

**CASWELL COUNTY ORDINANCE
ESTABLISHING A ONE YEAR MORATORIUM
ON POLLUTING INDUSTRY DEVELOPMENT WITHIN
CASWELL COUNTY, NORTH CAROLINA**

Section 1. Jurisdiction

This Ordinance shall apply to all of Caswell County except for those areas included in incorporated municipalities exercising their own land use planning functions and their extra-territorial jurisdictions.

Section 2. Purpose

The purpose of this Ordinance is to establish a moratorium to allow the Caswell County Board of County Commissioners time to:

1. Protect the health of the citizens of Caswell County against potential adverse health effects from harmful emissions, noise, and contamination of both water and air; protect the public safety of the citizens against potential failure of containing and controlling of fires and explosions and increased traffic and damage to roadways; to protect the environment of Caswell County against air and water pollution, thereby protecting streams, tributaries and groundwater supplies; protect and retain local wildlife species including local marine life and protect a local non-profit community zoo from various environmental and aesthetic effects of such industries; protect and preserve local farm lands from potential contamination; preserve the aesthetics of the rural, peaceful and residential lifestyle of the citizens of Caswell County including promoting the peace and safety of local places of worship, cemeteries, historic properties, independent businesses, and institutions of public education; promote the rural population growth of Caswell County, appropriate economic development and protect the general welfare and property values of the citizens of Caswell County;
2. Receive information and conduct significant research regarding the potential impact of development activities within the County whose operation is restricted by state or federal permits relating to air or water quality regulations, not including development activities pertaining to animal confinement facilities, or which are currently subject to any provision of the County's Environmental Impact Ordinance (hereinafter "Polluting Industry Development") on Caswell County's infrastructure, natural resources, and on the health and safety of the residents of Caswell County;
3. Determine the adequacy of existing state and federal laws and regulations applicable to Polluting Industry Development activities;
4. Develop and evaluate potential standards and conditions to be implemented in the Caswell County Unified Development Ordinance and Environmental Impact Ordinance to address any impacts of Polluting Industry Development that are not adequately addressed by applicable state and federal regulations; and

5. Develop and evaluate potential zoning regulations and zoning maps to limit where Polluting Industry Development may occur.
6. For purposes of this Ordinance, "Polluting Industry Development" includes, but is not limited to fuel bulk storage, ready-mix concrete suppliers, medical waste incinerators, paper mills, nuclear waste storage facilities inert debris landfills, mining/resource extraction facilities, chemical manufacturing, waste facilities, hard mining/resource extraction/quarrying, asphalt plants, fossil fuel generating facilities, cement manufacturing, and metal recycling processing facilities.

Section 3. 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 a moratorium on Polluting Industry Development activities in Caswell County:

1. Recent industrial activity has revealed confusion and misunderstandings over County development regulations; 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. Existing County ordinances and regulations and North Carolina statutes and regulations may not adequately protect the health and welfare of the residents of Caswell County; and also may not adequately protect the environment and natural resources within Caswell County; and
5. The Caswell County Board of Commissioners needs additional time to study the impact of Polluting Industry Development activities in other counties across North Carolina, and to determine the adequacy of existing state and federal laws and regulations; and
6. The Caswell County Board of Commissioners needs additional time to study the potential impact of Polluting Industry Development activities on Caswell County's infrastructure, natural resources, and health and safety of the residents of Caswell County; and
7. The Caswell County Board of Commissioners needs additional time to revise and update the county's existing Unified Development Ordinance, Environmental Impact Ordinance, and potentially enact zoning districts regulating uses of property in some or all areas of the County not currently located within zoning districts, to protect the health and safety of the residents of Caswell County as well as protect the

environment and natural resources of Caswell County; and

8. Due to above-mentioned issues involved in Polluting Industry Development, the Caswell County Board of Commissioners needs a moratorium of one (1) year within which to develop standards and safeguards to protect the health and safety of the residents of Caswell County, protect the environment and natural resources of Caswell County.

