

Staff Memo - Exhibit B

Ordinance No. _____
Page 394

ARTICLE 7 – FEES

CHAPTER 130.70 – BASS LAKE HILL SPECIFIC PLAN SUPPLEMENTAL TENTATIVE MAP SUBMITTAL FEE

Sections:

- 130.70.010 Title, Purpose, and Intent
- 130.70.020 Definitions
- 130.70.030 Findings of the Board of Supervisors
- 130.70.040 Fee Requirement
- 130.70.050 Amount of Fee
- 130.70.060 Time of Payment and Refunds
- 130.70.070 Uses of Fee Revenue
- 130.70.080 Creation of Fee Account
- 130.70.090 Fee Exemption

CHAPTER 130.71 – ECOLOGICAL PRESERVE FEE

Sections:

- 130.71.010 Purpose
- 130.71.020 Applicability
- 130.71.030 Definitions
- 130.71.040 Ecological Preserve Mitigation and Fee in Lieu of Mitigation
- 130.71.050 On-Site Mitigation In Mitigation Area 0
- 130.71.0650 Off-site Mitigation or Fee Payment in Lieu of Ecological Preserve Mitigation in Mitigation Areas 1 and 2
- 130.71.0670 Ecological Preserve Fee; Formula
- 130.71.0780 Annual Fee Review
- 130.71.0890 Time of Fee Payment
- 130.71.1090 Exemption or Credits
- 130.71.1010 Accounting
- 130.71.1120 Handling
- 130.71.1230 Appeals
- 130.71.1340 Termination of Mitigation Requirement or Fee in Lieu of Mitigation

CHAPTER 130.72 – MISSOURI FLAT PLANNING COST REIMBURSEMENT FEE

Sections:

- 130.72.010 Title, Purpose and Intent
- 130.72.020 Definition
- 130.72.030 Findings of Board of Supervisors

Staff Memo - Exhibit B

Ordinance No. _____
Page 395

130.72.040	Fee Requirement
130.72.050	Amount of Fee
130.72.060	Time of Payment; Refunds
130.72.070	Uses of Fee Revenue
130.72.080	Creation of Fee Account
130.72.090	Fee Credits
130.72.100	Fee Exemptions
130.72.110	Separability

Staff Memo - Exhibit B

Ordinance No. _____
Page 396

CHAPTER 130.70 – BASS LAKE HILLS SPECIFIC PLAN SUPPLEMENTAL TENTATIVE MAP SUBMITTAL (BLHSP STMS) FEE

Sections:

130.70.010	Title, Purpose, and Intent
130.70.020	Definitions
130.70.030	Findings of the Board of Supervisors
130.70.040	Fee Requirement
130.70.050	Amount of Fee
130.70.060	Time of Payment and Refunds
130.70.070	Uses of Fee Revenue
130.70.080	Creation of Fee Account
130.70.090	Fee Exemption

130.70.010 Title, Purpose, and Intent

This Chapter shall be known as the Bass Lake Hills Specific Plan Supplemental Tentative Map Submittal (BLHSP STMS) Fee Ordinance. Its purpose is to authorize a Bass Lake Hills Specific Plan Reimbursement Fee, as described in the Bass Lake Hills Specific Plan. It is the intent of this Chapter to establish a method to reimburse the Bass Lake Hills Specific Plan Initial Participation Developer (aka Bass Lake Hills Specific Plan Trust) and the Ceounty for costs incurred in the preparation and adoption of the Bass Lake Hills Specific Plan and the environmental documents. BLHSP STMS Fees shall be paid to the Ceounty by developers who derive benefit from the Specific Plan. The Ceounty, in turn, may use fees collected in compliance with this Chapter to reimburse the Bass Lake Hills Specific Plan Trust and the Ceounty for financial contributions toward the preparation and adoption of the Bass Lake Hills Specific Plan and environmental documents.

