BILL NO. 2006-12

NYE COUNTY ORDINANCE NO. 317

SUMMARY: An ordinance amending Nye County Code Chapter 15.28, the Pahrump Regional Planning District Dust Control Regulations, making changes to Sections 15.28.020, to properly detail the statutory foundation for the Chapter; making changes to 15.28.040 in order to recognize and integrate this Chapter with Bill No. 2006-14; and other matters properly relating thereto.

TITLE: **AN ORDINANCE AMENDING NYE COUNTY CODE CHAPTER 15.28, THE PAHRUMP REGIONAL PLANNING DISTRICT DUST CONTROL REGULATIONS; REVISING SECTION 15.28.020 TO PROPERLY DETAIL THE AUTHORITY OF THE CHAPTER; REVISING SECTION 15.28.040 IN ORDER TO RECOGNIZE, RECONCILE AND INTEGRATE NYE COUNTY BILL NO. 2006-14 WITH THIS CHAPTER; PROVIDING FOR THE SEVERABILITY, REPEAL, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.**

WHEREAS, pursuant to NRS 278.250, the Nye County Board of County Commissioners ("Board") may divide the County into zoning districts and, thereafter, regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land by zoning regulations adopted in accordance with the master plan, for the purpose of preserving the quality of air resources within such district; and

WHEREAS, the Board recognizes that within the District, unless proper precautions are taken, the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land creates dust that impairs the quality of the air in the District; and

WHEREAS, in accord with the authority of NRS 278.250, the Board has established the Pahrump Regional Planning District and has adopted the Pahrump

Regional Planning District Dust Control Regulations (Nye County Code Chapter 15.28) ("Dust Control Regulations"); and

WHEREAS, the Board recognizes that its prime duty is to protect the health, safety and general welfare of the residents of the County; and

WHEREAS, the Board has determined that in order to fulfill its prime duty within the Pahrump Regional Planning District, an ordinance regulating, controlling and prohibiting excessive emission of air pollution must be adopted; and

WHEREAS, pursuant to NRS 244.361, the Board is enacting an ordinance deeming violations of the Dust Control Regulations to be a public nuisance and providing for the regulation, control and prohibition of such violations,

NOW, THEREFORE, the Board of County Commissioners of Nye County, State of Nevada, does ordain that **NYE COUNTY CODE CHAPTER 15.28 IS AMENDED AS FOLLOWS:**

NYE COUNTY CODE CHAPTER 15.28 IS AMENDED AS FOLLOWS:

15.28 DUST CONTROL REGULATIONS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT

ARTICLE I: GENERAL PROVISIONS

15.28.010 Short Title

This Chapter shall be known, and may be cited as: The Dust Control Regulations of the Pahrump Regional Planning District.

15.28.020 Authority and Purpose

A. This Chapter is adopted pursuant to Nevada Revised Statutes (NRS) 244.361(Board may by ordinance, regulate, control and prohibit, as a public nuisance, the excessive emission of air pollution within the boundaries of the County); and NRS 278.250 (the Board may divide the County into zoning districts and, thereafter, regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land by zoning regulations adopted in accordance with the master plan, for the purpose of preserving the quality of air and water resources within such district).

B. The purpose of this Chapter is to fulfill the Board's prime duty to protect the health, safety and general welfare of the residents of the County, by assuring that the public nuisance of excessive emission of air pollution is avoided, by:

1. Controlling PM10 emissions at existing and active surface disturbance sites to achieve compliance with federal air quality standards; and

2. Improving air quality in order to protect the health, safety and general welfare of the inhabitants of the Pahrump Regional Planning District.

15.28.030 Jurisdiction

The provisions of this Chapter shall apply to the Pahrump Regional Planning District of Nye County, Nevada.

15.28.040 Definition of Violation and Enforcement

A. The following shall be and are violations of this Chapter:

1. Violation of a provision of this Chapter;
2. Violation of any provision, term or condition of any Plan created pursuant to this Chapter.
3. Failure to pay any fee, fine or penalty.
4. Failure to comply with any duly made Order requiring corrective action.
5. Falsification of any material statement, representation or certification in any application, notice or report.

B. Enforcement of this Chapter shall be effected pursuant to the provisions of Nye County Bill No. 2006-14, as hereafter adopted and amended.

15.28.050 Severability, Repeal and Constitutionality

A. SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application thereof 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.

