ORDINANCE NO. 08-08

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA ADDING CHAPTER 7.05 TO THE WILDOMAR MUNICIPAL CODE IMPOSING MAJOR THOROUGHFARE AND BRIDGE FEES

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

(a) On July 1, 2008, the City of Wildomar became a general law city with the power and duty to enact all local police, sanitary and other ordinances not in conflict with general law, and to provide general law municipal services to the residents of Wildomar.

(b) The Local Agency Formation Commission of the County of Riverside has authorized the City to continue the levying and collection of any previously authorized charge, fee, assessment or general or special tax levied within the City by the County or other subject agency, including, but not limited to, transient occupancy taxes, franchise fees, business license fees, property transfer taxes, sales and use taxes, and any taxes assessments, fees or charges by County Service Areas 22, 104 and 142.

(c) Section 66484 of the California Government Code authorizes the City to require by ordinance the payment of a fee as a condition of approval of a final subdivision map or as a condition of issuing a building permit for the purpose of defraying the cost of constructing major thoroughfares and bridges.

(d) The County of Riverside has established two major thoroughfare and bridge fee programs pursuant to Section 66484 of the Government Code that apply to property within the City, the Scott Road Road and Bridge Benefit District and the Southwest Road and Bridge Benefit District, and the City Council desires to continue the levying and collection of fees through these districts.

(e) The City Council desires to adopt a Major Thoroughfare and Bridge Fee Program to insure that future development shall pay a share of the costs of constructing transportation systems adequate to serve that development.

SECTION 2. Addition of Chapter 7.05. Chapter 7.05, "Major Thoroughfare and Bridge Fees," is hereby added to Title 7, "Subdivisions," of the Wildomar Municipal Code to read as follows:

"**Title 7**

SUBDIVISIONS

Chapters:

7.01 RESERVED
7.02 RESERVED
7.03 RESERVED
7.04 RESERVED
7.05 Major Thoroughfare and Bridge Fees

Chapter 7.05

MAJOR THOROUGHFARE AND BRIDGE FEES

Sections:

7.05.010 Fee Imposed.
7.05.020 Definitions.
7.05.030 General Plan Applicability.
7.05.040 Payment of Fees.
7.05.050 Establishment of Area of Benefit; Notice.
7.05.060 Establishment of Area of Benefit; Public Hearing.
7.05.070 Protests.
7.05.080 Deposit of Funds in Separate Accounts.
7.05.090 Advancement of Funds by City.
7.05.100 Subdivider Construction of Major Thoroughfare or Bridge; Reimbursement.
7.05.110 Continuation of Fees Established by the County.

7.05.010 Fee Imposed. As a condition of approval of a final map or as a condition of issuing a building permit, a fee shall be paid by the applicant for the final map or building permit, for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares, the land that is the subject of the final map or building permit lies within an area of benefit. The amount of the fee shall be set by resolution of the City Council.

7.05.020 Definitions. As used in this chapter:

"Area of benefit" means a specified area wherein it has been determined that the real property located therein will benefit from the construction of a major thoroughfare or bridge facility. An area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

"Bridge facilities" mean those locations identified in the transportation or flood control provisions of the Circulation Element of the City's General Plan as requiring a bridge to span a stream, railway, freeway or canyon. Should the City not have a General Plan in effect, then, until such time as such a General Plan is adopted, the term "bridge facilities" shall mean those locations identified in the transportation or flood control provisions of the Circulation Element or other element of the General Plan of the County of Riverside as requiring a bridge to span a stream, railway, freeway or canyon.

"Construction" includes design, acquisition of right-of-way, administration of construction contracts, and actual construction.

"Major thoroughfare" means those major thoroughfares identified in the Circulation Element of the City's General Plan whose primary purpose is to carry through traffic and provide a network of connecting to the state highway system. Should the City not have a General Plan in effect, then, until such time as such a General Plan is adopted, the term 'major thoroughfare' shall mean those major thoroughfares identified in the Circulation Element of the General Plan of the County of Riverside whose primary purpose is to carry through traffic and provide a network of connecting to the state highway system.

7.05.030 General Plan Applicability. The provisions herein for payment of a fee shall apply only if the major thoroughfare or bridge facility has been included in the Circulation Element of the General Plan adopted by the City Council at least thirty (30) days prior to the filing of a map or application for a building permit and on land located within the boundaries of the area of benefit. Should the City not have a General Plan in effect, then, until such time as such a Plan is adopted, the provisions herein for the payment of a fee shall apply only if the major thoroughfare or bridge facility has been included in the Circulation Element of the General Plan of the County of Riverside.

7.05.040 Payment of Fees. Payment of major thoroughfare fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfare serving the area at the time of the adoption of the boundaries of the area of benefit. Payment of bridge fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to an existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit.

