



San Bernardino County

Legislation Text

File #: 6126, Agenda Item #: 110

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

May 24, 2022

FROM

DAVID DOUBLET, Director, Land Use Services

SUBJECT

Resolution Regarding Joshua Tree Protections and Ordinances to Increase Fines for the Unlawful Removal of Joshua Trees

RECOMMENDATION(S)

1. Adopt resolution declaring intent to evaluate and consider updates to local regulations and development of programs designed to further protect and preserve Joshua trees.
2. Consider proposed urgency ordinance relating to increased fines for the unlawful removal of Joshua trees in violation of Chapter 88.01 of the County Code.
 - a. Make alterations, if necessary, to proposed urgency ordinance.
 - b. Approve introduction of proposed urgency ordinance.
 - An urgency ordinance of San Bernardino County, State of California, to add section 11.0206(a)(1)(C) to Chapter 2 of Division 1 of Title 1 of the San Bernardino County Code relating to increased fines for the unlawful removal of Joshua trees.
 - c. ADOPT URGENCY ORDINANCE (Four votes required).
 - d. Direct the Clerk of the Board of Supervisors to file a Notice of Exemption.
3. Consider proposed ordinance relating to increased fines for the unlawful removal of Joshua trees in violation of Chapter 88.01 of the County Code.
 - a. Make alterations, if necessary, to proposed ordinance.
 - b. Approve introduction of proposed ordinance.
 - An ordinance of San Bernardino County, State of California, to add section 11.0206(a)(1)(C) to Chapter 2 of Division 1 of Title 1 of the San Bernardino County Code relating to increased fines for the unlawful removal of Joshua trees.
 - c. SCHEDULE FOR FINAL ADOPTION ON TUESDAY, JUNE 14, 2022, on the Consent Calendar.
 - d. Direct the Clerk of the Board of Supervisors to file a Notice of Exemption.

(Presenter: David Doublet, Director, 387-4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Provide for the Safety, Health and Social Service Needs of the County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). Funds collected from fines would go towards efforts and future programs for the increased preservation of

western Joshua trees.

BACKGROUND INFORMATION

This item includes a resolution relating to the County's desire to reexamine and consider additional local regulation designed to increase protections for Joshua trees, as well as an urgency ordinance and standard ordinance adopting increased fines for the unlawful removal of Joshua trees in violation of the County Code. The County's local regulations apply to all subspecies of Joshua trees, commonly referred to as the western Joshua tree (*Yucca brevifolia*) and the eastern Joshua tree (*Yucca brevifolia jaegeriana*). The intent of the resolution and ordinance is to establish a policy directive related to future regulations and to adopt an appropriate fine that will serve as an effective deterrence for the unlawful removal of Joshua trees, including western Joshua trees, in the event the tree is not listed as endangered pursuant to the California Endangered Species Act (CESA).

Procedural History

On October 21, 2019, a petition to list the western Joshua tree as threatened under CESA was submitted to the California 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, accepted the petition for consideration, and the western Joshua tree was designated a candidate species under CESA on October 9, 2020.

The Commission's action designating the western Joshua tree as a candidate species triggered the California Department of Fish and Wildlife's (Department) process for conducting a status review to inform the Commission's future decision on whether listing the species is warranted under CESA. At its scheduled public meeting on April 21, 2022, the Department provided the Commission with its status review report recommending that the Commission find that the petition to list the western Joshua tree as a threatened species is not warranted. The Commission is expected to consider the Department's status review report and make a determination on whether to list the western Joshua tree as a threatened species under CESA during its scheduled public meeting on June 15 and 16, 2022.

Local Management

The County and its residents have a deep appreciation for the Joshua tree as a symbol of resiliency and determination to survive and thrive in the desert. The Joshua tree has significant psychological and tangible benefits for both County residents and visitors as they contribute to the attractiveness and livability of the desert communities. For these reasons, the County has long had a regulatory permitting program designed to protect and preserve the Joshua tree. However, the County recognizes the need to reexamine local regulations and to consider updated management regulations designed to help further preserve the Joshua tree, as well as an immediate need for enhanced fines to deter violations of local regulations and make enforcement actions more impactful in order to prevent the unlawful removal of Joshua trees.

Resolution

The proposed resolution sets forth a declaration of intent regarding a policy direction for future Joshua tree regulations. The County remains steadfast in its desire to further protect and preserve the Joshua tree, including the western Joshua tree, in the event it is not granted protections under CESA, by reexamining local regulations. The County intends to evaluate and consider the implementation of a transplantation program designed to promote and incentivize the transplantation of Joshua trees when removed, the creation of a census to better track, monitor and study Joshua tree trends, and to establish a mitigation fund to be utilized to help fund efforts to further protect the species.

Ordinance

Section 25123 of the California Government Code provides for action by urgency ordinance when immediate action is needed to preserve public peace, health, and safety. This item proposes an urgency ordinance to increase the fines to deter violators and make enforcement action more impactful in order to prevent the

unlawful removal of the Joshua tree, including the western Joshua tree in the event it is not granted protections under CESA. Currently, the fine for illegal removal of a Joshua tree in violation of the County Code is punishable as follows:

Current Fines: Fine of not less than \$500 nor more than \$1,000, or six months in jail, or both. The unlawful removal of each tree is a new and separate offense.

To ensure the immediate preservation of the Joshua tree, the proposed urgency ordinance would increase the fines as follows:

Proposed Fines: Base fine of up to \$5,000 for 1st offense; up to \$10,000 for 2nd offense; and, up to \$20,000 for 3rd offense, or imprisonment not to exceed six months, or both base fine and imprisonment. The unlawful removal of each tree is a new and separate offense.

This item also includes the adoption of the same regulations on a non-urgency basis.

California Environmental Quality Act Compliance

The proposed action is recommended to minimize and reduce environmental impacts in San Bernardino County for the unlawful removal of Joshua trees. Neither the resolution or ordinances are subject to the California Environmental Quality Act (CEQA), pursuant to sections 15060(c)(2) and 15061(b)(3) of the CEQA Guidelines. These sections apply to actions that will not result in significant physical impacts on the environment. The ordinances are also exempt from CEQA pursuant to section 15308 of the CEQA Guidelines, which applies to actions undertaken by a regulatory agency to ensure the protection of the environment.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jason Searles, Deputy County Counsel, 387-5455) on May 17, 2022; Finance (Erika Rodarte, Administrative Analyst III, 387-4919) on May 17, 2022; and County Finance and Administration (Robert Saldana, Deputy Executive Office, 387-5423) on May 17, 2022.