B. REPEAL. This ordinance supersedes and repeals any and all parts of the Nye County Code and Nye County ordinances or parts of ordinances in conflict herewith.

C. CONSTITUTIONALITY. If any section, clause or phrases 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.

ARTICLE II: DEFINITIONS

15.28.060 Generally

The words and terms used in this Chapter shall be defined as follows. All words used in the singular shall include the plural and the plural the singular. Each gender shall include the others; any tense shall include the other tenses. The word “shall” is mandatory and

the words “may” and “should” are permissive.

15.28.070 Definitions

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 resistance 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, town houses; 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.

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 15.28.140 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, non-toxic 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, non-toxic 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. PM_{10} is any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

Refuse. Refuse means any:

A. Garbage.
B. Sludge from a:
    1. Plant that treats waste water.
    2. Plant that treats the water supply.
    3. Facility for controlling air pollution.
C. Other discarded material, except yard waste, including solid, semi-solid, 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. Nonputrescible 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 US EPA, 40 CFR Part 60, Appendix A, Method 9, to conduct visible emission evaluations.

ARTICLE III: CONTROL MEASURE REQUIREMENTS

15.28.080 Fugitive Dust

A. Any person engaged in activities involving the handling, transportation or storage of any material; dismantling or demolition of buildings; grubbing; grading; clearing of land; public or private construction; the operation of machines and equipment; the grading of roads; trenching operations; the operation and use of unpaved parking facilities; and the organization and supervision of public outdoor events shall take all reasonable precautions to prevent fugitive dust from becoming airborne from such activities at all times. Reasonable precautions may include, but are not limited to, sprinkling, compacting, enclosure, chemical or asphalt sealing, cleaning up, sweeping, soil amendments, addition of non-emissible covers or such other measures as Nye County may specify. All control measures selected must be maintained to ensure the visible emissions do not exceed the 20% opacity limit as described in

Section 15.28.150.A.

B. Use and operation of livestock arenas, horse arenas, corrals, agricultural operations and feed lots, and raceways and rodeo grounds for animals or motor vehicles should take all reasonable precautions to abate fugitive dust from becoming airborne from such activities. Reasonable precautions may include, but are not limited to, sprinkling, compacting, enclosure, chemical, or asphalt sealing, cleaning up, sweeping, soil amendments, addition of non-emissible covers or such other measures.

C. This Ordinance shall not apply to emergency activities conducted by any Fire Department, utility, or government agency which are necessary to protect the health, safety and welfare of the public.

15.28.090 Construction Activities

A. A person engaged in Construction Activity shall employ Best Practical Methods to prevent the generation of fugitive dust and submit a Dust Control Plan.

B. Except when engaged in agricultural operations, no person may initiate a construction activity that results in Disturbed Areas unless Best Practical Methods are taken to prevent generation of fugitive dust during both the active development phases and thereafter if the property is to remain unoccupied, unused, vacant, or undeveloped.

C. For any project involving an aggregate one-half acre or more of Disturbed Area, a Dust Control Plan must be submitted to the Nye County Air Quality Program Administrator along with the zone review, building permit application, conditional use permit application, zoning change application, or site development plan. The Dust Control Plan shall specify the use of Best Practical Methods to control the generation of fugitive dust from each construction activity. The owner/operator will:

1. File a complete Dust Control Plan with the Nye County Air Quality Program Administrator before initiating Construction Activities;

2. Implement the Best Practical Methods as outlined in the Dust Control Plan;

3. Maintain a written record of self inspection made each day when soil disturbing work is conducted;

4. Retain records of site self inspections for a minimum of one (1) year or for six (6) months beyond the project duration, whichever is longer. Self inspection records include daily inspections for crusted or damp soil, track-out conditions and cleanup measures, daily water usage, dust palliative application records, etc. For Control Measures involving chemical or organic soil stabilization, records shall indicate the type of product applied, vendor name, label instructions for

approved usage, and the method, frequency, concentration, and quantity of application;

5. Install a sign on said property prior to commencing a construction activity that is visible to the public and conforming to County policy on Dust Control Permit Design and Posting of Signage as described in 15.28.160, Posting of Informational Signs on Construction Sites; and

6. When construction is complete, or a site or part thereof becomes inactive for a period of thirty (30) days or longer, long-term stabilization shall be implemented within ten (10) days following the cessation of active operations.

