

**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 June 18, 2018 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 six (6) 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 time is needed to consider those facts and any new facts because hydraulic fracturing (fracking) is a still relatively new method of extracting subsurface oil and gas and its impacts in locations where it is taking place are major and not fully clear, 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 assessing the adequacy of state regulations to regulate oil and gas activities in view of the following facts and conditions:

- (1) The socio-economic impacts of oil and gas development in other States remain unclear but are of great concern.
- (2) The impacts of improper wastewater disposal are potentially very damaging and better methods of treatment and recycling, where possible, should be further studied and developed.

(3) The likelihood of vertical drilling rather than horizontal drilling in Chatham County due to shallow location of gas reserves should be studied and better understood, particularly whether it should be allowed in proximity to Jordan Lake, the primary water supply for approximately one million people.

(4) Studies show the air quality impacts from methane are potentially more serious than formerly thought and further study of available methods for capturing methane is necessary; and

WHEREAS, the County has determined that a six (6) month extension of the moratorium on oil and gas development will provide the County an opportunity to complete analysis of the Study and more recent information regarding potential oil and gas development impacts in Chatham County and to more effectively develop amendments to its general 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 January 31, 2019 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 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 six (6) 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 six (6) month moratorium period to determine and adopt amendments to the existing County Zoning Ordinance, and other ordinances, giving consideration to potential impacts of those activities to the particular natural and man-made environment of Chatham County.

Section 7. Action and Schedule.

(a) Studies. The Board of Commissioners will consult with its Consultant or other consultants as necessary to complete studying 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 work with the County's attorneys and staff to review local ordinances in other states and determine the best approach to regulating oil and gas activities through its generally applicable land use and zoning ordinance.

(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 generally applicable land-use ordinances based on the report and the Consultant's and attorneys' advice which will regulate oil and gas activity impacts consistently with State regulations. The draft ordinance was made available for public review and comment and a public hearing held. Based on public comments the Board will finalize and adopt the ordinance. 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) six (6) months from the date this Ordinance is adopted; provided that if at the end of the 6 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 _____, 2018 BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS.

_____, Chairman
Chatham County Board of Commissioners