

**SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY  
10005 East Osborn Road  
Scottsdale, Arizona 85256**

**ORDINANCE NUMBER: SRO-368-2010**

**TO AMEND CHAPTER 18, BY ADDING ARTICLE V, WHICH REGULATES AGRICULTURE FUGITIVE DUST-PRODUCING ACTIVITIES, TO THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY CODE OF ORDINANCES IN ITS ENTIRETY**

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**BE IT ENACTED THAT:**

The Salt River Pima-Maricopa Indian Community Code of Ordinances is hereby amended by adding a new Article V, in its entirety, to be numbered as Chapter 18, Article V, Sec. 18-85 through Sec. 18-94, as follows:

**ARTICLE V**

**Sec. 18-85 TITLE, AUTHORITY, PURPOSE, etc.**

- (a) *Title.* This Article V shall be known as the Salt River Pima-Maricopa Indian Community Agriculture Fugitive Dust Control Ordinance.
- (b) *Authority.* This Article V is enacted pursuant to Article VII, Section 1(c)(1), (c)(7), and (k) of the Salt River Pima-Maricopa Indian Community Constitution.
- (c) *Purpose/Policy.* The purpose of this Article V is to regulate and mitigate Agricultural Fugitive Dust sources within the exterior boundaries of the Community by minimizing the amount of particulate matter (PM-10 and PM-2.5) emitted into the ambient air as a result of the impact of human related activities through regulatory measures aimed to prevent, reduce, or mitigate particulate matter emissions.
- (d) *Scope.* This Article V shall regulate the release of all Agricultural Fugitive Dust within the Community.
- (e) *Regulatory Authority.* The authority of the Salt River Pima Maricopa Indian Community, Community Development Department Director, or as may be delegated by the Director, shall include the promulgation, issuance, and enforcement of regulations, policies, procedures, or rules, as may be necessary or appropriate for the implementation of this Article.

The following definitions apply to this Article:

- (a) *Access restriction* means restricting or eliminating public access to non-cropland with signs or physical obstruction.
- (b) *Aggregate cover* means gravel, concrete, recycled road base, caliche, or other similar material applied obstruction.
- (c) *Artificial wind barrier* means a physical barrier to the wind.
- (d) *Caliche* is a hardened deposit of calcium carbonate.
- (e) *Carry-out/Trackout* means any and all bulk materials that adhere to and agglomerate on the exterior surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved public roadway.
- (f) *Cessation of night tilling* means the discontinuance of night tilling on high pollution advisory days during stagnant air conditions.
- (g) *Chemical irrigations* means applying fertilizer, pesticide, or other agricultural chemicals to cropland through an irrigation system.
- (h) *Combining tractor operations* means performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
- (i) *Community* means the Salt River Pima-Maricopa Indian Community (SRPMIC).
- (j) *Community Manager* means the SRPMIC Community Manager or his/her authorized representative.
- (k) *Cover crop* means plants or a green manure crop grown for seasonal soil protection or soil improvement.
- (l) *Critical area planting* means using trees, shrubs, vines, grasses, or other vegetative cover on non-cropland.
- (m) *Cropland* means land that is suited to or used for crops.
- (n) *Cross wind ridges* means soil ridges formed by a tillage operation.
- (o) *Cross wind strip cropping* means planting strips of alternating crops within the same field.
- (p) *Cross wind vegetative strips* means herbaceous cover established in one or more strips within the same field.
- (q) *Environmental Protection and Natural Resources* means the Salt River Pima

Maricopa Indian Community Environmental Protection and Natural Resources Office (EPNR). The person(s) authorized to act on behalf of the EPNR is the Community's EPNR Manager or his/her authorized representative.

