

ORDINANCE NO. 1402

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, AMENDING CHAPTER 8.55 OF THE PALM DESERT MUNICIPAL CODE REGARDING REGULATION OF THE DISCHARGE OF SEWAGE AND MAKING FINDINGS RELATED TO CEQA

WHEREAS, on June 19, 2012, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (“OWTS Policy”), to allow the continued use of onsite wastewater treatment systems (“OWTS”) while protecting water quality and public health, which became effective on May 13, 2013; and

WHEREAS, the OWTS Policy establishes low-risk siting and design requirements for OWTS and authorizes local agencies to submit a Local Agency Management Program (“LAMP”) to the Regional Water Quality Control Board for approval of alternate methods of siting and design to achieve the same purpose; and

WHEREAS, the County of Riverside, Department of Environmental Health (“County”) adopted its most recently approved LAMP in 2022, operates a program for the approval of the siting, design, operation, and maintenance of OWTS for individual residences and commercial properties, and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy; and

WHEREAS, the County and the City of Palm Desert (“City”) have entered into a Memorandum of Understanding (“MOU”), whereby the City designates the County as the permitting and inspecting agency for the implementation of the County's approved LAMP for the siting, design, operation, and maintenance of certain OWTS, within the City's incorporated area; and

WHEREAS, the City and the County agree that the requirements of the LAMP, the County's LAMP enforcement ordinance, and the County's adopted Plumbing Code will govern the applicable siting, design, operation, and maintenance of OWTS within the City; and

WHEREAS, the City Council desires to amend Palm Desert Municipal Code Chapter 8.55 “Regulation and Discharge of Sewer” to update terminology and the regulatory structure whereby the County and City will implement the standards contained in the OWTS Policy, consistent with the MOU; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM DESERT DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. Amendment to Municipal Code. Palm Desert Municipal Code Chapter 8.55 *Regulation of the Discharge of Sewage* is amended to read as follows:

“Chapter 8.55 REGULATION OF THE DISCHARGE OF SEWAGE

8.55.010 Sewage discharge—Alteration of plumbing facilities—Unlawful when.

8.55.020 Definitions.

8.55.030 General requirements for an approval.

8.55.040 Holding tanks.

8.55.050 Required connection to the public sewer.

8.55.060 Approval fees.

8.55.070 Enforcement.

8.55.080 Violation—Penalty.

8.55.090 Public nuisance declaration.

8.55.010 Sewage discharge—Alteration of plumbing facilities—Unlawful when.

A. It shall be unlawful for any person to discharge or deposit or cause or permit to be discharged or deposited any sewage, sewage effluent or nonhazardous waste whether treated or untreated in or upon any incorporated area within the city of Palm Desert, including any deposit or discharge of sewage into streams or bodies of water above or below the ground. When sewage, other than the discharge from an approved sewage treatment plant, is overflowing or being discharged upon the surface of any premises, the building official, director of code compliance, or director of environmental health may order the occupant or occupants thereof who contribute to such overflow or discharge to abate the same forthwith.

B. It shall be unlawful for any person to install or alter plumbing facilities or drainage systems for the discharge or deposit of any sewage, sewage effluent or nonhazardous waste from any dwelling, house or building or appurtenance thereof in or upon any incorporated area within the city of Palm Desert, or into streams or bodies of water above or below the surface where the same is, or may be carried through, or upon, any incorporated area within the city of Palm Desert, without first securing, in the manner provided by Riverside County Ordinance No. 640 and Local Agency Management Program, as reflected in this chapter, an approval from the director of environmental health of the county.

8.55.020 Definitions.

“Approval” means the written approval by the director of environmental health of a plan to reconstruct, rebuild, convert or alter any subsurface sewage disposal system which discharges or disposes of sewage, sewage effluent, or nonhazardous waste.

“Building official” means the director of building and safety as appointed by the city manager.

“Critical area” means those areas determined by the director of environmental health to be difficult for installation of an onsite wastewater treatment system due to, but not limited to, any of the following: lot size, static or intermittent groundwater, slope or poor soil conditions or impaired water basins.

“Department of environmental health” shall mean the Riverside County Department of Environmental Health.

“Director of code compliance” means the director of code compliance as appointed by the city manager.

“Director of environmental health” means the director of the Riverside County department of environmental health or the director’s designated representative.

