

BILL NO. 2020-08

NYE COUNTY ORDINANCE NO. 558

SUMMARY: An ordinance amending Nye County Code Title 15, Building and Construction Chapter 15.28 entitled Dust Control Regulations within the Pahrump Regional Planning District, relating to Section 15.28.090 Construction Activities, and providing for the severability, constitutionality and effective date thereof: and other matters properly relating thereto.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 15, BUILDING AND CONSTRUCTION CHAPTER 15.28 ENTITLED DUST CONTROL REGULATIONS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT, RELATING TO SECTION 15.28.090 CONSTRUCTION ACTIVITIES, 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)

**15.28.090: CONSTRUCTION ACTIVITIES AND SIGN REQUIREMENTS:**

- A. A person engaged in construction activity shall employ best practical methods to prevent the generation of fugitive dust and either submit a dust control plan or sign an acknowledgement form, pursuant to this section.
- B. Except when engaged in agricultural operations, no person may commence 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. All commercial or residential construction projects require the posting of either an informational sign as described in Section 15.28.160 of this Chapter, or the posting of the physical address in a conspicuous location on each parcel, depending on the type of project, prior to commencing any construction activity.
- D. For any commercial or residential construction project involving less than one-half ( $\frac{1}{2}$ ) acre of disturbed area, an acknowledgement form shall be signed when submitting a zoning review application. This acknowledgement form shall state that the individual is disturbing less than one-half ( $\frac{1}{2}$ ) acre of land and is therefore exempt from the dust control plan requirements. If it becomes known by the Nye County Air Quality Program Administrator that more than one-half ( $\frac{1}{2}$ ) acre is being or has been disturbed during the construction activity, a dust control plan shall be required before construction activity may continue, or the issuance of a Certificate of Occupancy can occur.
- E. For any commercial or residential construction project involving in aggregate one-half ( $\frac{1}{2}$ ) acre or more of disturbed area, or trenching totaling three hundred thirty (330) feet in length or more, or demolition of any structure(s) totaling five hundred fifty (550) square feet or more a dust control plan must be submitted to the Nye County Air Quality Program Administrator along with the following, if applicable: zoning review application, building permit application, conditional use permit application, zone 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 or contractor shall:
  - 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 year from the start of the construction activity 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 an informational sign on said property prior to commencing a construction activity in accordance with Section 15.28.160 of this Chapter; and
  - 6. Implement long term stabilization, in accordance with Section 15.28.140 of this Chapter, within ten (10) calendar days following the cessation of active operations when construction is complete, or a site or part thereof becomes inactive for a period of thirty (30) calendar days or longer.
  - 7. Upon completion of the project under the approved Dust Control Plan, submit a Certificate of Project completion (DCP 10) within twenty (20) working days. A final inspection and sign off by the Air Quality Administrator is required prior to the issuance of a Certificate of Occupancy from Nye County Building Department.
- F. The following construction type activities do not require a dust control plan or the signing of an acknowledgement form:

1. Landscaping by an individual at the individual's 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 Section 15.28.110 of this Chapter, 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.

- G. 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, or repair of paved roadways and for the application of traction materials for wintertime driving conditions.
- H. To minimize fugitive dust generated during the loading of haul trucks, the drop heights from front loaders shall not exceed twelve inches (12"). (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 11<sup>th</sup> day of May, 2020.

Proposed on the 3<sup>rd</sup> day of April, 2020.

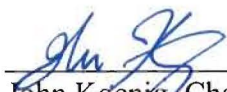
Proposed by: Commissioner Blundo.

Adopted on the 21<sup>st</sup> day of April, 2020

Vote: Ayes: Commissioners: Koenig, Strickland, Wichman, Cox, Blundo

Nays: Commissioners: Ø

Absent: Commissioners: Ø

BY:   
John Koenig, Chairman  
Nye County Board of  
County Commissioners

ATTEST:   
Sandra L. Merlino  
Clerk and Ex-Officio  
Clerk of the Board