

ORDINANCE NO. 1420

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PALM DESERT, CALIFORNIA UPDATING SECTIONS OF
TITLE 27 GRADING AND MAKING A FINDING OF
EXEMPTION UNDER CEQA.

THE CITY COUNCIL OF THE CITY OF PALM DESERT DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Amendment to Municipal Code. The City Council hereby adopts the updated sections of the Palm Desert Municipal Code Title 27 Grading, attached hereto as Attachment "A."

SECTION 2. CEQA Exemption. The City Council finds and determines that the proposed ordinance amendment qualifies for exemption from the California Environmental Quality Act (CEQA) for the "common sense" exemption under Section 15061(b)(3). The ordinance introduces procedures specifically designed to safeguard environmental interests without authorizing physical changes. There is no possibility of a significant environmental impact. The ordinance primarily addresses administrative processes and regulatory guidance, without permitting construction activities, physical alterations, or increases in development density. It refines regulatory compliance and oversight rather than promoting physical development. Importantly, no specific grading projects are approved under this ordinance; any such project would require a separate environmental review in compliance with CEQA. Thus, the ordinance is procedural in nature, reinforcing environmental protection and ensuring it bears no potential for significant environmental impact, supporting its qualification for the CEQA "common sense" exemption.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. Posting and Publication. The City Clerk of the City of Palm Desert, California, is hereby directed to publish a summary of this Ordinance in the *Desert Sun*, a newspaper of general circulation, published and circulated in the City of Palm Desert, California, and shall be in full force and effective thirty (30) days after its adoption.

ADOPTED ON _____, 2024.

KARINA QUINTANILLA
MAYOR

ATTEST:

ANTHONY J. MEJIA
CITY CLERK

I, Anthony J. Mejia, City Clerk of the City of Palm Desert, California, do hereby certify that Ordinance No. 1420 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Desert City Council on October 24, 2024, and adopted at a regular meeting of the City Council held on _____, 2024, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on _____.

ANTHONY J. MEJIA
CITY CLERK

ATTACHMENT “A”
GRADING ORDINANCE AMENDMENT

SECTION 1. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.015 Abut** is hereby added as follows:

27.08.015 Abut

“Abut” means two, or greater, adjoining parcels of property with a common property line. Properties separated by a public street right-of-way will not generally be considered adjoining.

SECTION 2. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.027 Building Pad** is hereby added as follows:

27.08.027 Building Pad

“Building pad” means the level padded yard area created through grading for a building site and other ancillary uses. Areas with slopes of five to one or flatter are considered level padded yard areas. Driveways providing access to the building pad are not included as part of the total permitted level pad area.

SECTION 3. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.130 Grade** is hereby repealed and replaced as follows:

27.08.130 Grade

“Grade” means the vertical location of the ground surface.

SECTION 4. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.132 Grade, Existing** is hereby added as follows:

27.08.132 Grade, Existing

“Grade, Existing” or “Existing Grade” means the ground surface prior to grading.

SECTION 5. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.134 Grade, Finished** is hereby added as follows:

27.08.134 Grade, Finished

“Grade, Finished” or “Finished Grade” means the final grade of the site which conforms to the approved plan.

SECTION 6. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.08.136 Grade, Natural** is hereby added as follows:

27.08.136 Grade, Natural

“Grade, natural” or “Natural grade” means the ground surface unaltered by artificial means.

SECTION 7. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.12.048 Finished Grade Transition Standard** is hereby added as follows:

27.12.048 Finished Grade Transition Standard

- A. Intent. The intent of this section is to establish design standards for sensitive transition of finished grade for new development which abuts existing residential development.
- B. Finished grade height restriction. Where a proposed development proposes to establish a finished grade which exceeds the elevation of the natural or existing grade of a site which abuts a residential development that is occupied at the time of application submittal, the maximum finished grade within one-hundred horizontal feet of the common property shall not exceed five-feet as established by a vertical measurement from the approved finished grade at the common property line with the abutting residential development, except in the following instances:
 1. Master Planned Communities. The existing residential development and proposed development were approved by the City at the same time in a master plan, precise plan, specific plan, tentative map, or other phased land use approval.
 2. Environmental and Hazard Mitigation. A higher finished grade elevation is necessary to in order to mitigate anticipated adverse environmental effects, and/or hazards to public health and safety, which cannot otherwise be mitigated by other means upon justification provided by the project applicant. An applicant shall take all necessary measures to minimize the finished grade and enhance the design of the transition area.
 3. Site Topography. Due to the presence of significant topography on a site including, but not limited to hillside slopes in excess of 10%, thereby making a lower finished pad elevation is not feasible.

SECTION 8. Amendment to Palm Desert Municipal Code. Palm Desert Municipal Code Section **27.28.155 Stockpiling and mining** is hereby repealed and replaced as follows:

27.28.155 Stockpiling.

A. Stockpiling of appropriate fill material will be allowed for a period no longer than six months with a six-month extension for a maximum of twelve months under the following conditions:

1. The applicant shall have an approved grading plan;
2. The applicant shall enter into an agreement with the City, upon forms approved by the City Attorney, and the applicant shall provide securities for potential site restoration in an amount to be determined by the City Engineer;
3. Should the city have a construction project which necessitates stockpiling, the stockpiled material shall be removed upon completion of the project.
4. All material stockpiled shall be maintained in such a manner as to not cause a public nuisance. The applicant shall agree to take any corrective action necessary to eliminate the public nuisance. In the event any required corrective action is not accomplished by the applicant, the city will use its forces or a contractor to accomplish the remedial action. The cost of such remedial action, including attorney's fees and costs, shall be the responsibility of the property owner.

B. Permits for stockpiling will be in the form of a standard city grading permit.