

**TITLE XV:**

**LAND USAGE**

**Chapter 154**

**Environmental Review**

## CHAPTER 154: ENVIRONMENTAL REVIEW

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### **§ 154.01 PURPOSE**

The purpose of this chapter is to make available uniform procedures and guidelines of county-wide applicability pertaining to developments which may adversely affect the environment of Pike County; to create the Environmental Review Board; to promote consistency and uniformity in the data considered in the environmental report; and to certify by permit approval or denial of said developments.

(Ord. passed 6-16-89)

### **§ 154.02 ENVIRONMENTAL REVIEW**

- (A) Any proposed use, project, development or rezoning which may possibly have an adverse impact on the environment of Pike County, to an extent necessitating special review, shall not be approved for rezoning, construction or development by the Pike County Board of Commissioners or other approving body unless and until an environmental review has been completed by the Environmental Review Committee set up under this chapter and full report of the review made to the Board of Commissioners of Pike County and an environmental development permit having been issued by the Board of Commissioners of Pike County. The determination of the need of an environmental review shall be made by any of the following bodies:
- (1) The Pike County Board of Commissioners;
  - (2) The Pike County Planning Commission;
  - (3) The Pike County Board of Appeals; or
  - (4) The Pike County Zoning Administrator.
- (B) Upon determination of the need for an environmental review by the Pike County Planning Commission, the Pike County Board of Appeals or the Zoning Administrator, the originating body or official shall forward notification to the Pike County Board of Commissioners, which Board shall then take necessary action to notify the Environmental Review Committee established under the provisions of this chapter.

(Ord. passed 6-16-89)

### **§ 154.03 APPLICABILITY**

These regulations shall apply to any project which may have a significant impact upon the environment, including but not limited to:

- (A) Industrial projects which would result in excessive noise, smell, dust or traffic congestion;
  - (B) Lots or structures for the confinement of livestock if within 300 feet of a residence (other than that of the applicant for the rezoning, development or project);
  - (C) Drive-in theaters, drive-in restaurants, warehouses, storage yards, manufacturing of acids, lime, gypsum or plaster of Paris; manufacturing of ammonia, chlorine, bleaching powder or asphalt; linoleum manufacturing; mining and quarrying;
  - (D) Stockyards or animal slaughtering;
  - (E) Automobile wrecking or junkyards;
  - (F) Any use which would result in discharging extraordinary amounts of water or any use which would result in the creation of hazardous waste, storage of hazardous wastes, offensive wastes and similar uses;
  - (G) Any use which might threaten to substantially deplete or pollute the water resources of Pike County.
- (Ord. passed 6-16-89)

### **§ 154.04 ENVIRONMENTAL REVIEW COMMITTEE; ESTABLISHMENT AND PROCEDURE**

- (A) Committee established. An Environmental Review Committee is established for Pike County and shall consist of five members appointed by the Pike County Board of Commissioners, each for a term of two years. Members of the Environmental Review Committee may be removed from the committee for cause upon written charges delivered to the affected member and after a public hearing. Vacancies on the Committee membership shall be filled by the Board of Commissioners of Pike County for the unexpired term of the affected member as well as for the expired term of any member. The Chairperson of the Committee shall be chosen by the members of the Committee.
- (B) Duties and responsibilities of the Committee.
  - (1) The Environmental Review Committee shall, upon receipt of notification by the Pike County Board of Commissioners of a case for environmental review, be convened by the Chairperson thereof within 20 days of receipt of such notification for the purpose of a public hearing.
  - (2) The Secretary to the Committee (who shall be the Clerk to the Pike County Zoning Administrator) shall be notified by the Chairperson of the Committee of the Committee's receipt of a case for review. Upon such notification, the Secretary shall immediately mail to the applicant an application for environmental development permit (on a form prescribed by the Pike County Board of Commissioners) with request that said application be executed and returned immediately.
  - (3) The Chairperson of the Committee shall assign to individual committee members such duties of fact finding and investigation as prove pertinent in the circumstance;

committee members with such assignments shall report same to the Committee no later than the time of the public hearing called for above.

(C) Hearings.

