

ORDINANCE NO. 525

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CATHEDRAL CITY TO ESTABLISH MINIMUM REQUIREMENTS FOR
CONSTRUCTION AND DEMOLITION ACTIVITIES AND OTHER
SPECIFIED SOURCES IN ORDER TO REDUCE MAN-MADE FUGITIVE
DUST AND THE CORRESPONDING PM10 EMISSIONS**

WHEREAS, air pollution remains a significant public health concern in many parts of California, and specifically in the Coachella Valley; and

WHEREAS, the Coachella Valley consists of the following local jurisdictions:

County of Riverside, Cathedral City, City of Coachella, City of Desert Hot Springs, City of Indian Wells, City of Indio, City of La Quinta, City of Palm Desert, City of Palm Springs, and City of Rancho Mirage; and

WHEREAS, each of these jurisdictions are members of the Coachella Valley Association of Governments (CVAG); and

WHEREAS, the Cities that comprise CVAG have local authority for controlling dust emissions from construction activities, disturbed vacant lands, unpaved roads and parking lots, and paved road dust; and

WHEREAS, by prior agreement, these Cities have lead responsibility for enforcing both local ordinances and approved Fugitive Dust Control Plans; and

WHEREAS, the transport of fugitive dust, as a result of man-made activities, is an ongoing challenge to promoting economic growth and meeting federal standards for airborne fugitive dust (PM10) in the Coachella Valley; and

WHEREAS, the health impacts and public nuisance potential of uncontrolled dust are a recognized concern of everyone who works or lives in this environment; and

WHEREAS, PM10 levels in the Coachella Valley exceeded the federal standard in 1999 after six (6) years of compliance; and

WHEREAS, to reduce these levels and regain attainment status, the City of Cathedral City, along with the each CVAG city, has worked with the South Coast Air Quality Management District to develop measures for adoption to

reduce fugitive dust emissions

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

SECTION 2. DEFINITIONS

For the purpose of this ordinance, the following definitions are applicable:

- 1 **AGRICULTURAL OPERATIONS** are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.
- 2 **AQMD** is the South Coast Air Quality Management District and the representatives thereof.
- 3 **AVERAGE DAILY TRAFFIC (ADT)** is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City in consultation with the AQMD.
- 4 **BULK MATERIAL** is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.
5. **CHEMICAL DUST SUPPRESSANTS** are non-toxic chemical soil binders that are not prohibited for use by the City, the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

6. **COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM)** are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.
7. **COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK** is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.
8. **CONSTRUCTION ACTIVITIES** are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.
9. **DEMOLITION ACTIVITIES** are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.
10. **DISTURBED SURFACE AREA** is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.
11. **EARTH-MOVING OPERATIONS** are the use of any equipment for an activity where soil is being moved or uncovered.
12. **FINISH GRADE** is the final grade of the site that conforms to the approved grading plan.
13. **FUGITIVE DUST** is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a

result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of ten (10) microns or less.

14. FUGITIVE DUST CONTROL PLAN is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.
15. HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:
 - A. The closest AQMD monitoring station, or
 - B. A certified meteorological monitoring station, or
 - C. An on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
16. OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
17. PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
18. PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.
19. SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by

American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.

20. SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
21. STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.
22. STORAGE PILE is any accumulation of bulk material with a height of three (3) feet or more and a total surface area of 300 or more square feet.
23. UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
24. UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).

TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

SECTION 3. PERFORMANCE STANDARDS AND TEST METHODS

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

SECTION 4. CONTROL REQUIREMENTS

Work Practices – All Fugitive Dust Sources

- 4.1.1 No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.

- 4.1.2 Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one (1) acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.
- 4.1.3 No person subject to the requirements contained in Section 4.1.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

4.2. Construction and Demolition Activities

- 4.2.1 Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.
- 4.2.2 A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.

Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition / Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.

Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:

- A. Maintaining soils in a damp condition as determined by sight or touch; or
- B. Establishment of a stabilized surface through watering; or

- C Application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.

4.2.5 Within ten (10) days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:

- A. Re-vegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
- B. Establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
- C. Use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.

4.2.6 Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:

- A. Within one (1) hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
- B. At the conclusion of each workday.

4.2.7 Any operator of a project with a disturbed surface area of five (5) or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- A. Pad consisting of minimum one (1) inch washed gravel maintained in a clean condition to a depth of at least six (6)

inches and extending at least 30 feet wide and at least 50 feet long; or

- B. Paved surface extending at least 100 feet and at least 20 feet wide; or
- C. Wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three (3) inches tall and at least six (6) inches apart and 20 feet long; or
- D. A wheel washing system.

Any operator required to submit a Fugitive Dust Control Plan under Section 4.2.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.

Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:

- A. Is hired by the property owner or developer; and
- B. Has dust control as the sole or primary responsibility; and
- C. Has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
- D. Is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven (7) days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

- 4.2.10 No operator required to submit a Fugitive Dust Control Plan under Section 4.2.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.
- 4.2.11 Exceedance of the visible emissions prohibition in Section 4.2.10 occurring due to a high-wind episode shall constitute a violation of Section 4.2.10, unless the operator demonstrates to City all the following conditions:
- A All Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
 - B The exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
 - C Appropriate record keeping was complied and retained in accordance with the requirements in Section 4.2.12 through 4.2.15; and
 - D Documentation of the high-wind episode on the day(s) in question is provided by appropriate records.
- 4.2.12 The operator of a project with ten (10) acres or more of earth-moving operations shall:
- A Forward two (2) copies (8 ½ x 11 inch) of a Site-Specific, Stand Alone Fugitive Dust Control Plan to the AQMD within ten (10) days after approval by the City. (Note: A separate AQMD approval will not be issued); and
 - B Notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.
- 4.2.13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three (3) years, daily

self-inspection record keeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.

- 4.2.14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three (3) years.
- 4.2.15 Any operator subject to the provisions of Section 4.2.12 shall notify the City and the AQMD within ten (10) days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

4.3 Disturbed Vacant Lands / Weed Abatement Activities

Owners of property with a disturbed surface area greater than 5,000 square feet shall within thirty (30) days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

In the event that implementation of Section 4.3.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:

- A. Uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
- B. Begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if

necessary, such that a stabilized surface is formed within eight (8) months of the initial application.

4.3.3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:

- A Apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
- B Ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

No person subject to the provisions of Sections 4.3.1 through 4.3.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either

- A. Maintain a stabilized surface; or
- B. Maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.

4.3.6 Any person subject to the provisions of Sections 4.3.1 through 4.3.3 shall compile, and retain for a period of not less than three (3) years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

4.4. Unpaved Roads

- 4.4.1** Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.
- 4.4.2** Owners of a cumulative distance of six (6) or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 4.4.4 in accordance with the following treatment schedule:
- A.** One-third (1/3) of qualifying unpaved road segments within one (1) year of ordinance adoption; and
 - B.** Remainder of qualifying unpaved road segments within three (3) years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
- 4.4.3** Owners of a cumulative distance of more than six (6) miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
- A** At least two (2) miles paved or four (4) miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 4.4.4 within one (1) year of the ordinance adoption; and
 - B** At least two (2) miles paved or four (4) miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 4.4.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been

stabilized. (Note: treatments in excess of annual requirements can apply to future years).

4.4.4 Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

- A. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
- B. Not allow the silt content to exceed six (6) percent.

4.4.5 Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.

4.4.6 Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three (3) years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

4.5 Unpaved Parking Lots

4.5.1 Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4.

4.5.2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

- A. Pave; or

- B. Apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4;
- C. Apply and maintain washed gravel in accordance with the performance standards included in Section 4.5.4.

4.5.3 Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 4.3 during non-parking periods.

The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

- A. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
- B. Not allow the silt content to exceed eight (8) percent.

Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.

Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three (3) years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

4.6 Public or Private Paved Roads

4.6.1 Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- A. Curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 4.4.4. with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- B Paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 4.4.4.

4.6.2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

SECTION 5.

5.1 ADMINISTRATIVE REQUIREMENTS

- 5.1.1 Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

- 5.1.2 At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 5.1.3 All reporting / record keeping required by Section 4.2 shall be provided to the City and AQMD representatives immediately upon request.
- 5.1.4 All reporting / record keeping required by Section 4.3 through Section 4.6 shall be provided to the City and AQMD representatives within 24-hours of a written request.

SECTION 6.**6.1 EXEMPTIONS**

The provisions of this ordinance shall not apply to

- A. Agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
- B. Any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either Federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
- C. Any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.

6.1.2 The provisions of Section 4.2.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

- A. The activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
- B. Activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

The provisions of Section 4.2.8 shall not apply to:

- A. Projects that takes two (2) weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 4.3 are implemented; and
- B. Line projects (i.e. pipelines, cable access lines, etc.).

SECTION 7.**7.1 COMPLIANCE**

7.1.1 A person violating any section of this ordinance or with any portion of an approved Dust Control Plan is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation and a fine not exceeding four hundred dollars (\$400.00) for a second violation within one (1) year. A third violation, or more, within one (1) year shall each be prosecuted at a level consistent with a misdemeanor violation.

7.1.2 In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one (1) hour of issuance will allow the City to initiate one or more of the following actions where appropriate:

- A Criminal proceedings
- B Civil proceedings to obtain an injunction; or any other relief against the owner or operator to stop operations at the site.
- C Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.
- D Correction of the condition by the City through the use of any securities held under this ordinance.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect 30 days following passage by the City Council and shall supersede any conflicting provision of any Cathedral City ordinance.

SECTION 9. POSTING

The City Clerk shall, within 15 days after the passage of this Ordinance, cause it to be published in at least three (3) public places designated by resolution of the City Council; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

SECTION 10. CERTIFICATION

The foregoing Ordinance was **PASSED, APPROVED, and ADOPTED** at a regular meeting of the City Council for the City of Cathedral City held on this 14th day of January, 2004 by the following vote:


Ayes: Council members Deisee, England, and David
Mayor Proteinakis; and Mayor Stettler

Noes: none

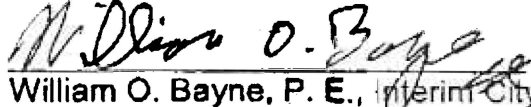
Absent: none

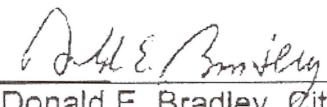
Abstain none


George Stettler, Mayor
City of Cathedral City, California

ATTEST:

Pat Hammers, City Clerk

APPROVED AS TO FORM:
Col Green

APPROVED AS TO CONTENT:

William O. Bayne, P. E., Interim City Engineer

REVIEWED:

Donald E. Bradley, City Manager

ORDINANCE NO. 896

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, REPEALING ARTICLE X OF CHAPTER 10 OF THE CITY OF COACHELLA MUNICIPAL CODE AND ADDING ARTICLE X TO CHAPTER 10 TO THE COACHELLA MUNICIPAL CODE TO ADOPT, IMPLEMENT, AND ENFORCE FUGITIVE DUST CONTROL MEASURES IN THE CITY OF COACHELLA

The City Council of the City of Coachella does hereby ordain as follows

Section 1. Repeal Article X, Chapter 10 of the Coachella Municipal Code.

Section 2. Add Article X to Chapter 10 of the Coachella Municipal Code to read as follows:

**ARTICLE X
FUGITIVE DUST CONTROL ORDINANCE**

Section 10-131 Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

Section 10-132 Definitions

For the purpose of this ordinance, the following definitions are applicable:

- 1 AGRICULTURAL OPERATIONS are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, REPEALING ARTICLE X OF CHAPTER 10 OF THE CITY OF COACHELLA MUNICIPAL CODE AND ADDING ARTICLE X TO CHAPTER 10 TO THE COACHELLA MUNICIPAL CODE TO ADOPT, IMPLEMENT, AND ENFORCE FUGITIVE DUST CONTROL MEASURES IN THE CITY OF COACHELLA

- 2 AQMD is the South Coast Air Quality Management District and the representatives thereof.
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- 4 BULK MATERIAL is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.
- 5 CHEMICAL DUST SUPPRESSANTS are non-toxic chemical soil binders that are not prohibited for use by the City (County), the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.
- 6 COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.
- 7 COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.
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- 9 DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.
- 10 DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.

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- 12 FINISH GRADE is the final grade of the site that conforms to the approved grading plan.
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 - B. a certified meteorological monitoring station, or
 - C. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
- 16 OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
- 17 PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 18 PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.
- 19 SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.
- 20 SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
- 21 STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.

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- 22 STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.
- 23 UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 24 UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).
- 25 TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

Section 10-133 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

Section 10-134 Control Requirements

10-134.1. Work Practices – All Fugitive Dust Sources

- No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.
- 2 Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

- 3 No person subject to the requirements contained in Section 10-134.1.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

10-134.2 Construction and Demolition Activities

Any operator applying for a grading permit or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to

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the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City (County).

- 2 Any operator applying for a grading permit, or building permit shall provide a \$2,000.00 cash deposit and a bond, a cash Certificate of Deposit, or an equivalent from approved by the City, in an amount equal to at least two thousand dollars (\$2,000.00) per acre. Such funds shall be in an amount sufficient to completely stabilize all disturbed areas in the event that the Operator fails to adequately control dust, or abandons the site in order to initiate stabilization measures without a significant delay.
- 3 A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City (County) and AQMD upon request.
- 4 Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.
- 5 Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:
 - A. maintaining soils in a damp condition as determined by sight or touch; or
 - B. establishment of a stabilized surface through watering; or
 - C. application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.
- 5 Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:
 - A. revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
 - B. establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
 - C. use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.
- 6 Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:
 - A. within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
 - B. at the conclusion of each workday.

Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material

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per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- A. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
- B. paved surface extending at least 100 feet and at least 20 feet wide; or
- C. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
- D. a wheel washing system.

- 8 Any operator required to submit a Fugitive Dust Control Plan under Section 10-134.2.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.
- 9 Any operator of a project with a disturbed surface area of 50 or more acres shall have an on-site Environmental Observer that:
- A. is hired by the property owner or developer; and
 - B. has dust control as the sole or primary responsibility; and
 - C. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - D. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

- 10 No operator required to submit a Fugitive Dust Control Plan under Section 10-134.2.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.
- Exceedance of the visible emissions prohibition in Section 10-134.2.10 occurring due to a high-wind episode shall constitute a violation of Section 10-134.2.10, unless the operator demonstrates to City (County) all the following conditions:
- A. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and

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- B. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
- C. appropriate recordkeeping was complied and retained in accordance with the requirements in Section 10-134.2.12 through 10-134.2.15; and
- D. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping

Before Construction

- 2 The operator of a project with ten acres or more of earth-moving operations shall:
 - A. forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City (County). [Note: A separate AQMD approval will not be issued]; and
 - B. notify the City (County) and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- 3 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- 14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- 5 Any operator subject to the provisions of Section 10-134.2.12 shall notify the City (County) and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

10-134.3 Disturbed Vacant Lands / Weed Abatement Activities

Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City (County) prevent trespass through physical access restriction as permitted by the City (County).

- 2 In the event that implementation of Section 10-134.3.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at

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least one of the following long term stabilization techniques within an additional 15 days, unless the City (County) has determined that the land has been restabilized:

- A. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
 - B. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.
- 3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:
- A. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
 - B. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

- 4 No person subject to the provisions of Sections 10-134.3.1 through 10-134.3.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:
- A. maintain a stabilized surface; or
 - B. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City (County) of the location of such lands and provide owner contact information.
- 6 Any person subject to the provisions of Sections 10-134.3.1 through 10-134.3.3 shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

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10-134.4.Unpaved Roads

- 1 Owners of public or private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.
- 2 Owners of a cumulative distance of six or less miles of public or private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 10-134.4.4 in accordance with the following treatment schedule:
 - A. one-third of qualifying unpaved road segments within one year of ordinance adoption; and
 - B. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
- 3 Owners of a cumulative distance of more than six miles of public or private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
 - A. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 10-134.4.4 within one year of the ordinance adoption; and
 - B. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 10-134.4.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

- 4 Owners of any public or private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

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- 5 Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City (County) and the AQMD the location and ADT estimates for all unpaved roads.
- 6 Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

10-134.5.Unpaved Parking Lots

Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 10-134.5.4.

- 2 Owners of existing public or private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:
 - A. pave; or
 - B. apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 10-134.5.4;
 - C. apply and maintain washed gravel in accordance with the performance standards included in Section 10-134.5.4.
- 3 Owners of public or private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 10-134.5.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 10-134.3 during non-parking periods.

Performance Standards and Test Methods

- 4 The operator of any public or private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

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- 5 Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City (County) and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
- 6 Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

10-134.6 Public or Private Paved Roads

Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- A. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 10-134.4.4 with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- B. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 10-134.4.4.
- 2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City (County) or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

Section 10-135 Administrative Requirements

Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

- 2 At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 3 All reporting / recordkeeping required by Section 10-134.2 shall be provided to the City (County) and AQMD representatives immediately upon request.

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- 4 All reporting / recordkeeping required by Section 10-134.3 through Section 10-134.6 shall be provided to the City (County) and AQMD representatives within 24-hours of a written request.

Section 10-136 Exemptions

The provisions of this ordinance shall not apply to:

- A. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
 - B. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
 - C. any action required or authorized to implement emergency operations that are officially declared by the City (County) to ensure the public health and safety.
- 2 The provisions of Section 10-134.2.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:
 - A. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
 - B. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

The provisions of Section 10-134.2.8 shall not apply to:

- A. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 10-134.3 are implemented; and
- B. line projects (i.e., pipelines, cable access lines, etc.).

Section 10-137 Compliance

Violation of, or failure to comply with any provisions of an approved Fugitive Dust Control Plan shall be a violation of this ordinance.

- 2 Any person who violates any provision of this ordinance shall be guilty of a infraction and subject to the penalties defined in section 1-8 of the Coachella Municipal Code.

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Section 10-138 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and application of such provision(s) to other persons or circumstances shall not be affected.

Section 10-139 Savings clause

Neither the adoption of this article nor the repeal of any other ordinance in which violations were committed prior to the effective date hereof, shall be construed a waiver of any license or penalty or the penal provisions application to any violation thereof. The provisions of the ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City of Coachella relating to the same subject matter, shall not be construed as a new enactment unless substantial revisions or provisions are required by this article.

Section 10-140 Effective Date

This Ordinance shall take effect thirty (30) days after its second reading by the City Council.

Section 10-141 Certification

The City Clerk shall certify to the adoption of this Ordinance and shall cause it to published and circulated in the City of Coachella.

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PASSED AND APPROVED at a regular meeting of the City Council of the City of Coachella on October 08, 2003 by the following vote:

AYES: Councilwoman Contreras, Mayor Pro-Tem Macknicki, Councilman Villarreal, Mayor De Lara.


NOES: None.

ABSENT: Councilman Ramirez

ABSTAIN: None.


Juan M. De Lara, Mayor

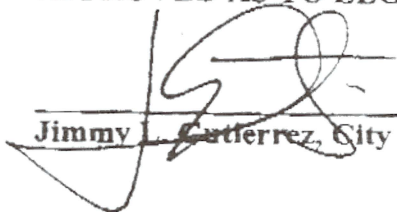
ATTEST:


Isabel Castillon, City Clerk

I hereby certify that the foregoing is a true and correct copy of an ordinance, being Ordinance No. 896 duly passed and adopted at a meeting of the City Council of the City of Coachella, California held on October 08, 2003


Isabel Castillon, City Clerk

APPROVED AS TO LEGAL FORM:


Jimmy L. Gutierrez, City Attorney

ORDINANCE NO. 2003-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS APPROVING REVISED REGULATIONS CONCERNING THE CONTROL OF FUGITIVE DUST (PM10) FROM MAN-MADE AND OTHER SPECIFIED SOURCES, REPLACING THE EXISTING REGULATIONS WITHIN TITLE XV OF THE DESERT HOT SPRINGS MUNICIPAL CODE.

