



JACKSON COUNTY INDUSTRIAL DEVELOPMENT ORDINANCE

ARTICLE I: AUTHORITY AND GENERAL PROCEDURES

Section 100: Authority

This Ordinance is adopted under the authority and provision of G.S. Chapter 153A-121, Article 6, which stipulates that a county may, by ordinance, define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

Section 101: Purpose

For the purposes of promoting health, safety, or the general welfare of its citizens and the peace and dignity of the county, the Jackson County Commissioners shall establish certain criteria to accommodate activities engaged in the mechanical, physical, or chemical transformation of materials, substances, components into new products, or for repair of products. These noxious industries that, by their very nature produce objectionable levels of noise, odors, vibrations, fumes, light, or smoke, may or may not have hazardous effects. These standards shall allow for the placement and growth of noxious industrial activities, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Jackson County.

Section 102: Jurisdiction

This Ordinance shall apply to all areas of unincorporated Jackson County which are not included in the extraterritorial jurisdictions of any municipalities. All municipalities and their respective corporate limits shall be exempted from this Ordinance, unless they choose to adopt this Ordinance or some form thereof.

Section 103: No Use, Expansion of Existing Use, or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

- (A) No person may use, expand, occupy, or sell any land or buildings, or authorize or permit the use, expansion, occupancy or sale of land or buildings under his control, except in accordance with all of the applicable provisions of this Ordinance.
- (B) For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 104: Computation of Time

- (A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. Unless otherwise specifically provided, the time within which an act is to be done shall be computed as business days. Saturdays, Sundays and county-observed legal holidays are excluded.
- (B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three (3) business days shall be added to the prescribed period.

Section 105: Effective Date

The provisions in this Ordinance were originally adopted and became effective on May 16, 2002.

ARTICLE II: BASIC DEFINITIONS AND INTERPRETATIONS

Section 200: Word Interpretations

For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.

- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The words “may” and “should” are permissive.
- (F) The words “shall” and “will” are always mandatory and not merely directive.
- (G) The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”
- (H) The word “lot” shall include the words “plot,” “parcel,” “site,” and “premises.”
- (I) The word “structure” shall include the word “building.”
- (J) The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 201: Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

- (1) Air Pollution. The emission of air contaminants for which a permit is required by G.S. North Carolina General Statute 143-215.108.
- (2) Amortization. The gradual elimination of nonconforming situations in junk yards within five (5) years following the date of adoption of this Ordinance.
- (3) ~~Asphalt Industries. This industry comprises establishments primarily engaged in (1) manufacturing asphalt and tar paving mixtures, and blocks and roofing cements and coatings from purchased asphaltic materials,~~

~~and/or (2) saturating purchased mats and felts with asphalt or tar from purchased asphalted materials.~~

~~(3) Asphalt plant. Includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122)~~

~~(4) Assisted living facility. Includes any group housing and services program for two of more unrelated adults, however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.~~

~~(4)(5) - Automotive Storage Facility. Includes establishments primarily intended for the short or long term storage of wrecked or inoperative automobiles pending sale of the entire automobile. This definition does not include establishments where the storage of automobiles is ancillary to the repair of the automobiles stored, such as at a garage or repair shop. Automotive Towing and Storage Service. A business with the primary function of storing wrecked or impounded vehicles for a period of not more than (90) days for insurance settlement. A maximum of 10 vehicles will be allowed on the premises at any one time. The automotive storage area must be surrounded by a 6 foot high vegetative buffered screen. No outdoor disassembly or salvaging shall be permitted. Storage area shall not be visible from any adjacent property or public right of way. Stored items shall not project above required vegetation. Only one entrance is permitted.~~

~~(5)(6) Bag House. A facility designed to contain fabric filter collectors and intended to regulate and control the emission of dust and other particulate matter.~~

~~(6)(7) Blue Smoke. A visible aerosol emission capable of traveling long distances before dissipating sufficiently to become invisible. These emissions are normally produced at a hot mix asphalt plant. Blue smoke may be generated by process emissions conducted to a single discharge point or fugitive emissions resulting from such activity as vehicular traffic and may transfer between plant components~~

