

## **CHAPTER 157: ORDINANCE REGULATING HIGH-IMPACT LAND USES IN MACON COUNTY**

### ***GENERAL PROVISIONS***

#### **§ 157.01 TITLE.**

This chapter shall be known and may be cited as the *Ordinance Regulating High- Impact Land Uses in Macon County*, codified as Chapter 157 of the Macon County Code.

#### **§ 157.02 AUTHORITY AND JURISDICTION.**

(A) Authority. This Chapter is established by the Macon County Board of Commissioners pursuant to the authority conferred in G.S. §§153A-121 (general ordinance-making power), 153A-122 (territorial jurisdiction), 153A-123 (enforcement), 153A-128 (regulation of explosive, corrosive, inflammable, or radioactive substances), 153A-133 (noise regulation), 153A-134 (regulation of businesses), and 153A-136 (regulation of solid wastes).

(B) Jurisdiction. The provisions of this chapter shall apply to all unincorporated areas of Macon County lying outside of the corporate limits and the extraterritorial jurisdiction of any municipality.

#### **§ 157.03 PURPOSE.**

The purpose of this ordinance is to promote the health, safety and general welfare of the citizens of Macon County by diminishing the impacts of certain land uses which, by their nature, produce noise, odors, vibrations, fumes, light, smoke, dust and other impacts which interfere with the quiet enjoyment of adjacent lands and disturb the peace and dignity of the county.

#### **§ 157.04 APPLICABILITY.**

(A) The provisions of this Chapter shall apply to the following high-impact uses of any land as further defined in § 157.05(B) of this Chapter:

- (1) Airfields/Airstrips
- (2) Asphalt Plants
- (3) Bulk Inflammables, Chemicals and Explosives Manufacturers or Storage Facilities
- (4) Chipmills (Wood Grinding Operations)
- (5) Commercial Incinerators
- (6) Concrete Suppliers
- (7) Helicopter Sightseeing Operations
- (8) Mining and Extraction Operations and Quarries
- (9) Motor Sports Activities
- (10) Sawmills
- (11) Slaughtering and Processing Plants
- (12) Solid Waste Management Facilities

(B) The effect of this Chapter, as more specifically set forth herein, is:

(1) To prohibit the high-impact uses of land, as defined herein, except in conformance with the provisions of this Chapter; and

(2) To provide for the enforcement of the provisions of this Chapter.

(C) The provisions of this Chapter shall not apply to any use of land arising out of or incident to *bona fide* agricultural or forestry operations as defined in G. S. § 106-701.

#### **§ 157.05 INTERPRETATIONS AND DEFINITIONS.**

(A) For the purposes of this Ordinance, certain words shall be interpreted as follows:

(1) The word “County” shall mean Macon County, North Carolina.

(2) The words “County Commissioners” shall mean the Board of Commissioners of Macon County, North Carolina.

(3) The words “Board of Adjustment” shall mean the body composed of those members appointed by the Board of Commissioners, created under the authority of G. S. § 153A-345.

(4) The word “ordinance” shall mean the Ordinance Regulating High Impact Land Uses in Macon County, North Carolina.

(5) Words importing the masculine gender include the feminine and neuter.

(6) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.

(7) Words used in the present tense include future tense.

(8) The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.

(9) The words “may” and “should” are permissive.

(10) The words “shall” and “will” are always mandatory and not merely directive.

(11) The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”

(12) The word “lot” shall include the words “plot,” “parcel,” “site,” “acreage” and “premises.”

(13) The word “structure” shall include the word “building.”

(14) 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.

(B) The following words shall be specifically defined as follows:

**Airfield/Airstrip** - Any runway, land area, or other facility designed or used either publicly or privately by any person for landing and takeoff of aircraft, including all necessary taxiways. "Airfield/Airstrip" is further defined as aircraft storage and tie-down areas, hangars, and other necessary buildings appurtenant to a public airport. Aircraft storage and tie-down areas, hangars, and other necessary buildings or uses appurtenant to a private airport are deemed accessory buildings or uses.

**Asphalt Plant** – The equipment necessary to produce petroleum bitumen, which when mixed with proper amounts of sand or gravel (or both) results in or may be used in producing material suitable for paving and/or roofing.