“Holding tank” means a sewage facility, of a temporary nature only, that has no means of discharge, requires periodic maintenance and is under the control of the sewerage agency which serves the area.

“Person” means any person, firm, partnership, corporation, association, club or organization.

“Private sewage disposal system” means a septic tank with the effluent discharging into a subsurface disposal field, into one or more seepage pits or of such other facilities as may be permitted under the procedures set forth elsewhere in this code.

“Public sewer” means a common sewer directly controlled by the Coachella Valley water district.

“Sewage” or “sewage effluent” means waste as defined in California Health and Safety Code Section 5410(a) and includes all nonhazardous waste.

“Sewage facilities” means subsurface conventional onsite wastewater treatment systems, holding tanks, alternative treatment systems, experimental systems or other methods of disposing of sewage as approved by the director of environmental health.”

8.55.030 General requirements for an approval.

A. No person shall erect, construct, rebuild, convert or alter sewage facilities for the discharge or disposal of sewage, sewage effluent or nonhazardous waste, without having first obtained a written approval for such purpose from the director of environmental health in accordance with the County LAMP and ordinances.

B. An approval granted under the terms of this chapter shall remain valid for a period not to exceed one year from the date of issuance. An approval shall be deemed utilized upon issuance of a building permit and commencement of construction.

C. Actual construction of approved sewage facilities shall be performed under permit issued by the department of building and safety.

1. If it is impractical to connect a plumbing fixture affecting the sanitary drainage system with a street sewer, the sewage effluent or nonhazardous waste must be disposed according to the minimum standards of the most recent edition of the Uniform Plumbing Code and the sewage disposal requirements of the department of environmental health after the affected date of the ordinance codified in this chapter, as such requirements may be amended from time to time.

a. The type of sewage facilities installed shall be determined on the basis of location, soil porosity, site slope and groundwater level, and shall be designed to receive all sanitary sewage from the property. No surface drainage shall be permitted to enter any part of the system. The system, except as otherwise provided, shall consist of a septic tank with effluent discharging by gravity flow into a subsurface dispersal field, into one or more leach fields and seepage pits. Under special circumstances other disposal methods may be utilized with approval of the director of environmental health.

b. The location and installation of the sewage facilities and each part thereof shall be such that, with reasonable maintenance, the system will function in a sanitary manner and will not result in contamination, pollution or creation of a nuisance or endanger the safety of any domestic water supply.

c. Approval of subsurface sewage disposal systems in critical areas shall require detailed review and on-site inspections.

2. Any person desiring approval of sewage facilities shall submit an application in accordance with County requirements and on a form to be provided by the department of environmental health. Such application shall be accompanied by a fee as required in the resolution adopted pursuant to Section 8.55.060 of this chapter. The application shall contain the following information:

a. Name and address of applicant;

b. Location of the proposed installation or reconstruction;

c. A scaled, contoured plot plan drawn in a professional manner describing the proposed construction or alteration in sufficient detail to enable the director of environmental health to determine whether the proposed installation or alteration is in compliance with the provisions of Section 8.55.030 of this chapter;

d. Other information as deemed necessary by the director of environmental health to adequately determine the suitability of a site for the utilization of subsurface

sewage facilities. This information may include, but is not limited to, one or more of the following:

- i. A soils feasibility report which adequately evaluates soil percolation,
 - ii. A special feasibility boring report (groundwater and/or bedrock),
 - iii. An engineered topographical map.
3. Action on Application for Approval.
- a. Applicants shall be notified of incomplete or inaccurate applications. The applicant may make the proper corrections and resubmit the corrected application.
 - b. Except as to incomplete or inaccurate applications as hereinabove provided, all applications for approval shall be approved or denied, in whole or in part, within fifteen working days after the date of filing. If an application is denied, in whole or in part, the applicant may amend the application and resubmit the amended application.
4. Revocations of Approvals.
- a. An approval may be revoked by the director of environmental health for failure of the applicant to provide proper, complete and accurate information regarding site conditions for a proposed subsurface sewage disposal system.
 - b. An approval previously granted may be rescinded if soil conditions change significantly prior to construction that would affect the proper operation of a subsurface sewage disposal system.
 - c. An approval may be revoked for failure to maintain plumbing and sewage facilities (i.e. holding tanks, chemical toilets, etc.) in a sanitary manner.
5. Any person whose application for an approval has been denied, in whole or in part, or whose approval has been revoked may appeal this action to the director of environmental health, pursuant to the appeal procedure set forth in Riverside County Ordinance No. 650, as codified in Section 8.124.040 of the Riverside County Code of Ordinances.

