

**ORDINANCE OF THE
CHATHAM COUNTY BOARD OF COMMISSIONERS
EXTENDING A TEMPORARY MORATORIUM ON OIL
AND GAS DEVELOPMENT ACTIVITIES
WITHIN CHATHAM COUNTY, NORTH CAROLINA**

WHEREAS, the Chatham County Board of Commissioners at its July 17, 2017 regular meeting, in order to provide all interested persons a full and ample opportunity to express their views on the question of whether the Ordinance of the Chatham County Board of Commissioners Instituting a Temporary Moratorium on Oil and Gas Development Activities Within Chatham County, North Carolina adopted August 17, 2015 (the “Ordinance”) should be extended for twelve (12) months, after due advertisement as by law required, conducted a public hearing for the purpose of hearing the views of the public, gathering information, and taking appropriate action pursuant to authority conferred in Article 18, Chapter 153A of the North Carolina General Statutes, the Chatham County Moratorium Ordinance, and other relevant law regarding the imposition and extension of a moratorium on oil and gas development activities in Chatham County; and

WHEREAS, the Board of Commissioners of Chatham County has considered certain actions as stated in the Ordinance to address the problems or conditions set forth above and continues to find them inadequate; and

WHEREAS, the County has taken all reasonable and feasible steps proposed to be taken in the Ordinance to address the problems or conditions leading to imposition of the moratorium, and has found new facts and conditions that warrant the extension, and has determined that further study is necessary because hydraulic fracturing (fracking) is a relatively new method of extracting subsurface oil and gas and its impacts in locations where it is taking place are still unclear, therefore the County staff is not sufficiently informed as to the potential dangers to the public of this method and how to best regulate the same within the limited authority granted to local governments by the North Carolina General Assembly; and

WHEREAS, the Board of Commissioners, based on its own research and information gathering, a Natural Gas Development Impacts Study in Chatham County (the “Study”) prepared by Charles Yuill (the “Consultant”), and the views expressed at the public hearing, has determined that more information and study is needed with respect to the problems and conditions set out in the Ordinance necessitating a moratorium and particularly with respect to the following issues raised by new facts and conditions:

(1) The socio-economic impacts of oil and gas development in other States are still unfolding and not yet clear.

(2) New approaches and technologies for treating and disposing of waste water are being developed. The impacts of improper disposal are potentially very damaging and proper treatment and recycling, where possible, rather than disposal should be further studied.

(3) Vertical drilling rather than horizontal drilling is likely due to shallow location of gas reserves in Chatham County and the impacts and safety of such drilling require further study

particularly for the shallow gas reserves in proximity to Jordan Lake, the primary water supply for approximately one million people.

(4) The air quality impacts from methane are potentially serious. Further study of available methods for capturing methane is necessary; and

WHEREAS, the County has determined that a twelve (12) month extension of the moratorium on oil and gas development will provide the County an opportunity to expand and complete the Study to include more recent information regarding potential oil and gas development impacts in Chatham County and to more effectively update its current land use ordinances without being required to approve such development under its current, inadequate ordinances; and

WHEREAS, the Board of Commissioners of Chatham County has determined that the extension of the moratorium imposed by the Ordinance shall terminate on August 16, 2018 and that the duration of the extension imposed is reasonable because that is the minimum period of time that it will take to address the problems caused by oil and gas activities. The only reasonable alternatives to imposing this moratorium are (i) adopting a hastily prepared ordinance that may exceed the County's regulatory authority, or (ii) allowing oil and gas activities without providing the citizens of the County the necessary land development guidance and review tools required to protect the public health and safety; and

WHEREAS, it is the expressed intent of the Board of Commissioners to lift the moratorium as soon as possible and to that end it will instruct all consultants, boards, and committees working on the problems and conditions necessitating the moratorium to complete their work as soon as reasonably possible so that the required ordinance or ordinances will be in place and oil and gas development can resume at the earliest possible time, but with the proper safeguards in place to protect the citizens, residents, and property owners of Chatham County;

NOW, THEREFORE, be it ordained by the Chatham County Board of Commissioners:

Section 1. Recitals Incorporated by Reference. The above and foregoing recitals are incorporated in the Ordinance by reference.

Section 2. Authority. This Ordinance is enacted pursuant to (1) the General Statutes of the State of North Carolina, Section 153A-121, which grants Chatham County general ordinance-making power; (2) General Statute, Section 153A-123, which grants Chatham County the authority to enforce its ordinances; (3) General Statute, Section 153A-340, which grants Chatham County the authority to adopt zoning and development regulation ordinances to promote health, safety, morals, or the general welfare, including the authority to adopt and extend temporary moratoria; (4) General Statute, Section 113-415.1, which addresses the County's ordinance-making powers related to oil and gas development; and (5) the Chatham County Moratorium Ordinance.