130.70.020 Definitions

- A. **“Initial Participation Developer”** is the Bass Lake Hills Specific Plan Trust, or its successors in interest, who participated in funding the development and preparation of the Bass Lake Hills Specific Plan in compliance with the Reimbursement Agreement.
- B. **“Reimbursement Agreement”** shall mean that certain agreement dated April 25, 1995, and Amendment I dated January 27, 1998 by and between the County of El Dorado and the Bass Lake Hills Specific Plan Trust.
- C. **“Eligible Costs”** shall mean all costs incurred by the Ceounty in the preparation of the Bass Lake Hills Specific Plan including, but not limited to, costs for environmental, engineering, traffic engineering, financial, drafting, and legal services. Eligible costs shall also include, but are not limited to, those costs for which funding was provided under the Reimbursement Agreement.

Staff Memo - Exhibit B

Ordinance No. _____
Page 397

- D. The “**Bass Lake Hills Specific Plan Area**” shall mean ~~that an approximate 1,200-acre area within the El Dorado Hills Community Region north of U.S. Highway 50 along Bass Lake Road containing approximately 88 individual parcels, as shown in on Exhibit A Appendix C of this Title, which is subject to the provisions~~ of the Bass Lake Hills Specific Plan.
- E. The “**Bass Lake Hills Specific Plan**” or “**BLHSP**” shall mean the Bass Lake Hills Specific Plan adopted by the Board on November 7, 1995, under Resolution No. 288-95, as amended.

130.70.030 Findings of the Board

In establishing the BLHSP STMS Fee, the Board finds as follows:

- A. The BLHSP was prepared and adopted by the Ceounty to facilitate the orderly and systematic development of the BLHSP Area through the establishment of a comprehensive planning program consistent with the El Dorado Ceounty General Plan.
- B. Costs were incurred by the Ceounty in preparing the BLHSP and its supporting documents. Initial Participation Developer bore a portion of the costs incurred by the Ceounty in compliance with the terms of the Reimbursement Agreement.
- C. Persons or entities seeking to develop projects in the BLHSP Area derive substantial benefits from the preparation and adoption of the BLHSP in that:
1. Environmental documents prepared in connection with the BLHSP, including the Program Environmental Impact Report (EIR) and Program EIR Addendum, reduce the scope and cost of subsequent environmental review that otherwise is required in connection with BLHSP Area development projects;
 2. Preparation of the BLHSP substantially reduces the scope and cost of planning review otherwise required in connection with BLHSP Area developments projects; and
 3. The BLHSP provides a mechanism for addressing public facilities and services necessary to support allowed development and describes the funding mechanisms necessary for implementation in a comprehensive manner not feasible in the context of individual project review.
- D. The establishment of the fee provided in this Chapter is based upon the lawful exercise of the Ceounty’s police power and is consistent with all applicable state law. Section 65456(a) through (d) of the California Government Code allows the imposition of a specific plan fee upon persons seeking government approvals which are required to be consistent with the specific plan.

Staff Memo - Exhibit B

Ordinance No. _____
Page 398

130.70.040 Fee Requirement

A BLHSP STMS Fee is established to reimburse the Ceounty and/or Initial Participation Developers for expenses associated with preparing and adopting the BLHSP. The BLHSP STMS Fee shall be applicable to all new residential subdivision projects, to existing vacant residential lots when development requires a building permit, and to all non-residential development which results in conversion of planned residential development to commercial land use within the BLHSP.

130.70.050 Amount of Fee

The BLHSP STMS Fee will be established by a resolution adopted by the Board in compliance with this Chapter. The resolution shall describe and document the costs to be reimbursed, the allocation of the costs, and the resulting amount of the fee. The fee amount included in the resolution shall be supported by a report, which fully documents the costs included and the allocation method used.

130.70.060 Time of Payment and Refunds

The BLHSP STMS Fee shall be payable as a condition of any residential subdivision development approval or permit necessary to develop existing vacant residential lots, and is payable prior to the recordation of a final map or the issuance of a building permit. The BLHSP STMS Fee shall be payable for any non-residential development as a condition of project approval or the issuance of a building permit. The BLHSP STMS Fee is a permit processing fee to reimburse the Ceounty for costs incurred in the adoption of the BLHSP. It is not a monetary exaction for the purposes of defraying the costs of public facilities. Payment of the BLHSP STMS Fee is in addition to any applicable fee(s) which may be imposed to offset impacts to public facilities. No applicant shall be entitled to a refund of the BLHSP STMS Fee collected if, for any reason, development subject to the BLHSP STMS Fee does not proceed.

