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1 (c) On October 21, 2019, a petition to list the western Joshua tree as
2 threatened under the California Endangered Species Act (CESA) was submitted to the
3 Fish and Game Commission (Commission). Thereafter, at its scheduled public meeting
4 on September 22, 2020, the Commission found that sufficient information existed to
5 indicate the petitioned action may be warranted and accepted the petition for
6 consideration. Upon publication of the Commission's notice of its findings, the western
7 Joshua tree was designated a candidate species under CESA on October 9, 2020.

8 (d) The Commission's action designating the western Joshua tree as a
9 candidate species triggered the California Department of Fish and Wildlife's (Department)
10 process for conducting a status review to inform the Commission's future decision on
11 whether listing the species is warranted.

12 (e) At its scheduled public meeting on April 21, 2022, the Department provided
13 the Commission with its status review report which recommended that the Commission
14 find that the petition to list the western Joshua tree as a threatened species is not
15 warranted. At its scheduled public meeting on June 15 and 16, 2022, the Commission is
16 expected to consider the Department's status review and make a determination on
17 whether to list the western Joshua tree as a threatened species under CESA.

18 (f) During the candidacy period the western Joshua tree has received
19 protection from removal (i.e., take) under CESA, including enhanced punishment for the
20 violation of an unlawful removal. (Fish and Game Code §§ 12000-12300.) In the event
21 the Commission accepts the Department's recommendation regarding the western
22 Joshua tree and local regulation is restored, the County's existing misdemeanor fines for
23 the unlawful removal of Joshua trees do not provide an appropriate deterrence given the
24 importance and value of the Joshua tree as described in subsection (a). In order to
25 protect the public peace, health, and safety that the Joshua tree provides, this urgency
26 ordinance provides for increased fines to deter violators and make enforcement actions
27 more impactful in order to prevent the unlawful removal of the Joshua tree.

28 (g) Accordingly, consistent with Government Code section 25123, subdivision

(d), the Board of Supervisors finds that an increase in fines for the unlawful removal of a Joshua tree in violation of the County's plant protection and management regulations are necessary for the immediate preservation of the public peace, health and safety of the residents of the County.

(h) This ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption, 14 California Code of Regulations section 15308 (regulatory activity to assure protection of the environment). There are no unusual circumstances under CEQA Guidelines, 14 California Code of Regulations, section 15300.2, subdivision (c) that would render these exemptions inappropriate. Each exemption stands as a separate and independent basis for determining that this ordinance is not subject to CEQA.

SECTION 2. Section 11.0206(a)(1)(C) is added to Chapter 2, Division 1, Title 1 of the San Bernardino County Code to read:

11.0206 Criminal Actions.

...

(C) *Violations of Chapter 88.01.* Notwithstanding the penalty provisions in Section 88.01.050(j)(1), upon conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no contest") involving misdemeanor violations of Chapter 88.01 related to the unlawful removal of a Joshua tree, the penalty shall be as follows:

(I) Any person convicted of a misdemeanor for the

1 unlawful removal of a Joshua tree in violation of Chapter 88.01 shall be punished by a
2 base fine of up to \$5,000.00 upon a first conviction, by a base fine of up to \$10,000.00 for
3 a second conviction, by a base fine of up to \$20,000.00 upon a third or subsequent
4 conviction, or by imprisonment in the County jail for a period of not more than six months,
5 or by both such base fine and imprisonment;

6 (II) The unlawful removal of each Joshua tree in violation
7 of Chapter 88.01 shall be a new and separate offense.

8
9 SECTION 3. The Board of Supervisors declares that it would have adopted this
10 ordinance and each section, sentence, clause, phrase, or portion of it, irrespective of the
11 fact that any one or more sections, subsections, clauses, phrases or portions of it be
12 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
13 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
14 enforceable.

15
16 SECTION 4. This ordinance shall take effect immediately upon its adoption.

17
18
19 _____
CURT HAGMAN, Chairman
Board of Supervisors

20
21 SIGNED AND CERTIFIED THAT A COPY
22 OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

23 LYNNA MONELL, Clerk of the
24 Board of Supervisors

1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of
6 said County and State, held on the 24th day of May, 2022, at which meeting were present
7 Supervisors: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe
8 Baca, Jr., and the Clerk, the foregoing ordinance was passed and adopted by the
9 following vote, to wit:

10 AYES: SUPERVISORS: Col. Paul Cook (Ret.), Janice Rutherford,
11 Dawn Rowe, Curt Hagman, Joe Baca, Jr.

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
15 of the Board of Supervisors this 24th day of May, 2022.

16 LYNNA MONELL, Clerk of the
17 Board of Supervisors of
18 San Bernardino County,
19 State of California

20 _____
21 Deputy

22 Approved as to Form:

23 TOM BUNTON
24 County Counsel

25 By: _____
26 JOLENA E. GRIDER
27 Deputy County Counsel

28 Date: _____