# PROTECTED PLANT PRESERVATION PLAN

## CITY OF VICTORVILLE, SAN BERNARDINO COUNTY, CALIFORNIA
## APN: 3104-091-12, 13 ,14 and 16

***Prepared for:***

**United Engineering Group**
**8885 Haven Avenue, Suite 195**
**Rancho Cucamonga, CA 91730**

***Prepared by:***

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**Jessica Hensley, Environmental Scientist, Biologist**
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**Project No: RCA#2021-267 JT**

**January 13, 2022**

**TITLE PAGE**

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|---|---|
| **Date Report Prepared:** | **January 13, 2022** |
| **Field Work Completed:** | **January 12, 2002** |
| **Report Title:** | **Protected Plant Preservation Plan** |
| **Project Location:** | **Victorville, California**<br>**APN: 3104-091-12, 13 ,14 and 16** |
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## Table of Contents


| Section | | Page |
|---|---|---|
| 1.0 | Summary | 1 |
| 2.0 | Introduction and Project Description | 2 |
| 3.0 | Methodologies | 3 |
| 4.0 | Results | 4 |
| 5.0 | Conclusions | 6 |
| 6.0 | References | 8 |
| 7.0 | Certification | 9 |

Appendix A – Figures

Appendix B – City of Victorville Municipal Code: Chapter 13.33
County of San Bernardino Municipal Code: Chapter 88.01.060

## 1.0 SUMMARY

At the request of the project proponent, RCA Associates, Inc. surveyed an approximately 43-acre property located on the south-east corner of the intersection of Cobalt Road and Hook Boulevard in the city of Victorville, California (Township 5 North, Range 5 West, Section 14, USGS Victorville, California Quadrangle, 1956) (Figures 1, 2, and 3).

The purpose of the survey was to evaluate the Joshua trees present on the site and determine which trees were suitable for relocation and which trees could be discarded prior to site clearing activities. This report provides the results of the Joshua tree survey performed on January 12, 2022. Following completion of the survey, RCA Associates, Inc. prepared this Protected Plant Preservation Plan to assist the project proponent with future relocation of the Joshua trees. Information on the Joshua trees which will need to be relocated-transplanted in the future is provided in Section 4.0. The City of Victorville Municipal Code has a chapter (Chapter 13.33) stating the purpose of Joshua Tree preservation and the consequence of removing one, and follows the County of San Bernardino Plant Protection Plan and Management (Chapter 88.01.060) to help protect and preserve desert vegetation, including Joshua trees. The requirements of the Ordinance (Chapter 88.01.060) are provided in Appendix B.

Based on the results of the field investigations there are 2 Joshua trees which occur within the boundaries of the property (Figures 1, 2, and 3). Based on the evaluation and analysis of each tree it was determined that 1 of the 2 Joshua trees (50%) are suitable for transplanting. These trees are marked in red in Table 4-1. The remaining 1 Joshua trees (50%) were determined to be unsuitable for transplanting due to a variety of factors such as size, condition, damage, dying, dead, excessive leaning, possibly disease, clonal, etc.

## 2.0 INTRODUCTION AND PROJECT LOCATION

The area surveyed is located at the south-east corner of Cobalt Road and Hook Boulevard in Victorville, California (Figures 1 and 2). Current conditions on the property include a moderately disturbed desert scrub community with moderate signs of human disurbances. The biological resources on the site consist of a desert scrub community typical of the area with creosote bush (*Larrea tridentata*), rubber rabbitbrush (*Ericameria nauseosa*), white-bursage (*Ambrosia dumosa*), flatspine bur ragweed (*Ambrosia acanthicarpa*), Joshua trees (*Yucca brevifolia*), kelch grass (*Schismus barbatus*), and cheatgrass (*Bromus tectorum*) observed on the site. Vacant land borders the property in all directions (Figure 2).

Joshua trees occur throughout the Mojave Desert in Southern California and are typically found at an elevation of 400 to 1,800 meters (~1,200 to ~5,400 feet). Joshua trees within the western portion of the Mojave Desert typically receive more annual precipitation during "normal" years; consequently, cloning occurs more often resulting in numerous trunks sprouting from the same root system (Rowland, 1978). Joshua tree habitats provide habitat for a variety of wildlife species including desert woodrats (*Neotoma* sp.) and night lizards (*Xantusia* sp.) both of which utilize the base of the trees. A variety of birds also utilize Joshua trees for nesting such as hawks, common ravens, and cactus wrens. CDFW consider Joshua tree woodlands as areas that support relatively high species diversity and as such are considered to be a sensitive desert community. Joshua trees are also considered a significant resource under the California Environmental Quality Act (CEQA) and are included in the Desert Plant Protection Act, Food and Agricultural Code (80001 – 80006).

## 3.0 METHODOLOGIES

Pedestrian surveys were walked throughout the site and biologists from RCA Associates, Inc. evaluated each Joshua tree to determine which trees were suitable for relocation/transplanting based on a general health assessment. Each Joshua tree received a metal numbered tag which was affixed on the north side of each tree for orientation purposes during future transplanting. Surveyor flagging was also placed around those trees suitable for transplanting to facilitate future identification. The precise location of each tree was recorded using a Garmin inReach Explorer+ GPS unit and a Nikon Forestry Pro II rangefinder was utilized to determine the extent of the property boundaries and accurate tree height. Those Joshua trees which occur on the property site are presented in Table 4-1 and the locations are provided in Figure 2.

The factors utilized to determine which Joshua trees were suitable for transplanting include the following factors:

1. Trees from about 1 foot in height up to approximately 12 feet,
2. No visible signs of damage to the tree such as absence of bark due to rodent or other animals,
3. Minimal number of branches (No more than 2 or 3 branches),
4. No excessive leaning of the tree,
5. No yellow or brown fronds,
6. Proximity to other Joshua trees (i.e., clonal), and
7. No exposed roots at the base of the tree.
8. Dying or dead

## 4.0 RESULTS

There are 2 Joshua trees on the property and the GPS locations of the Joshua trees are provided in Table 4-1. A total of 1 Joshua trees (50%) are suitable for relocation/transplanting based on the nine factors listed in Section 3.0 (Table 4-1). The Joshua trees suitable for transplanting should be relocated/transplanted on-site, which is the preferable option, or to an off-site area approved by the City of Victorville. Those Joshua trees that are not suitable for relocation/transplanting due to size, health of the tree, presence of damage, excessive branches, excessive leaning, clonal, and exposed roots should be disposed of as per City requirements.