- ~~(7)~~(8) Child Care Home. A home for not more than nine (9) orphaned, abandoned, dependent, abused or neglected children, together with not more than two (2) adults who supervise such children, all of whom live together as a single housekeeping unit.
- ~~(8)~~(9) Child Care Institution. An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused or neglected children.
- ~~(9)~~(10) Church or Place of Religious Worship. An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.
- ~~(10)~~(11) Day Care Center. Any child care arrangement that provides day care on a regular basis for more than four hours per day for more than five (5) children of preschool age.
- ~~(11)~~(12) Elevation. Height aAbove mean sea level.
- (13) Heavy Industry. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials; or a use engaged in storage of, or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions, including but not limited to the following: acids (except non-corrosive acids), ammonia, ammonium nitrate, animal byproducts, bleaching powder, cellulose, chlorine, creosote and creosote treatment, detergents, enamels, lacquers, linoleum, oilcloth, paints, paper pulp, pigments, lime, plastic, rubber (except tire re-cappers), soaps, tannery products, turpentine, varnishes, whiting and/or wood fillers, and environmentally hazardous materials. ~~The fabrication of plastics is exempt from this definition.~~
- ~~(12)~~(14) Hydraulic Fracturing. ~~The forcing open of fissures in subterranean rocks by introducing liquid at high pressure to extract oil or gas.~~
- ~~(13)~~(15) Junk. ~~Pre used or unusable metallic parts and other nonmetallic manufactured products or components that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.~~ Junk. Old or scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires,

household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or mined motor vehicle or parts thereof.

(16) Junk Yard- Any land or area used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of junked vehicles or machinery and dismantling of such vehicles or machinery.

~~(14)~~

~~(15)~~(17) Junked Vehicle. A motor vehicle that (1) is partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; ~~(3) is more than five years old and appears to be worth less than one hundred dollars (\$100);~~ or (43) does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on public roads, unless stored within an enclosed structure.

~~(16)~~(18) Lot. Land area of defined boundaries in single ownership, set aside for separate use or occupancy, and recorded as such in the office of the Jackson County Registrar of Deeds.

~~(17)~~ Mining Industry. ~~The mining sector comprises establishments that extract naturally occurring mineral solids such as coal and ores, liquid minerals such as crude petroleum, and gases such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.~~

~~(19)~~The mining sector distinguishes two basic activities: mine operation and mining support activities. Mine operation includes establishments operating mines, quarries, or oil and gas wells on their own account or for others on a contract or fee basis. Mining support activities include establishments that perform exploration (except geophysical surveying) and/or other mining services on a contract or fee basis. Mining industry. A mining industry is one that extracts naturally occurring mineral solids (such as coal and ores), liquid minerals (such as crude petroleum), and gases (such as natural gas). Mining industries perform activities such as drilling, quarrying, well operations, beneficiating (such as crushing, screening, washing, and flotation), and other product preparation/processing performed at the mining site.

~~—The term “mining industry” includes all mining support activities including exploration (except geophysical surveying).~~

(17)19) Multi-Family Structure. A single building containing more than two(2) dwelling units.

~~(18)20) Noise. Any unreasonable loud, excessive or unnecessary sound that takes in consideration for volume, duration, frequency, time, and other characteristics for sound which does not comply with the Jackson County Noise Ordinance.~~ Noise. Any sound which does not comply with the Jackson County Noise Ordinance.

(19)21) Nonconforming Situation. A situation that occurs when, on the effective date of this Ordinance, the use of an existing lot or structure does not conform to one or more of the regulations applicable to the permitting standards specified in Section 300 of this Ordinance.

(20)22) Nursing Care Home. A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital.

(21)23) Nursing Care Institution. An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at the lower level than that available in a hospital.

~~(22) 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.~~

(23)24) Perennial Stream. A natural or man-made surface channel in which water flows ~~most~~ throughout of the year.

(24)25) Public Road. Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard surfaced or other dependable highways.

(25)26) Reasonably Available Control Technology (RACT). Devices, systems, process modifications, other equipment or techniques reasonable available to lower emission rates, taking into account: (a) the necessity of imposing new controls in order to attain and maintain a national ambient air quality

standard (NAAQS); (b) the social, environmental, and economic impact of the additional controls; and (c) alternative means of providing for attainment and maintenance of the NAAQS.

~~(26)27)~~ ~~Repair Shop. An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles and which receives fifty percent or more of its gross income from charges made for such repairs.~~ Repair shop. An establishment which is maintained and operated for the purpose of making mechanical and/or body repairs to motor vehicles and which is not used to store more than 12 motor vehicles that are not capable of being driven under their own power and are not being restored to operable condition, regardless of the length of time that individual motor vehicles are stored or kept at such property.

~~(27)28)~~ Residential Structure. A vacant or occupied structure intended for single-family or multi-family residential use.

~~(2928)~~ ~~Service Station. Any establishment which is maintained and operated for the primary purpose of making retail sales of fuels, lubricants, air, water, and other items for the operation and routine maintenance of motor vehicles and/or for making mechanical repairs, servicing vehicles/or washing of motor vehicles and which receives more than fifty percent of its gross income from the retail sale of the above mentioned items and/or from the making of mechanical repairs, servicing and/or washing of motor vehicles.~~ Service Station. An establishment which is maintained and operated for the purpose of making mechanical repairs, servicing and/or washing of motor vehicles.

~~(29)30)~~ Single-Family Structure. A detached residential dwelling unit designed for and occupied by one (1) family.

