



Special Series No. 26

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Development Moratoria: The Law and Practice in North Carolina

David W. Owens

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Development Moratoria: The Law and Practice in North Carolina

Local governments engaged in development regulation are occasionally confronted with complicated or controversial issues that previously have not arisen or been resolved in a community. Can a painted sign be replaced with a bright LED display? Can an Internet sweepstakes/gaming facility open in a vacant store downtown? Should telecommunication towers be allowed in a residential area? Are existing regulations sufficient to manage the impacts of a newly proposed high-intensity industrial or commercial land use?

Situations may arise when there are insufficient public services necessary to support development, such as inadequate water supply or wastewater treatment capacity for new development. In still other instances substantial land use changes may be proposed when a jurisdiction is first embarking on development regulations or when a substantial update of plans or regulations is under way.

It is not uncommon in these situations for the local government to want to take action to prevent harm to the community while these issues are being addressed. But developing a reasoned approach to addressing such issues takes time. There is often a need to study the issue, develop alternative management proposals, secure public review and discussion, allow for advisory board comments and elected officials' deliberation, and complete the procedures required for adoption or amendment of development regulations. Local governments sometimes adopt moratoria on development to preserve the status quo while this process is under way, thereby prevent-

ing a rush to develop under the previous inadequate regulations.

Local governments and the courts have long recognized the planning value of temporary moratoria in certain circumstances. As the U.S. Supreme Court has noted, moratoria "are used widely among land-use planners to preserve the status quo while formulating a more permanent development strategy. In fact, the consensus of the planning community appears to be that moratoria . . . are an essential tool of successful development."¹ Even so, the impact of a moratorium on individual landowners can be significant for at least the duration of the moratorium. Thus it is not surprising that controversy and sometimes litigation follow a decision to apply a development moratorium.

This report examines the law on when and how moratoria on regulatory development approvals can

1. *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 337–38 (2002). Moratoria "have been found to play an important role in municipal planning. They aid in 'bridging the gap between planning and its implementation into legal measures.' They may, as here, be used to preserve the status quo while study of the area and its needs is completed. This moratorium on land use serves a significant public purpose." *Schaefer v. City of New Orleans*, 743 F.2d 1086, 1090 (5th Cir. 1984) (upholding ten-and-one-half-month moratorium on permits for fast food restaurants in a specified neighborhood while study conducted). See generally, Robert Freilich, *Interim Development Controls: Essential Tools for Implementing Flexible Planning and Zoning*, 49 J. URB. LAW. 65 (1971).

be used.² It also sets out how North Carolina cities and counties have used this tool, with a particular focus on the experience following adoption of a state statute on this topic in 2005.

Summary of the Law

Authority and Process Prior to 2005

Prior to 2005 there was no explicit statutory authority in North Carolina to adopt development moratoria. The single exception was adult business siting. When the General Assembly amended the statutes in 1998 to clarify city and county authority to adopt regulations on siting and operation of adult establishments, the statute included explicit authority to adopt moratoria on the opening or expansion of adult businesses while the issue is studied and appropriate regulations deliberated.³

Courts in most other states that addressed the scope of implied statutory authority for development moratoria have held that local governments have implied authority to adopt reasonable moratoria.⁴

2. There are occasionally also utility-related moratoria imposed that do not require a moratorium on development approvals per se. Examples include a prohibition on additional sewer hookups pending upgrades to treatment capacity or holds on allocations of water supply capacity pending system improvements. This report examines only moratoria on development regulation approvals (which are sometimes based on utility infrastructure considerations) but does not address moratoria implemented only through withholding utility allocations.

3. N.C. GEN. STAT. (hereinafter G.S.) § 160A-181.1(d).

4. While a few states have explicit legislative authorization for moratoria, in most states the authority is implied. A recent illustrative case upholding implied authority for moratoria is *Wisconsin Realtors Ass'n, Inc. v. Town of West Point*, 2008 WI App 40, 747 N.W.2d 681 (Wis. Ct. App. 2008). The court held that the town had implied authority for a moratorium on subdivision plat approvals while a comprehensive plan and subdivision ordinance update were under way. See generally DANIEL R. MANDLKER, *LAND USE LAW* § 6.07 (5th ed. 2003); PATRICIA E. SALKIN, *AMERICAN LAW OF ZONING* §§ 6:24, 34:3 (5th ed. 2009); EDWARD H. ZIEGLER, JR., *RATHKOPF'S THE LAW OF ZONING AND PLANNING* § 13.10 (4th ed. 2009). Not all courts have held that there is an implied power for moratoria. See, e.g., *Naylor v. Township of Hellam*, 773 A.2d 770 (Pa. 2001) (no implied power for subdivision plat approval moratorium while comprehensive plan updated). Also, a local moratorium must not exceed the bounds of

It was generally assumed by the courts prior to 2005 that North Carolina local governments had the implied power to adopt reasonably limited moratoria under both their general police power and their zoning authority.⁵ In *PNE AOA Media, LLC v. Jackson County*,⁶ the court held that the county had the authority under the general police power to adopt a moratorium on new billboards. In *Tri-County Paving, Inc. v. Ashe County*,⁷ the court upheld the county's adoption of a one year moratorium on asphalt plants and other "polluting industries."

A question as to which rules of decision were to be applied was addressed in *Robins v. Town of Hillsborough*.⁸ The town in 2003 adopted a moratorium on the location of asphalt plants within the city and its extraterritorial area after the plaintiff had submitted an application for such a plant. Processing of the application was suspended during the moratorium. Prior to expiration of the moratorium, the town amended its ordinances to prohibit the location of asphalt plants throughout the town's jurisdiction. As a result, the town terminated consideration of the application. The key issue on appeal was whether the application should be considered under the rules in effect at the time of application or those in effect after the expiration of the moratorium. The court held that the town ordinance itself mandated a deci-

delegated state authority. See, e.g., *Biggers v. City of Bainbridge Island*, 169 P.3d 14 (Wash. 2007) (city imposition of moratorium inconsistent with state shoreline management law).

5. In *Tate Terrace Realty Investors, Inc. v. Currituck County*, 127 N.C. App. 212, 488 S.E.2d 845, review denied, 347 N.C. 409, 496 S.E.2d 394 (1997), the county denied a special use permit and sketch plan for a 429-lot subdivision on the grounds that the available public school facilities were inadequate to serve the development, essentially imposing a moratorium pending the provision of adequate services. The court upheld the county's action but did not address the validity of the moratorium in its decision. Likewise, in *Kirkpatrick v. Village Council of Pinehurst*, 138 N.C. App. 79, 530 S.E.2d 338 (2000), a case on expansion of a nonconforming campground, the village had adopted a moratorium on commercial building pending an update of comprehensive plan and development ordinance. The court upheld the village's action but again did not expressly address the moratorium.

6. 146 N.C. App. 470, 554 S.E.2d 657 (2001). The county was considering adoption of a sign regulation under its general ordinance-making authority.

7. 281 F.3d 430 (4th Cir. 2002).

