regulations, and a
8 Fee to fund the acquisition of lands necessary to implement the goals and objectives of the MSHCP and to
9 mitigate the direct and cumulative environmental effects generated by new development projects
10 described and defined in this Ordinance and establishes the authorized use of the Fees collected.

11 Section 5. Administrative Responsibility. The County Executive Officer shall be
12 responsible for the administration of this Ordinance. Detailed administrative procedures concerning the
13 implementation of this Ordinance shall be established and set forth in a resolution adopted by the Board
14 of Supervisors.

15 Section 6. Definitions. As used in this Ordinance, the following terms shall have the
16 following meanings:

17 "Board of Supervisors" or "Board" means the Board of Supervisors of the County of Riverside.

18 "Certificate of Occupancy" means a certificate of occupancy as defined by Ordinance No. 457 or
19 state law.

20 "County" means the County of Riverside.

21 "Credit" means a credit allowed pursuant to Section 16 hereof which may be applied against the
22 Fee paid.

23 "Development Project" or "Project" means any project undertaken for the purpose of development
24 including the issuance of a permit for construction pursuant to Ordinance No. 457.

25 "Final Inspection" means a final inspection.

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

1 "Project Area" means the area, measured in acres, from the adjacent road right of way line to the
2 limits of project improvements. Project Area shall include all project improvements and areas of
3 intensive use on applicant's gross acreage, including all areas depicted on the applicant's exhibit,
4 as submitted to the Riverside County Planning Department. Except as otherwise provided herein,
5 the Project Area is the area upon which the development will be assessed the Fee.

6 "Residential Unit" means a building or portion thereof used by one (1) family and containing but
7 one (1) kitchen, which unit is designed or occupied for residential purposes, including single
8 family dwellings and mobilehomes but not including hotels, motels, congregate care residential
9 facilities or individual spaces within recreational vehicle parks.

10 "Revenue" or "Revenues" means any funds received by the County pursuant to the provisions of
11 this ordinance for the purpose of defraying all or a portion of the cost of the acquisition of lands
12 necessary to implement the MSHCP.

13 "Western Riverside County Multiple Species Habitat Conservation Plan Mitigation Fee" or "Fee"
14 means the fee imposed pursuant to the provisions of this Ordinance.

15 Section 7. Western Riverside County Multiple Species Habitat Conservation Plan Mitigation
16 Fee. In order to assist in providing revenue to acquire and conserve lands necessary to implement the
17 MSHCP, the Western Riverside County Multiple Species Habitat Conservation Plan Mitigation Fee shall
18 be paid for each residential unit, development project or portion thereof to be constructed. Five categories
19 of the Fee are defined and include: (1) residential units, density less than 8.0 dwelling units per acre; (2)
20 residential units, density between 8.1 and 14.0 dwelling units per acre, (3) residential units, density greater
21 than 14.1 dwelling units per acre, (4) commercial acreage; and (5) industrial acreage. Because there can
22 be mixed traditional commercial, industrial and residential uses within the same project, for Fee
23 assessment purposes only, the commercial or industrial acreage Fee shall be applied to the whole project
24 based upon the existing underlying zoning classification of the property at the time of issuance a building
25 permit. The following Ordinance No. 348 zoning classifications shall be used when calculating the
26 commercial and industrial acreage Fees:

27 **Commercial Acreage:** R-1, R-4, R-R-O, R-1-A, R-A, R-2, R-2-A, R-3, R-3-A, R-T, R-T-
28 R, R-4, R-5, R-6, C-1/C-P, C-T, C-P-S, C-R, C-O, R-V-C, C-V, W-2, R-D, N-A, W-2-M,

1 W-1, or SP with one of the aforementioned zones used as a base zone.

2 **Industrial Acreage:** I-P, M-S-C, M-M, M-H, M-R, M-R-A, A-1, A-P, A-2, A-D, W-E, or
3 SP with one of the aforementioned zones used as a base zone.

