

TITLE 8
HEALTH AND SAFETY

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CHAPTER 8.04

RUBBISH DUMPING

SECTION:

- 8.04.010: Prohibited Acts; Misdemeanors
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8.04.010: **PROHIBITED ACTS; MISDEMEANORS:**

- A. It is unlawful in the county to place, deposit, or dump, or cause to be placed, deposited, or dumped, any garbage, swill, cans, bottles, papers, refuse, ashes, carcass of any dead animal, offal, trash, or rubbish, or any noisome, nauseous, or offensive matter, or asphalt, road material, concrete, or building material, or grass clippings, dead trees, branches or shrubs not being used for compost, mulch or landscaping, in or upon any public or private highway or road, or upon any public or privately owned land including any portion of the right of way thereof, or in any drain or irrigation ditch, or in any public park or other public property other than property designated or set aside for such purpose by the governing board having charge thereof. Exception:

1. Use of asphalt, road material or concrete as fill will be permitted under the following guidelines:

a. All fill material must be used for construction purposes within one year of placement.

b. Any company or person using fill materials must complete a "notice of intent to fill" form and file it with the Churchill County planning department prior to the placement of fill material.

c. Any company or person using fill material adjacent to any river, wetland, drain or irrigation ditch must first contact the

appropriate agency to ensure they are in compliance with the laws and regulations pertaining to the use of fill material.

2. The dumping of grass clippings, dead trees, branches and shrubs will be permitted when the person placing the items, on private property only, owns the property or has a legal interest in it.

- B. Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor. (Bill 2001-H, 2001: Bill 91-K § 1, 1991: Ord. 18 § 1, 1969)

8.04.020: **ENFORCEMENT:** The Churchill County zoning enforcement officer shall enforce the provisions of this chapter. (Bill 91-K § 1, 1991: Ord. 18 § 2, 1969)

8.04.030: **PENALTY FOR VIOLATIONS:** Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (Bill 91-K § 1, 1991: Ord. 18 § 3, 1969)

CHAPTER 8.06

ABATEMENT OF DANGEROUS STRUCTURE OR CONDITION

SECTION:

- 8.06.010: Dangerous Structure Or Condition Defined
- 8.06.020: Imminent Danger Defined
- 8.06.030: Abatement Of Dangerous Structure Or Condition
- 8.06.040: Abatement Of Dangerous Structure Or Condition By Churchill County
- 8.06.050: Right To Farm Exclusion (Rep. by Bill 2012-F, 2012)
- 8.06.060: Enforcement
- 8.06.070: Penalty For Violations

8.06.010: **DANGEROUS STRUCTURE OR CONDITION DEFINED:**
 "Dangerous structure or condition" for the purpose of this chapter means a structure or condition that is determined to be a danger or imminent danger to the surrounding neighborhood by any enforcement official appointed by the Churchill County commission who enforces building codes, zoning ordinances or local health regulations, or is a member of a local law enforcement agency or the fire marshal, fire chief or his designee. Dangerous structures or conditions include, without limitation, the following: all insecure and unsafe buildings, walls, chimneys, stacks or other structures, all deposits or accumulations of filth, garbage, offal, ashes, shavings, weeds, grass, leaves, papers, boards or nauseous, flammable or unhealthy matter, all partially burned structures and debris resulting from fires, all unenclosed or dangerous excavations, all cesspools and all excavations where stagnant water collects, or any structure or condition that is described in Nevada Revised Statutes 244.3605, subsection 5. (Bill 2004-M, 2004: Ord. 76, 1997)

8.06.020: **IMMINENT DANGER DEFINED:** As used in this chapter, "imminent danger" means, including, without limitation, the following: a structure or condition that may cause injury to or endanger the health, life, property or safety of the general public or occupants, if any, of the real property on which the structure or condition is located. The term

includes any structure or condition that is described in Nevada Revised Statutes 244.3605, subsection 5. (Bill 2004-M, 2004: Ord. 76, 1997)

8.06.030: ABATEMENT OF DANGEROUS STRUCTURE OR CONDITION: Whenever the enforcement official determines that a dangerous structure or condition existing upon public or private property or any portion of public or private property is in violation of this chapter a notice to abate may be issued to the responsible person to abate the violation per title 1, chapter 1.12 of this code. Whenever a notice to abate has been issued to any person, such person may avail himself of the right to pursue a review of the determination pursuant to the provisions of title 1, chapter 1.12 of this code.