**Table 4-1: Joshua tree census. (Note: The GPS locations of the Joshua trees are provided below and those trees which are suitable for transplanting on-site as part of project landscaping are highlighted in red.)**

| Total Number of Joshua Trees On Site | Joshua Trees to be Transplanted | Number of Clonal Trees | Number of Non-Clonal Trees | Number of Dead Trees |
|---|---|---|---|---|
| 2 | 1 | 0 | 1 | 1 |

| Tag# | Life Stage | Height | Location | Panicles | Branches | Condition | Health Assessment | Number of Trunks | Transplantable |
|---|---|---|---|---|---|---|---|---|---|
| 10000 | Adult | 2 | N 34.520750° W 117.371383° | | | Good | | | Yes |
| 9999 | Adult | | N 34.515017° W 117.371033° | | | Dead | Laying on Ground | | No |

## 5.0 CONCLUSIONS

There are 2 Joshua trees located on the property and 1 of the trees are suitable for relocation/transplanting. This conclusion was based on: (1) trees which were one foot or greater in height and less than twelve feet tall (approximate); (2) in good health; (3), two branches or less; (4) density of trees (i.e., no clonal trees); (5) no exposed roots; (6) and trees that are not leaning over excessively. As indicated in Table 4-1, the majority of the Joshua trees which were not suitable for relocation are dead and lying on the ground.

As of September 22, 2020, the California Department of Fish and Wildlife temporarily listed the western Joshua tree (*Yucca brevifolia*) as an endangered species until a final decision is made in 2022. Therefore, any attempt to remove the Joshua tree from its current position will require an Incidental Take Permit (ITP).

The City of Victorville's Municipal Code (Chapter 13.33) instructs to follow the County of San Bernardino's ordinance (88.01.060), which requires preservation of Joshua trees given their importance in the desert community. A qualified City-approved biologist or arborist should be retained to conduct any future relocation/transplanting activities and should follow the protocol of the County's Municipal Code (Appendix B: Chapter 88.01.060). The following criteria will be utilized by the contractor when conducting any future transplanting activities.

A. The Joshua trees will be retained in place or replanted somewhere on the site where they can remain in perpetuity or will be transplanted to an off-site area approved by the city where they can remain in perpetuity. Joshua trees which are deemed not suitable for transplanting will be cut-up and discarded as per City requirements.

B. Earthen berms will be created around each tree by the biologist prior to excavation and the trees will be watered approximately one week before transplanting. Watering the trees prior to excavation will help make excavation easier, ensure the root ball will hold together, and minimize stress to the tree.

C. Each tree will be moved to a pre-selected location which has already been excavated and will be placed and oriented in the same direction as their original direction.

The hole will be backfilled with native soil, and the transplanted tree will be immediately watered. As noted in Section 3.0, a numbered metal tag was placed on the north side of the trees and the trees were also flagged with surveyor's flagging. The biologist will develop a watering regimen to ensure the survival of the transplanted trees. The watering regimen will be based upon the needs of the trees and the local precipitation.

## 6.0 REFERENCES


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## 7.0 CERTIFICATION

I hereby certify the statements furnished above and in the attached exhibits, present the data and information required for this Joshua tree survey and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. Field work conducted for this survey was performed by Ryan Hunter, Jessica Hensley and Brian Bunyi.