D. The following construction type activities do not require a Dust Control Plan:

1. Landscaping by an individual at his/her place of residence;

2. Emergency maintenance activities conducted by government agencies on publicly maintained roads, road shoulders, rights-of-way and on public flood control facilities; and

3. Dust Palliative application projects conducted solely for the purpose of compliance with Open Areas and Vacant Lots subsection of this ordinance, wherein no grade elevation changes, no soil or rock is imported or exported, or no cut and fill operations occur. Importing of gravel or rock for use as a dust palliative is allowed under this subsection.

E. Any material which is tracked onto a paved roadway must be removed as quickly as safely possible. At a minimum all track-out must be cleaned up by the end of the workday or evening shift, as applicable. Exceptions to this provision may be made by the Nye County Air Quality Program Administrator for the construction, maintenance, and/or repair of paved roadways and for the application of traction materials for wintertime driving conditions.

F. To minimize fugitive dust generated during the loading of haul trucks, the drop heights from front loaders shall not exceed 12 inches.

15.28.100 Unpaved Parking and Storage Areas

A. No new Unpaved Parking and Storage Areas, excluding single family residential, shall be constructed within the Pahrump Regional Planning District except for the following:

1. Storage and handling of landscape, aggregate, and similar bulk materials requires implementation of control measures as described in 15.28.100.B below, and all access, parking, and loading areas used by on-road vehicles must be paved or chip sealed.

2. Storage and handling of non-rubber-tired vehicles or equipment requires implementation of control measures as described in 15.28.100.B. below, and all access, parking, and loading areas used by rubber-tired vehicles must be paved or chip sealed.

3. Rural public trailheads, campgrounds, and similar facilities on Bureau of Land Management administered lands are subject only to stabilization per 15.28.100.B.4-5 below prior to use.

4. Intermittent use for a period of 35 days or less during the calendar year requires implementation of control measures as described in 15.28.100.B.4-5 below while utilized for vehicle parking.

B. All existing Unpaved Parking and Storage Areas greater than or equal to 5,000 square feet shall implement the following Control Measures by December 31st, 2005:

1. Pave; or

2. Gravel to a minimum depth of 2" of gravel shall be applied; or

3. Chip seal; or

4. Apply dust palliative to unpaved areas in conformance with the stabilization requirements in 15.28.140; or

5. Apply dust palliative to vehicle travel lanes within the parking lot in conformance with the stabilization requirements in 15.28.140.

Any person subject to the requirements of this Regulation shall compile and retain records for one year that provide evidence of Control Measure application, by indicating type of treatment or Control Measure, extent of coverage, and date applied. That person shall also make those records available to the Nye County Air Quality Program Administrator or authorized representative upon request.

C. Waivers or variances of the requirement to reduce fugitive dust for unpaved areas greater than or equal to 5,000 square feet are not permitted.

15.28.110 Open Areas and Vacant Lots

A. The owner of any Open Areas, Vacant Lots, or contiguous parcels with Disturbed Areas in aggregate of more than one acre is required to control the release of fugitive dust from the parcel or contiguous parcels by implementing one or more of the following Best Practical Methods to the extent necessary to pass the stabilization tests described in 15.28.140:

1. Physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles;

2. The use of ground covers (e.g. gravel, decorative stone);

3. The use of dust palliative (chemicals that bind soil together and retain moisture);

4. The use of snow fencing (a fencing material that inhibits the wind);

5. The use of windbreaks;

6. The application of water in an amount and frequency adequate for the soil to develop a crust; or

7. Revegetation.

In the event that the disturbed areas are primarily the result of recurrent unauthorized use of the property by motorized vehicles, the application of water is not a suitable Control Measure without the erection and maintenance of physical barriers. The use of or parking on Open Areas and Vacant Lots for private purposes by the owner of such Open Areas and Vacant Lots shall not be considered vehicle use under this subsection.

B. Except for those portions of parcels zoned Residential Estate or Residential Homestead and engaged in agricultural operations or occupied by livestock, each property owner shall implement Best Practical Methods within one year of the effective date of this ordinance.

C. Mechanized Weed Abatement and/or Trash Removal: If machinery is used to clear weeds and/or trash from Open Areas and Vacant Lots larger than one acre, then the following Control Measures shall be applied. Advisory Notice: In order to conserve water to the greatest extent practicable, the use of reclaimed water is highly encouraged.