In the event of an imminent or immediate hazard to the public health and safety the enforcement official may resolve the dangerous structure or condition using the summary abatement procedures outlined in title 1, chapter 1.12 of this code. Nothing in this chapter will prevent the fire marshal, fire chief or his designee from enforcing provisions of the fire code regarding a dangerous structure. Whenever possible the enforcement official may use the lowest level of the administrative procedures, including, without limitation, voluntary compliance, administrative fees, or administrative citations outlined in title 1, chapter 1.12 of this code to obtain compliance. (Bill 2004-M, 2004: Ord. 76, 1997)

8.06.040: ABATEMENT OF DANGEROUS STRUCTURE OR CONDITION BY CHURCHILL COUNTY:

- A. In the event of failure by any property owner to comply with any order and notice given pursuant thereto as provided in section 8.06.030 of this chapter, abatement of dangerous structure or condition, within the time limited therefor, those persons appointed by Churchill County commission may perform or cause to be performed the work required by the order and notice, at the expense of the owner, and the county shall have a lien for the expenses upon the property wherein or whereon such dangerous structure or condition may have existed or may have been maintained or permitted until paid in full.
- B. The lien must be perfected by:
 - 1. Mailing by registered or certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last

known owner of the property at their last known address, as determined by the real property assessment roll for Churchill County; and

2. Filing with the Churchill County recorder's office, a statement of the amount due and unpaid and describing the property subject to the lien. (Ord. 76, 1997)

8.06.050: **RIGHT TO FARM EXCLUSION:** (Rep. by Bill 2012-F, 2012)

8.06.060: **ENFORCEMENT:** The Churchill County code compliance officer, sheriff, fire marshal and fire chief or his designee shall enforce the provisions of this title. (Bill 2004-M, 2004)

8.06.070: **PENALTY FOR VIOLATIONS:** Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (Bill 2004-M, 2004)

CHAPTER 8.08

**MOSQUITO, VECTOR CONTROL AND
WEED ABATEMENT DISTRICT**

SECTION:

- 8.08.010: Mosquito Abatement District Created
8.08.020: Powers
8.08.030: Boundaries
8.08.040: Renaming Of District

8.08.010: **MOSQUITO ABATEMENT DISTRICT CREATED:** The district, established in accordance with bill 85-A, ordinance 52, shall be reorganized as the Churchill County mosquito and weed abatement district, in accordance with bill 97-D, and the service plan duly adopted on November 10, 1997, with the powers set forth in Nevada Revised Statutes 318.116, as amended. (Bill 97-D, 1997: Bill 85-E, 1985)

8.08.020: **POWERS:** The basic powers of the district shall be: a) the extermination and abatement of mosquitos, flies and other insects; b) the control and eradication of noxious weeds¹, as provided in Nevada Revised Statutes 318.116, as amended; c) vector control as is or may be related to mosquitoes, flies, other insects, rats, liver fluke, Fasciola hepatica, and any other organism which vectors diseases, both in humans and animals. (Bill 2006-H § 2, 2006: Bill 97-D, 1997: Bill 85-A § 3, 1985)

8.08.030: **BOUNDARIES:** The general description of the boundaries of the district are the exterior boundaries of the parcels of land described in attachment A, attached to the ordinance codified herein, consisting of all private properties in Churchill County. (Bill 85-A § 4, 1985)

1. For definition of noxious weeds, see NRS § 555.005(3).

8.08.040

8.08.040

8.08.040: **RENAMING OF DISTRICT:** The district shall be renamed as Churchill County mosquito, vector control and weed abatement district. (Bill 2006-H § 3, 2006)

CHAPTER 8.12

PROCEDURE TO ADDRESS NUISANCE COMPLAINTS

SECTION:

- 8.12.010: Intent
- 8.12.020: Definitions
- 8.12.030: Filing Of Complaint
- 8.12.040: Hearing
- 8.12.050: Abatement Of Nuisance
- 8.12.060: Abatement By The County

8.12.010: **INTENT:** The purpose of this chapter is to establish a procedure to address complaints regarding structures and activities alleged to be a nuisance that are a threat to health, or safety and are an obstruction to the free use of property.

It is presumed that, as defined in Nevada Revised Statutes 40.140, an agricultural activity conducted on farmland, consistent with usual and customary agricultural practice does not constitute a nuisance unless the activity has substantial adverse effects on public health and safety. No part of this section shall be construed to interfere or limit acceptable farming practices as outlined in title 16 of this code. It is expressly found that whatever nuisance may be caused to others by such uses and activities so conducted is more than offset by the benefits from farming to the neighborhood and community, and to society in general, by the preservation of open space, the beauty of the countryside and clean air and by the preservation and continuance of farming operations in the county and the state as a source of agricultural products for this and future generations. (Bill 2012-F, 2012)

8.12.020: **DEFINITIONS:** As used in this chapter, unless the context requires otherwise, the following terms shall be defined as set forth in this section:

AUTHORIZED OFFICIAL:	The sheriff, fire chief, building official, code enforcement officer or person designated and empowered by the county manager to enforce the provisions of this title.
NUISANCE, CHRONIC NUISANCE, OR NUISANCE ACTIVITY:	As defined in the Nevada Revised Statutes, chapters 40 and 244.
OWNER:	Anyone having a legal or equitable interest in real property within the county, or the authorized agent of such person; or the person in possession or control of any lot or premises in the county. (Bill 2002-I, 2002)

