

CHAPTER 3

FORSYTH COUNTY AIR QUALITY CONTROL¹

SUBCHAPTER 3A - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0100 - IN GENERAL

Section .0101 Department Established

There is hereby established a department of the County, under the administration of the County Manager, to be known as the Forsyth County Environmental Affairs Department, such department to administer the County air quality control program, under the direction and supervision of the Forsyth County Board of Commissioners and the Forsyth County Manager. (Res. of 7-6-71; Ord. No. 8-77, §§1, 2, 8-1-77; Ord. No. 9-94, 12-19-94)

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¹**Cross references**--Buildings and building regulations, Ch. 7; erosion control, Ch. 9; fire prevention and protection, Ch. 10; zoning ordinance, Ch. 23.

State law references--Air pollution control, G.S. §143-215.105 *et seq.*; authority of Board of County Commissioners to establish, administer, and enforce a local air pollution control program. G.S. §143-215.112(c); authority to levy taxes to maintain and administer such program, G.S. §153A-149(c)(3).

Section .0102 Enforcement of Chapter

The Environmental Affairs Department is charged with the duty of investigating, preventing and abating causes of air pollution and enforcing the provisions of the standards and regulations contained in this chapter. Responsibility for the enforcement of these standards and regulations shall rest with the Environmental Affairs Director. (Ord. of 1-24-72, §2.01; Ord. No.8-77, §§1, 2, 8-1-77; Ord. No. 5-85, 5-13-85; Ord. No. 9-94, 12-19-94)

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Section .0103

General Powers and Duties of Director

- (a) The Director shall have the following powers and duties:
- (1) Supervise the implementation of the standards and regulations contained in this chapter.
 - (2) Issue Notices of Violation and institute actions against any and all persons violating any provision of this chapter and institute necessary criminal and/or civil legal proceedings in the name of the County; prosecute violators of this chapter; compel the prevention and abatement of air pollution or nuisances arising from violations of this chapter; and assure compliance with applicable standards.
 - (3) Examine and approve or disapprove plans for fuel- and refuse-burning equipment, process equipment and control equipment to be installed, constructed, reconstructed, added to or altered, to assure that they are in accordance with the requirements of the standards and regulations contained in this chapter.
 - (4) Gather information for the consideration of the granting of temporary permits for variances from applicable standards and regulations, for the purpose of allowing time for sources to be brought into compliance with such standards and regulations.
 - (5) Make inspections and tests of existing and newly installed, constructed, reconstructed or altered fuel- or refuse-burning equipment, process equipment and control equipment, to determine if there is compliance with applicable standards and regulations.
 - (6) Investigate complaints of violations of this chapter and make inspections and observations of air pollution sources, and record such investigations, complaints, inspections and observations.
 - (7) Administer the issuance of certificates of operation, notices or other materials required under the provisions of this chapter.
 - (8) Prepare and submit to the Board of County Commissioners for its consideration, through the County Manager and after receiving recommendations of the Advisory Board, proposals, additions or revisions of the standards and regulations prescribed by this chapter or any other regulations pertaining to air pollution abatement.
 - (9) Encourage voluntary cooperation by persons or affected groups in air quality control.
 - (10) Collect and disseminate information on air quality control to the public, civic groups, community organizations and others, subject to the approval of the County Manager.
 - (11) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this chapter to foster and encourage the best possible management and conservation of the air resources of the County.

- (12) Cooperate and work with federal, State, County, municipal and other agencies concerned with air quality control in regard to aerometric studies, abatement programs, public complaints and other matters to the end that the air resources of the County shall best be conserved and improved.
- (13) Declare an emergency when it is found that a generalized condition of air pollution is causing imminent danger to the health or safety of the public, and issue orders, in the name of the County, to responsible persons to reduce or discontinue immediately the emission of contaminants.
- (14) Adopt required procedural modifications as set forth in the Code of Federal Regulations for evaluating standards contained in this chapter after notice and public hearing before the Environmental Affairs Board.
- (15) Perform such other acts which may be necessary for the successful enforcement of and compliance with the standards and regulations contained in this chapter or which may be required by the County Manager on behalf of the Board of Commissioners.

(b) The Board of Commissioners may, by resolution, delegate to the Director such other duties and responsibilities, consistent with the provisions of Article 21 of Chapter 143 of the North Carolina General Statutes, as are deemed appropriate, including but not limited to, the determination of facts based upon standards contained in this chapter. (Ord. of 1-24-72, §§2.02, 2.03; Ord. No. 8-77, §§1, 2, 8-1-77; Ord. No. 7-86, 3-10-86; Ord. No. 9-94, 12-19-94)

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Section .0104 Authority of Director to Establish Administrative Procedures

(a) The Director may establish administrative procedures relating to the submission of requests for permits under this chapter, including such information as is needed, and such other procedures deemed necessary in order to fulfill his responsibilities and not inconsistent with this chapter. (Ord. No. 9-94, 12-19-94)

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Section .0105 Fees for Inspections, Permits, and Certificates Required by Chapter

