

# **Addendum to the Joshua Tree and Native Desert Vegetation Preservation Ordinance Mitigated Negative Declaration**

*Prepared for:*

## **City of Palmdale**

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# Acronyms and Abbreviations

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Acronym/Abbreviation	Definition
CBD	Center for Biological Diversity
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
City	City of Palmdale
EIR	Environmental Impact Report
FESA	Federal Endangered Species Act
MND	Mitigated Negative Declaration

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# 1 Introduction

The City of Palmdale's City Council adopted a Mitigated Negative Declaration (MND) for the Joshua Tree and Native Desert Vegetation Preservation Ordinance, also known as Zoning Ordinance Amendment 88-04 in 1991. The MND was prepared pursuant to the California Environmental Quality Act (CEQA) and contains a disclosure and analysis of potential environmental effects associated with implementation of the Joshua Tree and Native Desert Vegetation Preservation Ordinance. Based on the analysis contained in the MND and other considerations, the City Council approved the ordinance and adopted the MND.

Since adoption of the MND and approval of the ordinance in 1991, the regulatory environment for western Joshua trees (*Yucca brevifolia*) has changed. On September 22, 2020, the California Fish and Game Commission approved the petition to accept the candidacy proposal for the western Joshua tree, effective October 9, 2020. When a plant or wildlife species is granted candidacy under the State's Endangered Species Act, the species is given the same protection as a threatened or endangered species while the Commission evaluates whether formal listing as "threatened" or "endangered" under the California Endangered Species Act is warranted. In an effort to facilitate continued forward momentum for smaller, ministerial projects that are currently or may be evaluated by City staff, the City has reached out to California Department of Fish and Wildlife to determine if a special order could be executed that could lay out a processes by which ministerial projects could proceed. In order to achieve this goal of establishing a program by which western Joshua trees can be impacted but also fully mitigated as per compliance with reasonable expectations due, the City has set about developing a mitigation framework which would ensure that only positive impacts to western Joshua tree occur.

The City is required to amend its previously adopted Joshua Tree and Native Desert Vegetation Preservation Ordinance to include new (and more stringent) protections for the western Joshua tree. The purpose of this addendum is to analyze the proposed modifications to the existing ordinance and to determine whether the modified ordinance would result in any new significant environmental impacts not identified in the adopted MND, or whether any previously identified significant effects would be substantially more severe under the modified ordinance. This addendum also evaluates whether mitigation measures previously found infeasible would become feasible due to changes that have occurred since adoption of the MND. The previously adopted MND and approved ordinance are disclosed below.

# 2 CEQA Requirements

The California Code of Regulations, Title 14, Section 15000 et seq. (CEQA Guidelines) discuss a lead agency's responsibilities in handling new information when changes to a project occur after an EIR or Negative Declaration is certified. Specifically, Section 15164(a) of the CEQA Guidelines (Addendum to an EIR or Negative Declaration) states that:

*"The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."*

Section 15162 of the CEQA Guidelines provides that preparation of a subsequent EIR or Negative Declaration is required only under the following circumstances:

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
  - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
  - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
    - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As further discussed below, although minor changes have been proposed to the approved ordinance since adoption of the MND in October 1991, these changes would not result in new significant impacts, substantial increases in previously identified significant impacts, or the requirement for new mitigation measures or alternatives to be studied. Therefore, an addendum is appropriate. The addendum need not be circulated for public review, but may simply be attached to the Final MND.

### **CEQA Guideline Revisions**

Since adoption of the MND in October 1991, the state has adopted multiple updates to the CEQA Guidelines to add efficiency and clarity to aspects of the guidelines and to incorporate case law and legislation. Some of the guideline updates included revisions to Appendix G of the CEQA Guidelines, which consists of environmental checklist questions that are used by many lead agencies as the framework for environmental documents prepared pursuant to CEQA. Key updates that have occurred to the Appendix G thresholds checklist since 1991 include the addition of the following environmental topics to the checklist: greenhouse gas emissions, energy consumption, tribal cultural resources, wildfire, and vehicle miles traveled. Additionally, the overall organization and wording of the checklist questions have changed over time.



The environmental checklist questions used in the adopted MND are based on the version of the CEQA Guidelines that was in place at the time the MND was released for public review in 1990. As such, the checklist questions in the adopted MND reflect a previous iteration of the CEQA Guidelines. Section 15007(c) of the CEQA Guidelines states that “if a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved.” The MND was released for public review in 1990 and adopted in 1991. As such, the analysis for the modified ordinance does not need to be updated to conform with the revised Guidelines, and the environmental analysis in this addendum has been structured consistent with the checklist questions and topics addressed in the 1991 MND.

Nevertheless, in the interest of providing the public and decision makers with as much information on the environmental consequences as possible, it is noted that the modified ordinance would not have significant, adverse effects in the environmental categories that have been added to Appendix G of the CEQA Guidelines since the time of the 1991 MND. Added protections for native desert vegetation under the modified ordinance would not result in significant greenhouse gas emissions, energy consumption, or vehicle miles traveled, since new vegetation protections would not increase or induce development, would not result in new vehicle trips, and would not intensify land uses. A portion of the City falls within a very high fire hazard severity zone (CAL FIRE 2020); however, added protections for native desert vegetation would not substantially increase wildfire risks relative to existing conditions, since vegetation protections would not cause new structures to be built in wildfire hazard areas, would not impair emergency response/evacuation, and would not increase susceptibility of existing uses to wildfire risk. Additionally, enhanced protections for native desert vegetation would not result in new effects to tribal cultural resources, since preservation of native desert vegetation would not increase development and associated ground disturbing activities. As further described in Section 7.16 of this addendum, any tribal cultural resources that could be uncovered during transplantations would be protected pursuant to state law. As such, while the CEQA Guidelines have changed over time, the modified ordinance would not result in significant, adverse effects relative to any of the environmental topics that have been added since the time of the 1991 MND.

### 3 Location and Setting

#### **City of Palmdale**

The approved and modified ordinance apply to the City of Palmdale (City) (see Figure 1). The City is located in the Antelope Valley in northern Los Angeles County, approximately 68 miles north of downtown Los Angeles. The City is one of two incorporated cities and several unincorporated communities within the Antelope Valley. The City is bordered by the City of Lancaster and unincorporated community of Quartz Hill to the north; unincorporated communities of Lake Los Angeles and Littlerock to the east; the unincorporated community of Acton to the south; and the unincorporated community of Leona Valley to the west.

The City encompasses approximately 106 square miles within a transitional area between the foothills of the San Gabriel and Sierra Pelona Mountains and the Mojave Desert to the north and east. As a result, the City contains a variety of plant and animal communities, slope conditions, soil types, and other physical characteristics. In general, the City slopes from south to north-northeast, with surface flows and subsurface flows trending away from the foothills in the south to Rosamond Dry Lake in the north. The major watercourses flowing through Palmdale are Amargosa Creek, Anaverde Creek, Little Rock Wash, and Big Rock Wash. The topography ranges from relatively flat areas to rolling hills associated with the San Andreas rift zones.

