

NYE COUNTY AGENDA INFORMATION FORM

1

☒ Action
 ☐ Presentation
 ☐ Presentation & Action

Department: Planning		Agenda Date:	
Category: Timed Agenda Item – 10:00 a.m.		December 15, 2020	
Contact: Brett Waggoner		Phone: 775-751-4249	Continued from meeting of:
Return to: Brett Waggoner	Location: Pahrump Planning		Phone:
Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)			
Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2020-19: A Bill proposing to amend Nye County Code Title 15, Building and Construction, Chapter 15.28 entitled Dust Control Regulations within the Pahrump Regional Planning District, relating to Section 15.28.070 Definitions Enumerated; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.			
Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)			
Staff recommends adoption with an effective date of January 4, 2021.			
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.			
Expenditure Impact by FY(s): (Provide detail on Financial Form)			
<input checked="" type="checkbox"/> No financial impact			

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date
5.	Date	10. County Manager	Date

Verified by MG 12.09.20
 N/A
☒ Place on Agenda

MG

ITEM # 10

BILL NO. 2020-19

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 15, Building and Construction, Chapter 15.28 entitled Dust Control Regulations within the Pahrump Regional Planning District, relating to Section 15.28.070 Definitions Enumerated, and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 15, BUILDING AND CONSTRUCTION, CHAPTER 15.28 ENTITLED DUST CONTROL REGULATIONS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT, RELATING TO SECTION 15.28.070 DEFINITIONS ENUMERATED, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, morals, or the general welfare of the community of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment;

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF NYE, STATE
OF NEVADA DO ORDAIN: (NRS 244.110)

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with ~~Deletions~~ shown in strike-through red font, and additions and modifications shown in underscored blue font:

15.28.070: DEFINITIONS ENUMERATED:

AGRICULTURAL OPERATIONS: The growing of crops for profit or the growing of crops for the purpose of providing life support to a considerable number of people, animals or fowl.

BEST PRACTICAL METHODS: Fugitive dust control measures include, but are not limited to, phased

clearing of the land; the use of dust palliative; the use of water; the use of "snow fencing" (a fencing material that inhibits the wind); the use of windbreaks; revegetation (excluding noxious weeds); the use of ground cover (e.g., gravel, decorative stone); physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles; controls on single lot development approved as a part of a land division subject to these regulations; or cessation of operations when wind conditions exceed the operator's ability to control fugitive dust. The term best practical methods is synonymous with the term best management practices.

BURN BARREL: A container made of metal or other fire resistant substance used to hold vegetative material while burning.

COMMERCIAL AND RESIDENTIAL CONSTRUCTION: Construction of structures intended to be utilized solely as personal dwellings, including, but not limited to, single-family homes, duplexes, fourplexes, apartments, condominiums, townhouses; construction of institutional structures, schools, libraries, churches, hospitals, parks, office structures; shopping malls; residential streets within a subdivision; improvements to existing curbed paved roads; parking lots, parking lot structures; and construction of underground utilities for sanitary sewer, water, electricity, natural gas and communication.

COMPLIANCE REVIEW COMMITTEE (CRC): Includes the Nye County Community Planner or designee, the Public Works Director or designee, and an ex officio representative of the Nevada Division of Environmental Protection (NDEP) – CURRENT DEFINITION OPTION #1

COMPLIANCE REVIEW COMMITTEE (CRC): Includes the Nye County Planning Director or designee, Nye County Public Works Director or designee, Ex officio representative of the Nevada Division of Environmental Protection, and at least one of the following: liaison of the Nye County Board of Commissioners, liaison of the Regional Planning Commission, and/or a licensed contractor similar to the violator named in the violation notice. – OPTION #2

CONSTRUCTION ACTIVITY: Any component of the following including, but not limited to: commercial and residential construction, flood control construction, and highway construction, including land clearing, maintenance, and land cleanup using machinery; soil and rock excavation or removal; soil or rock hauling; soil or rock crushing or screening; filling, compacting, stockpiling and grading; explosive blasting; demolition; implosion; handling of building materials capable of entrainment in air (e.g., sand, cement powder); dismantling or demolition of buildings; mechanized trenching; initial landscaping; operation of motorized machinery; driving vehicles on a construction site; or establishing and/or using staging areas, parking areas, material storage areas, or access routes to or from a construction site.

CONTROL MEASURE: A technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.

DISTURBED AREA: A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition, thereby increasing the potential for the emission of fugitive dust. Any area that fails the drop ball test or rock test as defined in section 15.28.140 of this chapter is a disturbed area.

DUST CONTROL HANDBOOK: A guide used to select the appropriate best practical methods appropriate for each construction activity that will be used to control fugitive dust and itemized in a dust control plan.

DUST CONTROL PLAN: A plan to formalize the best practical methods (all the selected control measures) for a project specific fugitive dust control program.

