



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Introduce ordinance adding Chapter 15.68 to the City of Lodi Municipal Code by establishing Development Fees pursuant to the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (CD)

MEETING DATE: November 21, 2001

PREPARED BY: David Morimoto, Senior Planner

RECOMMENDED ACTION: Adopt the required actions related to the San Joaquin Multi-Species Habitat Conservation and Open Space Plan.

BACKGROUND INFORMATION: On February 21, 2001, the Lodi City Council took action to adopt the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. The key purpose of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan

(SJMSCP or Plan) is to provide a strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses while protecting the region's agricultural economy; preserving landowner property rights; providing for the long-term management of plant, fish, wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal Endangered Species Act (ESA), or the California Endangered Species Act (CESA). The plan will also provide and maintain multi-use open spaces which contribute to the quality of life of the residents of San Joaquin County; and accommodating a growing population while minimizing cost to project proponents and society at large.

In order to implement the Plan, the City must adopt language establishing a development fee that will help fund the program along with a fee schedule. The fee ordinance establishes the purpose of the fee as well as a process for determining the amount of the fee and how the money will be spent.

The fee resolution will be presented at time of second reading of the ordinance and will establish the actual fee schedule as well as the fee collection process. There will also be a map showing what properties are subject to fee payments at the time they are developed as well as those properties that are exempted.

Adoption of this language will allow the City of Lodi to implement the SJMSCP beginning in 2002 along with all the other jurisdictions within San Joaquin County.

FUNDING: None required

Konrad Bartlam
Community Development Director

Attachments

APPROVED: _____


H. Dixon Flynn -- City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE LODI CITY COUNCIL ADDING CHAPTER 15.68 TO THE CITY OF LODI MUNICIPAL CODE BY ESTABLISHING DEVELOPMENT FEES PURSUANT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP)

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI, AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE

Chapter 15.68 of the Lodi Municipal Code is hereby added to read as follows:

SECTION 15.68.010 PURPOSE AND INTENT

In order to implement the goals and objectives of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), and to mitigate the cumulative impacts of new development on undeveloped lands within the City of Lodi and in San Joaquin County, the establishment of preserve lands will be necessary to compensate for impacts to threatened, endangered, rare and unlisted SJMSCP Covered Species and other wildlife, and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses.

In accordance with Sections 7.3, 7.4.1, 7.4.1.1, 7.4.1.3, and 7.4.1.4 of the SJMSCP, new development will pay approximately 60% of total SJMSCP costs with the exception of vernal pool conversions that will pay 100% of total SJMSCP costs. While those undertaking new development pursuant to the SJMSCP may opt to dedicate lands consistent with the SJMSCP preserve designs or to purchase credits from mitigation banks, most of the 60% contribution to the SJMSCP costs from new development will be in the form of development fees.

The Lodi City Council is required to establish a fee ordinance in accordance to Section 5.1.1.(b) of the SJMSCP Implementation Agreement for the purpose of collecting fee monies to finance the SJMSCP. In establishing the fee described in the following sections, the Lodi City Council has found the fee to be consistent with the SJMSCP Funding Plan as provided in Chapter 7 of the SJMSCP.

SECTION 15.68.020 SJMSCP DEVELOPMENT FEE

- a) **Establishment of Fee.** The SJMSCP Development Fee (hereinafter, the Fee) is hereby established for new development pursuant to the SJMSCP in the City of Lodi to pay for preserve lands to mitigate the cumulative impacts related to new development, including but not limited to acquisition, enhancement, restoration, maintenance, and/or operation of habitat/open space conservation lands. The fee shall not be collected until the City of Lodi, in a Council Resolution:
1. Sets forth purpose of the fee;
 2. Identifies the specific use(s) to be financed;

3. Describes how there is a reasonable relationship between the fee's use and the type of development project;
4. Determines how there is a reasonable relationship between the need for use(s) and type(s) of development project(s);
5. Determines the amount of the fee and how there is a reasonable relationship between the amount of the fee and the cost of the preserve lands or portion thereof attributable to the development; and
6. Establishes a separate development fee account into which the fees shall be placed, provides for the appropriation of the fees, and references the proposed transfer of fees to SJCOG, Inc. (a.k.a. JPA as per the SJMSCP).

b) **Annual Adjustment.** The Fee established pursuant to a resolution shall be adjusted each January by an amount based upon the California Construction Cost Index (CCCI) as calculated by the State of California's Real Estate Services Division Cost Control Unit and/or in conformance with Section 7.5.2.2. of the SJMSCP, and as approved by SJCOG, Inc.

The proposed fee adjustments shall be adopted by the Lodi City Council before October 31st of each year. All fee adjustments shall be effective on January 1st of the following year.

c) **Interest.** The Fees collected shall earn interest while in possession of the City of Lodi. The interest earned shall be credited to the account in which the fee was deposited and shall be retained by the City of Lodi until transferred to SJCOG, Inc. account.

d) **Payment of Fees.** The Fee shall be collected in accordance to Chapter 5.3.2.3 of the SJMSCP.

e) **Use of Fee.** The Chief Financial Officer of SJCOG, Inc. shall make findings once each fiscal year with respect to any portion of any moneys, excluding letters of credit or other security instruments, that is remaining unexpended or uncommitted in the SJCOG, Inc. account for five (5) or more years after deposit of the fee, to identify the purpose to which the fee is to be put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

SECTION 15.68.030 USE OF FEES

The fees paid shall be placed in a separate fee account to avoid commingling of the fees with other funds of the City of Lodi. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses(s) described in the Resolution enacted pursuant to Section 15.68.020, which shall include the following:

1. To pay for acquisition of preserve lands (and associated transaction costs);
2. To pay for monitoring and restoration and/or enhancement of preserve lands;
3. To pay for endowment for long-term management of preserve lands; and
4. To pay for initial and on-going administration of the SJMSCP.

No less frequently than quarterly, and pursuant to Section 5.1.1(d) of the Implementation Agreement, the City of Lodi shall transfer Fees in the City of Lodi SJMSCP Development Fee Account to SJCOG, Inc. All proceeds in the SJCOG, Inc. account not immediately necessary for expenditure shall be invested in an interest bearing account.

SECTION 15.68.040 PROTEST

Any protest as to the imposition of a fee may be filed with the SJCOG, Inc.

SECTION 2 EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its passage.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of ____, 2001

ALAN S. NAKANISHI
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held November 7, 2001 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2001 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

RANDALL A. HAYS
City Attorney