

## **CHAPTER 8 FUGITIVE PARTICULATE**

### **Subchapter 2 Paving Requirements in the Air Stagnation Zone**

#### **Rule 8.201 - Permits Required**

- (1) After September 16, 1994, a person may not construct or cause to be constructed a new road, private or commercial driveway or parking lot in the Air Stagnation Zone without having a permit from the department except as provided for in Rule 8.104(2), 8.105 and 8.202(4).
- (2) The applicant shall supply plans for the proposed construction at the time of the application for the permit. Plans must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record. The department may require that the plans include the following information:
  - (a) A complete legal description of the affected parcels and a location map of the proposed construction area.
  - (b) A scaled plan-view drawing that includes all existing and proposed property boundaries, structures, roads, parking areas and adjoining exterior roads. Proposed construction must be clearly labeled.
  - (c) The width of proposed roads and driveways and dimensions of proposed parking areas.
  - (d) The thickness of the base material and the pavement to be used on the proposed construction.
  - (e) A description of the intended uses of the road, driveway or parking lot, including but not limited to the estimated number and type of vehicles using the road, parking lot or driveway.
  - (f) A description of adjoining exterior roads, e.g. paved or unpaved, public or private.
  - (g) Any additional information the department may require to evaluate the application prior to the issuance of a permit.

#### **Rule 8.202 - New Roads in the Air Stagnation Zone**

- (1) After September 16, 1994, all new roads in the Air Stagnation Zone must be paved, except as provided in (3) through (5) of this rule and in Rule 8.104.
- (2) New public and private roads must be paved within 2 years (730 days) after road construction begins or final plat approval, whichever comes first, except that new private roads serving commercial and industrial sites must be paved prior to occupancy.
- (3) The department may allow temporary occupancy of a building or use of a road serving a commercial or industrial site before the road is paved if weather prevents paving before occupancy or use. Such an extension may not exceed six months.
- (4) Roads used solely for utilities, or solely for agricultural or silvicultural purposes are exempt from paving requirements of Subchapter 8.2, but are subject to dust abatement measures to prevent particulate matter from becoming airborne. If the use of a road changes so that it is no longer used solely for utilities, or solely for agricultural or silvicultural purposes, the road will be considered a new road and all paving regulations pertinent to the new uses on the road must be met.

- (5) Temporary roads at landfills do not have to be paved or permitted, but are subject to dust abatement measures. For this rule, a road at a landfill is considered temporary if it exists in the same location less than three years.

**Rule 8.203 - New Parking Areas in the Air Stagnation Zone**

- (1) After September 16, 1994, new public and private parking areas must be paved prior to occupancy, except as provided in (2)-(4) of this rule.
- (2) The department may allow temporary occupancy of a building before the parking areas are paved if weather prevents paving before occupancy. Such an extension may not exceed six months.
- (3) Exceptions.
  - (a) The following areas do not have to be paved if they are constructed in accordance with Section (5) of this rule:
    - (i) Long term parking areas for heavy equipment and semi trucks where the vehicles will be parked for longer than 48 hours at a time and no other vehicular traffic is allowed. (This exemption does not apply to sales lots or loading areas.)
    - (ii) Long term parking areas for vehicles that will be parked for extended periods of time, if no other vehicular traffic is allowed and if no more than fifteen (15) vehicles travel in or out of the area per day averaged over any three consecutive days. (This exemption does not apply to sales lots for vehicles)
    - (iii) Display areas for heavy equipment, where no other vehicles will be displayed or offered for sale and no other vehicular traffic is allowed.
  - (b) At licensed RV parks, accesses to parking spots must be paved, but parking spots for RVs need not be paved if:
    - (i) they are constructed in accordance with 4 (a) of this rule; or
    - (ii) they are constructed using reinforced grids and a healthy vegetative cover is maintained that can handle traffic.
  - (c) Parking areas used exclusively for the sale or display of light tractors and implements with no other vehicular use need not be paved if:
    - (i) the area is mowed and maintained with a healthy stand of vegetation adequate to be an effective dust suppressant; or
    - (ii) the area meets the requirements of 4 (a) of this rule.
  - (d) Parking areas used exclusively for outdoor recreational/entertainment facilities including, but not limited to, outdoor theatres, fairs or athletic fields, may use vegetation or reinforced grids with vegetation as an alternative to paving if the following conditions are met.
    - (i) New access road(s) for the parking area will be paved.
    - (ii) The parking area will be used less than 61 days per calendar year.
    - (iii) The department has approved a construction plan showing:
      - (A) that the parking area soils can support a vegetative cover and the proposed vehicular traffic;
      - (B) that vegetation able to survive and maintain ground cover with the proposed vehicle use is present or that appropriate vegetation will be planted and established prior to use of the parking area; and
      - (C) that an irrigation system able to maintain the vegetative cover will be installed.
    - (iv) The department has approved a maintenance plan that:
      - (A) states that vehicles will not use the parking area when soil conditions are muddy or excessive damage to the vegetation will occur;
      - (B) states that vehicles will not use the parking area when carry out of dirt or dust onto surrounding paved surfaces will occur;
      - (C) states that the parking area will be blocked off with a physical barrier that will prevent vehicle access when the parking area is not in use; and