~~(30)31)~~ School. Any public or private institution for the teaching of children.

~~(31)32)~~ Smoke. The visible vapor and gases given off by a burning or smoldering substance.

~~(32)33)~~ Stormwater Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal

pool elevation of impounded structures and from the bank of each side of streams or rivers.

(3334) Vegetative Buffer. A continuous ~~solid fence, wall, or~~ hedge, or other planted area used to enclose, screen, or separate one use or lot from another.

(3435) Vibration. Any ground-transmitted movement that is perceptible to the human sense of touch.

ARTICLE III: PERMITTING STANDARDS

Section 300: Permitting Standards

A permit is required from the Jackson County Planning Department for any industry regulated by this Ordinance. A permit fee, to be set by the Jackson County Commissioners, shall be paid at the time of the application for the permit. No permit shall be issued by the planning department until the appropriate federal and state permits have been issued.

(A) Asphalt Industries (including on-site sale of products):

1. The location of the closest point of the property line of a lot on which an asphalt plant, both portable and permanent, is located shall not be less than one thousand three hundred twenty (1,320) linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly-owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.
2. Permanent roads used continuously (for vehicular traffic once per any seventy-two (72) hour period of time excluding Saturdays, Sundays, or holidays) 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).
3. Material piles and other accumulations of byproducts shall not exceed thirty-five (35) feet above the original contour and shall be graded so the slope shall not exceed a 45-degree angle.

4. A continuous vegetative buffer designed to grow at least six (6) feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

5. The operation of this type industry shall not violate the Jackson County Noise Ordinance.

~~6.7.~~ Asphalt plants shall provide bag houses for managing ~~finer-fumes~~ created from an asphalt batch facility and emissions control equipment that will regulate blue smoke particulate matter emissions during the process of filling silos and loading trucks to a minimum of RACT.

(B) Junk Yards (including on-site sale of products):

1. The location of the closest point of the property line of a lot on which a junk yard is located shall not be less than one thousand three hundred twenty (1,320) linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly-owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure. All junk yards shall be located in compliance with North Carolina General Statute 136-144.

2. An opaque security fence constructed of either wood, masonry, metal, aluminum, or synthetic material shall be installed around the entire perimeter lot line of the lot on which the proposed junk yard is located. The fence shall be a minimum of ten (10) feet in height at the time of installation. The fence shall be set back ten (10) feet from any property line that is adjacent to a public road right-of-way. No junk or material may be stored within the ten (10) foot setback. Any junk stored in the junk yard cannot be stored to a height of greater than ten (10) feet. If at any point on the property a portion of the junk yard is at an elevation higher than the required ten (10) foot

opaque security fence, an interior fence or vegetative buffer will be installed so that the junk stored on the elevated portion of the junk yard is not visible from any public right-of-way which is at the same or lower elevation as the elevation of the top of the opaque security fence at its closest point to a public right-of-way.

3. All fluids shall be removed from junk or inoperable vehicles prior to placement in a junk yard. All fluids shall be disposed of in compliance with applicable federal, state, and local regulations.
4. A continuous vegetative buffer designed to grow at least six (6) feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.
5. A thirty (30) foot planted vegetative buffer shall be installed along any junk yard property line which is adjacent to a perennial stream.

5-6. The operation of this type industry shall not violate the Jackson County Noise Ordinance.

~~(C)~~ (C) Heavy Industry

1. The location of the closest point of the property line of a lot on which a heavy industry is located shall not be less than one thousand three hundred twenty (1,320) linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, or nursing care institution is located; any property line of publicly-owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.
2. A continuous vegetative buffer designed to grow at least six (6) feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

34. The operation of this type industry shall not violate the Jackson County Noise Ordinance.

(DD) Mining Industries (including on-site sale of products and hydraulic fracking):

1. The location of the closest point of property line of the lot on which a mine or quarry is located shall not be less than one thousand three hundred twenty (1,320) linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly-owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.
2. Permanent roads used continuously (for vehicular traffic once per any seventy-two (72) hour period of time excluding Saturdays, Sundays, or holidays) 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).
3. Material piles and other accumulations of byproducts shall not exceed thirty-five (35) feet above the original contour and shall be graded so the slope shall not exceed a 45 degree angle.
4. The operation of this type industry shall not violate the Jackson County Noise Ordinance.
5. A continuous vegetative buffer designed to grow at least six (6) feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

301.00 Transportation Infrastructure-

1. All uses permitted by this ordinance shall be located on a site with direct access to a road designated, at a minimum, as a major thoroughfare in the Jackson County Comprehensive Transportation Plan.

2. Any use that is not located on a site with direct access to a minimum of a major thoroughfare shall complete a preliminary traffic assessment prepared by a traffic engineer to determine if the roadway is designed to accommodate the proposed use.

