

## **ORDINANCE NO. 1033**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA, AMENDING CHAPTER 3.60 OF THE NORCO MUNICIPAL CODE TO REFLECT CHANGES FOR COMPATIBILITY WITH THE RIVERSIDE CONSERVATION AUTHORITY MULTIPLE SPECIES HABITAT CONSERVATION PLAN MODEL ORDINANCE TO IMPLEMENT THE AGREEMENT . CODE CHANGE 2018-01**

WHEREAS, the City Council of the City of Norco ("City") has been informed and advised, and hereby 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, the City Council further finds that these vegetation communities and natural areas contain habitat value which contributes to the City's and the region's environmental resources; and,

WHEREAS, the City Council further finds 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; and,

WHEREAS, the City Council further finds that adoption and implementation of this Ordinance will continue enabling the City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), first adopted by the City Council on September 3, 2003, to implement the associated Implementing Agreement executed by the City Council on September 3, 2003, 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 City Council further finds that 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; and,

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; and,

WHEREAS, the City Council further finds that the preservation of vegetation communities and natural areas within the City and western Riverside County which support species covered by the MSHCP is necessary to protect and promote the health, safety and welfare of all the citizens of the City by reducing the adverse direct, indirect and cumulative effects of urbanization and development and providing for permanent conservation of habitat for species covered by the MSHCP; and,

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; and,

WHEREAS, the City Council further finds that it is necessary to enact and implement certain development impact fees to ensure that all new development within the City pays its fair share of the costs of acquiring and preserving vegetation communities and natural areas within the City and the region which are known to support plant and wildlife species covered by the MSHCP; and,

WHEREAS, the City Council further finds that a proper funding source to pay the costs associated with mitigating the direct, indirect and cumulative impacts of development to the natural ecosystems within the City and the region, as identified in the MSHCP, is a development impact fee for 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 or the relative cost of mitigating such impacts; and,

WHEREAS, the City Council further finds that the MSHCP and the Nexus Fee Report, a copy of which is on file in the City Clerk's office, provides a basis for the imposition of development impact fees on new construction; and,

WHEREAS, the City Council further finds that the use of the development impact fees to mitigate the impacts to the City's and the region's natural ecosystems is reasonably related to the type and extent of impacts caused by development within the City; and,

WHEREAS, the City Council further finds that the facts and evidence provided to the City establish that there is a reasonable relationship between the need for preserving the natural ecosystems in the City and the region, as defined in the MSHCP,



and the direct, indirect and cumulative impacts to such natural ecosystems and biological resources 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 the Nexus Fee Report; and,

WHEREAS, the City Council further finds that the cost estimates for mitigating the impact of development on the City's and the region's natural ecosystem and biological resources, as set forth in the MSHCP, are reasonable and will not exceed the reasonably estimated total of these costs; and,

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

WHEREAS, the City Council further finds that the fees collected pursuant to this Ordinance shall be used to finance the acquisition of the natural ecosystems and certain improvements described or identified in the MSHCP; and,

WHEREAS, the City Council further finds that the costs of funding the proper mitigation of natural ecosystems and biological resources impacted by development within the City and the region are apportioned relative to the type and extent of impacts caused by the development; and,

WHEREAS, on September 3, 2003 the City Council took action on the MSHCP and the associated Implementing Agreement, and made appropriate findings pursuant to CEQA; and

WHEREAS, on April 18, 2018 the City Council took action to update the associated Implementing Agreement and Ordinance No. 1033 herein replaces Ordinance 813; 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 for which these development fees are levied and the revenue sources anticipated to provide those 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.

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.

NOW, THEREFORE, the City Council of the City of Norco does hereby ordain as follows:

SECTION 1: Chapter 3.60 "Western Riverside Multiple Species Habitat Conservation Plan Fee Program" of the Norco Municipal Code is established to read as follows:

**Sections:**

3.60.010	Title
3.60.020	Definitions
3.60.030	Establishment of the Multiple Species Habitat Conservation Plan Fee
3.60.040	Automatic Annual Fee Adjustment
3.60.050	Exemptions
3.60.060	Fee Credits and Waivers
3.60.070	Severability

**3.60.010 Title.** This Ordinance shall be known as the "Western Riverside County Multiple Species Habitat Conservation Plan Fee Program Ordinance" and shall be added as Chapter 3.60 of the Norco Municipal Code.

