

The background features a light gray gradient with several realistic water droplets of various sizes scattered across the surface. A faint, circular globe is centered in the upper half of the image, appearing as a subtle watermark.

DECLARING A MORATORIUM

WHAT IS A MORATORIUM?

- LATIN FOR “TENDING TO DELAY”
- THE PURPOSE IS TO ALLOW A CITY OR JURISDICTION TO CATCH UP WITH DEVELOPMENT BY ENACTING NEW REGULATIONS OR CONSTRUCTING NEW PUBLIC FACILITIES.
- “INTENDED TO BE USED RARELY AND UNDER THE RIGID SAFEGUARDS IN THE STATUTE.” *DAVIS V. BANDON*, 105 OR. APP. 425 (1991).

ORS 197.510 – LEGISLATIVE FINDINGS

- (1) DECLARATIONS OF MORATORIA ON CONSTRUCTION AND LAND DEVELOPMENT BY CITIES IS A MATTER OF STATEWIDE CONCERN BECAUSE IT MAY NEGATIVELY IMPACT PROPERTY OWNERS AND DEVELOPMENT POLICIES OF OTHER LOCAL GOVERNMENTS WITHIN THE STATE.
- (2) MORATORIA NONETHELESS MAY BE NECESSARY AND DESIRABLE.

ORS 197.510 – LEGISLATIVE FINDINGS

- (3) CLEAR STATE STANDARDS SHOULD ENSURE THAT:
 - (A) THE NEED FOR MORATORIA IS “CONSIDERED AND DOCUMENTED.”
 - (B) THE IMPACT ON PROPERTY OWNERS, HOUSING AND ECONOMIC DEVELOPMENT IS MINIMIZED; AND
 - (C) “NECESSARY AND PROPERLY ENACTED MORATORIA ARE NOT SUBJECTED TO UNDUE LITIGATION”

ORS 197.510 – ANALYSIS

- MORATORIA CAN IMPACT MORE THAN JUST THE CITY DECLARING THE MORATORIUM.
- THE STATE OF OREGON WANTS TO ENSURE ALL MORATORIA ARE WELL DOCUMENTED, PROPERLY ENACTED, AND NECESSARY.

ORS 197.520 – MANNER OF DECLARING MORATORIUM

- (1) NO CITY, COUNTY OR SPECIAL DISTRICT MAY ADOPT A MORATORIUM ON CONSTRUCTION OR LAND DEVELOPMENT UNLESS IT FIRST:
 - (A) PROVIDES 45 DAYS WRITTEN NOTICE TO DLCD BEFORE THE FINAL PUBLIC HEARING ON THE MORATORIUM.
 - (B) MAKES WRITTEN FINDINGS JUSTIFYING THE NEED FOR THE MORATORIUM.
 - (C) HOLDS A PUBLIC HEARING ON THE ADOPTION OF THE MORATORIUM AND THE FINDINGS WHICH SUPPORT THE MORATORIUM.

ORS 197.520 – MANNER OF DECLARING MORATORIUM

- (2) FOR URBAN OR URBANIZABLE LAND [LAND WITHIN THE UGB], A MORATORIUM MAY BE JUSTIFIED BY DEMONSTRATION OF A NEED TO PREVENT A SHORTAGE OF PUBLIC FACILITIES WHICH WOULD OTHERWISE OCCUR DURING THE EFFECTIVE PERIOD OF THE MORATORIUM.

ORS 197.520 – MANNER OF DECLARING MORATORIUM

- DEMONSTRATION OF NEED MUST BE BASED ON REASONABLY AVAILABLE INFORMATION AND FINDINGS MUST:
- (2)(A) SHOW THE EXTENT OF NEED IS BEYOND THE CAPACITY OF EXISTING PUBLIC FACILITIES EXPECTED TO RESULT FROM NEW LAND DEVELOPMENT.

ORS 197.520 – MANNER OF DECLARING MORATORIUM

- DEMONSTRATION OF NEED MUST BE BASED ON REASONABLY AVAILABLE INFORMATION AND FINDINGS MUST:
- (2)(C) ACCOMMODATE THE NEEDS OF HOUSING AND ECONOMIC DEVELOPMENT AS MUCH AS POSSIBLE IN ANY PROGRAM FOR ALLOCATING ANY REMAINING PUBLIC FACILITY CAPACITY.

ORS 197.520 – ANALYSIS

- THE CITY MUST BE ABLE TO SHOW, BASED ON WRITTEN, FACTUAL FINDINGS, THAT THERE IS A SHORTAGE OF PUBLIC FACILITIES.
- THE CITY MUST HOLD PUBLIC MEETINGS TO DISCUSS THOSE FINDINGS.
- THE CITY MUST ACCOMMODATE HOUSING AND ECONOMIC DEVELOPMENT AS MUCH AS POSSIBLE WITH ANY REMAINING PUBLIC FACILITY CAPACITY.

