



CITY OF HEMET  
Hemet, California

ORDINANCE NO. 1978

AN ORDINANCE OF CITY COUNCIL OF THE CITY OF  
HEMET, CALIFORNIA, TO UPDATE THE LOCAL  
DEVELOPMENT MITIGATION FEE 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 Hemet ("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; and

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

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

**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 January 27, 2004, to implement the associated Implementing Agreement executed by the City Council on January 24, 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; and

**WHEREAS**, the purpose and intent of this Ordinance is to update its 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

1 a streamlined regulatory process from which development can proceed in an orderly  
2 process; and the protection of the existing character of the City and the region through  
3 the implementation of a system of reserves which will provide for permanent open  
4 space, community edges, and habitat conservation for species covered by the MSHCP;  
5 and  
6

7 **WHEREAS**, the findings set forth herein are based on the MSHCP and the 2020  
8 Nexus Study, and the estimated implementation costs of the MSHCP as set forth in the  
9 2020 Nexus Study, a copy of which is on file in the City Clerk's office; and  
10

11 **WHEREAS**, the Western Riverside County Regional Conservation Authority  
12 ("RCA") has prepared an updated nexus study entitled "WESTERN RIVERSIDE  
13 COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN NEXUS FEE  
14 STUDY UPDATE" (2020 Nexus Study") pursuant to California Government code  
15 sections 66000 et seq. for the purpose of updating the Local Development Mitigation  
16 Fee ("LDMF"). On December 7, 2020, the RCA Board of Directors reviewed the 2020  
17 Nexus Study and directed RCA Permittees to adopt this updated MSHCP fee  
18 ordinance; and  
19

20 **WHEREAS**, pursuant to Article 11, Section 7 of the California Constitution, the  
21 City is authorized to enact measures that protect the health, safety, and welfare of its  
22 citizens; and  
23

24 **WHEREAS**, pursuant to Government Code sections 66000 et seq., the City is  
25 empowered to impose fees and other exactions to provide necessary funding and public  
26 facilities required to mitigate the negative effect of new development projects; and  
27

28 **WHEREAS**, on January 27, 2004 the City Council took action on the MSHCP  
29 and the associated Implementing Agreement and adopted the original LDMF, and made  
30 appropriate findings pursuant to CEQA; and  
31

32 **WHEREAS**, the levying of LDMF has been reviewed by the City Council and staff  
33 in accordance with the California Environmental Quality Act ("CEQA") and the State  
34 CEQA Guidelines and it has been determined that the adoption of this ordinance is  
35 exempt from CEQA pursuant to Section 21080(b)(8) of the California Public Resources  
36 Code and Sections 15273 and 15378(b)(4) of the State CEQA Guidelines; and  
37

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

1           **NOW THEREFORE**, the City Council of the City of Hemet, California, does  
2 determine, find, and resolve as follows:

3  
4           **SECTION 1: FINDINGS**

5  
6           The City Council finds and determines as follows:

- 7  
8           A. The preservation of vegetation communities and natural areas within the City and  
9 western Riverside County which support species covered by the MSHCP is  
10 necessary to protect and promote the health, safety, and welfare of all the  
11 citizens of the City by reducing the adverse direct, indirect, and cumulative  
12 effects of urbanization and development and providing for permanent  
13 conservation of habitat for species covered by the MSHCP.  
14
- 15           B. It is necessary to update certain development impact fees to ensure that all new  
16 development within the City pays its fair share of the costs of acquiring and  
17 preserving vegetation communities and natural areas within the City and the  
18 region which are known to support plant and wildlife species covered by the  
19 MSHCP.  
20
- 21           C. A proper funding source to pay the costs associated with mitigating the direct,  
22 indirect, and cumulative impacts of development to the natural ecosystems within  
23 the City and the region, as identified in the MSHCP, is a development impact fee  
24 for residential, commercial, and industrial development. The amount of the fee is  
25 determined by the nature and extent of the impacts from the development to the  
26 identified natural ecosystems and or the relative cost of mitigating such impacts.  
27
- 28           D. The MSHCP and the 2020 Nexus Study, a copy of which is on file in the City  
29 Clerk's office, provides a basis for the imposition of development impact fees on  
30 new construction.  
31
- 32           E. The use of the development impact fees to mitigate the impacts to the City's and  
33 the region's natural ecosystems is reasonably related to the type and extent of  
34 impacts caused by development within the City.  
35
- 36           F. The costs of funding the proper mitigation of natural ecosystems and biological  
37 resources impacted by development within the City and the region are  
38 apportioned relative to the type and extent of impacts caused by the  
39 development.  
40
- 41           G. The facts and evidence provided to the City establish that there is a reasonable  
42 relationship between the need for preserving the natural ecosystems in the City  
43 and the region, as defined in the MSHCP, and the direct, indirect, and cumulative  
44 impacts to such natural ecosystems and biological resources created by the  
45 types of development on which the fee will be imposed, and that there is a  
46 reasonable relationship between the fee's use and the types of development for