**3.60.020 Definitions.** For the purpose of this Ordinance, the following words, terms and phrases shall have the following meanings:

- A. "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.
- B. "City" means the City of Norco, California.
- C. "City Council" means the City Council of the City of Norco, California.
- D. "Credit" means a credit allowed pursuant to this Ordinance, which may be applied against the development impact fee paid.
- E. "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.

- F. "Final Inspection" means a final inspection of a project as defined by the building codes of the City.
- G. "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.
- H. "Local Development Mitigation Fee" or "Fee" means the development impact fee imposed pursuant to the provisions of this Ordinance.
- I. "Multiple Species Habitat Conservation Plan" or "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan, adopted by the City Council on September 3, 2003.
- J. "MSHCP Conservation Area" has the same meaning and intent as such term is defined and utilized in the MSHCP.
- K. "Ordinance" means this Ordinance No. 1033 of the City of Norco, California.
- L. "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.
- M. "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.
- N. "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.

- O. "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.

**3.60.030 Establishment of the Multiple Species Habitat Conservation Plan Fee**

A. Adoption

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.

B. Fees

Fees shall be paid for each Development Project to be constructed within the City based on the latest adopted fee schedule by the Riverside Conservation Authority.

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:

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

- iii. 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.

D. 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.

E. Payment of the Local Development Mitigation Fee

- i. The Local Development Mitigation Fee shall be paid in full in accordance with applicable law.
- ii. 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.
- iii. The Local Development Mitigation Fee required to be paid under this Ordinance shall be the fee in effect at the time of payment.
- iv. 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.
- v. 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

- i. 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.
- ii. 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 monthly, 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.
- iii. 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.

**3.60.040 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 Construction Price Index for the Los Angeles metropolitan area. The first fee adjustment shall not be made prior to a minimum of ten months subsequent to the effective date of this Ordinance.

**3.60.050 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. Guesthouses or dwellings, as permitted by law.

**3.60.060 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 in cooperation with the Western Riverside County Regional Conservation Authority, which shall have an auditing role in this process.

**3.60.070 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 or 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 2: ADMINISTRATIVE RESPONSIBILITY.** The City Council of the City of Norco shall be responsible for the administration of this Ordinance. Detailed administrative procedures concerning the implementation of this Ordinance may be established and set forth in a resolution adopted by the City Council.

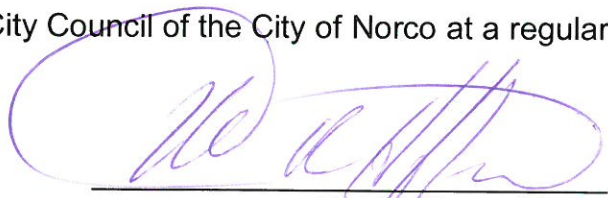
**SECTION 3: OFFICIAL MUNICIPAL CODE.** The Norco Municipal Code shall be amended, in accordance with Code Change 2018-01 and the City Clerk is hereby directed to reflect said amendment within the Municipal Code.

**SECTION 4: EFFECTIVE DATE.** This Ordinance shall become effective 30 days after final passage thereof.

May 2, 2018

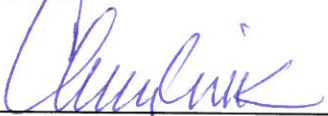
SECTION 5: POSTING. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same within 15 days of its passage to be posted at no less than five public places within the City of Norco.

APPROVED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on May 2, 2018.



Ted Hoffman, Mayor  
City of Norco, California

ATTEST:

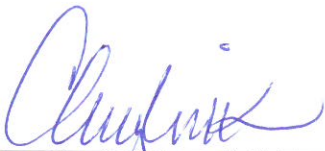


Cheryl Link, City Clerk  
City of Norco, California

I, CHERYL LINK, City Clerk of the City of Norco, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Norco, California, duly held April 18, 2018 and thereafter at a regular meeting of said City Council duly held on May 2, 2018, it was duly passed and adopted by the following vote of the City Council:

AYES:	HOFFMAN, GRUNDMEYER, BASH, HANNA, NEWTON
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California, May 2, 2018.



Cheryl Link, City Clerk  
City of Norco, California