The City Council of the City of Desert Hot Springs, California, does hereby find and ordain as follows:

SECTION 1. Findings

WHEREAS, the City Council of the City of Desert Hot Springs recognizes that the Coachella Valley has been classified as a "serious" non-attainment area with regard to Federal ambient air quality standards for the containment of fugitive dust (PM10), both locally and regionally. Furthermore, the City Council recognizes that community air quality is one of the most essential issues associated with public health and safety, which in turn is essential to the continued economic well-being of the City and to the needs of society.

WHEREAS, the purposes and intent of this chapter is to ensure the continued control of fugitive dust (PM10), which is mainly generated from man-made development activities and other specified sources, in compliance with the California Clean Air Act of 1988, as amended, hereinafter referred to as "CCAA," and Federal Clean Air Act, hereinafter referred to as "CAA," so that new development may occur without impacting existing land uses as noted in the City's adopted General Plan. This chapter includes updated and revised provisions for the continued control of fugitive dust (PM10) in line with the goal and policies of the Air Quality Element of the General Plan.

WHEREAS, circumstances have changed in the Coachella Valley since the City's adoption of the original fugitive dust (PM10) regulations in May 1993, causing the air-quality status to fall a level of non-attainment. Through the cooperative efforts of the Coachella Valley Association of Governments (CVAG) and the South Coast Air Quality Management District (SCAQMD) the revised regulations represent the best endeavor to achieve attainment for both the CAA and the CCAA.

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

SECTION 2. The City Council of the City of Desert Hot Springs finds that the above recitals are true and correct.

SECTION 3. Title XV, Chapter 150.115 through 150.120 of the Desert Hot Springs Municipal Code is hereby deleted.

SECTION 4. Title XV of the Desert Hot Springs Municipal Code is hereby amended to add a revised chapter on Control of Fugitive Dust (PM10) Emissions, from 150.115 through 150.121 to read in its entirety as follows:

Control of Fugitive Dust (PM10) Emissions

Sections:

150.115	Purpose and Intent
150.116	Definitions
150.117	Performance Standards and Test Methods
150.118	Control Requirements
150.119	Administrative Requirements
150.120	Exemptions
150.121	Compliance and Penalties

Section 150.115 Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

Section 150.116 Definitions

For the purpose of this ordinance, the following definitions are applicable:

(A) **AGRICULTURAL OPERATIONS** are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.

(B) **AQMD** is the South Coast Air Quality Management District and the representatives thereof.

(C) **AVERAGE DAILY TRAFFIC (ADT)** is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City (County) in consultation with the AQMD.

(D) **BULK MATERIAL** is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.

(E) **CHEMICAL DUST SUPPRESSANTS** are non-toxic chemical soil binders that are not prohibited for use by the City (County), the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

(F) COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.

(G) COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.

(H) CONSTRUCTION ACTIVITIES are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.

(I) DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.

(J) DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.

(K) EARTH-MOVING OPERATIONS are the use of any equipment for an activity where soil is being moved, uncovered.

(L) FINISH GRADE is the final grade of the site that conforms to the approved grading plan.

(M) FUGITIVE DUST is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.

(N) FUGITIVE DUST CONTROL PLAN is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook (2003).

(O) HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:

1. the closest AQMD monitoring station, or
2. a certified meteorological monitoring station, or

3. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.

(P) OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.

(Q) PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).

(R) PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

(S) SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.

(T) SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.

(U) STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook (2003).

(V) STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.

(W) UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).

(X) UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).

(Y) TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

Section 150.117 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

Section 150.118 Control Requirements

150.118.1 Work Practices – All Fugitive Dust Sources

(A) No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.

(B) Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

(C) No person subject to the requirements contained in Section 150.118.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

150.118.2 Construction and Demolition Activities

(A) Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook (2003) and approved by the City.

(B) A complete copy of the approved Fugitive Dust Control Plan must be kept on site at all times and provided to the City and AQMD upon request.

(C) Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.

(D) Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:

1. maintaining soils in a damp condition as determined by sight or touch;
or
2. establishment of a stabilized surface through watering; or
3. application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.

(E) Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:

1. re-vegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or

2. establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
3. use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.

(F) Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:

1. within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
2. at the conclusion of each workday.

(G) Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- A. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
- B. paved surface extending at least 100 feet and at least 20 feet wide; or
- C. wheel shaker/wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
- D. a wheel washing system.

(H) Any operator required to submit a Fugitive Dust Control Plan under Section 150.118.2(A) shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.

(I) Any operator of a project with a disturbed surface area of 50 or more acres shall have an on-site Environmental Observer that:

1. is hired by the property owner or developer; and
2. has dust control as the sole or primary responsibility; and
3. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
4. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, 7 days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

(J) No operator required to submit a Fugitive Dust Control Plan under Section 150.118.2(A) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

(K) Exceedance of the visible emissions prohibition in Section 150.118.2(J) occurring due to a high-wind episode shall constitute a violation of Section 150.118.2(J), unless the operator demonstrates to the City all the following conditions:

1. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
2. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
3. appropriate recordkeeping was complied and retained in accordance with the requirements in Section 150.118.2(L) through 150.118.2(O); and
4. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping

Before Construction

(L) The operator of a project with 10 acres or more of earth-moving operations shall:

1. forward 2 copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
2. notify the City (County) and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

(M) Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than 3 years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook (2003).

(N) Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than 3 years.

After Construction

(O) Any operator subject to the provisions of Section 150.118.2(L) shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

150.118.3 Disturbed Vacant Lands / Weed Abatement Activities

(A) Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

(B) In the event that implementation of Section 150.118.3(A) is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been re-stabilized:

1. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
2. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.

(C) Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:

1. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
2. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

(D) No person subject to the provisions of Sections 150.118.3(A) through 150.118.3(C) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:

1. maintain a stabilized surface; or
2. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

(E) Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.

(F) Any person subject to the provisions of Sections 150.118.3(A) through 150.118.3(C) shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

150.118.4 Unpaved Roads

(A) Owners of public or private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.

(B) Owners of a cumulative distance of six or less miles of public or private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 150.118.4(D) in accordance with the following treatment schedule:

1. one-third of qualifying unpaved road segments within 1 year of ordinance adoption; and
2. remainder of qualifying unpaved road segments within 3 years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)

(C) Owners of a cumulative distance of more than six miles of public or private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:

1. at least 2 miles paved or 4 miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 150.118.4(D) within 1 year of the ordinance adoption; and
2. at least 2 miles paved or 4 miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 150.118.4(D) in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

(D) Owners of any public or private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

1. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
2. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

(E) Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.

(F) Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

150.118.5 Unpaved Parking Lots

(A) Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 150.118.5(D).

(B) Owners of existing public or private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

1. pave; or
2. apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 150.118.5(D);
3. apply and maintain washed gravel in accordance with the performance standards included in Section 150.118.5(D).

(C) Owners of public or private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 150.118.5(D) prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 150.118.3 during non-parking periods.

Performance Standards and Test Methods

(D) The operator of any public or private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

1. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
2. not allow the silt content to exceed 8 percent.

Reporting / Recordkeeping

(E) Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.

(F) Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records

indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

150.118.6 Public or Private Paved Roads

(A) Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

1. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 150.120(D) with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

2. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 150.118.4(D).

(B) Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

150.119 Administrative Requirements

(A) Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

(B) At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

(C) All reporting / recordkeeping required by Section 150.118.2 shall be provided to the City and AQMD representatives immediately upon request.

(D) All reporting / recordkeeping required by Section 150.118.3 through Section 150.118.6 shall be provided to the City and AQMD representatives within 24-hours of a written request.

150.120 Exemptions

(A) The provisions of this ordinance shall not apply to:

1. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
2. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or State agency.
3. any action required or authorized to implement emergency operations that are officially declared by the City (County) to ensure the public health and safety.

(B) The provisions of Section 150.118.2(A) shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

1. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
2. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

(C) The provisions of Section 150.118.2(H) shall not apply to:

1. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 150.120 are implemented; and
2. line projects (i.e., pipelines, cable access lines, etc.).

150.121 Compliance and Penalties

150.121.1 Failure to Comply

(A) Violation of, or failure to comply with any provisions of an approved Fugitive Dust Control Plan shall be a violation of this ordinance.

150.122.2 Penalty

Any person who violates this ordinance shall be guilty of a misdemeanor and subject to a fine of not more than one-thousand (\$1,000); or by imprisonment in the county jail for no more than six months, or by both such fine and imprisonment. Each day that the violation exists shall be deemed a separate offense.

In addition to any other remedy provided by law, failure to correct any condition in the notice of violation within 24 hours of issuance will permit the City to initiate one or more of the following actions where appropriate:

(A) Civil proceedings to obtain an injunction or other relief against the owner/permittee.

(B) Refusal to issue future permits and/or to release of securities held until the owner/permittee has adequately demonstrated compliance with the notice of violation.

(C) Correction of the condition by the City through the use of any securities held under this ordinance.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Desert Hot Springs hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 6. Effective Date

This Ordinance shall be in full force and effect thirty (30) days after its passage.

SECTION 7. Certification

The City Clerk shall certify to the adoption of this Ordinance and shall cause it be published and circulated in the City of Desert Hot Springs.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Desert Hot Springs on October 7, 2003 by the following vote:

AYES: Mayor Weyuker, Vice Mayor Ruppert, Councilmembers Bosworth, Pieper & Stephen:

NOES: None.

ABSENT: None.

ABSTAIN: None.



Matt Weyuker, Mayor

ATTEST:

APPROVED AS TO CONTENT:

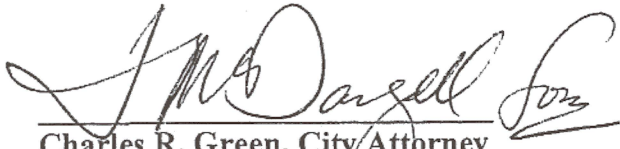


Rossie Stobbs, City Clerk



Jerry Hanson, City Manager 10-14-03

APPROVED AS TO LEGAL FORM:


Charles R. Green, City Attorney

ORDINANCE NO. 545

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADDING SECTIONS 8.04.025 AND 8.04.026 AND AMENDING CHAPTER 8.20 OF THE INDIAN WELLS MUNICIPAL CODE, AND ADOPTING THE COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK

WHEREAS, the South Coast Air Quality Management District (SCAQMD), the Coachella Valley Association of Governments (CVAG), and the Coachella Valley Local Jurisdictions including the City of Indian Wells have developed the 2003 Coachella Valley State Implementation Plan (CVSIP) to help bring the Coachella Valley into attainment of acceptable PM10 levels; and,

WHEREAS, said CVSIP includes a revised Model Ordinance, a Memorandum of Understanding (MOU), and a Fugitive Dust Control Handbook; and,

WHEREAS, the AQMD and CVAG have requested all Local Jurisdictions to adopt the Model Ordinance and Fugitive Dust Control Handbook, and execute the MOU prior to October 1, 2003; and,

WHEREAS, to comply with requests from the AQMD and CVAG, the City of Indian Wells ("City") desires adoption of Municipal Text Amendment (MTA) No. 2003-06 amending various sections of the Municipal Code; and,

WHEREAS, a Notice of Public Hearing by the City Clerk of the City of Indian Wells to consider MTA No. 2003-06 was given in accordance with applicable law.

NOW THEREFORE, be it ordained by the City Council as follows:

SECTION 1. Sections 8.04.025 and 8.04.026 are hereby added to Chapter 8.04 to read as follows:

8.04.025 Construction Activities and Stockpiling. It shall be the responsibility of the holder of the building, demolition, or grading permit for the construction, demolition, or grading project involved to see that no sand, gravel, lumber, or other building, construction, demolition, or grading equipment or materials, including trash, are stored or stockpiled on City streets or parkways or on private property unless a permit therefore has been obtained from the City.

8.04.026 Construction Activities and Trash. It shall be the responsibility of the holder of the building, demolition, or grading permit for the construction, demolition, or grading project involved to provide trash bins on the activity project site sufficient in capacity to contain all of the trash accumulated on the job.

SECTION 2.

Chapter 8.20 is hereby amended to read as follows:

FUGITIVE DUST CONTROL

Sections:

8.20.100	Purpose.
8.20.200	Definitions.
8.20.300	Performance Standards and Test Methods.
8.20.400	Control Requirements.
8.20.410	Work Practices-All Fugitive Dust Sources.
8.20.420	Construction and Demolition Activities.
8.20.430	Disturbed Vacant Lands/Weed Abatement Activities.
8.20.440	Unpaved Roads.
8.20.450	Unpaved Parking Lots.
8.20.460	Public or Private Paved Roads.
8.20.500	Administrative Requirements.
8.20.600	Exemptions.
8.20.700	Compliance.
8.20.800	Severability.

8.20.100 Purpose. The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

8.20.200 Definitions. For the purpose of this ordinance, the following definitions are applicable:

8.20.200(a) Agricultural Operations are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.

8.20.200(b) AQMD is the South Coast Air Quality Management District and the representatives thereof.

8.20.200(c) Average Daily Traffic (ADT) is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City in consultation with the AQMD.

8.20.200(d) Bulk Material is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.

8.20.200(e) Chemical Dust Suppressants are non-toxic chemical soil binders that are not prohibited for use by the City, the California Regional Water Quality Control Board, the

California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

8.20.200(f) Coachella Valley Best Available Control Measures (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.

8.20.200(g) Coachella Valley Fugitive Dust Control Handbook is a reference document approved by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.

8.20.200(h) Construction Activities are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.

8.20.200(i) Demolition Activities are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.

8.20.200(j) Disturbed Surface Area is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.

8.20.200(k) Earth-Moving Operations are the use of any equipment for an activity where soil is being moved or uncovered.

8.20.200(l) Finish Grade is the final grade of the site that conforms to the approved grading plan.

8.20.200(m) Fugitive Dust is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.

8.20.200(n) Fugitive Dust Control Plan is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.

8.20.200(o) High-Wind Episode is when wind speeds exceed 25 miles per hour as measured by: the closest AQMD monitoring station, or a certified meteorological monitoring station, or an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.

8.20.200(p) Operator is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.

8.20.200(q) Paved Road is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., concrete, asphalt or asphaltic concrete).

8.20.200(r) Physical Access Restriction is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

8.20.200(s) Silt is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.

8.20.200(t) Site is the real property on which construction, demolition, or other activities subject to this ordinance may occur.

8.20.200(u) Stabilized Surface is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.

8.20.200(v) Storage Pile is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.

8.20.200(w) Unpaved Parking Lot is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., concrete, asphalt or asphaltic concrete).

8.20.200(x) Unpaved Road is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., concrete, asphalt, asphaltic concrete).

8.20.200(y) Temporary Unpaved Parking Lots are those used less than 24 days per year.

8.20.300 Performance Standards and Test Methods. All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Fugitive Dust Control Handbook, on file with the City Clerk's Office and the Public Works Department.

8.20.400 Control Requirements

8.20.410 Work Practices – All Fugitive Dust Sources.

8.20.410(a) No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.

8.20.410(b) Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

8.20.410(c) No person subject to the requirements contained in Section 8.20.410(a) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

8.20.420 Construction and Demolition Activities.

8.20.420(a) Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.

8.20.420(a)(1) Fugitive Dust Control Applications and Fugitive Dust Control Plans shall be filed with the Public Works Department, together with all fees, plans, maps, and any other information required by the Public Works Director or designee.

8.20.420(a)(2) Any operator requesting approval by the City of a Fugitive Dust Control Plan shall first deposit with the City a cash deposit or a Performance Bond guaranteeing compliance with said plan. Amount of said deposit shall be in an amount equal to at least two thousand dollars (\$2,000) per acre for projects with more than 5,000 square feet of disturbed surfaces. Such funds shall be in an amount sufficient to completely stabilize all disturbed areas in the event that the operator fails to adequately control dust, or abandons the site in lieu of mitigating fugitive dust problems. Said site shall be easily accessible to the City in order to initiate stabilization measures without a significant delay.

8.20.420(a)(3) City's Right to Enter Property. Approval of a Fugitive Dust Control Plan will permit the City to enter the subject property to verify and ensure that the requirements of said plan are being implemented.

8.20.420(b) A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.

8.20.420(c) Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.

8.20.420(d) Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:

1. Maintaining soils in a damp condition as determined by sight or touch; or
2. Establishment of a stabilized surface through watering; or
3. Application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.

8.20.420(e) Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:

1. Revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
2. Establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
3. Use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.

8.20.420(f) Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:

1. Within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
2. At the conclusion of each workday.

8.20.420(g) Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

1. Pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or

2. Paved surface extending at least 100 feet and at least 20 feet wide; or
3. Wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
4. A wheel washing system that conforms to all local, County, State, and Federal regulations.

8.20.420(h) Any operator required to submit a Fugitive Dust Control Plan under Section 8.20.420(a) shall install and maintain project contact signage that meets the minimum standards of the City of Indian Wells Standard Plan for Dust Control Signs, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.

8.20.420(i) Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within thirty (30) minutes of initial contact that:

1. Is hired by the property owner or developer; and
2. Has dust control as the sole or primary responsibility; and
3. Has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
4. Is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

8.20.420(j) No operator required to submit a Fugitive Dust Control Plan under Section 8.20.420(a) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

8.20.420(k) Exceedance of the visible emissions prohibition in Section 8.20.420(j) occurring due to a high-wind episode shall constitute a violation of Section 8.20.420(j), unless the operator demonstrates to City all the following conditions:

1. All Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
2. The exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
3. Appropriate recordkeeping was complied and retained in accordance with the requirements in Section 8.20.420(l) through 8.20.420(o); and
4. Documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

8.20.420(l) The operator of a project with ten acres or more of earth-moving operations shall:

1. Forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
2. Notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

8.20.420(m) Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.

8.20.420(n) Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

8.20.420(o) Any operator subject to the provisions of Section 8.20.420(l) shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

8.20.430 Disturbed Vacant Lands/Weed Abatement Activities.

8.20.430(a) Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

8.20.430(b) In the event that implementation of Section 8.20.430(a) is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:

1. Uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
2. Begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.

8.20.430(c) Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:

1. Apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
2. Ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

8.20.430(d) No person subject to the provisions of Sections 8.20.430(a) through 8.20.430(c) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:

1. Maintain a stabilized surface; or
2. Maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

8.20.430(e) Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.

8.20.430(f) Any person subject to the provisions of Sections 8.20.430(a) through 8.20.430(c) shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

8.20.440 Unpaved Roads.

8.20.440(a) Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.

8.20.440(b) Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 8.20.440(d) in accordance with the following treatment schedule:

1. One-third of qualifying unpaved road segments within one year of ordinance adoption; and
2. Remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)

8.20.440(c) Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:

1. At least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 8.20.440(d) within one year of the ordinance adoption; and
2. At least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 8.20.440(d) in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads

have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

8.20.440(d) Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

1. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
2. Not allow the silt content to exceed six percent.

8.20.440(e) Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.

8.20.440(f) Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

8.20.450 Unpaved Parking Lots.

8.20.450(a) Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 8.20.450(d).

8.20.450(b) Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

1. Pave; or
2. Apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 8.20.450(d); or
3. Apply and maintain washed gravel in accordance with the performance standards included in Section 8.20.450(d).

8.20.450(c) Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 8.20.450(d) prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 8.20.430 during non-parking periods.

8.20.450(d) The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

1. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot;
or
2. Not allow the silt content to exceed eight percent.

8.20.450(e) Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.

