

ORDINANCE NO. 10039 (N.S.)

AN ORDINANCE AMENDING CHAPTER 5 OF DIVISION 6 OF TITLE 8 OF THE SAN DIEGO COUNTY CODE RELATING TO THE BIOLOGICAL MITIGATION ORDINANCE

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Title 8, Division 6, Chapter 5, Section 86.506(a)(3) of the San Diego County Code of Regulatory Ordinances, and Attachments K and M thereto, are hereby amended to read as follows:

SEC. 86.506. HABITAT BASED MITIGATION.

(a) Mitigation Requirements. The following section specifies the process for determining mitigation requirements for sensitive habitats:

(1) Determination Whether Land Qualifies as Biological Resource Core Area. The impact site and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area.

a) The impact site is a Biological Resource Core Area if it meets one or more of the following criteria:

i) The land is shown as preapproved mitigation area on the wildlife agencies' preapproved mitigation map, (Attachment F of Document No. 0769999 on file with the Clerk of the Board);

ii) The land is located within an area of habitat which contains biological resources that support or contribute to the long-term survival of Sensitive Species, which determination is based upon a biological analysis approved by the Director, and is adjacent or contiguous to preserved habitat that is within the preapproved mitigation area on the wildlife agencies' preapproved mitigation map (Attachment F of Document No. 0769999 on file with the Clerk of the Board);

iii) The land is part of a regional linkage/corridor. A regional linkage/corridor is either:

A. Land which contains topography which serves to allow for the movement of all sizes of wildlife and is used by wildlife, including large animals on a regional scale; and contains adequate vegetation cover providing visual continuity so as to encourage the use of the corridor by wildlife; or

B. It has been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher, MSCP Resource Document Volume II, Appendix A-7 (Attachment I on file with the Clerk of the Board as Document No. 0769999).

iv) The land is shown on the Habitat Evaluation Map (Attachment J of Document No. 0769999 on file with the Clerk of the Board) as Very High or High and links significant blocks of habitat, except that land which is isolated or links small, isolated patches of habitat and land that has been affected by existing development to create adverse edge effects shall not qualify as Biological Resource Core Area;

v) The land consists of or is within a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of Sensitive Species;

vi) The land contains a high number of Sensitive Species and is adjacent or contiguous to surrounding undisturbed habitats, or contains soil derived from the following geologic formations which are known to support Sensitive Species:

- A. gabbroic rock;
- B. metavolcanic rock;
- C. clay;
- D. coastal sandstone.

b) The mitigation Site is a Biological Resource Core area if it meets one or more of the criteria listed below. A vegetation map of the proposed mitigation site may be required to determine whether the criteria are met.

i) The land is part of a conservation bank recognized by the Wildlife Agencies as contributing to a HCP/NCCP Plan and located within the MSCP Subarea Boundary Map Area; or

ii) The land meets any or all of the criteria identified in Section 86.506 above.

(2) Determination of Tier on Impact Site. Based on the information in the vegetation map prepared pursuant to Section 85.504, the tier level of the impact site shall be identified in accordance with the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K of Document No. 0769999 on file with the Clerk of the Board).

(3) Determination of Tier on Mitigation Site. The tier level of the mitigation site shall be identified in accordance with the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K on file with the Clerk of the Board as Document No. 0769999). Mitigation for impacts to vegetation communities within the MSCP Subarea shown on the MSCP Boundary Map (Attachment A of Document No. 0769999 on file with the Clerk of the Board) shall occur in vegetation communities within the MSCP Subarea; however, if mitigation is not feasible (capable of being accomplished with a reasonable amount of effort and cost) within the MSCP Subarea, mitigation may occur on land covered by another approved MSCP subarea plan. Mitigation outside the MSCP Subarea will only be allowed when an applicant has demonstrated a good faith effort to mitigate within the MSCP Subarea and has shown that such mitigation is not feasible, to the

satisfaction of the Director of the Department of Planning and Land Use. Mitigation shall be within a habitat tier equal to or greater than the impact site with two exceptions:

a) Mitigation may be out of tier if mitigation credits are acquired from a mitigation bank located within the MSCP Subarea, and use of the credits is consistent with Board of Supervisors Policy I-117 (Attachment L of Document No. 0769999 on file with the Clerk of the Board).

b) Mitigation must be in-kind for the following types of habitat:

Southern Maritime Chaparral, Maritime Succulent Scrub, and vegetation communities specified under the category "Wetlands" in Tier I, the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K of Document No. 0769999 on file with the Clerk of the Board).