1 which the fee is charged. This reasonable relationship is described in more detail  
2 in the MSHCP and the 2020 Nexus Study.  
3

4 H. The cost estimates for mitigating the impact of development on the City's and the  
5 region's natural ecosystem and biological resources, as set forth in the MSHCP,  
6 are reasonable and will not exceed the reasonably estimated total of these costs.  
7

8 I. The fee set forth herein does not reflect the entire cost of the lands which need to  
9 be acquired in order to implement the MSHCP and mitigate the impact caused by  
10 new development. Additional revenues will be required from other sources. The  
11 City Council finds that the benefit to each development project is greater than the  
12 amount of the fee to be paid by the project.  
13

14 J. The fees collected pursuant to this Ordinance shall be used to finance the  
15 acquisition and perpetual conservation of the natural ecosystems and certain  
16 improvements necessary to implement the goals and objectives of the MSHCP.  
17

18 **SECTION 2: ADMINISTRATIVE RESPONSIBILITY**  
19

20 1. The RCA is hereby reaffirmed as the Administrator of this Ordinance. The RCA is  
21 hereby authorized to receive all fees generated from the Local Development  
22 Mitigation Fee within the City, and to invest, account for, and expend such fees in  
23 accordance with the provisions of the MSHCP, MSHCP Implementing Ordinance,  
24 this Ordinance, and the MSHCP Mitigation Fee Implementation Manual. The  
25 detailed administrative procedures concerning the implementation of this  
26 Ordinance shall be contained in the MSHCP Mitigation Fee Implementation  
27 Manual adopted December 7, 2020 and as may be amended from time to time.  
28 The RCA Board of Directors may adopt a policy that will allow the City to  
29 authorize the RCA to calculate the fees due and collect those amounts directly  
30 from property owners. If such a policy is adopted, it will be included in the  
31 MSHCP Mitigation Fee Implementation Manual.  
32

33 **SECTION 3: DEFINITIONS**  
34

35 As used in this Ordinance, the following terms shall have the following meanings:  
36

37 "Accessory Dwelling Unit" means an accessory dwelling unit as defined by  
38 California Government Code section 65852.2(j)(1), or as defined in any successor  
39 statute.  
40

41 "Board of Supervisors" means the Board of Supervisors of the County of  
42 Riverside, California.  
43

44 "City" means the City of Hemet, California.  
45

46 "City Council" means the City Council of the City of Hemet, California.  
47

1 "Credit" means a credit allowed pursuant to Section 10 of this Ordinance, which  
2 may be applied against the development impact fee paid.

3  
4 "Development" means a human-created change to improved or unimproved real  
5 estate, including buildings or other structures, mining, dredging, filling, grading, paving,  
6 excavating, and drilling.

7  
8 "Development Project" or "Project" means any project undertaken for the purpose  
9 of development pursuant to the issuance of a building permit by the City pursuant to all  
10 applicable ordinances, regulations, and rules of the City and state law.

11  
12 "Junior Accessory Dwelling Unit" means a junior accessory dwelling unit as  
13 defined by California Government Code section 65852.22(h)(1), or as defined in any  
14 successor statute.

15  
16 "Local Development Mitigation Fee" or "Fee" means the development impact fee  
17 imposed pursuant to the provisions of this Ordinance.

18  
19 "Multiple Species Habitat Conservation Plan" or "MSHCP" means the Western  
20 Riverside County Multiple Species Habitat Conservation Plan, adopted by the City  
21 Council on January 27, 2004.

22  
23 "MSHCP Conservation Area" has the same meaning and intent as such term is  
24 defined and utilized in the MSHCP.

25  
26 "Ordinance" means this Ordinance No. 1978 of the City of Hemet, California.

