

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 Scope

150.02 Effective date

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150.03 Compliance with codes¶

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§ 150.01 SCOPE.

Ashe County utilizes the state building code. All construction must follow the North Carolina state building code.

§ 150.02 EFFECTIVE DATE.

This ordinance shall become effective.

**Deleted:** (A) The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:¶

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure, including, but not limited to, mobile homes and manufactured buildings;¶

(2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;¶

(3) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof;¶

CHAPTER 162: **ASHE COUNTY AIRPORT (KGEV)**

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Section

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- 162.09 Issuance of a building permit
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162.11 **Separability**

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**162.12 Appeals**

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**162.13 Conflict of interest**

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§ 162.01 TITLE.

This Chapter shall be known as the **ASHE COUNTY AIRPORT (KGEV)** Ordinance of Ashe County, North Carolina.

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§ 162.02 AUTHORITY.

This Chapter is adopted by the Ashe County Board of Commissioners under authority and provisions of G.S. Ch. **160D-901**.

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§ 162.03 JURISDICTION.

These regulations shall govern all land in the vicinity of the airport, which shall not include any land within the jurisdiction of any municipality.

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§ 162.04 PURPOSES.

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(A) The **ASHE COUNTY AIRPORT (KGEV)** District (**ACAD**) is established as a regulatory district in the vicinity of the airport. The purposes of the **ACAD** are to protect the airport environs from encroachment of incompatible land uses which present hazards to users of the airport as well as to persons residing or working in the airport vicinity. The regulations imposed in the **ACAD** are designed to place height restrictions on buildings, structures, and trees.

(B) It is the intent of this Chapter to restrain influences which are adverse to the property and safe conduct of aircraft in the vicinity of the airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in a loss of life and property, and to encourage development which is compatible with airport use characteristics. To this end, the **ACAD** designation is intended to coordinate the purpose and intent of this section with other regulations duly established by Ashe County whose primary intent is to further the purposes set out above.

**§ 162.05 DEFINITIONS AND WORD INTERPRETATION.**

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIRPORT.** Jefferson / Ashe County Airport.

**AIRPORT ELEVATION.** The highest point of an airport's useable landing area measured in feet above mean sea level. The Jefferson / Ashe County Airport elevation equals **3,177.5** MSL.

**APPROACH SURFACE.** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope as set forth in Chapter Four, **ASHE COUNTY AIRPORT (KGEV)** Overlay District.

**CONICAL SURFACE.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

**CONICAL ZONE.** A conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet.

**HAZARD TO NAVIGATION.** An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

**HEIGHT.** For the purpose of determining the height limits in the airport height restrictive area, the datum shall be mean sea level elevation unless otherwise specified.

**HORIZONTAL SURFACE.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.

**HORIZONTAL ZONE.** The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of the end of the primary surface of the runway and connecting the

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adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

MSL. Mean Sea Level.

NONCONFORMING USE. Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Chapter or amendment thereto.

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NON-PRECISION APPROACH ZONE. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet, at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight-in non-precision instrument approach procedure has been planned or approved.

OBSTRUCTION. Any structure, growth or other object, including a mobile object, which exceeds a limited height set forth in § 162.06.

PERSON. An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRIMARY SURFACE. A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE. An object, including a mobile object, constructed or installed by man, including but not limited to: buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

TRANSITION SURFACES. These surfaces extend outward at right angles (90 degree angles) to the runway centerline and extend at a slope of seven feet horizontally for each one foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TRANSITIONAL ZONES. The transitional zones are the area beneath the transitional surfaces.

TREE. Any object of natural growth.

VISUAL APPROACH ZONE. The inner edge approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a



width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.

§ 162.06 DISTRICTS.

Except as otherwise provided in this section, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any district created by this section to a height in excess of the applicable height limitations herein established for each district in question as follows:

(A) Approach Zone - **ACAD-A**:

Runway 28 = slopes 34 feet outward for each one foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

Runway 10 = slopes 20 feet outward for each one foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(B) Transitional Zones - **ACAD-T**:

Slopes seven feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation or 3,333 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides and at the same elevation as the approach surface, and extending to where they intersect the horizontal surface.

(C) Horizontal Zone - **ACAD-H**:

Established at 150 feet above the airport or at an elevation of 3,333 feet above mean sea level.