8.20.450(f) Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

8.20.460 Public or Private Paved Roads

8.20.460(a) Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- 1 Curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 8.20.440(d) with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

2. Paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 8.20.440(d).

8.20.460(b) Any owner of private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

8.20.500 Administrative Requirements.

8.20.500(a) Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

8.20.500(b) At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

8.20.500(c) All reporting/recordkeeping required by Section 8.20.420 shall be provided to the City and AQMD representatives immediately upon request.

8.20.500(d) All reporting/recordkeeping required by Section 8.20.430 through Section 8.20.460 shall be provided to the City and AQMD representatives within 24-hours of a written request.

8.20.600 Exemptions.

8.20.600(a) The provisions of this ordinance shall not apply to:

1. Agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
2. Any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either Federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
3. Any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.

8.20.600(b) The provisions of Section 8.20.420(a) shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

1. The activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
2. Activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

8.20.600(c) The provisions of Section 8.20.420(h) shall not apply to:

1. Projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 8.20.430 are implemented; and
2. Line projects (i.e., pipelines, cable access lines, etc.).

8.20.700 Compliance.

8.20.700(a) A person violating any section of this ordinance or with any portion of an approved Dust Control Plan is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation and a fine not exceeding four hundred dollars (\$400.00) for a second violation within one year. A third violation, or more, within one year shall each be prosecuted at a level consistent with a misdemeanor violation.

8.20.700(b) In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one hour of issuance will allow the City to initiate one or more of the following actions where appropriate:

1. Criminal proceedings.
2. Civil proceedings to obtain an injunction; or any other relief against the owner or operator to stop operations at the site.
3. Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.
4. Correction of the condition by the City through the use of any securities held under this ordinance.

8.20.800 Severability. If any provision of this chapter, section, subsection or clause, or the application thereof to any person or circumstance shall be deemed unconstitutional or otherwise invalid, the remaining chapter, section, subsection and clauses and application of such provision(s) to other persons or circumstances shall not be affected.

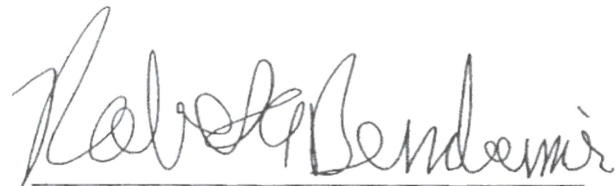
SECTION 3. CEQA. The amendments reflected in this Ordinance are not a project nor will they have a significant effect on the environment and therefore are exempt from the provisions of the California Environmental Quality Act ("CEQA"). No further environmental review is necessary.

SECTION 4. SEVERABILITY. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 5. CONFLICT. All ordinances or part of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance. The City Clerk shall post and publish this Ordinance within the time and manner prescribed by law and it shall take effect thirty (30) days after the date of its adoption, and henceforth and thereafter, the same shall be in full force and effect. This Ordinance shall become operative upon full execution of the "Memorandum of Understanding Establishing an Ongoing, Multi-Jurisdictional Relationship for the Adoption, Implementation, and Enforcement of Fugitive Dust Control Measures in the Coachella Valley."

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 6th day of November 2003.



Robert Bendemer

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

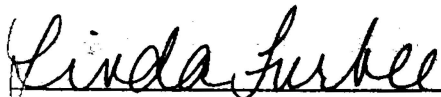
I, Linda Furbee, City Clerk of the City of Indian Wells, California, **DOES HEREBY CERTIFY** that Ordinance No. 545, was introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at the regular meeting of the City Council on the 16th day of October, 2003, and was again introduced for second reading on the 6th day of November 2003, and said Ordinance was passed and adopted by the following vote, to wit:

AYES: Bernheimer, Byrd, Negrón, Roche
NOES: None
ABSENT: Monarch

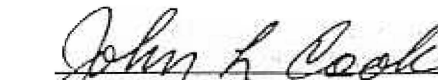
And was thereafter, on said date, signed and approved by the Mayor of the City.

ATTEST:

APPROVED AS TO FORM:



LINDA FURBEE
CITY CLERK



JOHN L. COOK
CITY ATTORNEY

ORDINANCE NO. 1357

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, APPROVING FUGITIVE DUST CONTROL ORDINANCE WHICH REPLACES THE EXISTING FUGITIVE DUST CONTROL OF THE INDIO MUNICIPAL CODE SECTION 95.131A THROUGH 95.135A

WHEREAS, air pollution remains a significant public health concern in many parts of California, and specially in the Coachella Valley; and;

WHEREAS, PM10 levels in the Coachella Valley exceed the federal standard in 1999 after six year of compliance; and,

WHEREAS, based on the foregoing, and ongoing cooperative relationship is hereby established between the cities, Coachella Valley Association of Governments and the South Coast Air Quality Management District to ensure the development and implementation of appropriate dust control plans, to comply with the District regulations, to comply with the Federal Clean Air Amendments mandates, and to help achieve attainment of federal and state air quality standards; and,

WHEREAS, on November 19, 2003, the City Council conducted a duly advertised public hearing, reviewed staff reports, considered testimony related to the ordinance and concluded its proceedings.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, HEREBY ORDAINS, THAT THE FOLLOWING SECTIONS OF THE FUGITIVE DUST CONTROL ORDINANCE SHALL BE IN FULL FORCE ON APRIL 1, 2004. THE DEPUTY CITY CLERK SHALL CERTIFY THE PASSAGE AND ADOPTION OF THIS ORDINANCE AND SHALL CAUSE A SUMMARY OF SAME TO BE PUBLISHED ONCE IN THE DESERT SUN, A NEWSPAPER OF GENERAL CIRCULATION, PRINTED, PUBLISHED, AND CIRCULATED WITHIN THE CITY OF INDIO.

Section 100 Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

Section 200 Definitions

For the purpose of this ordinance, the following definitions are applicable:

- 1 **AGRICULTURAL OPERATIONS** are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.
- 2 **AQMD** is the South Coast Air Quality Management District and the representatives thereof.
- 3 **AVERAGE DAILY TRAFFIC (ADT)** is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are

accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.

- 15 HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:
- A. the closest AQMD monitoring station, or
 - B. a certified meteorological monitoring station, or
 - C. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
- 16 OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
- 17 PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 18 PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.
- 19 SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.
- 20 SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
- 21 STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.
- 22 STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.
- 23 UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 24 UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).
- 25 TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

Section 300 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

Section 400 Control Requirements

410. Work Practices – All Fugitive Dust Sources

- 1 No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.
- 2 Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

- 3 No person subject to the requirements contained in Section 410.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

420. Construction and Demolition Activities

- 1 Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.
 - 2 A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.
 - 3 Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.
 - 4 Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:
 - A. maintaining soils in a damp condition as determined by sight or touch; or
 - B. establishment of a stabilized surface through watering; or
 - C. application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.
 - 5 Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:
 - A. revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
 - B. establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
-

- C. use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.
- 6 Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:
- A. within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
 - B. at the conclusion of each workday.
- Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):
- A. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
 - B. paved surface extending at least 100 feet and at least 20 feet wide; or
 - C. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
 - D. a wheel washing system.
- 8 Any operator required to submit a Fugitive Dust Control Plan under Section 420.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.
- 9 Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:
- A. is hired by the property owner or developer; and
 - B. has dust control as the sole or primary responsibility; and
 - C. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - D. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

- 10 No operator required to submit a Fugitive Dust Control Plan under Section 420.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or
-

extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

- 11 Exceedance of the visible emissions prohibition in Section 420.10 occurring due to a high-wind episode shall constitute a violation of Section 420.10, unless the operator demonstrates to City all the following conditions:
- A. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
 - B. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
 - C. appropriate recordkeeping was complied and retained in accordance with the requirements in Section 420.12 through 420.15; and
 - D. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting Recordkeeping

Before Construction

- 12 The operator of a project with ten acres or more of earth-moving operations shall:
- A. forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
 - B. notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- 13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- 14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- 15 Any operator subject to the provisions of Section 420.12 shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

430. Disturbed Vacant Lands / Weed Abatement Activities

Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

- 2 In the event that implementation of Section 430.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:
 - A. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
 - B. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.
- 3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:
 - A. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
 - B. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

- 4 No person subject to the provisions of Sections 430.1 through 430.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:
 - A. maintain a stabilized surface; or
 - B. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.
- 6 Any person subject to the provisions of Sections 430.1 through 403.3 shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

440. Unpaved Roads

- 1 Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.
- 2 Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply ~~and maintain chemical dust suppressants in accordance with the manufacturer's~~

specifications for a travel surface and the performance standards included in Section 440.4 in accordance with the following treatment schedule:

- A. one-third of qualifying unpaved road segments within one year of ordinance adoption; and
 - B. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
- 3 Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
- A. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 440.4 within one year of the ordinance adoption; and
 - B. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 440.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

- 4 Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
- A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.
- 6 Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

450. Unpaved Parking Lots

- 1 Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 450.4.
- 2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

- A. pave; or
- B. apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 450.4;
- C. apply and maintain washed gravel in accordance with the performance standards included in Section 450.4.

3 Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 450.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 430 during non-parking periods.

Performance Standards and Test Methods

- 4 The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
- A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
- 6 Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

460. Public or Private Paved Roads

- 1 Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:
- A. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 440.4 with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- B. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 440.4.
- 2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

Section 500 Administrative Requirements

- 1 Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 2 At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 3 All reporting / recordkeeping required by Section 420 shall be provided to the City and AQMD representatives immediately upon request.
- 4 All reporting / recordkeeping required by Section 430 through Section 460 shall be provided to the City and AQMD representatives within 24-hours of a written request.

Section 600 Exemptions

- 1 The provisions of this ordinance shall not apply to:
 - A. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
 - B. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
 - C. any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.
- 2 The provisions of Section 420.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:
 - A. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
 - B. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.
- 3 The provisions of Section 420.8 shall not apply to:
 - ~~A. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 430 are implemented; and~~

B. line projects (i.e., pipelines, cable access lines, etc.)

Compliance

1 A person violating any section of this ordinance or with any portion of an approved Dust Control Plan is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation and a fine not exceeding four hundred dollars (\$400.00) for a second violation within one year. A third violation, or more, within one year shall each be prosecuted at a level consistent with a misdemeanor violation.

In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one hour of issuance will allow the City to initiate one or more of the following actions where appropriate:

- A Criminal proceedings.
- B Civil proceedings to obtain an injunction; or any other relief against the owner or operator to stop operations at the site.
- C Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.
- D Correction of the condition by the City through the use of any securities held under this ordinance.

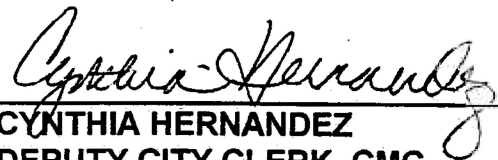
PASSED, APPROVED AND ADOPTED this 3rd day of December, 2003, by the following vote:

AYES: Bethel, Fesmire, Gilbert, Godfrey, Wilson
NOES: None



MICHAEL H. WILSON, MAYOR

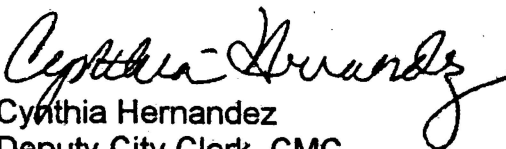
ATTEST:



CYNTHIA HERNANDEZ
DEPUTY CITY CLERK, CMC

CERTIFICATION

I Cynthia Hernandez, Deputy City Clerk of the City of Indio, California, do hereby certify the foregoing to be a full, true and correct copy of Ordinance No. 1357, introduced on November 19, 2003 and adopted December 3, 2003.



Cynthia Hernandez
Deputy City Clerk, CMC

ORDINANCE NO. 391

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, REPEALING AND REPLACING CHAPTER 6.16 OF THE LA QUINTA CHARTER AND MUNICIPAL CODE RELATING TO FUGITIVE DUST CONTROL

THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. That Chapter 6.16 of the La Quinta Charter and Municipal Code is hereby repealed and replaced to read as follows:

Chapter 6.16

FUGITIVE DUST CONTROL

Section 6.16.010 Purpose

The purpose of this chapter is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

Section 6.16.020 Definitions

For the purpose of this chapter, the following definitions are applicable:

1. **AGRICULTURAL OPERATIONS** are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.
2. **AQMD** is the South Coast Air Quality Management District and the representatives thereof.
3. **AVERAGE DAILY TRAFFIC (ADT)** is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City in consultation with the AQMD.
4. **BULK MATERIAL** is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.

5. CHEMICAL DUST SUPPRESSANTS are non-toxic chemical soil binders that are not prohibited for use by the City, the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

6. COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.

7. COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.

8. CONSTRUCTION ACTIVITIES are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planting, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.

9. DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.

10. DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.

11. EARTH-MOVING OPERATIONS are the use of any equipment for an activity where soil is being moved or uncovered.

12. **FINISH GRADE** is the final grade of the site that conforms to the approved grading plan.

13. **FUGITIVE DUST** is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.

14. **FUGITIVE DUST CONTROL PLAN** is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.

15. **HIGH-WIND EPISODE** is when wind speeds exceed 25 miles per hour as measured by:

- a. the closest AQMD monitoring station, or
- b. a certified meteorological monitoring station, or
- c. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.

16. **OPERATOR** is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.

17. **PAVED ROAD** is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).

18. **PHYSICAL ACCESS RESTRICTION** is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

19. SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.

20. SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.

21. STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.

22. STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.

23. UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).

24. UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).

25. TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

Section 6.16.030 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook, approved and adopted by the La Quinta City Council on December 2, 2003, or the most current version available.

Section 6.16.040 Control Requirements

A. Work Practices – All Fugitive Dust Sources

1. No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.

2. Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

3. No person subject to the requirements contained in Section 6.16.050.A.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

B. Construction and Demolition Activities

1. Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.

2. A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.

3. Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.

4. Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:

- a. maintaining soils in a damp condition as determined by sight or touch; or
- b. establishment of a stabilized surface through watering; or
- c. application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.

5. Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:

- a revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or**
- b establishment of a stabilized surface through watering with physical access restriction surrounding the area; or**
- c use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.**

6. Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:

- a within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and**
- b at the conclusion of each workday**

7. Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- a. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or**
- b. paved surface extending at least 100 feet and at least 20 feet wide; or**
- c. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or**
- d. a wheel washing system.**

8. Any operator required to submit a Fugitive Dust Control Plan under Section 6.16.040.B.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.

9. Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:

- a is hired by the property owner or developer; and**
- b. has dust control as the sole or primary responsibility; and**
- c. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and**
- d. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.**

Performance Standards and Test Methods

10. No operator required to submit a Fugitive Dust Control Plan under Section 6.16.040.B.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

11. Exceedance of the visible emissions prohibition in Section 6.16.040.B.1 occurring due to a high-wind episode shall constitute a violation of Section 6.16.040.B.1, unless the operator demonstrates to City all the following conditions:

- a. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and**

- b. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
- c. appropriate recordkeeping was complied and retained in accordance with the requirements in Section 6.16.040.B.12 through 6.16.040.B.15; and
- d. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping

Before Construction

12. The operator of a project with ten acres or more of earth-moving operations shall:

- a. forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
- b. notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- c. operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- d. operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- e. subject to the provisions of Section 6.16.040.B.12 shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

C. Disturbed Vacant Lands / Weed Abatement Activities

1. Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

2. In the event that implementation of Section 6.16.040.C.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:

- a. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
- b. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.

3. Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:

- a. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
- b. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

4. No person subject to the provisions of Sections 6.16.040.C.1 through 6.16.040.C.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:

- a. maintain a stabilized surface; or
- b. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

5. Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.

6. Any person subject to the provisions of Sections 6.16.040.C.1 through 6.16.040.C.3 shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

D. Unpaved Roads

1. Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.

2. Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 6.16.040.D.4 in accordance with the following treatment schedule:

- a. one-third of qualifying unpaved road segments within one year of ordinance adoption; and

- b. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
3. Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
 - a. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 6.16.040.D.4 within one year of the ordinance adoption; and
 - b. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 6.16.040.D.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

4. Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - a. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - b. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

5. Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.

6. Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

E. Unpaved Parking Lots

1. Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 6.16.040.E.4.

2. Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

- a. pave; or
- b. apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 6.16.040.E.4;
- c. apply and maintain washed gravel in accordance with the performance standards included in Section 6.16.040.E.4.

3. Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 6.16.040.E.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 6.16.040.C during non-parking periods.

Performance Standards and Test Methods

4. The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

- a. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
- b. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

- 5. Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
- 6. Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

F. Public or Private Paved Roads

1. Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- a. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 6.16.040.D.4 with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- b. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 6.16.040.D.4.

2. Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

Section 6.16.050 Administrative Requirements

1. Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

2. At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

3. All reporting / recordkeeping required by Section 6.16.040.B shall be provided to the City and AQMD representatives immediately upon request.

4. All reporting / recordkeeping required by Section 6.16.040.C through Section 6.16.040.F shall be provided to the City and AQMD representatives within 24-hours of a written request.

Section 6.16.060 Exemptions

1. The provisions of this ordinance shall not apply to:
 - a. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
 - b. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
 - c. any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.

2. The provisions of Section 6.16.040.B.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

- a. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
- b. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

3. The provisions of Section 6.16.040.B.8 shall not apply to:

- a. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 6.16.040.C are implemented; and
- b. line projects (i.e., pipelines, cable access lines, etc.).

Section 6.16.070 Compliance

1. A person violating any section of this chapter or with any portion of an approved Fugitive Dust Control Plan is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation and a fine not exceeding four hundred dollars (\$400.00) for a second violation within one year. A third violation, or more, within one year shall each be prosecuted at a level consistent with a misdemeanor violation.

2. In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one hour of issuance will allow the City to initiate one or more of the following actions where appropriate:

- a. Criminal proceedings.
- b. Civil proceedings to obtain an injunction; or any other relief against the owner or operator to stop operations at the site.
- c. Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.

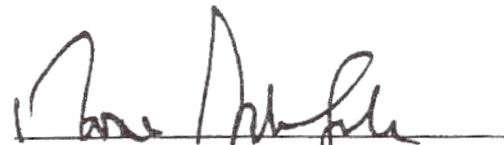
- d. Correction of the condition by the City through the use of any securities held under this chapter.
- e. Any enforcement methods authorized by Chapter 1.09 of this code.

SECTION 2. EFFECTIVE DATE: This Ordinance shall be in full force and effect thirty (30) days after its adoption


SECTION 3. POSTING: The City Clerk shall within fifteen (15) days after passage of this Ordinance, cause it to be posted in at least three (3) public places designated by resolution of the City Council; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered into the Book of Ordinances of the City of La Quinta.

PASSED, APPROVED, and ADOPTED at a regular meeting of the La Quinta City Council held on this 2nd day of December, 2003, by the following vote:

AYES: Council Members Henderson, Osborne, Perkins, Sniff, Mayor Adolph
NOES: None
ABSENT: None
ABSTAIN: None

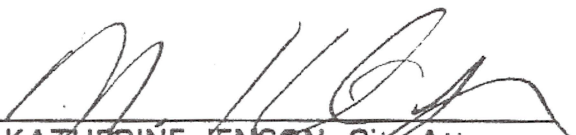

DON ADOLPH, Mayor
City of La Quinta, California

ATTEST:


JUNE S. GREEK, CMC, City Clerk
City of La Quinta, California
(City Seal!)

Ordinance No. 391
Fugitive Dust Control
Chapter 6.16 - La Quinta Municipal Code
Adopted: December 2, 2003
Page 17

APPROVED AS TO FORM:




M. KATHERINE JENSON, City Attorney
City of La Quinta, California

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LA QUINTA)

I, JUNE S. GREEK, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true and correct copy of Ordinance No. 391 which was introduced at a regular meeting held on the 18th day of November, 2003, and was adopted at a regular meeting held on the 2nd day of December, 2003, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in a Resolution of the City Council.



