

ORDINANCE NO. 54
ENVIRONMENTAL IMPACT ORDINANCE

Sec. 54-1. Purpose; intent.

(a) Pursuant to the North Carolina Environmental Policy Act, G.S. 113A-1 et seq., the board of commissioners adopts this ordinance establishing a county policy to:

- (1) Encourage the wise and productive use of the county's natural resources;
 - (2) Encourage a public and governmental awareness of the environment and of the consequences of development which affect it;
 - (3) Require that a full disclosure be made as to the anticipated effect of proposed development on the resources of the county; and
 - (4) Permit and facilitate full enforcement of all ordinances and regulations concerning the environment in an efficient, coordinated and comprehensive manner.
- (b) The intent of this ordinance is to provide a mechanism for full disclosure of anticipated impacts of developments and to make such information publicly available so that citizens of the county may have input into developmental issues before they become moot. More specifically, it is the intent of this ordinance to require the preparation and evaluation of environmental impact documents for projects that either require certain state permits or require a local land use permit for development within environmentally sensitive areas, as provided in section 55-3.

Sec. 54-2. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Completed EA means an environmental assessment that has been accepted by the county planning department as technically acceptable for purposes of this ordinance.

Completed EIS means an environmental impact statement that has been accepted by the county planning department as technically acceptable for the purpose of being transmitted to the state clearinghouse or for being reviewed for adequacy by the county planning department.

County planning department and planning department mean the Caswell County Planning Department.

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EA means an environmental assessment.

EIS means an environmental impact statement.

Environmental document means an EA, EIS or FONSI, or all of them.

FONSI means a finding of no significant environmental impact.

Land use permit means a zoning permit or subdivision approval, building permit, site plan, or special use permit.

Major development project includes but is not limited to shopping centers and industrial and commercial projects, but shall not include any projects of less than three contiguous acres in extent.

Public water supply means a water supply system that serves a city or town that has a population in excess of 750 or that is designed to treat or convey more than 750,000 gallons per day.

Special purpose unit of government includes any special district or public authority.

State agency includes every department, agency, institution, public authority, board, commission, bureau, division, council, member of council of state, or officer of the state government.

State clearinghouse means the clearinghouse agency established by the North Carolina Department of Administration under the North Carolina Environmental Policy Act, G.S. 113A-1 et seq.

Water quality critical area means land draining directly to existing or future water supply impoundments or streams above a water supply intake and within 2500 feet of the intake by overland flow and interflow, called shorelands, and draining into the main channels of trunk streams emptying into the impoundments, called nonbasin drainage areas, or as otherwise described in the Caswell County Watershed Protection Ordinance.

Water supply watershed means land draining to existing reservoirs which serve as public water supplies for the county, or to potential reservoir sites which have been designated for protection against threats to the water quality of future water supplies.

Sec. 54-3. Applicability.

(a) **Exemptions.** The following projects are exempt from the provisions of this ordinance, and no environmental documentation is required:

- (1) Any project involving a total area of three acres or less.
- (2) Routine repairs and housekeeping projects.
- (3) Routine grounds maintenance and landscaping.
- (4) Bona fide farming operations, not including sludge disposal.
- (5) Single-family residential development.
- (6) Any project located outside of the county planning jurisdiction, including transition areas subject to development regulations of any town within the county.

(b) **Environmental assessment.** The EA shall consist of a document supplied by the planning department to address issues of environmental concern to the county, and completed by the applicant. The EA is required for nonexempt projects that:

- (1) Qualify as a small or large generator of hazardous waste as defined by the state department of human resources (hazardous waste branch of solid waste management section);
- (2) Involves as an integral part of the operation of a commercial or industrial activity more than 10,000 gallons per day of water usage, exclusive of domestic water (25 gpd per employee), and water used for climate control (air conditioning and heating);
- (3) Require grading in excess of 88,000 square feet, exclusive of roads, for nonresidential or attached residential development;
- (4) Require grading in excess of 88,000 square feet, exclusive of roads, for nonresidential components of residential development (golf courses, recreation facilities, and the like);
- (5) Require any of the following environmental permits:
 - a. A mining permit pursuant to the North Carolina Mining Act, G.S. 74-46 et seq.;

- b. A state NPDES (National Pollutant Discharge Elimination System) permit, as administered by the state division of environmental management;
- c. A nondischarge permit for a land application waste disposal system;
- d. A permit for a sludge disposal site;

(6) Require environmental documentation by a state or federal agency;

(7) Are located within the water quality critical area of the water supply watershed, as defined in the land use component of the county comprehensive plan; and/or

(8) Contain lands with slopes in excess of 25 percent outside of drainage easements or stream buffers, as determined by USGS topographic maps, at a contour interval of ten feet.