1. Pre-wet surface soils before mechanized weed abatement and/or trash removal occurs; and,

2. Maintain soil moisture while mechanized weed abatement and/or trash removal is occurring; and,

3. Apply water, or apply a suitable dust palliative, in compliance with the stabilization standard set forth in 15.28.140.A., apply gravel in compliance with the stabilization standard set forth in 15.28.140.B, or pave after mechanized weed abatement and/or trash removal occurs.

15.28.120 Track-out onto Paved Roadways

A. Any material which is tracked onto a pavedoadway must be removed as quickly as safely possible. If the responsible party does not remediate the track-out, the Nye County Road Department will take action and remediate the track-out. The remediation cost incurred by the Nye County Road Department will be recovered in accordance with Nye County Code 12.08.010. Exceptions to this provision may be made by the Air Quality Program Administrator for the application of traction materials for wintertime driving conditions.

15.28.130 Burning

A. Except as provided in 15.28.130.C below, no person shall kindle or maintain any open burning for the purpose of weed abatement, disposal of yard waste, conservation, disease control, game or range management, personnel training, elimination of hazards, agricultural purposes and management, recreational, educational or ceremonial purposes or authorize any such fire to be kindled or maintained on any public or private land without first having obtained a permit from the Town of Pahrump Fire Chief.

B. The burning of rubbish is prohibited within the Pahrump Regional Planning District. The use of Burn Barrels for the purpose of burning refuse or rubbish is prohibited within the Pahrump Regional Planning District.

C. Outdoor fires may be used for heating, cooking, or branding in an appropriate fireplace or appliance at any time without permission.

15.28.140 Stabilization Standards

A. Drop Ball Method. The drop ball test method described in Subsection 15.28.140.A.1. through 15.28.140.A.4. shall be used to determine whether an Open Area or a Vacant Lot has a stabilized surface. Should a disturbed Open Area or Vacant Lot contain more than one type of disturbance, soil, or other characteristics which are visibly distinguishable, each representative surface must be tested separately for stability in an area that represents a random portion of the overall disturbed conditions of the site, utilizing the test method in 15.28.140.A.1. through 15.28.140.A.4. Depending upon test method results, include or eliminate each representative surface from the total size assessment of the Disturbed Surface Area(s).

1. Soil Crust Determination (The Drop Ball Test): Drop a steel ball with a diameter of 15.9 millimeters (0.625 inches) and a mass ranging from 16-17 grams from a distance of 30 centimeters (one foot) directly above the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the soil crust test method is conducted. Blowsand is defined as thin deposits of loose uncombined grains covering less than 50% of an Open Area or Vacant Lot which have not originated from the representative Open Area or Vacant Lot surface being tested.

2. A sufficient crust is defined under the following conditions: once a ball has been dropped according to Subsection 15.28.140.A.1 of this Regulation, the ball does not sink into the surface, so that it is partially or fully surrounded by loose grains and, upon removal of the ball, the surface upon which it fell has not been pulverized, so that loose grains are visible.

3. Randomly select each representative Disturbed Surfaces for the drop ball test by using a blind "over the shoulder" toss of a throwable object (for example, a metal weight with survey tape attached). Using the point of fall as the lower left hand corner, measure a 1-foot square area. Drop the ball three times within the 1-foot by 1-foot square survey area, using a consistent pattern across the survey area. The survey area shall be considered to have passed the Soil Crust Determination Test if at least two of the three times the ball was dropped, the results met the criteria in Subsection 15.28.140.A.2 of this chapter. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site, and repeat this procedure. If the results meet the criteria of Subsection 15.28.140.A.2 of this chapter for all of the survey areas tested, then the site shall be considered to have passed the Soil Crust Determination Test and shall be considered sufficiently crusted.

4. At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the soil crust test as often as necessary on each portion of the overall conditions of the site using the random selection method set forth in Subsection 15.28.140.A.3 of this Regulation for an accurate assessment.

B. Rock Test Method: The Rock Test Method examines the wind-resistance effects of rocks and other non-erodible elements on disturbed surfaces. Non-erodible elements are objects larger than 1 centimeter (cm) in diameter that remain firmly in place even on windy days. Typically, non-erodible elements include rocks, stones, glass fragments, and hardpacked clumps of soil lying on or embedded in the surface. Vegetation does not count as a non-erodible element in this method. The purpose of this test method is to estimate the percent cover of non-erodible elements on a given surface to see whether such elements take up enough space to offer protection against windblown dust. For simplification, the following test method refers to all non-erodible elements as "rocks."