JUNE S. GREEK, CMC, City Clerk
City of La Quinta, California

ORDINANCE NO. 1056

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, ADDING CHAPTER 24.12 TO THE PALM DESERT MUNICIPAL CODE, SUPERCEDING THE CURRENT ORDINANCE.

WHEREAS, the City is committed to and responsible for protecting and enhancing the public health, safety and welfare of the community; and

WHEREAS, natural (e.g., sand storms) and man-made (e.g., construction agriculture, road dust, and other human activities) processes can generate fugitive dust and PM10 (defined as particulate matter of 10 micrograms or less in diameter); and

WHEREAS, the Coachella Valley is in violation of federal PM10 air quality standards; and

WHEREAS, PM10 affects public health and impairs visibility; and

WHEREAS, air quality monitoring data in the Coachella Valley indicates that man made processes account for the majority of fugitive dust and PM10; and

WHEREAS, federal PM10 air quality standards for the region cannot be attained without implementation of additional dust control measures and improved enforcement actions; and

WHEREAS, the South Coast Air Quality Management District (SCAQMD) has adopted a State Implementation Plan (SIP) for PM10 in the Coachella Valley which specifies that local dust control ordinances be enacted by December 2003

WHEREAS, the City has worked with the Coachella Valley Association of Governments (CVAG) and the SCAQMD to develop the following chapter that outlines additional dust control measures and improved enforcement actions as required by the SIP.

NOW, THEREFORE, the City Council of the City of Palm Desert, California, does hereby ordain as follows:

Ordinance No. 1056

Section 1. The above recitations are true and correct.

Section 2. Chapter 24.12 Fugitive Dust (PM10) Control Ordinance be, and the same as attached hereto is, hereby approved and adopted, thereby rescinding and replacing the former Chapter 24.12.

Section 3. The City Clerk of the City of Palm Desert, California, shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in the Desert Sun, a newspaper of general circulation, circulated within the City of Palm Desert, and the same shall be in full force and effect thirty (30) days after its adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Palm Desert, California at its regular meeting held on the 13th day of November, 2003, by the following vote, to wit:

AYES:	CRITES, FERGUSON, KELLY, SPIEGEL, BENSON
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

ATTEST:


JEAN M. BENSON, MAYOR


RACHELLE D. KLASSEN, CITY CLERK
CITY OF PALM DESERT, CALIFORNIA

24.12.010 Purpose and intent.

A. The purpose of this chapter is to establish minimum requirements for construction and demolition activities and other specified land uses in order to reduce fugitive dust and corresponding PM10 emissions (defined as particulate matter with an aerodynamic diameter of ten microns or less).

B. These provisions are supplementary and additional to the grading and zoning regulations of this code and shall be read and construed as an integral part of the regulations and the land development patterns and controls established; thereby, it is the intent of the city council to protect life and property; promote the general welfare; enhance and improve the physical environment of the community; and preserve, subject to economic feasibility, the natural scenic character of the city.

24.12.020 Definitions.

As applied in this chapter, the following words and terms shall be defined as follows:

AGRICULTURAL OPERATIONS are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.

AQMD is the South Coast Air Quality Management District and the representatives thereof.

AVERAGE DAILY TRAFFIC (ADT) is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City in consultation with the AQMD.

BULK MATERIAL is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.

CHEMICAL DUST SUPPRESSANTS are non-toxic chemical soil binders that are not prohibited for use by the City, the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.

COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.

CONSTRUCTION ACTIVITIES are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.

DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.

DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.

EARTH-MOVING OPERATIONS are the use of any equipment for an activity where soil is being moved, uncovered.

FINISH GRADE is the final grade of the site that conforms to the approved grading plan.

FUGITIVE DUST is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.

FUGITIVE DUST CONTROL PLAN is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.

HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:

- a. the closest AQMD monitoring station, or
- b. a certified meteorological monitoring station, or
- c. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.

OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.

PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).

PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.

SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.

STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.

STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.

UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).

UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).

TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

24.12.030 Exemptions.

A The provisions of this ordinance shall not apply to:

- 1. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.**
- 2. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.**
- 3. any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.**

B The provisions of Section 24.12.040.B.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

- 1. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or**
- 2. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.**

C The provisions of Section -24.12.040.B.8 shall not apply to:

- 1. projects that take two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 24.12.040.C is/are implemented; and**
- 2. line projects (i.e., pipelines, cable access lines, etc.).**

24.12.040 Subject sources and their control requirements.

All performance standards and test methods referenced in this section shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

A. Work Practices – All Fugitive Dust Sources

- 1** No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.
- 2** Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

- 3** No person subject to the requirements contained in Section 24.12.040.A.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

B. Construction and Demolition Activities

Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.

- 2** A complete copy of the approved Fugitive Dust Control Plan must be kept on site at all times and provided to the City and AQMD upon request.
- 3** Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.
- 4** Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:
 - a. maintaining soils in a damp condition as determined by sight or touch; or
 - b. establishment of a stabilized surface through watering; or
 - c. application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.
- 5** Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:
 - a. revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
 - b. establishment of a stabilized surface through watering with physical access restriction surrounding the area; or

- c. use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.
- 6** Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:
- a. within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
 - b. at the conclusion of each workday.
- 7** Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):
- a. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
 - b. paved surface extending at least 100 feet and at least 20 feet wide; or
 - c. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
 - d. a wheel washing system.
- 8** Any operator required to submit a Fugitive Dust Control Plan under Section 24.12.040.B.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.
- 9** Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer that:
- a. is hired by the property owner or developer; and
 - b. has dust control as the sole or primary responsibility; and
 - c. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - d. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

- 10** No operator required to submit a Fugitive Dust Control Plan under Section 24.12.040.B.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.
- 11** Exceedance of the visible emissions prohibition in Section 24.12.040.B.10 occurring due to a high-wind episode shall constitute a violation of Section 24.12.040.B.10, unless the operator demonstrates to City all the following conditions:
- a. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and

- b the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
- c appropriate recordkeeping was complied and retained in accordance with the requirements in Section 24.12.040.B.12 through 24.12.040.B.15; and
- d documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping

Before Construction

- 12 The operator of a project with ten acres or more of earth-moving operations shall:
- a. forward two copies of a Site-Specific, Stand Alone (8½ by 11 inch) Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
 - b. notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- 13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- 14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- 15 Any operator subject to the provisions of Section 24.12.040.B.12 shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

C Disturbed Vacant Lands / Weed Abatement Activities

- 1 Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.

In the event that implementation of Section 24.12.040.C.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:

- a. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
- b. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.

- 3** Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:
 - a. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
 - b. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

- 4** No person subject to the provisions of Sections 24.12.040.C.1 through 24.12.040.C.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:
 - a. maintain a stabilized surface; or
 - b. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

- 5** Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.
- 6** Any person subject to the provisions of Sections 24.12.040.C.1 through 24.12.040.C.3 shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

D. Unpaved Roads

- 1** Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.
- 2** Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 24.12.040.D.4 in accordance with the following treatment schedule:
 - a. one-third of qualifying unpaved road segments within one year of ordinance adoption; and
 - b. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
- 3** Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
 - a. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 24.12.040.D.4 within one year of the ordinance adoption; and
 - b. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 24.12.040.D.4 in accordance with the following treatment schedule annually

thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

- 4 Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - a. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - b. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.
- 6 Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

E. Unpaved Parking Lots

- 1 Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 24.12.040.E.4.
- 2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:
 - a. pave; or
 - b. apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 24.12.040.E.4;
 - c. apply and maintain washed gravel in accordance with the performance standards included in Section 24.12.040.E.4.
- 3 Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 24.12.040.E.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 24.12.040.C during non-parking periods.

Performance Standards and Test Methods

- 4 The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - a. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - b. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
- 6 Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

F. Public or Private Paved Roads

Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- a. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 24.12.040.D.4 with the following minimum widths:

i. Average Daily Trips	Minimum Shoulder Width
ii. 500 - 3,000	4 feet
iii. 3,001 or greater	8 feet

- b. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 24.12.040.D.4.
- 2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

24.12.050 Administrative requirements.

- A. Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- B. At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- C. All reporting / recordkeeping required by Section 24.12.040.B shall be provided to the City and AQMD representatives immediately upon request.
- D. All reporting / recordkeeping required by Section 24.12.040.C through Section 24.12.040.F shall be provided to the City and AQMD representatives within 24-hours of a written request.

24.12.060 Compliance, enforcement, and penalties.

A. Violation of, or failure to comply with any section of this ordinance, or any provisions of an approved fugitive dust (PM10) control plan shall be a violation of this chapter. Each day the violation exists shall be deemed a separate offense. Violators shall be guilty of an infraction punishable by a fine, not to exceed one hundred dollars (\$100.00) for a first violation and a fine not to exceed four hundred dollars (\$400.00) for a second violation within one year. A third violation, or more, within one year shall be prosecuted at a level consistent with a misdemeanor violation. The misdemeanor shall be punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for no more than six months or by both such fine and imprisonment.

B. In addition to any other remedy provided by the law, failure to correct any condition indicated in a notice of violation within one hour of issuance will permit the City to initiate one or more of the following actions where appropriate:

1. Criminal proceedings.
2. Civil proceedings to obtain an injunction, or any other relief against the owner or operator to stop operations at the site.
3. Refusal to issue future permits, and or release of securities held until the owner or operator has adequately demonstrated compliance with the notice of violation.
4. Correction of the condition by the City through agents of the City entering and stabilizing the site of source emissions, and the use of any securities held under this chapter.

24.12.070 Fees for initial review, monitoring, inspection, and mitigation fees.

A. For the purposes of meeting its obligations under this chapter, fees are deemed necessary to review the fugitive dust (PM10) mitigation plan as well as monitor and inspect the project to insure the plan is being carried out by applicant, property owner or designee. The fees shall be set by a resolution of the city council of the city.

B. A fugitive dust (PM10) control plan review fee will be due at the time of initial project application submission to the public works department or the building and safety department for demolition projects.

C. The city council of the city shall set by resolution fees for fugitive dust (PM10) control plan review, monitoring and inspection. The city council resolution will distinguish and set two separate fees for the following plan submittals:

1. Fugitive dust (PM10) control plan for small-scale construction/demolition projects, less than or equal to five acres.

2. Fugitive dust (PM10) control plan for medium-large scale construction/demolition projects, greater than five acres.

D. The city council of the city shall require a bond, a cash Certificate of Deposit, or an equivalent form approved by the City, in an amount equal to at least two thousand dollars (\$2,000.00) per acre or portion thereof. Such funds shall be in an amount sufficient to completely stabilize all disturbed areas in the event that the Operator fails to adequately control dust, or abandons the site in lieu of mitigating fugitive dust problems; and shall be easily accessible to the City in order to initiate stabilization measures without a significant delay.

E. If a fugitive dust (PM10) mitigation plan is not submitted prior to land alteration or the start of construction work, for those persons required to submit a plan, a late submittal fee of twice the normal plan review, monitoring and inspection, and mitigation fee shall be required.

24.12.080 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and application of such provision(s) to other persons or circumstances shall not be affected.

24.12.090 Savings clause.

Neither the adoption of this ordinance codified in this chapter nor the repeal of any other ordinance in which violations were committed prior to the effective date of said ordinance, shall be construed as a waiver of any license, or penalty or the penal provisions application to any violation thereof. The provisions of said ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations, and shall not be construed as a new enactment unless substantial revisions or provisions are required by said ordinance.

24.12.100 Effective date.

The city clerk shall certify to the passage of the ordinance codified in this chapter, cause it to be entered into the minutes of the city council and cause it to be posted as required by law. Said ordinance shall take effect on the thirtieth day following the date of its adoption.

ORDINANCE NO. 1639

AN ORDINANCE OF THE CITY OF PALM SPRINGS,
CALIFORNIA, REPEALING EXISTING CHAPTER 8.50 IN
ITS ENTIRETY AND ADDING SECTION 8.50 OF THE
PALM SPRINGS MUNICIPAL CODE RELATING TO
FUGITIVE DUST CONTROL.

The City Council of the City of Palm Springs, California does ordain as follows:

SECTION 1 Repealing Chapter 8.50 in its entirety and adding Section 8.50 of the Palm Springs Municipal Code relating to Fugitive Dust Control, as follows:

8.50.005 Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

8.50.010 Definitions

For the purpose of this ordinance, the following definitions are applicable:

- 1 AGRICULTURAL OPERATIONS are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.
- 2 AQMD is the South Coast Air Quality Management District and the representatives thereof.
- 3 AVERAGE DAILY TRAFFIC (ADT) is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City in consultation with the AQMD.
- 4 BULK MATERIAL is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.
- 5 CHEMICAL DUST SUPPRESSANTS are non-toxic chemical soil binders that are not prohibited for use by the City, the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.
- 6 CITY means the City of Palm Springs or its authorized representative.
- 7 COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.
- 8 COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.

- 9 CONSTRUCTION ACTIVITIES are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.
- 10 DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.
- 11 DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.
- 12 EARTH-MOVING OPERATIONS are the use of any equipment for an activity where soil is being moved or uncovered.
- 13 FINISH GRADE is the final grade of the site that conforms to the approved grading plan.
- 14 FUGITIVE DUST is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.
- 15 FUGITIVE DUST CONTROL PLAN is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.
- 16 HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:
 - A. the closest AQMD monitoring station, or
 - B. a certified meteorological monitoring station, or
 - C. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
- 17 OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
- 18 PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 19 PHYSICAL ACCESS RESTRICTION is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

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- 20 SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.
- 21 SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
- 22 STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.
- 23 STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.
- 24 UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 25 UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).
- 26 TEMPORARY UNPAVED PARKING LOTS are those used less than 24 days per year.

8.50.015 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook.

8.50.020 Control Requirements

.021 Work Practices – All Fugitive Dust Sources

- 1 No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.
- 2 Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

Performance Standards and Test Methods

- 3 No person subject to the requirements contained in Section .021(1) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

.022 Construction and Demolition Activities

- 1 Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been

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- prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.
- 2 A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.
 - 3 Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.
 - 4 Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:
 - A. maintaining soils in a damp condition as determined by sight or touch; or
 - B. establishment of a stabilized surface through watering; or
 - C. application of a dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.
 - 5 Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:
 - A. re-vegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
 - B. establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
 - C. use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.
 - 6 Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:
 - A. within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
 - B. at the conclusion of each workday.
 - 7 Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):
 - A. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
 - B. paved surface extending at least 100 feet and at least 20 feet wide; or
 - C. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
 - D. a wheel washing system.

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- 8 Any operator required to submit a Fugitive Dust Control Plan under Section .022(1) shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations. Said operator shall also be required to post a bond, cash deposit or equivalent in a form approved by the City at a rate of \$2,000 per disturbed acre or portion thereof. Such bond or deposit shall be conditioned for and limited to expenditure by the City in such increments as may be determined to be necessary to pay for emergency dust control measures deemed necessary by the City in the event of discovery of a sand or dust condition having developed and in the event effective remedial measures by operator are not forthcoming in a timely manner. Where the City must draw on the bond or deposit as provided herein, the operator shall replenish or replace same, upon demand, to the original amount. The cash or bond shall be returned to operator once the sources of the fugitive dust have been eliminated.
- 9 Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:
- A. is hired by the property owner or developer; and
 - B. has dust control as the sole or primary responsibility; and
 - C. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - D. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

- 10 No operator required to submit a Fugitive Dust Control Plan under Section .022(1) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.
- 11 Exceedance of the visible emissions prohibition in Section .022(1) occurring due to a high-wind episode shall constitute a violation of Section .022(1), unless the operator demonstrates to City all the following conditions:
- A. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
 - B. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
 - C. appropriate recordkeeping was complied and retained in accordance with the requirements in Section .022.12 through .022.15; and
 - D. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping
Before Construction

- 12 The operator of a project with ten acres or more of earth-moving operations shall:
- A. forward two copies of a Site-Specific, Stand Alone [8½ by 11 Inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City.[Note: A separate AQMD approval will not be issued]; and
 - B. notify the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- 13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- 14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- 15 Any operator subject to the provisions of Section .022.12 shall notify the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

.023 Disturbed Vacant Lands / Weed Abatement Activities

- 1 Owners of property with a disturbed surface area greater than 5,000 square feet shall within 30 days of receiving official notice by the City prevent trespass through physical access restriction as permitted by the City.
- 2 In the event that implementation of Section .023.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:
- A. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
 - B. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.
- 3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:
- A. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and

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- B. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

- 4 No person subject to the provisions of Sections .023.1 through .023.3 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:
 - A. maintain a stabilized surface; or
 - B. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.
- 6 Any person subject to the provisions of Sections .023.1 through .023.3 shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

Section 8.50.024 Unpaved Roads

Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.

- 2 Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section .024.4 in accordance with the following treatment schedule:
 - A one-third of qualifying unpaved road segments within one year of ordinance adoption; and
 - B. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)
- 3 Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
 - A. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section .024.4 within one year of the ordinance adoption; and

- B. at least two miles paved or four miles stabilized with dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section .024.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

- 4 Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.
- 6 Owners of unpaved roads that utilize dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

.025 Unpaved Parking Lots

- 1 Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section .025.4.
- 2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:
 - A. pave; or
 - B. apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section .025.4;
 - C. apply and maintain washed gravel in accordance with the performance standards included in Section .025.4.
- 3 Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section .025.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section .023 during non-parking periods.

Performance Standards and Test Methods

- 4 The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
 - 6 Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.
- .026 Public or Private Paved Roads

Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- A. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with dust suppressants or washed gravel in accordance with the performance standards included in Section .024.4 with the following minimum widths:

B.

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- C. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section .024.4.
- 2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

Section 8.50.030 Administrative Requirements

- 1 Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 2 At least one on-site representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

- 3 All reporting / recordkeeping required by Section .022 shall be provided to the City and AQMD representatives immediately upon request.
- 4 All reporting / recordkeeping required by Section .023 through Section .026 shall be provided to the City and AQMD representatives within 24-hours of a written request.

Section 8.50.035 Exemptions

- 1 The provisions of this ordinance shall not apply to:
 - A. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
 - B. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.
 - C. any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.
- 2 The provisions of Section .022.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:
 - A. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
 - B. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.
- 3 The provisions of Section .022.8 shall not apply to:
 - A. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section .023 are implemented; and
 - B. line projects (i.e., pipelines, cable access lines, etc.).

Section 8.50.040 Compliance

- 1 A person violating any section of this ordinance or any portion of an approved Dust Control Plan is guilty of an infraction and subject to a fine as specified in Section 1.01.155 of the Municipal Code. The third, and any additional violation, shall constitute a misdemeanor. Any person guilty of a misdemeanor shall be subject to a fine of not more than \$1,000 and/or imprisonment for no more than 6 months. Each day that the violation exists shall be deemed a separate offense.
- 2 In addition to any other remedy provided by law, the failure to correct any condition indicated in a notice of violation within one hour of issuance will allow the City to initiate one or more of the following actions where appropriate:
 - A. Criminal proceedings.
 - B. Civil proceedings to obtain an injunction or any other relief against the owner or operator to stop operations at the site.
 - C. Refusal to issue future permits and/or release of securities held until the owner or operator has adequately demonstrated compliance with the notice of violation.

16 BID

D Correction of the condition by the City through the use of any securities held under this ordinance.


SECTION 2 EFFECTIVE Date. This ordinance shall be in full force and effect 30 days after passage.

SECTION 3 PUBLICATION. The City Clerk is hereby ordered and directed to certify to the passage of this ordinance and to cause same or a summary thereof or a display advertisement, duly prepared to law, to be published in accordance with law.

