

**ARTICLE 8.**  
**NONATTAINMENT AREA RULES, REQUIREMENT FOR STABILIZATION OF DISTURBED AREAS AT VACANT LOTS**

**4-8-260. Stabilization of Disturbed Areas at Vacant Lots; Applicability**

A. Geographic Applicability.

The "affected area" under this rule includes the Pinal-County-portion of the Phoenix Planning Area Serious PM10 nonattainment Area, identified as Township 1 North, Range 8 East, Gila & Salt River Base and Meridian.

B. Affected Parcels; Vacant Lots.

1. For purposes of this rule, "vacant lot" means a parcel of land on which there are no approved or permitted permanent or temporary buildings or structures.
2. For purposes of this rule, where an owner holds a non-vacant lot, "vacant lot" does not include a contiguous parcel or parcels adjoining that non-vacant lot, but the exemption applies only if the parcels are subject to common legal or equitable ownership and the parcels are used in fact as a single lot.
3. For purposes of this rule, a "vacant lot" does not include the site of a disturbed surface area that is subject to control of dust generating operations pursuant to a dust registration issued by the Control Officer pursuant to Chapter 4, Article 3 of these rules.
4. For purposes of this rule, a "vacant lot" does not include the site of a disturbed surface area that is subject to an industrial permit issued by the Control Officer pursuant to Chapter 3 of these rules.

C. Affected Areas Within Vacant Lots; Disturbed Surfaces

1. For purposes of this rule, "disturbed surface" means a portion of the earth's surface or material placed on the earth's surface that has been physically moved, uncovered, destabilized or otherwise modified from its undisturbed native condition if the potential for the emission of fugitive dust is meaningfully increased by the movement, destabilization or modification.
2. For purposes of this rule, "disturbed surface" does not include:
  - a. Any area that is subject to a control of dust generating operations pursuant to dust registration issued by the Control Officer pursuant to Chapter 4, Article 3 of these rules.
  - b. Any area that is disturbed as a result of normal farm cultural practice.
  - c. Any area while the activity causing the disturbance is still proceeding.

[Adopted effective September 10, 2008.]

**4-8-270. Stabilization Notice; Right of Entry; Recoupment of Costs; Right to Appeal**

- A. If the Control Officer finds that an unpaved disturbed surface at a vacant lot subject to this Article requires stabilization, the Control Officer may provide a written notice to the owner or the owner's agent that the unpaved disturbed surface is required to be stabilized.
- B. The notice shall:
  1. Be given not less than thirty days before the date set for compliance;

2. Recite the factual basis for the notice;
  3. Include a legal description of the property;
  4. Inform the owner that if he does not stabilize the lot prior to the compliance date, the county will have authority to enter the lot to stabilize the disturbed surface at the expense of the owner;
  5. Include the proposed method of stabilization and the estimated cost to the county for the stabilization if the owner does not comply;
  6. Inform the owner that the notice constitutes an appealable agency action, and that the owner has a right of administrative appeal pursuant to A.R.S. §49-471.15.
- C. The notice shall be either personally served or mailed by certified mail to the owner's statutory agent, to the owner at the owner's last known address or to the address to which the tax bill for the property was last mailed. For purposes of establishing a compliance date and triggering an appeal period, mailed notice shall be effective upon mailing.
- D. If the owner fails to either stabilize the disturbed area or appeal the notice, the County shall have authority to enter the lot, effect stabilization, and recover the costs up to the amount of the estimate provided to the owner.

[Adopted effective September 10, 2008.]

#### **4-8-280. Deferred enforcement date**

The Control Officer shall commence enforcement of the requirements of this Article no sooner than October 1, 2008.

[Adopted effective September 10, 2008.]