27  
28 "Project Area" means the area, measured in acres, within the Development  
29 Project including, without limitation, any areas to be developed as a condition of the  
30 Development Project. Except as otherwise provided herein, the Project Area is the area  
31 upon which the project will be assessed the Local Development Mitigation Fee. See the  
32 MSHCP Mitigation Fee Implementation Manual for additional guidance for calculating  
33 the Project Area.

34  
35 "Revenue" or "Revenues" means any funds received by the City pursuant to the  
36 provisions of this Ordinance for the purpose of defraying all or a portion of the cost of  
37 acquiring and preserving vegetation communities and natural areas within the City and  
38 the region which are known to support threatened, endangered, or key sensitive  
39 populations of plant and wildlife species.

40  
41 "Western Riverside County Regional Conservation Authority" or "RCA" means  
42 the governing body established pursuant to the MSHCP that is delegated the authority  
43 to oversee and implement the provisions of the MSHCP.

44  
45 Any capitalized term not otherwise defined herein shall carry the same meaning  
46 and definition as that term is used and defined in the MSHCP.

1 **SECTION 4: LOCAL DEVELOPMENT MITIGATION AND LOCAL**  
2 **INFRASTRUCTURE FEE**

- 3  
4 A. **Adoption of Local Development Mitigation Fee Schedule.** The City Council  
5 shall adopt an applicable Local Development Mitigation Fee schedule provided  
6 by the RCA through a separate resolution, which may be amended from time to  
7 time.  
8  
9 B. **Public Projects.** The City is required to mitigate the impacts of Public Projects  
10 pursuant to the MSHCP and the MSHCP Implementing Agreement. The  
11 definition of Public Project and the method for mitigating Public Projects will be  
12 set forth in the MSHCP Mitigation Fee Implementation Manual.  
13  
14 C. **Periodic Fee Adjustment.** The Local Development Mitigation Fee schedule set  
15 forth in the fee resolution referenced above may be periodically reviewed and the  
16 amounts adjusted as set forth in the MSHCP Mitigation Fee Implementation  
17 Manual.  
18  
19 D. **Automatic Annual Fee Adjustment.** In addition to the Periodic Fee Adjustment  
20 mentioned above, the RCA shall provide the City with an automatic annual fee  
21 adjustment for the Local Development Mitigation Fee established by this  
22 Ordinance as set forth in the MSHCP Mitigation Fee Implementation Manual.  
23

24 **SECTION 5: IMPOSITION OF THE LOCAL DEVELOPMENT MITIGATION FEE**

- 25  
26 A. The Local Development Mitigation Fee will be paid no later than at the issuance  
27 of a building permit. Notwithstanding any other provision of the City's Municipal  
28 Code, no building permit shall be issued for any Development Project unless the  
29 Local Development Mitigation Fee applicable to such Development Project has  
30 been paid. The amount of the Fee shall be calculated in accordance with the  
31 MSHCP Mitigation Fee Implementation Manual.  
32  
33 B. In lieu of the payment of the Local Development Mitigation Fee as provided  
34 above, the Fee for a Development may be paid through a Community Facilities  
35 District, provided that such arrangement is approved by the RCA in writing.  
36

37 **SECTION 6: PAYMENT OF LOCAL DEVELOPMENT MITIGATION FEE**

- 38  
39 A. The Local Development Mitigation Fee shall be paid in full in accordance with  
40 applicable law.  
41  
42 B. The Local Development Mitigation Fee required to be paid under this Ordinance  
43 shall be the fee in effect at the time the permit is issued for which the Local  
44 Development Mitigation Fee is assessed; provided, however, that Housing  
45 Development Projects as defined by California Government Code section

1 65589.5(h)(2) may be entitled to pay the fee in effect at the time of the  
2 preliminary application was submitted.  
3

4 C. Notwithstanding anything in the City's Municipal Code, or any other written  
5 documentation to the contrary, the Local Development Mitigation Fee shall be  
6 paid whether or not the Development Project is subject to conditions of approval  
7 by the City imposing the requirement to pay the fee.  
8

9 D. If all or part of the Development Project is sold prior to payment of the Local  
10 Development Mitigation Fee, the Project shall continue to be subject to the  
11 requirement to pay the fee as provided herein.  
12

13 E. The fee title owner(s) of the Property is responsible for the payment of the Local  
14 Development Mitigation Fee.  
15