Adopted this 5th day of November, 2003


AYES: Members Mills, Oden, Reller-Spurgin and Mayor Kleindienst
NOES: None
ABSENT: Member Hodges

ATTEST:
By 
CITY CLERK

CITY OF PALM SPRINGS, CALIFORNIA

MAYOR

REVIEWED AND APPROVED _____

I HEREBY CERTIFY THAT THE FOREGOING Ordinance 1639 was duly adopted by the City Council of the City of Palm Springs, California, in a meeting held on the 5th day of November, 2003, and that a summary of same was published in the DESERT SUN, a newspaper of general circulation on October 24, 2003 and November 15, 2003.


PATRICIA A. SANDERS
City Clerk

16 B 11

ORDINANCE NO. 855

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE REPLACING CHAPTER 7.01 OF THE RANCHO MIRAGE MUNICIPAL CODE "CONTROL OF PM-10, FUGITIVE DUST AND OTHER EMISSIONS"

WHEREAS, the City Council previously adopted by ordinance Chapter 7.01 of the Rancho Mirage Municipal Code "Control of PM-10, Fugitive Dust and Other Emissions" regulating fugitive dust, PM-10 and other emissions; and

WHEREAS, Air pollution remains a significant public health concern in many parts of California, and specifically in the Coachella Valley; and

WHEREAS, the transport of fugitive dust, as a result of man-made activities, is an ongoing challenge to promoting economic growth and meeting federal standards for airborne fugitive dust (PM10) in the Coachella Valley; and

WHEREAS, the City desires to reduce the health impacts and public nuisance potential of uncontrolled dust, by establishing an ongoing relationship between the County of Riverside, Cathedral City, City of Coachella, City of Desert Hot Springs, City of Indian Wells, City of Indio, City of La Quinta, City of Palm Desert, City of Palm Springs, and City of Rancho Mirage (collectively, "Cities"), the Coachella Valley Association of Governments ("CVAG"), and the South Coast Air Quality Management District ("AQMD") to ensure the development and implementation of appropriate dust control plans and achieve compliance with AQMD, federal and state air quality standards; and

WHEREAS, the City is a member of CVAG, which has local authority for controlling dust emissions from construction activities, disturbed vacant lands, unpaved roads, and parking lots; and

WHEREAS, AQMD, in conjunction with the City and CVAG, prepared a model ordinance regulating fugitive dust, PM-10 and other emissions for the City Council to adopt; and

WHEREAS, the City Council desires to protect the health, safety, and welfare of its citizens by promulgating regulations which reduce the existence of fugitive dust, PM-10 and other emissions through the adoption of the model ordinance into the Rancho Mirage Municipal Code; and

WHEREAS, the City may amend or otherwise modify or replace sections of the Rancho Mirage Municipal Code in a manner that furthers the interests of the City in protecting the health, safety and welfare of the individuals within its boundaries; and

WHEREAS, the City Council has found and determined that adoption of the model ordinance would be categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations Section 15308.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE AND INTENT

The purpose and intent of this ordinance is to protect the health, safety, and welfare of the citizens of the City of Rancho Mirage, by regulating the occurrence of fugitive dust, PM-10 and other emissions resulting from man-made and construction activities.

Section 2. REPLACING CHAPTER 7.01 "CONTROL OF PM-10, FUGITIVE DUST AND OTHER EMISSIONS" OF TITLE 7 OF THE RANCHO MIRAGE MUNICIPAL CODE

Chapter 7.01 "Control of PM-10, Fugitive Dust and Other Emissions" of Title 7 of the Rancho Mirage Municipal Code is hereby repealed and replaced in its entirety with Exhibit A attached hereto and incorporated herein by this reference.

Section 3. SEVERABILITY

If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining section, subsection and clauses shall not be affected thereby.

Section 4. REPEAL OF CONFLICTING PROVISIONS

All the provisions of the Rancho Mirage Municipal Code as heretofore adopted by the City of Rancho Mirage that are in conflict with the provisions of this ordinance are hereby repealed.

Section 4. EFFECTIVE DATE

This ordinance shall take effect thirty-one (31) days after its second reading by the City Council.

Section 5. POSTING

The City Clerk shall within fifteen (15) days after the passage of this ordinance cause it to be posted and/or published as required by law and shall cause this ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

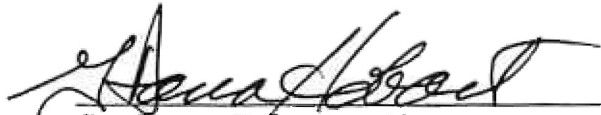
Attachment

Exhibit A - Chapter 7.01 "Control of PM-10, Fugitive Dust and Other Emissions" of Title 7 of the Rancho Mirage Municipal Code

[END OF THIS PAGE]

The foregoing ordinance was approved and adopted at a meeting of the City Council held on this 18th day of December, 2003 by the following vote:

Ayes: GERBER, MEEPOS, KITE, SEMAN, HOBART.
Noes: NONE.
Abstain: NONE.
Absent: NONE.



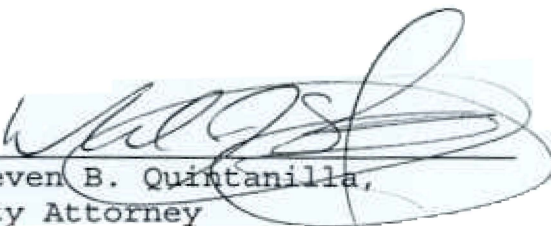
G. Dana Hobart, Mayor

ATTEST:



Elena Keeran, City Clerk

APPROVED AS TO FORM:



Steven B. Quintanilla,
City Attorney

CHAPTER 7.01 CONTROL OF PM₁₀, FUGITIVE DUST AND OTHER EMISSIONS

7.01.010 Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM₁₀ emissions.

7.01.020 Definitions

For the purpose of this ordinance, the following definitions are applicable:

- 1 AGRICULTURAL OPERATIONS are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood.
- 2 AQMD is the South Coast Air Quality Management District and the representatives thereof.
- 3 AVERAGE DAILY TRAFFIC (ADT) is the number of motor vehicles that traverse a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the City (County) in consultation with the AQMD.
- 4 BULK MATERIAL is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.
- 5 CHEMICAL DUST SUPPRESSANTS are non-toxic chemical soil binders that are not prohibited for use by the City (County), the California Regional Water Quality Control Board, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.
- 6 COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM) are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.
- 7 COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.
- 8 CONSTRUCTION ACTIVITIES are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities: grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planing, shaping, breaking, equipment staging/storage areas, lawn scalping or turf over seeding, weed abatement activities or disturbance of any vegetation, whether living or dead or adding or removing bulk materials from storage piles.

- 9 DEMOLITION ACTIVITIES are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.
- 10 DISTURBED SURFACE AREA is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.
- 11 EARTH-MOVING OPERATIONS are the use of any equipment for an activity where soil is being moved or uncovered.
- 12 FINISH GRADE is the final grade of the site that conforms to the approved grading plan.
- 13 FUGITIVE DUST is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities or Construction Activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of 10 microns or less.
- 14 FUGITIVE DUST CONTROL PLAN is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.
- 15 HIGH-WIND EPISODE is when wind speeds exceed 25 miles per hour as measured by:
 - A. the closest AQMD monitoring station, or
 - B. a certified meteorological monitoring station, or
 - C. an on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
- 16 OPERATOR is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
- 17 OWNER means any person, agency, firm or corporation having a legal possessory or equitable interest in a given real property.
- 18 PAVED ROAD is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 19 PERSON means and includes a natural person, joint venture, joint stock company, partnership, association, club, corporation, business, trust,

organization, or the manager, lessee, agent, servant, officer or employee of any of them.

- 20 **PHYSICAL ACCESS RESTRICTION** is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.
- 21 **SILT** is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.
- 22 **SITE** is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
- 23 **STABILIZED SURFACE** is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.
- 24 **STORAGE PILE** is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.
- 25 **UNPAVED PARKING LOT** is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 26 **UNPAVED ROAD** is any service roads, internal access roads, heavy and light duty equipment paths and other roadways which are not covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).
- 27 **TEMPORARY UNPAVED PARKING LOTS** are those used less than 24 days per year.

7.01.030 Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based upon the methodologies included in the Coachella Valley Dust Control Handbook.

7.01.040 Control Requirements

7.01.041 Work Practices – All Fugitive Dust Sources

- 1 No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met.
- 2 Any operator involved in any potential dust-generating activity on a site shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook and as otherwise may be determined by the City, if watering is the selected control measure.

Performance Standards and Test Methods

- 3** No person subject to the requirements contained in Section 7.01.041(1) shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

7.01.042 Construction and Demolition Activities

- 1** Any operator applying for a grading permit, demolition permit or building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the City.
- 2** A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the City and AQMD upon request.
- 3** Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.
- 4** Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:
 - A.** maintaining soils in a damp condition as determined by sight or touch; or
 - B.** establishment of a stabilized surface through watering; or
 - C.** application of a chemical dust suppressant in sufficient quantities and concentrations to maintain a stabilized surface.
- 5** Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:
 - A.** revegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
 - B.** establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
 - C.** use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.
- 6** Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:
 - A.** within one hour if such material extends for a cumulative distance of greater than 25 feet from any site access point; and
 - B.** at the conclusion of each workday.
- 7** Any operator of a project with a disturbed surface area of five or more acres or of any project that involves the import or export of at least 100 cubic yards of

bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- A. pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
 - B. paved surface extending at least 100 feet and at least 20 feet wide; or
 - C. wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long and 12 feet wide; or
 - D. a wheel washing system.
- 8 Any operator required to submit a Fugitive Dust Control Plan under Section 7.01.042(1) shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.
- 9 Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer that:
- A. is hired by the property owner or developer; and
 - B. has dust control as the sole or primary responsibility; and
 - C. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - D. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Performance Standards and Test Methods

- 10 Notwithstanding any other provision of this Ordinance, no operator, whether required to submit a Fugitive Dust Control Plan under Section 7.01.042(1) or not, shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.
- 11 Exceedance of the visible emissions prohibition in Section 7.01.042(10) occurring due to a high-wind episode shall constitute a violation of Section 7.01.042(10), unless the operator demonstrates to City all the following conditions:
- A. all Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and
 - B. the exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and

- C. appropriate recordkeeping was complied and retained in accordance with the requirements in Section 7.01.042(12) through 7.01.042(15); and
- D. documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

Reporting / Recordkeeping

Before Construction

- 12 The operator of a project with ten acres or more of earth-moving operations shall:
 - A. forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the City. [Note: A separate AQMD approval will not be issued]; and
 - B. notify the City's Public Works Director in writing on a form provided by the City and the AQMD at least 24-hours prior to initiating earth-moving operations.

During Construction

- 13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three years, daily self-inspection recordkeeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.
- 14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

After Construction

- 15 Any operator subject to the provisions of Section 7.01.042(12) shall notify the City's Public Works Director in writing on a form provided by the City and the AQMD within ten days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

7.01.043 Disturbed Vacant Lands / Weed Abatement Activities

- 1 Owners of property with a disturbed surface area greater than 5,000 square feet shall within the time specified by the City in the City's official notice (not to exceed 30 days) prevent trespass through physical access restriction as permitted by the City.
- 2 In the event that implementation of Section 7.01.043(1) is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the City has determined that the land has been restabilized:

- A. uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
 - B. begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within 8 months of the initial application.
- 3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:
- A. apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
 - B. ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

Performance Standards and Test Methods

- 4 No person whether subject to the provisions of Sections 7.01.043(1) through 7.01.043(3) or not, shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from a source, or cross any property line, and shall either:
- A. maintain a stabilized surface; or
 - B. maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or higher.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, operators of property with disturbed surface area of 5,000 or more square feet shall notify the City of the location of such lands and provide owner contact information.
- 6 Any person subject to the provisions of Sections 7.01.043(1) through 7.01.043(3) shall compile, and retain for a period of not less than three years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

7.01.044 Unpaved Roads

- 1 Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.
- 2 Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 7.01.044(4) in accordance with the following treatment schedule:

- A. one-third of qualifying unpaved road segments within one year of ordinance adoption; and
 - B. remainder of qualifying unpaved road segments within three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years).
- 3 Owners of a cumulative distance of more than six miles of public unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:
- A. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards established in Section 440.4 within one year of the ordinance adoption; and
 - B. at least two miles paved or four miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 440.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized. (Note: treatments in excess of annual requirements can apply to future years).

Performance Standards and Test Methods

- 4 Owners of any private unpaved road, which includes driveways of 100 feet in length or greater, shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
- A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed six percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of private unpaved roads shall provide to the City and the AQMD the location and ADT estimates for all unpaved roads.
- 6 Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

7.01.045 Unpaved Parking Lots

- 1 Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 7.01.045(4).

- 2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:
 - A. pave; or
 - B. apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 7.01.045(4);
 - C. apply and maintain washed gravel in accordance with the performance standards included in Section 7.01.045(4).
- 3 Owners of private temporary unpaved parking lots or vacant lots being used or having been used for parking purposes (those temporary unpaved parking lots or vacant lots that are used for parking purposes 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 7.01.045(4) prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot or vacant lot being used or having been used for parking purposes greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 7.01.043 during non-parking periods.

It shall be unlawful for vehicles to park in any unpaved parking lots or vacant lots being used or having been used for parking purposes that fail to comply with the standards set forth in this Ordinance.

Performance Standards and Test Methods

- 4 The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:
 - A. not allow silt loading to be equal to or greater than 0.33 ounces per square foot; or
 - B. not allow the silt content to exceed eight percent.

Reporting / Recordkeeping

- 5 Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide in writing to the City and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots.
- 6 Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

7.01.046 Public or Private Paved Roads

- 1 Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:
 - A. curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in Section 440.4 with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet
 - B. paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 7.01.044(4).
- 2 Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the City or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic.

7.01.050 Administrative Requirements

- 1 Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.
- 3 All reporting / recordkeeping required by Section 7.01.042 shall be provided to the City and AQMD representatives immediately upon request.
- 4 All reporting / recordkeeping required by Section 7.01.043 through Section 7.01.046 shall be provided to the City and AQMD representatives within 24-hours of a written request.

7.01.060 Exemptions

- 1 The provisions of this ordinance shall not apply to:
 - A. agricultural operations including on-field sources and unpaved roads used solely for agricultural operations.
 - B. any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency.

- C. any action required or authorized to implement emergency operations that are officially declared by the City to ensure the public health and safety.
- 2 The provisions of Section 7.01.042(1) shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:
 - A. the activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
 - B. activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.
- 3 The provisions of Section 7.01.042(8) shall not apply to:
 - A. projects that takes two weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 7.01.043 are implemented; and
 - B. line projects (i.e., pipelines, cable access lines, etc.).

7.01.070 Compliance

- 1 A person violating any section of this ordinance or any portion of an approved Dust Control Plan shall be guilty of an infraction punishable by a fine of one hundred dollars (\$100.00) for a first violation and a fine of four hundred dollars (\$400.00) for a second violation within one year. A third violation, or more, within one year shall be prosecuted as a misdemeanor violation.
- 2 In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one hour of issuance will permit the City to initiate one or more of the following actions where appropriate:
 - A Criminal proceedings.
 - B Civil proceedings to obtain an injunction; or any other relief against the owner or operator to stop operations at the site.
 - C Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.
 - D Correction of the condition by the City through the use of any securities held under this ordinance.
- 3 Any violation of this Ordinance shall constitute a public nuisance.
- 4 The remedies set forth in this Ordinance are in addition to any other remedies set forth in the Rancho Mirage Municipal Code or otherwise provided by law.

7.01.80 More Restrictive City Measures Shall Govern

To the extent any regulations in the Rancho Mirage Municipal Code impose greater restrictions upon the activities regulated by this Chapter, the more restrictive regulations shall govern.

ORDINANCE CERTIFICATION

I, Elena Keeran, City Clerk of the City of Rancho Mirage, California, do hereby certify under penalty of perjury, that the foregoing Ordinance No. 855 was introduced by first reading at a meeting of the City Council held December 4th, 2003, by the following vote:

AYES: GERBER, MEEPOS, KITE, SEMAN, HOBART
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Ordinance No. 855 was adopted at a regular meeting of the City Council held on December 18th, 2003 by the following vote:

AYES: GERBER, MEEPOS, KITE, SEMAN, HOBART
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

I further certify that I have caused the Ordinance to be posted and/or published as required by law (GC Sect. 36933).


Elena Keeran, CMC
City Clerk

ORDINANCE NO. 863

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE AMENDING RANCHO MIRAGE MUNICIPAL CODE CHAPTER 7.01, CONTROL OF PM₁₀ FUGITIVE DUST AND OTHER EMISSIONS, SECTION 7.01.042(9), CONSTRUCTION AND DEMOLITION ACTIVITIES

WHEREAS, the City Council previously adopted by ordinance Chapter 7.01 of the Rancho Mirage Municipal Code "Control of PM₁₀, Fugitive Dust and Other Emissions" regulating fugitive dust, PM₁₀ and other emissions; and

WHEREAS, the South Coast Air Quality Management District ("AQMD"), in conjunction with the City and the Coachella Valley Association of Governments ("CVAG"), prepared a model ordinance regulating fugitive dust, PM₁₀ and other emissions, which the City Council adopted on December 4, 2003 as Ordinance No. 855 replacing Chapter 7.01 of the Rancho Mirage Municipal Code "Control of PM-10, Fugitive Dust and Other Emissions"; and

WHEREAS, Section 7.01.042(9) of Chapter 7.01 of the Rancho Mirage Municipal Code requires that an Environmental Observer be available for any project with a disturbed surface area of 50 or more acres; and

WHEREAS, time frames for the availability of the Environmental Observer were not included in AQMD's model PM₁₀ ordinance or in Municipal Code Section 7.01.042(9); and

WHEREAS, AQMD has requested that Section 7.01.042(9) be revised to include a requirement that an environmental observer be on-site or available on-site within 30 minutes of initial contact; and

WHEREAS, the City may amend or otherwise modify or replace sections of the Rancho Mirage Municipal Code in a manner that furthers the interests of the City in protecting the health, safety and welfare of the individuals within its boundaries; and

WHEREAS, the City Council has found and determined that amendment of Municipal Code Section 7.01.042(9), is categorically exempt from the California Environmental Quality Act (ACEQA) pursuant to Title 14 of the California Code of Regulations Section 15308.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE AND INTENT

The purpose and intent of this ordinance amendment is to protect the health, safety, and welfare of the citizens of the City of Rancho Mirage, by further regulating the occurrence of fugitive dust, PM₁₀ and other emissions resulting from man-made and construction activities.

Section 2. REPLACING RANCHO MIRAGE MUNICIPAL CODE CHAPTER 7.01, CONTROL OF PM₁₀ FUGITIVE DUST AND OTHER EMISSIONS, SECTION 7.01.042(9), CONSTRUCTION AND DEMOLITION ACTIVITIES.

Title 7 of the Rancho Mirage Municipal Code, Chapter 7.01, Control of PM₁₀ Fugitive Dust and Other Emissions, Section 7.01.042(9), Construction and Demolition Activities is hereby repealed and replaced in its entirety in accordance with and pursuant to the following:

9. Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:
 - A. is hired by the property owner or developer; and
 - B. has dust control as the sole or primary responsibility; and
 - C. has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
 - D. is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

Section 3. SEVERABILITY

If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining section, subsection and clauses shall not be affected thereby.

Section 4. REPEAL OF CONFLICTING PROVISIONS

All the provisions of the Rancho Mirage Municipal Code as heretofore adopted by the City of Rancho Mirage that are in conflict with the provisions of this ordinance are hereby repealed.

Section 5. EFFECTIVE DATE

This ordinance shall take effect thirty-one (31) days after its second reading by the City Council.