8.55.040 Holding tanks.

A. A holding tank may be approved by the director of environmental health for a structure if the following conditions are met:

1. A holding tank may be approved for a period not to exceed two years from the date of approval. A "will serve" letter from the sewerage agency which serves the area shall be submitted which indicates the site can be provided sewer service within the two-year approval period. An extension of the two-year approval may be granted for cause. The final approval of the extension rests solely on the department of environmental health.

2. No wholesale or retail food facilities shall be approved for connection to a holding tank.

3. When a sewer line becomes available, destruction or removal of the holding tank in a manner approved by the department of environmental health is required within a period not to exceed sixty calendar days of sewer availability.

4. A holding tank may be approved as a replacement system for an existing single-family dwelling when sewer, a conventional onsite wastewater treatment system (OWTS) or alternative treatment system (ATS) is not feasible, if approved in writing by the director of environmental health.

5. No holding tank facility shall be placed in any portion of a public right-of-way without written approval from the responsible public agency.

B. A person proposing to use a holding tank shall submit an application to the department of environmental health with the applicable fee and the following:

1. A site plan indicating the proposed location of the holding tank and structure(s), floor plan and plumbing layout.

2. A pumping contract with a liquid waste hauler who is registered with the department of environmental health and a pumping schedule with a minimum frequency of once per week.

3. Details of a high-level alarm to notify the owner that the sewage in the tank has reached capacity.

8.55.050 Required connection to the public sewer.

A. As determined by the director of environmental health upon evidence of chronic failure of a private sewage disposal system, and the public sewer is available and is located within two hundred feet from any lot or building served by the failing private sewage disposal system, the property owner shall be ordered to connect to the public sewer within a period of time prescribed by the building official and the director of environmental health.

B. Failure of the property owner to comply with the order to connect to the public sewer shall be deemed a violation pursuant to Section 8.55.080 and a public nuisance per Section 8.55.090 of this chapter.

8.55.060 Approval fees.

A. Department of Environmental Health Fees. The fees required to obtain an approval from the director of environmental health under the provisions of this chapter shall be approved by the board of supervisors and shall be in such amounts as are based upon a cost analysis determined by the Riverside County auditor-controller.

B. Permit Fees. The fees required for the issuance of a building permit by the department of building and safety shall be the most recently adopted fee schedule set forth by resolution of the city council.

8.55.070 Enforcement.

It shall be the duty of the building official and director of code compliance or their agents to enforce the provisions of this chapter.

8.55.080 Violation—Penalty.

A. Any person violating any provision of this chapter shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.

B. Any person convicted of a violation of this chapter shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars for a second violation on the same site. The third and any additional violations on the same site shall be punishable by a fine not exceeding one thousand dollars or six months in jail, or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve any person from the responsibility for correcting the violation.

8.55.090 Public nuisance declaration.

In addition, any violation of this chapter is declared to be a public nuisance and may be abated by the building official or director of code compliance or director of environmental health or their duly authorized agents irrespective of any other remedy provided in this chapter.”

SECTION 3. Severability. If any section, subsection, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, unconstitutional, or unenforceable by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of the Ordinance. The City Council declares that it would have passed each section, subsection, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase would be declared invalid, unconstitutional or unenforceable.

SECTION 4. CEQA. The City Council hereby finds and determines that this Ordinance is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that the Ordinance would not have the potential or possibility for causing a significant effect on the environment. Specifically, the proposed changes to the Municipal Code are primarily technical and administrative in nature. The Ordinance would update terminology and clarify the roles of the City and County in regulating and managing onsite wastewater treatment systems (OWTS) pursuant to their most recent MOU. No construction is proposed and the amendments do not constitute

any project approvals. In reviewing the Ordinance, the City Council has exercised its independent judgment and has reviewed and considered the Ordinance in light of all testimony received, both oral and written. Therefore, based upon the entire administrative record, the City Council hereby determines that no further environmental review is required for the Ordinance.

SECTION 5. Publication. The City Clerk of the City of Palm Desert, California, is hereby directed to publish 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 _____

KATHLEEN KELLY
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. 1402 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Desert City Council on October 26, 2023, and adopted at a regular meeting of the City Council held on _____, 20____, 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