7.05.050 Establishment of Area of Benefit; Notice. Action to establish an area of benefit may be initiated by the City Council upon its own motion or upon the

recommendation of the Director of Public Works or other designated City employee. The proposal shall be forwarded to the Planning Commission for its review and recommendations at a regular or special meeting. The Planning Commission comments and recommendations, and the Public Works Director's report shall be transmitted to the City Council. The City Council will set a public hearing for each proposed area of benefit. Notice of the time and place of said hearing, including preliminary information related to the boundaries of the area of benefit, estimated costs and the method of fee apportionment, shall be given in accordance with Government Code section 65091.

7.05.060 Establishment of Area of Benefit; Conduct of Public Hearing.

(a) At the public hearing the City Council will consider the testimony, written protests, and other evidence. At the conclusion of the public hearing the City Council may, unless a majority written protest is filed and not withdrawn as specified in Subsection (3) hereof, establish an area of benefit. If an area of benefit is established at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment shall be established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare.

(b) A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the City Council, a certified copy of which shall be recorded by the City Council with Riverside County Recorder.

(c) Such apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for such property or portions thereof. Where the area of benefit includes lands not subject to the payment of fees pursuant to Section 66484 of the California Government Code, the City Council shall make provisions for payment of the share of improvement costs apportioned to such lands from other sources.

7.05.070 Protests.

(a) Written protest shall be received by the City Clerk any time prior to the close of the public hearing. Any protests may be withdrawn by the owner making the same, in writing, at any time prior to the close of the public hearing.

(b) If written protests are filed by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protest are not withdrawn so as to reduce the area represented by the protests to less than one-half of the area to be benefited, then the proposed proceedings shall be abandoned, and the City Council shall not, for one (1) year from the filing of said written protests, commence

or carry on any proceedings for the same improvement or acquisition under the provisions of this chapter.

(c) If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this chapter to construct that portion of the improvement so protested against shall be barred for a period of one (1) year, but the City Council may commence new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this chapter prohibits the City Council, within that one (1) year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

7.05.080 Deposit of Funds in Separate Accounts. Fees paid pursuant to this chapter shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the area of benefit is one in which more than one bridge or major thoroughfare is required to be constructed, a separate fund may be established covering all of the bridge projects or major thoroughfares in the area of benefit. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the City for the costs of constructing the improvement.

7.05.090 Advancement of Funds by City. The City Council may approve the advancement of money from the General Fund or Road Fund to pay the costs of constructing the improvements covered herein and may reimburse the General Fund or Road Fund for such advances from planned bridge facility or major thoroughfare funds established pursuant to this Chapter.

7.05.100 Subdivider Construction of Major Thoroughfare or Bridge; Reimbursement. If the subdivider, as a condition of approval of the subdivision, or the building permit applicant, as a condition of the issuance of the building permit, is required or desires to construct a bridge or major thoroughfare, the City Council may enter into a reimbursement agreement with the subdivider or building permit applicant. Such agreement may provide for payments to the subdivider or applicant from the bridge facility or major thoroughfare fund covering that specific project to reimburse the subdivider or applicant for costs not allocated to the subdividers or applicant's property in the resolution establishing the area of benefit. If the bridge or major thoroughfare fund covers more than one project, reimbursements shall be made on a pro rata basis reflecting the actual or estimated costs of the projects covered by the fund.

7.05.110 Continuation of Fees Established by the County. The City shall levy and collect all major thoroughfare and bridge fees established by the County prior to July 1, 2008 applicable to property within the City."

SECTION 3. Intent to Supersede County Ordinances. The provisions of this ordinance shall supersede the County ordinances codified in Chapter 16.28 of the Riverside County Code, as those County ordinances were adopted by City Ordinance No. 08-01.

SECTION 4. Declaration of Facts Constituting Urgency. The City of Wildomar has just been incorporated and has no funds available to provide for the usual and current expenses of the City. Enacting this ordinance will provide the City with a source of revenue. Therefore, the City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and declares that it shall take effect immediately upon its adoption as an urgency ordinance.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall take immediate effect upon its passage by the City Council.

SECTION 7. Publication. The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.The City Clerk shall certify the passage of this ordinance and shall cause the same to be posted as required by law.

PASSED, APPROVED, AND ADOPTED this 1st day of July, 2008.

Bob Cashman, Mayor

ATTEST:

John Danielson, Interim City Clerk

APPROVED AS TO FORM:

Julie Hayward Biggs, Interim City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF WILDOMAR)

I, John Danielson, Interim City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance No. 08-08 was duly adopted by the City Council of the City of Wildomar at a special first meeting, held on the 1st day of July, 2008, by the following vote of the Council:

AYES: Cashman; Swanson; Moore; Farnam; Ade

NOES: None

ABSTAIN: None

ABSENT: None

John Danielson, Interim City Clerk