Date: January 13, 2022 Signed: Ryan Hunter
Jessica Hensley
Brian Bunyi

Field Work Performed by: Ryan Hunter
Environmental Scientist/Biologist

Jessica Hensley
Environmental Scientist/Biologist

Brian Bunyi
Environmental Scientist/Biologist

# APPENDIX A

## Figures

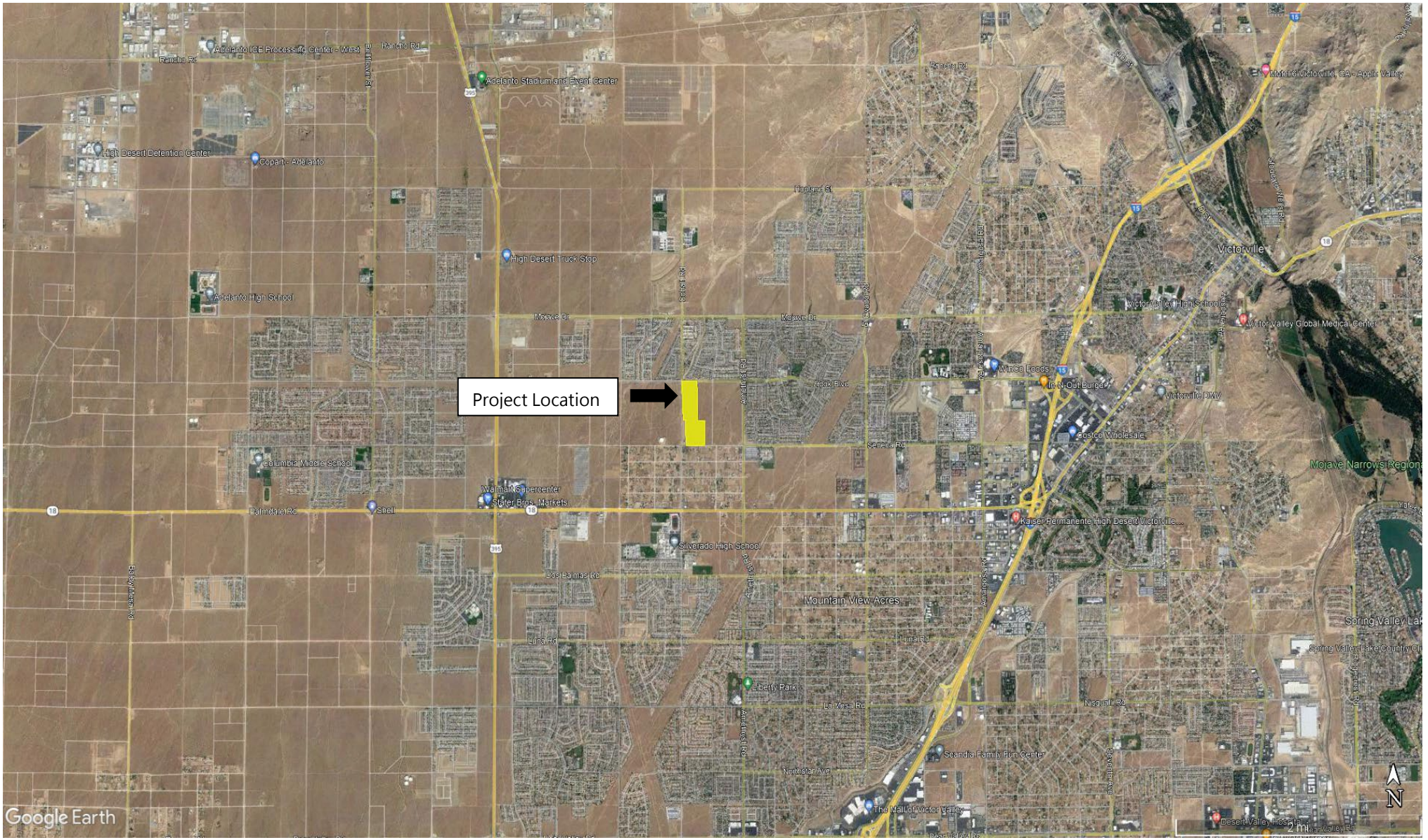



Figure 1: Regional Exhibit

RCA Associates, Inc.
Source: Google Earth

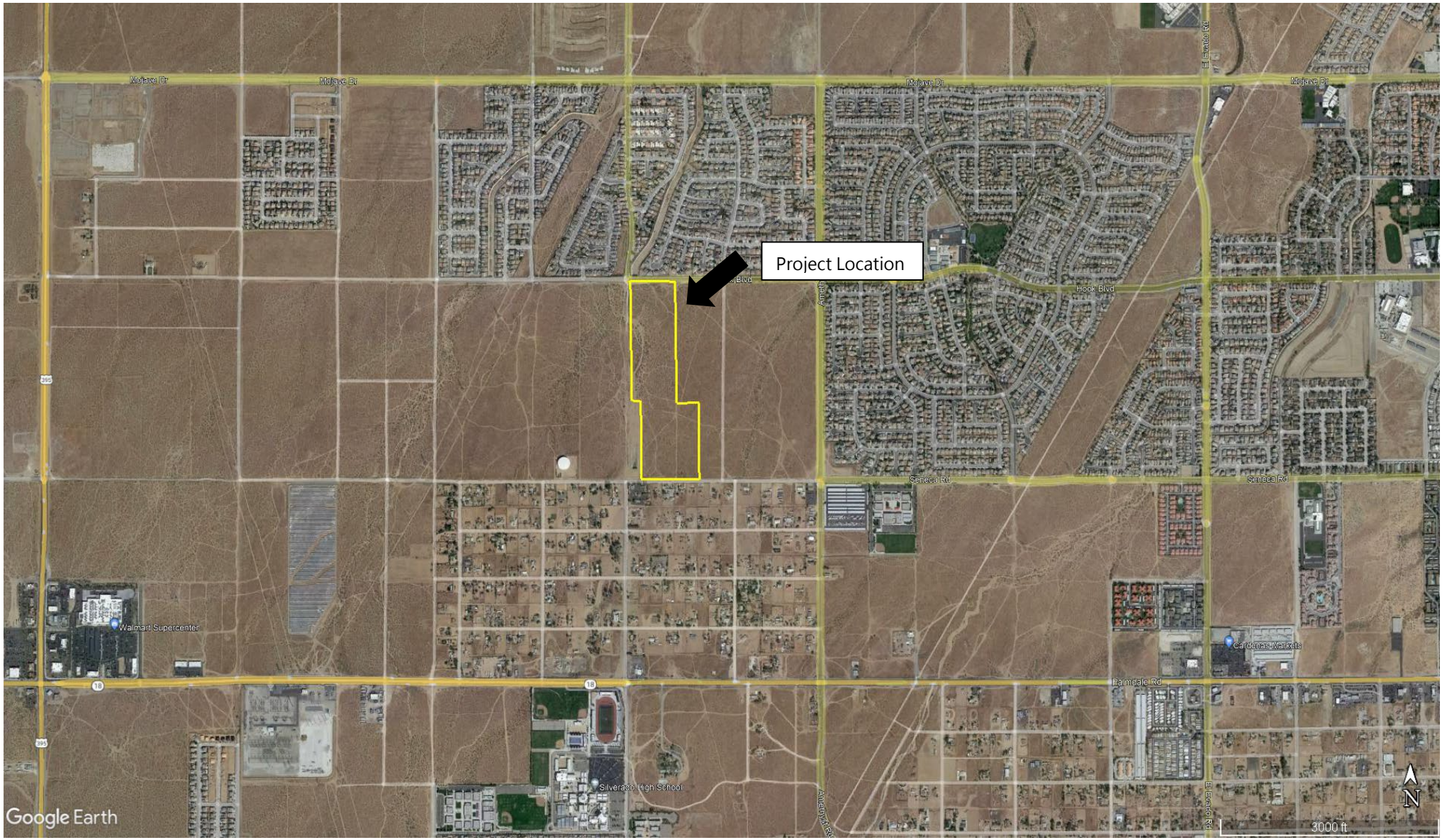


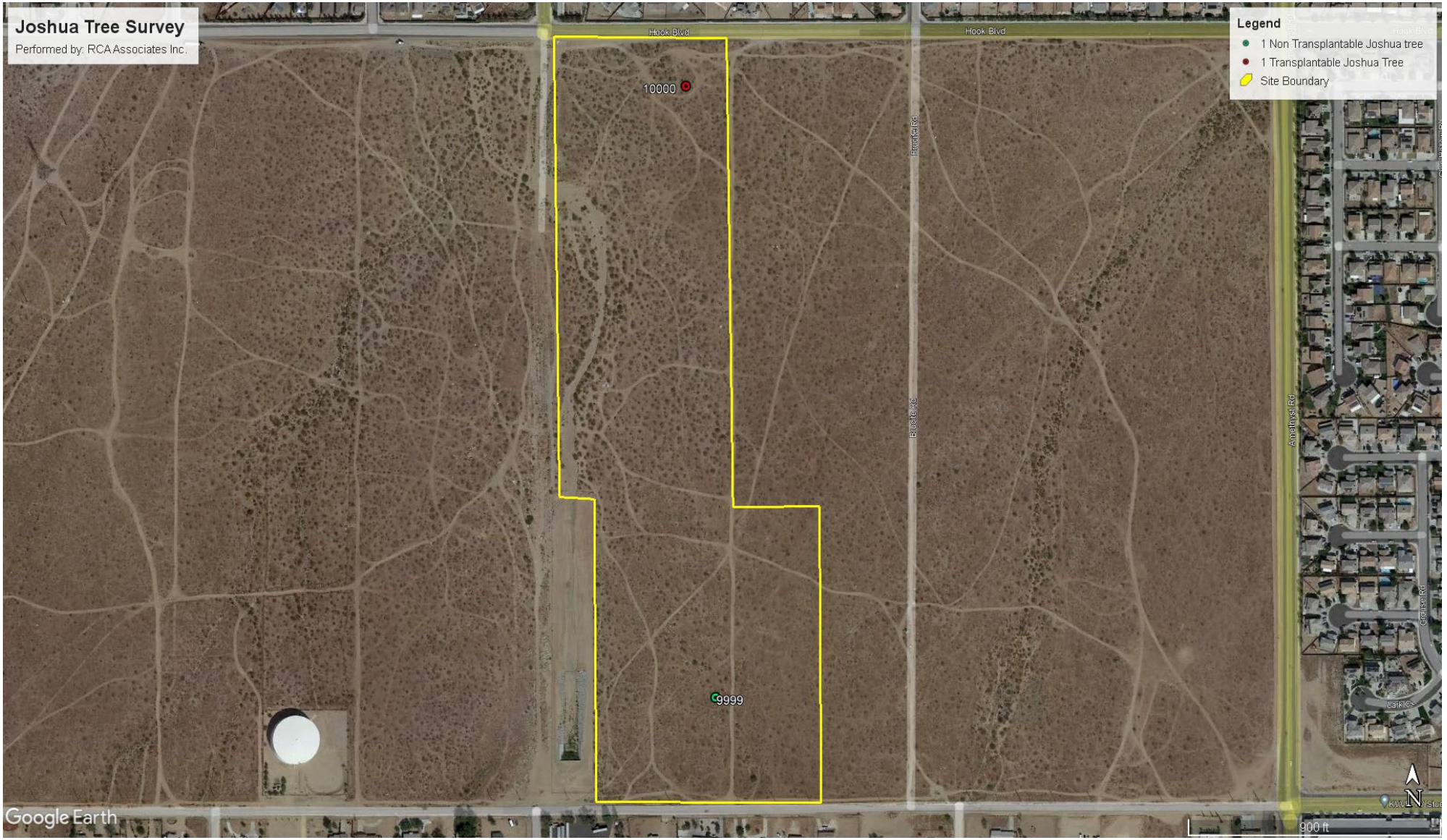

Figure 2: Vicinity Exhibit

RCA Associates, Inc.
Source: Google Earth

RCA ASSOCIATES, INC

**SE Corner of Cobalt Road and Hook Boulevard, Victorville, CA**

**43-acres**




RCA ASSOCIATES, INC.
SOURCE: GOOGLE EARTH

**FIGURE 3: LOCATION OF JOSHUA TREES**

#2021-267 JT

**APPENDIX B**

**City of Victorville**
**Municipal Code: Chapter 13.33**

**County of San Bernardino**
**Municipal Code: Chapter 18.01.060**

# Chapter 13.33 - PRESERVATION AND REMOVAL OF JOSHUA TREES

**Sections:**

## 13.33.010 - Purpose and intent.

It is determined by the city council that proper and necessary steps be taken in order to protect and preserve, to the greatest extent possible, Joshua trees in all areas of the city so as to preserve the unique natural desert environment throughout the city and for the health, safety and welfare of the community.

(Ord. 1224 § 1 (part), 1988)

## 13.33.020 - Scope and applicability.

(a) The provisions of this chapter shall apply to all property within the corporate limits of the city.

(b) The provisions of this chapter shall not apply to:

(1) Any existing lot in a subdivision already cleared and graded with improvements installed as required by the conditions of the original subdivision;

(2) Any occupied residential properties.

(Ord. 1224 § 1 (part), 1988)

## 13.33.030 - Definitions.

The term "Joshua tree" means a living tree of the botanical name of Yucca Brevifolias.

(Ord. 1224 § 1 (part), 1988)

## 13.33.040 - Prohibition of removal and enforcement.

It is unlawful for any person to cut, damage, destroy, dig up, or harvest any Joshua tree without the prior written consent of the director of parks and recreation or his designee. A violation of this section is a misdemeanor punishable by up to six months in jail and/or a five-hundred-dollar fine.

(Ord. 1224 § 1 (part), 1988)

# CHAPTER 88.01 PLANT PROTECTION AND MANAGEMENT

**Sections:**

88.01.010 Purpose
88.01.020 Applicability
88.01.030 Exempt Activities
88.01.040 General Permit Application and Review Requirements
88.01.050 Native Tree or Plant Removal Permits