130.70.070 Uses of Fee Revenue

Revenue generated from the BLHSP STMS Fee shall be used only to reimburse the Ceounty and/or Initial Participating Developer for Eligible Costs incurred in the preparation and adoption of the BLHSP.

130.70.080 Creation of Fee Account

Reimbursement Fees shall be deposited in a restricted account maintained by the Ceounty. Revenue within this account, and any interest accrued thereon, shall be used solely for the purpose set forth in Section 130.70.010 (Title, Purpose, and Intent) above in this Chapter.

Staff Memo - Exhibit B

Ordinance No. _____
Page 399

130.70.090 Fee Exemptions

Public park sites and public buildings and structures including libraries, schools, fire stations, and public utility structures and facilities are exempt from payment of the BLHSP STMS Fee.

Staff Memo - Exhibit B

Ordinance No. _____
Page 400

CHAPTER 130.71 – ECOLOGICAL PRESERVE FEE

Sections:

- 130.71.010 Purpose
- 130.71.020 Applicability
- 130.71.030 Definitions
- 130.71.040 Ecological Preserve Mitigation and Fee in Lieu of Mitigation
- 130.71.050 On-Site Mitigation in Mitigation Area 0
- ~~130.71.0560~~ Off-site Mitigation or Fee Payment in Lieu of Ecological Preserve Mitigation in Mitigation Areas 1 and 2
- ~~130.71.0670~~ Ecological Preserve Fee; Formula
- ~~130.71.0780~~ Annual Fee Review
- ~~130.71.0890~~ Time of Fee Payment
- ~~130.71.1090~~ Exemption or Credits
- ~~130.71.1010~~ Accounting
- ~~130.71.1120~~ Handling
- ~~130.71.1230~~ Appeals
- ~~130.71.1340~~ Termination of Mitigation Requirement or Fee in Lieu of Mitigation

130.71.010 Purpose

The purpose of this Chapter is to implement the Pine Hill Endemics rare plant fee payment in lieu of mitigation for Mitigation Areas 1 and 2.

130.71.020 Applicability

The fee program set forth in this Chapter shall apply to all lands delineated as Pine Hill Endemic Rare Plant Mitigation Areas 1 and 2, as ~~defined~~provided in Section 130.71.030 (~~Ecological Preserve Fee~~, Definitions) below in this Chapter.

130.71.030 Definitions

As used in this Chapter, the following terms shall have the meanings set forth below:

Mitigation Area 0. Lands within the Gabbro Soils Rare Plant Ecological Preserve, as shown on maps on file in the Department, adopted by Ordinance 4500.

Mitigation Area 1. Lands outside of Mitigation Area 0 but within the area described as the "rare soils study area," as shown on maps on file in the Department, adopted by Ordinance 4500.

Staff Memo - Exhibit B

Ordinance No. _____
Page 401

Mitigation Area 2. Lands outside of Mitigation Areas 0 and 1 but within the EID service area, excluding those lots served by wells, as shown on maps on file in the Department, adopted by Ordinance 4500.

Pine Hill Endemics. Plants found in serpentine or gabbroic soils that are listed as rare, threatened, or endangered on a state or federal list prepared under the Federal or California Endangered Species Acts or identified as species of special concern. This term includes the following species:

El Dorado bedstraw	Galium californicum ssp. sierrae
Laynes butterweed	Senecio layneae
Pine Hill ceanothus	Ceanothus roderickii
Pine Hill flannel bush	Fremontodendron californicum ssp. decumbens
Stebbins morning glory	Calystegia stebbinsii
Bisbee Peak rush rose	Helianthemum suffrutescens
El Dorado mule ears	Wyethia reticulata
Red Hills soaproot	Chlorogalum grandiflorum <i>Ord. 4500 modified</i>

130.71.040 Ecological Preserve Mitigation and Fee in Lieu of Mitigation

There are hereby established an Ecological Preserve Mitigation requirement comprised of on-site and off-site mitigation standards and an ecological preserve fee in lieu of such mitigation. The amounts of the fee shall be established periodically by resolution of the Board and shall be based on the formula set forth in this Ordinance.