### 16 **SECTION 7: REFUNDS**

17

18 Under certain circumstances, such as double payment, expiration of a building permit,  
19 or fee miscalculation due to clerical error, an applicant may be entitled to a refund.  
20 Refunds will be reimbursed by the end of the fiscal year on a first come, first served  
21 basis, depending upon the net revenue stream. Refunds will only be considered  
22 reimbursable if requested within 3 years of the original LDMF payment. In all cases, the  
23 applicant must promptly submit a refund request with proof of LDMF payment to the  
24 RCA if RCA collected the LDMF, or if collected by a local jurisdiction, the refund request  
25 shall be submitted to that local jurisdiction, which will subsequently forward the request  
26 to RCA for verification, review, and possible action.  
27

28 A. Expiration of Building Permits - If a building permit should expire, is revoked, or is  
29 voluntarily surrendered and is, therefore voided and no construction or  
30 improvement of land has commenced, then the applicant may be entitled to a  
31 refund of the LDMF collected which was paid as a condition of approval, less  
32 administration costs. Any refund must be requested within three (3) years of the  
33 original payment. The applicant shall pay the current LDMF in effect at the time in  
34 full if s/he reapplies for the permit.  
35

36 B. Double Payments – on occasion due to a clerical error, a developer has paid all  
37 or a portion of the required LDMF for project twice. In such cases, a refund of the  
38 double payment may be required.  
39

40 C. Balance Due – when LDMF is incorrectly calculated due to City clerical error, it is  
41 the City's responsibility to remit the balance due to RCA. The error must be  
42 discovered within three (3) years of the original payment for the City to be held  
43 accountable. The amount due can be remitted through alternate methods agreed  
44 to by the RCA Executive Committee. If first approved through RCA staff in  
45 writing, the calculation is not subject to additional review.  
46

1 **SECTION 8: ACCOUNTING AND DISBURSEMENT OF COLLECTED LOCAL**  
2 **DEVELOPMENT MITIGATION FEES**  
3

- 4 A. All fees paid pursuant to this Ordinance shall be deposited, invested, accounted  
5 for, and expended in accordance with Section 66006 of the Government Code  
6 and all other applicable provisions of law.  
7
- 8 B. Subject to the provisions of this section, all fees collected pursuant to this  
9 Ordinance shall be remitted to the Western Riverside County Regional  
10 Conservation Authority at least quarterly.  
11
- 12 C. In the resolution mentioned in Section 4.A, the City may also add an additional  
13 cost to the Local Development Mitigation Fee schedule to cover the costs of  
14 collecting the fees from project proponents. Any amounts collected by the City  
15 shall not reduce the amount collected and remitted to the RCA under this  
16 Ordinance.  
17

18 **SECTION 9: EXEMPTIONS**

19 The following types of construction shall be exempt from the provisions of this  
20 Ordinance:  
21

- 22 A. Reconstruction or improvements that were damaged or destroyed by fire or other  
23 natural causes, provided that the reconstruction or improvements do not result in  
24 additional usable square footage.  
25
- 26 B. Rehabilitation or remodeling to an existing Development Project, provided that  
27 the rehabilitation or remodeling does not result in additional usable square  
28 footage.  
29
- 30 C. Accessory Dwelling Units, but only to the extent such fee is exempted under  
31 state law.  
32
- 33 D. Junior Accessory Dwelling Units, but only to the extent such fee is exempted  
34 under state law.  
35
- 36 E. Existing structures where the use is changed from an existing permitted use to a  
37 different permitted use, provided that no additional improvements are constructed  
38 and does not result in additional usable square footage.  
39
- 40 F. Certain Agricultural Operations as allowed by the MSHCP, as amended.  
41
- 42 G. Vesting Tentative Tract Maps entered into pursuant to Government Code section  
43 66452 et seq. (also, Government Code section 66498.1 et seq.) and  
44 Development Projects which are the subject of a development agreement  
45 entered into pursuant to Government Code section 65864 et seq., prior to the  
46 effective date of Ordinance No. 1712, wherein the imposition of new fees are



1 expressly prohibited, provided that if the term of such a vesting map or  
2 development agreement is extended by amendment or by any other manner after  
3 the effective date of Ordinance No. 1712, the MSHCP Fee shall be imposed.  
4

