

**Proposed ~~Civil Penalty Criteria and~~ Administrative Penalty
Schedule for Violations Regarding Environmentally Sensitive
Lands, Historical Resources and Paleontological Resources**

PROPOSED FINE SCHEDULE:

I. SENSITIVE BIOLOGICAL RESOURCES

RESOURCES IMPACTED/DESTROYED

MINIMUM CIVIL FINE

Wetlands

Vernal Pool	\$20,000
Coastal Wetlands (salt marsh, salt panne)	\$20,000
Riparian Habitats (oak riparian forest, riparian forest, riparian woodland, riparian scrub).....	\$15,000
Freshwater Marsh.....	\$15,000
Disturbed Wetland (excluding vernal pool)	\$10,000
Marine Habitats/Eelgrass Beds	\$5,000

Uplands

Tier I - Rare Uplands.....	\$20,000
(Maritime Succulent Scrub, Maritime Chaparral, Native Grassland, Oak Woodlands, etc.)	
Tier II - Uncommon Uplands.....	\$15,000
(Coastal Sage Scrub (CSS), CSS/Chaparral, etc.)	
Tier IIIA and IIIB - Common Uplands.....	\$10,000
(Mixed Chaparral, Chamise Chaparral, Non-native Annual Grassland, etc.)	

Endangered Species

Impacts to individual endangered species not covered by the MSCP Subarea Plan..	\$20,000*
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* This fine would be considered and imposed only following consultation with the U.S. Fish & Wildlife Service and the California Department of Fish & Game.

II. OTHER ENVIRONMENTALLY SENSITIVE LANDS (Steep Hillsides, Coastal Beaches, Sensitive Coastal Bluffs, and 100-Year Floodplains)

Disturbance of Environmentally Sensitive Lands lacking sensitive biological resources and without a permit\$5,000

Disturbance of Environmentally Sensitive Lands lacking sensitive biological resources that exceeds permitted encroachment.....\$5,000

III. HISTORICAL AND PALEONTOLOGICAL RESOURCES

Disturbance of archaeological or paleontological resources without a permit\$5,000

NOTE: These fines are assessed pursuant to San Diego Municipal Code Section 12.0805, and may vary depending on the ~~twelve~~ **eleven** factors listed in Section 12.0805 (c) which the Director may consider in assessing a daily fine.

PENALTY CRITERIA:

Once the minimum civil fine for impacts to environmentally sensitive lands, historical resources, and paleontological resources is determined from the civil fine schedule listed above, the total fine or penalty for individual Illegal Grading Violations would be assessed using the following minimum criteria (maximum penalty not to exceed \$250,000):

1. Size of the impacted area (acreage/square footage);
2. Extent of direct and indirect impacts on-site;
3. Extent of direct and indirect impacts off-site;
4. Type of habitat affected;
5. Quantity of habitat affected;
6. Quality of habitat affected (connectivity to wildlife corridors, etc.);
7. Presence of federal or state listed species or narrow endemics;
8. Extent of encroachment into a Multi-Habitat Planning Area (MHPA);
9. Presence and significance of cultural resources (historic and prehistoric);
10. Presence of paleontological resources;
11. Geological stability of the impacted area;
12. Soil contamination;
13. Existing and surrounding land use;
14. Visibility – landform alteration.

This assessment shall include a discussion of the development potential/eligibility of the site, feasibility and extent of on- or off-site mitigation; restoration; or remediation measures.

ADMINISTRATIVE FINES:

Appropriate fines are levied along with immediate implementation of erosion control measures (if applicable) and a restoration and monitoring plan. The minimum fine for the Administrative Civil Penalty ranges between \$2,500 and \$25,000 per day per violation. The maximum penalty would not exceed \$250,000. In addition, the violator would automatically be subject to the costs associated with enforcement action, the cost of restoration, mitigation and monitoring as well as for preparing any and all reports and plans (e.g., biological resources report, historical resources report, revegetation plan, grading plan, erosion control plan) required to be submitted in conjunction with correcting the violation and restoring the site to previous conditions, if applicable. The applicant can only submit for development permits after the enforcement action has been concluded.