4 Subject to an adjustment of the Fee as set forth in Section 16 of this Ordinance, the following Fee
5 shall be paid for each development project within the boundaries of the Western Riverside County
6 Multiple Species Habitat Conservation Plan Fee Area:

7 Residential, density less than 8.0 dwelling units per acre/\$1,651 per dwelling unit

8 Residential, density between 8.1 and 14.0 dwelling units per acre/\$1,057 per dwelling unit

9 Residential, density greater than 14.1 dwelling units per acre/\$859 per dwelling unit

10 Commercial/\$5,620 per acre

11 Industrial/\$5,620 per acre

12 Section 8. Western Riverside County Multiple Species Habitat Conservation Plan Fee Area
13 Boundary. The boundary of the Western Riverside County Multiple Species Habitat Conservation
14 Plan Fee Area is the same as the MSHCP boundary as set forth in that document entitled MSHCP Plan
15 Area Map dated June 2003, which is on file with the Clerk of the Board.

16 Section 9. Imposition of Fees. Notwithstanding any provision of Ordinance No. 457 to the
17 contrary, no building permit shall be issued for any residential unit or development project except upon
18 the condition that the Western Riverside County Multiple Species Habitat Conservation Plan Fee required
19 by this Ordinance be paid.

20 Section 10. Payment of Fees. The Fee shall be paid as follows:

21 A. The Fee shall be paid in full at the time a certificate of occupancy is issued for the
22 residential unit or development project or upon final inspection, whichever occurs first.

23 No final inspection shall be made, and no certificate of occupancy shall be issued, prior to
24 full payment of the Western Riverside County Multiple Species Habitat Conservation
25 Plan Fee. However, this section shall not be construed to prevent payment of the Fee
26 prior to the issuance of an occupancy permit or final inspection.

27 B. A Fee shall be assessed one time per lot or parcel except in cases of changes in land
28 use. The Fee required to be paid when there is a change in land use shall be reduced by

1 the amount of any previously paid Fee for that property. No refunds shall be provided for
2 changes in land use to a lower fee category. It shall be the responsibility of the applicant to
3 provide documentation of any previously paid Fee.

4 C. The Fee for commercial and industrial development projects shall be paid in its
5 entirety for the Project Area and shall not be prorated.

6 D. The Fee required to be paid shall be the Fee in effect at the time of payment.

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

9 F. Notwithstanding any other written requirements to the contrary, the Fee shall be
10 paid whether or not the development project is subject to Riverside County conditions of
11 approval imposing the requirement to pay the Fee.

12 G. If all or part of the development project is sold prior to payment of the Fee, the
13 project shall continue to be subject to the requirement to pay the Fee as provided herein.

14 H. For development projects which the County of Riverside does not require a final
15 inspection or issuance of a certificate of occupancy, the Fee shall be paid prior to any use
16 or occupancy.

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

19 Section 11. Refunds. Refunds of the Fee shall not be made, except in cases of
20 overpayment or miscalculation of the Fee. Only the person or entity who paid the Fee shall be entitled to
21 any refund.

22 Section 12. Acreage-Based Fee. The amount of the Fee for a commercial or industrial
23 development project required to be paid shall be based on the acreage to be developed and shall be
24 calculated on the basis of the Project Area in accordance with the following:

25 A. The Project Area shall be determined by County staff based upon the applicant's
26 development plot plan submitted to the Planning Department.

27 B. If the difference between the net acreage, as exhibited on the plot plan, and the
28 Project Area is less than one-quarter acre, the Fee shall be paid on the full gross acreage.

1 C. The applicant may elect, at his or her own expense, to have the Project Area
2 evaluated, dimensioned, and certified by a registered civil engineer or a licensed land
3 surveyor. The engineer or land surveyor shall prepare a wet-stamped letter of certification
4 of the Project Area dimensions and a plot plan exhibit that clearly delineates the Project
5 Area. Upon receipt of the letter of certification and plot plan exhibit, the Fee required to
6 be paid shall be based upon the certified Project Area.

7 Section 13. Automatic Fee Revisions and Accountings. The Fee established by this Ordinance
8 shall be revised annually by means of an automatic adjustment at the beginning of each fiscal year based
9 on the average percentage change over the previous calendar year set forth in the Consumer Price Index
10 for "All Urban Consumers" in the Los Angeles-Anaheim-Riverside Area, measured as of the month of
11 December in the calendar year which ends in the previous fiscal year. The first Fee revision shall not be
12 made prior to a minimum of 10 months subsequent to the effective date of this Ordinance. The Fee, as
13 revised annually, shall be compiled by the County Executive Office and shall be included in an annual
14 report to the Board of Supervisors pertaining to the accounting for the Western Riverside County Multiple
15 Species Habitat Conservation Plan Fee as required by Government Code Section 66006.

