

Ordinance No. 164

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CANYON LAKE REPEALING AND REPLACING ORDINANCE NO. 86, ADDING CHAPTER 3.39 TO THE CANYON LAKE MUNICIPAL CODE ESTABLISHING A LOCAL DEVELOPMENT MITIGATION FEE PROGRAM FOR FUNDING THE PRESERVATION OF NATURAL ECOSYSTEMS IN ACCORDANCE WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

WHEREAS, the City Council of the City of Canyon Lake ("City") finds that the ecosystems of the City and western 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 City'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 City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), adopted by the City Council on February 4, 2004, to implement the associated Implementing Agreement executed by the City Council on February 4, 2004, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act") and other applicable laws;

WHEREAS, the purpose and intent of this Ordinance is to establish a Local Development Mitigation Fee Program 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;

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 City Clerk's office;

WHEREAS, pursuant to Article 11, Section 7 of the California Constitution, the City 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 City 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 February 4, 2004, the City Council took action on the MSHCP and the associated Implementing Agreement, and made appropriate findings pursuant to CEQA.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CANYON LAKE DOES ORDAIN AS FOLLOWS:

SECTION 1. The Recitals set out above are true and correct.

SECTION 2. Chapter 3.39, of the City of Canyon Lake Municipal Code, establishing a Local Development Mitigation Fee Program for Funding the Preservation of Natural Ecosystems in accordance with the Western Riverside County Multiple Species Habitat Conservation Plan, is hereby added to read as follows:

Chapter 3.39, "Local Development Mitigation Fee Program In Accordance With The Western Riverside County Multiple Species Habitat Conservation Plan"

Section

- 3.39.010 Purpose and Intent**
- 3.39.020 Administrative Responsibility**
- 3.39.030 Definitions**
- 3.39.040 Local Development Mitigation Fee**
- 3.39.050 Imposition of the Local Development Mitigation Fee**
- 3.39.060 Payment of Local Development Mitigation Fee**
- 3.39.070 Refunds**
- 3.39.080 Accounting and Disbursement of Collected Local Development Mitigation Fees**
- 3.39.090 Exemptions**
- 3.39.100 Fee Credits and Waivers**

3.39.010 – Purpose and Intent. The purpose and intent of this Chapter is to establish a Local Development Mitigation Fee Program 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.

3.39.020 – Administrative Responsibility. The City Manager or his/her designee shall be responsible for the administration of this Chapter. Detailed administrative procedures concerning the implementation of this Chapter may be established and set forth in a resolution adopted by the City Council.

3.39.030 – Definitions. As used in this Ordinance, the following terms shall have the following meanings:

“City” means the City of Canyon Lake, California.

“City Council” means the City Council of the City of Canyon Lake, California.

“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 Section 11 of 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 February 4, 2004.

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

“Ordinance” means this Ordinance of the City of Canyon Lake, 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 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.

3.39.040 – Local Development Mitigation Fee. To assist in providing Revenue to acquire and preserve 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, a Local Development Mitigation Fee shall be paid for each Development Project or portion thereof to be constructed within the City. The fee shall be adopted by the City Council by a separate resolution, and shall be paid for each Development Project to be constructed within the City. The fees will be calculated using an Equivalent Benefit Unit methodology.

3.39.050 – Imposition of the Local Development Mitigation Fee. 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.

3.39.060 – Payment of Local Development Mitigation Fee.

A. The Local Development Mitigation Fee shall be paid in full in accordance with applicable law.

B. 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.

C. The Local Development Mitigation Fee adopted by separate resolution and required to be paid under this Ordinance shall be the fee in effect at the time of payment.

D. 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.

E. 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.

3.39.070 – Refunds. There shall be no refund of all or part of any Local Development Mitigation Fee paid pursuant to 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.

3.39.080 – Accounting and Disbursement of Collected Local Development Mitigation Fees.

A. 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.

B. 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 support species covered in the MSHCP in accordance with the provisions of the MSHCP.

C. 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.

3.39.090 – Exemptions. The following types of construction shall be exempt from the provisions of this Ordinance:

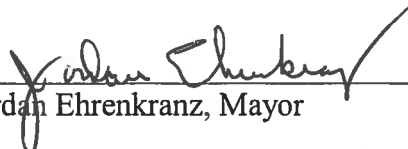
- A. Reconstruction or improvements that are damaged or destroyed by fire or other natural causes.
- B. Rehabilitation, remodeling, or minor additions to an existing Development Project.
- C. Secondary residential units, constructed on developed residential property and meeting all state and City requirements 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.

3.39.100 - Fee Credits 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 only in accordance with such authority, rules, and procedures as may be established by the Western Riverside County Regional Conservation Authority. If the Western Riverside County Regional Conservation Authority does not authorize a Local Development Mitigation Fee credit or waiver, there shall be no Local Development Mitigation Fee waiver or credit issued by the City for any Development Project.

SECTION 3. 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 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.


SECTION 4. EFFECTIVE DATE. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a newspaper published and circulated in the City, and thereupon and thereafter this Ordinance shall take effect and be in force 60 days after the date of adoption, according to law.

PASSED, APPROVED and ADOPTED on this 7th day of October, 2015.



Jordan Ehrenkranz, Mayor

Attest:



Ariel M. Hall, CMC, City Clerk

State of California)
County of Riverside) ss
City of Canyon Lake)


I, Ariel M. Hall, City Clerk of the City of Canyon Lake, California do hereby certify the foregoing Ordinance No. 164 was introduced at a regular meeting of the City Council held on the 2nd day of September, 2015 and was duly adopted by the City Council of the City of Canyon Lake, California, at a regular meeting held on the 7th day of October, 2015, by the following vote:

AYES: Councilmember Haggerty, Warren, Zaitz, Mayor Pro Tem Brown, Mayor Ehrenkranz

NOES: None

ABSENT: None

ABSTAIN: None



Ariel M. Hall, CMC, City Clerk