

Title 14**ENVIRONMENTAL MANAGEMENT****Chapters:****14.04 Joshua Tree and Native Desert Vegetation Preservation****14.05 Landscape Water Conservation****Chapter 14.04****JOSHUA TREE AND NATIVE DESERT
VEGETATION PRESERVATION****Sections:**

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14.04.010 Purpose and intent. It is determined by the City Council that appropriate action must be taken in order to protect and preserve desert vegetation, and particularly joshua trees, so as to retain the unique natural desert aesthetics in some areas of this city, and to promote the general welfare of the community. Although it may not be feasible, practicable, or in the public interest to preserve all healthy desert vegetation regulated under this chapter due to reasonable planning, developmental or property rights considerations, the design of development projects should strive to protect and maintain the most desirable and significant of the healthy desert vegetation in a manner consistent with the city general plan and the California Environmental Quality Act. (Ord. 952 §2 (part), 1992)

14.04.020 Title cite and applicability.

- A. This chapter shall be known and may be cited as the "Palmdale Native Desert Vegetation Ordinance."
- B. The provisions of this chapter shall apply to all public and private property within the city which contains joshua trees or other desert vegetation as defined by this chapter. (Ord. 952 §2 (part), 1992)

14.04.030 Definitions. For purposes of this chapter, certain words and phrases shall be defined as follows unless the context clearly requires otherwise:

- A. "Damage" means any action which may cause injury death or disfigurement to desert vegetation. This includes, but is not limited to, cutting, mutilating, harvesting, overwatering and excavating.
- B. "Desert native plant specialist" means any professional person whose combination of education and background in native desert vegetation is sufficient for he or she to be considered an expert in the field of native desert vegetation. The city's landscape architect will maintain a listing of qualified desert native plant specialists who shall be deemed authorized to carry out the duties set forth in this chapter.
- C. "Desert vegetation" means joshua trees and California juniper as defined by this chapter, and other living plants identified pursuant to the California Desert Native Plants Act (Food and Agricultural Code section 80001, et seq.) as protected or designated on any state or federal rare and endangered species list.
- D. "Development proposal" means an application for approval of a specific plan, a subdivision, conditional use permit, tentative tract map, parcel map or any other development permit or entitlement application which has been filed with and is pending for consideration by the City.
- E. "Growing season" means the period of time each year from March 1 through August 31.
- F. "Joshua tree" means a living tree of botanical name of *Yucca brevifolia*, including *Y. revifolia* var. *Herbertii*, and all other varieties and forms thereof.
- G. "California juniper" means a living tree of the botanical name of *Juniperus Californica*.
- H. "Maintenance" means all actions needed for the continued good health of joshua trees and other desert vegetation, including but not limited to, insect control, spraying, and removal of dead wood.

- I. "Native desert vegetation preserve" means a site accepted by the City containing stands of native desert vegetation that will be preserved in a natural condition for passive recreation uses.
- J. "Remove" means the physical removal of desert vegetation by grading or any other method likely to cause death of the vegetation.
- K. "Tree bank" means a site accepted by the City for management and maintenance that will be utilized for the temporary storage of native desert vegetation until permanent transplantation sites can be located. (Ord. 952 § (part), 1992)

14.04.040 Prohibition of removal.

- A. Desert vegetation shall not be removed, nor caused to be removed, on or from any parcel of land, except as provided by the provisions of this chapter.
- B. A native desert vegetation removal permit shall be obtained from the city's landscape architect, or in lieu thereof, the director of public works' designee, prior to the removal of any native desert vegetation as defined in this chapter. (Ord. 952 §2(part), 1992)

14.04.050 Desert vegetation preservation plan requirements. All development proposal applications for sites containing native desert vegetation shall include a desert vegetation preservation plan, submitted with the development application, containing the following:

