

Chapter 159: Polluting Industries Development Ordinance

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159.01 TITLE

This chapter shall be known as the Polluting Industries Development Chapter of Ashe County, North Carolina.
(Ord. passed 11-15-99)

159.02 PURPOSE

For the purpose of promoting health, safety, and general welfare of its citizens and the peace and dignity of the county, the Ashe County Commissioners hereby establish certain criteria relating to polluting industries to accommodate activities as defined herein. Polluting industries, by their very nature produce objectionable levels of noise, odors, vibrations, fumes, light, or smoke that may or may not have hazardous effects. These standards shall allow for the placement and growth of polluting industrial activities, while maintaining the health, safety and general welfare standards of established residential and commercial areas in Ashe County.
(Ord. passed 11-15-99)

159.03 AUTHORITY

This chapter is adopted under the authority and provision of G.S. Chapter 153A-121.
(Ord. passed 11-15-99)

159.04 JURISDICTION

This chapter shall apply to all areas of unincorporated Ashe County, which are not included in the extraterritorial jurisdictions of any municipalities. All municipalities and their respective corporate limits shall be exempted from the ordinance, unless they choose to adopt this chapter or some form thereof.
(Ord. passed 11-15-99)

159.05 DEFINITIONS

The definitions shall be unique to this chapter and may not be interpreted for usage in ordinary, everyday language.

Air Pollution. The emission of air contaminants as defined in G.S. 143-215.108.

Actual Measured Distance. For the purposes of this chapter, the distance requirements shall be measured from the proposed building to the existing dwelling or other structure.

Noise. Any unreasonably loud, excessive or unnecessary sound that takes in consideration for volume, duration, frequency, time, and other characteristics of sound.

Odor. The minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a group of healthy observers.

Person. A person shall be defined to include individual, corporation, partnership, an entity or any association thereof or any other business entity

Polluting Industry. A polluting industry shall mean an industry, which produces objectionable levels of noise, odors, vibrations, fumes, light, smoke, air pollution or other physical manifestations that may have an adverse effect on the health, safety or general welfare of the citizens of Ashe County.

Smoke. The visible vapor and gases given off by a burning or smoldering substance.

Vibration. Any ground-transmitted movement that is perceptible to the human sense of touch.

(Ord. passed 11-15-99)

159.06 PERMITTING STANDARDS

(A) A permit is required from the Ashe County Planning Department for any polluting industry. A uniform permit fee of \$500.00 shall be paid at the time of the application for the permit. No permit from the planning department shall be issued until the appropriate Federal and State permits have been issued.

(B) The location of a polluting industry, both portable and permanent shall not be within 1,000 feet, in any direction, of a residential dwelling unit or commercial building. The location of a polluting industry shall not be within 1,320 feet of any school, daycare, hospital or nursing home facility.

1. Permanent roads, used in excess of six months, within the property site shall be surfaced with a dust free material. (i.e. soil cement, portland cement, bituminous concrete).
2. Material piles and other accumulations of by-products shall not exceed 35 feet above the original contour and shall be graded so the slope shall not exceed a 45 degree angle.
3. A security fence, constructed of either wood, brick, or aluminum, shall be installed where the proposed extraction takes place. The fence shall be a minimum of 10 feet in height at the time of installation.
4. The operation of this type industry shall not violate the Ashe County Noise Ordinance.
(Ord. passed 11-15-99)

159.07 VARIANCE PROCESS

(A) Where strict adherence to the provisions of this chapter would cause an unnecessary hardship; the Ashe County Planning Board may authorize a variance. Any authorizing of a variance shall not destroy the intent of the ordinance. Any authorized variance shall be recorded in the minutes of the Ashe County Planning Board meeting.

(B) A hardship, as used in the context of this section, shall be considered to be some unique or unusual character to the proposed site, including but not limited to unique, size, shape, contour, or distance requirement. An economic hardship to the applicant is not to be considered for a variance.

(C) All requests for a variance shall be submitted to the Ashe County Planning Department at least seven days before the next scheduled planning board meeting.
(Ord. passed 11-15-99)

159.08 NON-CONFORMING USE

Any existing person operating in non-compliance of this ordinance may continue to operate as a non-conforming use, but may not expand without a variance permit in accordance with provisions thereof.
(Ord. passed 11-15-99)

159.09 PENALTIES FOR VIOLATIONS

(A) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S. 14.4. Everyday there is a violation of this chapter; it shall be considered a unique and separate offense.

(B) In lieu of, or in addition to the criminal penalties, the Ashe County Board of Commissioners may impose civil penalties of up to five hundred dollars (\$500) a day for each and everyday thereafter is a violation of this chapter. The Ashe County Planning Department shall assess no penalty prior to notification. If the violator does not pay such penalty within thirty days (30), Ashe County may recover it in a civil action in the nature of a debt. The violator may contest said penalty in the court of appropriate jurisdiction. (Ord. passed 11-15-99)