88.01.060 Desert Native Plant Protection
88.01.070 Mountain Forest and Valley Tree Conservation
88.01.080 Riparian Plant Conservation
88.01.090 Tree Protection from Insects and Disease

## 88.01.010 Purpose

This Chapter provides regulations and guidelines for the management of plant resources in the unincorporated areas of the County on property or combinations of property under private or public ownership. The intent is to:

(a) Promote and sustain the health, vigor and productivity of plant life and aesthetic values within the County through appropriate management techniques.

(b) Conserve the native plant life heritage for the benefit of all, including future generations.

(c) Protect native trees and plants from indiscriminate removal and to regulate removal activity.

(d) Provide a uniform standard for appropriate removal of native trees and plants in public and private places and streets to promote conservation of these valuable natural resources.

(e) Protect and maintain water productivity and quality in local watersheds.

(f) Preserve habitats for rare, endangered, or threatened plants and to protect animals with limited or specialized habitats.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.020 Applicability

The provisions in this Chapter apply to the removal or relocation of regulated trees or plants and to any encroachment (for example, grading) within the protected zone of a regulated tree or plant on all private land within the unincorporated areas of the County and on public lands owned by the County, unless otherwise specified. Nothing in this Chapter shall relieve nor be interpreted to exempt a development from complying with applicable State or Federal laws and regulations.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.030 Exempt Activities

The provisions in this Chapter, except those of Section 88.01.090 (Tree Protection From Insects and Disease), shall not apply to the removal of regulated trees or plants that may occur in the following situations. Removal actions shall not authorize the removal of perch trees within an identified American Bald Eagle habitat.

**(a) Timber operations.** Removal as part of a timber operation conducted in compliance with the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code Section 4526 et seq.).

**(b) Government owned lands.** Removal from lands owned by the United States, State of California, or local governmental entity, excluding Special Districts (i.e., Special Districts shall be subject to the provisions of this Division.).