8. 361 N.C. 193, 639 S.E.2d 421 (2007).

sion on the application within a reasonable time. Since the town had not made a decision, the court remanded the application for a decision under the rules in effect at the time of application.⁹

Apart from the authority to adopt moratoria, the key legal question in North Carolina prior to 2005 was determining which process a local government was required to follow in adopting a moratorium—the process used for general ordinances or the more involved process mandated for land development regulations.

The cases allowed the general ordinance-making authority¹⁰ to be used to adopt moratoria when unexpected threats to the public health and safety arise, necessitating quick action to prevent harm to public interests while a permanent ordinance is being prepared, debated, and adopted. This authority may also be used when the ultimate regulation to be adopted after the moratorium is to be a general ordinance rather than a zoning ordinance. For example, in *PNE AOA Media*,¹¹ the court held that a moratorium on new billboards while a sign ordinance was being considered was not subject to the notice and hearing requirements applicable to zoning amendments.

However, a different result obtained in *Vulcan Materials Co. v. Iredell County*.¹² The plaintiff applied for building permits associated with a planned quarry in an unzoned portion of the county. The county then adopted a sixty-day moratorium on

building permits while it took steps to extend zoning to this area. The moratorium limited permits to those that would be consistent with the county's land use plan, which had been adopted more than two years before. The moratorium adoption did not follow the public notice and hearing requirements of the zoning statute. The court held that because the building permit system, the county's land use plan, and zoning authorities were essential to this regulatory scheme, it must be adopted in accordance with the notice and hearing requirements for zoning.

The court of appeals subsequently applied the *Vulcan* analysis in other "land use related" contexts. In *Sandy Mush Properties, Inc. v. Rutherford County*,¹³ Rutherford County had no zoning but was considering adoption of the Polluting Industries Development Ordinance under its general ordinance-making power. The county published a single advertisement of a hearing on the proposed ordinance, which would limit new or expanded heavy industries within two thousand feet of a church, school, or residence. At the hearing, the county board of commissioners decided not to adopt the proposed ordinance; instead it adopted a 120-day moratorium on initiation of heavy industries within two thousand feet of a school (and near the end of the moratorium adopted the School Zone Protective Ordinance to make this restriction permanent). Both the moratorium and school protection ordinance

9. This case was subsequently settled with a payment to the applicant and with withdrawal of the application.

10. G.S. 153A-121; 160A-174(a).

11. 146 N.C. App. 470, 554 S.E.2d 657. At the time, the county did not have a zoning ordinance. *See also* *Maynor v. Onslow County*, 127 N.C. App. 102, 488 S.E.2d 289, *appeal dismissed*, 347 N.C. 268, 493 S.E.2d 458, *review denied*, 347 N.C. 400, 496 S.E.2d 385 (1997) (upholding general ordinance-adoption procedures for adult business–location regulations); *Summey Outdoor Adver., Inc. v. County of Henderson*, 96 N.C. App. 533, 386 S.E.2d 439 (1989), *review denied*, 326 N.C. 486, 392 S.E.2d 101 (1990) (upholding general ordinance-adoption procedures for sign regulations). The Georgia court reached a similar conclusion in *City of Roswell v. Outdoor Systems, Inc.*, 549 S.E.2d 90 (Ga. 2001).

12. 103 N.C. App. 779, 407 S.E.2d 283 (1991). Although prevailing in the litigation, the plaintiff allowed its option on the land to expire, and a quarry was not built on the site. The county subsequently adopted countywide zoning.

13. 164 N.C. App. 162, 595 S.E.2d 233 (2004). The plaintiffs had applied for a building permit for a crushed stone quarry on a 180-acre tract within two thousand feet of a school. An initial incomplete application was filed after the public notice on the Polluting Industries Development Ordinance but before the moratorium was adopted. A revised, complete application was filed after the moratorium was adopted but before the School Zone Protective Ordinance was adopted. The application was denied because of the moratorium. In later proceedings this dispute returned to the court of appeals two more times. The court held that the building permit for the quarry office was still valid as construction was tolled during the moratorium and the judicial review of it. However, the vested rights extended only to the office building, as that permit did not purport to authorize the more extensive mining use of the site. On remand to consider in light of the *Robins* decision, the court of appeals affirmed this result. *Sandy Mush Props., Inc. v. Rutherford County*, 181 N.C. App. 224, 638 S.E.2d 557, *remanded by* 361 N.C. 569, 651 S.E.2d 566, *affirmed by* 187 N.C. App. 809, 654 S.E.2d 253 (2007), *review dismissed*, 363 N.C. 577, 681 S.E.2d 339 (2009).

were explicitly adopted pursuant to Section 153A-121 of the North Carolina General Statutes (hereinafter G.S.), the general ordinance-making authority, for which no public hearing is required. However, the court invalidated the moratorium for failure to follow the notice and hearing requirements for land use-related ordinances. The court reasoned that the moratorium was in effect a temporary land use plan that divided the county into two areas—one area in which heavy industry was allowed and a second smaller area near schools where heavy industries were at least temporarily prohibited. This fact, along with the use of the building permit system for its enforcement, led the court to conclude that the moratorium must be adopted following the procedures for land use regulations. Thus the nature of the ordinance and the subjects it regulates, rather than the precise statutory authorization cited by the local government, controlled which process was to be followed for adoption. Likewise, in *Thrash Ltd. Partnership v. County of Buncombe*,¹⁴ the court held that a county ordinance regulating multifamily dwellings that applied differential rules based on the altitude of the proposed location of the dwellings must comply with land use regulation adoption and amendment procedures.

This pre-2005 case law remains relevant for those moratoria not addressed by the statute discussed below. However, given the breadth of that statute's coverage, few development-related moratoria will fall into this category.

Authority and Process after 2005

In 2005 the General Assembly amended the zoning-enabling statutes to explicitly authorize use of development moratoria and to set a number of rules regarding their use.¹⁵

G.S. 153A-340(h) and 160A-381(e) allow temporary development moratoria to be placed on any city or county development approval. While these statutes are located within the zoning-enabling statute, they authorize 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.

Any confusion in the case law regarding which process is to be followed is clarified by these statutes, which provide for the adoption of a moratorium without notice or hearing if there is an imminent threat to public health and safety. Otherwise, a moratorium with a duration of sixty days or less requires a single public hearing with a notice published not less than seven days in advance of the hearing; a moratorium with a duration of more than sixty days (and any extension of a moratorium so that the total duration is more than sixty days) requires a public hearing with the same two published notices required for other land use regulations. The initial notice of the hearing must be published at least ten but not more than twenty-five days prior to the day of the hearing, and the second notice must be published in a separate calendar week.