- (1) The subpoena power of the Board of Commissioners of Pike County may be utilized to compel evidence or testimony. The County Attorney of Pike County shall represent the political subdivision of Pike County at such hearings. Hearings under this chapter may be conducted concurrently with hearings of other agencies at the direction of the hearing body. Reports from other reviewing agencies may be incorporated by the Environmental Review Committee or the Board of Commissioners of Pike County in their determinations or reports. The time frames set forth in this chapter may be extended by the Board of Commissioners of Pike County to conform with time periods for review set forth by any other agency of the state or federal governments.
- (2) Public hearings held under the provisions of this chapter by the Environmental Review Committee may be extended to adjourned sessions of the Committee as required for the request for and the obtaining of the necessary information on which to base factual report to the Pike County Board of Commissioners. Notwithstanding such extensions, the final report to the Board of Commissioners by the Environmental Review Committee shall not extend beyond 45 days from the receipt of the case by the Environmental Review Committee.

(D) Stay of proceedings. From the time that a determination has been made, in accordance with the provisions of this chapter, that an environmental review has been requested, the application for rezoning, construction or development is automatically stayed and, the provisions of the Pike County Zoning Regulations notwithstanding, as to various time frames set forth, no further action shall be taken on the application for rezoning, construction or development until a final decision is rendered by the Pike County Board of Commissioners as to whether an environmental development permit has been issued.

(E) Procedures.

- (1) The applicant for the rezoning, construction or development, whose case is to be environmentally reviewed, shall be notified in writing at least ten days prior to the public hearing to attend the public hearing or to send a competent authorized representative.
- (2) The Pike County Zoning Administrator, the Environmental Review Committee and the Pike County Board of Commissioners shall have the power to request the applicant to produce such detailed plans, specifications and studies as may be necessary to perform the review functions required under this chapter. The plans, specifications, studies and other information shall be reviewed to determine the impact of the project, development or rezoning applied for upon the environment, utilizing the following criteria and any other criteria deemed relevant by the reviewing bodies. Relevant considerations shall include, but shall not be limited to, the following:
  - (a) Will the proposed use create excessive noise, dust, odor, smoke, vibration or similar objectionable or unhealthful pollution to a degree that is detrimental to the quality of life or to a degree which is harmful to life, well-being or property values?
  - (b) Are modifications or controls feasible which would eliminate or reduce damage or danger to affected persons or properties, water quality or quantity, the ground water supply, flood protection, water protection, soil erosion protection, air quality, noise

- pollution or other undesirable effects on the environment? Are these damages or dangers too great for adequate control?
- (c) Are public services available to support the project without major expenditures of public funds, thereby degrading other portions of the environment?
  - (d) Will any natural resource, such as timber land, farm land, water supply, water tables or other resources be reduced or removed from production or from the resource bank to a degree that the public interest in such resource(s) is damaged greater than the economic and social benefits of the project?
- (3) The Pike County Zoning Administrator, the Environmental Review Committee and the Board of Commissioners of Pike County shall have the power to seek expert witnesses to give testimony on technical aspects of any case before them. Travel and per diem expenses, where applicable, for such witnesses shall be authorized by the Pike County Board of Commissioners.
  - (4) The Secretary to the Environmental Review Committee shall keep written records of the minutes of each meeting in a Minute Book and shall preserve documentary material presented at each hearing and attach same to the written reports of the Committee for forwarding to the Pike County Board of Commissioners.
  - (5) The applicant in the case under review shall have the right to present evidence and to call witnesses to be heard in the testimony before the Environmental Review Committee. Further, the applicant shall have the right to receive, within ten days of the date of the final hearing on the case, a copy of all papers forwarded to the Environmental Review Committee.

