

ARTICLE 17. MORATORIA

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17.1. PURPOSE OF MORATORIA

From time to time, the Town of Fairmont may find it necessary to place a temporary hold on the issuance of development permits. This can be done while the land use regulations are being discussed and revised, to pause development while sufficient drinking water and wastewater capacities are developed to support future growth, and for other related reasons. NCGS 160D-107 allows temporary development moratoria on “any development approval required by law.” This includes all zoning permits, land-subdivision plats, building permits, sign permits, and any other approvals required prior to development.

17.2. AUTHORITY

The Town may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or ordinances as to development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

Statutory Reference – N.C.G.S. Chapter 160D-107(a)

17.2. HEARING REQUIRED

Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance, a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public legislative hearing and shall publish a notice of the hearing in a

newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-6-1.60.

Statutory Reference - N.C.G.S. Chapter 160D-107(b)

17.3. EXEMPT PROJECTS

Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160D-11-1461 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted as complete, to development set forth in a site-specific or phased development vesting plan approved pursuant to G.S. 160D-1-14, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or development approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-1-14(b) shall be applicable when permit processing resumes.

Statutory Reference - N.C.G.S. Chapter 160D-107(c)

17.4. REQUIRED STATEMENTS

Any ordinance development regulation establishing a development moratorium must expressly include at the time of adoption each of the following:

- A. A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.
- B. A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- C. An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- D. A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

Statutory Reference - N.C.G.S. Chapter 160D-107(d)

17.5. LIMITS ON RENEWAL OR EXTENSION

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this Section, including what new facts or conditions warrant the extension.

Statutory Reference - N.C.G.S. Chapter 160D-107(e)

17.6. EXPEDITED JUDICIAL REVIEW

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down scheduled for expedited immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such actions, the Town shall have the burden of showing compliance with the procedural requirements of this Section.

Statutory Reference - N.C.G.S. Chapter 160D-107(f)