DUST PALLIATIVE: Hygroscopic material, nontoxic chemical stabilizer or other material which is not prohibited for ground surface application by the federal environmental protection agency (EPA) or the Nevada department of environmental protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing fugitive dust emissions. Water, solutions of water and chemical surfactants, and foam are not dust palliatives for the purpose of these regulations.

DUST SUPPRESSANT: Water, hygroscopic material, solution of water and chemical surfactants, foam, nontoxic chemical stabilizer or any other dust palliative which is not prohibited for ground surface application by the federal environmental protection agency (EPA) or the Nevada department of environmental protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing fugitive dust emissions.

EMERGENCY: A situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operations.

FUGITIVE DUST: Emissions of solid, airborne particulate matter which could not reasonably pass through a stack, chimney, vent, or a functionally equivalent opening. Fugitive dust is entrained in the air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking and serving of food.

OPACITY: A measure of air visibility, or the degree to which an effluent plume or any emission of air contaminants reduces the transmission of light and obscures the view of an object in the background. "Percent opacity" refers to the degree in which the visible emission obscures the transmission of light from the view of background objects.

OPEN AREAS AND VACANT LOTS: An undeveloped tract of land, which contains no approved or permitted buildings or structures.

OPEN BURNING: Any fire from which the products of combustion are emitted into the atmosphere without passing through a stack, chimney, or duct.

PARTICULATE MATTER: Any material except uncombined water that exists in a finely divided form as a liquid or solid at reference conditions. "PM10" is any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers.

REFUSE: Any:

- A. Garbage.
- B. Sludge from a:
 - 1. Plant that treats wastewater.
 - 2. Plant that treats the water supply.
 - 3. Facility for controlling air pollution.
- C. Other discarded material, except yard waste, including solid, semisolid, liquid or contained

gaseous material, resulting from industrial or commercial operations or community activities.

ROADS: All publicly dedicated rights-of-way within the Pahrump Regional Planning District.

RUBBISH: Non-putrescible solid waste, consisting of both combustible and noncombustible wastes such as paper, cardboard, abandoned automobiles, tin cans, wood, glass, crockery and similar materials.

UNPAVED PARKING AND STORAGE AREAS: Those parcels, or portions of parcels that include (but are not limited to) parking lots, automotive impound and/or dismantling yards, material and equipment handling and/or storage yards, salvage and/or wrecking yards, outside storage and/or display, and similar uses.

VISIBLE EMISSION EVALUATOR: Individual currently certified in accordance with U.S. EPA, 40 CFR part 60, appendix A, method 9, to conduct visible emission evaluations. (Ord. 317, 2006)

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

Effective Date. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 4th day of January, 2021.

Proposed on the ____ day of _____, 2020.

Proposed by: _____.

Adopted on the ____ day of _____, 2020

Vote: Ayes: Commissioners:

 Nays: Commissioners:

 Absent: Commissioners:

BY: _____ ATTEST: _____
 John Koenig, Chairman Sandra L. Merlino
 Nye County Board of Clerk and Ex-Officio
 County Commissioners Clerk of the Board

BILL NO. 2020-19

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 15, Building and Construction, Chapter 15.28 entitled Dust Control Regulations within the Pahrump Regional Planning District, relating to Section 15.28.070 Definitions Enumerated, and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 15, BUILDING AND CONSTRUCTION, CHAPTER 15.28 ENTITLED DUST CONTROL REGULATIONS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT, RELATING TO SECTION 15.28.070 DEFINITIONS ENUMERATED, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, morals, or the general welfare of the community of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment;

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF NYE, STATE
OF NEVADA DO ORDAIN: (NRS 244.110)

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with ~~Deletions~~ shown in strike-through red font, and additions and modifications shown in underscored blue font:

15.28.070: DEFINITIONS ENUMERATED:

AGRICULTURAL OPERATIONS: The growing of crops for profit or the growing of crops for the purpose of providing life support to a considerable number of people, animals or fowl.

BEST PRACTICAL METHODS: Fugitive dust control measures include, but are not limited to, phased clearing of the land; the use of dust palliative; the use of water; the use of "snow fencing" (a fencing

material that inhibits the wind); the use of windbreaks; revegetation (excluding noxious weeds); the use of ground cover (e.g., gravel, decorative stone); physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles; controls on single lot development approved as a part of a land division subject to these regulations; or cessation of operations when wind conditions exceed the operator's ability to control fugitive dust. The term best practical methods is synonymous with the term best management practices.

BURN BARREL: A container made of metal or other fire resistant substance used to hold vegetative material while burning.

COMMERCIAL AND RESIDENTIAL CONSTRUCTION: Construction of structures intended to be utilized solely as personal dwellings, including, but not limited to, single-family homes, duplexes, fourplexes, apartments, condominiums, townhouses; construction of institutional structures, schools, libraries, churches, hospitals, parks, office structures; shopping malls; residential streets within a subdivision; improvements to existing curbed paved roads; parking lots, parking lot structures; and construction of underground utilities for sanitary sewer, water, electricity, natural gas and communication.