**(c) Public utilities.** Removal by a public utility subject to jurisdiction of the Public Utilities Commission or any other constituted public agency, including franchised cable TV, where to establish or maintain safe operation of facilities under their jurisdiction, trees are pruned, topped, or braced.

**(d) State agencies.** Removal by, or under the authority of, the State of California:

(1) Department of Forestry and Fire Protection.

(2) Forest Improvement Program.

(3) Agricultural Conservation Program.

**(e) Government laws.** Removal required by other codes, ordinances, or laws of the County, State, or United States.

**(f) Emergency.** Removal of native trees and plants that are an immediate threat to the public health, safety, or welfare and that require emergency removal to prevent probable damage to a structure or injury to people or fenced animals.

**(g) Forest stocking control program.** Removal as part of a stocking control program prepared by a California Registered Professional Forester.

**(h) Fire hazard reduction program.** Removal as part of a fire hazard reduction program approved by the Fire Chief.

**(i) Bona fide agricultural activity.** Removal as part of a bona fide agricultural activity, as determined by the Director, which is one of the following:

(1) Conducted under a land conservation contract.

(2) An existing agricultural activity, including expansions of the activity onto undisturbed contiguous land.

(3) A proposed bona fide agricultural activity (i.e., an agricultural activity that is served by a water distribution system adequate for the proper operation of the activity).

(A) The Director shall be given 30 days' written notice of the removal describing the:

(I) Location of the land.

(II) Nature of the proposed activity.

(III) Proposed sources of water for the activity.

(B) The Director shall notify the landowner in writing before the elapse of the 30-day period if, in the opinion of the Director, the activity is not a bona fide agricultural activity, or else the activity shall be deemed bona fide.

**(j) Parcel less than 20,000 square feet developed with primary structure.** Removal on parcels that have a net area of 20,000 square feet or less and that are developed with a primary structure, other than a sign structure.

**(k) Located within 20 feet of permitted structure.** Removal from a parcel of a regulated native plant or tree that is within 20 feet of a structure that was constructed or set down on the parcel under a County development permit.

**(l) Private fuel wood.** Removal of two or fewer regulated native trees in the Mountain Region or Valley Region per year per acre for private fuel wood purposes. The year shall be measured as the last 12 consecutive months.

**(m) Oak woodlands.** The following projects shall be exempt from the conditions for mitigating the conversion of oak woodlands required in Subsection 88.01.050(e) (Native Tree or Plant Removal Permits Conditions of approval), below, in compliance with Public Resources Code 21083.4:

(1) Projects undertaken in compliance with a Natural Community Conservation Plan or subarea plan within a Natural Community Conservation Plan, as approved in compliance with Fish and Game Code Section 2800 *et seq.*, that includes oaks as a covered species or that conserves oak habitat through natural community conservation preserve designation and implementation and mitigation measures that are consistent with this Chapter.

(2) Affordable housing projects for lower income households, as defined in Health and Safety Code Section 50079.5, that are located within a city's sphere of influence.

(3) Projects on agricultural land within an Agricultural Land Use Zoning District that includes land used to produce or process plant and animal products for commercial purposes.

(4) Projects undertaken in compliance with a State agency's regulatory program certified in compliance with Public Resources Code Section 21080.5.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.040 Regulated Trees and Plants and General Permit

**(a) Regulated trees and plants.** A regulated tree or plant shall be any of the those trees or plants identified in:

(1) Section 88.01.060(c) (Regulated desert native plants);

(2) Section 88.01.070(b) (Regulated trees); or

(3) Section 88.01.080(b) (Regulated riparian plants).

**(b) Permit for removal required.** A Tree or Plant Removal Permit issued in compliance with Section 88.01.050 (Tree or Plant Removal Requirements) shall be required for the removal of regulated tress and plants.

**(c) Conditions of approval.** The permits required by this Chapter may be subject to conditions imposed by the applicable review authority as identified in Subsection 88.01.050(e) (Tree or Plant Removal Permits - Condition of approval).

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.050 Tree or Plant Removal Permits

**(a) When Tree or Plant Removal Permit required.** A Tree or Plant Removal Permit shall be required for the removal of a regulated tree or plant as identified in this Chapter.

**(1) Removals in conjunction with land use application or development permit Director approval.** The Director may approve the removal of regulated trees or plants when requested in conjunction with a land use application, a Building Permit, and all other development permits (e.g., Grading Permits, Mobile Home Setdown Permits, etc.). An approved land use application and/or development permit shall be considered to include a Tree or Plant Removal Permit, if the land use application or development permit specifically reviews and approves the removals. The review of a land use application or development permit shall consider and require compliance with this Chapter.

**(2) Removals not in conjunction with land use application or development permit Director approval.** The Director may approve a Tree or Plant Removal Permit for the removal of regulated trees or plants requested not in conjunction with a land use application or development permit.

**(3) Removals to mitigate fire hazards Fire Chief approval.** The Fire Chief may approve a Tree or Plant Removal Permit for the removal of regulated trees or plants when requested for the purposes of mitigating fire hazards and independent of a land use application or development permit.

**(b) Expert certification.** The applicable review authority may require certification from an appropriate arborist, registered professional forester or a Desert Native Plant Expert that the proposed tree removal, replacement, or revegetation activities are appropriate, supportive of a healthy environment, and in compliance with this Chapter. The certification shall include the information in compliance with Department procedures.

**(c) Preconstruction inspections.** A preconstruction inspection before approval of development permits shall be required in areas with regulated trees or plants to determine the presence of regulated trees and plants. The preconstruction inspection may be combined with any other required inspection.

**(d) Duration of Tree or Plant Removal Permits.**

**(1) Removals in conjunction with land use application or development permit.** The duration of a Tree or Plant Removal Permit, when issued in conjunction with a land use application and/or a development permit, shall have the same duration of the associated application or permit, unless otherwise specified.

**(2) Removals not in conjunction with land use application or development permit.** The applicable review authority shall specify the expiration date for all other Tree or Plant Removal Permits.

**(e) Conditions of approval.** A Tree or Plant Removal Permit may be subject to the following conditions imposed by the applicable review authority:

**(1) Types of conditions.** The conditions may specify criteria, methods, and persons authorized to conduct the proposed activities in addition to the requirements in this Chapter.

**(2) Transplanting or stockpiling.** Where indicated in this Chapter, regulated trees and plants may be required to be transplanted and/or stockpiled for future transplanting.

**(3) Performance bonds.** The review authority may require the posting and maintenance of a monetary security deposit where necessary to ensure the completion of the required mitigation measures in compliance with Section 86.06.050 (Performance Guarantees).