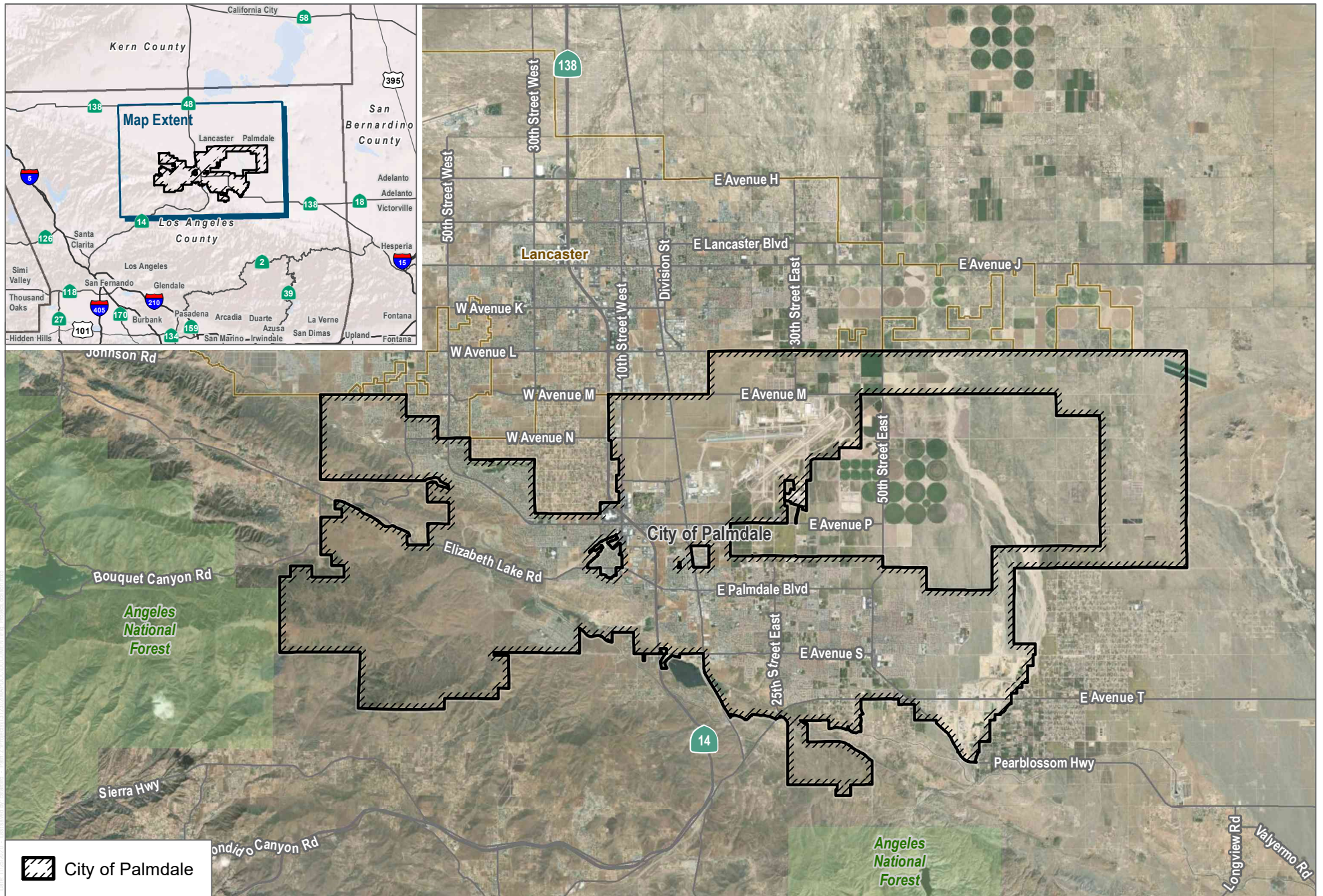
The western Joshua tree inhabits the Mojave Desert, including the areas within the City's jurisdiction. The section below describes the ecology of the western Joshua tree, including its distribution, reproduction, and habitat.

### Joshua Tree Ecology

There are two populations of western Joshua tree—one of the populations is entirely within California, referred to as YUBR south, and one population is within California and Nevada, referred to as YUBR north (Center for Biological Diversity (CBD) 2019). Within California, there is approximately 790,691 acres of the YUBR north population and 3,737,016 acres of the YUBR south population. Within the City of Palmdale approximately 58,996 acres of the YUBR south population is present, which is approximately 2% of the entire YUBR south population. Western Joshua tree primarily occurs in the Mojave Desert, but a small portion in the north occurs within the Great Basin desert. Approximately 96% of the YUBR northern population and 48% of the YUBR southern population is located on federal land, and the remainder of the habitat is subject to loss from urban growth, roads, highways, transmission lines, industrial facilities, and renewable energy facilities (CBD 2019).

Western Joshua trees reproduce both sexually and asexually. Asexual reproduction is by rhizomes, branch sprouts, and/or basal sprouts and more common at higher elevations (Gucker 2006). Some western Joshua tree populations are largely or possibly entirely clonal. In clonal areas Joshua trees can occur in clusters approximately 30 feet in diameter, with 30 to 40 trunk-like stems (Gucker 2006). Sexual reproduction of western Joshua trees is by seed production and flowers are bisexual. In California, western Joshua trees are solely pollinated by *Tegeticula synthetica*, a yucca moth. Female yucca moths transport pollen to the flowers, insert eggs into the floral ovaries using an ovipositor, and then spread pollen to the stigma to pollinate the flower. As the flower develops into a fruit, the moth eggs hatch and the larvae eat a portion of the developing seeds. The moths are the sole pollinators of Joshua trees and the Joshua tree seeds are the only food source for the moths. The primary dispersers of the seed are scatter-hoarding rodents moving the seed up to 50 meters from the source tree. Also, wind dispersal of seeds has been documented. It is thought that seed dispersal of western Joshua trees is limited, which may constrain the species' ability to increase its range. Joshua tree seeds germinate without any pretreatment, but longevity of viable seeds is limited and seedling production rate is exceptionally low. Once a seedling emerges, there is a high mortality until it exceeds 9.8 inches (25 centimeters) in height. It is probable that the key factor in seedling survival and growth is the presence of nurse plants. Once established, a Joshua tree is relatively long-lived (CBD 2019).

Joshua trees occur in desert grasslands and shrublands in hot, dry sites on flats, mesas, bajadas, and gentle slopes in the Mojave Desert (Gucker 2006). Soils in Joshua tree habitats are silts, loams, and/or sands and variously described as fine, loose, well drained, and/or gravelly, while the plants can reportedly tolerate alkaline and saline soils (Gucker 2006). The elevational range for western Joshua tree is between 2,461 feet (750 meters) and 7,218 feet (2,200 meters). In the basin areas, western Joshua trees typically are found in areas dominated by creosote bush and white bursage (*Ambrosia dumosa*) and the higher elevations are characterized by junipers (*Juniperus* spp.) and pinyons (*Pinus* spp.) (USFWS 2018).



SOURCE: Esri and Digital Globe, OpenStreetMap 2019

**FIGURE 1**

City of Palmdale

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There is no reliable estimate of the western Joshua tree population size and no rangewide information on the population trends. Studies indicate that western Joshua tree density is negatively correlated with rising temperatures, the range of the species is reducing at lower elevations, recruitment is limited, and plant mortality is increasing (CBD 2019).

Predation, invasive species, wildfires, climate change, and habitat loss are threats to the western Joshua tree with the greatest threat being wildfire. Longer-term studies have indicated that the species has a relatively low post-fire survival rate and is slow to repopulate burned areas. Fires in the Mojave Desert have been more frequent than in the past and it has been suggested that this is due to increased invasive species, including non-native annual grasses. With respect to predation, the data in the petition acknowledges that predation alone is likely not presently a threat, but the impact from predation would be more significant with wildfire and drought. Additionally, while invasive species are cited as a threat, the largest impact to the species from invasive plants is through altered fire regimes because invasive plants have resulted in bigger and more frequent fires (CDB 2019).

Climate change is thought to be the greatest threat to the continued existence of the western Joshua tree. Due to climate change, deserts have warmed and dried more quickly over the last 50 years than other ecoregions. Projections for future precipitation in the deserts are less clear. Models predict the contraction in range of the western Joshua tree at the western edge of its range due to climate change. Recruitment has mostly stopped at the drier, lower elevational limits of the species range. Additionally, droughts also will probably lead to increased adult mortality, either directly, due to stress, or indirectly, due to increased herbivory from rodents lacking alternative forage. The western Joshua tree also does not appear to be moving successfully into higher elevations (CBD 2019). CBD (2019) states that without habitat protection and rapid and significant reductions in greenhouse gas emissions, the western Joshua tree will likely be extirpated from all or most of California within 80 years.

The purpose of the modified ordinance is to add protections for the western Joshua tree to the City's Municipal Code, consistent with recently updated state regulations.

## 4 Description of Approved Ordinance

The approved ordinance consisted of the addition of Title 14 to the City of Palmdale Municipal Code. The proposed addition of Title 14 as described in the MND included the preservation of native desert vegetation (particularly Joshua trees) in the City. The purpose of the approved ordinance included the retention of the natural desert aesthetics and the promotion of the general welfare of the community. Title 14 recognized that it may not be feasible, practicable, or in the public interest to preserve all healthy desert vegetation regulated under the proposed ordinance, but that development projects should strive to protect and maintain the most desirable and significant of the healthy desert vegetation in a manner consistent with the City's General Plan and with CEQA.

The provisions of the approved ordinance apply to public and private properties in the City that contain Joshua trees or other desert vegetation defined in the ordinance. Desert vegetation is defined as "Joshua trees and California juniper as defined by this Chapter, and other living plants identified pursuant to the California Desert Native Plants Act (Food and Agricultural Code section 90001, et seq.) as protected or designated on any state or federal rare and endangered species list."

Under the approved ordinance, developers are required to preserve two healthy Joshua trees or California junipers per acre where soil conditions and tree health permit this standard. Otherwise, the standard of preservation must be determined by a Native Plant Specialist, with the concurrence of the City's Landscape Architect, as defined by the ordinance.