1. Randomly select a 1 meter by 1 meter survey area within an area that represents the general rock distribution on the surface (a 1 meter by 1 meter area is slightly greater than a 3 foot by 3 foot area). Use a blind "over the shoulder" toss of a throwable object (for example, a metal weight with survey tape attached) to select the survey surface and using the point of fall as the lower left hand corner, measure a 1 meter by 1 meter survey area. Mark-off the survey area by tracing a straight, visible line in the dirt along the edge of a measuring tape or by placing short ropes, yard sticks, or other straight objects in a square around the survey area.

2. Without moving any of the rocks or other elements, examine the survey area. Since rocks greater than 3/8 inch (1 cm) in diameter are of interest, measure the diameter of some of the smaller rocks to a get a sense of which rocks need to be considered.

3. Mentally group the rocks greater than 3/8 inch (1 cm) diameter lying in the survey area into small, medium, and large size categories. If the rocks are all approximately the same size, simply select a rock of average size and typical shape. Without removing any of the rocks from the ground, count the number of rocks in the survey area in each group and write down the resulting number.

4. Without removing rocks, select one or two average-size rocks in each group and measure the length and width. Use either metric units or standard units. Using a calculator, multiply the length times the width of the rocks to get the average dimensions of the rocks in each group. Write down the results for each rock group.

5. For each rock group, multiply the average dimensions (length times width) by the number of rocks counted in the group. Add the results from each rock group to get the total rock area within the survey area.

6. Divide the total rock area, calculated in Subsection 15.28.140.B.5 of this Regulation, by two (to get frontal area). Divide the resulting number by the size of the survey area (make sure the units of measurement match), and multiply by 100 for percent rock cover. For example, the total rock area is 1,400 square centimeters, divide 1,400 by 2 to get 700. Divide 700 by 10,000 (the survey area is 1 meter by 1 meter, which is 100 centimeters by 100 centimeters or 10,000 centimeters) and multiply by 100. The result is 7% rock cover. If rock measurements are made in inches, convert the survey area from meters to inches (1 inch = 2.54 centimeters).

7. Select and mark-off two additional survey areas and repeat the procedures described in 15.28.140.B.1 through 15.28.140.B.6 of this chapter. Make sure the additional survey areas also represent the general rock distribution on the site. Average the percent cover results from all three survey areas to estimate the average percent of rock cover.

8. If the average rock cover is greater than or equal to 20%, the surface is stable.

15.28.150 Visual Determination of Opacity from Sources of Emissions.

A. This method is applicable for the determination of the opacity of emissions from sources of visible emissions. The opacity standard established in this Ordinance for the Pahrump Regional Planning District is 20%.

B. Opacity shall be determined by a visual observation made by a currently certified evaluator in accordance with US EPA, 40 CFR Part 60, Appendix A, Method 9. A copy of the observer's certification must accompany the Visible Emission Evaluation (VEE).

C. Procedures: A certified opacity observer shall use the procedures set forth in Subsection 1 and Subsection 2.

1. The Time Averaged Opacity Method: This procedure is used for continuous fugitive dust emission sources such as earthmoving, grading, and trenching that produce emissions continuously. The certified observer should do the following:

a. Position: Stand at a position at least twenty (20) feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the fugitive dust plume generated by mobile earth moving equipment, as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

b. Field Records: Record the name of the site, fugitive dust source type (e.g., earthmoving, grading, trenching), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the fugitive dust source, and color of the plume and type of background on the visible emission observation when opacity readings are initiated and completed.

c. Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make opacity observations at a point just beyond where material is no longer being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated). The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 15-second intervals. For fugitive dust from earthmoving equipment, make opacity observations at a point just beyond where material is not being deposited out of the plume (normally three (3) feet above the mechanical equipment generating the plume).

d. Recording Observations: Record the opacity observations to the nearest 5% every fifteen (15) seconds on a VEE record sheet. Each momentary observation recorded represents the average opacity of emission for a fifteen (15) second period. If a multiple plume exists at the time of an observation, do not record an opacity reading. Mark an "x" for that reading. If the equipment generating the plume travels outside of the field of observation, resulting in the inability to maintain the orientation of the sun within the 140° sector or if the equipment ceases operating, mark an "x" for the fifteen (15) second interval reading. Readings identified, as "x" shall be considered interrupted readings.

e. Data Reduction For Time-Averaged Method: For each set of twelve (12) or twenty four (24) consecutive readings, calculate the appropriate average opacity. Sets shall consist of consecutive observations, however, readings immediately preceding and following interrupted readings shall be deemed consecutive and in no case shall two sets overlap, resulting in multiple violations.