8.12.030: **FILING OF COMPLAINT:**

- A. Whenever a written complaint is filed with the county clerk alleging the existence of a nuisance as defined in Nevada Revised Statutes 40.140 the county clerk shall notify the board of county commissioners at the next regular county commissioners' meeting. Upon notification, the board of county commissioners shall fix a date to hear proof of the complainant and of the owner or occupant of the real property whereon the alleged nuisance is claimed to exist, not less than thirty (30) days nor more than forty (40) days subsequent to the filing of the complaint. Upon filing of a complaint the county clerk shall forward a copy of the complaint to an authorized official who shall immediately open an investigation of the alleged nuisance. The authorized official shall present the results of his/her findings at the hearing.
- B. At the time of fixing the hearing, the board of county commissioners shall order and cause notice of the hearing to be published at least once a week for two (2) weeks preceding the date fixed for the hearing in a newspaper of general circulation published in the county. The complainant and the owner(s) or occupant of the real property whereon the alleged nuisance is claimed to exist, shall be notified by certified mail of the time and place of the hearing and the nature of the complaint. (Bill 2003-I, 2003: Bill 2002-I, 2002)

8.12.040: HEARING:

- A. At the time fixed for hearing, the board of county commissioners shall proceed to hear the complaint and any opponents and may consider the findings presented by the authorized official. At the hearing, the board shall receive the proofs offered to establish or controvert the facts set forth in the complaint. The board may adjourn the hearing from time to time, not exceeding fourteen (14) days in all.
- B. On the final hearing of the complaint the board shall by resolution entered into the minutes, determine whether or not a nuisance exists and, if one does exist, order the person, or persons responsible for such nuisance to abate the same. (Bill 2002-I, 2002)

8.12.050: ABATEMENT OF NUISANCE: The person or persons responsible for the nuisance shall enter into abatement plan with the county commissioners or their designated representative within fifteen (15) days after the board of county commissioners renders its decision. The abatement plan shall be commenced within thirty (30) days after the board renders its decision and shall be completed at such time as the board of county commissioners, or its representative has set forth in the abatement plan. (Bill 2002-I, 2002)

8.12.060: ABATEMENT BY THE COUNTY: If the order is not obeyed and the person(s) responsible for the nuisance fails or neglects to remove the nuisance within the time limit specified in section 8.12.050 of this chapter, the board of county commissioners may:

- A. Order that the cost of abating the nuisance be a personal obligation of the property owner(s), and shall direct the district attorney to collect the costs of abating the nuisance and interest thereon by use of all appropriate remedies.
- B. Order that the cost of abating the nuisance be assessed against the property, and shall confirm the assessment and have it filed with the county recorder. Thereafter, the assessment shall constitute a lien upon the property. (Bill 2002-I, 2002)

CHAPTER 8.14

USE OR POSSESSION OF ELECTRONIC STUN DEVICE

SECTION:

- 8.14.010: Definitions
8.14.020: Prohibited Acts; Misdemeanors
8.14.030: Application Of Chapter To Peace Officers
8.14.040: Application Of Chapter To Agricultural Purposes
8.14.050: Penalty For Violation

8.14.010: **DEFINITIONS:** As used in this chapter, the following definitions apply, except where the context clearly indicates that a different meaning is to be applied:

ELECTRIC SHOCK: Application of an electrical charge to the body or person of another sufficient to cause physical debilitation or pain, however slight.

ELECTRONIC STUN DEVICE: Any device, whether or not any such device is intended to be held only by hand, which is intended to deliver an electric shock to the body or person of another.

SELF-DEFENSE: As applied to the use of an electronic stun device, means the use of any such device by a person, in his own defense, or in the defense of another person, where such person reasonably believes that he is in imminent danger of bodily injury.

WEAPON: As is or may be applied to the use of an electronic stun device, means the use of any such device under circumstances in which such a device is capable of causing an electric shock. (Bill 2004-E, 2004)

8.14.020: PROHIBITED ACTS; MISDEMEANORS:

- A. It shall be unlawful for any person to use an electronic stun device as a weapon or for any purpose other than self-defense.
- B. It shall be unlawful for any person who:
1. Has been convicted of a felony, or any other crime involving the infliction of bodily injury upon another person, including, but not necessarily limited to, domestic battery, in the state of Nevada, the United States, or within any other state or territory of the United States or any political subdivision thereof; or
 2. Is a fugitive or an absconder from justice and is, accordingly, the object of a legal process and has failed to comply with the terms thereof, including, but not necessarily limited to, a detainer, pretrial release, hold, bail, bond, or any other proceeding requiring compliance with an order of a court or judicial officer; or
 3. Is a person under the age of twenty one (21) years; or
 4. Has consumed an intoxicating liquor, controlled substance, or prescription medication; or
 5. Is a person that has been adjudicated by a court of competent jurisdiction to be incapable of managing his personal affairs or has been committed to a mental institution; or
 6. Is an alien present in the United States without legal authority, to possess any such electronic stun device.
- C. It shall be unlawful for any person to use or possess or to threaten the use or possession of an electronic stun device during the commission of any other crime. (Bill 2004-E, 2004)