Preservation of these trees in place on site is encouraged. Where trees cannot be preserved in place, Joshua trees may be transplanted to appropriate locations such as detention basins, street medians, and entry statements or other areas of landscaping. Preservation of trees on residential lots is not required by the approved ordinance.

The approved ordinance is appended to this addendum as Appendix A. A summary of the components of the approved ordinance is provided below:

### **Prohibition of Removal**

Desert vegetation must not be removed nor caused to be removed on or from any parcel of land except as provided for in the provisions of the approved ordinance. A Native Desert Vegetation Removal Permit must be obtained prior to the removal of any native desert vegetation.

### **Desert Vegetation Preservation Plan Requirements and Criteria**

All development proposal applications for sites containing native desert vegetation must include a Desert Vegetation Preservation Plan. The minimum standard of preservation would be the following:

- Two (2) Joshua trees or California junipers per gross acre, averaged for the gross site area covered by the development application; or
- Soil conditions or conditions of the Joshua trees or California juniper prohibit the preservation of two (2) trees per acre, or where the total number of healthy trees per gross acre is not equal to two (2) per acre, the minimum standards of preservation is determined by a desert native plant specialist and confirmed by the City's Landscape Architect, or in-lieu thereof, the Director of Public Works' designee. See Appendix A for details regarding requirements of the plan and preservation criteria.
- Where possible, a minimum of two (2) California juniper trees per gross acre must be retained undisturbed on-site.
- Native desert vegetation that cannot be fenced and left undisturbed must not be left in place while grading. See Appendix A for options.

The quantity of Joshua trees or California junipers calculated under the minimum standard of preservation would be preserved by various combinations as described in Appendix A. Additionally, details regarding maintenance requirements, native desert vegetation bank and preservation criteria, and enforcement are provided in Appendix A.

## 5 Description of Modified Ordinance

In September 2020, the California Fish and Game Commission (Commission) determined that listing of the western Joshua tree as a threatened species under the California Endangered Species Act (CESA) may be warranted. The western Joshua tree is now considered a candidate species under the CESA, and the California Department of Fish and Wildlife (CDFW) is undertaking a one-year status review of the species. After the status review, the Commission will make a final decision on listing of the species. The western Joshua tree will be considered a candidate species until the Commission makes a decision on the listing.

Candidate species are protected under CESA pursuant to Section 2085 of the Fish and Game Code; however, CESA also provides that the Commission may adopt regulations to authorize take<sup>1</sup> of candidate species under Section 2084 of the Fish and Game Code. Under Section 2084, CDFW has drafted Section 749.11 of Title 14 of the California Code of Regulations. Section 749.11 is entitled “Special Order Relating to Take of Western Joshua Tree (*Yucca brevifolia*) During Candidacy Period.” Section 749.11 requires the City (as well as other local agencies in the Mojave Desert) to adopt an ordinance setting forth specified requirements for small, ministerial projects that may otherwise be allowed to proceed without implementing any Joshua tree protections. The project types that are addressed under Section 749.11 consist of single-family residences, accessory structures, or public works projects with one or more western Joshua trees on site.

The proposed ordinance modifications consist of amending the approved ordinance (i.e., the City’s current Joshua Tree and Native Desert Vegetation Preservation Ordinance) to incorporate CDFW’s required provisions for western Joshua tree take authorization for single-family residences, accessory structures, and public works projects, as defined in Section 749.11. Single-family residences, accessory structures, and some public works projects are currently exempted from compliance with the City’s Joshua Tree and Native Desert Vegetation Preservation Ordinance, per Municipal Code Section 14.04.090, Exceptions to Provisions. Under the modified ordinance, the exceptions section would be removed, and single-family residences, accessory structures, and some public works projects would be held to the Joshua tree protection and preservation standards as required under Section 749.11 of the California Code of Regulations. The western Joshua tree protection and preservation standards for single-family residences, accessory structures, and public works projects that are required under Section 749.11 of the California Code of Regulations and that would be incorporated into the modified ordinance include limits on take authorizations; requirements for avoidance or relocation where feasible; and requirements for mitigation fees to be deposited into the Western Joshua Tree Mitigation fund for western Joshua trees that are relocated or removed.

Subdivisions, commercial developments, or other uses subject to discretionary action by the City would be required to undergo individual consultation with CDFW on any potential impact to western Joshua trees and associated take authorization. Additionally, such projects would continue to be subject to the City’s existing requirements for the protection of other native desert vegetation. The purpose of the modified ordinance is to allow smaller, ministerial projects and public works projects to proceed during CDFW’s status review of the western Joshua tree.

Section 2084 of the Fish and Game Code requires that a government agency agree to conditions and requirements, as required under Section 749.11, in order to support ordinance modification as summarized above. In general, incorporation of CDFW’s required provisions for western Joshua trees into the City’s Municipal

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<sup>1</sup> “Take” of a species is defined as hunting, pursuing, catching, capturing, or killing the species, or an attempt to hunt, pursue, catch, capture, or kill the species.

Code would lead to more protections for western Joshua trees when compared to current requirements. All other requirements for native vegetation protection and preservation in the City's Municipal Code would remain in place.

## 6 Summary of Environmental Effects, Mitigation Measures, and Level of Significance After Mitigation for the Existing Ordinance

Environmental impacts of the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance were determined to be below a level of significance in the 1991 MND, with incorporation of the following mitigation measures:

1. Development proposals will be required to include specific soil erosion measures as part of their grading plans. These measures will accommodate any additional increment attributable to the removal of desert vegetation.
2. Development proposals are required to retain increased run-off on-site. Any additional run-off attributable to the removal of desert vegetation will be contained accordingly.
3. Any trees transplanted to the public right-of-way will be situated so as not to interfere with line-of-sight distances or jeopardize vehicles.
4. Development proposals, when received, will be evaluated for impacts on visual resources, wildlife, fire hazard, and noise. These analyses will take into account the preservation, transplantation, or removal of native desert vegetation.
5. A Native Desert Vegetation Preservation Plan will be required for each development proposal implementing the terms of the proposed ordinance and preserving, to the maximum extent possible, native desert vegetation on-site.

## 7 Environmental Impact Analysis for the Modified Ordinance

Changes proposed to the existing ordinance can be summarized as follows: removal of exceptions to the provisions of the Joshua Tree and Native Desert Vegetation Preservation Ordinance (i.e., Municipal Code Section 14.04.090) and additional requirements and protections for western Joshua trees.

Under existing conditions, protections for the western Joshua tree and other native desert vegetation are not imposed for certain projects and activities in the City, including the construction of single-family residences, accessory structures, and some public works projects. Under the modified ordinance, protections and requirements for western Joshua tree would be imposed for single-family residences, accessory structures, and public works projects. These projects would be able to receive take authorization for western Joshua trees upon compliance with the modified ordinance, including payment of mitigation fees. Other projects that may result in take of western Joshua tree would be required to obtain an Incidental Take Permit from CDFW.

Overall, the additional protections for western Joshua trees would have a beneficial environmental effect, as they would ensure additional preservation of native desert vegetation. The modified ordinance could lead to additional transplantations of western Joshua trees relative to existing conditions, since on-site relocation is one of the



minimization options that would be provided in the modified ordinance. However, additional Joshua tree transplantations in the City would have a minimal to negligible effect on the environment. Such transplantations would be required to occur on site (thereby resulting in no additional vehicle trips), and any ground disturbance or water usage that is involved would be generally consistent with standard landscape planting and maintenance activities. As such, additional Joshua tree transplantations that may be associated with the modified ordinance would have a negligible environmental change. Such activities would be consistent with existing landscaping activities that already occur throughout the City and would promote the preservation of western Joshua trees.

The modified ordinance would not alter the intensity or types of land uses in the City and, therefore, would not have the potential to substantially increase environmental effects associated with land development. Rather, the modified ordinance would add an administrative step in the application and development process for certain projects in the City, resulting in greater environmental protections for the western Joshua tree and ensuring compliance with state law.

For these reasons and as further enumerated in the sections below, the modified ordinance would not result in any new significant environmental impacts and would not result in a substantial increase in the severity of any previously identified significant impacts. In fact, the proposed changes to the ordinance would generally be more environmentally protective relative to the existing, approved ordinance.