**Buffer** – A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building) in which no development or principal use may occur, but which may contain screening, fencing, interior service roads not intended for patron use, principal use signs, business signs, and gate or security houses. Access road corridors may cross the buffer at entrance and exit points.

**Chip Mill** – Any non-portable wood-chipping facility that stands alone and apart from a sawmill or a pulp mill, and whose purpose is to provide wood chips to an off-site fabricating facility including but not limited to a paper mill or oriented strand board mill.

**Commercial Incinerators** - Any enclosed device that burns more than 250 pounds of any material per hour other than the classical boiler fossil fuels, such as natural gas, propane, coal or fuel oil, which is a principal use on any lot or parcel.

**Concrete Supplier** – An establishment primarily engaged in manufacturing hydraulic cement, including Portland, natural, and masonry cements delivered to a purchaser in a plastic and unhardened state. This industry includes production and sale of central-mixed concrete, shrink mixed concrete, and truck mixed concrete. Also included are the manufacture of concrete products from a combination of cement and aggregate.

**Helicopter Sightseeing Operation** – Any individual, corporation or commercial enterprise that carries passengers by helicopter for compensation for the purpose of aerial observation of landmarks and other manmade or natural sites, touring, pleasure flying or amusement or for the purpose of transporting passengers for tourist-related activities.

**High-Impact Use** – Any and each of the uses of land to which the provisions of this Chapter are applied and as are specifically defined in this section.

**Hours of Operation** – The times of day during which an establishment may conduct its principal operations.

**Light Mitigation** – A good faith effort to reduce the emission of light or diminish the effects that emitted light has on adjacent parcels or the neighborhood.

**Manufacturer and/or Storage Facility of Bulk Inflammables (*Fuel Oil, Propane, Gasoline*), Chemicals, or Explosives** - A facility whose primary purpose is one of the following:

(1) Manufacturing and/or storage of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. This term includes but is not limited to dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks, but does not include hand-loaded small arms ammunition.

(2) The production, synthesis, formation, processing, refining, manufacturing, distribution, and/or storage of chemical products in bulk.

(3) The storage, distribution, mixing or transfer of flammable or combustible liquids or gases received by or transferred by tank vessel, pipelines, tank car, piping, or portable tank or container except such storage, distribution, mixing or transfer of flammable or combustible liquids or gasses shall not include filling stations or convenience centers used solely for retail distribution to individual customers.

**Mining & Extraction Operation** – Any establishment or business primarily engaged in dressing and beneficiating of ores; the breaking, washing, and grading of coal; the crushing and breaking of stone; and the crushing, grinding, or otherwise preparing of sand, gravel and nonmetallic chemical and fertilizer minerals. This definition specifically excludes gem mines and other recreational mining operations.

**Motor Sports Activities** – The use of any parcel by an establishment or business for the operation, for more than two hours during any eight hour time period, of more than three motor propelled conveyances powered by internal combustion engines including but not limited to automobiles, motorcycles, and All Terrain Vehicles.

**Noise Mitigation** – A good faith effort to reduce the emission of noise or diminish the effects that emitted noise has on adjacent parcels or the neighborhood.

**Ordinance Administrator** – The Macon County employee holding the position of employment that is designated by the Board of Commissioners as the county official with responsibility for administration and enforcement of this Ordinance.

**Perennial Stream** - A constantly flowing, drought-resistant stream that is typically depicted by a thin continuous blue line on the most recent version of the USGS 1:24,000 (7.5 minute) scale topographic maps (or as determined by local government studies), unless other provisions have been made.

**Primary Public Airport** – An airport operated by a municipal government, county government, or public airport authority and regulated by the Federal Aviation Administration.

**Principal Use** - A primary purpose for which land, buildings or other improvements is arranged, designed, intended or used, including the storage or use of supplies, inventory, materials, equipment or products associated therewith.

**Sawmill** - Any commercial operation established for a period of six months or more where timber is customarily processed into raw lumber, finished wood products or other wood products, regardless of whether the products are sold on premises or transferred to another facility for storage and sale. This definition includes the reprocessing of lumber and wood planing operations.

**Screening** – The use of any device or natural growth including but not limited to fencing, walls, berms, vegetation, or any combination thereof that serves as a barrier of vision between adjoining properties. Screening may be partial or full as may be required by the Ordinance Administrator.