(D) Conical Zones - **ACAD-C**:

Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to an elevation of 3,533 feet above mean sea level. There are four conical zones (**ACAD-C-A**, **ACAD-C-B**, **ACAD-C-C**, and **ACAD-C-D**) 1,000 feet horizontally each and rise 50 feet in elevation. The maximum height of any structure within the conical zone is as follows:

**ACAD-C-A** = 3,333 feet MSL

**ACAD-C-B** = 3,383 feet MSL

**ACAD-C-C** = 3,433 feet MSL

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~~ACAD~~-C-D = 3,483 feet MSL

§ 162.07 USE RESTRICTIONS.

Notwithstanding any other provisions of this Chapter, no use may be made of land or water within any district established by this Chapter in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, resulting in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

§ 162.08 NONCONFORMING USES.

(A) Regulations not retroactive. The regulations prescribed by this Chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Chapter, or otherwise interfere with the continuance of a nonconforming use.

(B) Markings and lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport and the Ashe County Board of Commissioners to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

§ 162.09 ISSUANCE OF A BUILDING PERMIT.

The Ashe County Building Inspections Department shall not issue a building permit within an ~~ACAD~~-A, ~~ACAD~~-T, ~~ACAD~~-H, or ~~ACAD~~-C area until it has been determined that the proposal upon which they are requested to act is in compliance with the terms of these regulations.

(A) Future uses. Except as specifically provided in divisions (1), (2), and (3) hereunder, no material change shall be made in the use of land, and no structure shall be erected or otherwise established unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information particularly to determine whether the resulting use or structure would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) In the area lying within the limits of horizontal zone and conical zone, no permit shall be required for any structure less than 100 feet of vertical height above the ground except when because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(2) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any

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structure less than 100 feet of vertical height above the ground except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

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(3) In the areas lying within the limits of the transition zones, no permit shall be required for any structures less than 100 feet above the ground, except when such structure because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

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(4) Amateur radio operators must comply with Part 97 of FCC regulations.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration of any structure in excess of any height limits established by this Chapter except as set forth in § 162.06.

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(B) Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction, or permit a nonconforming use, structure to become a greater hazard to air navigation than it was on the effective date of this Chapter, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

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(C) Nonconforming uses, abandoned or destroyed. Whenever the county determines that a nonconforming tree or structure has been abandoned for 180 days, or more than 60% has been torn down, physically deteriorated or decayed, said structure or tree shall lose its nonconforming status and at such time shall be brought into compliance with this Chapter.

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(D) Variances. For no reason shall any variance be granted from the regulations of this Chapter.

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§ 162.10 ENFORCEMENT.

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It shall be the duty of the Ashe County Planning Department to administer and enforce the regulations prescribed herein.

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§ 162.11 SEPARABILITY.

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Should any section or provision of this Chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Chapter as a whole or any part thereof which is not specifically declared to be unconstitutional or invalid.

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§ 162.12 APPEALS

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An applicant requesting approval of a structure or use of land who are aggrieved by a decision by the Planning Department may appeal said decision to the Board of Adjustment. The appeal shall be submitted in writing to the Board of Adjustment within thirty calendar days of receipt of notice of decision. If notice of decision is sent by mail, it must be presumed it is received on the third business day after it is sent (see G.S. § 160D-405(c)).

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(A) During an appeal, the official who made the decision (or their successor if the official is no longer employed) must appear as witness to the appeal, pursuant to G.S. § 160D-406.

(B) All enforcement actions, including fines, must be paused during an appeal (G.S. § 160D-405).

§ 162.13 CONFLICT OF INTEREST.

Administrative Staff. No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. Pursuant to the authority of 160D-109.

§ 162.14 EFFECTIVE DATE.

This ordinance shall become effective .

§ 162.99 PENALTY.

(A) Each day of a violation of this Chapter shall be a separate offense.

(B) Financial penalties. In addition to criminal penalties for a violation of this Chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500. A penalty unpaid 30 days after the offender has been cited for violation of this Chapter may be recovered in a civil action in the General Court of Justice.

(C) Other remedies. All appropriate remedies for relief authorized by G.S. § 153A-123 G.S. § 160D-404, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this Chapter.

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Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.¶  
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~~Deleted:~~ Violation of this chapter shall be a misdemeanor as provided by G.S. § 153A-123(b) and G.S. § 14-4. This chapter may be enforced by injunction and order of abatement, and all other appropriate equitable remedies to insure compliance with this chapter as provided in G.S. § 153A-123. Each day's continuing violation shall be considered a separate and distinct offense as provided in G.S. § 153A-123(g).¶  
(Ord. passed 6-17-02)