130.71.050 On-Site Mitigation in Mitigation Area 0

Development within Mitigation Area 0 will continue to address mitigation for impact to rare plants on an individual basis. Within Mitigation Area 0, on-site mitigation is strongly encouraged. Developments within Mitigation Area 0 shall mitigate impacts by exercising one of the following three options:

- A. Set aside a part of the property and dedicate a perpetual conservation easement for habitat protection; or
- B. Cluster development in the least environmentally sensitive portion of the property according to the Implementation Strategy adopted by the County in March 1993 and receive in appropriate cases a density bonus in return for dedication of a perpetual conservation easement over the remainder of the property; or
- C. Provide an independent mitigation plan that meets CEQA requirements, such as the purpose of long-term protection of an amount of habitat in the same Ecological Preserve and as close to the development site as feasible, equal to at least 1.5 times the acreage developed.

Option B, above, shall apply only to properties greater than five (5) acres in area.

Staff Memo - Exhibit B

Ordinance No. _____
Page 402

130.71.0560 Off-site Mitigation or Fee Payment in Lieu of Ecological Preserve Mitigation in Mitigation Areas 1 and 2

Payment of a fee in lieu of Ecological Preserve Mitigation is encouraged in Mitigation Areas 1 and 2. Developments in Mitigation Areas 1 and 2 shall mitigate impacts by exercising one of the following two options:

- A. Pay the appropriate fee in lieu of Ecological Preserve Mitigation for the direct or indirect impacts caused by development on rare plants and rare plant habitat; or
- B. Participate in a Rare Plant Off-Site Mitigation Program, upon adoption of such program by the Board.

130.71.0670 Ecological Preserve Fee; Formula

The amount of the fee is based on the following formula: Mitigation Areas 1 and 2 are each assigned 50 percent of the total local cost of the Rare Plant Mitigation Program, based upon the probability that 50 percent of the total adverse impact of development on rare plant habitat will be caused by future development within each Mitigation Area. The fee is then charged on a per dwelling unit equivalent basis, where one single-family unit equals one dwelling unit equivalent, one multi-family unit equals 0.75 dwelling unit equivalent, and 1,500 ~~square feet~~ of commercial space equals one dwelling unit equivalent. The actual amount of the fees per dwelling unit equivalent in Mitigation Areas 1 and 2 are as set forth in the then-current Board resolution establishing the actual fee amounts.

130.71.0780 Annual Fee Review

The fee amounts shall be reviewed on an annual basis and adjusted as necessary to insure that the anticipated fees are no more and no less than required for the purpose for which they are collected.

130.71.0890 Time of Fee Payment

The fee is due at the time of final inspection or certificate of occupancy, whichever is first, unless the Board in adopting the fee resolution establishes that the fee may be collected at any earlier time.

130.71.1090 Exemption or Credits

Staff Memo - Exhibit B

Ordinance No. _____
Page 403

If the Director, in consultation with the California Department of Fish and Wildlife (DFWG) and the United States Fish and Wildlife Service (USFWS), finds that a development project which has already received all needed discretionary approvals at the effective date of this chapter has already met its mitigation obligations in whole or in part, such project will be exempted or credited against its Rare Plant Mitigation Obligation or fee in lieu thereof to a degree equivalent to the mitigation already provided. No other exemptions or credits to the Rare Plant Mitigation or fee in lieu thereof shall be allowed.

130.71.1010 Accounting

The County shall maintain a separate rare plant ecological preserve account for fees collected, and provide an accounting within ~~sixty~~(60) days of the close of each fiscal year. Any person may request an audit of the fund. In addition, the County shall make findings each fifth fiscal year following the first deposit into the fund with respect to unexpended portions of the fund, in which the County: identifies the purpose to which the fee is to put; demonstrates a reasonable relationship between the fee and the purpose for which it is charged; identifies all sources and amounts of funding anticipated to complete financing; and designates the approximate dates on which the funding is expected to be deposited.

130.71.1120 Handling

The fee shall be collected by the Planning and Building Department. The County treasurer shall maintain the account. The Department, in consultation with DFWG and USFWS, shall make recommendations to the Board regarding the expenditures of funds from the account to acquire or maintain designated preserve land.

