

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

388



**FROM:** TLMA/Building and Safety

**SUBMITTAL DATE:**  
7-26-05

**SUBJECT:** Amendment to Ordinance 457 relating to the Agricultural Grading and Clearing Registration exception to the grading permit requirements.

**RECOMMENDED MOTION:** Approval

**BACKGROUND:** Ordinance 457 allows for agricultural grading to be excepted from obtaining a grading permit under certain conditions. The determination of exception is made by the Building Official after reviewing a recommendation forwarded to him from the Agricultural Commissioner. Under the current ordinance if the request to agriculturally grade is denied the applicant has the right to appeal the Building Officials determination to the Grading Appeals Board as allowed under Section 2.A.2.

Over the past several years it is apparent that the agricultural grading exception has been used to grade and clear parcels for future development and not agriculturally use the property. The ordinance does not allow this type of activity but does allow the property owner to retroactively apply for an Agricultural Grading and Clearing Registration exception. Though these requests are usually denied by the Building Official the denial is often over ruled by the Grading Appeals Board due to very nonspecific language in the ordinance on what constitutes a commercial farming operation.

The proposed revisions provide further clarification on what constitutes a commercial farming operation and creates an appeals board that is more representative of the commercial farming community. It also addresses the need to obtain and implement an USDA approved erosion control plan and contains a penalty provision that allows for denial of land use approval for up to five years on any parcel of land that was graded without a permit in violation of Ordinance 457.

James J. Miller, Director of Building and Safety

Departmental Concurrence

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	0
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	0
	Annual Net County Cost:	\$ 0	For Fiscal Year:	0

<b>SOURCE OF FUNDS:</b>	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** **APPROVE**

**County Executive Office Signature**

- Dep't Recomm.:  Policy
- Per Exec. Ofc.:  Policy
- Consent
- Consent

**Prev. Agn. Ref.:** | **District:** | **Agenda Number:** **3.88**



1 Mechanical: Two Heating, Ventilating and Air Conditioning Contractors; one  
2 Mechanical engineer; one Architect; one Mechanical Equipment  
3 Supplier.

4 Plumbing: Two Plumbing Contractors; one Mechanical Engineer; one  
5 Architect; one Plumbing Supplier.

6 Electrical: Two Electrical Contractors; one Electrical Engineer; one Electrical  
7 Utility; one Electric Supplier.

8 Disabled: Two from the disabled community; two members experienced in  
9 construction; and one public member.

10  
11 **Agricultural: One from the Riverside County Farm Bureau Board of Directors;**  
12 **one Grading Contractor; one from the United States Department of**  
13 **Agriculture Natural Resources Conservation Service; one actively**  
14 **engaged in the specialty farming interest appealed (groves and**  
15 **vineyards; grain row crops; nurseries/turf, livestock, aquaculture);**  
16 **and one public member from the Supervisorial District in which**  
17 **the appealed registration is located.**

18  
19 Section 3. Section 2.A.4. of Ordinance No. 457 is amended to read as  
20 follows:

21  
22 4. Any person that is aggrieved by a decision of the building official relative to  
23 the application and interpretation of the technical codes **or any agricultural**  
24 **grading and clearing registration** may appeal to the Board of Appeal for the field  
25 in question by filing a written notice of appeal upon the form provided by the  
26 Department of Building and Safety within ~~ten (10)~~ **fifteen (15)** calendar days after the date  
27 of the decision. The effect of the order or determination appealed from is  
28 suspended until the termination of the hearing. This section does not afford any

1 person the right to appeal a decision of the building official, the basis for which, is  
2 something other than the technical codes including but not limited to a decision  
3 based on the California Environmental Quality Act, the County's General Plan,  
4 any other County ordinance, or any condition of approval of a land use permit.

5 Section 4. Section 2.A.5. of Ordinance No. 457 is amended to read as  
6 follows:  
7

8 5. The Board of Appeal shall fix the time and place of hearing the appeal which  
9 shall not be less than five nor more than ~~twenty (20)~~ **thirty (30)** calendar days after the date of  
10 filing of the appeal, and shall give written notice of the time and place of the  
11 hearing to the appellant and the building official. Witnesses may be sworn and  
12 examined and evidence produced by the interested parties who shall appear in  
13 person only. The Board shall keep a record of each appeal and the proceedings  
14 hereunder.  
15

16 Section 5. Section 2.A.6. of Ordinance No. 457 is amended to read as  
17 follows:  
18

19 6. The Board shall prepare written findings and conclusions within ~~five (5)~~ **fifteen (15)**  
20 calendar days after the close of the hearing and make its recommendations to the  
21 building official based upon such findings and conclusions. The affirmative vote  
22 of three or more members of the board shall constitute the recommendation of the  
23 Board. The failure to prepare findings shall constitute a recommendation  
24 approving the determination of the building official.

