

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

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

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

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17 WHEREAS, pursuant to Article 11, Section 7 of the California Constitution, the City is
18 authorized to enact measures that protect the health, safety, and welfare of its citizens; and

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

22 WHEREAS, on September 23, 2003 the City Council took action on the MSHCP and the
23 associated Implementing Agreement and adopted the original LDMF, and made appropriate
24 findings pursuant to CEQA; and

25 WHEREAS, the levying of LDMF has been reviewed by the City Council and staff in
26 accordance with the California Environmental Quality Act ("CEQA") and the State CEQA
27 Guidelines and it has been determined that the adoption of this ordinance is exempt from CEQA
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1 pursuant to Section 21080(b)(8) of the California Public Resources Code and Sections 15273 and
2 15378(b)(4) of the State CEQA Guidelines; and

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

11 NOW, THEREFORE, the City Council of the City of Riverside does ordain as follows:

12 Section 1. Findings. The City Council finds and determines as follows:

13 A. The preservation of vegetation communities and natural areas within the City and western
14 Riverside County which support species covered by the MSHCP is necessary to protect and
15 promote the health, safety, and welfare of all the citizens of the City by reducing the adverse
16 direct, indirect, and cumulative effects of urbanization and development and providing for
17 permanent conservation of habitat for species covered by the MSHCP.

18 B. It is necessary to update certain development impact fees to ensure that all new
19 development within the City pays its fair share of the costs of acquiring and preserving
20 vegetation communities and natural areas within the City and the region which are known to
21 support plant and wildlife species covered by the MSHCP.

22 C. A proper funding source to pay the costs associated with mitigating the direct, indirect,
23 and cumulative impacts of development to the natural ecosystems within the City and the region,
24 as identified in the MSHCP, is a development impact fee for residential, commercial, and
25 industrial development. The amount of the fee is determined by the nature and extent of the
26 impacts from the development to the identified natural ecosystems and or the relative cost of
27 mitigating such impacts.
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1 D. The MSHCP and the 2020 Nexus Study, a copy of which is on file in the City Clerk's
2 Office, provides a basis for the imposition of development impact fees on new construction.

3 E. The use of the development impact fees to mitigate the impacts to the City's and the
4 region's natural ecosystems is reasonably related to the type and extent of impacts caused by
5 development within the City.

6 F. The costs of funding the proper mitigation of natural ecosystems and biological resources
7 impacted by development within the City and the region are apportioned relative to the type and
8 extent of impacts caused by the development.

9 G. The facts and evidence provided to the City establish that there is a reasonable
10 relationship between the need for preserving the natural ecosystems in the City and the region, as
11 defined in the MSHCP, and the direct, indirect, and cumulative impacts to such natural
12 ecosystems and biological resources created by the types of development on which the fee will
13 be imposed, and that there is a reasonable relationship between the fee's use and the types of
14 development for which the fee is charged. This reasonable relationship is described in more
15 detail in the MSHCP and the 2020 Nexus Study.

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

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

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

26 Section 2. Administrative responsibility. The RCA is hereby reaffirmed as the
27 Administrator of this Ordinance. The RCA is hereby authorized to receive all fees generated
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1 from the Local Development Mitigation Fee within the City, and to invest, account for, and
2 expend such fees in accordance with the provisions of the MSHCP, MSHCP Implementing
3 Ordinance, this Ordinance, and the MSHCP Mitigation Fee Implementation Manual. The
4 detailed administrative procedures concerning the implementation of this Ordinance shall be
5 contained in the MSHCP Mitigation Fee Implementation Manual adopted December 7, 2020 and
6 as may be amended from time to time. The RCA Board of Directors may adopt a policy that will
7 allow the City to authorize the RCA to calculate the fees due and collect those amounts directly
8 from property owners. If such a policy is adopted, it will be included in the MSHCP Mitigation
9 Fee Implementation Manual.

10 Section 3. Definitions. As used in this Ordinance, the following terms shall have the
11 following meanings:

12 “Accessory Dwelling Unit” means an accessory dwelling unit as defined by California
13 Government Code section 65852.2(j)(1), or as defined in any successor statute.

14 “Board of Supervisors” means the Board of Supervisors of the County of Riverside,
15 California.

16 “City” means the City of Riverside, California.

17 “City Council” means the City Council of the City of Riverside, California.

18 “Credit” means a credit allowed pursuant to Section 10 of this Ordinance, which may be
19 applied against the development impact fee paid.

20 “Development” means a human-created change to improved or unimproved real estate,
21 including buildings or other structures, mining, dredging, filing, grading, paving, excavating, and
22 drilling.

23 “Development Project” or “Project” means any project undertaken for the purpose of
24 development pursuant to the issuance of a building permit by the City pursuant to all applicable
25 ordinances, regulations, and rules of the City and state law.