Fees for inspections and the issuance of permits and certificates required by this chapter shall be made payable to the County. The amount of such fees shall be established by the Director of Environmental Affairs, following the review and recommendation of the Environmental Affairs Board and shall be based upon all reasonable (direct and indirect) costs required to develop and administer the permit program including the reasonable cost of reviewing and acting upon any application for permit, implementing and enforcing the terms and conditions of any permit, emission and ambient monitoring, preparing generally applicable regulations or guidance; modeling, performing analyses and demonstrations, and preparing inventories and tracking emissions. The Board of County Commissioners shall be notified and may change or revise the fee schedule. (Ord. of 1-24-72, §23.00; Ord. of 9-17-73; Ord. No. 14-88, 12-19-88; Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94)

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Section .0106 Penalties for Violation of Chapter

The violation of this chapter is punishable by fine and imprisonment as follows:

- (1) Civil Penalties. -
 - (A) A civil penalty of not more than ten thousand dollars (\$10,000) may be assessed for each violation against any person who:
 - (i) Violates any classification, standard or limitation established pursuant to this Chapter;
 - (ii) Is required but fails to apply for or to secure a permit required by this Chapter or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit;
 - (iii) Violates or fails to act in accordance with the terms, conditions, or requirements of any Special Order or other appropriate document issued pursuant to this Chapter for compliance with pollution control requirements;
 - (iv) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Chapter;
 - (v) Violates any duly adopted regulation of the Forsyth County Commissioners implementing the provisions of this Chapter.
 - (vi) Commits the offenses set out in Subparagraph (2) of this Rule.
 - (B) Each day of continuing violation after written notification from the Director shall be considered a separate offense.
 - (C) In determining the amount of the penalty, the Director shall consider, but is not limited to, the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements.
 - (D) The Director may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. The assessment may be appealed to the Forsyth County Environmental Affairs Board in accordance with Rule .0205 of this Subchapter. If the person assessed fails to pay the amount of the assessment to the Forsyth County General Fund within 30 days after receipt of notice, or

such longer period, not to exceed 180 days, as the Director may specify, the Director may institute a civil action in the Superior Court of Forsyth County to recover the amount of the assessment.

- (2) **Criminal Penalties.** -
- (A) Any person who willfully or negligently violates any classification, standard or limitation established pursuant to this Chapter; any term, condition or requirement of a permit or of a Special Order or other appropriate document or any regulation of the Board of Commissioners implementing any of this Chapter; shall be guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000.00) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars (\$200,000.00) for each period of thirty (30) days during which a violation continues, or imprisonment not to exceed six (6) months, or by both.
 - (B) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this Chapter, or who falsifies, tampers with or knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under the provisions of this Chapter, shall be guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars (\$10,000.00) or by imprisonment not to exceed six (6) months, or both.
 - (C) Any person convicted of an offense under this subsection following a previous conviction thereunder shall be subject to a fine or imprisonment, or both, not exceeding twice the amount of the fine, or twice the term of imprisonment provided above, under which the second or subsequent conviction occurs. (Ord. of 1-24-72, §25.01; Ord. of 9-17-73; Ord. No. 8-77, §§1, 2, 8-1-77; Ord. No. 3-88, 2-22-88; Ord. No. 7-90, 6-11-90; Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94, 9-14-98)

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Section .0107 Civil Relief for Violations of Chapter

The Director may, on behalf of the County, institute civil actions for injunctive or other relief to restrain any violation or threatened violation of this Chapter. Whenever the County Environmental Affairs Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Chapter, the Department, either before or after the institution of any other action or proceeding authorized by this Chapter, may request the County Attorney to institute a civil action for injunctive relief to restrain the violation or threatened violation and for such other and further relief on the premises as the court shall deem proper. Upon a determination by the court that the alleged violation of the provisions of this Chapter has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this Chapter. (Ord. of 1-24-72, §25.02; Ord. of 9-17-73; Ord. No. 5-85, 5-13-85; Ord. No. 9-94, 12-19-94)

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Section .0108 Chapter does not Prohibit Private Actions for Relief

Nothing contained in this Chapter shall be construed as intended to prohibit any private right of action for damages, injunctive relief, or other appropriate relief by any person who has suffered, or is exposed to the immediate threat of damage or injury by reason of the violation or threatened violation of this Chapter or by reason of the emission into the atmosphere of air contaminants in sufficient quantities as to constitute a nuisance. (Ord. of 1-24-72, §27.01; Ord. No. 9-94, 12-19-94)

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Section .0109 Judicial Review of Administrative Decisions Rendered Under Chapter

Any final administrative decision rendered pursuant to the standards and regulations contained in this Chapter shall be subject to judicial review as provided by Chapter 150B of the North Carolina General Statutes. (Ord. of 1-24-72, §26.00; Ord. No. 4-93, 10-11-93; Ord. No. 9-94, 12-19-94)

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Section .0111 Copies of Referenced Federal Regulations

Copies of applicable Code of Federal Regulations referred to in this Chapter are available for public inspection at the Forsyth County Environmental Affairs Department located at 537 North Spruce Street, Winston-Salem, N.C., 27101. (Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94)

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