- A. A written report and a site plan which depicts the location of each joshua tree and California juniper, discusses their age and health, identifies and locates all trees and shrubs which can be saved in place or relocated. The report shall be prepared by a desert native plant specialist.
- B. A site landscaping plan showing the proposed location of those joshua trees or California junipers, and any other native desert vegetation that will remain on-site.
- C. A long-term maintenance program for any desert vegetation preserved on the site. The minimum term of any maintenance program shall be two growing seasons, unless a shorter length of time is determined by the city's landscape architect, or in-lieu thereof, the director of public works' designee in cases where the trees retained on the site, are of such health and vigor after one growing season that their survival is assured.
- D. Such other and further information as the director of planning may deem necessary to fulfill the purposes and intent of this chapter in a particular case. (Ord. 952 §2(part), 1992)

14.04.060 Desert vegetation preservation criteria. All development proposals for land which contains desert vegetation shall be subject to the following provisions regarding the preservation of native desert vegetation both on-and off-site:

A. The minimum standard of preservation shall be:

1. Two joshua trees or California junipers per gross acre, averaged for the gross site area covered by the development application; or
2. Where soil conditions or conditions of the joshua trees or California juniper prohibit the preservation of two trees per acre, or where the total number of healthy trees per gross acre is not equal to two per acre, the minimum standard of preservation will be determined by a desert native plant specialist and confirmed by the city's landscape architect, or in-lieu thereof, the director of public works' designee, in accordance with the following criteria:
 - a. Soil characteristics of a proposed area for relocation of vegetation,
 - b. Health of the native desert vegetation, including damage to trunk or root system,
 - c. Size of the joshua tree and the location to where the tree will be transplanted,
 - d. A suitable top-root ratio;
3. Where possible, a minimum of two California juniper trees per gross acre shall be retained undisturbed on site. California junipers are valuable components of the native desert vegetation and it is desirable to retain specimens whenever possible. However, California junipers do not transplant well, are large plants which are difficult to incorporate into landscaping and are not readily available as nursery stock;
4. To enhance the likelihood of survival, native desert vegetation that can not be fenced and left undisturbed, will not be left in place while grading. The options for preserving trees on-site after grading are the following:
 - a. Move the vegetation slated to remain on-site to a holding area. After grading has been completed, move vegetation once again to a permanent location,
 - b. Remove vegetation per options in subdivision 2 of subsection B of this section. After grading, import new joshua trees to landscaped area,
 - c. Grade in Phases. Ready the area to receive vegetation first, then transplant and complete grading.

- B. The quantity of joshua trees or California junipers calculated under the minimum standard of preservation as determined above shall be preserved by any combination of the following means:
1. The development proposal shall be prepared in a manner which retains on-site those plants that can be incorporated into the design of the development. Development proposals should use native desert vegetation to landscape on-site detention basins, entry statement areas, and other open space sites whenever possible, where xeric landscaping is appropriate.
 - a. California junipers retained on-site shall be credited toward the two trees per gross acre or other minimum standard of preservation.
 - b. Other methods of preservation as shown in subsections (B) (2) (a)---(c) and (B) (3) shall not apply to California junipers:
 2. Of the total number of joshua trees required to be preserved under the two trees per acre required under subsection (A) (1) of Section 14.04.060 the joshua trees which are not preserved on-site shall be preserved by the following means, and shall count towards the required two trees per acre or other minimum standard of preservation:
 - a. The development proposal shall make available to the city for transplantation any joshua trees identified by the city's landscape architect, or in-lieu thereof, the director of public works' designee, as suitable for use in landscaping any city property or facility,
 - b. The development proposal shall include an offer to make available to other commercial, industrial or residential development projects, native desert vegetation that can be incorporated into another development proposal's landscaping,
 - c. The development proposal shall include an offer to make available native desert vegetation to the public for use as landscaping. The native desert vegetation taken from the site may be used for landscaping. Vegetation from the site shall remain available to the public for a minimum of thirty days after appropriate public notice as determined by the planning director.
 - i. The development proposal will provide for public notice of the availability of joshua trees or other desert vegetation or transplantation to other suitable property. The public notice shall be in a