- (D) explains how the ground cover vegetation will be maintained by the appropriate use of irrigation, fertilizer, aeration and other necessary measures.
- (E) may include rotation of vehicle use around the parking area to reduce impacts on the soil and vegetation. Any use of the parking area counts as one day of use for the entire parking area.

(e) The department may order that an area that qualifies for one of the above exemptions be paved if:

- (i) the area is not constructed or maintained as required by this rule.
- (ii) particulate emissions exceed those typical of a clean paved surface; or
- (iii) carryout of dirt or dust onto surrounding paved surfaces occurs.

(f) If the use of an area changes so that an exemption no longer applies, the area must meet all regulations for new construction applicable to the new uses of the area.

- (4) The department may allow self-draining solid surfaces including, but not limited to, block pavers and bound recycled glass for parking areas provided the following conditions are met.
- (i) The surface is rated for the vehicular traffic loads projected for that parking area
  - (ii) Fugitive emissions from the surface will not exceed those from a clean, paved parking area.
  - (iii) The surface is cleaned regularly to prevent fugitive particulate
  - (iv) If the surface is disturbed or destroyed it must be paved or rebuilt before continued use.

(5) Construction Specifications for Exemptions.

(a) Unless otherwise specified in this rule, unpaved parking and display areas must consist of a suitable base material topped with a minimum of four inches of ¾ inch minus gravel, that meets the following specifications:

- (i) The material must consist of hard, durable particles or fragments of slag, stone or gravel screened and crushed to the required size and grading specified here.

Sieve Designation	Percent Passing, by Weight
¾ inch	100
No. 4	30 – 60
No. 10	20 - 50
No. 200	less than 8

- (ii) That portion of the material passing a No. 40 sieve must have a plasticity index of 4 or less, as determined by AASHTO T-91.

(b) To minimize carry-out of material onto the access road, pavement must be placed between unpaved parking areas allowed in (3)(a) of this rule and the paved or unpaved access road as follows:

- (i) At least 60 linear feet of paved surface of adequate width must be placed between an unpaved long term parking area for heavy equipment and semi-trucks and the access road. This paved surface must be placed and used so that heavy equipment and semi-trucks cross 60 feet of paved surface before entering the access road.
- (ii) At least 20 linear feet of paved surface of adequate width must be placed between unpaved long term parking areas allowed in (3)(a)(ii) of this rule and the access road. This paved surface must be placed and used so that vehicles cross 20 feet of paved surface before entering the access road.
- (iii) The paved surface must begin at the edge of the access road.