Section 6. POSTING


The City Clerk shall within fifteen (15) days after the passage of this ordinance cause it to be posted and/or published as required by law and shall cause this ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

[END OF THIS PAGE]

The foregoing ordinance was approved and adopted at a meeting of the City Council held on this 29th day of April, 2004 by the following vote:

AYES: HOBART, GERBER, KITE, SEMAN, MEEPOS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

CITY OF RANCHO MIRAGE
CITY COUNCIL



RON MEEPOS
MAYOR

ATTEST:



ELENA KEERAN, CMC
CITY CLERK

APPROVED AS TO FORM



STEVEN B. QUINTANILLA
CITY ATTORNEY

ORDINANCE CERTIFICATION

I, Elena Keeran, City Clerk of the City of Rancho Mirage, California, do hereby certify under penalty of perjury, that the foregoing Ordinance No. 863 was adopted at a meeting of the City Council held April 29th, 2004, by the following vote:

AYES: HOBART, GERBER, KITE, SEMAN, MEEPOS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

I further certify that I have caused the Ordinance to be posted and/or published as required by law (GC Sect. 36933).



Elena Keeran, CMC
City Clerk

ORDINANCE 742.1

AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE No. 742 RELATING TO THE CONTROL OF FUGITIVE DUST AND THE CORRESPONDING PM10 EMISSION IN THE COACHELLA VALLEY, AND ALSO ADOPTING THE COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK PRODUCED BY AIR QUALITY MANAGEMENT DISTRICT (AQMD).

Section 1. Purpose

The purpose of this ordinance is to establish minimum requirements for construction and demolition activities and other specified sources in order to reduce man-made fugitive dust and the corresponding PM10 emissions.

Section 2. Definitions

For the purpose of this ordinance, the following definitions are applicable:

- 1 AGRICULTURAL OPERATIONS** are any operation directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a livelihood
- 2 AQMD** is the South Coast Air Quality Management District and the representatives thereof.
- 3 AVERAGE DAILY TRAFFIC (ADT)** is the number of motor vehicles that traverses a given unpaved or paved surface during a specified 24-hour period. ADT levels are calculated as the average daily volume over a specified 48-hour period as determined by the County in consultation with the AQMD
- 4 BULK MATERIAL** is all sand, gravel, soil, aggregate and other organic and inorganic particulate matter.
- 5 CHEMICAL DUST SUPPRESSANTS** are non-toxic chemical soil binders that are not prohibited for use by the County, the California Regional Water Quality Control Board, the California Air Resources Board, the U.S Environmental Protection

Agency (U.S. EPA), or any other law, rule or regulation, used to reduce dust on disturbed surfaces.

- 6 **COACHELLA VALLEY BEST AVAILABLE CONTROL MEASURES (CV BACM)** are methods to prevent or mitigate the emission and/or airborne transport of fugitive dust, as identified in the Coachella Valley Fugitive Dust Control Handbook.
- 7 **COACHELLA VALLEY FUGITIVE DUST CONTROL HANDBOOK** is the most recently approved reference document by the AQMD that includes a description of fugitive dust control measures, guidance for preparation of Fugitive Dust Control Plans, notification forms, signage provisions, and test methods.
- 8 **COUNTY** means the County of Riverside.
- 9 **CONSTRUCTION ACTIVITIES** are any on-site activities preparatory to or related to the building, alteration, rehabilitation, or improvement of property, including, but not limited to the following activities; grading, excavation, trenching, loading, vehicular travel, crushing, blasting, cutting, planning, shaping, breaking, equipment staging/storage areas, weed abatement activities or adding or removing bulk materials from storage piles.
- 10 **DEMOLITION ACTIVITIES** are the wrecking or taking out of any load-supporting structural member of a structure or building and related handling operations or the intentional burning of any structure or building.
- 1 **DISTURBED SURFACE AREA** is any portion of the earth's surface (or material placed thereupon) that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition (including vehicular disturbances) thereby increasing the potential for the emission of fugitive dust. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding native conditions.
- 12 **EARTH-MOVING OPERATIONS** are the use of any equipment for an activity where soil is being moved or uncovered.

- 13 **FINISH GRADE** is the final grade of the site that conforms to the approved grading plan.
- 14 **FUGITIVE DUST** is any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of human activities. PM10 is a subset of fugitive dust and is defined as particulate matter with an aerodynamic diameter of ten (10) microns or less.
- 15 **FUGITIVE DUST CONTROL PLAN** is a document that describes fugitive dust sources at a site and the corresponding control measures and is prepared in accordance with the guidance contained in the Coachella Valley Fugitive Dust Control Handbook.
- 16 **HIGH-WIND EPISODE** is when wind speeds exceed 25 miles per hour as measured by:
 - A. The closest AQMD monitoring station, or
 - B. A certified meteorological monitoring station, or
 - C. An on-site wind monitor calibrated and operated on-site in accordance with the manufacturer's specifications with a data logger or strip chart.
- 17 **OPERATOR** is any person who owns, leases, operates, controls, or supervises any potential fugitive dust generating operation subject to the requirements of this ordinance. This definition includes any person who has been officially designated by a property owner as the person responsible for fugitive dust control at a site, as indicated in an approved Fugitive Dust Control Plan.
- 18 **PAVED ROAD** is an improved street, highway, alley, public way, or easement that is covered by roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 19 **PHYSICAL ACCESS RESTRICTION** is any barrier, including but not limited to; curbs, fences, gates, posts with fencing, shrubs, trees, or other measures that are effective in preventing vehicular and Off-Highway Vehicle (OHV) use of a specified site.

- 20 SILT is any bulk material with a particle size less than 75 micrometers in diameter that passes through a Number 200 sieve as determined by American Society of Testing and Materials (ASTM) Test Method C 136 or any other test method approved by the U.S. EPA and AQMD.
- 21 SITE is the real property on which construction, demolition, or other activities subject to this ordinance may occur.
- 22 STABILIZED SURFACE is any portion of land that meets the minimum standards as established by the applicable test method contained in the Coachella Valley Fugitive Dust Control Handbook.
- 23 STORAGE PILE is any accumulation of bulk material with a height of three feet or more and a total surface area of 300 or more square feet.
- 24 UNPAVED PARKING LOT is an area utilized for parking vehicles and associated vehicle maneuvering that is not covered with roadway materials (e.g., cement, asphalt or asphaltic concrete).
- 25 UNPAVED ROAD is any service roads, internal access roads, heavy and light duty equipment paths and other roadways covered by typical roadway materials (e.g., cement, asphalt, asphaltic concrete).
- 26 TEMPORARY UNPAVED PARKING LOTS are those UNPAVED PARKING LOTS used less than 24 days per year.

Section 3. Performance Standards and Test Methods

All performance standards and test methods referenced in this ordinance shall be based on the methodologies included in the Coachella Valley Dust Control Handbook, which is adopted and incorporated herein by this reference.

Section 4. Control Requirements

4.1 Work Practices – All Fugitive Dust Sources

- 4.1.1 No operator shall conduct any potential dust-generating activity on a site unless the operator utilizes one or more Coachella Valley Best Available Control Measures, as identified in the Coachella Valley Fugitive Dust Control

Handbook for each fugitive dust source such that the applicable performance standards are met.

Any operator involved in any potential dust-generating activity on a site with a disturbed surface area greater than one acre shall, at a minimum, operate a water application system as identified in the Coachella Valley Fugitive Dust Control Handbook, if watering is the selected control measure.

No person subject to the requirements contained in Section 4.1.1 shall cause or allow visible fugitive dust emissions to exceed twenty (20) percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

4.2 Construction and Demolition Activities

Any operator applying for a grading permit, or a building permit for an activity with a disturbed surface area of more than 5,000 square feet, shall not initiate any earth-moving operations unless a Fugitive Dust Control Plan has been prepared pursuant to the provisions of the Coachella Valley Fugitive Dust Control Handbook and approved by the County.

A complete copy of the approved Fugitive Dust Control Plan must be kept on site in a conspicuous place at all times and provided to the County and AQMD upon request.

Any operator involved in demolition activities shall comply with AQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) requirements, and the requirements of Title 40, Part 61 of the code of Federal Regulations.

Any operator involved in earth-moving operations shall implement at least one of the following short-term stabilization methods during non-working hours:

- A. Maintaining soils in a damp condition as determined by sight or touch; or
- B. Establishment of a stabilized surface through watering; or
- C. Application of a chemical dust suppressant in sufficient quantities and concentrations to maintain stabilized surface.

Within 10 days of ceasing activity, an operator shall implement at least one of the following long-term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least 30 days:

- A. Re-vegetation that results in 75 percent ground coverage provided that an active watering system is in place at all times; or
- B. Establishment of a stabilized surface through watering with physical access restriction surrounding the area; or
- C. Use of chemical stabilizers to establish a stabilized surface with physical access restriction surrounding the area.

Any operator shall remove all bulk material track-out from any site access point onto any paved road open to through traffic:

- A. Within one hour if such material extends for a cumulative distance of greater than twenty five (25) feet from any site access point; and
- B. At the conclusion of each workday.

Any operator of a project with a disturbed surface area of five or more acres, or of any project that involves the import or export of at least 100 cubic yards of bulk material per day shall install and maintain at least one of the following control measures at the intersection of each site entrance and any paved road open to through traffic with all vehicles exiting the site routed over the selected device(s):

- A. Pad consisting of minimum one inch washed gravel maintained in a clean condition to a depth of at least six inches and extending at least 30 feet wide and at least 50 feet long; or
- B. Paved surface extending at least 100 feet and at least 20 feet wide; or

- C. Wheel shaker / wheel spreading device consisting of raised dividers (rails, pipe, or grates) at least three inches tall and at least six inches apart and 20 feet long; or
- D. a wheel washing system.

4.2.8 Any operator required to submit a Fugitive Dust Control Plan under Section 420.1 shall install and maintain project contact signage that meets the minimum standards of the Coachella Valley Fugitive Dust Control Handbook, including a 24-hour manned toll-free or local phone number, prior to initiating any type of earth-moving operations.

4.2.9 Any operator of a project with a disturbed surface area of 50 or more acres shall have an Environmental Observer on the site or available on-site within 30 minutes of initial contact that:

- A. Is hired by the property owner or developer; and
- B. Has dust control as the sole or primary responsibility; and
- C. Has successfully completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a Certificate of Completion for the class; and
- D. Is identified in the approved Fugitive Dust Control Plan as having the authority to immediately employ sufficient dust mitigation 24-hours per day, seven days a week and to ensure compliance with this ordinance, the approved Fugitive Dust Control Plan, and AQMD regulations.

4.2.10 No operator required to submit a Fugitive Dust Control Plan under Section 4.2.1 shall cause or allow visible fugitive dust emissions to exceed 20 percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, or cross any property line.

4.2.11 Exceedance of the visible emissions prohibition in Section 4.2.10 occurring due to a high-wind episode shall constitute a violation of Section 4.2.10, unless the operator demonstrates to County all the following conditions:

- A. All Fugitive Dust Control Plan measures or applicable Coachella Valley Best Available Control Measures were implemented and maintained on site; and

- B.** The exceedance could not have been prevented by better application, implementation, operation, or maintenance of control measures; and
- C.** Appropriate record keeping was complied and retained in accordance with the requirements in Section 4.2.12 through 4.2.15; and
- D.** Documentation of the high-wind episode on the day(s) in question is provided by appropriate records.

4.2.12 The operator of a project with ten (10) acres or more of earth-moving operations shall:

- A.** Forward two copies of a Site-Specific, Stand Alone [8½ by 11 inch] Fugitive Dust Control Plan to the AQMD within ten days after approval by the County. [Note: A separate AQMD approval will not be issued]; and
- B.** Notify the County and the AQMD at least 24-hours prior to initiating earth-moving operations

4.2.13 Any operator involved in earth-moving operations shall compile, and maintain for a period of not less than three (3) years, daily self-inspection record keeping forms in accordance with the guidelines contained in the Coachella Valley Fugitive Dust Control Handbook.

4.2.14 Any operator involved in earth-moving operations that utilizes chemical dust suppressants for dust control on a site shall compile records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application and shall retain such records for a period of not less than three years.

4.2.15 Any operator subject to the provisions of Section 4.2.12 shall notify the County and the AQMD within ten (10) days of the establishment of the finish grade or at the conclusion of the finished grading inspection.

4.3 Disturbed Vacant Lands / Weed Abatement Activities

Owners of property with a disturbed surface area greater than 5,000 square feet shall within thirty (30) days of receiving official notice by the County prevent trespass through physical access restriction as permitted by the County.

In the event that implementation of Section 4.3.1 is not effective in establishing a stabilized surface within 45 days of restricting access, the owner shall implement at least one of the following long term stabilization techniques within an additional 15 days, unless the County has determined that the land has been restabilized:

- A. Uniformly apply and maintain surface gravel or chemical dust suppressants such that a stabilized surface is formed; or
- B. Begin restoring disturbed surfaces such that the vegetative cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such restoration control measure(s) must be maintained and reapplied, if necessary, such that a stabilized surface is formed within eight (8) months of the initial application.

4.3.3 Any operator conducting weed abatement activities on a site that results in a disturbed surface area of 5,000 or more square feet shall:

- A. Apply sufficient water before and during weed abatement activities such that the applicable performance standards are met; and
- B. Ensure that the affected area is a stabilized surface once weed abatement activities have ceased.

No person subject to the provisions of Sections 4.3.1 through 4.3.3 shall cause or allow visible fugitive dust emissions to exceed twenty (20) percent opacity, or extend more than one hundred (100) feet either horizontally or vertically from a source, or cross any property line, and shall either:

- A. Maintain a stabilized surface; or
- B. Maintain a threshold friction velocity for disturbed surface areas corrected for non-erodible elements of one hundred (100) centimeters per second or higher.

4.3.5 Within ninety (90) days of ordinance adoption, operators of property with disturbed surface area of five thousand (5,000) or more square feet shall notify the County of the location of such lands and provide owner contact information.

4.3.6 Any person subject to the provisions of Sections 4.3.1 through 4.3.3 shall compile, and retain for a period of not less than three (3) years, records indicating the name and contact person of all firms contracted with for dust mitigation, listing of dust control implements used on-site, and invoices from dust suppressant contractors/vendors.

4.4 Unpaved Roads

Owners of private unpaved roads with average daily traffic levels between 20 and 150 vehicles must take measures (signage or speed control devices) to reduce vehicular speeds to no more than 15 miles per hour.

Owners of a cumulative distance of six or less miles of private unpaved roads shall pave each segment having 150 or more average daily trips or, alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance standards included in Section 4.4.4 in accordance with the following treatment schedule:

- A. One-third (1/3) of qualifying unpaved road segments within one (1) year of ordinance adoption; and
- C. Remainder of qualifying unpaved road segments within (3) three years of ordinance adoption. (Note: treatments in excess of annual requirements can apply to future years.)

Owners of a cumulative distance of more than six miles of private unpaved roads shall stabilize each segment having 150 or more average daily trips in accordance with the following treatment schedule:

- A. At least two (2) miles paved or four (4) miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel

surface and the performance standards established in Section 4.4.4 within one year of the ordinance adoption; and

- B. At least two (2) miles paved or four (4) miles stabilized with chemical dust suppressants in accordance with the manufacturer's specifications for a travel surface and the performance

standards included in Section 4.4.4 in accordance with the following treatment schedule annually thereafter until all qualifying unpaved roads have been stabilized.

(Note: treatments in excess of annual requirements can apply to future years).

Owners of any private unpaved road shall not allow visible fugitive dust emissions to exceed twenty (20) percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

- A. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot;

or

- B. Not allow the silt content to exceed six (6) percent.

Within 90 days of ordinance adoption, owners of unpaved roads shall provide to the City (County) and the AQMD the location and ADT estimates for all unpaved roads.

Owners of unpaved roads that utilize chemical dust suppressants shall compile, and retain for a period of not less than three (3) years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

4.5 Unpaved Parking Lots

Owners of parking lots established subsequent to ordinance adoption are required to pave such areas, or alternatively apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4.

- 4.5.2 Owners of existing private unpaved parking lots shall implement one of the following control strategies within 180 days of ordinance adoption:

- A. Pave; or
- B. Apply and maintain dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4;
- C Apply and maintain washed gravel in accordance with the performance standards included in Section 4.5.4.

Owners of private temporary unpaved parking lots (those that are used 24 days or less per year) shall apply and maintain chemical dust suppressants in accordance with the manufacturer's specifications for traffic areas and the performance standards included in Section 4.5.4 prior to any 24-hour period when more than 40 vehicles are expected to enter and park. The owner of any temporary unpaved parking lot greater than 5,000 square feet shall implement the disturbed vacant land requirements contained in Section 4.3 during non-parking periods.

The operator of any private unpaved parking lot shall not allow visible fugitive dust emissions to exceed twenty (20) percent opacity, or extend more than 100 feet either horizontally or vertically from the origin of a source, and shall either:

- A. Not allow silt loading to be equal to or greater than 0.33 ounces per square foot;
or
- B. Not allow the silt content to exceed eight (8) percent.

Within 90 days of ordinance adoption, owners of unpaved parking lots shall provide to the County and the AQMD the location and ADT estimates and the size (in square feet) of unpaved parking lots

Owners of unpaved parking lots that utilize chemical dust suppressants or apply gravel shall compile, and retain for a period of not less than three (3) years, records indicating the type of product applied, vendor name, and the method, frequency, concentration, quantity and date(s) of application.

4.6 Public or Private Paved Roads

Any owner of paved roads shall construct, or require to be constructed all new or widened paved roads in accordance with the following standards:

- A. Curbing in accordance with the American Association of State Highway and Transportation Officials guidelines or as an alternative, road shoulders paved or treated with chemical dust suppressants or washed gravel in accordance with the performance standards included in

Section 4.4.4 with the following minimum widths:

Average Daily Trips	Minimum Shoulder Width
500 - 3,000	4 feet
3,000 or greater	8 feet

- B Paved medians or as an alternative, medians surrounded by curbing and treated with landscaping, chemical dust suppressants, or washed gravel applied and maintained in accordance with the performance standards included in Section 4.4.4

Any owner of public or private paved roads shall remove or cause to be removed any erosion-caused deposits of greater than 2,500 square feet within 24-hours after receiving notice by the County or the AQMD or prior to resumption of traffic where the paved area has been closed to vehicular traffic

Section 5.

5.1 Administrative Requirements

Any operator preparing a Fugitive Dust Control Plan shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

At least one representative of each construction or demolition general contractor and subcontractor responsible for earth-movement operations shall complete the AQMD Coachella Valley Fugitive Dust Control Class and maintain a current valid Certificate of Completion.

All reporting / record keeping required by Section 4.2 shall be provided to the County and AQMD representatives immediately upon request.

5.1.4 All reporting / record keeping required by Section 4.3 through Section 4.6 shall be provided to the County and AQMD representatives within 24-hours of a written request.

Section 6.

6.1 Exemptions

The provisions of this ordinance shall not apply to:

- A. Agricultural operations including on-field sources and unpaved roads used solely for agricultural operations
- B. Any dust-generating activity where necessary fugitive dust preventive or mitigative actions are in conflict with either federal or State Endangered Species Act provisions as determined in writing by the appropriate federal or state agency
- C Any action required or authorized to implement emergency operations that are officially declared by the County to ensure the public health and safety.

The provisions of Section 4.2.1 shall not apply to any construction or demolition activity meeting any of the following activity levels or requirements:

- A. The activity is occurring entirely within an enclosed structure from which no visible airborne particulate matter escapes; or
- B. Activities that do not require issuance of a grading permit or those that require a building permit provided that the project results in 5,000 or less square feet of soil disturbance.

6.1.3 The provisions of Section 4.2.8 shall not apply to:

- A. Projects that takes two (2) weeks or less to complete provided that a long-term stabilization technique(s) identified in Section 4.3 are implemented; and
- B. Line projects (i.e., pipelines, cable access lines, etc

Section 7.