The moratorium must be adopted as an ordinance by the city or county. The ordinance establishing it must expressly include the following four items:

1. A clear statement of the problems or conditions necessitating the moratorium, what courses of action other than a moratorium were considered by the city or county, and why those alternatives were not deemed adequate.
2. A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems that led to its imposition.
3. An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems that led to its imposition.¹⁶

16. This general requirement is consistent with national case law that the permissible length of a moratorium must be reasonable and is generally considered on a case-by-case basis. *See, e.g.,* *Almquist v. Town of Marshan*, 245 N.W.2d 819 (Minn. 1976) (moratorium valid if adopted in good faith, is not discriminatory, is of limited duration, furthers a legitimate need, and prompt action is initiated to address that need). *See also* *Condor Corp. v. City of St. Paul*, 912 F.2d 215 (8th Cir. 1990); *Schiavone Constr. Co. v. Hackensack Meadowlands Dev. Comm'n*, 486 A.2d 330 (N.J. 1985); *Simpkins v. Gaffney*, 431 S.E.2d 592 (S.C. 1993); *State ex rel. SCA Chem. Waste Serv. v. Konigsberg*, 636 S.W.2d 430 (Tenn. 1982). *See* PATRICIA E. SALKIN, *AMERICAN LAW OF ZONING* § 6:24 (5th ed. 2009) for a collection of state cases assessing reasonableness of mora-

14. ___ N.C. ___ App. , 673 S.E.2d 689 (2009).

15. S.L. 2005-426, sec. 5(a) and 5(b).

4. A clear statement of the actions, and the schedule for those actions, proposed to be taken by the city or county during the moratorium to address the problems that led to its imposition.

The statutes contain several exemptions from the coverage of moratoria. Absent an imminent threat to public health and safety, moratoria may not be applied to projects with legally established vested rights—those with a valid outstanding building permit or an outstanding approved site-specific or phased development plan or those where substantial expenditures have been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval. The statutes also provide that moratoria do not apply to certain projects for which complete applications have been accepted by the city or county prior to the call for a public hearing¹⁷ to adopt the moratorium. These include special or conditional use permits and preliminary or final plats. If a preliminary plat application is subsequently approved while a moratorium is in effect, that project can also proceed to final plat approval.

Renewal or extensions of moratoria also are limited by these statutes. Extensions are prohibited unless the city or county has taken all reasonable and feasible steps to address the problems or conditions that led to imposition of the moratorium. In addition to the four points noted above, an ordinance extending a moratorium must explicitly address this point and set forth any new facts or conditions warranting the extension.

Finally, these statutes provide for expedited judicial review of moratoria. Any person aggrieved by its imposition may petition the court for an order enjoining its enforcement.¹⁸ These actions are to be

set for immediate hearing and are to be given priority scheduling by both trial and appellate courts. The burden is on the city or county in these challenges to show compliance with the procedural requirements of the statute regarding moratoria adoption.

Constitutional Limitations on Moratoria

Opponents of development moratoria have argued that a regulation that even temporarily precludes the possibility of development approvals constitutes an unconstitutional taking of private property without compensation. The courts have not agreed.

The United States Supreme Court has held that a temporary moratorium on development approvals is not in and of itself an unconstitutional taking. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*¹⁹ involved development moratoria imposed on sensitive lands adjacent to Lake Tahoe while studies, planning, and development regulations were being prepared. There were two moratoria challenged in this suit, which together prevented development in the most sensitive portions of the Lake Tahoe watershed for thirty-two months (other moratoria not involved in this litigation effectively extended the moratoria to six years). The plaintiff urged the Court to hold that all moratoria, no matter how short or long, violated the constitutional prohibition on taking private property without just compensation on the rationale that no economically productive use of their property could be made during the moratorium. The Court refused to accept this reasoning. The Court held that the *Penn Central* balancing test should be applied in virtually all cases contending that a regulation is a taking.²⁰ The Court held that the examination of the economic impact of the moratorium cannot be applied to the period of the moratorium alone, further limiting the attempt of property owners to segment

toria duration. See generally Matthew G. St. Amand & Dwight H. Merriam, *Defensible Moratoria: The Law before and after the Tahoe-Sierra Decision*, 43 NAT. RESOURCES J. 703 (2004).

17. The statutes do not define what constitutes a “call for public hearing.” It is likely the time at which the governing board authorizes staff to proceed with advertisement for the hearing or when the formal notice of hearing is otherwise initiated.

18. Courts in other states have held adoption of moratoria to be a legislative action of local government that must be challenged in an appropriate manner. See, e.g., *Geisler v. City of Cedar Falls*, 769 N.W.2d 162, 166 (Iowa 2009) (adoption of six-month moratoria on multifam-

ily residences in overlay district cannot be challenged through writ of certiorari).

19. 535 U.S. 302 (2002). This case is reviewed in Laura H. McKaskle, *Land Use Moratoria and Temporary Takings Redefined after Lake Tahoe?* 30 PEPP. L. REV. 273 (2003).

20. With this test, the courts examine, on a case-by-case basis, a challenged regulation to consider the character of the governmental action and the economic impact on the landowner (with a particular focus on the distinct investment-backed expectations of the owner). *Penn Cent. Transp. Co. v. New York City*, 438 U.S. 104, 123–24 (1978).

property interests when making a taking analysis.²¹ Consideration of “fairness and justice” is critical, and in *Tahoe-Sierra* a careful analysis of all the factors involved led to a conclusion that there was no taking. The Court noted that temporary moratoria allow time for necessary studies, public participation, and deliberation and that the complexity of the management issues involved with developing a complex bi-state management plan justified this moratorium.²² While noting that moratoria lasting longer than a year may well warrant special skepticism, the Court concluded that in this situation the longer period was justified.

It is legally possible, though unusual, that a particular moratorium can constitute an unconstitutional taking. An indefinite moratorium can constitute a taking if it deprives the landowners of all economically beneficial use of the property,²³ though it is only the extraordinary moratorium that will fall into this category. One such example was addressed in *Monks v. City of Rancho Palos Verdes*.²⁴ In 1978, the California city had imposed a moratorium on construction of new homes in the vicinity of previous landslides. Plaintiffs owned lots that had been subject to the moratorium for thirty years. The appeals court found that the moratorium removed all economically beneficial use of the property and that the facts did not support a finding that these uses would be precluded by the state’s common law

of public nuisance, and thus the moratorium constituted an unconstitutional taking. An impermissible objective can also lead to a moratorium being held to be an unconstitutional taking. A moratorium imposed in order to depress or freeze property values pending potential public acquisition was held to be an unconstitutional taking by a Florida court.²⁵

While rare, other constitutional issues may arise with moratoria. Several cases raise First Amendment challenges to moratoria. In *City of Woodinville v. Northside United Church of Christ*,²⁶ the city had adopted a moratorium on all temporary use permits within its R-1 residential district. The defendant church had two years earlier sponsored a tent encampment in a city park for homeless persons (the program involved itinerant encampments that remained in individual locations within the county for ninety-day periods). During this twelve-month moratorium, the church applied for a temporary use permit to host the encampment on its property. The town denied the permit due to the moratorium. The court held that the moratorium placed a substantial burden on the church’s religious freedom and thus violated the state’s constitutional provision on free exercise of religion. In *Bronco’s Entertainment, Ltd v. Charter Township of Van Buren*,²⁷ the court rejected a due process and First Amendment free speech challenge to a six-month moratorium as applied to an adult business.