8.14.030: APPLICATION OF CHAPTER TO PEACE OFFICERS: The provisions of this chapter do not apply to prosecuting attorneys, or an attorney from the office of the attorney general, a sheriff of a county or his deputy, an officer of a metropolitan police department or a police department of an incorporated city, an officer of the division of parole and probation for the state of Nevada, an officer of the department of corrections for the state of Nevada, an officer of a law enforcement agency from another jurisdiction or any person upon whom some or all of the powers of a peace officer are conferred pursuant to Nevada Revised

8.14.030

8.14.050

Statutes 289.150 to 289.360, while any such officer is engaged in the performance of his lawful duty. (Bill 2004-E, 2004)

8.14.040: **APPLICATION OF CHAPTER TO AGRICULTURAL PURPOSES:** The provisions of this chapter do not apply to the use or possession of an electronic stun device by any person where such use or possession is for any agricultural purpose, including, without limitation, the care or herding of livestock. (Bill 2004-E, 2004)

8.14.050: **PENALTY FOR VIOLATION:** Any person who uses an electronic stun device, in violation of this chapter, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed six (6) months, or by both fine and imprisonment. (Bill 2004-E, 2004)

CHAPTER 8.15

**CONTROL OF AIR POLLUTION NUISANCES
INCLUDING FUGITIVE DUST**

SECTION:

Article I. General Provisions

- 8.15.010: Short Title, Repeal Of Former Provisions
- 8.15.020: Authority And Purpose
- 8.15.030: Effect On Agricultural Operations
- 8.15.040: Declaration Of Nuisance
- 8.15.050: Jurisdiction
- 8.15.060: Definitions
- 8.15.070: Enforcement And Penalties
- 8.15.080: Interpretation, Conflict, Construction, Severability And
Constitutionality
- 8.15.090: Control Officer; Duties And Authority
- 8.15.100: Penalty For Failure To Comply With Order; Misdemeanor
- 8.15.110: Injunctive Relief

Article II. Control Measure Requirements

- 8.15.200: Fugitive Dust
- 8.15.210: Construction Activities
- 8.15.220: Unpaved Parking And Outdoor Storage Areas
- 8.15.230: Open Areas And Vacant Lots
- 8.15.240: Burning
- 8.15.250: Discontinued Agricultural Operations
- 8.15.260: Stabilization Standards
- 8.15.270: Posting Of Informational Signs On Construction Sites

ARTICLE I. GENERAL PROVISIONS

- 8.15.010: **SHORT TITLE, REPEAL OF FORMER PROVISIONS:** This chapter shall be known, and may be cited as, *CONTROL OF AIR POLLUTION NUISANCES INCLUDING FUGITIVE DUST*. All provi-

sions, enacted prior to the ordinance codified herein, of section 16.16.010.11, "Dust And Sand Control", of this code are hereby repealed. (Bill 2006-P, 2007)

8.15.020: AUTHORITY AND PURPOSE:

- A. Authority: This chapter is adopted pursuant to authority of Nevada Revised Statutes 244.361(1) which provides that *"the board[] of county commissioners . . . may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, the excessive emission of dense smoke, and air pollution caused by excessive soot, cinders, fly ash, dust, noxious acids, fumes and gases within the boundaries of the county"*. The board of county commissioners, pursuant to Nevada Revised Statutes 278.020, is further empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.
- B. Purpose: The purpose of this chapter is to:
1. Control, prevent, prohibit and regulate excessive emissions from existing surface disturbances, whether stationary or mobile, for the purpose of eliminating dense smoke and air pollution within Churchill County, Nevada.
 2. Improve air quality in order to protect the health, safety and general welfare of residents within Churchill County, Nevada. (Bill 2006-P, 2007)

8.15.030: EFFECT ON AGRICULTURAL OPERATIONS: This chapter is intended to fully permit all agricultural operations involving customarily accepted practices on agricultural lands. Agricultural operations involving customarily accepted practices on agricultural lands are not public nuisances as defined in this chapter. (Bill 2006-P, 2007)

8.15.040: DECLARATION OF NUISANCE:

- A. It is hereby declared that the excessive emission of dense smoke and air pollution caused by excessive soot, cinders, fly ash, dust, noxious acids, fumes and gases from any source, including a disturbance to real property, within Churchill County, Nevada, are public nuisances. The same are subject to abatement, control,

prevention, prohibition, and regulation as provided for by this chapter.

