



REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>April 8, 2024</u>
Requested By: <u>Councilpersons McCaulley, Martin, and Mayor Rigby</u>
Department: <u>City Council</u>
<input checked="" type="radio"/> Report <input type="radio"/> Resolution <input type="radio"/> Ordinance

Appropriation	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	<input type="radio"/> Yes <input checked="" type="radio"/> No

Exhibits:

SUMMARY & RECOMMENDATION

Councilpersons McCaulley, Martin, and Mayor Rigby requested this item in order to discuss implementing a moratorium on the development of Tobacco and Smokers' Supply Store within the city limits of La Porte, Texas. The moratorium is designed to give the City Council and Staff time to research, present, and take further long-term action to develop a solution to regulate the sale of vape products and accessories within the City of La Porte.

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations. The Texas Supreme Court has held that a moratorium does not constitute a taking per se under the Texas Constitution. Out of an apparent concern that cities were overreaching in their use of moratoria, however, the Texas Legislature has heavily regulated the use of moratoria under Chapter 212 of the Texas Local Government Code.

For example, the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development. Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.

If the city has a planning and zoning commission, the city must hold a second public hearing before the commission. If the city does not have a planning and zoning commission, then the city must hold two hearings before the city council. The city must make a final determination of whether to impose the moratorium within twelve days after the date of the public hearing. In addition, the council must give at least two

readings of the ordinance adopting the moratorium, separated by at least four days, before the ordinance can take effect.

Other requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

Section 212.1352 allows a municipality adopt a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

If the City Council will like to move forward with this option, staff will prepare documentation and post public hearings for the Planning and Zoning Commission and the City Council to receive public comment and take action on a moratorium Tobacco and Smokers' Supply Stores within the City of La Porte.

STRATEGIC PLAN STRATEGY AND GOAL

1.0 Governance - The City of La Porte is governed in a transparent, efficient, accountable and responsive manner on behalf of its citizens that actively promotes citizen involvement.

4.0 Economic Development - The City of La Porte will promote a strong and diverse economy that strengthens the local sales tax and property tax base while also contributing to a high quality of life.

ACTION REQUIRED BY CITY COUNCIL

Presentation, discussion, and possible action to direct administrative staff to publish public hearing notices for the La Porte Planning and Zoning Commission and La Porte City Council to consider adoption of a moratorium on the development of Tobacco and Smokers' Supply Stores within the city limits of La Porte, Texas, in accordance with Chapter 212 of the Texas Local Government Code.

Approved for the City Council meeting agenda.

Corby D. Alexander, City Manager

Date