

**SWAIN COUNTY
NORTH CAROLINA**

**AN ORDINANCE ESTABLISHING A MORATORIUM ON ISSUANCE OF
SWAIN COUNTY BUILDING AND SOIL AND EROSION CONTROL PERMITS
FOR THE CONSTRUCTION OF TELECOMMUNICATION TOWERS AND
UTILITY SUBSTATIONS, TIE-IN STATIONS, AND SWITCHING STATIONS
AND ANY AND ALL BUILDINGS AND STRUCTURES ASSOCIATED
THEREWITH PURSUANT TO
NC GEN. STAT. §153A-340(h) and NC GEN. STAT. §153A-121**

WHEREAS, the General Assembly has empowered counties to regulate development of land within the territorial jurisdiction of the county pursuant to Part 3 of Article 18 of Chapter 153A and Article 6 of Chapter 153A, specifically §153A-121, of the North Carolina General Statutes; and

WHEREAS, the Swain County Board of Commissioners has, pursuant to the police powers of North Carolina General Statutes Section 153A-121, the authority to define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or the general welfare of it's citizens within the unincorporated areas of Swain County; and,

WHEREAS, the Swain County Board of Commissioners has, pursuant to North Carolina General Statutes Section 153A-340(h), the authority to adopt temporary moratoria to regulate the development of land within Swain County; and,

WHEREAS, the scenic and unspoiled areas of Swain County have become critical to the county's tourism industry, economic growth, jobs and development as the tourism industry is one of the major, if not the major, economic sector within Swain County; and,

WHEREAS, the construction and placement of telecommunication towers and utility substations, tie-in stations, and switching stations and other structures and buildings associated therewith in Swain County create visual appearances that threaten to destroy the scenic and unspoiled aesthetic features of the County and the quality of life for residents and visitors, and regulations for these structures is necessary to insure the protection of the county's economic growth, tourism, jobs and development and safety of the local and visiting motorist on the roads in the county by reducing the visibility of the distracting utility structures throughout the county; and,

WHEREAS, County staff and the Board of Commissioners need a definite and reasonable period of time within which to consider an ordinance or other regulations having an unlimited duration which shall regulate the development of land within Swain County related to the construction of telecommunication towers and utility substations, tie-in stations, and switching stations and the buildings and structures associated therewith pursuant to the provisions of North Carolina General Statutes Section 153A-340 and other applicable laws in a manner that will create conditions essential to the economic growth and the public health, safety and general welfare of the citizens of the County while preserving the natural scenic and unspoiled areas of Swain County; and,

WHEREAS, the Swain County Board of Commissioners finds that waiting for a final determination to address the safety concerns in lieu of passing a moratorium is an inadequate course of action because the County staff and Board of Commissioners need sufficient time to discuss and determine reasonable ways of regulating the location of telecommunications towers and utility substations, tie-in stations and switching stations and structures and buildings associated therewith and that the construction of these within the County's territorial jurisdiction during the pendency of any such consideration may irreversibly change the character of the County to the possible detriment of the County and its residents and visitors; and,

WHEREAS, the Swain County Board of Commissioners may enact this moratorium pursuant to North Carolina General Statutes Section 153A-340(h) for a reasonable duration of ninety (90) days in order to preserve the status quo while appropriate County controls and regulations are considered and acted upon and ninety (90) days is a reasonable time to study and possibly adopt new ordinances; and,

WHEREAS, the Board of Commissioners has duly advertised and published its intent to consider this Ordinance in Swain County, North Carolina within The Smokey Mountain Times on February 25, 2010 and March 4, 2010, in accordance with North Carolina General Statutes Sections 153A-323 and 153A-340(h).

NOW, THEREFORE, BE IT ORDAINED that the Board of Commissioners of Swain County, North Carolina hereby imposes a moratorium as follows:


- 1) That there is hereby imposed a moratorium for a period of ninety (90) days on the issuance of building permits and soil and erosion control permits related to the construction of telecommunications towers and utility substations, tie-in stations, and switching stations and any and all structures and buildings associated therewith.
- 2) That this moratorium ordinance shall also apply to the issuance of building permits for any modification to any structure or building to which this moratorium applies.
- 3) That pursuant to North Carolina General Statutes Section 153A-340(h) this moratorium ordinance shall not apply to any project for which a

valid building permit issued pursuant to N.C. Gen. Stat. §153A-357 is outstanding.

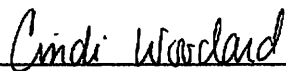
- 4) That the provisions of this moratorium ordinance shall apply to unincorporated areas of Swain County, lying outside of the corporate limits or extraterritorial jurisdiction of any incorporated town.

This ordinance becomes effective upon its adoption on this the 9 day of March, 2010.

COUNTY OF SWAIN

By: 
Chairman Glenn Jones

ATTEST:


Clerk of Board, Cindi Woodard