(9) Requires an interbasin transfer certificate for more than 1,000,000 gallons per day.

(c) Environmental impact statement. For projects that require submittal of an EA, an EIS will also be required if the project has a significant environmental impact. A project has a significant environmental impact when it:

- (1) Involves surface or subsurface extraction activity requiring a mining permit from the state department of natural resources;
- (2) Involves long-term storage or disposal of hazardous wastes;
- (3) Requires an EIS by a federal or state agency; and/or
- (4) Involves a land surface application wastewater treatment system, within the water quality critical area of water supply watersheds as defined by the comprehensive land use plan.
- (5) Requires an interbasin transfer certificate for more than 1,000,000 gallons per day.

The county reserves the right to require preparation of an EIS for projects other than those meeting the criteria in (1) through (4). The County may require preparation of an EIS pursuant to this subsection (c), notwithstanding a FONSI on the part of federal or state agencies.

Sec. 54-4. Review of environmental documents.

(a) Review of EA.

(1) The EA may be submitted prior to submittal of the development application to determine if an EIS may be required, provided that:

- a. All information necessary to perform the assessment is provided; and
- b. The project application, when submitted, is consistent with the project described in the assessment.

(2) The planning department and/or Planning Board shall review the EA for completeness within thirty calendar days of the date of submittal. The Board of Commissioners may adopt an application and review fee to be paid at the time the EA or EIS is submitted for review. If the EA is found to be incomplete, it will be returned to the applicant with notification of its deficiencies.

(3) If accepted as complete, the EA will be reviewed by the planning department and will be distributed to other appropriate departments or agencies for their review and comment.

(4) Final action on the EA shall occur within 30 days from the date of acceptance, or such longer time as agreed to in writing by the applicant. If the EA reveals no significant environmental impacts, the planning department shall issue a FONSI.

If significant impacts are identified, the planning department shall issue a finding of significant impact and shall require that an EIS be prepared. The decision of the planning department will be reviewed by the Board of Commissioners upon request of the applicant or planning department.

(5) The applicant shall be notified if the planning staff learns of any additional state or local permits that may be required to conduct the proposed activity.

Likewise, those agencies which may require additional permits shall be notified of the proposed activity and have an opportunity to provide comments.

(b) Review of EIS.

(1) The planning department and/or Planning Board shall review the EIS for completeness within thirty working days of submittal.

If the statement is found to be incomplete, it will be returned to the applicant with notification of its deficiencies.

(2) Upon acceptance of a complete EIS, the applicant shall submit ten copies to the planning department. Additional copies may be required if needed. The EIS will be distributed to other appropriate departments and agencies for review and comment.

A notice shall also be placed in a newspaper of general circulation, stating that the EIS will be available for public review at the planning department for a period of at least 15 days.

If the proposed activity requires a mining permit from the state or involves the storage of hazardous materials, the EIS shall also be sent to the state clearinghouse for distribution and review pursuant to NCAC Title 1, Chapter 25.

If an EIS prepared for a state or federal agency has completed the federal or state environmental review process, including publication in the "Environmental Bulletin," the EIS and any required addendum shall be advertised as available for public review at the planning department, but need not be recirculated through the state clearinghouse.

(3) Upon completion of the advertised 15-day review period, and upon receipt of comments from the state clearinghouse when applicable, all comments will be compiled and summarized by planning staff.

(4) The EIS, along with all comments received during the review period, shall be presented for public hearing concurrently with the development project. If a public hearing before the board of commissioners is not required for approval of the development project, a special hearing may be scheduled. The hearing shall take place no later than 30 days after the close of the public review period or receipt of comments from the state clearinghouse, whichever is later.