21. When undertaking a taking analysis, the property as a whole, not just the regulated portion or the time period of the regulation, must be considered. *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602 (1993); *Machipongo Land & Coal Co. v. Commonwealth*, 799 A.2d 751 (Pa. 2002).

22. Most prior state court decisions reached similar results. *See, e.g., Tocco v. New Jersey Council on Affordable Hous.*, 576 A.2d 328 (N.J. App. Div. 1990) (eighteen-month moratorium while local government considered the few vacant sites in the community for potential development of affordable housing not a taking). *See also Mont Belvieu Square, Ltd. v. City of Mont Belvieu*, 27 F. Supp. 2d 935 (S.D. Tex. 1998) (six-month moratoria on all building permits except for single-family development pending decision on whether to adopt a comprehensive plan not a taking); *Oblin Homes, Inc. v. Village of Dobbs Ferry*, 935 F. Supp. 497 (E.D.N.Y. 1998) (thirteen-month moratorium not a due process violation).

23. This categorical “total taking” test for a regulatory taking is set forth in *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1027 (1992).

24. 84 Cal. Rptr 3d 75 (Cal. Ct. App. 2008).

25. *Joint Ventures, Inc. v. Dep’t of Transp.*, 563 So.2d 622 (Fla. 1990). This case involved a reservation of land for future purchase. The state imposed a five-year moratorium (which could be extended an additional five years) on any development permits on a 6.5-acre tract that the Department of Transportation needed for stormwater drainage for a future highway widening project. The court concluded that this was essentially the same as deliberately attempting to depress land values in anticipation of condemnation of the property.

26. 211 P.3d 406 (Wash. 2009) (noting those state protections are broader than the Free Exercise Clause of the United States Constitution). The Washington court has long vigorously protected religious free exercise rights under the state constitution. *See Munns v. Martin*, 930 P.2d 318 (Wash. 1997) (invalidating fourteen-month delay imposed on conversion of historic church building to a pastoral center).

27. 421 F.3d 440 (6th Cir. 2005).

Experience of North Carolina Cities and Counties

Survey

The School of Government periodically surveys cities and counties in North Carolina regarding zoning practices. In 2002 we asked about experience with zoning variances.²⁸ In 2004 we asked about ordinances adopted,²⁹ experience with special use permits,³⁰ and municipal extraterritorial jurisdiction.³¹ In 2006 we surveyed North Carolina local governments about zoning amendments,³² the number and type of zoning districts in ordinances, use of design standards, and experience with traditional neighborhood design projects.³³

The 2008 survey of practices in land development regulations focused on three topics. We asked about the current experience the state's cities and counties had with comprehensive planning, development moratoria,³⁴ and development agreements.³⁵ Requests to complete the survey were distributed to all of North Carolina's 547 municipalities and all 100

28. DAVID OWENS & ADAM BRUEGGEMANN, A SURVEY OF EXPERIENCE WITH ZONING VARIANCES (Chapel Hill: School of Government Special Series No. 18, Feb. 2004).

29. DAVID W. OWENS & NATHAN BRANSCOME, AN INVENTORY OF LOCAL GOVERNMENT LAND USE ORDINANCES IN NORTH CAROLINA (Chapel Hill: School of Government Special Series No. 21, 2006).

30. DAVID W. OWENS, SPECIAL USE PERMITS IN NORTH CAROLINA ZONING (Chapel Hill: School of Government Special Series No. 22, 2007).

31. DAVID OWENS, THE NORTH CAROLINA EXPERIENCE WITH MUNICIPAL EXTRATERRITORIAL PLANNING JURISDICTION (Chapel Hill: School of Government Special Series No. 20, 2006).

32. DAVID W. OWENS, ZONING AMENDMENTS IN NORTH CAROLINA (Chapel Hill: School of Government Special Series No. 24, 2008).

33. DAVID OWENS & ANDREW STEVENSON, AN OVERVIEW OF ZONING DISTRICTS, DESIGN STANDARDS, AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT IN NORTH CAROLINA ZONING ORDINANCES (Chapel Hill: School of Government Special Series No. 23, 2007).

34. The portion of the survey on development moratoria is set out as Appendix A.

35. For a summary of the information on development agreements, see DAVID W. OWENS, THE USE OF DEVELOPMENT AGREEMENTS TO MANAGE LARGE-SCALE DEVELOPMENT: THE LAW AND PRACTICE IN NORTH CAROLINA (Chapel Hill: School of Government Special Series No. 25, 2009).

counties. The request was sent to each jurisdiction's planning director if such a person could be identified. For jurisdictions without a planning director, the request was mailed to (in order of priority) the zoning administrator, the manager or administrator, the clerk, or the chief elected official. Each jurisdiction was asked to have the survey completed by the person within the jurisdiction who most directly works with the jurisdiction's land development regulations.

A new aspect of the survey in 2008 was the provision of an online option for survey responses. In November, we posted the survey online and sent postcards to each jurisdiction with instructions on how to log in and complete the survey. Local governments were also given the option of requesting a paper copy of the survey. In December, an e-mail reminder was sent to all jurisdictions that had not responded and for which e-mail addresses could be found. In January 2009 a paper copy was mailed to all nonresponding jurisdictions. A final call for responses was e-mailed or faxed to nonresponding jurisdictions in February 2009.

The response rate was relatively high and represents a large cross section of cities and counties in the state.³⁶ In all, responses were received from 347 of the cities and counties in the state.³⁷ A breakdown of the response rate by city and county and jurisdiction population size is provided in Table 1.

The response rate was 54 percent of all of the local governments in the state. The largest group of nonrespondents comprised cities with populations under 1,000. Given that historically these small towns have not had development regulation programs of their own, their failure to respond is not surprising. Responses from counties and from jurisdictions with larger populations were particularly strong. Of the cities with populations over 25,000, 88 percent responded, including all of the cities with populations over 100,000. Prior surveys indicate that just over 500 cities and counties in the state have adopted

36. A list of responding jurisdictions is set out in Appendix B.

37. An additional four jurisdictions (all municipalities with populations under 10,000) opened the online survey but provided no response beyond the name of the jurisdiction and the person responding. Inasmuch as these four responses had no substantive responses to survey questions, they were deleted from the data and counted as nonrespondents.

Table 1. Survey Response by Jurisdiction Population

Population	Number of Jurisdictions	Total Responding	Response Rate (%)
Municipalities	547	270	49
1–999	224	74	33
1,000–9,999	248	140	56
10,000–24,999	41	27	66
> 25,000	33	29	88
Counties	100	77	77
1,000–24,999	37	24	65
> 25,000	63	53	84
All Jurisdictions	647	347	54

zoning.³⁸ Thus this survey captures responses from a substantial majority—likely on the order of 70 percent—of those cities and counties that are actively engaged in land development regulation.

