

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

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

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 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:
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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 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.
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16 Section 5. Section 2.A.6. of Ordinance No. 457 is amended to read as
17 follows:
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19 6. The Board shall prepare written findings and conclusions within 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:
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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.
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9 Section 8. Section 4.J.2.12. of Ordinance No. 457 is amended to read as
10 follows:

11 12. Uses incidental to an existing residence such as fencing, gardening, or
12 landscaping, including but not limited to, the mowing, cutting or and/or removal
13 of dead underbrush, dead weeds, or dead grasses.
14

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

17 13. Agricultural discing on an operating farm.

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

20 14. The raising of crops or animals exclusively for commercial agricultural
21 purposes where all excavated material remains on-site, but not including
22 agricultural grading or clearing within the sand source areas identified in Exhibits
23 B and C of the Third Amendment to the Coachella Valley Fringe-toed Lizard
24 Habitat Conservation Plan and Implementing Agreement. This section does not
25 apply to clearing or grading for buildings, structures or uses that require a
26 building permit or other land use approval.
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28 This section automatically applies in any of the following three (3) cases:

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

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

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

25 (2) The person or entity seeking to grade or clear obtains an "Agricultural
26 Grading and Clearing Registration Form" from the Office of the
27 Agricultural Commissioner or the Department of Building and Safety.
28

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

4 (4) The Agricultural Commissioner reviews the approved erosion control
5 Plan and "Agricultural Grading and Clearing Registration Form" and
6 based on the information contained therein and submitted therewith makes
7 a recommendation, that in the opinion of the Agricultural Commissioner,
8 the proposed farming plan can feasibly be implemented for the raising of
9 crops or animal exclusively for commercial farming purposes within two
10 years. The Agricultural Commissioner shall within fifteen (15) working days
11 forward this recommendation to the Department of Building and Safety
12 for a determination as to whether the activities proposed qualify for an
13 exception from the requirement to obtain a grading permit as set forth in
14 Section 4.J.2.1. through 14 of this Ordinance.
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16 (5) Within thirty (30) working days of the receipt of the recommendation
17 from the Agricultural Commissioner described in Subsection (4) above,
18 the Department of Building and Safety shall review the "Agricultural
19 Grading and Clearing Registration Form" and any other available
20 information; shall make a determination as to whether the activities
21 proposed qualify for an exception from the requirement to obtain a
22 grading permit as set forth in Section 4.J.2.1 through 14 of this Ordinance;
23 and shall notify the applicant by certified mail of the process for filing an
24 appeal.
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26 If the farming to be performed is not consistent with the farming plan
27 described in the "Agricultural Grading and Clearing Registration Form", a
28

1 revised farming plan shall be processed in accordance with Subsections
2 (1) through (5) above or a grading permit shall be required.
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4 If the Agricultural Commissioner recommends that the proposed farming
5 plan does not qualify as commercial farming; if the Department of
6 Building and Safety determines that the proposed activities do not qualify
7 for an exception under Section 4.J.2.1 through 14 of this Ordinance; or if
8 it is subsequently determined during the life of any exception actually
9 obtained that the planned or actual grading or clearing is not for
10 agricultural purposes, a grading permit shall be required. Any person or
11 entity aggrieved by the decision of the Building Official to require a grading
12 permit may file a written appeal of the decision with the Agricultural Appeals
13 Board as set forth in Section 2.A. of this Ordinance. Any agricultural grading
14 or clearing exception obtained in accordance with Subsections (1) through (5)
15 above shall cease to be valid if the farming plan which served as the basis
16 for the exception has not shown substantial progress towards implementation
17 within two (2) years of the date the exception was determined to be applicable
18 by the Department of Building and Safety and/or if at anytime during the
19 excepted agricultural grading, the approved erosion control plan is not being
20 implemented. A one (1) time one (1) year extension may be granted by the
21 Building Official if the applicant can provide reasonable cause why the
22 Farming plan could not be implemented with the first two (2) years. A grading
23 permit shall be required for farming plans not implemented within the
24 time allowed unless an extension is approved pursuant to a revised
25 farming plan.
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1 Section 11. Section 4.J.2. of Ordinance No. 457 and Chapter 33 of the
2 California Building Code Appendix are amended to add a new Section 3306.3 as
3 follows:

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

24 COMMERCIAL: Occupied with or engaged in commerce or work
25 intended for commerce.

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

28 CLEARING: The removal of natural vegetation by any means, including

1 but not limited to brushing, grubbing and/or discing.

2
3 Section 14. The definition of farmed set forth in Section 4.J.3. of
4 Ordinance No. 457 is amended as follows:

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

8 Section 15. The definition of farming set for the in Section 4.J.3. of Ordinance 457 is amended
9 as follows:

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

13 Section 16. The definition of operating farm set forth in Section 4.J.3. of Ordinance 457 is
14 amended as follows:

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

- 17
18 a) owned implements used to produce crops or animals or
19 executed agreements with contractors who have the necessary
20 implements; produced crops or animals for sale on any owned
21 or leased land within Riverside County whether contiguous or
22 non-contiguous;
23
24 b) derived reportable sales of the crops or animals produced; and
25
26 c) generally conformed to the Agricultural Commissioner's model
27 farming plan in the production process.
28

**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

FINANCIAL DATA

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

SOURCE OF FUNDS:

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

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

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the above ordinance is approved as introduced with waiver of the reading.

Ayes: Buster, Tavaglione, Stone and Ashley
 Nays: None
 Absent: Wilson
 Date: August 23, 2005
 xc: Bldg. & Safety, *JOB*

Nancy Romero
 Clerk of the Board
 By: *[Signature]*
 Deputy

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

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