

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 That Chapter 6.16 of the La Quinta Charter and Municipal Code is hereby repealed and replaced to read as follows: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

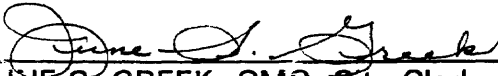
ABSENT: None

ABSTAIN: None



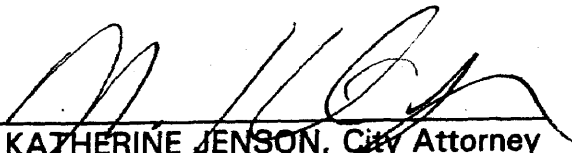
DON ADOLPH, Mayor
City of La Quinta, California

ATTEST:



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

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