The combined 2007 population of all responding jurisdictions totaled nearly 7.5 million, some 83% of the state’s total population. The population of responding jurisdictions is set out in Table 2.³⁹

Several jurisdictions in North Carolina have combined city-county planning departments. Four sets of these jurisdictions (Chowan County and Edenton; Durham County and City; Forsyth County and Winston-Salem; and Lee County and Sanford) submitted a single survey response that included consolidated data for the city and county involved. In addition, Charlotte included data for the very small portion of Mecklenburg County that is not included within the extraterritorial jurisdiction of one of the county’s municipalities. The responses of these five combined surveys are reported in the analysis below as municipal responses.

The percentages set out in the data reports below are based on the number of jurisdictions responding to a particular survey question.⁴⁰ Since all respon-

38. The 2006 survey reported 433 municipalities and 76 counties in the state having adopted a zoning ordinance. DAVID W. OWENS, *ZONING AMENDMENTS IN NORTH CAROLINA 3* (Chapel Hill: School of Government Special Series No. 24, 2008).

39. These population figures are based on corporate limits, so they modestly understate the population affected by municipal regulations. This is because the population in municipal extraterritorial planning jurisdictions (covered by municipal land use regulation) is counted in the county rather than municipal population.

40. The initial data summary tables were prepared by D’Anna Wade, a graduate student in public administra-

Table 2. Population of Responding Jurisdictions

	Total 2007 Population	Population of Responding Jurisdictions	Percentage Responding
Municipalities	4,962,027	4,180,543	84
Counties (unincorporated areas)	4,107,371	3,304,593	80
Total	9,069,398	7,485,136	83

dents did not answer every question, the indicated number of those jurisdictions actually responding to a particular query is noted in each table (indicated by $n = x$).

It is also important to note that the survey is based on the responses of the city or county staff person who most directly works with development regulations in each jurisdiction. While the survey questions deal with objective measures, this “insider perspective” should be kept in mind regarding those responses, though there is no indication that this affected any of the responses.

Summary of Survey Responses on Development Moratoria

Frequency of Use

Even though there was not explicit legislative authority for adoption of development moratoria in North Carolina prior to 2005, it was assumed that cities and counties had implied authority to do so. The survey results indicate this assumption was widely shared, as a quarter of responding jurisdictions indicated that they had adopted a development moratorium prior to September 2005. These responses are summarized in Table 3.

Counties were twice as likely as cities to report having adopted a moratorium prior to 2005. One possible explanation for this is the fact that counties are much more likely to have recently adopted their initial development regulations. It is not unusual for moratoria to be adopted in order to maintain the status quo as a precursor to the initial adoption of land use regulations or to be used as a stopgap measure while the inadequacies in newly adopted regulations are resolved.

A smaller number of jurisdictions have adopted moratoria in the period since the General Assembly

tion at the University of North Carolina at Chapel Hill. She also coded the responses from those jurisdictions that submitted a paper survey response.

Table 3. Adoption of Moratorium prior to September 2005

Population	Moratorium Adopted	Number Responding	Percentage Adopting
Municipalities	54	265	20
< 1,000	8	72	11
1,000–9,999	26	137	19
10,000–24,999	10	27	37
> 25,000	10	29	34
Counties	29	72	40
1,000–24,999	8	23	35
> 25,000	21	49	43
All Jurisdictions	83	337	25

Note: $N = 337$.

provided explicit authorization and mandated procedures to follow in doing so. Fifty-six jurisdictions, 17 percent of those responding, reported adoption or extension of a moratorium after September 2005.⁴¹ These responses are summarized in Table 4 and

41. The following municipalities reported adoption or extension of a moratorium after September 2005: Aberdeen, Atlantic Beach, Belwood, Bogue, Boone, Cape Carteret, Carrboro, Chapel Hill, Columbus, Concord, Cornelius, Davidson, Eden, Fayetteville, Fletcher, Hertford, Hickory, High Point, Hillsborough, Kannapolis, Knightdale, Lattimore, Lexington, Long View, Monroe, Navassa, Ocean Isle Beach, Pine Knoll Shores, Pinebluff, Pinehurst, Pineville, Statesville, Swansboro, Washington, Whispering Pines, Wilmington, Wilson's Mills, Windsor, and Zebulon. The following counties reported adoption or extension of a moratorium after September 2005: Alleghany, Ashe, Camden, Carteret, Chatham, Craven, Currituck, Dare, Gates, Harnett, Jackson, Perquimans, Rutherford, Union, Warren, Watauga, and Wayne. In addition to these fifty-six jurisdictions, responses to e-mail inquiries and newspaper reviews indicated that the following jurisdictions also adopted or extended moratoria after September 2005, though information about these are not included in the survey results summarized in this report: Holden Beach, Mineral Springs, Mount Holly, Pittsboro, Waxhaw, Weddington, and Moore County.

Also, several jurisdictions adopted moratoria in the fall of 2009 in response to the rapid proliferation of "Internet sweepstakes" facilities after a trial court ruled these were not included within the video poker operations made illegal by state law in 2007. This novel facility was not previously addressed by most zoning ordinances, as this type of land use had been thought to be illegal.

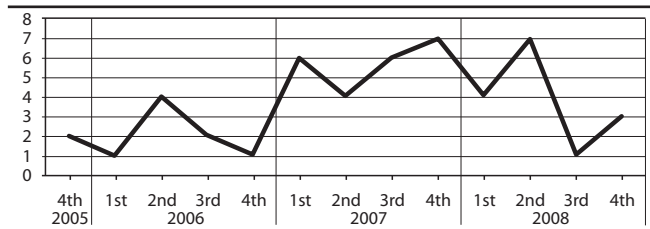
Figure 1. When Most Recent Moratorium Adopted, by Quarter: 3rd Quarter 2005–4th Quarter 2008 (N = 50)

Table 5. This compares to 25 percent of the jurisdictions that had done so prior to 2005.⁴²

Counties are still more likely than cities to have reported adoption of a moratorium but not by as significant a degree as in the period prior to 2005. Of the responding counties and cities, 24 percent and 15 percent, respectively, reported adoption of a moratorium since 2005. Interestingly, the two groups of jurisdictions that are more likely to have adopted moratoria are cities with populations of more than 10,000 and counties with populations in their unincorporated areas of less than 25,000. As with the adoption of moratoria prior to 2005, the relative newness of undertaking development regulations may explain the finding for lower-population counties, but it does not account for the activity by cities with higher populations. The use of moratoria to provide time to develop and adopt regulations for novel land uses (e.g., electronic billboards) may partially explain this, as novel uses may more likely be proposed initially for growing urban areas.

The survey also looked at whether there is a trend for adoption of more or fewer moratoria. Jurisdictions that had adopted moratoria were asked when their most recent moratorium had been adopted. Figure 1 depicts the number of reported moratoria adopted in each calendar quarter, running from the September–December 2005 quarter through September–December 2009. The line graph illustrates that the rate of adoption of moratoria ranged from one to four per quarter through 2006 and from four to seven per quarter through 2007 until mid-2008,

42. A direct comparison of the pre-2005 and post-2005 frequency of adoption is not possible because of potentially different time periods involved. The survey asked if a moratorium had been adopted at any time prior to September 2005, so a longer period of potential action could be included in those responses (relative to the approximately three-year period between September 2005 and completion of the survey in late 2008 or early 2009).