Section 3. Definitions. The words and phrases defined in this Section shall have the same meaning as in the Ordinance.

Section 4. Jurisdiction. This ordinance shall apply to all of Chatham County except for those areas included within incorporated municipalities and their extraterritorial jurisdictions.

Section 5. Purpose. The purpose of the extension of the moratorium is to allow the Chatham County Board of Commissioners time to expand and complete the study of the Mining and Energy Commission's regulations and other state and federal regulations applicable to oil and gas development to determine whether such regulations adequately protect the County and its citizens from the impacts of hydraulic fracturing and other oil and gas development activities, and to develop standards and conditions to be implemented through a conditional use permit or other appropriate mechanisms to address any impacts that are not adequately addressed by applicable state and federal regulations.

Section 6. Imposition of Moratorium on the Oil and Gas Development Activities. There is hereby established as of the effective date hereof a twelve (12) month moratorium on any County approval required by law for oil and gas development activities. It shall be unlawful and a violation of this Ordinance for any person within the jurisdiction to which this Ordinance applies to engage in oil or gas development activities that require a County permit. The Board will use this twelve (12) month moratorium period to expand and complete the study of the impacts of oil and gas development activities in other states and develop a plan to regulate and mitigate impacts from these activities that are not addressed adequately by State and federal regulatory programs, the existing County Zoning Ordinance, and other ordinances, giving consideration to the particular natural and man-made environment of Chatham County.

Section 7. Action and Schedule.

(a) Studies. The Board of Commissioners will extend the contract with its Consultant or other consultants to complete the study regarding fracking and other oil and gas development activities and their impacts on the natural, man-made, and social environments and its economic benefits and costs. The consultant(s) will be tasked to further study Chatham County and to analyze state and federal regulatory programs and to prepare a report for the Board regarding the full range of expected impacts on Chatham County, including financial impacts. The study will include the most current analysis of impacts in localities similar to Chatham County in other states and the effectiveness of local ordinances in managing those impacts. This study and report should be completed within the first six months of the extended moratorium and will include the Consultant's conclusions as to whether additional time is needed for thorough study.

(b) Development of Conditional Use Ordinance. Upon completion of the Study and report, the Board intends to develop a draft conditional use ordinance and/or other ordinances based on the report and the Consultant's advice which will be coordinated with the revisions to the County's comprehensive zoning ordinance. The draft ordinance will be made available for public review and comment and at least one public hearing will be held. Based on public comments the Board will finalize the ordinance and initiate the adoption procedure. Development of the ordinance and final approval is estimated to take six (6) months.

Section 8. Enforcement and Penalties.

(a) This Ordinance may be enforced by any legal or equitable remedies available, including, but not limited to injunctive relief. The County Manager shall have the authority to direct the County Attorney, or any such other legal counsel as may be employed, to take appropriate legal action to address any violation of this Ordinance.

(b) Penalties. Any person engaging in oil and gas development activities in violation of the Ordinance shall be guilty of a misdemeanor pursuant to North Carolina General Statute, Section 14-4 and shall be subject to a fine of \$500 per offense. Each day that such person continues to violate this section after receiving notice from the County Manager, his agents, or any law enforcement officer of Chatham County, that this Ordinance has been violated shall be considered a separate and distinct offense.

Section 9. Moratorium Expiration. The moratorium established by this Ordinance shall expire upon the earliest of (a) enactment of a comprehensive land use plan and/or a permitting process by the County establishing standards and conditions to address any impacts of oil and gas development activity, or (b) twelve (12) months from the date this Ordinance is adopted; provided that if at the end of the 12 month period the Board determines based on advice of its consultants that more time is needed to develop an effective ordinance, or if material changes have been made to state or federal regulatory programs so as to require additional study, the Board may extend this moratorium for such additional time as is necessary.

Section 10. Limitation on Moratorium. This moratorium shall not apply to the following:

(a) Any development determined to be vested pursuant to N.C. Gen. Stat. §153A-344.1

(b) Any development for which substantial expenditures have already been made in good faith reliance on valid administrative approval.

Section 11. Severability. If any portion of this Ordinance is deemed unconstitutional or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Section 12. Effective Date. This Ordinance shall be in full force and effect from and after adoption.

ADOPTED THIS THE ___ DAY OF AUGUST, 2017 BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS.

James G. Crawford, Chairman
Chatham County Board of Commissioners