25 Section 6. The first paragraph of Section 4.J.2. of Ordinance No. 457 is  
26 amended to read as follows:  
27

28 Section 3306.1 Permits Required. No person shall conduct any grading or  
clearing of any kind without first obtaining a grading permit from the building

1 official except when the grading or clearing results in, is performed in connection  
2 with, or is for the following:

3 Section 7. Section 4.J.2.10. of Ordinance No. 457 is amended to read as  
4 follows:

5 10. The maintenance of existing private roads by private individuals or their  
6 agents, **including private roads used exclusively in connection with an agricultural**  
7 **use**, but not the construction or widening of such roads.

8 Section 8. Section 4.J.2.12. of Ordinance No. 457 is amended to read as  
9 follows:

10 12. Uses incidental to an existing residence such as fencing, gardening, ~~corralling~~, or  
11 landscaping, including but not limited to, the **mowing, cutting and** removal  
12 of dead underbrush, dead weeds, or dead grasses.

13 Section 9. Section 4.J.2.13. of Ordinance No. 457 is amended to read as  
14 follows:

15 **13. Agricultural discing on an operating farm.**

16 Section 10 Section 4.J.2.13 of Ordinance No. 457 is amended to read as  
17 follows:

18 ~~13.~~ **14.** The raising of crops or animals exclusively for **commercial** agricultural  
19 purposes where all excavated material remains on-site, but not including  
20 agricultural grading or clearing within the sand source areas identified in Exhibits  
21 B and C of the Third Amendment to the Coachella Valley Fringe-toed Lizard  
22 Habitat Conservation Plan and Implementing Agreement. **This section does not**  
23 **apply to clearing** or grading for buildings, structures or uses that require a  
24 building permit **or other land use approval.** ~~unless such grading such grading is excepted~~  
25 ~~under other provisions of this section.~~

1 This section automatically applies in any of the following three (3) cases:  
2

- 3 a. The agricultural grading or clearing described above occurs on land in the  
4 Coachella or Palo Verde Valleys located within Riverside County Census  
5 Tracts 452.01, 452.02, 453, 454, 455, 456.01, 456.02, 457.02, 458, 459, 460,  
6 461 and 462; or  
7  
8 b. The agricultural grading or clearing described above occurs on land that has  
9 been farmed within the preceding five (5) years **and is leased or owned by an**  
10 **operating farm; or**  
11  
12 c. The agricultural grading or clearing described above is conducted by an  
13 operating farm for the purpose of farming, the land graded or cleared is used  
14 **exclusively** to raise crops or animals within one (1) year of the grading or  
15 clearing, the land graded or cleared is not the subject of a development  
16 application that is being processed or has been approved for residential,  
17 commercial or industrial development, **and the land graded or cleared is**  
18 **contiguous to the operating farm.**

19 In all other cases, this exception shall apply only to **property zoned A-1, A-2, A-P,**  
20 **A-D, C-V, R-R and R-A pursuant to Ordinance No. 348 and** if each of the  
21 following is done in the order indicated **prior to the commencement of grading**  
22 **activities:**

23 (1) **The person or entity seeking to grade or clear first obtains an approved**  
24 **erosion control plan from the United States Department of Agriculture**  
25 **Natural Resources Conservation Service or licensed soils engineer.**

26  
27 (1) (2) **The person or entity seeking to grade or clear obtains an “Agricultural**  
28 **Grading and Clearing Registration Form” from the Office of the**

1 Agricultural Commissioner or the Department of Building and Safety.

2 ~~(2)~~ (3) The person or entity seeking to grade or clear ~~completes~~ files with the  
3 **Agricultural Commissioner the approved erosion control plan and a**  
4 **completed “Agricultural Grading and Clearing Registration Form.**

5  
6 ~~(3)~~ (4) The Agricultural Commissioner reviews **the approved erosion control**  
7 **Plan and “Agricultural Grading and Clearing Registration Form”** and  
8 based on the information contained therein and submitted therewith **makes**  
9 **a recommendation, that in the opinion of the Agricultural Commissioner,**  
10 **the proposed farming plan can feasibly be implemented for the raising of**  
11 **crops or animal exclusively for commercial farming purposes within two**  
12 **years. The Agricultural Commissioner shall within fifteen (15) working days**  
13 **forward this recommendation** recommends to the Department of Building and Safety  
14 ~~that the exception should apply~~ **for a determination as to whether the activities**  
15 **proposed qualify for an exception from the requirement to obtain a grading permit as**  
16 **set forth in Section 4.J.2.1. through 14 of this Ordinance.**

17  
18  
19 (4) (5) Within thirty (30) working days of the receipt of the recommendation  
20 **from the Agricultural Commissioner** described in Subsection (4) above,  
21 the Department of Building and Safety shall ~~either accept or reject~~ **review the**  
22 **“Agricultural Grading and Clearing Registration Form”** and any other available  
23 **information; shall make a determination as to whether the activities**  
24 **proposed qualify for an exception from the requirement to obtain a**  
25 **grading permit as set forth in Section 4.J.2.1 through 13 of this Ordinance;**  
26 **and shall notify the applicant by certified mail of the process for filing an**  
27 **appeal. the recommendation.**  
28