- B. As used in this section, the term "public nuisance" shall specifically include the disturbance to real property caused by the discontinuation of irrigation, by sale or lease, of appurtenant water rights in anticipation of, or actual transfer to, a nonappurtenant use, inconsistent with continued cultivation of the lands to which the water use described is appurtenant where such discontinuation results in air pollution or excessive emissions. (Bill 2006-P, 2007)

8.15.050: **JURISDICTION:** The provisions of this chapter shall apply to the unincorporated areas of Churchill County, Nevada. The provisions of this chapter do not impose a duty upon an owner of real property to control or mitigate dust related pollution associated with publicly maintained roads providing access to his or her real property. (Bill 2006-P, 2007)

8.15.060: **DEFINITIONS:**

AGRICULTURAL OPERATIONS:

All agricultural, horticultural, viticultural and vegetable producing operations of the soil, milk and dairy, poultry and livestock, haying, or any other operation involving the growing of crops for sale or for the support of other persons or animal life.

AIR POLLUTION:

The presence in the outdoor atmosphere of one or more air contaminants or any combination thereof, including, without limitation, fugitive dust and sand, in such quantity and duration as may tend to:

A. Injure human health or welfare, animal or plant life or property;

B. Limit visibility or interfere with scenic, aesthetic and historic values of the county; and

C. Interfere with the enjoyment of life or property.

AMBIENT AIR:	That portion of the atmosphere, which is external to buildings, structures, facilities or installations to which the public has access.
ATMOSPHERE:	All the air surrounding the earth and external to buildings and structures.
BEST PRACTICAL METHODS:	Air pollution control measures including, without limitation, phased clearing of lands; 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".
BUILDER:	A person who is engaged in any construction activity.
BURN BARREL:	A container made of metal or other fire resistant substance used to hold vegetative or combustible material while burning.
COMMERCIAL AND RESIDENTIAL CONSTRUCTION:	Construction or placement of structures intended to be utilized solely as personal dwellings, including, but not limited to, single-family dwellings, 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.

**CONSTRUCTION
ACTIVITY:**

Any component of the following including, without limitation, 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; and mechanized trenching.

CONTRACTOR:

A person acting as an agent of a landowner who is engaged in construction activity or other disturbance to real property.

CONTROL MEASURE:

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

CONTROL OFFICER:

The duly employed and sworn code enforcement officer for Churchill County, Nevada.

CORRECTIVE ACTION:

Any action taken under this chapter by the control officer or any person for the purpose of eliminating dense smoke or air pollution.

COUNTY:

Churchill County, Nevada, a political subdivision of the state of Nevada.

DEVELOPER:

A person or persons responsible for the development of real property consisting of construction activity or the act of causing a land development.

DISTURBED AREA:

A portion of the earth's surface (or material placed thereupon), which has been physically moved, uncovered, or destabilized, thereby increasing the potential for the emission of fugitive dust. Any area that fails the drop ball

test or rock test as defined in the "Dust Control Handbook" is a disturbed area.

DUST: Fine, dry, pulverized particulate matter including, without limitation, earth and sand.

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 and a guide to the test methods that determine stabilization standards.

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.

EMISSION:

The act of passing into the atmosphere a pollutant regulated under this chapter. This term includes the material passed to the atmosphere.

EXCESSIVE EMISSION:

Emissions such as soot, cinders, fly ash, dust, noxious acids, fumes, gases, and smoke, in such quantity and duration as may tend to:

A. Injure human health or welfare, animal or plant life or property;

B. Limit visibility or interfere with scenic, aesthetic and historic values of the county; and

C. Interfere with the enjoyment of life or property.

FUGITIVE DUST:

Fine, dry, pulverized particulate matter, including earth and sand, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, including, without limitation, movement of soil, vehicles, equipment, blasting, wind, or the cessation of water to irrigated lands.

GARBAGE:

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

GRUBBING AND CLEARING:

To clear an area by digging up roots and stumps.

HEARING OFFICER:

Any person or persons appointed by the board of county commissioners to conduct any hearing or proceeding under the provisions of this chapter, including, without limitation, the administration of oaths, the receipt of evidence, and the entry of findings of fact and law.

**OPEN AREAS AND
VACANT LOTS:**

Any of the following described in subsections A through F of this definition. For purposes of this chapter, vacant portions of residential or commercial lots that are immediately adjacent and owned and/or operated by the same individual or entity are considered one vacant open area or vacant lot.

A. An unsubdivided or undeveloped tract of land.

B. A subdivided lot, which contains no approved or permitted buildings or structures of a temporary or permanent nature.

C. An undeveloped or partially developed lot.

D. Nonroad easements.

E. An area of land upon which the application of water, for purposes of irrigation, has been discontinued.

OPEN BURNING:

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

PERSON:

The United States of America, the state of Nevada, any political subdivision of the state of Nevada, any individual, group of individuals, partnership, firm, company, corporation, association, trust estate, political subdivision, administrative agency, public or quasi-public corporation, or other legal entity.

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 maintained roads within Churchill County.

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.

STOP ORDER: An order given to a person by the control officer, the hearing officer, or by the judge of a court of competent jurisdiction to immediately cease an activity resulting in the emission of dense smoke or air pollution.