130.71.1230 Appeals

An appeal from a decision made pursuant to this Ordinance shall be in accordance with the appeals procedures set forth in Section 130.52.090 (Appeals) in Article 5 (Planning Permit Processing) of this Title, expect that DFWG shall also be notified of the appeal hearing in writing at least five ~~(5)~~ days in advance of the hearing.

130.71.1340 Termination of Mitigation Requirement or Fee in Lieu of Mitigation

The requirements of mitigation or payment of a fee in lieu of Ecological Preserve Mitigation shall terminate at such time as the Board finds, and DFWG and USFWS concur, that a fully funded system of five ~~(5)~~ rare plant preserves has been established in the on-going operation and maintenance of said preserves is fully funded.

Staff Memo - Exhibit B

Ordinance No. _____
Page 404

CHAPTER 130.72 – MISSOURI FLAT PLANNING COST REIMBURSEMENT FEE

Sections:

130.72.010	Title, Purpose, and Intent
130.72.020	Definition
130.72.030	Findings of Board of Supervisors
130.72.040	Fee Requirement
130.72.050	Amount of Fee
130.72.060	Time of Payment; Refunds
130.72.070	Uses of Fee Revenue
130.72.080	Creation of Fee Account
130.72.090	Fee Credits
130.72.100	Fee Exemptions
130.72.110	Separability

130.72.010 Title, Purpose, and Intent

This Chapter shall be known as the Missouri Flat Planning Cost Reimbursement Fee ordinance. It authorizes a Missouri Flat Master Circulation and Funding Plan Reimbursement Fee, as described in the Missouri Flat Master Circulation and Funding Plan (MC&FP). It is the intent of this Chapter to establish equity among future developers who derive benefit from the MC&FP and its supporting documents (including California Environmental Quality Act compliance), by reimbursing the County for the costs incurred in the preparation and adoption of the MC&FP and related activities. The County, in turn, may use fees collected in compliance with this Chapter to reimburse initial participating developers for their financial contributions toward adoption of the MC&FP. Any such reimbursement commitments shall be documented in written agreements between the County and the specific developers.

130.72.020 Definitions

- A. **“Initial Participating Developers”** shall mean those persons or entities who participated in funding the development and preparation of the MC&FP in compliance with the Cooperative Funding Agreement.
- B. **“Cooperative Funding Agreement”** shall mean that certain Missouri Flat Road Circulation Plan Funding Agreement dated April 15, 1997, by and between the County of El Dorado, Sundance Plaza Associates, Ltd., Wal-Mart Stores, Inc., and Village/El Dorado Partners, L.P., as amended.
- C. **“Eligible Costs”** shall mean all costs incurred by the County in the preparation of the MC&FP including, but not limited to, costs for environmental, engineering, traffic engineering, financial, economic, drafting and legal consulting services. Eligible costs shall include, but are not limited to, those costs for which funding was provided under

Staff Memo - Exhibit B

Ordinance No. _____
Page 405

the Cooperative Funding Agreement. Eligible costs may also include legal costs incurred in any action in which the validity of the MC&FP is challenged.

- D. **“Missouri Flat Area”** shall mean that area identified as the Missouri Flat Road Project Area in Exhibit “A” to Ordinance No. 4565.
- E. **“Missouri Flat Master Circulation and Funding Plan”** or **“MC&FP”** shall mean the Missouri Flat Master Circulation and Funding Plan adopted by the Board on December 15, 1998, as amended.

130.72.030 Findings of the Board

In establishing the MC&FP Reimbursement Fee, the Board finds as follows:

