

Rancho Mirage Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[Title 3 REVENUE AND FINANCE](#)[Chapter 3.29 DEVELOPMENT IMPACT MITIGATION FEES](#)**3.29.147 Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan local development mitigation fee.**

A. As used in this section, the following terms shall have the following meanings:

“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.

“City” means the city of Rancho Mirage, California.

“City council” means the city council of the city of Rancho Mirage, California.

“Commission” means the Coachella Valley Conservation Commission, the governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the Multiple Species Habitat Conservation Plan.

“Conservation” means all the actions necessary for the permanent protection of species, natural communities and habitat land as required of the Coachella Valley Conservation Commission under the Multiple Species Habitat Conservation Plan including land acquisition, land management, biological monitoring, law enforcement and administration.

“Conservation areas” has the same meaning and intent as such term is defined and utilized in the Multiple Species Habitat Conservation Plan.

“Credit” means a credit allowed pursuant to subsection H of this section, which may be applied against the local development mitigation fee paid.

“Fee” means the local development mitigation fee adopted pursuant to the Mitigation Fee Act, Government Code Section 66000 et seq.

“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 “LDMF” means the development mitigation impact fee imposed pursuant to the provisions of this section.

“Multiple Species Habitat Conservation Plan” or “MSHCP” means the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan, adopted by the city council on October 4, 2007.

“Project” means any project undertaken pursuant to the issuance of a building permit or any other approval, ministerial or discretionary development permit, by the city as required by the applicable ordinances, regulations, and rules of the city and state law. Projects undertaken by or on behalf of the city are subject to the fee.

“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 section and/or other applicable development ordinance or regulation of the city.

“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 a single-family dwelling, a unit within a multiple-family dwelling, and mobile homes on permanent foundations, but not including hotels and motels.

“Revenue” or “revenues” means any funds received by the city on behalf of the Coachella Valley Conservation Commission pursuant to the provisions of this section for the purpose of defraying all or a portion of the cost of acquiring and perpetually conserving 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.

B. Local Development Mitigation Fee. To assist in providing revenue for the conservation of lands necessary to implement the MSHCP, the LDMF shall be paid for each project, or portion thereof, to be constructed within the city. Five categories of the LDMF are defined and include:

1. Residential units, density less than 8.0 dwelling units per acre;
2. Residential units, density between 8.1 and 14.0 dwelling units per acre;
3. Residential units, density greater than 14.1 dwelling units per acre;
4. Commercial acreage; and
5. Industrial acreage.

Because there can be mixed traditional commercial, industrial and residential uses within the same project, for LDMF assessment purposes only, the LDMF which is applicable to commercial or industrial projects shall be calculated by reference to the project area of each parcel upon which the commercial or industrial portions shall be sited. If the mixed use includes residential units, the LDMF applicable to the parcels upon which residential units are to be sited shall be calculated by reference to the appropriate residential LDMF category. If the mixed use occurs on the same parcel, the LDMF which is applicable to commercial or industrial projects shall be calculated by reference to the project area of the parcel. A mitigation fee schedule which contains the LDMF which is applicable to each of the five LDMF categories shall be adopted and may, from time to time, be amended by resolution.

The amount of the LDMF required to be paid for a commercial or industrial project shall be based on the project area, as calculated by city staff based on the subdivision map, plot plan, and/or other information submitted to or required by the city.

C. Imposition of Local Development Mitigation Fee. Notwithstanding any other provision of the Municipal Code, no permit shall be issued for any project except upon the condition that the LDMF applicable to such project has been paid in accordance with the provisions of this section.

D. Payment of Local Development Mitigation Fee.

1. The LDMF shall be paid in full at the time of the issuance of a building permit for the project; provided, however, that if the Municipal Code provides for all fees assessed pursuant to the Mitigation Fee Act to be collected at a later time, then the LDMF collected pursuant to this section shall be collected at the same time as that mandated by the Municipal Code for the payment of all such other mitigation fees.

2. In no event shall a final inspection be made or a certificate of occupancy be issued prior to full payment of the LDMF.

3. The LDMF shall be assessed one time per lot or parcel, except in cases of the construction of additional residential units, subsequent development of portions of a commercial or industrial parcel for which the LDMF was not originally collected, or changes in land use. The additional LDMF required to be paid in the case of such exceptions shall not include the amount of any previously paid LDMF for that parcel. No refunds shall be provided for changes in land use to a lower LDMF category. It shall be the responsibility of the applicant to provide documentation of any previously paid LDMF.