**Separation** – Where separation restrictions are required, no portion of the property on which the regulated use is located shall be situated within the stated distance from the protected use(s) whether such protected uses(s) are located within or outside Macon County.

**Setback** - A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building) in which no principal use is permitted. Limited development, including buffers and related development, parking lots and accessory structures and buildings, access road corridors, and interior service roads, may occur within the setback.

**Slaughtering and Processing Plant** – An establishment primarily engaged in slaughtering, dressing, packing, freezing, canning, cooking and/or curing animals or poultry or their by-products or processing or manufacturing products from such animals or poultry or their by-products; and establishments primarily engaged in the collection and/or processing of the inedible portion(s) of animals or poultry or their carcasses. This definition specifically excludes: slaughtering and processing activities

performed for personal use only and those slaughtering and processing plants processing less than 100 animals per month for other than personal use.

**Solid Waste Management Facility** – Land and equipment, other than incinerators, used in the management of solid waste, including transfer stations, landfills, and recycling facilities which are not owned or operated by a unit of local government.

#### ***REGULATIONS APPLICABLE TO USES FOR AVIATION ACTIVITIES***

##### **§ 157.10 MINIMUM STANDARDS FOR CONSTRUCTION AND OPERATION OF AIRPORTS/AIRSTRIPS.**

No airport/airstrip shall be permitted, constructed, maintained or operated except in accordance with the following standards:

(A) All Federal Aviation Administration regulations shall be met and indicated to the department responsible for the permitting of this use. The center of the area used as the runway shall be a minimum of 100 feet from any exterior property line.

(B) The minimum length of the landing strip shall be 2,000 feet. Each end of the landing strip shall be at least 600 feet from any exterior property line of the parcel of land on which the airport/airstrip is located.

(C) The Ordinance Administrator may require other reasonable conditions that would protect the property values and living standards of properties in the area, including but not limited to sound barriers, hours of operation, size and type of aircraft and the like.

##### **§ 157.11 HELICOPTER SIGHTSEEING BUSINESSES.**

Helicopter sightseeing businesses shall not be permitted to operate except in accordance with the following:

(A) Helicopter sightseeing business shall only be operated out of a primary public airport with the written consent or by contract with the appropriate owner or lessee of the airport.

(B) Helicopter sightseeing operation hours of operation shall be limited to daylight hours.

(C) This Ordinance shall not apply to helicopter sightseeing operations conducted as special non-profit or fundraising events operated no more than two consecutive days in any given six month period.

#### ***REGULATIONS APPLICABLE TO OTHER HIGH-IMPACT USES***

##### **§ 157.20 LOCATIONAL, SCREENING AND MITIGATION REQUIREMENTS.**

No high-impact use of a parcel or parcels of land shall be permitted, constructed, operated, or maintained except in accordance with the following standards:

(A) Separation. The location of the closest point of a building, structure or outdoor storage of a high-impact use shall be the minimum distance specified in § 157.21 of this Chapter from the nearest property line for an existing school, child care home, child care institution, day care center, hospital, nursing care home, or nursing care institution. In order to establish permitted locations, measurement shall be made in a straight line from the closest or nearest portion of the building, structure, or outdoor storage of the high-impact use to the nearest property line of the premises of the above listed protected facilities.

Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the spacing requirements of this Section.

(B) Dust Mitigation. Permanent roads used continuously (for vehicular traffic once per any 72 hour period of time excluding Saturdays, Sundays, or holidays) in excess of 6 months within the property site shall be surfaced with a dust-free material (i.e. soil cement, portland cement, bituminous concrete).

(C) Vegetative Buffer. A continuous vegetative buffer shall be maintained along any property line of a high-impact use 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. The vegetative buffer strip shall not be less than fifteen feet in width at maturity and shall be composed of evergreen trees or shrubs of a type which at planting shall be a minimum of five feet in height and which at maturity shall not be less than ten feet in height. The buffer strip should consist of three rows of evergreen trees or shrubs planted in a staggered pattern. In each row the trees or shrubs should be spaced no more than ten feet apart (from base of tree to base of tree) and the rows should be no more than five feet apart. Alternative spacing of trees or shrubs is acceptable to improve the growth of vegetation so long as the buffer strip is a minimum of fifteen feet in width and the density of the buffer is sufficient to provide adequate screening. Plans for buffering shall be provided with the permit application. Plants required in the buffer shall be carefully planted and shall be maintained in good condition. Failure to maintain the buffer in good condition shall constitute a violation of this ordinance. This planting requirement may be modified by the ordinance administrator where adequate buffering exists in the form of natural vegetation and or terrain.