TRACK-OUT: Earth materials that adhere to the wheels and equipment of construction vehicles and equipment on a construction site and are deposited on a paved road as the vehicles enter or leave said construction site.

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. (Bill 2006-P, 2007)

8.15.070: **ENFORCEMENT AND PENALTIES:**

- A. Enforcement: The control officer shall be responsible for enforcement of all provisions of this chapter.
- B. Violations: Failure to comply with any requirement of this chapter is a violation and is subject to imposition of a penalty as further

described in this chapter. The control officer may issue a written notice of violation to the person causing air pollution or excessive emissions. Such violations may include, without limitation, the following:

1. The violation of any provision of this chapter;
 2. The violation of any term or condition of any plan created to reduce or eliminate excessive emissions;
 3. Failure to pay a fee or fine;
 4. Falsification of any material statement, representation or certification in any application, notice or report made under this chapter; or
 5. Penalty provisions provided for by title 1, chapter 1.12, "Code Enforcement", of this code.
- C. Fine: Any person who violates any provision of this chapter may be further punished by a fine of not more than ten thousand dollars (\$10,000.00) for each day of any violation.
- D. Criminal Prosecution: Any person engaged in a violation of this chapter may be referred to the Churchill County district attorney's office, by the control officer, for commencement of a criminal prosecution.
- E. Stop Order: The control officer may issue a "stop order" to any person engaged in any disturbance to land, or any improvements thereto, resulting in an air pollution nuisance in Churchill County.
- F. Stop Order Rescission: Any person served with a "stop order" must immediately cease all activities causing air pollution. Such a person may, after correction of the conditions causing air pollution, make application to rescind the "stop order" setting forth all facts and circumstances in favor of the application. In the event that the control officer finds that the circumstances justifying the "stop order" no longer exist, the order must be rescinded. If rescission of the "stop order" is not warranted, the control officer must issue a written summary of findings to the applicant. Any person aggrieved by the decision of the control officer may pursue an appeal as provided for by title 1, chapter 1.12 of this code. (Bill 2006-P, 2007)

8.15.080: **INTERPRETATION, CONFLICT, CONSTRUCTION, SEVERABILITY AND CONSTITUTIONALITY:**

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent requirements may be imposed upon a showing of cause that such are necessary to promote the public health, safety and welfare.
- B. The provisions of this chapter are intended to govern all procedures relating to any air pollution nuisance. Unless inconsistent with the express provisions of this chapter, the general terms of title 1, chapter 1.12 of this code are intended to govern all code enforcement.
- C. The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the remaining portions of this chapter.
- D. The words and terms defined in section 8.15.060 of this chapter are used in the singular and shall include a plural construction and the plural shall include a singular construction. Each gender shall include the other. Any tense shall include the other tenses. The terms "shall" or "must" are to be construed as mandatory. The words "may" and "should" are permissive. (Bill 2006-P, 2007)

8.15.090: **CONTROL OFFICER; DUTIES AND AUTHORITY:**

- A. The administrative enforcement of the provisions of this chapter shall be performed by the control officer subject to review by the board of county commissioners.
- B. No person shall refuse entry or access to the control officer, or other authorized representative of Churchill County, Nevada, who requests entry for purposes of enforcement of the provisions of this chapter, and who presents with appropriate credentials. No person may obstruct, hamper or interfere with any enforcement action, including, without limitation, a preliminary investigation.
- C. The control officer may require from any person such information as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged from a source of air pollution.

- D. Whenever the control officer believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated he shall cause written notice to be served in person or by certified mail upon the person or persons responsible for the alleged violation.
- E. The notice of violation issued under this section shall specify as follows:
1. The statute or regulation alleged to be violated.
 2. A summary of facts alleged to constitute the violation.
 3. The notice may include an order to take corrective action within a reasonable amount of time. Such corrective action shall be specified in the notice.
 4. Corrective action includes any stop order issued under subsection 8.15.070E of this chapter. Any stop order will be specified in the notice.
- F. Any corrective action notice or stop order issued under this section becomes final unless appealed to the hearing officer as provided for by section 1.12.060.5 of this code, within ten (10) days after service upon the person ordered to take corrective action.
- G. Any corrective action or stop order may be immediately appealed to the hearing officer. The hearing officer may, upon a finding made at a hearing in the matter, determine to stay the corrective action or stop order issued to a person by the control officer. An appeal of any decision by the hearing officer may be made to the board of county commissioners. Such an appeal must be made within ten (10) days of the date of decision made by the hearing officer.
- H. A corrective action order appealed to the hearing officer becomes final immediately upon its approval by the hearing officer.
- I. Failure to comply with a final corrective order or stop order is a violation of this chapter.
- J. If corrective action is not taken within the time specified, with or without a corrective order, the control officer may issue notice for the person or persons responsible for the alleged violation(s) to appear before the hearing officer for imposition of an appropriate penalty and/or order to show cause.

