CASWELL COUNTY ORDINANCE
EXTENDING THE MORATORIUM
ON POLLUTING INDUSTRY DEVELOPMENT WITHIN
CASWELL COUNTY, NORTH CAROLINA

Section I. Jurisdiction

This Ordinance shall apply to the following Townships in Caswell County except for those areas located in any of the named Townships included in incorporated municipalities exercising their own land use planning functions and their extra-territorial jurisdictions, and except for those areas already subject to County zoning regulations in the vicinity of Hyco Lake: Yanceyville Township, Anderson Township, Hightowers Township, and Leasburg Township (collectively the "Applicable Townships").

Section II. Purpose

The purpose of this Ordinance is to extend the existing moratorium to allow the Caswell County Board of County Commissioners additional time to develop and consider zoning regulations and zoning maps to limit where Polluting Industry Development and other types of development may occur within the Applicable Townships.

For purposes of this Ordinance, "Polluting Industry Development" includes any land use or industry regulated by Article III, Chapter 14, of the Caswell County, North Carolina Code of Ordinances.

Section III. Factual Findings

WHEREAS, the Caswell County Board of County Commissioners, based on its own research and information and views expressed by the residents of Caswell County, makes the following findings of fact with respect to conditions necessitating an extension of the moratorium on Polluting Industry Development activities in Caswell County:

1. Recent industrial activity has revealed significant concerns regarding the location of Polluting Industry Development within Caswell County; and

2. Polluting Industry Development is a source of significant environmental, community, and human health impacts, the full extent of which the current County regulations and ordinances do not consider in a comprehensive manner; and

3. Caswell County's abundant resources, infrastructure, desirable location in the U.S. southeast corridor, and limited existing land development regulations, make it a natural choice for business and industry; and

4. As a result of the foregoing findings of fact, the Caswell County Board of Commissioners enacted a one (1) year Moratorium on Polluting Industry Development within Caswell County on January 6, 2020; and

5. During the initial one (1) year period, the County:

a. Enacted a High Impact Development Ordinance ("HIDO") establishing certain criteria relating to high impact development and associated land uses; and
b. Sought approval for North Carolina Session Law 2020-22 authorizing the Caswell County Board of Commissioners to conduct an advisory referendum on the adoption of a countywide zoning ordinance (the "Advisory Referendum"); and
c. Conducted the Advisory Referend on November 3, 2020; and
d. Held four (4) community meetings on zoning, eight (8) meetings of the committee drafting the HIDO, conducted three (3) special Board meetings on land use issues related to the moratorium, and discussed issues related to the moratorium at eleven (11) regular Board meetings; and

6. The County as able to accomplish the foregoing efforts notwithstanding the significant disruption of day-to-day operations brought about by the global COVID-19 pandemic; and

7. Based on the results of the Advisory Referendum, a majority of residents in the Applicable Townships voted in favor of countywide zoning; and

8. The County does not intend to develop countywide zoning, but it does intend to consider implementing zoning regulations in the Applicable Townships; and

9. The Caswell County Board of Commissioners needs additional period of six (6) months to prepare and consider a zoning ordinance for the Applicable Townships given the results of the Advisory Referendum and the delay of the County's ongoing development regulation implementation due to the COVID-19 pandemic.

Section IV. Alternative Courses of Action Considered

The Caswell County Board of County Commissioners considered the following alternatives to a moratorium extension and determined that the following enumerated alternatives were inadequate:

1. The Board considered enacting, and did enact, the HIDO. However, the HIDO does not specifically regulate what uses can be located within a particular area if the standards of the HIDO are met. Areas within the Applicable Townships remain vulnerable to problematic Polluting Industry Development despite the enactment of the HIDO.

2. The Board considered implementing countywide zoning. However, due to the results of the Advisory Referendum, the Board elected not to pursue countywide zoning regulations.

Section V. Legal Authority

This Ordinance is enacted pursuant to (1) NORTH CAROLINA GENERAL STATUTE SECTION 153A-121 and , which grants Caswell County general ordinance making power; (2) NORTH CAROLINA GENERAL STATUTE SECTION 153A-123, which grants Caswell County authority to enforce its ordinances; (3) NORTH CAROLINA GENERAL STATUTE

SECTIONS 153A-340 and 160D-107, which grants Caswell County the authority to adopt zoning and development regulation ordinances to promote health, safety, morals, or the general welfare, including authority to adopt temporary moratoria.

Section VI. Establishment of Moratorium Extension

There is hereby established a six (6) month moratorium extension beginning on the expiration of the current one (1) year moratorium (January 6, 2020) on any approval required by Caswell County for any Polluting Industry Development in the Applicable Townships. It shall be unlawful and a violation of this Ordinance for any person within the jurisdiction to which this Ordinance applies to engage in Polluting Industry Development activities that require a Caswell County development permit or approval or a state or federal air or water quality permit or approval. The Caswell County Board of County Commissioners will use this six (6) month extended moratorium period to develop and consider a zoning ordinance for the Applicable Townships. A moratorium on approvals required by Caswell County for any Polluting Industry Development in the Applicable Townships will prevent the location of Polluting Industry Development in places where it may be prohibited by a future zoning ordinance.

The Caswell County Board of Commissioners recently directed County staff to prepare a zoning ordinance and zoning map for the Applicable Townships. County staff will expend significant time on research and preparation of a zoning ordinance and maps. Caswell County may hire experts, meeting facilitators, and/or other professionals throughout the process. It is anticipated that multiple public hearings, community meetings, and works sessions will be scheduled and held by the Caswell County Planning Board and/or the Caswell County Board of Commissioners during the moratorium extension period once a draft zoning ordinance and map are prepared. The six (6) month moratorium extension period is reasonable given the time it takes to develop a zoning ordinance, conduct required public hearings, allow for planning board reviews, and otherwise enact a zoning ordinance in North Carolina. Developing zoning maps and implementing zoning districts within the Applicable Townships will require significant and concerted effort of the single County employee in the Caswell County Planning Department and other County staff.

Section VII. Development Approvals Not Subject to the Moratorium

Absent an imminent threat to public health or safety, this Ordinance shall not apply to any project for which a valid building permit issued pursuant to G.S. 153A-357 or G.S. 160D-1108 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160D-108, to development for which substantial expenditures have already been made in good faith reliance on a prior valid development approval or administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the county prior to the call for public hearing to adopt the moratorium extension.

Section VIII. Enforcement and Penalties

1. This Ordinance may be enforced by any legal or equitable remedies available,

including, but not limited to, injunctive relief.

2. Any person engaging in Polluting Industry Development activities in violation of this Ordinance shall be guilty of a misdemeanor pursuant to NORTH CAROLINA GENERAL STATUTES § 14-4, and shall be subject to a fine of $2,000 per offense or the maximum amount permitted by North Carolina law if specifically prescribed Each day that a person continues to violate this Ordinance after receiving notice of violation shall be considered a separate offense.

Section IX. Moratorium Extension Expiration

This Moratorium, as extended, shall expire on July 6, 2021.

Section X. Severability

If any portion of this Ordinance is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Section XI. Effective Date

This Ordinance shall be in full force and effect from and after adoption. Adopted the 4th day of January, 2021.

CASWELL COUNTY BOARD OF COMMISSIONERS

BY:

David Owen, Chair

ATTESTED BY:

Paula Seamster, Clerk to the Board

[COUNTY SEAL]