#### **Changes in Circumstance/New Information**

While the overall environmental setting and development patterns in the City have changed since 1991 due to incremental development occurring within and near the City, no changes have occurred that would lead to new significant effects or a substantial increase in the severity of previously identified significant effects associated with implementation of the Joshua Tree and Native Desert Vegetation Preservation Ordinance, under either its approved or modified forms. Both the approved and modified ordinances consist of protections for native desert vegetation. The potential impacts of removal, transplantation, and/or on-site preservation of native desert vegetation as part of land development have been evaluated in the 1991 MND and were determined to be less than significant with incorporation of the mitigation measures listed in Section 6, above. While the conditions of the City are different from those present in 1991, the change in setting would not alter the potential for native plant preservation to adversely affect the environment. Rather, as the City has become more built out, the Joshua Tree and Native Desert Vegetation Preservation Ordinance (under both its approved and modified forms) is increasingly important for environmental protection.

New information on native desert vegetation and on the environmental effects of development projects have also become available since the time of the 1991 MND. However, such new information would not affect the environmental impact conclusions presented in the MND. Under both its approved and modified forms, the City's Joshua Tree and Native Desert Vegetation Preservation Ordinance is protective of the environment and the City's natural resources. The modified ordinance would result in further protections to western Joshua trees beyond those afforded in the existing ordinance, in response to recent changes in state regulations. For these reasons, there are no substantial changes with respect to circumstances under which the project will be undertaken, and there is no new information of substantial importance that has become available in the project area that would change the impact conclusions in the MND.

The potential environmental impacts associated with the modified ordinance relative to those identified in the adopted MND for the approved ordinance are discussed below. None of the impact determinations would change

relative to the adopted MND, and the same mitigation measures identified for the approved ordinance and listed in Section 6 of this addendum would be required for the modified ordinance. Following implementation of these mitigation measures, the modified ordinance would continue to result in less than significant impacts. No new mitigation measures are required. Therefore, based on the analysis below and consistent with Section 15164 of the CEQA Guidelines, this addendum is the appropriate environmental document under CEQA, and no supplemental or subsequent MND is required.

## 7.1 Earth

The adopted MND for the approved ordinance states that the ordinance would not have significant effects on earth-related topics throughout the City. As further discussed below, the modified ordinance would not result in any new effects in these categories, or lead to an increase in the severity of previously identified effects or result in the need for new mitigation measures.

*Slopes and Landforms.* As determined in the MND, the approved ordinance would not significantly affect slope areas, hillside areas that may be prone to landslides, or major landforms. As stated in the MND, transplanting vegetation from sloped areas may be difficult, which would generally preclude disturbances to slopes and hillsides resulting from transplantations. In instances where slopes are too steep for development, such areas could be used as native desert vegetation preserves. For these reasons, the MND determined that transplanting and preserving desert vegetation would not result in significant impacts associated with slopes, hillside areas, landslide areas, or major landforms. The added protections to western Joshua trees that would be put in place under the modified ordinance would not result in new or more severe effects relative to slopes, hillsides, landslide areas, or major landforms. While the modified ordinance may result in additional transplantations relative to the approved ordinance, such transplantations would be required to adhere to state and local geotechnical requirements. Additionally, transplantations would only be allowed where they would not pose a threat to public health or safety. As such, the modified ordinance would not result in new or more severe effects relative to slopes or landforms.

*Mineral Resources.* As stated in the adopted MND, there are some areas in the City that contain significant sand and gravel resources that also support stands of native desert vegetation. The MND states that removal of Joshua trees or other native desert vegetation would not affect these resources, and that projects involving extraction of sand and/or gravel resources would be subject to the ordinance. As with the approved ordinance, the modified ordinance would continue to apply to projects involving extraction of sand and/or gravel resources. However, the modified ordinance would not preclude mineral extraction. Rather, it would ensure that biological resources are protected pursuant to local and state laws. Any vegetation removals that are allowable under the modified ordinance would not adversely affect sand and gravel resources in the City. Therefore, the modified ordinance would not result in new or more severe effects relative to mineral resources in the City.

*Soil Hazards.* The adopted MND states that native desert vegetation subsists on areas of high shrink/swell potential. Vegetation preservation, transplantation, or removal would not be adversely affected by this soil type. Conversely, as stated in the MND, the shrink/swell potential of desert soils would not be affected by the preservation, transplantation, or removal of vegetation. These same conclusions would continue to apply to the modified ordinance. The modified ordinance would involve additional protections for western Joshua tree. Such additional protections would not result in new or more severe effects relative to geotechnical or soils hazards in the City.

*Subsidence.* Although there are sites within the City at risk of subsidence, the adopted MND determined that the removal or preservation of native desert vegetation would have no effect on, nor would be affected by, such an event. The changes presented in the modified ordinance would not result in new significant impacts related to subsidence.

*Faults.* The adopted MND determined that the presence of faults would not preclude preservation of native desert vegetation on project sites. The adopted MND further states that the ordinance would not affect, or be affected by, the location of faults. In fact, the MND states that setback areas required around faults could be appropriate locations for transplanting trees required for preservation or as native desert vegetation preserves. The additional requirements that would be imposed under the modified ordinance would not change the determinations in the adopted MND relative to fault hazards. The preservation, transplantation, and/or removal of native desert vegetation (including western Joshua trees) would not increase the risk of fault rupture or ground shaking, nor would such activities increase hazards associated with fault rupture or ground shaking. All development in the City would continue to be held to the latest standards for seismic design and fault setbacks, regardless of the additional desert vegetation preservation activities associated with the modified ordinance. As such, the modified ordinance would not result in new or more severe impacts involving faults.

*Erosion.* As discussed in the adopted MND, removal of desert vegetation may result in short-term increases in erosion. Impacts were determined to be less than significant with the implementation of Mitigation Measure 1, which would require soil erosion measures within grading plans for proposed development. Implementation of the modified ordinance may increase transplantations of western Joshua trees relative to current conditions, which could lead to additional ground disturbance. Ground disturbing activities (including trenches for Joshua tree transplantation) may result in the risk of erosion on project sites. However, Mitigation Measure 1 would continue to apply and would reduce potential impacts related to erosion for development proposals under the modified ordinance. As such, the modified ordinance would not result in new or more severe impacts involving erosion.

In conclusion, the modified ordinance would not result in new significant earth-related impacts, nor would it result in a substantial increase in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.2 Air

As described in the adopted MND, the preservation or removal of native desert vegetation would not produce significant air pollution emissions. The added protections under the modified ordinance would not significantly increase air pollution emissions relative to the approved ordinance.

Implementation of the modified ordinance would generally involve similar activities relative to implementation of the approved ordinance (i.e., vegetation preservation, relocation, and/or removal, when allowable). However, implementation of the modified ordinance would potentially increase the number of western Joshua trees that are relocated in association with certain development projects. Relocation of a Joshua tree typically involves removal of the tree, transport to another area (in this case, the trees would be relocated on site), digging a new hole, and occasional watering. Air emissions from transplanting would be limited to minor emissions of dust and vehicle emissions for trees requiring vehicle transport. Such emissions would be similar to emissions resulting from other landscaping activities that occur throughout the City and would not substantially increase impacts beyond those associated with typical construction and landscaping activities for a project. Relocation of additional western Joshua trees resulting from the modified ordinance would not result in a substantial increase in air emissions associated

with implementing the Joshua Tree and Native Desert Vegetation Preservation Ordinance. For these reasons, the impact analysis and conclusions in the MND for the approved ordinance would not change due to the modifications. As such, the modified ordinance would not result in new significant impacts related to air emissions, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

### 7.3 Water

As described in the adopted MND, the preservation or relocation of native desert vegetation would not restrict the movement of drainage water along natural or man-made channels. Implementation of the modified ordinance could result in an increase of transplantation of western Joshua trees. However, as noted in the adopted MND, relocated Joshua Trees would typically be located so as to avoid adverse effects to drainage patterns. The modifications would not change this analysis or the impact conclusions related to drainage patterns.

The adopted MND determined the approved ordinance would not result in an increase in peak runoff, nor would it result in increased flood hazards off site. Rather, the presence of vegetation would act to slow runoff, leading to increased absorption and percolation of precipitation. The modified ordinance would not change the analysis or conclusions of these potential impacts. Furthermore, the adopted MND determined the removal of native desert vegetation, when allowed, could have a negligible short-term impact on runoff. As stated in the adopted MND, implementation of Mitigation Measure 2 would require incremental drainage increases to be contained on site. Implementation of the modified ordinance could result in an increase of transplantation of western Joshua trees for certain projects. Relocation of a Joshua tree typically involves removal of the tree, transport to another area (in this case, the trees would be relocated on site), digging a new hole, and occasional watering. The incorporation of Mitigation Measure 2 would still apply. In addition, any impacts that may occur would be short-term and during a project's construction phase only.

