

RESOLUTION NO. 552-2000

A RESOLUTION DECLARING A PUBLIC HEALTH AND SAFETY DANGER; IMPOSING A MORATORIUM ON ISSUING BUILDING PERMITS FOR ALL PROPERTIES IN THE BLUE SKY RURAL ACTIVITY CENTER SERVED BY, OR CAPABLE OF BEING SERVED BY, THE BLUE SKY WASTEWATER TREATMENT PLANT, INCLUDING: 5521-5921 ATHENS BOONESBORO ROAD (ODD ADDRESSES ONLY), 5522-5600 ATHENS BOONESBORO ROAD (EVEN ADDRESS ONLY), 100, 101 AND 125 CANEBREAK DRIVE AND ALL PROPERTIES ON SWANTON DRIVE, BLUE SKY PARKWAY, JO MARS STREET, CUTTERS HILL COURT, UNITED COURT, KINGPOST COURT AND KASP COURT; DIRECTING THE DIVISION OF BUILDING INSPECTION TO REFUSE TO ISSUE BUILDING PERMITS FOR NEW OR EXPANDED STRUCTURES FOR THESE PROPERTIES FOR THE DURATION OF THE MORATORIUM UNLESS THE APPLICANT PROVIDES THE DIVISION OF BUILDING INSPECTION A LETTER FROM THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET STATING THAT THE BUILDING, STRUCTURE OR PROPOSED USE DOES NOT VIOLATE THE SEWER SANCTIONS IMPOSED ON BLUE SKY SEWER SERVICE; ESTABLISHING THAT THE PURPOSE OF THE MORATORIUM IS TO PREVENT ADDITIONAL DISCHARGE FROM NEW OR EXPANDED USES INTO THE BLUE SKY WASTEWATER TREATMENT PLANT WHILE THE ADMINISTRATIVE ENFORCEMENT ACTION AND REMEDIAL MEASURES PURSUANT TO THE AGREED ORDER CONCERNING THE DISCHARGE OF POLLUTION INTO BAUGHMAN FORK ARE BEING IMPLEMENTED; AND ESTABLISHING THAT THIS MORATORIUM SHALL BE IN EFFECT UNTIL ALL REMEDIAL MEASURES REQUIRED BY THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET ARE COMPLETED AND THE SANCTIONS ARE LIFTED.

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WHEREAS, The Blue Sky Wastewater Treatment Plant operates in the Blue Sky Rural Activity Center, a primarily industrial area; and

WHEREAS, the Blue Sky Wastewater Treatment Plant was originally designed and built to process 150,000 gallons per day to treat residential waste and it has developed primarily as industrial; and

WHEREAS, the facility accepted wastewater from industrial customers that contribute high-strength and/or incompatible wastes that either pass through the wastewater treatment plant untreated or that interfere with the biological processes; and

WHEREAS, the National Resources and Environmental Protection Cabinet ("NREPC") has alleged that the effluent from the plant has exceeded toxicity limits, as evidenced by failure to pass biomonitoring tests; and

WHEREAS, NREPC efforts to bring this facility into compliance, including Notices of Violation, an Agreed Order

issued in 1995 demanding remedial measures, adding the facility to the sewer sanction list in January 1999, and more recently a formal legal complaint filed with the Cabinet for Natural Resources Division of Administrative Hearings dated March 27, 2000, and

WHEREAS, the Blue Sky Wastewater Treatment Plant has been repeatedly cited by the NREPC for pollution discharge, including 202 alleged violations within the last several years.

WHEREAS, the lists of violations alleged by NREPC include carbonaceous biochemical oxygen demand (CBOD), ammonia nitrogen (NH<sub>3</sub>-N), dissolved oxygen (DO), total suspended solids (TSS), fecal coliform bacteria, total residual chlorine (TRC), toxicity, and failure to report totals for a variety of metals; and

WHEREAS, an administrative enforcement action was initiated by NREPC and an Agreed Order has been executed concerning the pollution discharge from the Blue Sky Wastewater Treatment Plant into an unnamed tributary of Baughman Fork, a tributary of Boone Creek; and

WHEREAS, Baughman Fork is listed in the 1996 Kentucky Report to Congress on Water Quality as an impaired stream; and

WHEREAS, surface and ground water quality in this watershed is critically important because impaired water quality affects the viability and health of the stream itself, and of the living organisms dependent on it for survival; and

WHEREAS, a moratorium on building permits is the only feasible way for the Urban County Government to prevent discharge inconsistent with the sanctions imposed on the Blue Sky Wastewater Treatment Plant by the NREPC while the sanctions are in place.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That a danger to public health and safety is hereby declared to exist.

Section 2 - That a moratorium is hereby imposed on the issuance of building permits for all properties in the Blue Sky Rural Activity Center served by, or capable of being served by, the Blue Sky Wastewater Treatment Plant, including 5521-5921 Athens Boonesboro Road (odd addresses only), 5522-5600 Athens Boonesboro Road (even addresses only), 100, 101 and 125 Canebreak Drive, and all properties on Swanton Drive, Blue Sky Parkway, Jo Mars Street, Cutters Hill Court, United Court, Kingspost Court and KASP Court. Attached hereto as Exhibit A is a vicinity sketch of the affected properties.

Section 3 - That the Division of Building Inspection is hereby directed to refuse to issue building permits for new or expanded structures for these properties for the duration of the moratorium unless the applicant provides the Division of Building Inspection a letter from the NREPC stating that the building, structure or proposed use does not violate the sewer sanctions imposed on Blue Sky sewer service.

Section 4 - That the purpose of the moratorium is established to prevent additional discharge from new or expanded uses into the Blue Sky Wastewater Treatment Plant while the administrative enforcement action and remedial measures pursuant to the Agreed Order concerning the discharge of pollution into Baughman Fork are being implemented.

Section 5 - That this moratorium shall be in effect until all remedial measures required by the Natural Resources and Environmental Protection Cabinet are completed and the sanctions are lifted.

Section 6 - That this Resolution shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: **September 14, 2000**

*Pam Miller*

MAYOR

ATTEST:

*Liz Samuels*  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 20, 2000-1t

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EXHIBIT A