**Rule 8.204 - New Driveways in the Air Stagnation Zone**

- (1) After September 16, 1994, before occupancy of a residential unit, new private driveways accessing a paved road must be paved or covered with a self-draining solid surface as provided by part (4) of this rule to a minimum of twenty (20) feet back from the paved road or to the outside boundary of the right of way, whichever is longer.
- (2) The department may allow temporary occupancy of a residential unit before the driveway is paved if weather prevents paving before occupancy. Such an extension may not exceed six months.
- (3) Private driveways accessing an existing unpaved road do not have to be paved, but must meet the requirements of Rule 8.205.
- (4) The department may allow a self-draining solid surface including, but not limited to, block pavers and bound recycled glass in lieu of pavement provided the following conditions are met.
  - (i) The surface is rated for the vehicular traffic loads projected for that driveway
  - (ii) Fugitive emissions from the surface will not exceed those from a clean, paved driveway.
  - (iii) The surface is cleaned regularly to prevent fugitive particulate
  - (iv) If the surface is disturbed or destroyed it must be paved or rebuilt before continued use.

**Rule 8.205 - Unpaved Access Roads**

- (1) The department may not issue a permit for a new road, commercial site, industrial site, or private driveway in the Air Stagnation Zone accessed by an unpaved road unless:
  - (a) a waiver of the option to protest an RSID or SID for the paving of the unpaved access road has been recorded at the Clerk and Recorder's Office for the parcel; or
  - (b) the owner of the real property accessed by the unpaved road executes a deed restriction waiving the option to protest any RSIDs or SIDs for the paving of the unpaved access road using the language set forth below.

I/We, the undersigned, hereby certify that I/we are the owners of the real property located at (legal description) and hereby waive any option to protest an RSID or SID affecting said property for the purpose of financing the design and construction of a public paved road accessing said property. Further, my/our signatures on this waiver may be used in lieu of my/our signature(s) on an RSID or SID petition for the creation of one or more RSID's or SID petitions for the purpose of financing the design and construction of a public paved road accessing the above-described property.

This waiver runs with the land and is binding on the transferees, successors, and assigns of the owners of the land described herein. All documents of conveyance must refer to and incorporate this waiver.

- (2) In the Air Stagnation Zone, property owner who is subdividing land that contains parcels accessing an unpaved road, or whose primary access is an unpaved road, shall waive the option to protest an RSID or SID that upgrades and paves the road and shall include the language set forth in (1)(b)above on the plat.

**Rule 8.206 - Maintenance of Pavement Required**

- (1) All paved roads, driveways, storage areas and parking lots within the Air Stagnation Zone must be cleaned and maintained regularly to prevent fugitive particulate.
- (2) Any existing paved surface that is disturbed or destroyed must be re-paved before continued use.

**Rule 8.207 - Paving Existing Facilities in the Air Stagnation Zone**

- (1) The department may require any person owning or operating a commercial establishment which is located on a publicly owned or maintained road which is used by more than 200 vehicles per day averaged over any 3-day period to submit a plan which provides for paving and restricting traffic to paved surfaces for any areas used by said commercial establishment for access, egress, and parking except where said access, egress, and parking is seasonal and intermittent and the area in which said access, egress and parking is located is not in violation of Ambient Air Quality Standards as listed in ARM 17.8.201 - 17.8.230. The plan must include drawings and other information that the department may require to indicate the adequacy of the plan. The plan must provide reasonable time for construction of paved roads or structures limiting traffic to paved surfaces, but this time may not exceed one year from the date of submittal to the department.
  
- (2) The department may require any person owning, leasing, or managing property containing a road or thoroughfare which is used by more than 50 vehicles per day, averaged over any three day period, to submit a plan which provides for paving or for restricting traffic to paved surfaces. Roads located in areas that do not violate the ambient air quality standards (ARM 17.8.201 - 17.8.230), and which are used seasonally and intermittently are exempt from this requirement. The plan must include drawings and other information that the department may require. A reasonable time will be permitted for the construction of paved roads or structures limiting traffic to paved surfaces, but this time may not exceed one year from the date of submittal of the plan to the department unless an extension is granted by the Control Board.