



July 19, 2023

DEVELOPMENT ADVISORY
Western Joshua Tree

On February 8, 2023, the California Fish and Game Commission (“Commission”) delayed a final determination on making the Western Joshua Tree (*Yucca brevifolia*) a Candidate Species for listing as a threatened or endangered species under the California Endangered Species Act (CESA). At the time, this delay was based upon the potential passage of the Western Joshua Tree Conservation Act by the State Legislature.

On July 10, 2023, the Governor of the State of California approved the Western Joshua Tree Conservation Act (“Act”) via the approval of Senate Bill No. 122 (2023). Although the Act became effective immediately on July 10, 2023, with specific provisions regarding the take of Western Joshua Trees as discussed herein, the subject species also remains a Candidate Species for listing as a threatened or endangered species under the California Endangered Species Act (CESA) until a final determination is made by the Commission.

At this time, the Western Joshua Tree is subject to the provisions of the Act and is protected from unauthorized take under CESA Section 2085, with any authorized take subject to approval by the California Department of Fish and Wildlife (CDFW) via a Section 2081 incidental take permit or in accordance with the provisions of the Act. The first available opportunity for the Commission to make a final determination on listing the Western Joshua Tree as a threatened or endangered species under CESA would be their scheduled meeting on August 22-23; however, no agenda is available for said meeting at this time.

Please refer to the City’s “Western Joshua Tree Conservation Act Fact Sheet” for additional information on the provisions of the Act, its requirements, and the applicability to projects within the City of Victorville.

Staff will continue to monitor this situation and any further action from from CDFW and/or the Commission for disbursement to the development community. Should you have any questions, please contact our Planning Division at 760-955-5135 or by email at planning@victorvilleca.gov.

A handwritten signature in blue ink that reads 'Jenele Davidson'.

Jenele Davidson
Deputy City Manager



City of Victorville

Department of Development

Planning ♦ Building ♦ Code Enforcement ♦ Business License

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WESTERN JOSHUA TREE CONSERVATION ACT FACT SHEET

July 19, 2023

On July 10, 2023, the Governor of the State of California approved the Western Joshua Tree Conservation Act via the approval of Senate Bill No. 122 (2023), which became effective immediately and includes specific provisions regarding the take of Western Joshua Trees. At this time, the Western Joshua Tree is also protected from unauthorized take under the California Endangered Species Act Section 2085, with any authorized take subject to approval by the California Department of Fish and Wildlife (CDFW) via a Section 2081 incidental take permit or in accordance with the provisions of the Western Joshua Tree Conservation Act discussed below. Any project utilizing the allowances provided by the Western Joshua Tree Conservation Act shall comply with the following requirements in order to receive authorization for take by the CDFW.

Projects Involving Take of Western Joshua Tree(s)

Data Requirements (CA Fish and Game § 1927.3(a)(1))

- Provide a census of all Western Joshua Trees on the project site, including size and photographs, that categorize the Western Joshua Trees according to the following size classes:
 - (A) Less than one meter in height; (B) One meter or greater but less than five meters in height; or (C) Five meters or greater in height.

Mitigation Requirements (CA Fish and Game § 1927.3(a)(2),(3), &(4))

- Avoid and minimize impacts to, and the taking of, the Western Joshua Tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to a Western Joshua Tree.
- Possible relocation requirements, with implementation measures to assist the survival of relocated trees such as specific orientation and timing.
- Mitigation of all impacts to, and taking of, the Western Joshua Tree that are roughly proportional in extent to the impact of the authorized taking of the species and are capable of successful implementation/funding to implement the mitigation measures. In lieu of completing the mitigation obligation on its own, a permittee may elect to satisfy this mitigation obligation by paying fees, pursuant to the fee schedule noted herein.

Fee's (CA Fish and Game § 1927.3)

- Developers of projects that are both (1) north of Palmdale Road and (2) west of Interstate 15, as well as projects that are north of D Street shall be subject to the following fee's in lieu of mitigating impacts to project on their own. (CA Fish and Game § 1927.3(d))
 - One thousand dollars (\$1,000) for each Western Joshua Tree five meters or greater in height.
 - Two hundred dollars (\$200) for each Western Joshua Tree one meter or greater but less than five meters in height.
 - One hundred fifty dollars (\$150) for each Western Joshua Tree less than one meter in height.

- Developers of projects that are either south of Palmdale Road, or east of Interstate 15 and south of D Street shall be subject to the following fee's in lieu of mitigating impacts to project on their own. (CA Fish and Game § 1927.3(e))
 - Two thousand five hundred dollars (\$2,500) for each Western Joshua Tree five meters or greater in height.
 - Five hundred dollars (\$500) for each Western Joshua Tree one meter or greater but less than five meters in height.
 - Three hundred forty dollars (\$340) for each Western Joshua Tree less than one meter in height.

**Projects Involving Trimming of Live Western Joshua Tree(s)
or the Trimming/Removal of Dead Western Joshua Tree(s)**
(Including detached fallen trees and limbs)

Data Requirements (CA Fish and Game § 1927.4(a)(3))

- Submit a permit request to CDFW on a form to be provided by CDFW that includes the following information:
 - The name, telephone number, mailing address, and email address of the property owner seeking the permit.
 - The street address of the property on which the Western Joshua Trees to be removed or trimmed are located. If no street address is available, the property owner shall include the assessor's parcel number.
 - Photographs of the Western Joshua Trees that visually depict the dead trees or the trees to be trimmed and that demonstrate that the Western Joshua Tree meets one or more of the requirements of paragraph (2).
 - A signed attestation from the property owner or signed certification by a desert native plant specialist that the tree meets the definition of a dead Western Joshua Tree.

Removal Requirements (CA Fish and Game § 1927.4)

- All removals and all trimming of Western Joshua Trees authorized by permits issued pursuant to this subdivision shall be completed by a desert native plant specialist, except:
 - Removal of a detached dead Western Joshua Tree or the detached limb of a Western Joshua Tree by a property owner or their agent. (CA Fish and Game § 1927.4(a)(1))
 - Dead Western Joshua Trees or limbs that meet one of the following requirements, as approved by CDFW. (CA Fish and Game § 1927.4(a)(2))
 - Have fallen over and are within 30 feet of a structure,
 - Are leaning against an existing structure, or
 - Create an imminent threat to public health or safety.

Fees (CA Fish and Game § 1927.4)

- Administrative fee to be determined by CDFW. (CA Fish and Game § 1927.4(a)(1))
- Fees may be waived by CDFW for the removal of dead Western Joshua Trees or the limbs to be removed if in association with one of the criteria noted below. (CA Fish and Game § 1927.4(a)(2))
 - Have fallen over and are within 30 feet of a structure,
 - Are leaning against an existing structure, or
 - Create an imminent threat to public health or safety.

The information provided herein is subject to submittal, review, and approval by the CDFW and is provided for information purposes only. Should anyone have questions and/or additional feedback to provide to staff, please contact the Planning Department at planning@victorvilleca.gov or 760-955-5135.