(a) The preliminary assessment shall address potential congestion and road functionality to the nearest primary route. If the preliminary assessment determines that the current roadway design is sufficient for the proposed use, the Jackson County Planning Department staff may approve the permit.

(b) If the preliminary assessment cannot confirm the existing roadway design is sufficient for the proposed use, then the applicant may submit a Transportation Impact Analysis (TIA) prepared by a traffic engineer. The TIA should include the following:

(1) Intersection congestion to the nearest primary route.

(2) Functionality of roadway to the nearest primary route.

(3) Mitigation of impacts for proposed use.

3. Applicants that propose to use a TIA must make application for a conditional use permit from the Jackson County Board of Adjustment.

(a) The Board of Adjustment must find the following in order to approve the use:

(1). That the TIA provided shows that there are no adverse impacts associated with the proposed use or that any adverse impacts can be mitigated.

(2). That the proposed use is consistent with the Jackson County's Land Use Plan.

(3). That the proposed use or development of the land will not materially endanger the public health or safety.

(4). That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity given the design and any mitigation measures proposed by the applicant.

(b). The Board of Adjustment will hold a quasi-judicial hearing for any application for a conditional use permit. The Jackson County Planning Department will advertise the hearing in the local newspaper, send letters by first class mail to adjacent property owners, and post the proposed site with a sign pursuant to North Carolina State Statutes.

(c) Applications for conditional use permits will be approved or denied by a majority vote of Board of Adjustment.

ARTICLE IV: FEES, PENALTIES AND ENFORCEMENT

Section 400: Fees

- (A) Fees are established to allow the county to recover reasonable expenses assumed in the administration of this ordinance. Fees will be reflected in the Jackson County Fee Schedule as adopted by the Board of County Commissioners.
- (B) ~~All facilities or operations shall be subject to an annual permit fee of fifty dollars (\$50.00). The application fee for a new or expanded facility or operation shall be two hundred fifty dollars (\$250.00).~~ Application fees are non-refundable. If an application is returned to the applicant for additional information, the applicant shall have ninety (90) days to comply with the request, otherwise the application shall be considered null and void and withdrawn.

Section 401: Penalties for Violations

- (A) ~~Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S. 14.4. Every day there is a violation of this Ordinance, it shall be considered a separate and distinct offense.~~
- (B) ~~In lieu of or in addition to the criminal penalties,~~ Any person violating the provisions of this Ordinance shall be the Jackson County Board of Commissioners may impose subject to civil penalties of up to five hundred dollars (\$500) a day for each and every day there is a violation of this Ordinance. No penalty shall be assessed prior to notification by certified mail by the Enforcement Officer. If the violator does not pay such penalty within thirty (30) days, it may be recovered by Jackson County in a civil action in the nature of a debt. The violator may contest said penalty in the court of appropriate jurisdiction.

Section 402: Amortization

Any existing junk yard which is not registered with the Jackson County Planning Office by January 1, 2005 and does not comply with the permitting standards for junk yards, Section

300(B) 2, 4, and 5, 6 on the date of adoption of this Ordinance shall fully comply with these standards within five (5) years following the date of adoption of this Ordinance, said date being May 16, 2007.

Section 402.1 Exceptions

(A) This ordinance shall not apply to automotive ~~towing and~~ storage facilities, service stations, repair shops or garages unless the operation thereof would fall within the definition of junkyards or automobile graveyards as defined in Section 201 above.

(B) Junkyards or automobile graveyards existing as of the effective date of this ordinance and registered with the Jackson County Planning Office, may continue to be operated, provided said uses are screened from view by dense natural vegetation or other natural topographic barriers or by an opaque fence or wire fence with vegetation as defined above in Article III, Section 300 (A)4. Said screens shall prevent persons standing on public roads, in residential areas, or on property owned by schools, churches or rural volunteer fire departments from viewing the junkyard or automobile graveyard. In addition, the land area of the screened junkyard or automobile graveyard shall not be enlarged beyond that in use at the effective date of this ordinance. If a junkyard or automobile graveyard is sold, discontinued, closed or in any way fails to be in operation for a period of 6 consecutive months, the use shall not be reestablished.

Section 403: Enforcement

~~Except as otherwise specifically provided, The~~ primary responsibility for administering and enforcing this Ordinance ~~may be assigned by the Jackson County Manageris assigned to the Jackson County Planning Director or his/her designee to one or more individuals~~. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the Enforcement Officer. This Ordinance shall be enforced in accordance with G.S. 153A-123(a) through (g).

Section 404: Severability Clause

Should any section or provision of the Industrial Development Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or a part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE V: ADOPTION AND EFFECTIVE DATE

This Ordinance is hereby adopted and shall become effective on the 16th day of May, 2002.