Table 4. Number of Jurisdictions Adopting or Extending Moratorium after September 2005

Population	Adopted/Extended	Proposed, Not Adopted	None Adopted/Proposed	Number Responding
Municipalities	39	23	203	265
< 1,000	3	6	63	72
1,000–9,999	21	10	106	137
10,000–24,999	6	3	18	27
> 25,000	9	4	16	29
Counties	17	13	42	72
1,000–24,999	8	4	11	23
> 25,000	9	9	31	49
All Jurisdictions	56	36	244	337

Note: N = 337.

Table 5. Percentage of Jurisdictions Adopting or Extending Moratorium after September 2005

Jurisdiction	Adopted/Extended	Proposed, Not Adopted
Municipalities	15%	9%
< 1,000	4%	8%
1,000–9,999	15%	7%
10,000–24,999	22%	11%
> 25,000	31%	14%
Counties	24%	18%
1,000–24,999	35%	17%
> 25,000	18%	18%
All	17%	36%

Note: N = 337.

when the rate dropped considerably (perhaps as a result of the recession slowing development in the state). While the graph reflects some variation, it is notable that the rate of adoption has stayed within the one to seven adoptions per quarter throughout the entire period. Considering that the 347 responding jurisdictions have a combined population of nearly 7.5 million, this is not a particularly high number of adopted moratoria.

Duration of Moratoria

Most of the moratoria adopted by North Carolina cities and counties since 2005 have been of relatively short duration. Local governments that had adopted moratoria were asked about the duration of the moratorium, including any extensions to the original length of the moratorium. Of the fifty-two jurisdictions that reported the duration of their most recent moratorium, 69 percent reported adoption of moratoria with durations of six months or less. These responses are set out in Table 6. The distribution of the lengths of reported moratoria are illustrated in Figure 2.

By far the most common duration of adopted moratoria was six months, with nearly half of all the moratoria (twenty-one of fifty-two) having a six-month duration. Only three of the fifty-two moratoria (including extensions) were for durations of more than a year—two lasted eighteen months; one, twenty-two months.

One concern that was raised when the moratoria provisions were added to the statutes in 2005 was that local governments might be tempted to adopt

rolling moratoria, frequently renewing or extending a moratorium to create a false sense of its actual duration. To address this concern, provisions were included in G.S. 153A-340(h) and 160A-381(e) to provide that a moratorium could not be renewed or extended unless the local government had taken “all reasonable and feasible steps” that were initially proposed to be undertaken during the moratorium. The local government wanting to extend a moratorium must also show new facts or conditions warranting an extension.

A substantial majority of both cities and counties reported that no renewals or extensions had been adopted. However, it is not altogether rare for a moratorium to be extended. Fifteen of the fifty-two jurisdictions (29%) reported that the most recently adopted moratorium had been extended or renewed. Most of the extensions were for relatively short periods, typically for two or three months. Counties were somewhat less likely to have adopted an extension to a moratorium, with 82 percent of the responding counties reporting no renewals or extensions, compared to 66 percent of the cities reporting no renewals or extensions.

Another concern expressed about moratoria is that local governments might attempt to circumvent the limitations on renewal or extension by adopting multiple moratoria, letting the initial moratorium expire and then shortly thereafter adopting a new moratorium on the same activities. This does not appear to be happening. Of the fifty-three responding jurisdictions reporting adoption of moratoria since September 2005, three-quarters had adopted only a

Table 6. Duration of Moratorium

Duration	Number	Percentage
3 months or less	9	17
4–6 months	27	52
7–9 months	5	10
10–12 months	8	15
More than 12 months	3	6

Note: $N = 52$.

single moratorium. Only two jurisdictions⁴³ reported adoption of three moratoria, and none had adopted four or more. These responses are summarized in Table 7. Some of the jurisdictions with two moratoria adopted them for different types of development or different areas of the jurisdiction, an indication that they were not de facto renewals or extensions of a prior moratorium.

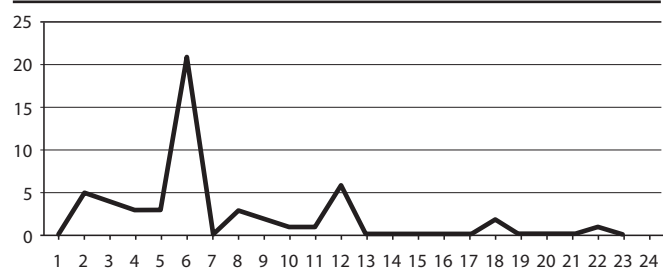
Scope of Moratoria

When a local government adopts a moratorium, it must specify what development within the jurisdiction is subject to the moratorium. Fifty-two jurisdictions that have adopted moratoria since September 2005 reported eighty-one types of development approvals for which these moratoria were applied (some moratoria applied to multiple types of development approval).

The responses indicate that local governments are using moratoria primarily to address the particular issues that led to the imposition of the moratoria. Only a single jurisdiction reported applying the moratorium to all land uses, while over half of the jurisdictions reported application of the moratorium to permits for specified uses. The most common subject of the moratoria was permits for a specified land use, reported by twenty-seven jurisdictions. The second most common subject of moratoria was subdivision plat approval, reported by twenty jurisdictions. These results are summarized in Table 8.

An examination of the detailed responses to this question confirms the targeted nature of most adopted moratoria. The range of specific permit types that were the subject of moratoria was fairly broad.

43. The two jurisdictions reporting adoption of three moratoria were the Town of Washington and Harnett County. Those with two adopted moratoria were Bogue, Boone, Cornelius, Monroe, Pinehurst, and the counties of Alleghany, Craven, Currituck, Gates, and Perquimans.

Figure 2. Duration of Moratorium in Months ($N = 52$)

The most common use was residential land use, which was subject to ten moratoria (three applicable to all residential uses, three to residential development over a specified number of units, two to multi-family residential projects, and two to manufactured housing parks). The second most common specific use subject to moratoria was new sign permits, the subject of six moratoria. Within the sign moratoria group also there was considerable focus, as some moratoria applied to all signs, but most focused on particular types of signs (such as those with changeable copy, LED signs, or off-premise billboards). The third most common type of permit subject to moratoria involved commercial uses, the subject of five moratoria. Three of the five were focused on particular commercial uses (ice vending machines, flea markets, and marinas). The fourth type of permit that was subject to more than one moratorium was for telecommunication or wind power towers, which was subject to three moratoria.

The moratoria on plat approvals, rezonings, and special/conditional use permits also often had a detailed focus. Half of the moratoria on plat approvals applied only to major subdivisions or new plats in a particular area. Likewise, several of the moratoria on rezonings and special/conditional use permits applied only to projects over a specified size or in a specified area.