16 Section 14. Fee Adjustment. The Board of Supervisors may periodically review and cause
17 an adjustment to be made to the Western Riverside County Multiple Species Habitat Conservation Plan
18 Fee. By amendment to this Ordinance, the Fee may be increased or decreased to reflect changes in actual
19 and estimated costs of the lands to be acquired. The adjustment in the Fee may also reflect changes in
20 estimated revenues received pursuant to this Ordinance, as well as the availability or lack thereof of other
21 funds with which to acquire said lands. Any adjustment in the Fee will be prospective only and will
22 become effective as of the date any such amendment is effective.

23 Section 15. Credits. The County may grant to owners or developers of real property, a
24 Credit against the Fee that would otherwise be charged pursuant to this Ordinance, for the dedication of
25 land determined to be necessary for inclusion in the MSHCP Conservation Area. The amount of the
26 Credit granted shall be determined by an estimate of the fair market value of the land dedicated. The
27 actual value of the land to be dedicated shall be determined through the process set forth in Section 6.1.1
28 of the MSHCP. Any Credit granted by the County shall be given in stated dollar amounts only. An

1 applicant for a proposed development may apply for Credit to reduce the amount of the Fee required to be
2 paid prior to approval of the development. Any Credit granted and the amount of the Fee to be paid shall
3 be included as a condition of approval for the development. If an applicant has received the development
4 approval from the County and has not previously applied for a Credit to reduce the amount of the Fee
5 required to be paid, an applicant may apply for such Credit with the Planning Department prior to
6 issuance of a grading permit for the development. Any Credit granted and the amount of the Fee required
7 to be paid shall be included as a condition of approval on the grading permit issued for the development.

8 Section 16. Exemptions. The following types of construction shall be exempt from the
9 provisions of this Ordinance:

- 10 A. Reconstruction of a residential unit or commercial or industrial building damaged
11 or destroyed by fire or other natural causes.
- 12 B. Rehabilitation or remodeling of an existing residential unit, commercial or
13 industrial building, and additions to an existing residential unit or commercial or industrial
14 building.
- 15 C. Development within a Project Area that is currently or has been previously
16 improved.
- 17 D. Detached Second Units pursuant to Section 18.28a of Riverside County Ordinance
18 No. 348 and Attached Second Units pursuant to Section 18.28b of Ordinance No. 348.
- 19 E. Construction of a single family residential unit upon property wherein a
20 mobilehome, installed pursuant to an installation permit, was previously located prior to
21 the effective date of Ordinance No. 810.2.
- 22 F. Guest Dwellings, as defined in Section 21.31 of Ordinance No. 348.
- 23 G. Additional single family residential units located on the same parcel pursuant to the
24 provisions of any agricultural zoning classifications set forth in Ordinance No. 348.
- 25 H. Kennels and Catteries established in connection with an existing single family
26 residential unit and as defined in Sections 21.20 and 21.40a of Ordinance No. 348.

1 Section 17. Fee Administration. All Fees received pursuant to this Ordinance shall be
2 deposited, accounted for, and expended in accordance with Section 66006 of the Government Code and
3 all other applicable provisions of law.

4 Section 18. Validity. This Ordinance and the various parts, sections, and clauses thereof, are
5 hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged
6 unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby. If any part,
7 sentence, paragraph, section or clause of this ordinance, or its application to any person or entity is
8 adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall affect only such part,
9 sentence, paragraph, section or clause of this Ordinance, or person or entity; and shall not affect or impair
10 any of the remaining provisions, parts, sentences, paragraphs, sections or clauses of this Ordinance, or its
11 application to other persons or entities. The Board of Supervisors hereby declares that this Ordinance
12 would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section or clause
13 of this Ordinance not been included herein; or had such person or entity been expressly exempted from
14 the application of this Ordinance.

15 Section 2. Effective Date. This Ordinance shall take effect immediately upon issuance
16 of the appropriate permits authorizing take in connection with the MSHCP by the U.S. Fish and Wildlife
17 Service and California Department of Fish and Game. However, in no event shall this Ordinance take
18 effect prior to 60 days after the date of its adoption.

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