(Ord. passed 6-16-89)

**§ 154.05 ACTION BY COUNTY BOARD OF COMMISSIONERS ON PERMIT ISSUANCE OR DENIAL**

- (A) Upon receipt of the environmental report from the Committee, the Pike County Board of Commissioners, at any regular or called meeting of that Board, shall call a hearing upon the case under review, having first advertised such hearing for at least 15 days prior to the hearing for at least two times in the newspaper which is the legal organ of Pike County. Such hearing may be held separately or as part of any regular or called meeting of the Board.
- (B) At the public hearing on the case under environmental review, the Board of Commissioners shall consider the findings of the Environmental Review Committee, hear testimony, review evidence presented and take into account the information supplied by the applicant in the case; further, members of the public desiring to present information and comment shall be heard; finally, the Board of Commissioners may summon witnesses whose testimony may prove of value to an equitable determination. If possible, the Board of Commissioners will render a determination in the case to either issue the environmental development permit or to deny same. If such a determination is not possible or feasible at the time, the Board of Commissioners may extend the hearing to adjourned sessions of the Board, as required for the obtaining of necessary information on which to base a decision. Notwithstanding such extensions, however, the Board of Commissioners shall render a decision no later than 30 days from the date of the original hearing before the Board of Commissioners.

- (C) The applicant shall be notified by letter of the date, time and purpose of each hearing held by the Board of Commissioners on the case at least ten days prior to the date of such hearing or hearings. The Board of Commissioners shall either approve, deny or approve with conditions the environmental development permit application.
  - (D) The Pike County Board of Commissioners shall have the right to modify, restrict or place conditions upon the use of the property for which the application has been filed when such conditions, restrictions or modifications are required either by the information contained in the environmental review report or by evidence presented at any hearing held on the case.
- (Ord. passed 6-16-89)

**§ 154.06 ADMINISTRATIVE APPEAL; JUDICIAL REVIEW**

- (A) Administrative remedies.
    - (1) Upon the approval or denial of an environmental permit by the Board of Commissioners, any person aggrieved by such decision of the Board of Commissioners may appeal said decision for rehearing and administrative review by the Board of Commissioners of Pike County; said notice of appeal to be filed within five days after the date of the approval of the permit or the denial of the permit by the Board of Commissioners.
    - (2) Any person filing an appeal shall be entitled to a rehearing before the Pike County Board of Commissioners within 30 days after the filing of the appeal. Such rehearing shall be advertised by the Board of Commissioners at least 15 days prior to such rehearing for at least two times in the newspaper which is the legal organ of Pike County.
    - (3) The rehearing on appeal, as outlined in this chapter, may be conducted as a part of any regular or called meeting of the Board of Commissioners or may be held separately.
  - (B) Judicial review. Any person aggrieved by the decision of the Pike County Board of Commissioners as to issuance or denial of an environmental development permit, after exhausting administrative remedies, shall have the right to appeal de novo to the Superior Court of Pike County.
- (Ord. passed 6-16-89)

**§ 154.07 PROCEDURE AFTER APPROVAL OR DENIAL OF AN ENVIRONMENTAL DEVELOPMENT PERMIT**

When the environmental development permit has been approved by the Pike County Board of Commissioners and no appeal is filed within five days after such action, the Board shall cause the permit to be issued and refer the case file back to the Zoning Administrator or to the Planning Commission or to the Pike County Board of Appeals, as the case may be, for further processing of the application as prescribed by the Pike County Zoning Code. When the environmental permit has been approved by the Pike County Board of Commissioners and appeal is filed for administrative rehearing by that body, the stay of proceedings provided for in § 154.04 is continued until such rehearing has been held. If, as a result of the rehearing, the environmental permit is issued by the Board of Commissioners, then the Board of Commissioners shall refer the case file back to the Zoning Administrator, the Pike County Planning Commission or to the Pike County Board of Appeals as the case may be for further processing of the application as prescribed by the Pike County Zoning Code.

(Ord. passed 6-16-89)

**§ 154.08 INSPECTION AND ENFORCEMENT**

- (A) The requirements of this chapter as to modifications, restrictions and conditions as set forth in this chapter shall be enforced by the Pike County Zoning Administrator who shall inspect or require adequate inspection of any work hereunder.
- (B) If the Zoning Administrator finds any existing conditions not as stated in any application, grading or building permit or approved plan, he or she shall:
  - (1) Refuse to approve further work;
  - (2) Stop the issuance of any further building permits on the project or development;
  - (3) Revoke the original permit issued hereunder pending proof of compliance; or
  - (4) Institute an injunction or other appropriate action in the Superior Court of Pike County to stop the violation.

(Ord. passed 6-16-89)