COMPLIANCE REVIEW COMMITTEE (CRC): Includes the Nye County Community Planner or designee, the Public Works Director or designee, and an ex officio representative of the Nevada Division of Environmental Protection (NDEP) – **CURRENT DEFINITION OPTION #1**

COMPLIANCE REVIEW COMMITTEE (CRC): Includes the Nye County Planning Director or designee, Nye County Public Works Director or designee, Ex officio representative of the Nevada Division of Environmental Protection, and at least one of the following: liaison of the Nye County Board of Commissioners, liaison of the Regional Planning Commission, and/or a licensed contractor similar to the violator named in the violation notice. – **OPTION #2**

CONSTRUCTION ACTIVITY: Any component of the following including, but not limited to: commercial and residential construction, flood control construction, and highway construction, including land clearing, maintenance, and land cleanup using machinery; soil and rock excavation or removal; soil or rock hauling; soil or rock crushing or screening; filling, compacting, stockpiling and grading; explosive blasting; demolition; implosion; handling of building materials capable of entrainment in air (e.g., sand, cement powder); dismantling or demolition of buildings; mechanized trenching; initial landscaping; operation of motorized machinery; driving vehicles on a construction site; or establishing and/or using staging areas, parking areas, material storage areas, or access routes to or from a construction site.

CONTROL MEASURE: A technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.

DISTURBED AREA: A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition, thereby increasing the potential for the emission of fugitive dust. Any area that fails the drop ball test or rock test as defined in section 15.28.140 of this chapter is a disturbed area.

DUST CONTROL HANDBOOK: A guide used to select the appropriate best practical methods appropriate for each construction activity that will be used to control fugitive dust and itemized in a dust control plan.

DUST CONTROL PLAN: A plan to formalize the best practical methods (all the selected control measures) for a project specific fugitive dust control program.

DUST PALLIATIVE: Hygroscopic material, nontoxic chemical stabilizer or other material which is not prohibited for ground surface application by the federal environmental protection agency (EPA) or the Nevada department of environmental protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing fugitive dust emissions. Water, solutions of water and chemical surfactants, and foam are not dust palliatives for the purpose of these regulations.

DUST SUPPRESSANT: Water, hygroscopic material, solution of water and chemical surfactants, foam, nontoxic chemical stabilizer or any other dust palliative which is not prohibited for ground surface application by the federal environmental protection agency (EPA) or the Nevada department of environmental protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing fugitive dust emissions.

EMERGENCY: A situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operations.

FUGITIVE DUST: Emissions of solid, airborne particulate matter which could not reasonably pass through a stack, chimney, vent, or a functionally equivalent opening. Fugitive dust is entrained in the air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking and serving of food.

OPACITY: A measure of air visibility, or the degree to which an effluent plume or any emission of air contaminants reduces the transmission of light and obscures the view of an object in the background. "Percent opacity" refers to the degree in which the visible emission obscures the transmission of light from the view of background objects.

OPEN AREAS AND VACANT LOTS: An undeveloped tract of land, which contains no approved or permitted buildings or structures.

OPEN BURNING: Any fire from which the products of combustion are emitted into the atmosphere without passing through a stack, chimney, or duct.

PARTICULATE MATTER: Any material except uncombined water that exists in a finely divided form as a liquid or solid at reference conditions. "PM10" is any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers.

REFUSE: Any:

- A. Garbage.
- B. Sludge from a:
 - 1. Plant that treats wastewater.
 - 2. Plant that treats the water supply.
 - 3. Facility for controlling air pollution.
- C. Other discarded material, except yard waste, including solid, semisolid, liquid or contained gaseous material, resulting from industrial or commercial operations or community activities.

ROADS: All publicly dedicated rights-of-way within the Pahrump Regional Planning District.

RUBBISH: Non-putrescible solid waste, consisting of both combustible and noncombustible wastes such as paper, cardboard, abandoned automobiles, tin cans, wood, glass, crockery and similar materials.

UNPAVED PARKING AND STORAGE AREAS: Those parcels, or portions of parcels that include (but are not limited to) parking lots, automotive impound and/or dismantling yards, material and equipment handling and/or storage yards, salvage and/or wrecking yards, outside storage and/or display, and similar uses.

VISIBLE EMISSION EVALUATOR: Individual currently certified in accordance with U.S. EPA, 40 CFR part 60, appendix A, method 9, to conduct visible emission evaluations. (Ord. 317, 2006)

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

Effective Date. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 4th day of January, 2021.

Proposed on the ____ day of _____, 2020.

Proposed by: _____.

Adopted on the ____ day of _____, 2020

Vote: Ayes: Commissioners:

 Nays: Commissioners:

 Absent: Commissioners:

BY: _____ ATTEST: _____
 John Koenig, Chairman Sandra L. Merlino
 Nye County Board of Clerk and Ex-Officio
 County Commissioners Clerk of the Board