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|  | Land Use Services Building and Safety Division Information Bulletin | Number: IB-0016 |
| | | Code References: 2019 CBC 2019 CRC |
| Building Official Signature:  | Jack Leonard, PE, CBO | Original Effective Date: October 27, 2020 |
| Subject: Joshua Trees | | Updated: February 12, 2021 |

1.0 PURPOSE

The purpose of this Information Bulletin is to clarify the requirements related to work conducted on a site that may contain the western Joshua tree (*Yucca brevifolia*).

2.0 HISTORY

Original Effective Date of Procedures in this Bulletin: October 27, 2020
Updated: February 12, 2021

3.0 BACKGROUND

On September 22, 2020, the California Fish and Game Commission accepted for consideration a petition to list the western Joshua tree as a threatened or endangered species in the state of California. The western Joshua tree is now considered a candidate for listing. While the candidacy is under review by the state, the western Joshua tree will be protected as if it were a threatened or endangered species under the California Endangered Species Act (CESA). Under CESA, it is illegal to import, export, “take”, possess, purchase, sell, or attempt to do any of those actions to species that are designated as threatened, endangered, or candidates for listing, unless authorized by permit by the California Department of Fish and Wildlife. With respect to the western Joshua tree, removal of a tree, or any part thereof, or impacts the seedbank surrounding one or more trees may result in “take” of the species which is prohibited by State law unless otherwise authorized. During this time, the County cannot issue a permit to take (by removal, transplant, trimming or impacting any part of) any western Joshua tree.

4.0 DETERMINATION OF PRESENCE/ABSENCE OR AVOIDANCE

Upon application for a building permit on a site containing western Joshua trees, or located in an area known to contain western Joshua trees, a determination of presence/absence or avoidance will be required prior to proceeding with the project. There are two options available for this determination: a) Field Investigation or b) Report by a Desert Native Plant Specialist.

4.1 EXCEPTION TO FIELD INVESTIGATION REQUIREMENT

If sufficient evidence can be presented to show that the proposed grading/structure is not within forty (40) feet of a western Joshua tree, the Building Official may waive the requirement for a Field Investigation or Report. Evidence would include: On-site photos showing the location of the proposed grading/structure in relation to existing western Joshua trees, with an accompanying site plan drawn to scale, showing the limits of grading/construction and all existing western Joshua trees. If, after Building Official evaluation, it is determined that no western Joshua trees will be affected by the development, the project can proceed without a Field Investigation or Report.

5.0 FIELD INVESTIGATION PROCESS

To request a Field Investigation, apply for a Residential Alteration Permit through the County’s EZOP website: <https://ezop.sbcounty.gov/citizenaccess>, listing the description as “Field Investigation to Determine On-Site Western Joshua Trees” and pay the investigation fee once invoiced by staff. The fee for this investigation is currently \$189.00. A Building Inspector will coordinate the site visit with the applicant. The investigation will entail photo documentation and an evaluation to determine if any western Joshua tree will be affected by the project. Once the investigation is complete, the applicant will receive a “Field Investigation Report” outlining the findings.



5.1 FIELD INVESTIGATION FINDINGS

Clear Avoidance: If it is determined that no western Joshua trees will be affected by the proposed grading/construction, the project can proceed. For the building inspector to make this determination, there must be a forty (40) foot clearance between the area of disturbance and the trunk of any western Joshua tree.

Expert Determination of Avoidance: If it is found that the proposed grading/construction is within forty (40) feet of a western Joshua tree, the applicant may seek a determination from a Desert Native Plant Specialist to attest to and confirm avoidance of the western Joshua tree. The specialist's report may specify protective measures to ensure that the proposed grading/construction will avoid any impact constituting a take of any western Joshua tree.

State Permit Required for Take: If it is determined that the proposed grading/construction would require a western Joshua tree take as defined above in 3.0, the project may be redesigned to avoid impact to the tree, or the applicant must obtain an Incidental Take Permit from the California Department of Fish and Wildlife before the project can proceed.

6.0 REPORT BY A DESERT NATIVE PLANT SPECIALIST

An applicant has the option to submit a report, prepared by a Desert Native Plant Specialist, to document avoidance of western Joshua tree take by the project. The report must include a site plan, drawn to scale, showing the location of proposed grading/construction and all existing western Joshua trees, with photos showing all western Joshua trees in relation to the proposed grading/construction. The report must contain the findings and avoidance recommendations of the Desert Native Plant Specialist, as well as a signature and all pertinent license/qualifications information.

6.1 DEFINITION OF DESERT NATIVE PLANT SPECIALIST

A Desert Native Plant Specialist includes the following:

- a) A certified arborist;
- b) An individual with a four-year college degree in ecology or fish and wildlife related biological science and at least two years of professional experience with relocation or restoration native California desert vegetation; or
- c) An individual with at least five years professional experience with relocation or restoration of native California desert vegetation. Examples: Full-time professional nursery or landscape professional experience with native California desert plants, including western Joshua trees.

7.0 QUESTIONS AND COMMENTS

The County of San Bernardino will continue to oppose listing of the western Joshua tree as a threatened or endangered species under CESA. In the meantime, all inquiries about the protected status and take permits should be directed to the California Department of Fish and Wildlife: (909) 484-0167 or WJT@wildlife.ca.gov.