- form prescribed by the director of planning and shall generally conform to the Government Code Sections 65090 and 65091, although direct mail notice shall not be required. The public notice shall provide at least a thirty-day period during which transplantation may occur,
- ii. The proponent of the development proposal may require reasonable security and/or indemnification before permitting persons to enter upon the property for transplantation,
 - iii. The proponent of the development proposal may not impose any fee or other charge upon persons entering upon the property for any purpose relating to the transplantation of native vegetation,
 - iv. The proponent of the development proposal shall use all reasonable efforts to encourage and permit transplantation to occur to the maximum possible extent,
- d. Any Joshua trees, which are required to be preserved and remain after the previous options have been pursued, may be transplanted to an off-site location, approved by the city's landscape architect or in-lieu thereof, the director of public works' designee, at the expense of the proponent of the development proposal. Identifying a suitable off-site location shall be the responsibility of the developer. The city shall provide areas for off-site tree banks. The city-administered tree banks that are identified will be made available for this use. This measure shall be viewed as an interim solution with the ultimate goal of relocating this native desert vegetation to permanent locations as can be found. Maintenance of vegetation transplanted to a city-administered tree bank is the responsibility of the city. The proponent of the development proposal shall be responsible for retaining a qualified consultant to provide initial water of trees after transplantation to a tree bank as required by the city landscape architect, or in-lieu thereof, the director of public works' designee, at the expense of the proponent of the development proposal;
3. Only after all other options are exhausted, proponent may pay an in-lieu fee to the city to fulfill their obligation of preservation of native desert vegetation. The fee will be used to provide partial funding for the maintenance and coordination of the native desert vegetation banks and preserves. The in-lieu fee

will be accepted only when preservation of joshua and/or juniper trees is not possible due to site constraints that preclude the feasible preservation of desert vegetation, and no alternative preservation options remain. When a proponent must pay an in-lieu fee, the fee shall be calculated on the minimum standard of two trees per acre, less any trees preserved by other means. The in-lieu fee amount shall be determined by resolution of the city council;

- a. Where California junipers are retained on-site, they shall be credited toward the minimum standard of two trees per acre. However, where they cannot be retained undisturbed on-site, no in-lieu fee is required;
4. Any native desert vegetation in excess of the minimum standard for preservation may be removed after the public has had the opportunity to transplant native desert vegetation per subdivision (B) (3) (i) of Section 14.04.060, and after the native desert vegetation removal permit has been approved by the city, or if applicable, after the payment of the in-lieu fee. (Ord. 952 §2(part), 1992)

14.04.070 Maintenance requirements. Upon completion of construction of the development proposal and after final inspection and acceptance by the city, the following standards relative to ongoing maintenance of native desert vegetation shall apply:

- A. Provisions shall be made assuring, at the expense of the proponent of the development, that the joshua trees and other desert vegetation preserved on-site, in landscape easements, or landscape assessment districts are maintained in a healthy condition for a minimum of two growing seasons.
- B. After one year, an inspection and evaluation of joshua trees and other desert vegetation retained on-site will be performed by a desert native plant expert, at the expense of the proponent of the development. Based upon this evaluation, if it is determined that any quantity of joshua trees or other desert vegetation have died, it will be the responsibility of the proponent to provide replacement desert vegetation as determined by the city landscape architect, or in lieu thereof, the director of public works' designee.
- C. The director of planning shall require posting of a bond or other appropriate security at the time of development proposal approval to assure maintenance of on-site trees, or trees in landscape easements or assessment districts, for a period of two years. If the project is otherwise required to have a bond posted for landscape maintenance requirements, this requirement shall be incorporated into the same bond. (Ord. 952 §2 (part) , 1992)

14.04.080 Native desert vegetation bank and preserve criteria.

Appropriate sites that can be acquired by the city through dedication, easement, or other appropriate means will be utilized as native desert vegetation banks and preserves.