26 “Junior Accessory Dwelling Unit” means a junior accessory dwelling unit as defined by
27 California Government Code section 65852.22(h)(1), or as defined in any successor statute.
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1 “Local Development Mitigation Fee” or “Fee” means the development impact fee
2 imposed pursuant to the provisions of this Ordinance.

3 “Multiple Species Habitat Conservation Plan” or “MSHCP” means the Western Riverside
4 County Multiple Species Habitat Conservation Plan, adopted by the City Council on September
5 23, 2003.

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

8 “Ordinance” means this Ordinance No. [REDACTED] of the City of Riverside, California.

9 “Project Area” means the area, measured in acres, within the Development Project
10 including, without limitation, any areas to be developed as a condition of the Development
11 Project. Except as otherwise provided herein, the Project Area is the area upon which the project
12 will be assessed the Local Development Mitigation Fee. See the MSHCP Mitigation Fee
13 Implementation Manual for additional guidance for calculating the Project Area.

14 “Revenue” or “Revenues” means any funds received by the City pursuant to the
15 provisions of this Ordinance for the purpose of defraying all or a portion of the cost of acquiring
16 and preserving vegetation communities and natural areas within the City and the region which
17 are known to support threatened, endangered, or key sensitive populations of plant and wildlife
18 species.

19 “Western Riverside County Regional Conservation Authority” or “RCA” means the
20 governing body established pursuant to the MSHCP that is delegated the authority to oversee and
21 implement the provisions of the MSHCP.

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

24 Section 4. Local development mitigation and local infrastructure fee.

25 A. Adoption of Local Development Mitigation Fee Schedule. The City Council shall adopt
26 an applicable Local Development Mitigation Fee schedule provided by the RCA through a
27 separate resolution, which may be amended from time to time.
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1 B. Public Projects. The City is required to mitigate the impacts of Public Projects pursuant
2 to the MSHCP and the MSHCP Implementing Agreement. The definition of Public Project and
3 the method for mitigating Public Projects will be set forth in the MSHCP Mitigation Fee
4 Implementation Manual.

5 C. Periodic Fee Adjustment. The Local Development Mitigation Fee schedule set forth in
6 the fee resolution referenced above may be periodically reviewed and the amounts adjusted as set
7 forth in the MSHCP Mitigation Fee Implementation Manual.

8 D. Automatic Annual Fee Adjustment. In addition to the Periodic Fee Adjustment
9 mentioned above, the RCA shall provide the City with an automatic annual fee adjustment for
10 the Local Development Mitigation Fee established by this Ordinance as set forth in the MSHCP
11 Mitigation Fee Implementation Manual.

12 Section 5. Imposition of the local development mitigation fee.

13 A. The Local Development Mitigation Fee will be paid no later than at the issuance of a
14 building permit. Notwithstanding any other provision of the City's Municipal Code, no building
15 permit shall be issued for any Development Project unless the Local Development Mitigation
16 Fee applicable to such Development Project has been paid. The amount of the Fee shall be
17 calculated in accordance with the MSHCP Mitigation Fee Implementation Manual.

18 B. In lieu of the payment of the Local Development Mitigation Fee as provided above, the
19 Fee for a Development may be paid through a Community Facilities District, provided that such
20 arrangement is approved by the RCA in writing.

21 Section 6. Payment of local development mitigation fee.

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

24 B. The Local Development Mitigation Fee required to be paid under this Ordinance shall be
25 the fee in effect at the time the permit is issued or which the Local Development Mitigation Fee
26 is assessed; provided, however, that Housing Development Projects as defined by California
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1 Government Code section 65589.5(h)(2) may be entitled to pay the fee in effect at the time of the
2 preliminary application was submitted.

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

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

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

12 Section 7. Refunds. Under certain circumstances, such as double payment, expiration of
13 a building permit, or fee miscalculation due to clerical error, an applicant may be entitled to a
14 refund. Refunds will be reimbursed by the end of the fiscal year on a first come, first served
15 basis, depending upon the net revenue stream. Refunds will only be considered reimbursable if
16 requested within 3 years of the original LDMF payment. In all cases, the applicant must
17 promptly submit a refund request with proof of LDMF payment to the RCA if RCA collected the
18 LDMF, or if collected by a local jurisdiction, the refund request shall be submitted to that local
19 jurisdiction, which will subsequently forward the request to RCA for verification, review, and
20 possible action.

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

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

4 3. Balance Due – when LDMF is incorrectly calculated due to City clerical error, it is the
5 City’s responsibility to remit the balance due to RCA. The error must be discovered within three
6 (3) years of the original payment for the City to be held accountable. The amount due can be
7 remitted through alternate methods agreed to by the RCA Executive Committee. If first approved
8 through RCA staff in writing, the calculation is not subject to additional review.