(D) Stream Setback . The closest point of building, structure, or outdoor storage of a high-impact use shall be set back from all perennial waters the minimum distance specified in § 157.21 of this Chapter. Perennial waters are indicated by blue lines on the most recent versions of the USGS 1: 24,000 (7.5 minute) scale topographic maps.

(E) Principal Use Setback. All buildings, structures, or other improvements constituting the principal use for any high-impact use shall be set back from the property lines of the high-impact use the minimum distances specified in § 157.21 of this Chapter.

(F) Buffer or Buffer Yard. All high-impact uses shall maintain a screening buffer or buffer yard along all adjoining property lines of the minimum width specified in § 157.21 of this Chapter.

(G) Screening. All high-impact uses other than aviation activities shall be screened. The screening may be located within any required buffer or buffer yard or setback. The screening may consist of the required continuous vegetative buffer described in subsection (C) or this section or, upon approval of the Ordinance Administrator, a combination of the vegetative buffer and opaque wooden fences, masonry walls, or landscaped earthen berms.

(H) Noise Mitigation. No high-impact use shall commence operations prior to submitting a Noise Mitigation Plan which demonstrates that the methods for reducing or containing noise generated by the use meet commonly recognized industry standards for that particular use.

(I) Light Mitigation. No high-impact use shall commence operations prior to submitting a Light Mitigation Plan which demonstrates that the methods for reducing or containing light generated by the use meet commonly recognized industry standards for that particular use.

(J) Hours of Operation. High-impact uses shall conduct operations only between the hours of six o'clock a.m. and ten o'clock p.m.

(K) High-Impact Use Clusters. To encourage the clustering of high-impact uses, no minimum building setbacks, buffer yards or vegetative buffers shall apply to the common property lines shared by different high-impact uses.

(L) Setback Uses. Any commercial uses may be located within the building setbacks of any high-impact use located on the same parcel of land.

(M) Safety Fencing. Safety fencing shall be installed around the principal use or building containing the principal use of all high-impact uses. The safety fencing shall be chain link or equivalent, at least six feet in height, and gated in order that it can be secured at all times the high-impact use is not conducting operations.

#### **§ 157.21 SPECIFICATIONS FOR SEPARATIONS, SETBACKS AND BUFFERS.**

Specifications for the separation distances prescribed in § 157.20(A), the stream setbacks prescribed in § 157.20(D), the principal use setbacks prescribed in § 157.20(E), and the buffer widths prescribed in § 157.20(F) for each high-impact use are set forth in the following table:

<b>HIGH-IMPACT USE</b>	<b>Separation Distance</b>	<b>Stream Setback</b>	<b>Principal Use Setback</b>	<b>Buffer Width</b>
<b>Asphalt Plants</b>	<b>1000 ft.</b>	<b>150 ft.</b>	<b>250 ft.</b>	<b>100 ft.</b>
<b>Bulk Inflammables, Chemicals, and Explosives Manufacturers or Storage Facilities</b>	<b>1500 ft.</b>	<b>75 ft.</b>	<b>500 ft.</b>	<b>75 ft.</b>
<b>Chipmills (Wood Grinding Operations)</b>	<b>1500 ft.</b>	<b>75 ft.</b>	<b>750 ft.</b>	<b>100 ft.</b>
<b>Commercial Incinerators</b>	<b>1500 ft.</b>	<b>150 ft.</b>	<b>500 ft.</b>	<b>100 ft.</b>
<b>Concrete Suppliers</b>	<b>1000 ft.</b>	<b>100 ft.</b>	<b>250 ft.</b>	<b>100 ft.</b>
<b>Mining and Extraction Operations and Quarries</b>	<b>1500 ft.</b>	<b>150 ft.</b>	<b>500 ft.</b>	<b>100 ft.</b>
<b>Motor Sports Activities</b>	<b>1500 ft.</b>	<b>100 ft.</b>	<b>750 ft.</b>	<b>100 ft.</b>
<b>Sawmills</b>	<b>1000 ft.</b>	<b>100 ft.</b>	<b>250 ft.</b>	<b>75 ft.</b>
<b>Slaughtering and Processing Plants</b>	<b>1000 ft.</b>	<b>75 ft.</b>	<b>250 ft.</b>	<b>75 ft.</b>
<b>Solid Waste Management Facilities</b>	<b>1000 ft.</b>	<b>150 ft.</b>	<b>750 ft.</b>	<b>100 ft.</b>