1  
2 If the farming to be performed is not consistent with the farming plan  
3 described in the "Agricultural Grading and Clearing Registration Form", a  
4 ~~new~~ **revised** farming plan shall be processed in accordance with Subsections  
5 **(1) through (4) (5) hereof above or a grading permit shall be required.**

6  
7 If the Agricultural Commissioner recommends that the **proposed farming**  
8 **plan does not qualify as commercial farming; exception should not apply** if the  
9 Department of Building and Safety ~~does not accept a favorable recommendation by the~~  
10 ~~Agricultural Commissioner~~ **determines that the proposed activities do not qualify**  
11 **for an exception under Section 4.J.2.1 through 14 of this Ordinance;** or if  
12 it is subsequently determined during the life of any exception actually  
13 obtained that the planned or actual grading or clearing is not for  
14 agricultural purposes, a grading permit shall be required.

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16  
17 **Any person or entity aggrieved by the decision of the Building Official to**  
18 **require a grading permit may file a written appeal of the decision with the**  
19 **Agricultural Appeals Board as set forth in Section 2.A. of this Ordinance.**

20  
21 Any agricultural grading or clearing exception obtained in accordance  
22 with Subsections (1) through ~~(4)~~ **(5)** above shall cease to be valid if the  
23 farming plan which served as the basis for the exception ~~is not fully implemented~~  
24 **has not shown substantial progress towards implementation** within two (2)  
25 years of the date the exception was determined to be applicable by the Department of  
26 Building and Safety **and/or if at anytime during the excepted agricultural**  
27 **grading, the approved erosion control plan is not being implemented. A**  
28

1 one (1) time one (1) year extension may be granted by the Building  
2 Official if the applicant can provide reasonable cause why the farming  
3 plan could not be implemented with the first two (2) years. A grading  
4 permit shall be required for farming plans not implemented within the  
5 time allowed unless an extension is approved pursuant to a revised  
6 farming plan.  
7

8 **Section 11.** Section 4.J.2. of Ordinance No. 457 and Chapter 33 of the  
9 California Building Code Appendix are amended to add a new Section 3306.3 as  
10 follows:

11 Section 3306.03. In addition to any other remedy provided by law, any  
12 grading or clearing done in violation of this Ordinance shall be grounds  
13 for denying for five years all applications for building permits, use  
14 permits, subdivisions, changes of zones, specific plans, specific plan  
15 amendments, general plan amendments, and any other land development  
16 application proposed for the property in which the violation occurred.  
17 Grading permits shall not be subject to the penalty established by this  
18 section. The five (5) year period shall commence from the date the  
19 violation is documented by the Department of Building and Safety through  
20 a notice of violation or any other means. The Board of Supervisors may  
21 waive this penalty for good cause as may be demonstrated by the property  
22 owner. The procedures, remedies and penalties for violation of Section  
23 4.J.2 of this Ordinance and for recovery of costs related to enforcement are  
24 provided for in Ordinance No. 725, which is incorporated herein by this  
25 reference.  
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1        Section 12.    Section 4.J.3. of Ordinance No. 457 is amended to add the  
2 following definitions:

3                    **COMMERCIAL: Occupied with or engaged in commerce or work**  
4                    **intended for commerce.**

5        Section 13.    The definition of clearing set forth in Section 4.J.3. of Ordinance  
6 No. 457 is amended as follows:

7                    CLEARING: The removal of natural vegetation by any means, including  
8                    but not limited to brushing, grubbing and/or discing.

9        Section 14.    The definition of farmed set forth in Section 4.J.3. of  
10 Ordinance No. 457 is amended as follows:

11                    FARMED: Has been subject to practices associated with the raising of crops and animals  
12 including but not limited to **discing**, plowing, seeding, cultivating, harvesting, pasturing and  
13 fallowing for the purpose of crop rotation.

14        Section 15.    The definition of farming set forth in Section 4.J.3. of Ordinance No. 457 is  
15 amended as follows:

16                    FARMING: The performance of practices associated with the raising of crops or animals  
17 including but not limited to **discing**, plowing, seeding cultivating, harvesting, pasturing and  
18 fallowing for the purpose of crop rotation.

19        Section 16.    The definition of operating farm set forth in Section 4.J.3. of Ordinance No. 457  
20 is amended as follows:

21                    OPERATING FARM: An agricultural operation that has for at least 3 consecutive years  
22 done each of the following:

- 23                    a) owned implements used to produce crops or animals or  
24                    executed agreements with contractors who have the necessary  
25                    implements; produced crops or animals for sale on any owned  
26  
27  
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