7.1 Compliance

7.1.1 Any person violating any section of this ordinance or with any portion of an approved Dust Control Plan is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation and a fine not exceeding two hundred dollars (\$200.00) for a second violation within one (1) year. A third violation, or more, within one (1) year shall each be prosecuted at a level consistent with a misdemeanor violation.

In addition to any other remedy provided by law, failure to correct any condition indicated in a notice of violation within one hour of issuance will allow the County to initiate one or more of the following actions where appropriate:

- A Criminal proceedings.
- B Refusal to issue future permits and/or release of securities held until owner or operator has adequately demonstrated compliance with the notice of violation.
- C The procedures, remedies and penalties for violation of this ordinance and for recovery of costs related to enforcement are provided for in Ordinance No. 725, which is incorporated herein by this reference.

Section 8.

ENFORCEMENT.

- A. The Sheriff, District Attorney, County Counsel, County Clerk, Director and all County Officials charged with the issuance of use permits, plot plans, subdivisions, parcel maps, and other discretionary and administrative permits, shall enforce the provisions of this ordinance.
- B. Failure to comply with any provision of this ordinance or with any provision of an approved Fugitive Dust Control Plan shall be a violation of this ordinance.

Section 9.

9.1.1 **AREA OF APPLICATION.** This ordinance applies only to the urban areas of the unincorporated territory within the Coachella Valley as defined by the Federal-Aid Highway Law, Section 101 of Title 23, U. S. Code.

Section 10.

10.1.1 CONFLICT BETWEEN ORDINANCE REQUIREMENTS. If there is any conflict in the requirements of this ordinance or between the requirements of this and any other ordinance, the more stringent requirements shall apply.

Section 11. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and application of such provision(s) to other persons or circumstances shall not be affected.

Section 12. SAVINGS CLAUSE.

Neither the adoption of this ordinance nor the repeal of any other ordinance in which violations were committed prior to the effective date hereof, shall be construed as a waiver of any license or penalty or the penal provisions application to any violation thereof. The provisions of the ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the County relating to the same subject matter, shall be construed as restatements and continuations, and shall not be construed as a new enactment unless substantial revisions or provisions are required by the ordinance.

Section 13. SECTION HEADINGS.

The section headings herein are for convenience only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this ordinance.

Section 14. EFFECTIVE DATE.

This ordinance shall take effect 30 days after the date of adoption.

Adopted:
742 1-04-1994 Eff: 03-04-1994

Amended
742.1 (3.1) 1-13-2004 Eff: 02-11-2004

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



FROM: BOARD OF SUPERVISORS
SUPERVISOR, ROY S. WILSON, 4th Dist.
SUPERVISOR, MARION ASHLEY, 5th Dist.

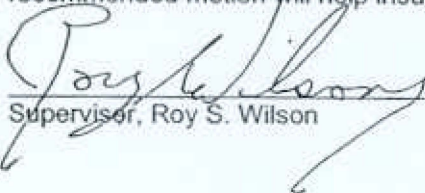
SUBMITTAL DATE: January 6, 2004

SUBJECT: PM10 Dust Control Measurers – Action Plan

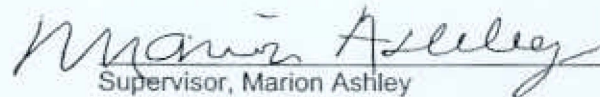
RECOMMENDED MOTION: The Board of Supervisors:

- 1) Approve the attached Ordinance No. 742.1 Fugitive Dust Control Ordinance thereby amending the current Dust Control Ordinance No. 742;
- 2) Authorize the execution of the attached Memorandum of Understanding between the South Coast Air Quality Management District (SCAQMD) Coachella Valley Association of Governments (CVAG) and the nine incorporated cities within CVAG; and,
- 3) Adopt the Coachella Valley Dust Control Handbook as the operations manual with respect to PM10.

BACKGROUND: The air quality in the Coachella Valley has been out of compliance with United States Environmental Protection Agency's (EPA) standards since 1999. The region has been given five years to get back into compliance by self-regulation. Failure to reach attainment status, could require the EPA to take over regulation and impose extremely stringent requirements in the area. In an effort to regain our attainment status the SCAQMD prepared three documents to provide the various agencies with the tools they need to administer their areas of responsibility. The model ordinance represents a minimum level of commitment by the County in its effort to control fugitive dust. The MOU makes the County accountable to the SCAQMD and CVAG if we fail to fulfill the obligations contained therein. The dust control handbook is the exhaustive reference manual for use by the jurisdictions and the contractors. The nine incorporated Cities and the County of Riverside are required to adopt the minimum standards in the ordinance and to enter into the MOU with the SCAQMD and CVAG. Approval of the recommended motion will help insure that the desert's air quality will comply with Federal standards.



Supervisor, Roy S. Wilson



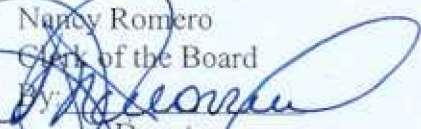
Supervisor, Marion Ashley

Consent Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Wilson, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above ordinance is approved as introduced, and that the above MOU is approved as recommended.

Ayes: Buster, Tavaglione, Venable, Wilson and Ashley
 Noes: None
 Absent: None
 Date: January 6, 2004
 xc: Supv. Wilson, Supv. Ashley, COB

Nancy Romero
Clerk of the Board
By: 
Deputy

AGENDA NO.

3.1

Prev. Agn. ref.

Dist.

Per Executive Office:

Town of Mammoth Lakes
Municipal Code
Chapter 8.30
Particulate Emissions Regulations

Sections:

- 8.30.010 - Purpose.
- 8.30.020 - Definitions.
- 8.30.030 - Standards for regulation of solid fuel burning appliances.
- 8.30.040 - Limitations on number of appliances.
- 8.30.050 - Replacement of noncertified appliances upon sale of property.
- 8.30.060 - Opacity limits.
- 8.30.070 - Prohibited fuels.
- 8.30.080 - Mandatory curtailment.
- 8.30.090 - Pollution reduction education programs.
- 8.30.100 - Road dust reduction measures.
- 8.30.110 - Fees.
- 8.30.120 - Penalties.

8.30.010 - Purpose.

The purpose of this chapter is to improve and maintain the level of air quality of the town so as to protect and enhance the health of its citizens by controlling the emissions of particulate matter into the air of the community of Mammoth Lakes.

8.30.020 - Definitions.

For the purpose of this chapter:

A. "EPA" means the United States Environmental Protection Agency.

B. "EPA-certified appliance" means any wood or other solid fuel burning appliance for space or water heating or cooking that meets the Phase II performance and emission standards of the Environmental Protection Agency. Phase II requirements are 4.1 grams per hour particulate emission for catalytic appliances and 7.5 grams per hour for noncatalytic appliances. Pellet fueled wood heaters and EPA Phase II qualified fireplaces and fireplace retrofit devices shall be considered as meeting Phase II requirements. All other solid fuel burning appliances shall be considered noncertified.

C. "Opacity" means the amount of light obscured by particulate matter in the air as may be measured using EPA Method 9 (40 CFR 60, App. A).

D. "Pellet fueled wood heater" means any heater designed to heat the interior of a building that operates on pelletized wood and has an automatic feed.

E. "Permanently inoperable" means modified in such a way that the appliance can no longer function as a solid fuel appliance or easily be remodified to function as a solid fuel appliance. Permanent conversion to other fuels, such as gas, is permitted.

F. "Solid fuel burning appliance, heater or device" means any fireplace, wood burning heater or coal stove or structure that burns wood, coal or any other nongaseous or nonliquid fuels, or any similar device burning any solid fuel used for aesthetic, water heating, or space heating purposes.

8.30.030 - Standards for regulation of solid fuel burning appliances.

A. No solid fuel burning appliance shall be permitted to be installed within the town unless the appliance is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification. However, residential properties may be permitted one outdoor wood fire pit for recreational or cooking purposes provided that a permit is obtained from the Mammoth Lakes Fire Protection District (MLFPD) and all MLFPD requirements are adhered to. These fire pits are not required to be EPA Phase II certified. Use of these fire pits will be suspended by the MLFPD during periods of heightened fire danger, and these fire pits are subject to Section 8.30.080, Mandatory Curtailment. Outdoor wood fire pits are not allowed for non-residential properties unless: (i) associated with a special event for which a special event permit has been issued by the Town; and (ii) no voluntary or mandatory no-burn restrictions are in effect or are anticipated to be in effect.

B. The restrictions of this section shall apply to all solid fuel burning appliances including unregulated fireplaces.

C. For the purposes of enforcing this chapter, the Town shall keep a record of all certified appliances installed in Mammoth Lakes in accordance with this chapter and of properties which have been determined to conform to the requirements of this chapter.

8.30.040 - Limitations on number of appliances.

A. Single Family Dwellings. No more than one EPA-certified appliance may be installed in any new single family detached dwelling. Existing properties with one or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. One pellet fueled wood heater per dwelling shall be allowed in addition to the one EPA-certified appliance.

B. Multi-Unit Residential Developments. No solid fuel burning appliance may be installed in any new multi-unit residential development; however, one pellet fueled wood heater per dwelling may be installed in a multi-unit residential development. Existing properties with one

or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. Existing properties with no existing solid fuel appliances may install only one pellet fueled wood heater per dwelling.

C. Commercial or Lodging Developments. No solid fuel burning appliance shall be installed in any new commercial or lodging development project. Existing properties with one or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. Existing properties with no existing solid fuel appliances may install only one EPA-certified appliance or one pellet fueled wood heater.

D. Solid fuel burning appliances shall not be considered to be the primary form of heat in any new construction.

E. No new and replacement appliances shall be installed without first obtaining a building permit from the Town. All installations shall require an inspection and approval by the building division prior to operation.

F. Verification of compliance shall be certified by an inspector of the Town's building division.

8.30.050 - Replacement of noncertified appliances upon sale of property:

A. Prior to the completion of the sale or transfer of a majority interest in any developed real property within the town, all existing noncertified solid fuel burning appliances shall be replaced, removed, or rendered permanently inoperable. If the buyer assumes responsibility for appliance replacement or removal in writing on a form approved by the Community and Economic Development Director, the deadline for submitting a fully completed building permit application to the Town of Mammoth Lakes Building Department shall be extended to 90 calendar days from the date of completion of the sale or transfer. The Department may, in its sole discretion, provide one 30 calendar day extension of time for the filing of the building permit application upon request from the buyer. Notwithstanding any other ordinance or the usual duration of a building permit, the work authorized by the building permit shall be commenced within 180 days from the date of the permit's issuance, and shall be completed within one year of the permit's issuance. Extensions of time for final sign off of the building permit for justifiable cause may be granted according to the provisions of the California Building Codes. After the building permit is issued and before the expiration date of the building permit the buyer shall contact the building division to schedule an inspection according to the provisions of the California Building Codes. The buyer shall agree in writing not to use or operate the existing non-compliant solid fuel burning appliance. All proposed construction shall comply with the provisions of the California Building Codes and Town ordinances, and the buyer shall proceed with the purchase at their own risk and without assurance that the proposed work will be approved.

B. The building division shall inspect the appliance(s) in question to assure that they meet the requirements of this chapter. Within five working days from the date of the inspection, the building division shall issue a written certification of compliance or noncompliance for the affected property. If the inspection reveals that the subject property does not comply with the

requirements of this chapter, all noncomplying solid fuel burning appliances shall be replaced, removed, or rendered permanently inoperable. In this event, reinspection shall be required prior to certification of compliance.

C. No building permit shall be issued for an increase in habitable area of a structure that has not complied with the requirements of this section.

D. Existing appliances certified as meeting EPA Phase I requirements or Oregon Department of Environmental Quality requirements are not subject to the replacement requirements.

E. Pursuant to Section 1102.6(a) of the California Civil Code, sellers of residential real property shall disclose to purchasers of such property the provisions of this chapter. This disclosure obligation shall be satisfied by providing to each purchaser a "Local Option Real Estate Transfer Disclosure Statement" specified by the Town and by providing a copy of this chapter.

F. If developed real property is to be sold which does not contain a solid fuel burning appliance, a form approved by the building division, containing the notarized signatures of the seller, the buyer, and the listing real estate agent attesting to the absence of any fuel device, may be accepted in lieu of an inspection. A written exemption shall be issued by the building division.

G. No appliance(s) removed under the provisions of this section may be replaced except as provided by this chapter.

H. This section shall not be applicable to National Forest permittees located west of Old Mammoth Road in Sections 4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above 8,500 feet elevation above sea level.

8.30.060 - Opacity limits.

No person shall cause or permit emissions from a solid fuel burning appliance to be readily visible, for a period or periods aggregating more than three minutes in any one-hour period. Emissions created during a 15 minute start-up period are exempt from this regulation. Readily visible emissions means smoke easily seen when viewed against any contrasting background including, but not limited to native conifers or a blue sky and may be equated with an opacity limit of 20 percent or greater as designated by the shade No. 1 on the Ringelmann Chart.

8.30.070 - Prohibited fuels.

Burning of any fuels or materials other than the following fuels within the town shall be in violation of this chapter:

- A. Untreated wood;
- B. Uncolored paper, including newspaper; and
- C. Manufactured logs, pellets, and similar manufactured fuels.

8.30.080 - Mandatory curtailment.

A. The Town Manager shall appoint an air quality manager. The duty of the air quality manager shall be to determine when curtailment of solid fuel combustion in the town is necessary, notify the community that curtailment is required, and make such other determinations as are necessary to carry out the objectives of this chapter.

B. Determination that curtailment is required shall be made when PM-10 levels have reached 130 micrograms/m³ or when adverse meteorological conditions are predicted to persist. Should it be determined that 130 micrograms/m³ is not a low enough threshold to prevent the Town from violating the National Ambient Air Quality Standard for 24 hours (NAAQS, 24 hours), that threshold may be lowered by resolution of the Town Council.

C. Upon the determination that curtailment is required, the air quality manager shall contact all radio stations and television stations in Mammoth Lakes and have them broadcast that it is required that there be no wood or other solid fuel burning. The air quality manager shall also record a notice on a telephone line dedicated to this purpose and post a notice in the Town offices. The air quality manager may utilize additional methods of communication to effectively inform Mammoth Lakes' residents and visitors of burning restrictions. Upon such notice, all wood and other solid fuel combustion shall cease.

D. All dwelling units being rented on a transient basis which contain a solid fuel burning appliance shall post, in a conspicuous location near the appliance, a notice indicating that no-burn days may be called and informing the tenants about sources of information on no-burn days.

E. All persons renting units which contain a solid fuel burning appliance shall inform their tenants that solid fuel burning may be prohibited on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are obeyed during the rental period identified on the rental agreement.

F. For residences where a solid fuel burning appliance is the sole means of heat, these curtailment regulations do not apply. For a residence to be considered as having solid fuel as its sole source of heat, the owner must apply to the building division for an exemption and the department must inspect the residence and certify that no other adequate source of heat is available to the structure. Adequate source shall mean that the alternate source of heat cannot produce sufficient heat for the residence without causing a hazard. A written exemption will then be granted. Where an adequate alternate source of heat is determined to have been removed from the structure in violation of the building codes, a sole source exemption shall not be issued. Sole source exemptions shall not be granted for nonresidential uses.

G. Pellet fueled heaters shall not be subject to the provisions of this section.

H. This section shall not apply to National Forest permittees located west of Old Mammoth Road, in Sections 4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above 8,500 feet elevation above sea level.

8.30.090 - Pollution reduction education programs.

The Town Manager or his/her designee is directed to undertake such public education programs as are reasonably calculated to reduce particulate air pollution within the town, including particulate emissions from sources other than solid fuel burning appliances. In addition to the notification measures listed in Section 8.30.080.C, the public education programs shall include additional measures to inform the public of burning curtailment requirements.

8.30.100 - Road dust reduction measures.

A. The Public Works Director shall implement a vacuum street sweeping program to reduce PM-10 emissions resulting from excessive accumulations of cinders and dirt.

B. The Town shall, in its review of proposed development projects, incorporate measures which reduce projected total vehicle miles traveled. Examples of such measures include, but are not limited to, circulation system improvements, mass transit facilities, private shuttles, and design and location of facilities to encourage pedestrian circulation. The goal of the Town's review shall be to limit peak vehicle miles traveled to 179,708 on any given day on the roadway segments evaluated in the Mammoth Lakes Vehicle Miles Traveled Analysis (LSC, August, 2012).

~~8.30.110 - Fees.~~

~~A fee shall be charged for the inspection and permitting services of the Town. The fee shall be established in the Town master fee schedule.~~

8.30.120 - Penalties.

A. It is illegal to violate any requirements of this chapter. Any owner of any property which is in violation of the requirements of this chapter shall be guilty of an infraction. Any person operating a solid fuel burning appliance in violation of this chapter is guilty of an infraction. The third violation by the same person within a 12 month period shall constitute a misdemeanor. Prosecution of any violation of Subsection 8.30.080.E, relating to exemptions from curtailment, may be against the property owner, the occupant, or both.

B. Violation of any portion of this chapter may result in assessment of civil penalties against the property and against an individual person or persons in accordance with Chapter 1.12, General Penalty.

C. Each and every day a violation exists is a new and separate violation. Right to appeal, hearings, and collection of civil penalties shall be pursuant to the procedures set forth in Chapter 8.20, Nuisances.

~~D. Nothing in this section shall prevent the Town from pursuing criminal penalties or using any other means legally available to it in addressing violations of this chapter.~~

~~E. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the air quality manager or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this chapter, the air quality manager or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the air quality manager by this code; provided, that if such building or premises be occupied, he/she shall present proper credentials and request entry; and if such building or premises be unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if the owner or person having charge or control of the building or premises cannot be contacted, the air quality manager or authorized representative shall have recourse to every remedy provided by law to secure entry.~~

ORDINANCE NO. 359

AN ORDINANCE OF THE CITY OF PORTOLA, COUNTY OF PLUMAS
AMENDING CHAPTER 15.10 OF THE CITY OF PORTOLA MUNICIPAL CODE
PROVIDING FOR REGULATION OF WOOD STOVES AND FIREPLACES AND THE
PROHIBITION OF THE OPEN BURNING OF YARD WASTE

The Council of the City of Portola, California, does ordain as follows:

Section 1. Chapter 15.10 of the Portola Municipal Code is hereby amended to read as follows:

Title 15- BUILDINGS AND CONSTRUCTION

Chapter 15.10- WOOD STOVE AND FIREPLACE ORDINANCE AND THE PROHIBITION OF
THE OPEN BURNING OF YARD WASTE

Sections:

- 15.10.010 Purpose.**
- 15.10.020 Definitions.**
- 15.10.025 Prohibition of the Open Burning of Yard Waste.**
- 15.10.026 Exceptions for Prohibition of Open Burning**
- 15.10.030 Requirements for New Wood Burning Devices.**
- 15.10.040 Requirements for Existing Wood Burning Devices.**
- 15.10.050 Permitted Fuels in Wood Burning Devices, Wood Burning Fireplaces, Wood-Fired Cookstoves, Wood-Fired Fire Pits.**
- 15.10.060 Mandatory Curtailment of Wood Burning Heaters, Wood Burning Fireplaces, Wood-Fired Fire Pits and Wood-Fired Cookstoves During Stagnant Conditions.**
- 15.10.070 Curtailment Levels and Period.**
- 15.10.080 Outdoor Wood-Fired Boiler Installation Prohibited.**
- 15.10.090 Wood Stove Retailers/Contractors Required to Provide Educational Materials.**
- 15.10.100 Violations.**
- 15.10.110 Continuing Violations- Each day being a separate violation.**

15.10.010 Purpose.

- A. This chapter shall be cited as the “Wood Burning Device and Open Burning Ordinance”
- B. This chapter is enacted for the purpose of improving the air quality within the City limits and protecting the general welfare of the citizens and residents of Portola. The EPA officially designated the Greater Portola area as federal nonattainment for the federal annual standard for PM 2.5 (Particulate Matter with an aerodynamic diameter of 2.5 microns or less), on April 15, 2015. High PM2.5 levels are mostly due to impacts from residential wood burning. The City Council finds there is a need to regulate and reduce harmful emissions of exhaust gases from wood-burning heaters and fireplaces, and that an appropriate method of regulation is a wood burning device ordinance.