- K. Nothing in this section prevents the board of county commissioners or the control officer from attempting to obtain voluntary compliance through other means, including, without limitation, issuance of a warning or a conference.
- L. When a person has not complied with the terms of this chapter, the control officer may initiate an action in the district court or other court of competent jurisdiction for injunctive relief, as provided for by section 8.15.110 of this chapter.
- M. The control officer shall maintain all procedural forms and instructions relating to this chapter and shall make such forms and instructions available upon request by any interested person. The control officer shall be responsible for the creation of the "Dust Control Handbook" and all rules and schedules associated with assessments, fees, and fines under this chapter. The board of county commissioners shall approve the "Dust Control Handbook" and any schedule of assessments, fees, and fines, or any amendments thereto, by resolution.
- N. The control officer shall be responsible to provide public awareness as to the abatement, control, prevention, prohibition, and regulation of excessive emissions and air pollution.
- O. The control officer must consult with the Nevada department of agriculture as to any alleged nuisance affecting an agricultural operation within Churchill County prior to any enforcement action being taken under this chapter.
- P. All information acquired for purposes of an enforcement action under this chapter is deemed confidential and must not be released to any unauthorized person. (Bill 2006-P, 2007)

8.15.100: **PENALTY FOR FAILURE TO COMPLY WITH ORDER; MISDEMEANOR:** Failure to comply with an administrative order constitutes a misdemeanor as provided for by section 1.12.060.12 of this code. (Bill 2006-P, 2007)

8.15.110: **INJUNCTIVE RELIEF:** In addition to any remedy of law under this chapter, the control officer may apply to a court of competent jurisdiction for other equitable and injunctive relief to enforce compliance with, or to restrain violations of, any provision of this chapter, or

of any rule or resolution made and adopted pursuant thereto. (Bill 2006-P, 2007)

ARTICLE II. CONTROL MEASURE REQUIREMENTS

8.15.200: FUGITIVE DUST:

- A. Any person engaged in activities that disturb the soil, so causing dust emissions into the atmosphere, shall take all reasonable precautions to prevent excessive emissions into the atmosphere that may be injurious to health and safety.
- B. Agricultural operations involving customarily accepted practices on agricultural lands are not public nuisances as defined in this chapter.
- C. Certain activities identified in this chapter, that customarily produce excessive emissions of dust, shall be required to file a dust control plan with the county prior to the commencement of the activity, to ensure control measures are implemented to abate and prevent excessive emissions. (Bill 2006-P, 2007)

8.15.210: **CONSTRUCTION ACTIVITIES:** "Construction activity" means any component of the following including, without limitation, 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; and mechanized trenching.

- A. Except when engaged in customarily accepted agricultural operations, no person may initiate a construction activity that results in the emission of fugitive dust 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.
- B. Any construction activity or operation that requires a surface area disturbance permit from the NDEP shall be required to file a dust control permit with the county. 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 Churchill County road department for the construction, maintenance, and/or repair of paved roadways maintained by the county and for the application of traction materials for wintertime driving conditions.

- C. Any residential and commercial construction involving the disturbance or clearing of aggregate one acre or more must file a dust control plan with the Churchill County planning department prior to commencement of the construction activity. The dust control plan shall specify the use of best practical methods to control the generation of fugitive dust. 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 methods, frequency, concentration, and quantity of application. The contractor/owner will:
1. Maintain a written record of self-inspection made each day when soil disturbing work is conducted.
 2. Install a sign on said property prior to commencing 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 section 8.15.270, "Posting Of Informational Signs On Construction Sites", of this chapter.
 3. When construction is complete or a site or part thereof becomes inactive for a period of thirty (30) days or longer, ensure dust emissions are controlled.
 4. Remove as quickly as safely possible any material which is tracked onto a paved roadway. 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 Churchill County road department for the construction, maintenance, and/or repair of paved roadways maintained by the county and for the application of traction materials for wintertime driving conditions.
- D. Demolition of any commercial or residential structure by other than manual means.
- E. The following construction related 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. (Bill 2006-P, 2007)

8.15.220: UNPAVED PARKING AND OUTDOOR STORAGE AREAS:

- A. The owner of any unpaved parking area and outdoor storage area for any commercial or industrial operation shall prevent excessive emissions of dust into the atmosphere that may be injurious to health, safety and property. (Bill 2006-P, 2007)

8.15.230: OPEN AREAS AND VACANT LOTS:

- A. Control Required: 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:

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 windbreaks including snow fencing;
5. The application of water in an amount and frequency adequate for the soil to develop a crust; or
6. Revegetation.

Or, develop the property by constructing on site improvements such as structures, landscaping, driveways, and parking areas that result in controlling fugitive dust.