5 Except as exempted above, all projects are required to make a mitigation payment/  
6 contribution and where no mitigation payment process is specified, the project will pay  
7 the updated per acre mitigation fee.  
8

9 **SECTION 10: FEE CREDITS**

10  
11 Any Local Development Mitigation Fee credit that may be applicable to a Development  
12 Project shall be determined by the City and approved by the RCA. All Fee Credits shall  
13 comply with the resolutions, ordinances, Implementing Agreement, and policies of the  
14 Western Riverside County Regional Conservation Authority including, without limitation,  
15 the MSHCP Mitigation Fee Implementation Manual.  
16

17 **SECTION 11: SEVERABILITY**

18  
19 This Ordinance and the various parts, sections, and clauses thereof, are hereby  
20 declared to be severable. If any part, sentence, paragraph, section, or clause is  
21 adjudged unconstitutional or invalid, the remainder of this Ordinance shall be affected  
22 thereby. If any part, sentence, paragraph, section, or clause of this Ordinance, or its  
23 application to any person entity is adjudged unconstitutional or invalid, such  
24 unconstitutionality or invalidity shall affect only such part, sentence, paragraph, section,  
25 or clause of this Ordinance, or person or entity; and shall not affect or impair any of the  
26 remaining provision, parts, sentences, paragraphs, sections, or clauses of this  
27 Ordinance, or its application to other persons or entities. The City Council hereby  
28 declares that this Ordinance would have been adopted had such unconstitutional or  
29 invalid part, sentence, paragraph, section, or clause of this Ordinance not been included  
30 herein; or had such person or entity been expressly exempted from the application of  
31 this Ordinance.  
32

33 **SECTION 12: CEQA FINDINGS**

34  
35 The City Council hereby finds that in accordance with CEQA and the CEQA Guidelines  
36 the adoption of this Ordinance is exempt from CEQA pursuant to Section 21080(b)(8) of  
37 the California Public Resources Code and Sections 15273 and 15378(b)(4) of the State  
38 CEQA Guidelines.  
39

40 **SECTION 13: ORDINANCE SUPERSEDED**

41  
42 This Ordinance supersedes the provisions of Ordinance No. 1712 provided this  
43 Ordinance is not declared invalid or unenforceable by a court of competent jurisdiction.  
44 If, for whatever reason, this Ordinance is declared invalid or unenforceable by a court of  
45 competent jurisdiction, Ordinance No. 1712 and all other related ordinances and  
46 policies shall remain in full force and effect.

1 **SECTION 14: EFFECTIVE DATE**

2  
3 The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall  
4 within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the  
5 Press Enterprise, a newspaper published and circulated in the City of Hemet, and  
6 thereupon and thereafter this Ordinance shall take effect and be in force according to  
7 law. Pursuant to Section 13.2(A) of the MSHCP Implementing Agreement, the City  
8 Clerk shall send a copy of this Ordinance to RCA within 30 days of the date of adoption.

9  
10  
11 This ordinance will become effective 30 days after its adoption.

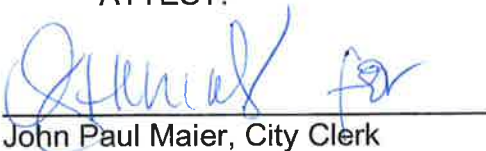
12  
13 **INTRODUCED** at the regular meeting of the Hemet City Council on May 11, 2021.

14  
15 **APPROVED AND ADOPTED** this 25<sup>th</sup> day of May, 2021, by the following vote:

16  
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18  
19  
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22 

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31  
Karlee Meyer, Mayor

ATTEST:

27  
28  
29  
30  
31   
John Paul Maier, City Clerk

1 State of California )  
2 County of Riverside )  
3 City of Hemet )  
4


5 I, John Paul Maier, City Clerk of the City of Hemet, do hereby certify that the foregoing  
6 Ordinance is the actual Ordinance adopted by the City Council of the City of Hemet and  
7 was passed at a regular meeting of the City Council on the 25<sup>th</sup> day of May, 2021 by the  
8 following vote:

9  
10 AYES: Council Members, Brown, Lilienthal, Krupa, Males, and Mayor Meyer

11 NOES:

12 ABSTAIN:

13 ABSENT:  
14  
15  
16  
17  
18  
19

  
\_\_\_\_\_  
John Paul Maier, City Clerk