

# Temporary Development Moratorium

Magnolia, Texas

## Highlights:

- Would delay new development based on need to examine water availability
- Needed public infrastructure
- Requires two public hearings and ordinance
- P&Z Public Hearing –December 15, 2022 –
- 2 City Council meetings (public hearing and 2 readings)
  - December 13, 2022
  - December 21, 2022
- Newspaper Notice issued on 4<sup>th</sup> day before the date of the hearing
- Automatic Temporary Moratorium begins (5 business days after the first notice of public hearing is published) – Period designed solely for review of possible moratorium by City Council and for public hearings

LGC 212.134(d) At least 1 public hearing city council and 1 public hearing P&Z

LGC 212.134(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.

# Effect of Temporary Development Moratorium

- No applications will be accepted by the Building and Planning Departments without a waiver
- Waivers or exceptions can be granted for ongoing, vested, or small, no impact projects. Waivers may also be granted by the city council for projects that are recognized to not detrimentally affect the City.
- For Example:
  - Projects within Approved Development Agreements would/may continue (subject to water connection availability)
  - Projects that do not require water (or a land use change would continue)
  - Projects where water has been approved (subject to water connection availability) by agreement and no land use change is requested

New Development Projects that do not fall within the waiver requirements will be delayed until the moratorium is over.

**If moratorium is extended, administratively approved exceptions will be available in lieu of waivers.**

## Proposed Moratorium Ordinance

- Applies to City Limits and ETJ
- Allows for administrative exceptions process with appeal to City Council
- Exceptions will be allowed to be requested at time of application **or** within 30 days of enactment of the ordinance without separate application
- Enacts waiver process as required by Chapter 212 of the Texas Local Government Code with review by the City Council
- Waiver requests will be allowed at the time of application
- Can be extended and includes list of affected and unaffected permits

# Types of Moratoriums

Sec. 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 construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.
- (4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

# Types of Moratoriums-continued

Sec. 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE **OF ESSENTIAL PUBLIC FACILITIES**; WRITTEN FINDINGS REQUIRED- water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

Magnolia is looking at 212.135. 212.135 and moratoriums expire 120th day after the date adopted unless moratorium which can be extended by public hearing and written findings and ordinance.

Local Gov't Code Sec. 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; or
  - (2) 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 the date of receiving the written request.

# EXCEPTIONS

- Vested/Ongoing Projects under Chapter 245 of the Texas Local Government Code
- Platted Projects where water approved
- Development Agreement projects where there is a “right to continue development”
- Water Agreements would follow their interim solutions
- Other exceptions such as projects with no impact or other types of small projects could also be excepted
- Exceptions are administratively approved (10 business days the same as administratively completeness check) – provides for appeals to City Council

# WAIVERS

- Projects can apply for waivers simultaneously with their applications
- Waivers are reviewed and approved by City Council
- City Council has 10 days after submission of waiver request to decide whether or not to approve waiver
- Waivers may be granted by the city council for projects that are prohibited by the moratorium, but are recognized to not detrimentally affect the city

***Both of these would be applied for at time of application for the main permit. They could be applied for by lot, project, DA, or PDD.***



## Permits Subject to Moratorium

- Commercial/Multi-Family Building
- Permit Application
- Residential Building Permit Application
- Subdivision Application
- Site Development Application
- Zoning Amendment/PDD
- Application
- Development Agreement
- Conditional Use Permit
- Variance Application
- Wastewater Application

## **Permits not Subject to Moratorium**

- Contractor Registration Form
- Grandfathered Status Request/Appeal
- City Limits/ETJ Determination Letter
- Street Cut/Driveway Permit
- On Site Sewage Facility Permit Application
- Mobile Food Unit
- Pre-Development Meeting Form
- Certificate of Appropriateness
- Annexation Application
- Sign Permit
- Lighting Permit
- Zoning Determination Letter Request
- Residential Swimming Pool Permit
- Demolition Permit