

ORDINANCE NO. 2646

AN ORDINANCE TO AMEND ORDINANCE NO. 1425, TO DELETE AND REPLACE TITLE 15, CHAPTER 44 TO REPEAL THE MITIGATION FEE EXCEPTION FOR GOVERNMENTAL PROJECTS AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF NORTH LAS VEGAS DOES HEREBY ORDAIN:

**SECTION 1:** Title 15, Chapter 44, of the North Las Vegas Municipal Code is hereby deleted in its entirety and replaced with the following:

**15.44.010 Findings.**

The City Council of the City finds and determines that:

- A. Pursuant to the authority granted to it in the Federal Endangered Species Act of 1973, 16 U.S.C. Section 1531 et. seq., the U.S. Fish and Wildlife Service has listed the desert tortoise (*Gopherus agassizii*) as a threatened species, effective April 2, 1990. The City approved the desert conservation plan in 1995.
- B. The Secretary of Interior permitted the incidental taking of a threatened species in accordance with the permit issued pursuant to Section 10(a) of the Federal Endangered Species Act (16 U.S.C. Section 1539). The Section 10(a) permit allowed the incidental taking of the threatened species as a consequence of otherwise lawful activities on the basis that the habitat conservation plan would provide a program for the protection of the species.
- C. To increase the impact upon land development in the City caused by the listing of the desert tortoise as a threatened species and to assist in the preservation of the desert tortoise, the City has developed and implemented a habitat conservation plan, which it has entitled the Clark County desert conservation plan, and which was approved by the

City Council on July 28, 1994. The costs of developing and implementing the desert conservation plan are borne by those who disturb land within the historic range of habitat of the desert tortoise. In 1995, the desert conservation plan had been approved by Clark County and the cities of Las Vegas, Henderson, North Las Vegas, Boulder City and Mesquite and the Nevada Department of Transportation and was issued a Section 10(a) permit from the U.S. Fish and Wildlife Service. In 1996, the City entered into a modified interlocal agreement and authorized the development of an additional habitat conservation plan to provide for the conservation of not only the desert tortoise, but also many other species which inhabit the county. That plan has been designated the Clark County multiple species habitat conservation plan. The first phase of the plan covers seventy-eight (78) additional species.

D. On or about October 1, 2000, the U.S. Fish and Wildlife Service issued its Section 10(a) permit to Clark County, the Nevada Department of Transportation, and the cities of Las Vegas, North Las Vegas, Henderson, Boulder City and Mesquite.

E. All mitigation fees collected pursuant to the provisions of this chapter shall be used to facilitate the implementation of the Clark County multiple species habitat conservation plan, the implementation agreement and the terms of the Incidental Take permit.

F. Adoption and implementation of this chapter demonstrates the City's intent to cooperate with federal and state agencies and conservation groups to provide for the survival of the desert tortoise and other species of concern, while at the same time to provide for the further development of property in the city.

G. The terms of this chapter are intended to be consistent with the requirements of the multiple species habitat conservation plan and the Incidental Take permit.

#### **15.44.020 Purpose.**

The purposes of this chapter are:

- A. To provide funds to implement the terms of Incidental Take permit; and
- B. To allow the applicant, by certificate of inclusion, to comply with the Federal Endangered Species Act through the Incidental Take Permit issued to Clark County.

#### **15.44.030 Definitions.**

As used in this chapter, the following terms shall have the following meanings:

"City" means the City of North Las Vegas.

"City Council" means the City Council of the City of North Las Vegas.

"Desert tortoise" means an animal species known as *Gopherus agassizii*.

"Development permit" means an on-site or off-site permit issued by the City, which authorizes the development of a parcel of land which has not previously been improved. Such permits include, but are not limited to, building permits, grading permits, and dust permits issued by the Clark County health district. Demolition permits and temporary power permits do not constitute a development permit.

"Fee assessment area" means all real property located within the Clark County multiple species habitat conservation plan fee assessment area as described in Section 15.44.040 of this code.

"Incidental Take Permit" means the permit, effective as of February 1, 2001, issued by the Secretary of the Interior pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, 16 U.S.C. Section 1539 which incorporates by reference the Multiple Species Habitat Conservation Plan and Implementing Agreement and allows the incidental taking of Threatened or Endangered Species in the course of otherwise lawful activities.

"Multiple species conservation plan" means the Clark County multiple species conservation plan approved and adopted by the City Council in 1996, and thereafter modified.

"Mitigation fee" means the fee imposed pursuant to the provisions of this chapter.

"Parcel" means all real property for which a development permit is applied.

"Residential unit" means a building or portion thereof used by one family and containing but one kitchen, and designated for single-family residential purposes only.

**15.44.040 Designation of Clark County multiple species habitat conservation plan fee assessment area.**

All those certain lands located in the City of North Las Vegas, State of Nevada, below the elevation of five thousand (5,000) feet as measured from sea level are designated as the Clark County multiple species habitat conservation plan fee assessment area.