- A. Native desert vegetation preserves will be established on those sites acquired by the city which already contain stands of native desert vegetation that is of sufficient vigor and health to demand preservation. The intent of these sites is long-term preservation of the natural biological systems without disturbance. Secondly, the sites shall be utilized for passive forms of recreation. The city shall administer the long-term maintenance of the sites.
- B. Tree banks shall be established on those sites acquired by the city which are suitable for the temporary storage of transplanted desert vegetation. The intent of these sites will be to serve as storage facilities for native desert vegetation stored off-site until permanent locations for transplantation can be determined. The city shall administer the maintenance of these sites.
 - 1. Proponents wishing to utilize these sites for storage of vegetation shall obtain the permission of the city landscape architect, or in lieu thereof, the director of public works' designee, prior to placing vegetation onsite.
 - 2. Access to the sites for placement or removal of trees or charges shall require permission of the city landscape architect, or in lieu thereof, the director of public works' designee.
 - 3. Placement, relocation, and removal of trees shall only be allowed by native plant specialists or their approved subcontractors.
 - 4. Any trees stored in a city tree bank shall be available to the public for use in private landscaping, according to the terms of this section. (Ord. 952 §2 (part), 1992)

14.04.090 Exceptions to provisions. The following activities are exempt from the provisions of this chapter:

- A. Development proposals upon which the city has taken final actions before the effective date of this chapter;
- B. Construction of one single-family home on a lot or parcel;
- C. Additions to existing single-family homes;
- D. Cases of emergency where the director of housing, or his or her designee, or any member of a law enforcement agency or the Los Angeles County fire protection district, in the performance of his or her duties, determines that desert vegetation poses an imminent threat to the public safety;
- E. Removal or relocation of native desert vegetation necessary to obtain adequate line-of-site distance as required by the city traffic engineer;

- F. Removal of street trees from within the public right-of-way, which in the opinion of the director of public works or his or her designee, will or may cause damage to public improvements;
- G. Action taken for the protection of existing electrical power or communication lines or other property of a public utility;
- H. Routine maintenance of a joshua tree or other vegetation intended to ensure its continued health;
- I. Joshua trees or other desert vegetation planted, grown and/or held for sale by a licensed nursery. (Ord. 952 §2(part), 1992)

14.04.100 Unlawful activities prohibited.

- A. Except as provided in this chapter, it is unlawful for any person to damage any desert vegetation as defined in this code.
- B. It is unlawful for any person to falsify any oral statement, paper or document issued to give permission for any person to remove desert vegetation or fail to comply with all conditions or stipulations of this chapter. (Ord 952 §2(part), 1992)

14.04.110 Violation - Penalty. Penalties for violations of this chapter shall be as specified in Chapter 1.12 of this code.

- A. In addition to other penalties imposed by this code, any person, company, organization, firm or corporation shall be required to replace any damaged, illegally cut, destroyed, killed, removed, mutilated or harvested joshua trees, California junipers, or other desert vegetation pursuant to the recommendation of an authorized desert native plant specialist, to be retained at the expense of the violator. Such specialist shall determine the appropriate number, size, species, location and make written recommendations regarding the replacement of said trees or other desert vegetation. Replacement shall be in sufficient quantities to revegetate the illegally disturbed area either on-site or off-site within six months of adjudication.
- B. Should the person, company, organization, firm or corporation who committed the violation fail to replace the damaged, cut, destroyed, killed, removed, mutilated or harvested joshua trees or other desert vegetation within six months after adjudication, the city may contract to have such plants replaced and the violator shall be charged the replacement costs. Said costs may be placed as a lien on real property. (Ord. 952 §2 (part), 1992)

14.04.120 Compliance with other laws and regulations. Nothing in the provisions of this chapter shall relieve nor be interpreted to exempt a proponent of a development proposal from complying with the requirements of the California Desert Native Plants Act, Food and

Agricultural Code Section 80001, et seq., and/or any applicable federal laws and regulations. Nor shall any provision of this chapter be construed so as to conflict, with, duplicate, or otherwise interfere with general law preemptive of local regulation. (952 §2 (part), 1992)