

MORATORIUM

Planning Commission
August 25, 2015



Moratorium

- Stops all permitting and development for some period of time
- Applies to commercial and residential property development.
 - Property development means
 - the construction, reconstruction, or other alteration or improvement of residential or commercial buildings; or
 - the subdivision or re-platting of a subdivision for residential or commercial property.



Justifications

- Shortage of or significant need for public facilities
 - Public facilities include water, sewer, or storm drainage facilities or street improvements.
- New commercial development will be detrimental to public health, safety, and welfare of residents because existing regulations are inadequate to prevent harm to the public.



Procedure

- Notice
 - Publish notice of a hearing in the newspaper on the 4th day before hearing.
 - A temporary moratorium begins the 5th business day after notice is published in the newspaper.
 - Authorizes municipality to stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.
 - Expires if an ordinance that authorizes the moratorium is not passed within 12 days after the date of the first public hearing.



Procedure continued

- Public hearings (2)
 - Must provide an opportunity for residents and affected parties to be heard.
 - One hearing at the zoning commission, one hearing at City Council.
- Ordinance Readings
 - Must have at least 2 separate readings that are separated by at least four days.
 - Final reading must be within 12 days after the first public hearing.
 - Must include certain written findings



Moratorium Based on Public Facilities Concerns

- Expire 120 days after the date the moratorium is adopted.
- May be extended if the municipality
 - holds a public hearing on the proposed extension;
 - publishes notice in the newspaper (15 days before hearing); and
 - adopts certain written findings.



Commercial Moratoriums Based on Public Health, Safety, and Welfare Issues

- Expire 90 days after adopted.
- May be extended if the municipality
 - holds a public hearing;
 - publishes notice in the newspaper (15 days before hearing); and
 - adopts certain written findings.
- Maximum 180 days.
- Cannot adopt a new moratorium for 2 years if it addresses the same harm, affects the same type of commercial property, or affects the same geographical area identified by the previous moratorium.



Limitations

- Must allow a permit applicant to apply for a waiver if
 - there is a right to develop under a development agreement or
 - the landowner provides the public facilities at the landowner's cost.
- Request must be in writing and made to Council.
 - Council must vote on the request within 10 days from the date the request is received.



Vested Right Limitations

- Moratorium does not affect vested rights acquired under state law or common law.
- Municipality may not prohibit
 - a person from filing/processing an application for a project that is in progress; or
 - processing an application for zoning filed before the effective date of the moratorium.



Comparison:

Moratorium vs. Interim Development Regulations

- **Moratoriums:**
 - Stop all permitting and development for some period of time.
- **Interim Development Regulations:**
 - Allows permitting and development to move forward but under different regulations in anticipation of new regulations.
 - Example: An overlay that address land use, parking and building setbacks is applied to properties within a Transit-Oriented Development (TOD) district prior to adoption of the station area plan and regulating plan.