2. Intermittent Emissions Method: This procedure is for evaluating intermittent fugitive dust emissions. Intermittent fugitive dust sources include activities that produce emissions intermittently such as screening, dumping, and stockpiling where predominant emissions are produced intermittently.

a. Position: Stand at a position at least twenty (20) feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the fugitive dust plume generated by mobile earth moving equipment, as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

b. Field Records: Record the name of the site, fugitive dust source type (e.g., earthmoving, grading, trenching), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the fugitive dust source, and color of the plume and type of background on the visible emission observation when opacity readings are initiated and completed.

c. Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make opacity observations at a point just beyond where material is no longer

being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated). Make two observations per plume at the same point, beginning with the initial reading at zero (0) seconds and the second reading at five (5) seconds. The initial observation should begin immediately after a plume has been created above the surface involved.

d. Recording Observations: Record the opacity observations to the nearest 5% on a VEE record sheet. Each momentary observation recorded represents the average opacity of emissions for a five (5) second period.

e. Repeat Subsection 2c. and 2d.above until you have recorded a total of 12 consecutive opacity readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

f. Average the 12 opacity readings together. If the average opacity reading equals 20% or lower, the source is in compliance with the opacity standard.

15.28.160 Posting of Informational Signs on Construction Sites

A. The Dust Control Plan sign shall conform to the following requirements:

1. The signboard shall be constructed with materials capable of withstanding the harsh environment (e.g., strong winds, intense sunlight) of Nye County. The sign board must be visible from the road and not obstructed by other signs or materials. Nye County recommends the following materials at a minimum:

a. ¾" A/C laminated plywood board a minimum of 2 feet by 2 feet in dimension;

b. 4"x 4" posts with the base of the sign four feet above ground level;

c. Posts should be attached to the plywood board with a minimum of two (2) carriage bolts on each post; and

d. The front surface of the signboard should be painted in the contrasting colors of a white background with black lettering, or

e. A minimum of 0.118" DiBond® Composite Material (aluminum sheets over a thermoplastic core) a minimum of 2 feet by 2 feet in dimension;

f. 1 7/8" galvanized steel center post with the base of the sign four feet above ground level;

g. The sign should be attached to the post with a single fastener to allow for heat expansion; and

h. The front surface of the signboard should have a white background with contrasting black lettering.

2. The sign board shall contain the following information:

a. Project name;

b. Owner/Operator name;

c. Telephone Number of person responsible for dust control;

d. Nye County Air Quality Program Administrator telephone number;

e. Building, site preparation, or conditional use permit number;

f. Dust Control Plan Number; and

g. Project Acreage.

3. The signboard shall be designed to the following alpha and numeric text dimensions (sign boards written in longhand are unacceptable).

PROJECT NAME:	**(Project Name)**
OPERATOR:	**(Your Name)**
OPERATOR TELEPHONE NUMBER:	**(Your Number)**
NYE COUNTY— AIR QUALITY PROGRAM ADMINISTRATOR TELEPHONE NUMBER:	**(Pahrump Phone Number)**
BUILDING/OTHER PERMIT NUMBERS:	**(Permit Number)**
DUST CONTROL PLAN NUMBER	**(Plan Number)**
PROJECT ACREAGE:	**(Acreage)**

C. Projects that can be completed in two (2) weeks or less may request a variance to the requirements of this section.

D. Construction activities that are limited to roads and/or rights-of-way where the activity continually moves forward may use a sign that is mobile or apply for variance if the project is less than two (2) weeks in duration.

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 _____.

Proposed on the_____.

Proposed by_____.

Adopted on the_____.

Vote: Ayes:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
Gary Hollis, Chairman
Nye County Board of
County Commissioners

ATTEST: _____
Sandra "Sam" Merlino
Clerk and Ex-Officio
Clerk of the Board