(4) Determination of the Mitigation Ratio. Using the Table of Mitigation Ratios (Attachment M of Document No. 0769999 on file with the Clerk of the Board), determine the mitigation ratio by locating the tier of the vegetation community to be impacted, based on whether the impact site and mitigation site are Biological Resource Core Areas.

**LIST OF SAN DIEGO COUNTY VEGETATION COMMUNITIES
AND THEIR TIER LEVELS WITHIN THE MSCP***

TIER I

Closed Cone Coniferous Forest including Torrey Pine Woodland and Cypress Forest
Coastal Bluff Scrub
Southern Maritime Chaparral**
Mafic Southern Mixed Chaparral and Mafic Chamise Chaparral
Native Grassland
Oak Woodlands and Broad Leaved Upland Forest
Wetlands**, including Vernal Pools, Alkali Marsh, Freshwater Marsh,
Riparian Forests, Riparian Woodlands, and Riparian Scrubs
Maritime Succulent Scrub**

TIER II

Coastal Sage Scrub
Coastal Sage-Chaparral Scrub
Flat-topped Buckwheat

TIER III

Chaparral except for Southern Maritime Chaparral and Mafic Chamise
and Mafic Southern Mixed Chaparral
Non-native grassland***

TIER IV (Lands which do not support natural vegetation and which are not regulated by this ordinance)

Disturbed Lands
Agricultural Lands
Eucalyptus Woodland

*Impacts to vegetation communities within the MSCP Subarea shall be mitigated within the MSCP Subarea shown on Attachment A; if mitigation is not feasible within the MSCP Subarea, mitigation may occur on land covered by another approved MSCP subarea plan.

**These vegetation communities require in-kind mitigation.

***Notwithstanding any mitigation ratios set out in Attachment M, non-native grasslands shall be mitigated at the ratio of 0.5 acres of mitigation land for every 1.0 acres of land impacted. Occupied Burrowing owl habitat shall be mitigated according to the Biological Mitigation Ordinance.

TABLE OF MITIGATION RATIOS*

TIER I	<i>Impacted land</i>	
<i>Mitigation Site*</i>	meets criteria for biological resource core area	does not meet criteria for biological resource core area
meets criteria for biological resource core area	2:1	1:1
does not meet the criteria for biological resource core area	3:1	2:1

TIER II	<i>Impacted land</i>	
<i>Mitigation Site*</i>	meets criteria for biological resource core area	does not meet criteria for biological resource core area
<i>meets criteria for biological resource core area</i>	1.5:1	1:1
<i>does not meet the criteria for biological resource core area</i>	2:1	1.5:1

TIER III	<i>Impacted land</i>	
<i>Mitigation Site*</i>	meets criteria for biological resource core area	does not meet criteria for biological resource core area
<i>meets criteria for biological resource core area</i>	1:1	0.5:1
<i>does not meet the criteria for biological resource core area</i>	1.5:1	1:1

*Impacts to vegetation communities within the MSCP Subarea shall be mitigated within the MSCP Subarea shown on Attachment A; if mitigation is not feasible within the MSCP Subarea, mitigation may occur on land covered by another approved MSCP subarea plan.

section 2. Effective Date: This ordinance shall take effect thirty (30) days after its adoption. Within fifteen days after the date of adoption of this ordinance, a summary shall be published once with the name of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 3rd day of March, 2010.