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. 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. 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:
1. Prewet 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 subsection 8.15.260A of this chapter, apply gravel in compliance with the stabilization standard set forth in subsection 8.15.260B of this chapter, or pave after mechanized weed abatement and/or trash removal occurs.
 4. In order to conserve water resources within Churchill County to the greatest extent practicable, the use of reclaimed water is highly encouraged. (Bill 2006-P, 2007)

8.15.240: BURNING:

- A. Except as otherwise provided for by law or this chapter, no person shall kindle or maintain any open burning which results in the excessive emission of dense smoke, soot, cinders, fly ash, fumes or air pollution that may cause injury to health, safety and property.
- B. Burning of material that may result in excessive emissions of dense smoke must get approval from the fire marshal or control officer prior to burning. (Bill 2006-P, 2007)

8.15.250: DISCONTINUED AGRICULTURAL OPERATIONS:

- A. No person shall cause or permit air pollution or fugitive dust as a result of the discontinuance of irrigation, by sale or lease, of appurtenant water rights in anticipation of, or actual transfer to, a

nonappurtenant use, inconsistent with continued cultivation of the lands to which the water use is appurtenant.

- B. Any person who has caused the discontinuance of irrigation as described in subsection A of this section must apply the following best practical methods:
1. Physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles;
 2. The use of ground covers (e.g., decorative stone) or leaving adequate stubble from prior years' crop production undisturbed;
 3. The use of dust palliative (chemicals that bind soil together and retain moisture);
 4. The use of windbreaks, including snow fencing;
 5. The application of water in an amount and frequency adequate for the soil to develop a crust; or
 6. Revegetation. (Bill 2006-P, 2007)

8.15.260: **STABILIZATION STANDARDS:** One of the following methods may be used to determine whether a site has a stabilized surface. Details and specifications may be found in the "Dust Control Handbook".

- A. Drop ball method.
- B. Rock test method. (Bill 2006-P, 2007)

8.15.270: **POSTING OF INFORMATIONAL SIGNS ON CONSTRUCTION SITES:**

- A. The dust control plan sign shall be constructed with weatherproof materials capable of withstanding the harsh environment (e.g., strong winds, intense sunlight) and with black lettering on a white background clearly legible from the street.
- B. The sign board shall contain the following information:
 1. Project name;

2. Project street address;
 3. Owner/operator name;
 4. Telephone number of person responsible for dust control;
 5. Churchill County planning department telephone number;
 6. Project acreage.
- C. The sign board must be legible from the road and not obstructed by other signs or materials.
- D. Where a builder, contractor, or developer has placed a proprietary or informational sign at a construction site, and where such sign is in substantial compliance with this section, no further other sign is necessary under this section.
- E. Where construction can reasonably be completed in two (2) weeks or less a landowner may request a variance to the requirements of this section from the control officer.
- F. Highway construction activities that are limited to road repairs or in the right of way where the activity continually moves forward may use a sign that is mobile or apply for variance to the control officer if the project is less than two (2) weeks in duration. (Bill 2006-P, 2007)

CHAPTER 8.16

**SECURITY AND PROTECTION OF
MILITARY INSTALLATIONS**

SECTION:

- 8.16.010: Prohibited Acts
8.16.020: Military Installation Defined
8.16.030: Presumptions

8.16.010: **PROHIBITED ACTS:**

- A. Except as otherwise authorized by federal or state law, or by this code, or in writing by the commanding officer of any military installation located within Churchill County, Nevada, it is unlawful to:
1. Assemble, congregate, or remain without a bona fide purpose;
 2. Create drawings, maps, or plans of military buildings, facilities, structures, or other property;
 3. Photograph or produce other electronic images of military buildings, facilities, structures, or other property;
 4. Refuse or fail to obey any reasonable command given by a law enforcement officer;
 5. Be present with the intent to annoy, harass, or vex military personnel or operations;
 6. Use abusive language, obstruct or render dangerous any drive, path, or public place;
 7. Engage in or conduct business, concession or commercial activity or to solicit business;

8. Participate in, attempt to participate in, or interfere with, military operations;

9. Assist, solicit or aid any other person to engage in any conduct described in this section

on land immediately adjacent to any military installation in Churchill County, Nevada, including state and county roadways and public rights of way.

B. A person convicted under this chapter is guilty of a misdemeanor. (Bill 2009-L, 2009)

8.16.020: **MILITARY INSTALLATION DEFINED:** As used in this chapter, "military installation" is defined as all of that real property, whether owned, leased, rented, or permissively used by the United States, permanent or temporary, enclosed or not, used for military exercises or other operations, including, without limitation, storage, preservation, or use of equipment for training, by any branch of the armed services of the department of defense of the United States. (Bill 2009-L, 2009)

8.16.030: **PRESUMPTIONS:** For purposes of this chapter, it is presumed that an agricultural activity conducted on land adjacent to a military installation, consistent with good agricultural practice is a bona fide purpose; that an agricultural activity that does not violate a federal or state law, or the provisions of this code, constitutes good agricultural practice. (Bill 2009-L, 2009)