For these reasons, the impact analysis and conclusions in the MND would not change due to the project modifications. As such, the modified ordinance would not result in new significant water-related impacts, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

### 7.4 Plant Life

As described in the adopted MND, there are limited stands of Joshua tree in the Antelope Valley, and the residents consider the species unique. The adopted MND considers potential impacts to plant life significant. However, the current ordinance requires that a native desert preservation plan be prepared to preserve, to the maximum extent possible, native desert vegetation on site (see Mitigation Measure 5). Each proposed development that contains Joshua trees is also required to preserve a certain number of trees. With implementation of Mitigation Measure 5, impacts were determined to be below a level of significance.

Section 14.04.090 Exceptions, of the approved ordinance lists nine activities that are exempt from the ordinance requirements, including construction of one single family home on a lot or parcel, additions to existing single-family homes, and certain public works projects. In the modified ordinance, single-family residences, accessory structures, and public works projects would be required to pay a fee for deposit into the Western Joshua Tree Mitigation Fund, and the other currently exempted projects would no longer be exempt. The change between the approved ordinance and modified ordinance is the application of requirements and fees for the protection of western Joshua tree where

none were previously required; thus, the modified ordinance would result in a net benefit to western Joshua trees. Therefore, there is not a substantial increase in the severity of the previously identified impacts to Joshua trees and native desert vegetation.

With respect to public works projects, not all public works projects are exempt from the requirements of the approved ordinance, including requirements for the preparation and implementation of a Desert Vegetation Preservation Plan and desert vegetation preservation criteria, as described in Section 4 of this addendum. In general, when feasible, two Joshua trees per gross acre are required to be preserved for each development project subject to the approved ordinance. Under the modified ordinance, single-family residences, accessory structures, and public works projects with impacts to Joshua trees would be required to pay a mitigation fee for deposit into the Western Joshua Tree Mitigation Fund and would be held to requirements for avoidance or relocation of western Joshua trees. The Western Joshua Tree Mitigation Fund would include funds to conserve Joshua trees. Therefore, there is not a substantial increase in the severity of the previously identified impacts to Joshua trees and native desert vegetation, only a clarification on the required mitigation, which would still result in the conservation of Joshua trees and other native desert vegetation as mitigation.

## 7.5 Animal Life

As described in the adopted MND, impacts to animal life were considered less than significant under the approved ordinance. It was acknowledged that the ordinance could affect rare or endangered species. The adopted MND described that there are sites located in the City that are considered habitat for Mohave ground squirrel, a state-listed species, and desert tortoise, a state and federally listed species. Should a development proposal be on a site with state or federally listed species, a biological survey would be required and mitigation would be determined on a case-by-case basis through consultation with the wildlife agencies. Any loss of rare or endangered species would require off-setting mitigation. Preservation of trees as required by the approved ordinance could mitigate some impacts to animal species.

Under the modified ordinance, impacts to animal life would not change; they would remain less than significant. The modified ordinance does not allow take of endangered wildlife under CESA or the Federal Endangered Species Act (FESA), and consultations with the wildlife agencies would still be required, if necessary. In fact, as described in Section 7.4, the change between the approved ordinance and modified ordinance is the application of requirements for protection and preservation of western Joshua trees where none was previously required. Under the modified ordinance, single-family residential projects and accessory structures that impact western Joshua trees would be required to pay a fee for deposit into the Western Joshua Tree Mitigation Fund. The Western Joshua Tree Mitigation Fund would include funds to conserve western Joshua trees and likely habitat for other state or federally listed species. Therefore, the application of fees for impacts associated with single-family residences and accessory structures would result in a net benefit for rare and endangered species. With respect to public works projects, not all public works projects are currently exempt from Joshua tree removal prohibitions and preservation requirements, including the preparation and implementation of a Desert Vegetation Preservation Plan and desert vegetation preservation criteria, as described in Section 4. Under the modified ordinance a fee would be required into the Western Joshua Tree Mitigation Fund for impacts to western Joshua trees. The Western Joshua Tree Mitigation Fund would include funds to conserve Joshua trees and likely habitat for animal species. Therefore, similar to the approved ordinance, the modified ordinance could reduce impacts to animal species under CESA and FESA. As such, the modified ordinance would not result in new significant wildlife impacts, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.6 Noise

As described in the MND for the approved ordinance, the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance was determined to have an insignificant impact on noise levels throughout the City. As stated in the MND, removal of native vegetation (where allowed by the ordinance) may result in a slight increase in noise levels. However, such increases were anticipated to be so small as to be immeasurable. The proposed modifications would not change this analysis or conclusions regarding noise levels in the City. Additional protections for western Joshua tree under the modified ordinance would not substantially alter noise levels in the City that would be associated with overall implementation of the Joshua Tree and Native Desert Vegetation Preservation Ordinance. In fact, the added protections may reduce the number of Joshua trees that are removed from certain sites, which could lead to a slight decrease in construction intensity and associated noise for such projects. Relocation of Joshua trees on site would not produce noise levels in excess of typical landscaping installation and maintenance activities that are ongoing throughout the City as part of typical urban and suburban activities. Additionally, as required by Mitigation Measure 4 set forth in the MND, development proposals will be evaluated for impacts on noise, and the analysis will take into account the preservation, transplantation, or removal of native desert vegetation (including Joshua trees). This measure would continue to apply under the modified ordinance and would continue to ensure that vegetation preservation activities resulting from the City's Joshua Tree and Native Desert Vegetation Preservation Ordinance do not result in significant noise effects. For these reasons, the impact analysis and conclusions in the MND would not change due to the ordinance modifications, and the ordinance modifications may result in slight reductions related to construction noise in the City. As such, implementation of the modified ordinance would not result in new significant impacts related to noise, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.7 Light and Glare

As stated in the MND for the approved ordinance, the topic of light and glare is not applicable to the Joshua Tree and Native Desert Vegetation Preservation Ordinance. Under implementation of the modified ordinance, additional protections would be put in place for western Joshua trees. Additional preservation or relocation of western Joshua trees per the modified ordinance would not have the potential to increase or substantially alter light or glare levels in the City. Vegetation does not produce or cause light or glare effects. Rather, preservation of additional vegetation could help filter and/or obstruct light or glare. As such, implementation of the modified ordinance would not result in new significant impacts related to light and glare, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.8 Land Use

The MND for the approved ordinance determined that the Joshua Tree and Native Desert Vegetation Preservation Ordinance would not change or affect the intensity or type of developments throughout the City. The ordinance would only add the requirement that developers make an effort to preserve native desert vegetation. The modified ordinance includes the removal of exceptions to the provisions of the Joshua Tree and Native Desert Vegetation Preservation Ordinance (i.e., Municipal Code Section 14.04.090) and inclusion of additional requirements and protections for western Joshua trees. Under existing conditions, protections for the western Joshua tree are not imposed for certain minor activities in the City, including the construction of a single-family residence, accessory structures, and some public works projects. Under the modified ordinance, western Joshua trees on the sites of

such projects would be afforded the protections described in Section 5 of this addendum. The modified ordinance would not alter the intensity or types of land uses in the City and, therefore, would not have the potential to substantially increase environmental effects associated with land development. Rather, the modified ordinance would add an administrative step in the application and development process for projects in the City, resulting in greater environmental protections for western Joshua tree and ensuring compliance with state law. As such, implementation of the modified ordinance would not result in new significant impacts related to land use, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.9 Risk

The approved Joshua Tree and Native Desert Vegetation Preservation Ordinance would not pose a risk to residents within the City, as stated in the MND. Native desert vegetation can be found in potential airport crash zones; however, the vegetation does not threaten aircraft procedures, nor would the destruction of individual plants in aircraft-related incidents significantly impact any species as a whole. The modified ordinance would not change this analysis or conclusions related to airport risk.

The adopted MND determined the preservation of native desert vegetation would not significantly increase fire hazards. Implementation of Mitigation Measure 4 would ensure that development proposals' potential impacts associated with fire hazards are evaluated. Furthermore, according to the adopted MND, preserved trees on site would not be located adjacent to structures, and appropriate buffers would be incorporated for project sites located in high fire risk areas. Removal of native vegetation, where allowed by the ordinance, would typically result in lessening of fire hazards. Under the modified ordinance, it is possible that more vegetation would be preserved. However, similar to the approved ordinance, buffers would be required between relocated western Joshua trees and structures, which would minimize the potential for new fire risks to be introduced as a result of the modified ordinance. Additionally, Mitigation Measure 5 would continue to apply under the modified ordinance and would continue to ensure that vegetation preservation activities resulting from the City's Joshua Tree and Native Desert Vegetation Preservation Ordinance do not result in significant fire-related effects. As such, the changes presented in the modified ordinance would not result in new significant impacts related to fire hazards or an increase in the severity of previously identified effects.