- (r) *Dust Suppressants* are those materials applied to a soil surface to prevent soil particles from becoming airborne. Examples include fiber based, calcium chloride, magnesium chloride, lignosulfonate, petroleum resin, and acrylic polymers, nonpetroleum based organics and ligninsulfonate.
- (s) *Equipment modification* means modifying agricultural equipment to prevent or reduce fugitive dust from cropland.
- (t) *Fugitive Dust* means particulate matter emissions made airborne by forces of wind, mechanical disturbances of surfaces, or both. Unpaved roads, construction sites, and tilled land are examples of sources of fugitive dust.
- (u) *Green chop* means harvesting of a forage crop without allowing it to dry in the field.
- (v) *Integrated pest management* means the use of a combination of techniques including organic, conventional and biological practices.
- (w) *Limited activity during a high-wind event* means performing no tillage or soil preparation activity when the measured winds peak at six feet height is more than twenty five mile per hour at the farm site.
- (x) *Manure application* means applying animal waste or biosolids to a soil surface.
- (y) *Mulching* means applying plant residue or other material that is not produced on site to a soil surface.
- (z) *Multi-year crop* means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than a year.
- (aa) *Non-cropland* means any land that does not meet the definition of cropland including unpaved roads and buffer strips.
- (bb) *Owner and/or Operator* means any person who owns leases, operates, controls, or supervises a fugitive dust source subject to the requirements of this Article.
- (cc) *Permanent cover* means a perennial vegetative cover on cropland.
- (dd) *Planting based on soil moisture* means applying water to soil before performing planting operations.
- (ee) *Precision farming* means using global positioning system (GPS) to precisely guide farm equipment in the field.

- (ff) *Reduced harvest activity* means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.
- (gg) *Reduced tillage system* means reducing the number of tillage operations used to produce a crop.
- (hh) *Reduced vehicle speed* means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed fifteen miles per hour.
- (ii) *Residue management* means managing the amount and distribution of crop and other plant residues on a soil surface.
- (jj) *Sequential cropping* means growing crops in a sequence that minimizes the amount of the time bare soil is exposed on a field.
- (kk) *Surface roughening* means manipulating a soil surface to produce or maintain clods.
- (ll) *Tillage based on soil moisture* means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
- (mm) *Tillage & Harvest* means arable land that is worked by plowing and sowing, raising crops and the yield from plants in a single growing season.
- (nn) *Timing of tillage operation* means performing tillage operations at a time that will minimize the soil's susceptibility to generate fugitive dust emissions.
- (oo) *Transgenic crops* means the use of plants that are genetically modified.
- (pp) *Tree, shrub, or windbreak planting* means providing a woody vegetative barrier to the wind.
- (qq) *Watering* means applying water to non-cropland.

**Sec 18-87      APPLICABILITY**

- (a) This Article limits particulate matter (PM-10 and PM-2.5) emissions into the ambient air from any agriculture property, operation, activity, or land use that may serve as an agricultural fugitive dust source.
- (b) *Dust Control Measures and Requirements.* The owner and/or operator who farms more than five contiguous acres of land within the Salt River Pima Maricopa Indian Community must complete an agricultural fugitive dust general plan for each location and shall employ two of the following dust control measures for each category of agricultural activity at each location (if applicable). All general plans shall identify, at minimum, the contact information for the owner and/or operator, the location, the dust control source(s), and the measures to be taken before, after, and while conducting any dust generating activity; and must be submitted to the EPNR within thirty days of being requested by the EPNR to do so. The EPNR shall approve, disapprove, or conditionally approve the general plan, in accordance with the

requirements herein within five days of receipt of the general plan.

(1) Tillage and Harvest

- a. cessation of night tilling
- b. chemical irrigation
- c. combining tractor operations
- d. equipment modification
- e. green chop
- f. integrated pest management
- g. limited activity during high-wind events
- h. multi-year crop
- i. planting based on soil moisture
- j. precision farming
- k. reduced harvest activity
- l. reduced tillage system
- m. tillage based on soil moisture
- n. timing of tillage operations
- o. transgenic crops

(2) Non-cropland

- a. access restriction
- b. aggregate cover
- c. artificial wind-barrier
- d. critical area planting
- e. manure application
- f. reduce vehicle speed
- g. dust suppressants approved by Environmental Protection and Natural Resources Division
- h. track-out control system
- i. tree/shrub/windbreak planting
- j. watering

(3) Cropland

- a. artificial wind barrier
- b. cover crop
- c. crosswind ridges
- d. crosswind strip cropping
- e. crosswind wind vegetative strip
- f. integrated pest management
- g. manure application
- h. mulching
- i. multi-year crop
- j. permanent cover
- k. planting based on soil moisture
- l. residue management
- m. sequential cropping
- n. surface roughening
- o. transgenic crops
- p. trees/shrub/windbreak planting