The moratoria included in the “Other” category were highly varied but evidenced a similar focus. For example, these included moratoria on new metal buildings in a specified area, development in a historic district, development in an unzoned area while regulations were drafted, and development on steep slopes.

Purpose of Moratoria

One of the requirements added to the statutes in 2005 was that local governments specify the purpose of the moratorium when it is adopted. Fifty-two

Table 7. Number of Different Moratoria Adopted within Jurisdiction since September 2005

	One	Two	Three	Four or More
Number of Jurisdictions	41	10	2	0
Percentage of Jurisdictions	77	19	4	0

Note: N = 53.

jurisdictions identified sixty-nine purposes for which they had adopted moratoria (some moratoria had more than one stated purpose).⁴⁴ These responses are summarized in Table 9. There was not a significant difference in city and county responses.

As previously noted, these responses indicate that most moratoria were focused to address particular issues. An overwhelming majority of jurisdictions (75%) reported that moratoria were adopted to provide time to update plans or regulations for a particular land use or for a particular area within the jurisdiction.

The single most common rationale stated for moratoria on development approvals is the need to develop regulations for a particular land use, a purpose reported by over half the responding jurisdictions. This response relates to the finding noted above that the most common subject of development moratoria is permits for a particular use. Not surprisingly, the uses identified as prompting the need for new standards closely track those reported above as being the subject of moratoria. These include development of new standards for particular types of residential uses (such as multifamily or manufactured home parks), new sign standards (particularly for types of signs new to the jurisdiction, such as LED signs or changeable copy signs), and tall structures. Another common response (made by nearly a quarter of the jurisdictions) was the need for new standards for a particular geographic area, such as a highway corridor, an area near airports, or areas with steep slopes.

A general plan or ordinance update was the second most commonly reported purpose for moratoria, reported by over a third of the responding jurisdictions. A quarter of the jurisdictions noted that the

44. Eight jurisdictions checked the “Other” response for the purpose of the moratorium and then provided a more detailed explanation of that purpose. Each of these could be (and were for this analysis) characterized as falling within one of the four specified purposes.

Table 8. Types of Development Subject to Moratorium

Activity	Number of Jurisdictions	Percentage of Jurisdictions
Permits for specified types of land uses	27	52
Subdivision plat approvals	20	38
Rezoning	13	25
Special or conditional use permits	10	19
Other	10	19
Permits for buildings over a set size	1	2

Note: N = 52.

purpose was the update of plans or regulations for a particular geographic area within the jurisdiction.

Finally, about one-fifth of the jurisdictions pointed to inadequate infrastructure as the purpose of the moratorium. Eight respondents indicated which particular public services were inadequate to support additional development and thus served as the stated purpose for a moratorium. The inadequate infrastructure cited as the purpose of the moratorium was, in order of frequency cited: schools (five jurisdictions), sewer (five jurisdictions), roads (three jurisdictions), water supply (three jurisdictions) and police/fire services (one jurisdiction).

Action Taken during Moratorium

When adopting a moratorium, local governments are required to set forth an action plan setting out what they intend to do during the moratorium to address the needs that led to its imposition.

The survey asked jurisdictions to report on what had in fact been done during or as a result of the moratorium. Fifty-two jurisdictions reported on sixty-eight actions taken during the moratoria (some jurisdictions took multiple actions). These responses are summarized in Table 10.

Consistent with the responses on purpose and scope of the moratoria, by far the most commonly reported action taken was the adoption or amendment of a regulation. Thirty-two of the jurisdictions (62% of those responding to this query) stated that the jurisdiction had adopted new regulations. Within the “Other” action taken response, another three jurisdictions reported that updated regulations were pending action at the time of the survey (and most of the remaining “Other” responses reported ongoing discussions of regulatory amendments).

Table 9. Stated Purpose of Moratorium

Response	Number of Jurisdictions	Percentage of Jurisdictions
Need to develop regulations for particular land uses	27	52
Halt development pending a general update of a plan or an ordinance	20	38
Need to update plans and regulations for particular area	12	23
Inadequate infrastructure to support new development	10	19

Note: $N = 52$.

Only a relatively small number of jurisdictions (13%) reported that no action had been taken by the local government as a result of the moratorium.

Judicial Review

Few of the moratoria that are adopted in North Carolina are challenged in court. Of the fifty-two jurisdictions that had adopted moratoria since September 2005 and responded to this query, only five reported that their moratorium had been challenged in court. Of those five judicial challenges, only three had a trial court decision at the time the surveys were returned. The court upheld the moratorium in two cases and invalidated it in the third.⁴⁵

Conclusions

Moratoria can legally be used by North Carolina local governments to temporarily suspend consideration of development approvals. They are expressly authorized by the state statutes, and their use has been upheld by the courts.

It is critical that the detailed procedures set out in the statutes be closely followed by any local government adopting a moratorium. Public hearings usually are required. The ordinance adopting a moratorium must lay out in some detail the rationale for its adoption, its scope, its duration, and what the local government plans to do while it is in effect. Extensions of moratoria are strictly limited.

Table 10. Action Taken by Jurisdiction as Result of Moratorium

Response	Number of Jurisdictions	Percentage of Jurisdictions
Adoption or amendment of a development ordinance	32	62
Adoption or amendment of plan	14	27
Other	9	17
No action taken by the jurisdiction	7	13
Provision or extension of infrastructure	6	12

Note: $N = 52$.

North Carolina cities and counties have made judicious use of this management tool. Over the past four years, nearly sixty jurisdictions have adopted moratoria. Most of these moratoria have been of short duration—typically lasting about six months—and have focused on addressing particular land use problems rather than being applied across the board to all development. For the most part, local governments have followed through with their plans to take action during the moratorium to address the concerns that led to its imposition.

This experience indicates that the 2005 legislative reform in North Carolina has produced the intended results. The process that must be used to consider and adopt moratoria is clear. Local governments are only using this tool for short periods to address focused needs, with action being taken during the moratorium to address those needs. Judicial review is infrequently necessary to correct improper use of the tool. While there are individual exceptions, the broad experience evidences responsible and limited local government use of this powerful development management tool.

45. The moratorium was upheld in cases arising in Chapel Hill and Whispering Pines and invalidated in a case from Swansboro.

Appendix A. Applicable Portion of Survey Instrument

Part Two: Development Moratoria

In 2005 the General Assembly adopted legislation regarding development moratoria. This legislation, effective September 1, 2005, requires public hearings in most instances and requires consideration and adoption of a written rationale for the moratorium.

6. Had your jurisdiction ever adopted a development moratorium prior to September 1, 2005?

Yes No

7. In the time since September 1, 2005, which of the following applies to your jurisdiction:

- a. No development moratoria have been proposed.
- b. Moratoria have been proposed or discussed but not adopted.
- c. Moratoria have been adopted or previous moratoria extended.

If no moratoria have been adopted or extended in your jurisdiction since September 1, 2005, please proceed to Question 17.

8. If your jurisdiction has adopted or extended a moratorium since September 1, 2005, how many different moratoria have been adopted?