In conclusion, the modified ordinance would not result in new significant impacts related to risk, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.10 Housing

The adopted MND determined that the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance would not displace existing housing. The modified ordinance would result in additional protections and requirements associated with western Joshua trees. Such added protections and requirements would not displace housing or people. Existing residential structures would persist in the City with or without adoption of the modified ordinance. As such, the impact conclusion in the MND would not change due to the ordinance modifications. The modified ordinance would not result in new significant impacts related to housing, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.11 Population

The MND for the approved ordinance determined this topic area and impacts related to population were not applicable to the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance. The modified ordinance would not result in or allow for new development. Rather, it would alter the process for future development of single-family residences, accessory structures, and public works projects, as it relates to western Joshua trees. Therefore, implementation of the modified ordinance would result in no new impact. Changes to the approved ordinance would not change this analysis or conclusion of impacts related to population. As such, the modified ordinance would not result in new significant impacts related to population, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.12 Schools

The MND for the approved ordinance determined this topic area and impacts related to schools were not applicable to the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance. Similarly, implementation of the modified ordinance would not result in the construction of new housing units within the City. Therefore, the changes to the approved ordinance would not create a need for school facilities as a result of unplanned population growth. As such, implementation of the modified ordinance would result in no new impact related to unplanned generation of student populations or subsequent impacts to school capacities, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.13 Transportation and Circulation

As described in the MND for the approved ordinance, the Joshua Tree and Native Desert Vegetation Preservation Ordinance would not affect traffic levels or circulation. Mitigation Measure 3 would ensure that any trees transplanted to the public right-of-way would be situated so as not to interfere with line-of-sight distances or to jeopardize vehicles. Under the modified ordinance, additional protections for western Joshua tree would be required for projects in the City. Added protections for western Joshua tree are not expected to increase vehicle trips or interfere with circulation patterns. Furthermore, under the modified ordinance, western Joshua trees that are relocated must be relocated on site. As such, implementation of the modified ordinance would not cause the transplantation of additional Joshua trees into the public right-of-way. Additionally, any such transplantations would not result in additional vehicle trips on public roadways, since transplantations would occur on site. As such, the added protections that would be put in place under the modified ordinance would not significantly increase vehicle trips or cause other effects related to transportation and circulation. Implementation of the modified ordinance would not result in new significant impacts related to transportation and circulation, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.14 Emergency Services

The MND for the approved ordinance determined this topic area and impacts related to emergency services were not applicable to the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance. Similarly, implementation of the modified ordinance would not result in the construction of new housing units or employment opportunities within the City. Changes to the approved ordinance would not create a need for emergency services as a result of unplanned population growth. The modified ordinance would not require the



assistance of the City's fire stations and would result in no new impact related to distance to fire protection services. As such, the modified ordinance would not result in new significant impacts related to emergency services, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.15 Aesthetics

As determined in the MND for the approved ordinance, preservation of native desert vegetation would lessen the visual impact of development projects, but removal of vegetation as part of development projects could have an aesthetic effect. As stated in the MND, such effects are beyond the scope of the Joshua Tree and Native Desert Vegetation Preservation Ordinance or the MND analysis for the ordinance. Per Mitigation Measure 4, development proposals in the City will be evaluated for impacts on visual resources, and the analysis will take into account the preservation, transplantation, or removal of native desert vegetation. Under the modified ordinance, additional protections would be required for western Joshua trees. Such added protections would lead to additional preservation of western Joshua trees within the City relative to existing regulatory conditions, thereby resulting in additional positive aesthetic effects when compared to the approved ordinance. Nevertheless, as with the approved ordinance, Mitigation Measure 4 would continue to apply and would ensure that future development projects in the City (including any associated changes to vegetation) are evaluated for their aesthetic effects as needed and as required by the City. This measure would continue to ensure that vegetation preservation activities resulting from the City's Joshua Tree and Native Desert Vegetation Preservation Ordinance (under either its approved or modified forms) do not result in significant aesthetic effects. As such, the modified ordinance would not result in new significant impacts related to aesthetics, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.16 Archaeological/Historical/Paleontological

As determined in the MND for the approved ordinance, preservation of Joshua trees would minimize effects to cultural resources. Under the modified ordinance, additional western Joshua trees are expected to be preserved, since project modifications would involve additional protections for western Joshua trees.

In the event that a specific Joshua tree or group of Joshua trees were to be designated as a historical resource in the future pursuant to CEQA, those trees would be protected under state regulations that have been established to protect historical resources (e.g., Public Resources Code Section 21084.1).

Implementation of the modified ordinance may increase transplantations of western Joshua trees relative to current conditions, which could lead to additional ground disturbance. Ground disturbing activities (including trenches for Joshua tree transplantation) may result in the uncovering of previously undiscovered archaeological resources, paleontological resources, tribal cultural resources, and/or human remains. However, the extent of ground disturbance that would be associated with transplantation of Joshua trees would not substantially differ from other ground-disturbing activities that typically take place in association with construction projects. Furthermore, in the unlikely event that previously undiscovered archaeological resources, paleontological resources, tribal cultural resources, and/or human remains are uncovered during construction activities, a variety of state laws are in place that require protection and preservation of significant discoveries. In the event that any such resources are uncovered during Joshua tree transplantations, the construction contractor, property owner, or owner's representative would be required to comply with state laws protecting archaeological resources, paleontological resources, tribal cultural resources, and/or human remains, including Public Resources Code Section 21083.2, Public Resources Code Sections 5097.5 and 30244, State Health and Safety Code Section 7050.5, and Public

Resources Code Section 5097.98. Compliance with applicable regulatory requirements established to protect such resources would ensure that any unanticipated significant discoveries are protected to the extent required by law. For these reasons, the modified ordinance would not result in new significant impacts in the category of archaeological/historical/paleontological resources, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.17 Public Controversy

The MND for the approved ordinance addressed the following topic: “Is the project or action environmentally controversial in nature, or can it reasonably be expected to become controversial upon disclosure to the public?”

According to the adopted MND, the community has been divided on the issue of native desert vegetation preservation and the approved ordinance represents a middle ground position; preserving vegetation where possible and practical, but not abrogating the rights of property owners to develop their land. It is assumed that similar public controversy may exist for the modified ordinance. However, the proposed modifications are a response to state regulations and requirements, and the City is held to these requirements.

## 7.18 Utilities

The adopted MND determined this topic area and impacts related to utilities were not applicable to the approved Joshua Tree and Native Desert Vegetation Preservation Ordinance. The approved ordinance added a requirement that developers make an effort to preserve native desert vegetation.

The modified ordinance could result in additional transplantations of western Joshua trees relative to existing conditions, since on-site relocation is one of the minimization options that would be provided in the modified ordinance. Relocation of a Joshua tree typically involves removal of the tree, transport to another area (in this case, the trees would be relocated on site), digging a new hole, and occasional watering. Additional Joshua tree transplantations in the City would have a minimal to negligible effect on the environment and any water usage that is involved would be generally consistent with standard landscape planting and maintenance activities that occur throughout the City. As such, additional Joshua tree transplantations that may be associated with the modified ordinance would have a negligible environmental change, and such activities would be consistent with existing landscaping activities that already occur throughout the City. Furthermore, the project as described in the modified ordinance would not utilize electrical supplies, natural gas supplies, or existing sewer infrastructure. Changes to the approved ordinance would not change the analysis or conclusion of impacts related to utilities from the MND. As such, the modified ordinance would not result in new significant impacts related to utilities, nor would it result in substantial increases in the severity of previously identified significant impacts or the need for new mitigation measures.

## 7.19 Mandatory Findings of Significance

As described in the adopted MND, the Joshua Tree and Native Desert Vegetation Preservation Ordinance would not have effects in the categories addressed under the mandatory findings of significance. These topics consist of the following: environmental degradation, curtailing diversity in the environment, achievement of short-term goals at the expense of long-term environmental goals, cumulative impacts, and direct or indirect substantial adverse effects on human beings. The additional protections for western Joshua trees that would be put in place under the modified ordinance would not have the potential to increase or change effects in any of these categories. Rather,

increased protections for western Joshua trees would further reduce environmental degradation, promote diversity in the environment by ensuring the perpetuation of more Joshua trees, support long-term environmental goals for the preservation of native desert vegetation, and reduce cumulative impacts on the species. Additionally, the preservation and protection of Joshua trees would not have the potential to adversely affect human beings. As such, the modified ordinance would not result in new significant impacts, nor would it result in substantial increases in the severity of impacts or the need for new mitigation measures.

