

ORDINANCE NO. 16217

**A RESOLUTION ADOPTING MITIGATION FEES NECESSARY TO  
IMPLEMENT THE THURSTON COUNTY HABITAT CONSERVATION  
PLAN**

**WHEREAS**, The Board adopted Ordinance No. 16216 which amended the Thurston County Code to add regulations for the assessment of Thurston County Habitat Conservation Plan mitigation fee and hereto adopts by reference Ordinance No. 16217 findings;

**WHEREAS**, the Board of County Commissioners (Board) has the authority to adopt fees for permits, applications, and other services provided by the Community Planning and Economic Development Department;

**WHEREAS**, Thurston County Code Chapter 17.40, provides for the voluntary payment and collection of Habitat Conservation Plan mitigation fees;

**WHEREAS**, the Board has, from time to time adopted ordinances and resolutions establishing and revising fees to be paid by sponsors of new development;

**WHEREAS**, RCW 82.02 authorizes the use of voluntary agreements that allow payment in lieu of a dedication of land or to mitigate a direct impact because of a proposed development, subdivision, or plat to mitigate the negative effect of new development projects within the Thurston County Habitat Conservation Plan (Thurston County HCP) area;

**WHEREAS**, Revised Code of Washington (RCW) 36.70A.060 and RCW 36.70A.170 require counties and cities to designate critical areas and adopt regulations to protect them;

**WHEREAS**, Thurston County-wide Planning Policy 10.1 states that the County will recognize our dependence on natural systems and maintain a balance between human uses and the natural environment;

**WHEREAS**, Thurston County Comprehensive Plan Goal 5 of Chapter 9 Environment Recreation and Open Space calls for the protection, conservation and enhancement of the ecological functions of important fish, wildlife and plant habitats, including unique or rare species, state priority species, and species listed under the federal Endangered Species Act;

**WHEREAS**, The Board has developed the Thurston County Habitat Conservation Plan to obtain an Incidental Take Permit from the U.S. Fish and Wildlife Service for impacts to six (6) the Taylors Checkerspot butterfly (*Euphydryas editha taylori*), Oregon spotted frog (*Rana pretiosa*), the Olympia pocket gopher (*Thomomys mazama* spp. *pugetensis*), Tenino pocket gopher (*Thomomys mazama* spp. *tumuli*), Yelm pocket gopher (*Thomomys mazama* spp. *yelmensis*), and Oregon vesper sparrow (*Pooecetes gramineus*) referred here forward as Covered Species, listed as Threatened or Endangered under the Federal Endangered Species Act;

**WHEREAS**, the main element of the HCP conservation strategy is the creation of a Conservation Land System that would preserve approximately 3,469 acres at a maximum of species habitat land for the covered species;

**WHEREAS**, the fees set forth herein are based on the HCP, including an analysis of the cost to implement the HCP, including program administration, land acquisition, habitat restoration/creation, preserve management; and environmental compliance;

**WHEREAS**, the mitigation fees in the fee schedule are generated from the formula for calculating mitigation fees in the HCP and are proportional to the functional value of the habitat and total area of development impact;

**WHEREAS**, The Board received an Incidental Take Permit dated July 1, 2022, which amongst other conditions of issuance, requires the County to fund and implement the HCP measures fully;

**WHEREAS**, The Board has determined that establishing an escalator that is tied to the April Consumer Price Index will ensure consistent, manageable, and predictable increases for mitigation fees that cover future costs;

**WHEREAS**, the Board of County Commissioners may, from time to time, complete a full review of actual costs and the underlying assumptions developed as part of the initial funding analysis and recalculate and adjust the mitigation fee where necessary to ensure funding of the Thurston County HCP in full;

**WHEREAS**, a public hearing was duly noticed on August 18, 2022, consistent with Thurston County Code and state law;

**WHEREAS**, the Board held a public hearing on October 4, 2022, to take public testimony on the proposed implementing regulations and mitigation fees for the implementation of the HCP; and

**WHEREAS**, the Board has reviewed and considered all written material and oral testimony presented before and during the hearing.

**NOW THEREFORE BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONS OF THURSTON COUNTY, AS FOLLOWS:**

**SECTION 1.**

- A. The purpose of the mitigation fees is to help fund the HCP conservation strategy, mitigate the direct impacts of fee payer development on covered species, and contribute to the recovery of these species in the plan area.
- B. The habitat conservation plan mitigation fees help implement Thurston County Comprehensive Plan Goal 5 of Chapter 9 Environment Recreation and Open Space.
- C. Based on the HCP and the data referenced therein, there is a reasonable relationship between the use of the HCP mitigation fees authorized by this Ordinance and the categories



of development that correspond to the various rates established for the voluntary fee. The mitigation fee will be used to implement the HCP by funding the acquisition of land, enhancement of habitat, and other improvements to mitigate impacts to habitat and covered species caused by affected Development. The HCP implementation fees will not apply to all types of development projects but only those that impact habitat suitable for one or more covered species.