**(4) Conversion of oak woodlands.** If a project will result in a conversion of oak woodlands that will have a significant effect on the environment and is not exempt under Subsection 88.01.030(m) (Exempt Activities Oak woodlands), one or more of the conditions in this Subsection may be imposed in compliance with Public Resources Code Section 21083.4. For the purposes of this Subsection, "oak" shall mean a native tree species that is in the genus *Quercus*, which is not designated as Group A or Group B commercial species under regulations adopted by the State Board of Forestry and Fire Protection in compliance with Public Resources Code Section 4526, and which is five inches or more in diameter as measured at a point 4.5 feet (breast height) above natural grade level. The applicable review authority may require certification from a Tree Expert that the proposed mitigation measures are appropriate, supportive of a healthy oak woodland environment, and in compliance with this Subsection. The certification shall include the information in compliance with Department procedures. The conditions that may be imposed include one or more of the following:

**(A) Preservation.** Preserve existing oak woodlands by recording conservation easements in favor of the County or an approved organization or agency.

**(B) Replacement or restoration.** Replace or restore former oak woodlands. The review authority may require the planting and maintenance of replacement trees, including replacing dead or diseased trees. The replacement ratio and tree sizes shall be based on the recommendation of an

Oak Reforestation Plan prepared by a registered professional forester. The requirement to maintain trees in compliance with this paragraph shall terminate seven years after the trees are planted.

**(C) In-lieu mitigation fee.** Contribute in-lieu mitigation fee to the Oak Woodlands Conservation Fund, established under Fish and Game Code Section 1363 for the purpose of purchasing oak woodlands conservation easements. A project applicant who contributes funds in compliance with this Subsection shall not receive or use a grant from the Oak Woodlands Conservation Fund as part of the mitigation for the project. The in-lieu fee for replacement trees shall be calculated based upon their equivalent value as established by the International Society of Arboriculture's (ISA) current edition of *Guide to Establishing Values for Trees and Shrubs*, etc.)

**(D) Other mitigation measures**. Perform other mitigation measures as may be required by the review authority (e.g., inch-for-inch off-site replacement planting; transfer of development rights, enrollment of project with offset provider for carbon credits in greenhouse gas emission registry, carbon reduction, and carbon trading system; etc.).

**(f) Findings for Tree or Plant Removal Permits.** The applicable review authority may authorize the removal of a regulated tree or plant only if the following findings are made:

(1) **Findings for removals in the Valley Region, Mountain Region, and Desert Region**. The removal of the regulated tree or plant is justified for <u>one</u> of the following reasons:

(A) The location of the regulated tree or plant and/or its dripline interferes with an allowed structure, sewage disposal area, paved area, or other approved improvement or ground disturbing activity and there is no other alternative feasible location for the improvement.

(B) The location of the regulated tree or plant and/or its dripline interferes with the planned improvement of a street or development of an approved access to the subject or adjoining private property and there is no other alternative feasible location for the improvement.

(C) The location of the regulated tree or plant is hazardous to pedestrian or vehicular travel or safety.

(D) The regulated tree or plant or its presence interferes with or is causing extensive damage to utility services or facilities, roadways, sidewalks,

curbs, gutters, pavement, sewer line(s), drainage or flood control improvements, foundations, existing structures, or municipal improvements.

(E) The condition or location of the regulated tree or plant is adjacent to and in such close proximity to an existing or proposed structure that the regulated tree or plant has or will sustain significant damage.

(2) **Additional findings for removals in the Mountain Region**. In the Mountain Region only, the applicable review authority shall also make all of the following findings:

(A) Where improvements are proposed, the design of the improvements ensures that at least the following minimum percentage of the subject parcel will be maintained or established in a natural undeveloped vegetated or revegetated condition sufficient to ensure vegetative coverage for a forest environment, as determined by the applicable Review Authority.

(I) Twenty percent of commercial, industrial, and administrative/ professional uses.

(II) Thirty-five percent of multi-family residential uses.

(B) At least one half of natural areas for all uses, except single family residential uses, will be located in the front setback area or located so that significant portions are visible from the public right-of-way on which the improvements are to be located.

(C) A perch tree within a federally identified American Bald Eagle habitat will not be removed unless an adequate substitution is provided.

(D) A Registered Professional Forester has certified in writing that the condition or location of a regulated tree is contributing to overstocked tree stand conditions and that its removal will improve the overall health, safety, and vigor of the stand of trees containing the subject tree.

(3) In the Desert Region only, the applicable Review Authority shall also make the following findings:

(A) Joshua trees that are proposed to be removed will be transplanted or stockpiled for future transplanting wherever possible.

(B) In the instance of stockpiling, the permittee has complied with Department policy to ensure that Joshua trees are transplanted appropriately. Transplanting shall comply with the provisions of the Desert Native Plants

Act (Food and Agricultural Code Section 80001 et seq.), as required by Subsection 88.01.060(d) (Compliance with Desert Native Plants Act).

(C) No other reasonable alternative exists for the development of the land when the removal of specimen size Joshua Trees is requested. Specimen size trees are defined as meeting one or more of the following criteria:

(I) A circumference measurement equal to or greater than 50 inches measured at 4.5 feet above natural grade level.

(II) Total tree height of 15 feet or greater.

(III) Trees possessing a bark-like trunk.

(IV) A cluster of 10 or more individual trees, of any size, growing in close proximity to each other.

**(g) Plot plan requirements.** Before the issuance of a Tree or Plant Removal Permit, a plot plan shall be approved by the applicable Review Authority for each site indicating exactly which trees or plants are authorized to be removed. The required information shall be added to any other required plot plan.

**(h) Construction standards.** During construction and before final inspection under a development permit, the following construction standards shall apply, unless otherwise approved in writing by an arborist, registered professional forester, or a Desert Native Plant Expert:

**(1) Enclosures.** The trunks of regulated trees and regulated plants shall not be enclosed within rooflines or decking.

**(2) Attachments.** Utilities, construction signs, or other hardware shall not be attached so as to penetrate or abrase any live regulated tree or plant.

**(3) Grade alterations.** No grade alterations shall bury any portion of a regulated tree or plant or significantly undercut the root system within the dripline.

**(i) Enforcement.**

**(1) Other applicable Code provisions.** The provisions of Chapter 86.09 (Enforcement) shall apply to this Chapter.

**(2) Enforcement authorities.** The authorities responsible for the enforcement of the provisions of this Chapter shall be the same as the review authorities responsible for permit approvals asspecified in this Section. In addition, the provisions of

this Chapter may be enforced by the California Department of Forestry, where applicable.