9 Section 8. Accounting and disbursement of collected local development mitigation fees.

10 A. All fees paid pursuant to this Ordinance shall be deposited, invested, accounted for, and
11 expended in accordance with Section 66006 of the Government Code and all other applicable
12 provisions of law.

13 B. Subject to the provisions of this section, all fees collected pursuant to this Ordinance shall
14 be remitted to the Western Riverside County Regional Conservation Authority at least quarterly.

15 C. In the resolution mentioned in Section 4.A, the City may also add an additional cost to
16 the Local Development Mitigation Fee schedule to cover the costs of collecting the fees from
17 project proponents. Any amounts collected by the City shall not reduce the amount collected and
18 remitted to the RCA under this Ordinance.

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

21 A. Reconstruction or improvements that were damaged or destroyed by fire or other natural
22 causes, provided that the reconstruction or improvements do not result in additional usable
23 square footage.

24 B. Rehabilitation or remodeling to an existing Development Project, provided that the
25 rehabilitation or remodeling does not result in additional usable square footage.

26 C. Accessory Dwelling Units, but only to the extent such fee is exempted under state law.
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1 D. Junior Accessory Dwelling Units, but only to the extent such fee is exempted under state
2 law.

3 E. Existing structures where the use is changed from an existing permitted use to a different
4 permitted use, provided that no additional improvements are constructed and does not result in
5 additional usable square footage.

6 F. Certain Agricultural Operations as allowed by the MSHCP, as amended.

7 G. Vesting Tentative Tract Maps entered into pursuant to Government Code section 66452
8 et seq. (also, Government Code section 66498.1 et seq.) and Development Projects which are the
9 subject of a development agreement entered into pursuant to Government Code section 65864 et
10 seq., prior to the effective date of Ordinance No. 6709, wherein the imposition of new fees are
11 expressly prohibited, provided that if the term of such a vesting map or development agreement
12 is extended by amendment or by any other manner after the effective date of Ordinance No.
13 6709, the MSHCP Fee shall be imposed.

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

18 Section 10. Fee credits. Any Local Development Mitigation Fee credit that may be
19 applicable to a Development Project shall be determined by the City and approved by the RCA.
20 All Fee Credits shall comply with the resolutions, ordinances, Implementing Agreement, and
21 policies of the Western Riverside County Regional Conservation Authority including, without
22 limitation, the MSHCP Mitigation Fee Implementation Manual.

23 Section 11. Severability. This Ordinance and the various parts, sections, and clauses
24 thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is
25 adjudged unconstitutional or invalid, the remainder of this Ordinance shall be affected thereby. If
26 any part, sentence, paragraph, section, or clause of this Ordinance, or its application to any
27 person entity is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall
28 affect only such part, sentence, paragraph, section, or clause of this Ordinance, or person or

1 entity; and shall not affect or impair any of the remaining provision, parts, sentences, paragraphs,
2 sections, or clauses of this Ordinance, or its application to other persons or entities. The City
3 Council hereby declares that this Ordinance would have been adopted had such unconstitutional
4 or invalid part, sentence, paragraph, section, or clause of this Ordinance not been included
5 herein; or had such person or entity been expressly exempted from the application of this
6 Ordinance.

7 Section 12. CEQA Findings. The City Council hereby finds that in accordance with
8 CEQA and the CEQA Guidelines the adoption of this Ordinance is exempt from CEQA pursuant
9 to Section 21080(b)(8) of the California Public Resources Code and Sections 15273 and
10 15378(b)(4) of the State CEQA Guidelines.

11 Section 13. Ordinance superseded. This Ordinance supersedes the provisions of
12 Ordinance No. 6709 provided this Ordinance is not declared invalid or unenforceable by a court
13 of competent jurisdiction. If, for whatever reason, this Ordinance is declared invalid or
14 unenforceable by a court of competent jurisdiction, Ordinance No. 6709 and all other related
15 ordinances and policies shall remain in full force and effect.

16 Section 14. The City Clerk shall certify to the adoption of this ordinance and cause
17 publication once in newspaper of general circulation in accordance with Section 414 of the
18 Charter of the City of Riverside.

19 Section 15. This ordinance shall become effective July 1, 2021 after the final passage
20 thereof. Pursuant to Section 13.2(A) of the MSHCP Implementing Agreement, the City Clerk
21 shall send a copy of this Ordinance to RCA within 30 days of the date of adoption.

22 ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk
23 this _____ day of _____, 2021.

24 _____
25 Mayor of the City of Riverside

26 _____
27 Interim City Clerk of the City of Riverside

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I, Eva Arseo, Interim City Clerk of the City of Riverside, California, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the _____ day of _____ 2021, and that hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2021 by the following vote, to wit:

Ayes:

Noes:

Abstain:

Absent:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this _____ day of _____, 2021.

Interim City Clerk of the City of Riverside

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