#### ***EXISTING NONCONFORMING HIGH-IMPACT USES***

#### **§ 157.30 APPLICATION TO EXISTING NONCONFORMING HIGH-IMPACT USES.**

(A) Any high-impact use legally in existence on the effective date of this Chapter, or any amendment thereto, which does not conform to the requirements of this Chapter, or as amended, is declared non-conforming.

(B) Any non-conforming high-impact use as described above may continue so long as the use is not discontinued for more than six months. In cases where repair or renovation is necessary to re-occupy a vacant building that is part of a high-impact use facility, such construction must commence within six months of last occupancy and proceed continuously to completion.

(C) Expansion of nonconforming high-impact uses shall only be allowed to the extent that the degree of nonconformity is not increased. In addition, the expansion shall comply with the standards set forth in this ordinance, and the nonconforming high-impact use shall comply with the standards of this Chapter to the extent physically practicable as determined by the Ordinance Administrator.

(D) In cases of damage to nonconforming buildings to the extent of seventy-five percent or less of the replacement value, repairs may be made, provided the original foundation footprint is maintained. If

such damage exceeds seventy-five percent of the replacement value, repairs may be made only if the original foundation footprint is maintained and the standards of this ordinance are met to the extent physically practicable as determined by the Ordinance Administrator. Compliance with a requirement of this ordinance is not physically practicable if compliance cannot be achieved without adding additional land to the lot where the nonconforming high-impact use is maintained or requires the movement of a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting requirements does not constitute grounds for finding that compliance is not physically practicable.

### ***ADMINISTRATION AND PERMITTING***

#### **§ 157.40 ENFORCEMENT; PERMITTING.**

(A) After the effective date of this Chapter, all new high-impact uses as well as any nonconforming high-impact uses which are moved, altered or enlarged shall conform to the provisions contained in this Chapter except as set forth in the provisions of § 157.30.

(B) The provisions of this Chapter shall be administered and enforced by the Ordinance Administrator. The Ordinance Administrator shall have full authority to enter any building or structure or premises, as provided by law, to perform any duty imposed on him or her by this Chapter, and to use all procedures established in this Chapter for the enforcement of its provisions.

(C) No building or other structure subject to this ordinance shall be erected, moved, added to, or structurally altered without a Development Permit having been issued by the Ordinance Administrator. No building permit shall be issued except in conformity with the provisions of this ordinance.

(D) Applications for Development Permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of any buildings already existing; the location and dimensions of the proposed building or alteration; and compliance with the standards established by this Chapter. The application shall include such other information as may reasonably be required by the Ordinance Administrator, including a description of all existing or proposed buildings or alterations; existing and proposed uses of the buildings and land; conditions existing on the land or parcel; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Chapter. One copy of the plans shall be returned to the applicant by the Ordinance Administrator, marked either as approved or disapproved and attested to by his signature on such copy. The second copy of the plans, also so marked, shall be retained by the Ordinance Administrator.

(E) The Ordinance Administrator shall maintain a record of all Development Permits and copies shall be furnished upon request to any interested person.

(F) Any order, requirement, decision or determination of the Ordinance Administrator adverse to the interest of an applicant for a Development Permit shall be provided to the applicant in writing by certified mail, return receipt requested.

(G) The failure to obtain any required Development Permit shall be a violation of this Chapter. Further, Development Permits shall issue on the basis of applications approved by the Ordinance Administrator and shall authorize only the use, arrangement, and construction applied for and approved. Any use, arrangement or construction not in compliance with that authorized shall be a violation of this Chapter.