- (c) Should any single control measure(s) prove ineffective, the owner and/or operator shall immediately implement additional control measure(s), which may require submitting a revised general plan to the EPNR.
- (d) *Dust Control Records.* The owner and/or operator must keep records detailing the dust control measures selected for each category. The owner and/or operator must make available the records to the Environmental Protection & Natural Resources Division within three business days of the notice to the owner and/or operator.
- (e) *Fee.* No fee is associated with the agriculture fugitive dust general plan.
- (f) *Violations.* Failure to comply with the provisions of this Sec. 18-87 including the chosen control measures, or failure to obtain and implement an approved fugitive dust general plan is deemed to be a violation of this Article V.

**Sec 18-88 COMPLIANCE AND ENFORCEMENT - ADMINISTRATIVE**

- (a) When EPNR determines that a violation of any of the applicable provisions of this Article has been committed, an administrative compliance process shall be initiated by the issuance of a Notice of Violation (NOV) sent certified mail to the owner or operator within thirty days of the violation. Depending on the nature and seriousness of the violation, the EPNR Manager, at his/her discretion, shall determine whether or not the violation constitutes a fine. During the administrative compliance process, the EPNR Manager shall have the authority to determine the fine assessment on applicable violations. The EPNR will consult with the Office of General Counsel (OGC) and/or Office of Prosecutor in carrying out enforcement measures.
  - (1) Administrative fines and penalties for violation of this Article shall not exceed five hundred dollars (\$500.00) for each such violation and for each day of its continuance which may constitute a separate violation.
- (b) EPNR's NOV will at minimum state the section(s) of the Article the owner or operator violated, corrective action to remedy the violation, and specify a time period for corrective action.
- (c) *Appeal Process.* The owner or operator receiving the NOV may appeal the determination of the EPNR in writing to the Community Manager within five (5) business days from the date the NOV is received. A meeting on the appeal before the Community Manager shall take place within thirty (30) days from the date the appeal is received by the Community Manager. The decision of the Community Manager shall be final.
- (d) If the owner or operator fails to pay the administrative fine or fails to comply with this Article, the EPNR shall initiate judicial proceedings by referring the violation to the Community's Office of General Counsel who may file civil proceedings in the Community's Tribal Court in accordance with the applicable laws of the Community.

**Sec. 18-89 JUDICIAL PROCEEDINGS; COMMUNITY COURT**

- (a) The Community court shall have jurisdiction to hear all actions brought by the Office of General Counsel or the Office of Prosecutor pursuant to Section 18-88(d) above or other applicable law, and may impose:
  - (1) Civil fines and penalties for violation of this Article shall not exceed one thousand dollars (\$1,000.00) for each such violation and for each day of its continuance which may constitute a separate offense.
  - (2) Other relief as may be available by law, which may include injunctive relief, and the posting of bonds or sureties to ensure compliance.

**Sec. 18-90 REMEDIES NOT EXCLUSIVE**

The remedies listed in this Article V are not exclusive of any other remedies available under any applicable federal, Tribal, or local laws and is within the discretion of the Community to seek cumulative remedies.

**Sec. 18-91 SEVERABILITY**

If any provision of this Article V is deemed unenforceable, the remainder of this Article V shall continue in full force and affect.

**Sec. 18-92 EFFECTIVE DATE**

This Article V shall be in full force and effect from and after its passage and approval by the Community Council.

**Sec. 18-93 Reserved.**

**Sec. 19-94 Reserved.**

C E R T I F I C A T I O N

This Ordinance is hereby enacted pursuant to the authority contained in Article VII, Sec. 1(c) and (k) of the Constitution of the Salt River Pima-Maricopa Indian Community (as amended), ratified by the Tribe on February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing Ordinance was adopted this 18<sup>th</sup> day of August, 2010, in a duly called meeting of the Community Council at Salt River, Arizona at which a quorum of 7 members was present, by a vote of 5 for; 2 opposed; 0 abstaining; and 2 excused.

**SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY COUNCIL**



**Martin Harvier, Vice President**

**ATTEST:**



**Erica Harvier, Council Secretary**

**Approved as to Form by the  
Office of the General Counsel  
Niccole L. King  
August 3, 2010**