- A. The MC&FP was prepared and adopted by the Ceounty in order to provide a comprehensive and coordinated approach to address both existing traffic congestion in the Missouri Flat Area and the issue of providing capacity for future development in the Missouri Flat Area. Attempting to address these issues on a project-by-project basis as development occurs would be uneconomic and may be infeasible.
- B. Substantial costs were incurred by the Ceounty in preparing the MC&FP and supporting documents including, but not limited to, a Program Environmental Impact Report. Certain private entities bore a portion of the costs incurred by the Ceounty in compliance with the terms of the Cooperative Funding Agreement.
- C. Persons or entities seeking to develop non-residential projects in the Missouri Flat Area will derive substantial benefits from the preparation and adoption of the MC&FP in that:
 - 1. Environmental documents prepared in connection with the MC&FP, including the Program EIR, substantially reduce the scope and cost of environmental review otherwise required in connection with subsequent development projects;
 - 2. Preparation of the MC&FP substantially reduces the scope and cost of planning review otherwise required in connection with subsequent development projects;
 - 3. The MC&FP provides a mechanism for addressing both existing traffic congestion and future capacity needs in a comprehensive manner not feasible in the context of individual project review;
 - 4. The MC&FP provides a mechanism to mitigate certain traffic impacts of future non-residential development in a manner not feasible in the context of individual project review;
 - 5. The MC&FP may reduce or eliminate the need to consider implementation of discretionary review procedures for development to ensure that potential traffic

Staff Memo - Exhibit B

Ordinance No. _____
Page 406

impacts of development otherwise requiring only ministerial approvals are addressed; and

6. The MC&FP will enable necessary road improvements and thereby will facilitate future economic development in the Ceounty and the Missouri Flat Area.

D. The establishment of the fee provided in this Chapter is based upon the lawful exercise of the Ceounty's police power and is consistent with all applicable state laws.

130.72.040 Fee Requirement

A Missouri Flat Planning Cost Reimbursement Fee is established to reimburse the Ceounty and/or private parties for expenses associated with preparing and adopting the MC&FP. The Reimbursement Fee shall be applicable to all non-residential development requiring a building permit within the Missouri Flat Area, except as otherwise provided in this Chapter.

130.72.050 Amount of Fee

The Reimbursement Fee will be established by a Resolution adopted by the Board in compliance with this Chapter. The Resolution shall describe and document the costs to be reimbursed, the allocation of the costs, and the resulting amount of the Fee. The fee amount included in the Resolution shall be supported by a report, which fully documents costs included and the allocation method used.

130.72.060 Time of Payment; Refunds

The Reimbursement Fee shall be payable as a condition of any development approved or allowed and is payable prior to the issuance of a building permit. The Reimbursement Fee is a permit processing fee to reimburse the Ceounty for costs incurred, and is not a monetary exaction for the purposes of defraying the cost of public facilities. No applicant shall be entitled to a refund of the Reimbursement Fees collected if, for any reason, development subject to the Reimbursement Fee does not proceed.

130.72.070 Uses of Fee Revenue

Revenue generated from the Reimbursement Fee shall be used only to reimburse the Ceounty and Initial Participating Developers for Eligible Costs incurred in the preparation and adoption of the MC&FP and its supporting documents, and in related activities.

Staff Memo - Exhibit B

Ordinance No. _____
Page 407

130.72.080 Creation of Fee Account

Reimbursement Fees shall be deposited in a restricted account maintained by the Ceounty. Revenue within this account, and any interest accrued thereon, shall be used solely for the purpose set forth in Section 130.72.010 (~~Missouri Flat Planning Cost Reimbursement Fee~~— Title, Purpose, and Intent) above in this Chapter. Once monies in the account are disbursed to reimburse the Ceounty for its costs incurred, those monies shall be unrestricted revenue of the Ceounty.

130.72.090 Fee Credits

The following credits shall be available:

- A. The Initial Participating Developers or their assignees, if they are applicants for building permits, shall be granted a credit against the Reimbursement Fee in an amount up to the amount contributed by the applicant under the Cooperative Funding Agreement, less any reimbursements previously received. Such credits received shall be deemed reimbursement for purposes of calculating future credits and reimbursements. The Fee Credit shall not exceed the Reimbursement Fees levied by Resolution in compliance with this Chapter at the time the Fee Credit is applied for.
- B. Any applicant shall receive a credit against the Reimbursement Fee in an amount equal to Reimbursement Fees previously paid for development approvals or permits on the same property if the development for which the prior Reimbursement Fees were paid did not occur and all permits and entitlements for such development have expired or are relinquished.

130.72.100 Fee Exemptions

Public park sites and public buildings and structures, including libraries, schools, fire stations, and public utility structures, are exempt from the Reimbursement Fee.

130.72.110 Separability

The provisions of this Chapter are separable, and the invalidity of any phrase, clause, or part shall not affect the validity of the remainder.