(H) Upon a request made in writing by any high-impact user which has been granted a Development Permit, the Ordinance Administrator may consider granting a temporary waiver of the requirements of § 157.20(H), § 157.20(I), or § 157.20(J) for a period of time not to exceed six consecutive months. In order to grant such temporary waiver, The Ordinance Administrator must find that the request for the temporary waiver demonstrates at least one of the following circumstances:



1. The necessity for the temporary waiver is occasioned by a specific business opportunity that is particularly lucrative to the high-impact user making the request.
2. The necessity for the temporary waiver is occasioned by the efforts of the high-impact user making the request to alter, repair, or improve any portion of the facility in compliance with this Chapter.
3. The necessity for the temporary waiver is occasioned by a casualty, disaster, or economic condition that is detrimental to the high-impact user making the request.

### ***VARIANCES, APPEALS AND PENALTIES***

#### **§ 157.50 APPEAL FROM A DECISION OF THE ORDINANCE ADMINISTRATOR.**

(A) Any order, requirement, decision or determination made by the Ordinance Administrator adverse to the interest of an applicant for a Development Permit may be appealed to and decided by the Macon County Board of Adjustment.

(B) Notice of an appeal to the Board of Adjustment shall be in writing, shall state the grounds for the appeal with specificity, and shall be submitted to the Clerk to the Board of County Commissioners on behalf of the Board of Adjustment within thirty days of the receipt of the written decision by the Ordinance Administrator.

(C) The Chairman of the Board of Adjustment shall fix a reasonable time for hearing the appeal, give notice thereof to the parties, and shall hear and decide the matter within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. The Board of Adjustment shall give written notice of its decision, stating the basis of its decision with specificity, to the Ordinance Administrator and to the applicant for a Development Permit by certified mail, return receipt requested.

#### **§ 157.51 REQUEST FOR VARIANCE.**

(A) A request for a variance must be submitted to the Clerk to the Board of County Commissioners on behalf of the Board of Adjustment within thirty days of the receipt of a decision by the Ordinance Administrator denying an application for a Development Permit. The request for a variance must be in writing and shall state the reason for the request with specificity.

(B) The Chairman of the Board of Adjustment shall fix a reasonable time for hearing the request for a variance, give notice thereof to the parties, and shall hear and decide the matter within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. The Board of Adjustment shall give written notice of its decision, stating the basis of its decision with specificity, to the Ordinance Administrator and to the applicant for a Development Permit by certified mail, return receipt requested.

(C) A variance shall only be granted by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships in which authorizing a variance will not circumvent the intent of this Chapter. A hardship, as used in the context of this section, shall be considered to be some unique or unusual characteristic of the proposed site, including but not limited to unique size, shape, contour, or topography. An economic hardship to the applicant shall not be considered grounds for approving a variance.

(D) The Board of Adjustment may grant a variance upon finding that each of the following conditions exist:

- (1) Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.

(2) The variance will not confer upon the applicant any special privileges that are, or would be, denied to other operators or owners of high-impact uses.

(3) A literal interpretation of this Chapter would deprive the applicant of rights commonly enjoyed by other operators or owners of high-impact uses.

(4) The requested variance would not seriously deter from the purpose and intent of the provisions of this Chapter.

(5) The requested variance would not be injurious to the neighborhood or to the general welfare of the citizens of Macon County.

(6) The special circumstances causing the need for the variance are not the fault of the applicant.

(E) The Board of Adjustment may impose reasonable conditions upon the granting of any variance in order to protect the public interest or the interests of neighboring property owners.

#### **§ 157.52 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.**

All proceedings of the Board of Adjustment shall be conducted in accordance with the provisions of G.S. § 153A-345.

#### **§ 157.53 APPEAL FROM THE BOARD OF ADJUSTMENT.**

(A) Any order, requirement, decision or determination made by the Board of Adjustment may be appealed to the Superior Court of Macon County by proceedings in the nature of certiorari. The notice of appeal shall be in writing and shall be served upon the County Manager in the same manner as is prescribed by the North Carolina Rules of Civil Procedure for service of civil process.

(B) The appeal shall be taken, and the notice of appeal served, within thirty days that notice of the decision by the Board of Adjustment is received by the appealing party.

#### **§ 157.54 PENALTIES, REMEDIES AND ENFORCEMENT.**

(A) A violation of any of the provisions of this Chapter shall be a misdemeanor subject to the penalties and enforcement provisions of G.S. § 153A-123.

(B) Each day's continuing violation of any of the provisions of this Chapter shall constitute a separate and distinct offense.

(C) The provisions of this Chapter may be enforced by any one or more of the remedies authorized by G.S. § 153A-123.