Section 4. Alternative Courses of Action Considered

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

1. The Board considered taking no action and letting the existing county regulations together with federal and state regulations regulate potential Polluting Industry Development in Caswell County. This was not considered to be a viable alternative because the current county regulations do not sufficiently address the potential problems presented by Polluting Industry Development. Also, the Board did not feel that existing state and federal regulations address the problems that Polluting Industry Development could present to a largely agricultural county such as Caswell County.
2. The Board also considered immediately creating zoning districts in a single township currently experiencing the most significant pressures from Polluting Industry Development; however, the Board determined that without further study and research, this would be premature and could result in standards that are inadequate to regulate or mitigate the impacts of Polluting Industry Development on a County wide basis. The Board determined that it needed more time to determine what conditions are necessary and reasonable to protect the County.

Section 5. Legal Authority

This Ordinance is enacted pursuant to (1) NORTH CAROLINA GENERAL STATUTE SECTION 153A-121, 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 SECTION 153A-340, 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 6. Establishment of Moratorium

There is hereby established a one (1) year moratorium on any approval required by Caswell County for any Polluting Industry Development. 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 one (1) year moratorium period to study the impacts of Polluting Industry Development activities in other counties and develop a plan to

regulate and mitigate impacts from these activities that are not adequately addressed by state and federal laws and regulations, the existing Caswell County Unified Development Ordinance, Environmental Impact Ordinance, and other ordinances, giving consideration to the health and safety of the citizens of Caswell County, and the protection of the environment and natural resources, and in particular the rivers and groundwater resources of Caswell County.

Caswell County will revise its exiting development standards and consider implementing one or more zoning districts in all or parts of the County during the regular scheduled meetings of the Caswell County Planning Board and during at least one of the regularly scheduled Board of County Commissioners meeting each month in from February 2020-January 2021. 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. Additionally, county staff will expend significant time on research and preparation of draft rules, ordinances, and maps. Caswell County may hire experts, meeting facilitators, and/or other professionals throughout the process of revising the rules relating to Polluting Industry Development. In the event that these steps require more time, Caswell County may extend the moratorium as allowed by G.S. 153A-340. The one (1) year moratorium period is reasonable given the fact the County has only limited regulation over Polluting Industry Development currently and researching potential development regulations, developing zoning maps and implementing zoning districts within Caswell County will require significant and concerted effort of the single County employee in the Caswell County Planning Department and other County staff. In addition, the one (1) year moratorium period is reasonable given the statutory requirements for implementing zoning districts, including, but not limited to, public notices, public hearings, and Planning Department reviews.

Section 7. Development Approvals 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 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, to development for which substantial expenditures have already been made in good faith reliance on a prior valid 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.

Section 8. 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 9. Moratorium Expiration

This Moratorium shall expire one (1) year from the date of adoption of this Ordinance.

Section 10. 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.

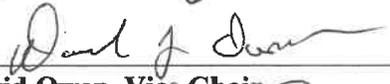
Section 11. Effective Date

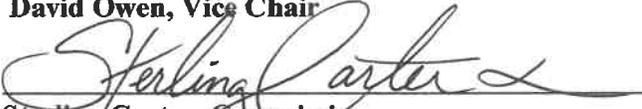
This Ordinance shall be in full force and effect from and after adoption. Adopted the 6th day of January, 2020.

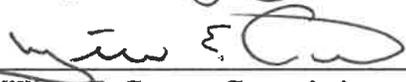
CASWELL COUNTY BOARD OF COMMISSIONERS

BY:


Rick McVey, Chair


David Owen, Vice Chair


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Nathaniel Hall, Commissioner


Jeremiah Jefferies, Commissioner


Steve Oestreicher, Commissioner

ATTESTED BY:


Paula P. Seamster,
Clerk to the Board

