START\_STATUTE48-2033.  Standards for adoption of moratorium; extensions; limitations; definitions

A.  A sanitary district shall provide continuous service and shall not adopt a moratorium on construction or land development unless the board of directors of the district first:

1.  Provides notice to the public that is published once in a newspaper of general circulation in the community at least thirty days before a final public hearing is held to consider the adoption of the moratorium.

2.  Makes written findings justifying the need for the moratorium as provided for in subsection B of this section.

3.  Holds a public hearing on the adoption of the moratorium and the findings that support the moratorium.

B.  A moratorium may only be justified by demonstration of a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium. This demonstration shall be based on reasonably available information and shall include at least the following findings:

1.  The actual capacity of the existing essential public facilities based on current use.

2.  The extent of need beyond the estimated capacity of existing essential public facilities expected to result from construction or new land development, including identification of any essential public facilities currently operating beyond capacity and the portion of this capacity already committed to development.

3.  The moratorium is reasonably limited to those areas of the sanitary district where a shortage of essential public facilities would otherwise occur and on property that has not received development approvals based on the sufficiency of existing essential public facilities.

4.  The housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining essential public facility capacity.

C.  A moratorium adopted pursuant to this section:

1.  Does not affect any express provision in a development agreement entered into pursuant to section 11‑1101 governing the rate, timing and sequencing of development.

2.  Does not affect rights acquired pursuant to a vested development right.

3.  Shall provide a procedure for an individual landowner to apply for a waiver of the moratorium's applicability to the landowner's property by claiming rights obtained pursuant to a development agreement, a protected development right or any vested right, or by providing the public facilities that are the subject of the moratorium at the landowner's cost.

D.  A moratorium shall not remain in effect for more than one hundred twenty days, except that a moratorium may be extended for additional periods of not more than one hundred twenty days if the sanitary district adopting the moratorium holds a public hearing on the proposed extension.  The district shall provide notice to the general public published once in a newspaper of general circulation in the community at least thirty days before the hearing on the proposed extension. After the hearing, the district may extend the moratorium if it makes written findings that:

1.  Verify the problem requiring the need for the moratorium to be extended.

2.  Demonstrate that reasonable progress is being made to alleviate the problem resulting in the moratorium.

3.  Set a specific duration for the renewal of the moratorium.

E.  This section does not prevent a sanitary district from complying with any state or federal law, regulation or order issued in writing by an authorized governmental entity.

F.  A landowner aggrieved by a sanitary district's adoption of a moratorium pursuant to this section may file, at any time within thirty days after the moratorium is adopted, a complaint for a trial de novo in the superior court on the facts and the law regarding the moratorium.  All matters presented to the superior court pursuant to this section have preference on the court calendar on the same basis as condemnation matters and the court shall further have the authority to award reasonable attorney fees incurred in the appeal and trial pursuant to this section to the prevailing party.

G.  For the purposes of this section:

1.  "Essential public facilities" means sewer improvements to the extent that these improvements provide service to the sanitary district.

2.  "Moratorium on construction or land development":

(a)  Means engaging in a pattern or practice of delaying or stopping issuance of permits, authorizations or approvals necessary for a subdivision and partitioning of, construction on, or provision of sewer service to, any land in the district.

(b)  Does not include denial or delay of permits or authorizations because they are inconsistent with applicable statutes, rules or ordinances.

3.  "Vested right" means a right to develop property established by the expenditure of substantial sums of money pursuant to a permit or approval granted by the county or sanitary district. END\_STATUTE