(5) The board of commissioners shall receive the EIS and all comments as information only. The information presented may be used only to determine compliance with specific development standards established in applicable development ordinances, including but not limited to the Watershed Protection Ordinance, the Subdivision Ordinance, and the Flood Prevention Ordinance.

(6) No action shall be taken on the development project until after the EIS has been presented to the board of commissioners.

Sec. 54-5. Technical requirements for an EIS.

(a) *Purpose.* The primary purpose of an EIS is to serve as a decision-making tool to ensure that the purposes and policies defined in the North Carolina Environmental Policy Act (G.S. 113A-1 et seq.) are given full consideration in the ongoing programs

and actions of state and local government. It should provide a full and fair discussion of significant environmental impacts and should inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the environment.

(b) *Requirements.* Preparers should use a format for EIS's that will encourage good analysis and clear presentation of all alternatives, including the proposed activity, while minimizing length and complexity. These documents should not exceed 50 pages and should include site location maps.

(c) *Format and content.* An EIS should contain the following:

- (1) *Cover sheet.* A single cover sheet including the following information:
 - a. Designation of the document as a draft, supplementary or final statement.
 - b. Title of the proposed activity that is the subject of the statement.
 - c. List of any involved cooperating entities.
 - d. Name, address and telephone number of the person who can supply further information.

(2) *Summary.* An adequate and accurate summary of the statement stressing the major conclusions, areas of controversy, and issues to be resolved. The summary shall also list all federal, state and local permits, licenses, certifications and other approvals that must be obtained in implementing the proposal. If there is any uncertainty about whether any one of these is necessary, it should be so indicated.

(3) *Document.* A completed EA document.

(4) *Purpose and need.* The underlying purpose and need for the proposed activity.

(5) *Alternatives, including proposed activity.* Based upon information and analysis presented in the following sections on the affected environment and environmental consequences, the environmental impacts of the alternatives, including the proposed activity in comparative form. To the extent possible, the comparison of alternatives should quantify how the purpose and need would be satisfied by each alternative and the proposed activity. It should also:

- a. Explore and evaluate all reasonable alternatives;

- b. Discuss the reasons for the elimination of alternatives from detailed study;
- c. Include appropriate mitigation measures not already included in the alternatives;
- d. Describe the environment of the areas to be affected and the environment to be created by the alternatives under consideration; which description should be no longer than is necessary to understand the effects of the alternatives;
- e. Describe environmental consequences, such as:
 - 1. Direct effects and significance;
 - 2. Indirect effects and significance;
 - 3. Included in the effects discussed in one and two above should be impacts of the following nature:
 - a. land resource impacts
 - b. air quality or resource impacts
 - c. water resource impacts
 - d. biological resource impacts, including loss of wildlife habitat and affected species
 - e. human health impacts
 - f. noise impacts
 - g. traffic impacts
 - 4. Possible conflicts between the proposed activities and the objectives of federal, state and local plans, policies and controls for the affected area;
 - f. List the names and qualifications of the persons who were primarily responsible for preparing the EIS; and
 - g. If an appendix is included in an EIS, meet the following requirements:
 - 1. Consist of materials substantiating any analysis fundamental to the principal document, as distinct from material of lesser significance that may accompany the document or be incorporated by reference;
 - 2. Normally be analytic and relevant to the decision to be made;

3. Shall not be counted in the EIS 50-page limit; and
4. Be circulated with the EIS or be readily available upon request.

Sec. 54-6. Enforcement.

(a) Injunctions and equitable relief Pursuant to the provisions of G.S. 153A-123(d) and (e), the county may seek an injunction or other appropriate equitable remedy against any violation of this ordinance or to require compliance with any provision of this ordinance.

(b) *Effect on other permits and actions.* Construction or installation of any major development project shall not commence until subsequent to the filing of a FONSI or acceptance of the final EIS by the board of commissioners. The EIS shall be presented to the board of commissioners pursuant to public hearing procedures.

ADOPTED THIS THE 21ST DAY OF JANUARY, 2003.

M. O. Battle
M. O. Battle, Chairman
Caswell County Board of Commissioners

ATTEST:

Wanda P. Smith
Wanda P. Smith
Clerk to the Board