4. The LDMF required to be paid pursuant to this section shall be the LDMF in effect at the time of payment.

5. Notwithstanding anything in the Municipal Code, or any other written documentation to the contrary, the LDMF shall be paid whether or not the project is subject to conditions of approval by the city.

6. If all or part of the project is sold prior to payment of the LDMF, the project shall continue to be subject to the requirement to pay the LDMF as provided herein.

7. For projects which the city does not require a permit, final inspection or issuance of a certificate of occupancy, the LDMF shall be paid prior to any use or occupancy.

8. For purposes of this section, congregate care residential facilities and recreational vehicle parks shall pay the commercial acreage LDMF.

E. Refunds.

1. Except as otherwise provided in this section, there shall be no refund of all or part of any LDMF paid under this section, except in cases of overpayment or miscalculation of the applicable LDMF.

2. Collection of the mitigation fee associated with the Fringe-Toed Lizard Habitat Conservation Plan (FTLHCP) ceased upon issuance of the MSHCP permit. Projects that paid the FTLHCP fee are required to pay the LDMF but may obtain a refund of the FTLHCP fee from the Commission. Refunds shall be granted subject to the rules and regulations established by the Commission.

F. Automatic Annual LDMF Adjustment. The LDMF set forth in this section 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 LDMF adjustment shall not be made prior to a minimum of ten months subsequent to the effective date of the ordinance codified in this section.

G. Exemptions. The following types of construction shall be exempt from the provisions of this section:

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

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

3. A second residential unit, constructed on residential property previously developed with a single-family dwelling, and meeting all state and city requirements for such units.

4. 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.

5. Projects for which the city is restrained by law from collecting the LDMF due to a development agreement or vested tentative map entered into with or issued by the city prior to October 1, 2008.

6. Construction of a family residential unit upon property wherein a mobile home, installed pursuant to an installation permit, was previously located prior to September 1, 2011.

7. Guest dwellings constructed on residential property previously developed with a single-family dwelling.

8. Additional single-family residential units located on the same parcel pursuant to the provisions of any agricultural zoning classifications set forth in Title 17 of this Municipal Code.

9. Kennels and catteries established in connection with an existing single-family residential unit and as defined in Title 17 of this Municipal Code.

10. Projects are exempt from paying the LDMF provided they meet each of the following three conditions:

a. Completion of required infrastructure improvements including, but not limited to, underground utilities,

exterior project area walls, streets and curbs and issuance of at least one building permit for a discrete primary structure, such as a single-family home, prior to October 1, 2008 (date of MSHCP permit approval).

b. Continuous construction activity since October 1, 2008, as demonstrated by issuance of a building permit for a discrete primary structure and/or a certificate of occupancy permit for a discrete primary structure in each six-month period between October 1, 2008, and April 1, 2011.

c. City registration of the project and proposed lots to be exempted, in accordance with the Commission's procedures, by September 1, 2011.

Projects not meeting the standard exemption criteria above, that made verifiable payments, as part of a legal settlement, to specifically fund acquisition of habitat for a species listed as "endangered" under the federal Endangered Species Act are required to pay the LDMF but are eligible to receive a refund, on a pro rata per acre basis based on the actual acreage being assessed the fee. Any such projects and proposed lots to be exempted must be registered in accordance with the Commission's procedures by September 1, 2011.

H. Fee Credits.

1. The city may grant to owners or developers of real property, a credit against the LDMF that would otherwise be charged pursuant to this section, for the dedication of land within an MSHCP conservation area, provided, however, that no credit shall be given unless: (a) 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 other legal instrument that ensures the area will be conserved in perpetuity; (b) the land to be dedicated is appropriate for conservation and dedication thereof is consistent with and furthers the goals of the MSHCP; and (c) the dedication and credit complies with all procedures and policies of the 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 city shall be given in stated dollar amounts only.

2. An applicant for a proposed project may apply for credit to reduce the amount of the LDMF required to be paid prior to approval of the project. Any credit granted and the amount of the LDMF to be paid shall be included as a condition of approval of the project. However, if an applicant has already received approval from the city and has not previously applied for a credit to reduce the amount of the LDMF required to be paid, an applicant may apply for such credit at any time prior to issuance of a grading permit for the project and any credit granted shall in that case be included as a condition of approval of the grading permit issued for the project.

I. Compliance.

1. Failure to pay the LDMF due under this section shall constitute a debt to the city. An action for the collection thereof may be commenced in the name of the city in any court having jurisdiction of the cause.

2. It shall be a public nuisance to engage in any construction activity without paying the LDMF due pursuant to this section.

3. It shall be an infraction violation to engage in any construction activity without paying all the LDMF due pursuant to this section. (Ord. 1013 § 5, 2011)