1 **URGENCY ORDINANCE NO. 4432** 2 An urgency ordinance of San Bernardino County, State of California, to add section 11.0206(a)(1)(C) to Chapter 2 of 3 Division 1 of Title 1 of the San Bernardino County Code 4 relating to increased fines for the unlawful removal of Joshua trees. 5 6 The Board of Supervisors of the County of San Bernardino, State of California, 7 ordains as follows: 8 9 SECTION 1. The Board of Supervisors of San Bernardino County finds that: 10 At just over 20,000 square miles, San Bernardino County (County) is the (a) 11 largest county in the contiguous United States. Among the features that contribute to 12 the attractiveness and livability of the County desert communities are its Joshua trees 13 growing as single specimens or in clusters. These trees have significant psychological 14 and tangible benefits for both residents and visitors. The County and its residents have 15 a deep appreciation for the Joshua tree as a symbol of resiliency and determination to 16 survive and thrive in the desert. The Joshua tree contributes to the visual framework of 17 the County by providing scale, color, silhouette and mass. The Joshua tree also 18 provides screens and buffers to separate land uses and contributes to the protection of 19 other natural resources by providing erosion control for the soil, oxygen for the air and 20 habitat for wildlife. The Joshua tree contributes to the economy of the County by 21 sustaining property values and as an iconic emblem of the region. 22 (b) The County has a strong desire to protect and preserve the Joshua tree, as 23 shown by the adoption of local regulations designed to regulate the removal of Joshua 24 trees, to prevent unnecessary loss, to encourage replacement planting, and to effectively 25 enforce unlawful removal. The County's local regulations apply to all subspecies of 26 Joshua trees, commonly referred to as the western Joshua tree (Yucca brevifolia) and 27 the eastern Joshua tree (Yucca brevifolia jaegeriana). 28

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

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

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

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(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.

5 (h) This ordinance is not subject to review under the California Environmental 6 Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, 7 sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably 8 foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) 9 (there is no possibility the activity in question may have a significant effect on the 10 environment). In addition to the foregoing general exemptions, the Board of Supervisors 11 further finds that the ordinance is categorically exempt from review under CEQA under 12 the Class 8 Categorical Exemption, 14 California Code of Regulations section 15308 13 (regulatory activity to assure protection of the environment). There are no unusual 14 circumstances under CEQA Guidelines, 14 California Code of Regulations, section 15 15300.2, subdivision (c) that would render these exemptions inappropriate. Each 16 exemption stands as a separate and independent basis for determining that this 17 ordinance is not subject to CEQA.

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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:

²¹ **11.0206** Criminal Actions.

22 ||...

(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:

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(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.
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16	SECTION 4. This ordinance shall take effect immediately upon its adoption.
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18	CURT HAGMAN, Chairman
19	Board of Supervisors
20	
21	SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED
22	TO THE CHAIRMAN OF THE BOARD
23	LYNNA MONELL, Clerk of the
24	Board of Supervisors
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1	STATE OF CALIFORNIA)
2) ss. SAN BERNARDINO COUNTY)
3	I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
4	State of California, hereby certify that at a regular meeting of the Board of Supervisors of
5	said County and State, held on the 24 th day of May, 2022, at which meeting were present Supervisors: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe
6	Baca, Jr., and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:
7	AYES: SUPERVISORS: Col. Paul Cook (Ret.), Janice Rutherford,
8	Dawn Rowe, Curt Hagman, Joe Baca, Jr.
9	NOES: SUPERVISORS: None
10 11	ABSENT: SUPERVISORS: None
12	IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
13	of the Board of Supervisors this 24 th day of May, 2022.
14	
15	LYNNA MONELL, Clerk of the Board of Supervisors of
16	San Bernardino County, State of California
17	
18	Deputy
19	
20	Approved as to Form:
21	TOM BUNTON County Counsel
22	
23	
24	By: JOLENA E. GRIDER
25	Deputy County Counsel
26	Date:
27	
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