SUBCHAPTER E.

MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES

§ 212.131. Definitions

In this subchapter:

(1) “Essential public facilities” means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) “Residential property” means property zoned for or otherwise authorized for single-family or multi-family use.

(3) “Property development” means the new construction of residential buildings on vacant land.


§ 212.132. Applicability

This subchapter applies only to a moratorium imposed on property development affecting only residential property.


§ 212.133. Procedure for Adopting Moratorium

A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section 212.134; and

(2) makes written findings as provided by Section 212.135.


§ 212.134. Notice and Public Hearing Requirements

(a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. During the period of the temporary moratorium, a
municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.


§ 212.135. Justification for Moratorium; Written Findings Required

(a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

(b) A moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities.
For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.


§ 212.136. Expiration of Moratorium; Extension

(a) A moratorium adopted under this subchapter expires on the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

(1) holding a public hearing on the proposed extension of the moratorium; and

(2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem; and

(C) specify a definite duration for the renewal period of the moratorium.

(b) A municipality proposing an extension of a moratorium must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by Subsection (a).


§ 212.137. Waiver Procedures Required

(a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement;
(2) claiming a vested right under Chapter 245 or common law; or

(3) providing the public facilities that are the subject of the moratorium at the landowner’s cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after receiving the written request.


§ 212.138. Effect on Other Law

A moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245 or common law.