## 7.20 Mitigation Measures

The adopted MND provides mitigation measures that would reduce potentially significant impacts to below a level of significance. There were no mitigation measures identified in the adopted MND that were found to be infeasible and that would now become feasible. For these reasons, no subsequent MND is required as a result of new or different mitigation measures.

## 8 References

CAL FIRE (California Department of Forestry and Fire Protection). 2020. Fire Hazard Severity Zone Viewer. Accessed November 16, 2020. <http://egis.fire.ca.gov/FHSZ/>.

Center for Biological Diversity. Before, the California Fish and Game Commission A Petition to List the Western Joshua Tree (*Yucca brevifolia*) as Threatened under the California Endangered Species Act (CESA). October 15, 2019.

Gucker, Corey L. 2006. *Yucca brevifolia*. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <http://www.fs.fed.us/database/feis/plants/tree/yucbre/all.html>.

U.S. Fish and Wildlife Service. Joshua Tree Species Status Assessment. July 20, 2018.

# Appendix A

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Approved Ordinance

## **Chapter 14.04**

# **JOSHUA TREE AND NATIVE DESERT VEGETATION PRESERVATION**

Sections:

**14.04.010 Purpose and intent.**

**14.04.020 Title cite and applicability.**

**14.04.030 Definitions.**

**14.04.040 Prohibition of removal.**

**14.04.050 Desert vegetation preservation plan requirements.**

**14.04.060 Desert vegetation preservation criteria.**

**14.04.070 Maintenance requirements.**

**14.04.080 Native desert vegetation bank and preserve criteria.**

**14.04.090 Exceptions to provisions.**

**14.04.100 Unlawful activities prohibited.**

**14.04.110 Violation – Penalty.**

**14.04.120 Compliance with other laws and regulations.**

### **14.04.010 Purpose and intent.**

It is determined by the City Council that appropriate action must be taken in order to protect and preserve desert vegetation, and particularly Joshua trees, so as to retain the unique natural desert aesthetics in some areas of this City, and to promote the general welfare of the community. Although it may not be feasible, practicable, or in the public interest to preserve all healthy desert vegetation regulated under this chapter due to reasonable planning, developmental or property rights considerations, the design of development projects should strive to protect and maintain the most desirable and significant of the healthy desert vegetation in a manner consistent with the City general plan and the California Environmental Quality Act. (Ord. 952 § 2, 1992)

### **14.04.020 Title cite and applicability.**

(A) This chapter shall be known and may be cited as the "Palmdale native desert vegetation ordinance."

(B) The provisions of this chapter shall apply to all public and private property within the City which contains Joshua trees or other desert vegetation as defined by this chapter. (Ord. 952 § 2, 1992)

#### **14.04.030 Definitions.**

For purposes of this chapter, certain words and phrases shall be defined as follows unless the context clearly requires otherwise:

(A) "Damage" means any action which may cause injury, death, or disfigurement to desert vegetation. This includes, but is not limited to, cutting, mutilating, harvesting, overwatering and excavating.

(B) "Desert native plant specialist" means any professional person whose combination of education and background in native desert vegetation is sufficient for he or she to be considered an expert in the field of native desert vegetation. The City's Landscape Architect will maintain a listing of qualified desert native plant specialists who shall be deemed authorized to carry out the duties set forth in this chapter.

(C) "Desert vegetation" means Joshua trees and California juniper as defined by this chapter, and other living plants identified pursuant to the California Desert Native Plants Act (Food and Agricultural Code Section 80001, et seq.) as protected or designated on any state or federal rare and endangered species list.

(D) "Development proposal" means an application for approval of a specific plan, a subdivision, conditional use permit, tentative tract map, parcel map or any other development permit or entitlement application which has been filed with and is pending for consideration by the City.

(E) "Growing season" means the period of time each year from March 1st through August 31st.

(F) "Joshua tree" means a living tree of botanical name of *Yucca brevifolia*, including *Y. brevifolia* var. *Herbertii*, and all other varieties and forms thereof.

(G) "California juniper" means a living tree of the botanical name of *Juniperus californica*.

(H) "Maintenance" means all actions needed for the continued good health of Joshua trees and other desert vegetation, including, but not limited to, insect control, spraying, and removal of dead wood.

(I) "Native desert vegetation preserve" means a site accepted by the City containing stands of native desert vegetation that will be preserved in a natural condition for passive recreation uses.

(J) "Remove" means the physical removal of desert vegetation by grading or any other method likely to cause death of the vegetation.

(K) "Tree bank" means a site accepted by the City for management and maintenance that will be utilized for the temporary storage of native desert vegetation until permanent transplantation sites can be located. (Ord. 952 § 2, 1992)

#### **14.04.040 Prohibition of removal.**

(A) Desert vegetation shall not be removed, nor caused to be removed, on or from any parcel of land, except as provided by the provisions of this chapter.

(B) A native desert vegetation removal permit shall be obtained from the City's Landscape Architect, or in lieu thereof, the Director of Public Works' designee, prior to the removal of any native desert vegetation as defined in this chapter. (Ord. 952 § 2, 1992)

#### **14.04.050 Desert vegetation preservation plan requirements.**

All development proposal applications for sites containing native desert vegetation shall include a desert vegetation preservation plan, submitted with the development application, containing the following:

(A) A written report and a site plan which depicts the location of each Joshua tree and California juniper, discusses their age and health, identifies and locates all trees and shrubs which can be saved in place or relocated. The report shall be prepared by a desert native plant specialist.

(B) A site landscaping plan showing the proposed location of those Joshua trees or California junipers, and any other native desert vegetation that will remain on-site.

(C) A long-term maintenance program for any desert vegetation preserved on the site. The minimum term of any maintenance program shall be two growing seasons, unless a shorter length of time is determined by the City's Landscape Architect, or in lieu thereof, the Director of Public Works' designee in cases where the trees retained on the site are of such health and vigor after one growing season that their survival is assured.

(D) Such other and further information as the Director of Planning may deem necessary to fulfill the purposes and intent of this chapter in a particular case. (Ord. 952 § 2, 1992)

#### **14.04.060 Desert vegetation preservation criteria.**



All development proposals for land which contains desert vegetation shall be subject to the following provisions regarding the preservation of native desert vegetation both on- and off-site:

(A) The minimum standard of preservation shall be:

(1) Two Joshua trees or California junipers per gross acre, averaged for the gross site area covered by the development application; or

(2) Where soil conditions or conditions of the Joshua trees or California juniper prohibit the preservation of two trees per acre, or where the total number of healthy trees per gross acre is not equal to two per acre, the minimum standard of preservation will be determined by a desert native plant specialist and confirmed by the City's Landscape Architect, or in lieu thereof, the Director of Public Works' designee, in accordance with the following criteria:

(a) Soil characteristics of a proposed area for relocation of vegetation,

(b) Health of the native desert vegetation, including damage to trunk or root system,

(c) Size of the Joshua tree and the location to where the tree will be transplanted,

(d) A suitable top-root ratio;

(3) Where possible, a minimum of two California juniper trees per gross acre shall be retained undisturbed on-site. California junipers are valuable components of the native desert vegetation and it is desirable to retain specimens whenever possible. However, California junipers do not transplant well, are large plants which are difficult to incorporate into landscaping and are not readily available as nursery stock;

(4) To enhance the likelihood of survival, native desert vegetation that cannot be fenced and left undisturbed will not be left in place while grading. The options for preserving trees on-site after grading are the following:

(a) Move the vegetation slated to remain on-site to a holding area. After grading has been completed, move vegetation once again to a permanent location,

(b) Remove vegetation per options in subsection (B)(2) of this section. After grading, import new Joshua trees to landscaped area,

(c) Grade in Phases. Ready the area to receive vegetation first, then transplant and complete grading.