(Ord. 1425 1 (part), 2000: Ord. 1148 1 (part), 1995: prior code 13.70.040)

15.44.045 Multiple species list.

Silver-haired bat	Rough angelica
Long-eared myotis	Sticky ringstem
Long-legged myotis	Charleston pussytoes
Palmer's chipmunk Las	Vegas bearpoppy
American peregrine falcon	White bearpoppy
Yellow-billed cuckoo	Rosy king snadwork
Vermilion flycatcher	Clokey milkvetch
Phainopepla	Threecorner milkvetch
Southwestern willow flycatcher	Spring Mountain milkvetch
Summer tanager	Alkali mariposa lily
Blue grosbeak	Clokey paintbrush
Arizona bell's vireo	Clokey thistle
Desert tortoise	Charleston braba
Banded gecko	Inch high fleabane
Desert iguana	Forked buckwheat

Western chuckwalla	Sticky buckwheat
Western red-tailed skink	Clokey greasebush
Large-spotted leopard lizard	Pungent dwarf greasebush
Great Basin collared lizard	Red Rock Canyon aster
California kingsnake	Hidden ivesia
Glossy snake	Jaeger ivesia
Western long-nosed snake	Hitchcock bladderpod
Western leaf-nosed snake	Charleston pinewod lousewort
Sonoran lyre snake	White-margined beardtongue
Sidewinder	Charleston beardtongue
Speckled rattlesnake	Jaeger beardtongue
Mojave green rattlesnake	Parish's phacelia
Relick leopard frog	Clokey mountain sage
Dark blue butterfly	Clokey catchfly
Spring Mountain icarioides blue	Charleston tansy
Mt. Charleston blue checkerspot	Charleston kittentails
Morand's checkerspot	Charleston grounddaisy
Carole's silverspot butterfly	Limestone violet
Nevada admiral	Anacolia menziessi
Spring Mountains comma skipper	Dicranowesia crispula
Spring Mountains springsnail	Claopodum whippleanum
Southeast Nevada springsnail	Syntrichia princeps
Clokey eggvetch	

Blue Diamond cholla	
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Refer to the Clark County multiple species habitat conservation plan and environmental impact statement, page 2-153, for the scientific names and complete evaluations of each of the seventy-nine (79) species listed.

**15.44.050 Mitigation fee.**

Except as hereinafter provided, all applicants for development permits within the boundaries of the fee assessment area shall pay a mitigation fee of five hundred fifty dollars (\$550.00) per gross acre located within the parcel to be developed and the area disturbed by related off-site improvements except as provided in Section 15.44.130.

**15.44.080 Mitigation fee applicable to townhouses, condominiums and other planned unit developments.**

The developer of townhouses, condominiums or other dwelling units in a planned unit development shall pay a mitigation fee of five hundred fifty dollars (\$550.00) per gross acre for the entire planned unit development for which development permits are issued.

**15.44.090 Imposition of mitigation fee.**

A. No development permit applicable to real property located within the boundaries of the fee assessment area shall be issued or approved without the payment of the mitigation fees required by this chapter.

B. Where a development permit has been previously issued, after payment of a mitigation fee previously mandated by this chapter, and has expired, the applicant for a new development permit on the same property shall pay the fee pursuant to the current provision of this chapter less the amount pursuant to the previous provisions of this chapter.

**15.44.100 Multiple species habitat conservation plan land disturbance report.**

All applicants for development permits shall, prior to issuance thereof, complete a multiple species habitat conservation plan land disturbance report on the forms furnished by the

North Las Vegas public works department. The land disturbance report must be complete, signed by the applicant for the development permit and contain at a minimum, the following information: the assessor's parcel number, the number of acres within the parcel and the area disturbed by related off-site improvements, and the amount of mitigation fee actually paid.

#### **15.44.110 Multiple species habitat compliance report fees.**

All applicants for development permits that are required to submit a land disturbance report shall pay processing fees to the North Las Vegas public works department of twenty-five dollars (\$25.00) per residential development permit and fifty dollars (\$50.00) per commercial development permit.

(Ord. 1425 1 (part), 2000: Ord. 1148 1 (part), 1995: prior code 13.70.064)

#### **15.44.120 Payment of fee.**

The mitigation fee shall be paid prior to the issuance of any development permit following the adoption of the ordinance codified in this chapter.

#### **15.44.130 Exemptions.**

For purposes of this chapter, the following types of development shall not be required to pay a mitigation fee:

- A. Reconstruction of any structure damaged or destroyed by fire or other natural causes;
- B. Rehabilitation or remodeling of existing structures or existing off-site improvements;
- C. Development of any parcel which has previously been approved and issued an Incidental Take permit under the Federal Endangered Species Act of 1973 for the desert tortoise;
- E. Development of property for which mitigation has been provided pursuant to a Section 7 consultation pursuant to the Federal Endangered Species Act shall be allowed to credit mitigation fees paid to the federal government against the total amount of the fees required by this chapter.

**15.44.140 Fee administration.**

All mitigation fees collected pursuant to the provisions of this chapter shall be forwarded once a month by the finance department to Clark County to be deposited into the multiple species habitat conservation plan special reserve fund. The fund, including interest and other income which accrues thereto, shall be expended solely for the implementation of the terms of the Incidental Take Permit, as those documents currently exist or as they may hereinafter be amended.

**SECTION 2:** NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

**SECTION 3:** SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

**SECTION 4:** EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.



SECTION 5: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS 15<sup>th</sup> day of January, 2014.

AYES: Mayor Lee, Mayor Pro Tempore Wood, Council Members Goynes-Brown, Wagner and Barron

NAYS: (None)

ABSTAIN: (None)

ABSENT: (None)

APPROVED:

/s/ John J. Lee

JOHN J. LEE, MAYOR

ATTEST:

/s/ Barbara A. Andolina

BARBARA A. ANDOLINA, ACTING CITY CLERK

APPROVED AS TO FORM:

/s/ Sandra Douglass Morgan\_\_\_\_\_

SANDRA DOUGLASS MORGAN, ACTING CITY ATTORNEY