15.10.020 Definitions.

As used in this chapter:

- 1. “Air District” means the Northern Sierra Air Quality Management District.

2. "Building" means any residence, mobile home, commercial property, or other structure.
3. "Certificate of Compliance" means a document issued by the Control Officer certifying that a building has no more than two wood burning heaters which are EPA-certified and no uncertified wood burning heaters.
4. "City" means the City of Portola.
5. "Control officer" means the official designated by the City Manager.
6. "Debris" means wastes resulting from land clearing operations. Debris include but are not limited to stumps, wood, brush, leaves, soil, and road spoils.
7. "EPA" shall mean the United States Environmental Protection Agency.
8. "EPA - Certified" means any wood burning heater with a Phase II certification or a more stringent certification as currently enforced in the NSPS.
9. "EPA-Qualified Fireplace" means any fireplace model or retrofit device that has been qualified by EPA under EPA's Voluntary Fireplace Program as emitting no more than 5.1. g/kg.
10. "Fireplace" means any permanently installed indoor or outdoor masonry or factory-built device used for aesthetic or space-heating purposes and designed to operate with an air to fuel ratio greater than or equal to 35 to 1.
11. "New Construction" means any single or multi-family housing unit, for which construction began on or after the effective date of this ordinance. Construction is deemed to occur when the foundation for the structure is installed.
12. "Notice of Exemption" means a document issued by the Control Officer certifying that a building has no wood burning heaters.
13. "NSPS" means New Source Performance Standard. For purposes of this rule the NSPS is the Code of Federal Regulations, Title 40, Part 60, Subpart AAA.
14. "Open Burning" The burning of combustible material of any types outdoors in the open, not in any enclosure, where the products of combustion are not directed through the flue.
15. "Outdoor Wood-fired Boiler" or "Hydronic Heater" means a fuel burning device designed: (1) to burn primarily wood or wood pellet fuel; (2) not to be located inside structures ordinarily occupied by humans; and (3) to heat spaces or water by the distribution through pipes of a fluid, typically water or water and antifreeze mixture, heated in the device.
16. "Pellet Fueled Wood Heater" means a pellet-fueled heater, comprising a forced draft heater with an automatic feed which supplies appropriately sized feed material or compressed pellets of wood, corn, or other biomass material to the firebox.
17. "Permanently Inoperable" means modified in such a way that the wood burning heater can no longer function as a wood burning heater or easily be remodified to function as a wood burning heater. Conversion to other fuels, such as propane, is permitted.
18. "Recreational Fire" means an outdoor fire burning dry, seasoned wood, manufactured logs, or charcoal briquettes where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. These fires must be at least 25 feet from any structure or other combustible fuel source. Burning of yard waste (branches, shrubbery, or wet wood) is not allowed.
19. "Wood Burning Device" means any wood burning heater or fireplace. Wood burning devices do not include wood-fired residential or commercial barbecue devices, wood-fired fire pits, or wood-fired cookstoves.
20. "Uncertified Wood Burning Device" means any wood burning device that does not meet the performance and emissions standards of a Phase II certification or a more stringent

certification as currently enforced in the NSPS. Uncertified wood burning devices do not include wood-fired residential or commercial barbecue devices, wood-fired fire pits, or wood-fired cookstoves.

21. "Wood-Fired Cookstove" means a wood-fired appliance that is designed primarily for cooking food and that has the following characteristics:
 - a. An oven, with a volume of 0.028 cubic meters (1 cubic foot) or greater,
 - b. A device for measuring temperatures,
 - c. A flame path that is routed around the oven,
 - d. A shaker grate,
 - e. An ash pan,
 - f. An ash clean-out door below the oven, and
 - g. The absence of a fan or heat channels to dissipate heat from the appliance.
22. "Wood Burning Heater" means an enclosed wood-burning device capable of and intended for space heating such as a wood stove, pellet-fueled wood heater, or wood-burning fireplace insert.
23. "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

15.10.025 Prohibition of the Open Burning of Yard Waste.

A. All open burning of yard waste and debris, except as otherwise authorized in Section 15.10.026 shall be banned within the city limits of the City of Portola.

15.10.026 Exceptions for Prohibition of Open Burning

- A. Nothing in this rule shall be construed as prohibiting open outdoor fires used only for cooking food for human consumption or for recreational fires.
- B. Training Burns: Fire Department training burns may be permitted with the prior written approval of the Fire Chief and the Northern Sierra Air Quality Management District.
- C. Special Permits: The Fire Chief and the Northern Sierra Air Quality Management District may issue special burn permits to authorize the burning of combustibles for the health and safety of the public.

15.10.030 Requirements for New Wood Burning Devices.

- A. Installation of Wood Burning Devices.
 1. Wood Burning Heaters: No person shall advertise, sell, offer for sale, supply, transfer or install in any residence or other structure any wood burning heater within the City limits unless it is an EPA certified wood burning heater at the time of sale or transfer.
 - a. No local government authority within the City limits may issue a building permit to any person to install an uncertified wood burning heater; and
 - b. Certified devices shall have a label permanently affixed to them from the United States Environmental Protection Agency (USEPA) which states that the stove is certified to comply with the NSPS standards.
 2. Wood Burning Fireplaces: No local government authority within the City limits may issue a building permit to any person to install a wood burning fireplace unless it is an EPA-qualified fireplace or EPA-certified fireplace.
- B. Limitation on Number of Wood Burning Devices in New Construction and Remodels.

1. The number of EPA certified wood burning heaters installed on any residential or non-residential property for which a building permit is required shall not exceed one per individual dwelling unit; and
2. The number of EPA-qualified fireplaces installed on any residential or non-residential property for a which a building permit is required shall not exceed one per individual dwelling unit; and
3. No local government authority within the City limits may issue a building permit to any person to install a wood burning device in new construction or remodel, unless it is an EPA-qualified fireplace or EPA certified fireplace or wood heater certified to the level of the current NSPS; and
4. Wood burning devices shall not be considered the sole source of heat in any new construction within the City limits; and
5. The above limitations do not apply to devices that are defined as low emitting:
 - a. EPA-certified pellet fueled wood heater;
 - b. Devices that are exclusively gaseous- or liquid-fueled; and
 - c. EPA-certified wood burning devices that meet a certified emission rate of 1 gram/hour or less of particulate matter.

15.10.040 Requirements for Existing Wood Burning Devices.

- A. Existing Wood Burning Heaters and Change of Ownership.
 1. In order to complete any escrow transaction, on any residential or commercial property, the current property within the City limits owner must obtain either a 1) Certificate of Compliance or a 2) Notice of Exemption.
 2. It is prohibited for any person to complete, or allow the completion of any Escrow transaction upon any residence or mobile home, or other parcel containing a building within the City limits unless each building on the parcel has been issued a Certificate of Compliance by the Control Officer as having no more than two wood burning heaters which are EPA-Certified and no uncertified wood burning heaters.
 3. A Certificates of Compliance or Notice of Exemption shall be issued by the Control Officer only upon physical inspection or documentary evidence that reliably establishes compliance with this section.
 4. A Certificate of Compliance shall identify all of the following:
 - a. Owner's name.
 - b. Model number and manufacturer for each wood burning heater in the building.
 - c. The street address, Assessor's parcel number, or legal description of the parcel of real property where the building is located.
 - d. The location of the building and the specific location in the building where the wood burning heater is located.
 5. A Notice of Exemption shall identify all of the following:
 - a. Owner's name.
 - b. The street address, Assessor's Parcel number, or legal description of the parcel of real property where the building is located.
 - c. The location of the building and whether a space heat source is exclusively utilized, and if so, what heat source is exclusively utilized.
 6. The buyer and seller of any real property within the City limits shall observe this section and any disclosure statements supplied by the real estate agents relating to the

- requirement under this regulation for the inspection of any wood burning heater installed in a building on the property.
7. If the disclosure report indicates that a wood burning heater on the property within the City limits is uncertified, the wood burning heater must be removed from the property and destroyed/recycled at an approved facility or agency. Re-inspection and a copy of documentation from the destroying/recycling facility or agency is required by the Control Officer prior to issuance of a Certificate of Compliance.
 8. The Control Officer may issue a Certificate of Compliance for a residence within the City limits without conducting a physical inspection if a person provides evidence that the EPA-certified wood burning heater has been installed in compliance with all applicable building, fire and other codes. This documentation shall include a receipt or invoice from the installation or purchase that includes the manufacturer and model name of the wood burning device.
 9. A Certificate of Compliance issued pursuant to this section:
 - a. Remains valid until the residential or commercial property is transferred or conveyed to a new owner or for nine months, whichever comes sooner.
 - b. Does not constitute a warranty or guarantee by the Control Officer that the wood burning heater within the residence or commercial property meets any other standards of operation, efficiency, or safety, except the certification standards contained in these regulations.
 10. If a residential or commercial property within the City limits is to be sold and does not contain any wood burning heaters, a form approved by the Control Officer, containing the signatures of both the buyer and seller, attesting to that fact, may be accepted in lieu of an inspection, and the Control Officer may issue a Notice of Exemption. The completed form shall be submitted to the Control Officer within ten days of close of escrow. If the residential or commercial property contains an uncertified wood burning heater which must be removed, the form must not be executed by either the buyer or seller until the removal has been completed. On any subsequent sale, a new Notice of Exemption is required.
 11. Upon a change of ownership, no more than two EPA Certified wood burning heaters per building may remain in any property within the City limits, except for the low emitting devices outlined in 15.10.030(B)(5).
 12. Upon a change of ownership, no uncertified wood-burning heater may remain in any property within the City limits.
 13. The Control Officer may conduct audits after properties have closed escrow and have been recorded under the new owner's name in order to determine compliance with this ordinance. If the Control Officer finds that there is an uncertified wood burning heater in the building, the Control Officer shall require that the uncertified wood burning heater be destroyed/recycled at an approved scrappage/recycling facility or agency within 30 days of notifying the current property owner. A financial penalty may be assessed if noncompliance has been identified or if the current property owner fails to destroy/recycle the heater within the time prescribed in the notice.
- B. Existing individual dwelling units with two or more existing EPA Certified Wood Burning Heaters.
- Existing individual dwelling units with two or more existing EPA Certified Wood Burning Heaters may not install additional Wood Burning Heaters (certified or uncertified). The above

limitation does not apply to heaters that are defined as low emitting, including without limitation the following:

1. EPA certified pellet fueled wood heaters;
2. Devices that are exclusively gaseous- or liquid fueled; and
3. EPA certified wood burning heaters that meet a certified emission rate of 1 gram/hour or less of particulate matter.

15.10.050 Permitted Fuels in Wood Burning Devices, Wood Burning Fireplaces, Wood-Fired Cookstoves, Wood-Fired Fire Pits.

Burning of any fuels or materials in a Wood Burning Device other than the following fuels within City limits shall be in violation of this ordinance:

- A. Seasoned wood (less than 20% moisture content).
- B. Uncolored paper.
- C. Manufactured logs, pellets, and similar manufactured products (i.e., processed fire starters).

15.10.060 Mandatory Curtailment of Wood Burning Heaters, Wood Burning Fireplaces, Wood-Fired Fire Pits and Wood-Fired Cookstoves During Stagnant Conditions.

- A. Episodic Wood Burning Curtailment Requirements.
 1. Effective January 1, 2021, the requirements of this section shall be in effect during the months of January, February, November, and December. The Air District shall determine when a mandatory curtailment of solid fuel combustion in the City is necessary, notify the community that mandatory curtailment is required, and make such other determinations as are necessary to carry out the objectives of this chapter.
 2. No person shall operate a wood burning heater, wood burning fireplace, wood-fired fire pit or wood-fired cookstove within the City limits when a mandatory curtailment is in effect unless the device is an approved and currently registered EPA-Certified Wood Burning Heater.
 3. The approved and currently registered EPA-Certified Wood Burning Heater will be maintained and operated according to manufacturer instructions.
 4. The Air District will declare a mandatory curtailment whenever it determines that the 24-hour average PM_{2.5} concentration may exceed 30 ug/m³ AND when adverse meteorological conditions are expected to persist.
 5. The criteria for issuing a mandatory curtailment is as follows:
 - a. The Air District will analyze the available air monitoring data and determine whether a trend is continuing; and
 - b. The Air District will contact the National Weather Service located in either Reno or Sacramento to request a specific meteorological forecast specific for the Portola area; and
 - c. If the National Weather Service forecasts adverse meteorological conditions to persist and the Air District ascertains that there is a marked trend of continuing high concentrations of PM_{2.5} possible, then the Air District will declare a mandatory curtailment.
 6. Upon determination that mandatory curtailment is required, the Air District shall notify the public through one or more of the following methods:
 - a. A recorded telephone message.
 - b. Messages posted on the Air District website.
 - c. Electronic mail messages to persons or entities that have requested such notice.

- d. Notifying broadcast, print or social media operating within the boundaries of the City of Portola.
- e. Any additional method that the Air District determines is appropriate.

Registration of EPA-Certified Devices.

1. Eligibility Requirements – Any EPA-Certified Wood Burning Heater is eligible to be registered with the Air District.
2. Registration Process – Effective July 1, 2020, persons applying to register a Wood Burning Heater shall submit a completed application and supplemental documentation demonstrating compliance with the eligibility requirements to the District. Supplemental documentation shall include the following:
 - a. Receipt or invoice from the installation or purchase that includes the manufacturer and model name of the Wood Burning Heater, or
 - b. A certification from the Air District verifying that the Wood Burning Heater meets the eligibility requirements.
3. Administrative Requirements – The person who registers the Wood Burning Heater shall retain a copy of the Air District issued registration and make it available upon request.

~~B. Penalties – Any person that violates the provisions of 15.10.060 is subject to the following~~

- ~~1. First time violators: a Notice to Comply or Warning will be issued. The Notice to Comply will require that any EPA-Certified Wood Burning Heater be registered within 30 days.~~
- ~~2. Second time violators: Completion of a wood smoke awareness course that has been approved by the Air District, or payment of a penalty of \$50, or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous or liquid fueled heater.~~
- ~~3. Third time violators: payment of a penalty of \$150 or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous or liquid fueled heater.~~
- ~~4. Fourth time violators: payment of a penalty of \$500 or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous or liquid fueled heater.~~

15.10.070 Curtailment Levels and Period.

Within 60 days of a finding by the U.S. Environmental Protection Agency (U.S. EPA) that (1) the Plumas County PM2.5 Nonattainment Area (as defined in 80 Fed. Reg. 2206, January 15, 2015) has failed to attain the 2012 annual National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM2.5) of 12 micrograms per cubic meter (ug/m3), 78 Fed. Reg. 3086, January 15, 2013 (the 2012 PM2.5 annual NAAQS) by the attainment date, (2) the area has failed to meet any reasonable further progress (RFP) requirement or quantitative milestone requirement in the Portola Fine Particulate Matter (PM2.5) Attainment Plan (as approved at 84 Fed. Reg. 11208, March 25, 2019), or (3) California has failed to submit a quantitative milestone report required under the federal Clean Air Act for the 2012 PM2.5 annual NAAQS, all provisions of section 15.10.060 will continue to be in effect, except for the duration of curtailment season (Section 15.10.60 A.1) and curtailment level (Section 15.10.60 A.4), which are revised as follows:

List of curtailment months in Section 15.10.60 A.1 expands to include months of January, February, March, April, September, October, November, and December.

- A. Curtailment level described in Section 15.10.60 A.4 is lowered from 30 ug/m3 to 20 ug/m3.

- B. During the months of January, February, March, April, September, October, November, and December, the Air District will declare a mandatory curtailment whenever it determines that the 24-hour average PM2.5 concentration may exceed 20 ug/m3 AND when adverse meteorological conditions are expected to persist.
- C. Section 15.10.070 will remain in effect until the U.S. EPA either approves an attainment plan for the area that satisfies the Serious area requirements for the 2012 PM2.5 annual NAAQS or determines in writing that the RFP and/or quantitative milestone failure that triggered the implementation of this section has been corrected.

15.10.080 Outdoor Wood-Fired Boiler Installation Prohibited.

All outdoor wood-fired boilers are prohibited from installation within the City of Portola.

15.10.090 Wood Stove Retailers/Contractors Required to Provide Educational Materials.

Retailers or Contractors selling or offering for sale new Wood Burning Devices within the City limits shall supply public awareness information with each sale of a Wood Burning Device in the form of pamphlets, brochures, or fact sheets on the following topics:

- A. Proper installation, operation, and maintenance of the Wood Burning Device.
- B. Proper fuel selection and use.
- C. Health effects from wood smoke
- D. Weatherization methods for the home,
- E. Proper sizing of Wood Burning Devices.
- F. Episodic Wood Burning Curtailment levels as defined in Section 15.10.060.

~~**15.10.100 Violations.**~~

~~Any person who violates any of the requirements of this chapter, or who falsely attests as to information as part of compliance with this chapter, is subject to penalties and punishments as set forth in Chapter 1.10 of this Municipal Code, may be subjected to the applicable penalties and punishments prescribed by law for perjury, and may have any license or permit issued by the City be revoked, including but not limited to a building permit or certificate of occupancy.~~

~~**15.10.110 Continuing violations – Each day being a separate violation.**~~

~~After any person who is responsible for a violation of any provision in this chapter has been given notice of the violation, and such person does not comply or otherwise correct the violation within the time prescribed in the notice, then from that day forward, the continuing violation shall be deemed to be a separate offense on each and every day that the violation persists. A person who knowingly commits or suffers the continuing violation shall be guilty of a separate offense each and every day that the violation persists.~~

Section 2. Approval. The City of Portola Wood Stove and Fireplace Ordinance concerns revisions to wood stove regulations and the Prohibition of Open Burning of Yard Waste. The text changes reflecting the Amendment are incorporated by reference as if fully set forth herein into Title 15 of the Portola Municipal Code and are hereby approved.

Section 3. CEQA. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for

resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 4. Enactment. The City of Portola Wood Stove and Fireplace Ordinance Amendment and the Prohibition of Open Burning of Yard Waste shall be effective 30 days from the date of its approval by the City Council.

Section 5. Summary Publication and Posting. Within thirty (30) days after final adoption of this Ordinance, the City Clerk shall have a summary of this ordinance prepared by the City Attorney and published as required by the California Government Code. Within fifteen (15) days after final adoption of this ordinance, the City Clerk shall have it posted in three (3) public places.

This ordinance was introduced, read and the second reading was waived at a Regular Meeting of the City Council of the City of Portola duly held on August 12, 2020. The ordinance was finally passed and adopted at the Regular Meeting of the City Council of the City of Portola duly held on September 9, 2020, by the following vote:

AYES: Councilmember Tom Cooley
Councilmember Par Morton
Councilmember Stan Peiler
Mayor Pro Tem Bill Powers
Mayor Phil Oels

NOES: None
ABSTAIN: None
ABSENT: None


Phil Oels, Mayor

ATTEST:


Tara Kindall, Deputy City Clerk

I, City Clerk of the City of Portola, do hereby certify that the foregoing Ordinance was duly and regularly passed by the City Council of the City of Portola at a Regular Meeting held on September 9, 2020.


Tara Kindall, Deputy City Clerk