(B) The quantity of Joshua trees or California junipers calculated under the minimum standard of preservation as determined above shall be preserved by any combination of the following means:

(1) The development proposal shall be prepared in a manner which retains on-site those plants that can be incorporated into the design of the development. Development proposals should use native desert vegetation to landscape on-site detention basins, entry statement areas, and other open space sites whenever possible, where xeric landscaping is appropriate;

(a) California junipers retained on-site shall be credited toward the two trees per gross acre or other minimum standard of preservation,

(b) Other methods of preservation as shown in subsections (B)(2)(a) through (c) and (B)(3) shall not apply to California junipers;

(2) Of the total number of Joshua trees required to be preserved under the two trees per acre required under subsection (A)(1) of this section, the Joshua trees which are not preserved on-site shall be preserved by the following means, and shall count towards the required two trees per acre or other minimum standard of preservation:

(a) The development proposal shall make available to the City for transplantation any Joshua trees identified by the City's Landscape Architect, or in lieu thereof, the Director of Public Works' designee, as suitable for use in landscaping any City property or facility,

(b) The development proposal shall include an offer to make available to other commercial, industrial or residential development projects, native desert vegetation that can be incorporated into another development proposal's landscaping,

(c) The development proposal shall include an offer to make available native desert vegetation to the public for use as landscaping. The native desert vegetation taken from the site may be used for landscaping. Vegetation from the site shall remain available to the public for a minimum of 30 days after appropriate public notice as determined by the Planning Director,

(i) The development proposal will provide for public notice of the availability of Joshua trees or other desert vegetation or transplantation to other suitable property. The public notice shall be in a form prescribed by the Director of Planning and shall generally conform to the Government Code Sections 65090 and 65091, although direct mail notice shall not be required. The public notice shall provide at least a 30-day period during which transplantation may occur,

(ii) The proponent of the development proposal may require reasonable security and/or indemnification before permitting persons to enter upon the property for transplantation,

(iii) The proponent of the development proposal may not impose any fee or other charge upon persons entering upon the property for any purpose relating to the transplantation of native vegetation,

(iv) The proponent of the development proposal shall use all reasonable efforts to encourage and permit transplantation to occur to the maximum possible extent,

(d) Any Joshua trees, which are required to be preserved and remain after the previous options have been pursued, may be transplanted to an off-site location, approved by the City's Landscape Architect, or in lieu thereof, the Director of Public Works' designee, at the expense of the proponent of the development proposal. Identifying a suitable off-site location shall be the responsibility of the developer. The City shall provide areas for off-site tree banks. The City-administered tree banks that are identified will be made available for this use. This measure shall be viewed as an interim solution with the ultimate goal of relocating this native desert vegetation to permanent locations as can be found. Maintenance of vegetation transplanted to a City-administered tree bank is the responsibility of the City. The proponent of the development proposal shall be responsible for retaining a qualified consultant to provide initial watering of trees after transplantation to a tree bank as required by the City Landscape Architect, or in lieu thereof, the Director of Public Works' designee, at the expense of the proponent of the development proposal;

(3) Only after all other options are exhausted, proponents may pay an in-lieu fee to the City to fulfill their obligation of preservation of native desert vegetation. The fee will be used to provide partial funding for the maintenance and coordination of the native desert vegetation banks and preserves. The in-lieu fee will be accepted only when preservation of Joshua and/or juniper trees is not possible due to site constraints that preclude the feasible preservation of desert vegetation, and no alternative preservation options remain. When a proponent must pay an in-lieu fee, the fee shall be calculated on the minimum standard of two trees per acre, less any trees preserved by other means. The in-lieu fee amount shall be determined by resolution of the City Council;

(a) Where California junipers are retained on-site, they shall be credited toward the minimum standard of two trees per acre. However, where they cannot be retained undisturbed on-site, no in-lieu fee is required;

(4) Any native desert vegetation in excess of the minimum standard for preservation may be removed after the public has had the opportunity to transplant native desert vegetation per subsection (B)(3)(a) of this section, and after the native desert vegetation preservation plan and native desert vegetation removal permit has been approved by the City, or if applicable, after the payment of the in-lieu fee. (Ord. 952 § 2, 1992)

#### **14.04.070 Maintenance requirements.**

Upon completion of construction of the development proposal and after final inspection and acceptance by the City, the following standards relative to ongoing maintenance of native desert vegetation shall apply:

(A) Provisions shall be made assuring, at the expense of the proponent of the development, that the Joshua trees and other desert vegetation preserved on-site, in landscape easements, or landscape assessment districts are maintained in a healthy condition for a minimum of two growing seasons.

(B) After one year, an inspection and evaluation of Joshua trees and other desert vegetation retained on-site will be performed by a desert native plant expert, at the expense of the proponent of the development. Based upon this evaluation, if it is determined that any quantity of Joshua trees or other desert vegetation have died, it will be the responsibility of the proponent to provide replacement desert vegetation as determined by the City Landscape Architect, or in lieu thereof, the Director of Public Works' designee.

(C) The Director of Planning shall require posting of a bond or other appropriate security at the time of development proposal approval to assure maintenance of on-site trees, or trees in landscape easements or assessment districts, for a period of two years. If the project is otherwise required to have a bond posted for landscape maintenance requirements, this requirement shall be incorporated into the same bond. (Ord. 952 § 2, 1992)

#### **14.04.080 Native desert vegetation bank and preserve criteria.**

Appropriate sites that can be acquired by the City through dedication, easement, or other appropriate means will be utilized as native desert vegetation banks and preserves.

(A) Native desert vegetation preserves will be established on those sites acquired by the City which already contain stands of native desert vegetation that is of sufficient vigor and health to demand preservation. The intent of these sites is long-term preservation of the natural biological systems without disturbance. Secondly, the sites shall be utilized for passive forms of recreation. The City shall administer the long-term maintenance of the sites.

(B) Tree banks shall be established on those sites acquired by the City which are suitable for the temporary storage of transplanted desert vegetation. The intent of these sites will be to serve as storage facilities for native desert vegetation stored off-site until permanent locations for transplantation can be determined. The City shall administer the maintenance of these sites.

- (1) Proponents wishing to utilize these sites for storage of vegetation shall obtain the permission of the City Landscape Architect, or in lieu thereof, the Director of Public Works' designee, prior to placing vegetation on-site.
- (2) Access to the sites for placement or removal of trees or charges shall require permission of the City Landscape Architect, or in lieu thereof, the Director of Public Works' designee.
- (3) Placement, relocation, and removal of trees shall only be allowed by native plant specialists or their approved subcontractors.
- (4) Any trees stored in a City tree bank shall be available to the public for use in private landscaping, according to the terms of this section. (Ord. 952 § 2, 1992)

#### **14.04.090 Exceptions to provisions.**

The following activities are exempt from the provisions of this chapter:

- (A) Development proposals upon which the City has taken final action before the effective date of this chapter;
- (B) Construction of one single-family home on a lot or parcel;
- (C) Additions to existing single-family homes;
- (D) Cases of emergency where the Director of Housing, or his or her designee, or any member of a law enforcement agency or the Los Angeles County fire protection district, in the performance of his or her duties, determines that desert vegetation poses an imminent threat to the public safety;
- (E) Removal or relocation of native desert vegetation necessary to obtain adequate line-of-site distance as required by the City Traffic Engineer;
- (F) Removal of street trees from within the public right-of-way, which, in the opinion of the Director of Public Works or his or her designee, will or may cause damage to public improvements;
- (G) Action taken for the protection of existing electrical power or communication lines or other property of a public utility;
- (H) Routine maintenance of a Joshua tree or other desert vegetation intended to ensure its continued health;
- (I) Joshua trees or other desert vegetation planted, grown and/or held for sale by a licensed nursery. (Ord. 952 § 2, 1992)

#### **14.04.100 Unlawful activities prohibited.**

(A) Except as provided in this chapter, it is unlawful for any person to damage any desert vegetation as defined in this code.

(B) It is unlawful for any person to falsify any oral statement, paper or document issued to give permission for any person to remove desert vegetation or fail to comply with all conditions or stipulations of this chapter. (Ord. 952 § 2, 1992)

#### **14.04.110 Violation – Penalty.**

Penalties for violations of this chapter shall be as specified in Chapter 1.12 PMC.

(A) In addition to other penalties imposed by this code, any person, company, organization, firm or corporation shall be required to replace any damaged, illegally cut, destroyed, killed, removed, mutilated or harvested Joshua trees, California junipers, or other desert vegetation pursuant to the recommendation of an authorized desert native plant specialist, to be retained at the expense of the violator. Such specialist shall determine the appropriate number, size, species, location and make written recommendations regarding the replacement of said trees or other desert vegetation. Replacement shall be in sufficient quantities to revegetate the illegally disturbed area either on-site or off-site within six months of adjudication.

(B) Should the person, company, organization, firm or corporation who committed the violation fail to replace the damaged, cut, destroyed, killed, removed, mutilated or harvested Joshua trees or other desert vegetation within six months after adjudication, the City may contract to have such plants replaced and the violator shall be charged the replacement costs. Said costs may be placed as a lien on real property. (Ord. 952 § 2, 1992)

#### **14.04.120 Compliance with other laws and regulations.**

Nothing in the provisions of this chapter shall relieve nor be interpreted to exempt a proponent of a development proposal from complying with the requirements of the California Desert Native Plants Act, Food and Agricultural Code Section 80001, et seq., and/or any applicable federal laws and regulations. Nor shall any provision of this chapter be construed so as to conflict with, duplicate, or otherwise interfere with general law preemptive of local regulation. (Ord. 952 § 2, 1992)