**(3) Extension of time.** If property is subject to snow, flooding, or other conditions that render compliance with the provisions of this Chapter within the specified time periods impractical because of inaccessibility, an enforcement officer may extend the period of time for compliance.

**(4) Powers of enforcement officers.**

(A) A peace officer or any authorized enforcement officer may in the enforcement of this Section:

(I) Make arrests without warrant for a violation of this Chapter that the officer may witness.

(II) Confiscate regulated native trees or plants, or parts of them, that are unlawfully harvested, possessed, sold, or otherwise obtained in violation of this Chapter.

(B) In addition, a designated enforcement officer shall be authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the State, which is suspected of containing or having present regulated plants in violation of this Chapter in order to examine permits and wood receipts and observe tags and seals and to otherwise enforce the provisions of this Chapter.

**(5) When enforcement officer vested with power of peace officer.** When power or authority is given by this Chapter to a person, it may be exercised by any deputy, inspector, or agent duly authorized by that person. A person in whom the enforcement of a provision of this Chapter is vested shall have the power of a peace officer as to that enforcement, which shall include State or Federal agencies with which cooperative agreements have been made by the County to enforce the provisions of this Chapter.

**(6) Written permission of landowner required for removal.** No person shall remove or damage all or part of any regulated tree or plant on the property of another person without first obtaining notarized written permission from the landowner and required permits, wood receipts, or tags and seals. In addition, it shall be unlawful for a person to falsify a document offered as evidence of permission to enter upon the property of another to harvest all or parts of a regulated tree or plant, whether alive or dead.

**(7) Permit available for display and inspection.** No person, except as provided in this Chapter, shall harvest, offer for sale, destroy, dig up or mutilate, or have in his or her possession a regulated plant or tree, or the living or dead parts of them, unless the plant or tree was harvested under a valid permit and, where applicable, a valid wood receipt on his or her person. A person shall exhibit the permit, wood receipt, tags and/or seals upon request for inspection by an authorized County enforcement officer or any peace officer. No wood receipt or tag and seal shall be valid unless it is issued with a valid permit and the permit bears the wood receipt number or tag number on its face. Required tags and seals shall be attached securely to a regulated desert native plant.

**(8) Land Disturbance.** No person, except as provided in this Chapter, shall commence with a disturbance of land (e.g., grading or land clearing) without first obtaining approval to assure that said disturbance will not result in the removal of any regulated native trees or plants. Said approval may be in the form of a development permit or a Tree or Plant Removal Permit issued by the appropriate authority.

**(j) Penalties.** Penalties shall be those specified in Chapter 86.09 (Enforcement) and shall include the following and any other penalties specified by individual Sections of this Chapter.

**(1) Fine for illegal removal.**

(A) In addition to other penalties and fees imposed by this Development Code or other law, a person, firm, or corporation convicted of a violation of the provisions of this Chapter shall be guilty of a misdemeanor upon conviction.

(B) When one or more plants or trees are removed in violation of the provisions of this Chapter, the removal of each separate plant or tree shall be a new and separate offense.

(C) The penalty for the offense shall be a fine of not less than $500 nor more than $1,000, or six months in jail, or both.

(D) Payment of a penalty shall not relieve a person, firm, or corporation from the responsibility of correcting the condition resulting from the violation.

**(2) Replacement program for illegal removal.**

(A) In addition to other penalties imposed by this Development Code or other law, a person, firm, or corporation convicted of violating the provisions of this Chapter regarding improper removal of regulated native trees or plants shall be required to retain, as appropriate, a Tree Expert or Desert Native Plant Expert to develop and implement a replacement program.

(B) The expert shall determine the appropriate number, size, species, location, and planting conditions for replacement plants or trees in sufficient quantities to revegetate the illegally disturbed area.

(C) If it is inappropriate to revegetate the illegally disturbed area, another appropriate location (e.g., public parks) may be substituted at the direction of the court.

(D) The violator shall post a bond in an amount sufficient to remove and reinstall plant/tree materials that were planted as a part of a replacement program and failed within two years.

**(3) Revocation of permits.**

(A) Upon conviction of a violation of this Chapter, all Tree or Plant Removal Permits issued to the convicted person, firm, or corporation shall be revoked.

(B) No new or additional Tree or Plant Removal Permits shall be issued to the permittee for a period of one year from the date of conviction.

(C) Additionally, in the Desert Region the permittee shall be required to surrender unused wood receipts or tags and seals to the Director.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); Amended Ordinance 4067 (2009)

## 88.01.060 Desert Native Plant Protection

This Section provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. The provisions are intended to augment and coordinate with the Desert Native Plants Act (Food and Agricultural Code Section 80001 et seq.) and the efforts of the State Department of Food and Agriculture to implement and enforce the Act.

**(a) Definitions.** Terms and phrases used within this Section shall be defined in Division 10 (Definitions) and/or defined by the California Food and Agricultural Code. The California Food and Agricultural Code definition, if one exists, shall prevail over a conflicting definition in this Development Code.

**(b) Applicability.** The provisions of this Section shall apply to desert native plants specified in Subsection (c) (Regulated desert native plants) that are growing on any of the following lands, unless exempt in compliance with Section 88.01.030 (Exempt Activities):

(1) Privately owned or publicly owned land in the Desert Region.

(2) Privately owned or publicly owned land in any parts of the Mountain Region in which desert native plants naturally grow in a transitional habitat.

**(c) Regulated desert native plants.** The following desert native plants or any part of them, except the fruit, shall not be removed except under a Tree or Plant Removal Permitin compliance with Section 88.01.050 (Tree or Plant Removal Permits). In all cases the botanical names shall govern the interpretation of this Section.

(1) The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:

(A) *Dalea spinosa* (smoketree).

(B) All species of the genus *Prosopis* (mesquites).

(2) All species of the family *Agavaceae* (century plants, nolinas, yuccas).

(3) Creosote Rings, 10 feet or greater in diameter.

(4) All Joshua trees.

(5) Any part of any of the following species, whether living or dead:

(A) *Olneya tesota* (desert ironwood).

(B) All species of the genus *Prosopis* (mesquites).

(C) All species of the genus *Cercidium* (palos verdes).