- a. None
- b. One
- c. Two
- d. Three
- e. Four or more

If your jurisdiction has adopted or extended a moratorium since September 1, 2005, please answer the following questions about the *most recently adopted moratorium*.

9. When was the moratorium adopted or extended?

_____ Date

10. What was the duration of the moratorium?

_____ (specify length in months)

11. What types of development approvals were subject to this moratorium? Check all that apply.

- a. Rezoning
- b. Only major subdivision plat approval
- c. All subdivision plat approvals
- d. Special or conditional use permits
- e. Permits for buildings over a set size. If so, what size?
_____ sq. ft.
- f. Permits for specified types of land uses. If so, what uses?
_____ (list)
- g. Other. Please list: _____

12. What was the stated purpose of the moratorium? Check all that apply.

- a. Need to develop regulations for particular land uses. Specify uses: _____

- b. Need to update plans and regulations for particular area.
- c. Halt development pending a general update of a plan or an ordinance.
- d. Inadequate infrastructure to support new development. If checked, which services were deemed inadequate?
 (1) Schools
 (2) Roads
 (3) Water supply or availability
 (4) Sewer capacity or availability
 (5) Other. Please list: _____
- e. Other purpose. Please specify: _____

13. Was this moratoria extended or renewed?

- a. Yes
 b. No

14. What action was taken by the jurisdiction during or as a result of the moratorium? Check all that apply.

- a. Adoption or amendment of plan
 b. Adoption or amendment of a development ordinance
 c. Provision or extension of infrastructure
 d. Other. Please specify: _____
 e. No action taken by the jurisdiction

15. Was this moratorium challenged in court?

- Yes
 No

16. If there was a court challenge, has there been a superior court decision on the challenge?

- No
 Yes. If yes, what was the court's decision?
 Upheld the moratorium.
 Invalidated the moratorium.
 Remanded the case for further action.

Appendix B. Responding Jurisdictions**Counties**

Alexander	Davie	Lee	Robeson
Alleghany	Duplin	Lenoir	Rockingham
Anson	Durham	Lincoln	Rutherford
Ashe	Edgecombe	Madison	Stanly
Bertie	Forsyth	Martin	Stokes
Bladen	Franklin	McDowell	Surry
Brunswick	Gaston	Mecklenburg	Swain
Buncombe	Gates	Mitchell	Transylvania
Burke	Graham	Montgomery	Union
Cabarrus	Granville	Nash	Vance
Camden	Greene	Onslow	Wake
Carteret	Guilford	Orange	Warren
Catawba	Halifax	Pasquotank	Washington
Chatham	Harnett	Pender	Watauga
Cherokee	Henderson	Perquimans	Wayne
Chowan	Hertford	Person	Wilkes
Cleveland	Hoke	Pitt	Yadkin
Craven	Iredell	Polk	
Currituck	Jackson	Randolph	
Dare	Johnston	Richmond	

Municipalities

Aberdeen	Biltmore Forest	Cherryville	Dunn
Ahoskie	Black Creek	Chimney Rock	Durham
Albemarle	Black Mountain	Village	Earl
Alliance	Blowing Rock	China Grove	East Spencer
Apex	Bogue	Clayton	Eden
Archdale	Boling Spring Lakes	Clinton	Edenton
Asheville	Bolivia	Colerain	Elizabeth City
Atkinson	Boone	Columbia	Elizabethtown
Atlantic Beach	Boonville	Columbus	Elk Park
Aulander	Bridgeton	Como	Elkin
Aurora	Brunswick	Concord	Emerald Isle
Autryville	Burgaw	Connelly Springs	Fair Bluff
Badin	Burlington	Conover	Fairmont
Bald Head Island	Cajah's Mountain	Conway	Faith
Banner Elk	Canton	Cornelius	Falcon
Beaufort	Cape Carteret	Cove City	Falkland
Belmont	Carolina Shores	Crossnore	Farmville
Belville	Carrboro	Dallas	Fayetteville
Belwood	Carthage	Davidson	Flat Rock
Benson	Cary	Denton	Fletcher
Bessemer City	Chadbourn	Dillsboro	Forest Hills
Bethania	Chapel Hill	Dortches	Four Oaks
Bethel	Charlotte	Duck	Foxfire Village

Municipalities *(continued)*

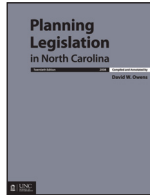
Franklin	Lake Park	Oxford	Stanley
Fuquay-Varina	Lake Waccamaw	Pantego	Statesville
Gamewell	Landis	Peachland	Stokesdale
Garner	Lansing	Pine Knoll Shores	Stoneville
Gastonia	Lattimore	Pinebluff	Sugar Mountain
Gibsonville	Laurel Park	Pinehurst	Summerfield
Graham	Laurinburg	Pinetops	Sunset Beach
Granite Falls	Leland	Pineville	Swansboro
Greensboro	Lexington	Pink Hill	Swepsonville
Greenville	Liberty	Pleasant Garden	Tabor City
Grimesland	Lillington	Polkville	Tar Heel
Halifax	Lincolnton	Powellsville	Tarboro
Hamlet	Linden	Princeville	Taylorsville
Harrellsville	Locust	Raeford	Thomasville
Harrisburg	Long View	Raleigh	Topsail Beach
Havelock	Louisburg	Ramsuer	Troutman
Haw River	Lumberton	Randleman	Turkey
Hayesville	Manteo	Red Springs	Valdese
Hemby Bridge	Marion	Rich Square	Wade
Hendersonville	Mars Hill	River Bend	Wagram
Hertford	Marshall	Roanoke Rapids	Wake Forest
Hickory	Marshville	Robersonville	Walkertown
High Point	Marvin	Rockingham	Wallace
Highlands	Matthews	Rolesville	Walnut Creek
Hildebran	Mebane	Rowland	Walstonburg
Hillsborough	Middlesex	Roxboro	Warrenton
Hoffman	Monroe	Roxobel	Warsaw
Holly Springs	Morehead City	Rutherford College	Washington
Hudson	Morganton	Salemburg	Weaverville
Huntersville	Morrisville	Salisbury	Weldon
Indian Beach	Morven	Sanford	Wendell
Jackson	Mount Airy	Saratoga	Wesley Chapel
Jacksonville	Mount Olive	Seaboard	West Jefferson
Jamestown	Mount Pleasant	Selma	Whispering Pines
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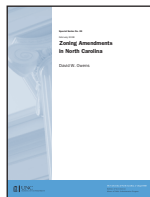
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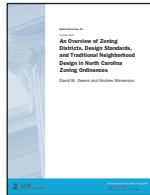
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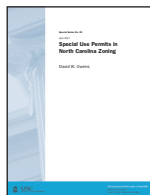
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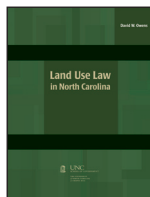
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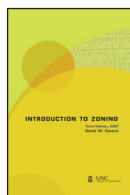
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