- D. Based on the HCP and the data referenced therein, there is a reasonable relationship between the mitigation activities, necessary to allow fee payers to comply with the federal Endangered Species Act and/or the County's critical areas ordinance and the voluntary fees adopted under this Resolution.
- E. Based on the HCP and data referenced therein, there is a reasonable relationship between the amount of the HCP mitigation fees authorized by Chapter 17.40 of the Thurston County Code and established in this resolution and the cost of mitigation areas attributed to the development projects on which the fees will be imposed. The cost of the mitigation areas needed to mitigate cumulative impacts from development projects subject to the fees was estimated by projecting the extent of the future development impacts, calculating the habitat acreage to be acquired, held, enhanced, restored, and created to offset these impacts and estimating the overall costs of acquiring and reserving acreage necessary for the 30-year term of the Incidental Take Permit issued by US Fish and Wildlife. The fees were then based on the costs as follows:
  - a. The method of calculating the mitigation fee amount for individual affected development reflects the cost of the mitigation area attributed to the individual affected development based on:
    - i. Area of affected development (or area of impact), as the cost of acquiring sufficient habitat land to mitigate for the impacts of a particular development is directly proportional to the acreage of the projects impact area; and
    - ii. Location of affected development, as the need for the mitigation area varies in proportion to the intrinsic habitat value of the land impacted by the development.

**SECTION 2.** The Thurston County Habitat Conservation Plan mitigation fees are hereby adopted as outlined in Exhibit A and upon the effective date indicated herein.

**SECTION 3.** The mitigation fees in Exhibit A shall adjust automatically on the first day of January of each year by the percent increase in the April Consumer Price Index for the previous year, with a maximum increase of three- and one-half percent (3.5%), with the first increase on January 1, 2024.

**SECTION 4. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal, or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

**SECTION 5. CORRECTIONS.** Upon approval of the Prosecuting Attorney's Office, the Clerk of the Board is authorized to make any necessary corrections to any section, subsection, sentence, clause, phrase or other portion of this Ordinance for scrivener or clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect January 1, 2023

ADOPTED: November 22, 2022

ATTEST:

Samia Caldwell  
Clerk of the Board

APPROVED AS TO FORM:

JON TUNHEIM  
PROSECUTING ATTORNEY

Travis Burns  
Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS  
Thurston County, Washington

Chair

Vice-Chair

Commissioner 11-29-22

## Exhibit A



# Thurston County Habitat Conservation Plan (HCP) Mitigation Fee and Determination Methods

The HCP mitigation fees are a requirement of the federal permit (#ESPER0043489) issued to Thurston County by the U.S. Fish and Wildlife Service. The final fee amount will be determined by staff during review and is required to be paid in full before the issuance of the Certificate of Inclusion.

<i>Species/Service Area</i>	<i>Fee per Credit*</i>	<i>Methodology for Credit Determination</i>
<i>Olympia pocket gopher (OPG)</i>	\$51,111/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Tenino pocket gopher (TPG)</i>	\$12,910/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Yelm pocket gopher North (YPG-N)</i>	\$20,215/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Yelm pocket gopher East (YPG-E)</i>	\$17,137/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Yelm pocket gopher South (YPG-S)</i>	\$14,644/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Taylor's Checkerspot butterfly (TCB)</i>	\$38,054/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Oregon vesper sparrow (OVS)</i>	\$20,636/credit	Thurston County HCP Appendix H: Credit-Debit Methodology
<i>Oregon spotted frog (OSF)</i>	\$15,203/credit	Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington

\* the number of credits needed depends upon the size of the impact and is calculated using the methodology listed.

Mitigation Fees are automatically adjusted each year on January 1 by the percentage increase, if any, in the April Consumer Price Index for the previous year. The maximum increase shall be 3.5%. "Consumer Price Index" for this section shall mean the Urban Wage Earners and Clerical Workers Index for the Seattle-Tacoma-Bellevue area. Community Planning & Economic Development and Public Works Development Review fees are rounded to the nearest \$1.00.

The Board of County Commissioners may, from time to time, complete a full review of actual costs and the underlying assumptions developed as part of the initial funding analysis and recalculate and adjust the mitigation fee by further action of the Thurston County Board of Commissioners to ensure full funding of the Thurston County HCP.





# Thurston County Habitat Conservation Plan (HCP) Species and Service Areas Map