**(d) Compliance with Desert Native Plants Act.** Removal actions of all plants protected or regulated by the Desert Native Plants Act (Food and Agricultural Code Section 80001 et seq.) shall comply with the provisions of the Act before the issuance of a development permit or approval of a land use application.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.070 Mountain Forest and Valley Tree Conservation

This Section provides regulations to promote conservation and wise use of forest resources in the Mountain Region and native tree resources in the Valley Region. The provisions are intended to augment and coordinate with the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code Section 4526 et seq.) and the efforts of the State Department of Forestry and Fire Protection to implement and enforce the Act.

**(a) Applicability.**

**(1) Private harvesting.** The provisions of this Section apply to the private harvesting of all trees growing on private land and on public land in the unincorporated Mountain Region and Valley Region.

**(2) Commercial harvesting.** The commercial harvesting of trees shall be prohibited, except as allowed by and authorized by the State Department of Forestry and Fire Protection in compliance with the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code Section 4526 et seq.).

**(b) Regulated trees.** The following trees shall only be removed with an approved Tree or Plant Removal Permit issued in compliance with Section 88.01.050 (Tree or Plant Removal Permits):

**(1) Native trees.** A living, native tree with a six inch or greater stem diameter or 19 inches in circumference measured 4.5 feet above natural grade level.

**(2) Palm trees.**Three or more palm trees in linear plantings, which are 50 feet or greater in length within established windrows or parkway plantings, shall be considered to be heritage trees and shall be subject to the provisions of this Chapter regarding native trees.

**(c) Tree protection from insects and disease.** For regulations on the treatment and disposition of felled trees, see Section 88.01.090 (Tree Protection from Insects and Disease).

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.080 Riparian Plant Conservation

This Section provides regulations to promote healthy and abundant riparian habitats that protect watersheds; control transmission and storage of natural water supplies; provide unique wildlife habitats for rare, endangered and threatened plants and animals; provide attractive environments; control natural soil erosion and sedimentation to protect stream banks subject to erosion and undercutting; and provide sufficient shade to reduce temperature and evaporation and the growth of algae in streams. The provisions of this Section are intended to augment and coordinate with the responsibilities of the California Department of Fish and Game.

**(a) Applicability.**

**(1) Applicable areas.** The provisions of this Section shall apply to all riparian areas located on private land in all zones within the unincorporated areas of the County and to riparian areas on public land owned by the County, unless exempt as specified by Section 88.01.030 (Exempt Activities) and by Subsection (2) (Exemptions), below.

**(2) Exemptions.** The provisions of this Section shall not apply to:

(A) Emergency Flood Control District operations or water conservation measures established and authorized by an appropriate independent Special District.

(B) An area that has an existing man-made impervious structure, which is greater than 120 square feet in roof area, between the area proposed to be disturbed by a development permit and the bank of a subject stream, as measured in a straight line perpendicular to the centerline of the stream.

**(b) Regulated riparian plants.**

**(1) Vegetation described.** The removal of vegetation within 200 feet of the bank of a stream, or in an area indicated as a protected riparian area on an overlay map or Specific Plan, shall require approval of a Tree or Plant Removal Permit in compliance with Section 88.01.050 (Tree or Plant Removal Permits)shall be subject to environmental review.

**(2) Streams.** For the purposes of this Section, streams include those shown on United States Geological Survey Quadrangle topographic maps as perennial or intermittent, blue or brown lines (solid or dashed), and river wash areas.

**(c) Preconstruction inspections.** Preconstruction inspections shall include the verification of the presence of riparian vegetation.

**(d) Conditions of approval.** Conditions of approval for removal of riparian vegetation may be imposed in addition to, and in combination with, any condition imposed in compliance with Section 88.01.050 (Tree or Plant Removal Permits).

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

## 88.01.090 Tree Protection from Insects and Disease

This Section provides regulations for the treatment and disposition of felled trees in the Mountain Region to protect against damaging insects (e.g. bark beetles) and diseases. The intent is to mitigate the serious danger posed to forests from coniferous trees that are cut in land clearing operations and are then allowed to remain exposed and untreated against noxious insects, which then multiply in the felled trees to later attack and damage healthy coniferous trees.

**(a) Applicability.** The provisions in this Section apply to coniferous trees located on land in the Mountain Region. Every person, firm, or corporation, whether as principal, agent, or employee, that has control of, right of entry on, or access to land in the Mountain Region shall comply with this Section.

**(b) Treatment of felled trees.** Except as otherwise provided by this Section, felled coniferous trees, portions of trees, and stumps shall be treated in compliance with at least one, or a combination, of the following methods and the method in Subsection (c) (Stump treatment), below, within 15 days after a coniferous tree has been cut.

(1) Remove to a solid waste disposal site specifically designated by the County for this type of use.

(2) Burn sufficiently to consume the bark, when allowed by the Fire Department and the Air Pollution Control District.

(3) Lop and scatter material less than four inches in diameter so that it is piled no higher than 24 inches above the ground, when allowed by the Fire Department.

(4) Remove the bark

(5) Chip or grind.

(6) Split and scatter with bark toward the sun for a minimum of 45 consecutive days or until final inspection is completed, whichever is less.

(7) Stack in the sun and cover with six mil clear plastic, which has a continuous seal from the outside and for at least 180 days.

(8) Spray with a commercial insecticide, as approved by the Agricultural Commissioner for these insects and purposes.

(9) Treat under any other method approved by the enforcement officer in writing.

**(c) Stump treatment.** Fresh cut stumps of live coniferous trees shall be protected from infection by Annosus Root Rot *(Fomes annosus)* with borax powder (granular tech, 10 mole) as soon as possible after felling, covering the entire newly exposed cut and/or broken surface completely with a thin uniform layer of white borax within two hours.

**(d) Inspections.** In the case of construction activity, the Building Official shall not approve development permit inspections until felled coniferous trees, portions of trees, and stumps are treated in compliance with this Section.

**(e) Certificate of compliance.** Where trees have been treated by an approved method and the evidence of treatment is not readily observable to the inspector on the construction site, the Building Official shall require a permittee to obtain a certificate that the treatment has been completed in an acceptable manner. The certificate may be from one of the following authorities:

(1) Fire Chief.

(2) Agricultural Commissioner.

(3) Appropriately certified Pest Control Adviser as defined in Food and Agriculture Code Section 11401 et seq.

(4) Qualified Applicator as defined in Food and Agriculture Code Section 11401 et seq.

**(f) Extension of time of enforcement.** If compliance with Subsection (b) (Treatment of felled trees) and Subsection (c) (Stump treatment) within the specified time periods is impractical because of inaccessibility to the cut timber due to snow or flooding, an enforcement officer may extend the period of time for compliance.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

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