ORS 197.520(3) – NON-SHORTAGE MORATORIUM

- A MORATORIUM MAY OCCUR WITHOUT A PUBLIC FACILITY SHORTAGE, BUT MAY BE JUSTIFIED ONLY BY DEMONSTRATION OF “COMPELLING NEED”.
- THIS REQUIRES SHOWING AT LEAST THE FOLLOWING:
 - APPLICABLE DEVELOPMENT ORDINANCES ARE INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM;
 - MORATORIUM IS LIMITED TO ENSURE NEEDED SUPPLY OF HOUSING AND COMMERCIAL NOT UNREASONABLY RESTRICTED;
 - NO ALTERNATIVE METHOD IS SATISFACTORY FOR ACHIEVING THE OBJECTIVE;
 - PUBLIC HARM OUTWEIGHS DAMAGE DONE BY LACK OF MORATORIUM;
 - SUFFICIENT RESOURCES EXIST TO COMPLETE ANY NEEDED CHANGES TO PLANS, REGULATIONS OR PROCEDURES.

ORS 197.520(4) – TIMELINE

- MORATORIA ARE EFFECTIVE FOR ONLY 120 DAYS IF THEY ARE NOT BASED ON PUBLIC FACILITY SHORTAGES.
- TIMELINE MAY BE EXTENDED UP TO 6 MONTHS AT A PUBLIC HEARING THAT FINDS:
 - THE PROBLEM STILL EXISTS;
 - PROGRESS HAS BEEN MADE TOWARDS FIXING THE PROBLEM.

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text is centered in the middle of the slide.

**DOES YAMHILL HAVE FACTUAL
GROUNDS FOR A MORATORIUM?**

PRESENT FACTS IN FAVOR OF MORATORIUM

- CITY SUFFERED A WATER SHORTAGE AND CURTAILED USAGE IN 2021.
- CITY HAS LONG TERM CAPITAL PROJECTS THAT ARE NOT YET COMPLETE.
- CITY WATER USAGE EXPECTED TO INCREASE AS NEW DEVELOPMENT IS CREATED.

PRESENT FACTS IN OPPOSITION OF MORATORIUM

- WATER RECORDS SHOW THAT OUTSIDE WATER USE ACCOUNTS FOR UPWARDS OF 76% OF WATER CONSUMPTION.
- OUTSIDE WATER CONTRACTS STATE:

Customer recognizes and acknowledges City's duty to provide water to customers within the City before selling surplus water to this customer.

PRESENT FACTS IN OPPOSITION OF MORATORIUM

- **OUTSIDE WATER CONTRACTS STATE:**

City also agrees and Customer recognizes and acknowledges that Customer's supply of surplus water shall be reduced or terminated in the event of a shortage of supply and/or emergency in which the water supply to City residents would otherwise be inadequate, or for violation or breach of this agreement by customer. Customer further recognizes and agrees that no liability for damages shall attach to City hereunder on account of any failure to accurately anticipate, or develop, availability of the surplus water supply, or because of an actual failure of the surplus water supply.

MORATORIUM DECLARATION - ANALYSIS

- AN ORS 197.520(2) MORATORIUM ON URBANIZABLE LAND REQUIRES A LACK OF PUBLIC FACILITIES AND DEMONSTRATED NEED FOR RESTRICTION.
- AN ORS 197.520(3) MORATORIUM ON URBANIZABLE LAND REQUIRES COMPELLING NEED BASED THAT BALANCES PUBLIC HARM AGAINST DEVELOPMENT INTERESTS.

MORATORIUM DECLARATION - ANALYSIS

- 60-75% OF YAMHILL'S WATER IS SOLD AS "SURPLUS WATER".
- YAMHILL'S CONTRACTS WITH OUTSIDE USERS PERMITS THE CITY TO SERVE CITY USES BEFORE SERVING SURPLUS USES.
- IT APPEARS THAT THE PRESENT PUBLIC FACILITIES CAN SERVE 2 TO 3 TIMES THE CURRENT INSIDE CITY USAGE.

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- IT APPEARS THAT THE PRESENT PUBLIC FACILITIES CAN SERVE 2 TO 3 TIMES THE CURRENT INSIDE CITY USAGE, WHICH MAKES IT DIFFICULT TO DECLARE A MORATORIUM ON THE GROUNDS OF A PUBLIC FACILITY SHORTAGE.

MORATORIUM DECLARATION - ANALYSIS

- CITY MAY STILL ARGUE THAT A COMPELLING NEED EXISTS AND INVOKE AN ORS 197.520(3) MORATORIUM.
- THIS WILL ONLY BE EFFECTIVE FOR 120 DAYS, AND THEN ONLY FOR 6 MONTH EXTENSIONS, DURING WHICH TIME THE CITY MUST SHOW AFFIRMATIVE MOVEMENT TOWARDS SOLVING THE “COMPELLING” ISSUE.

OPTIONS

- CITY MAY CHOOSE NOT TO PURSUE A MORATORIUM.
- CITY MAY PROCEED WITH MORATORIUM PROCEDURE:
 - CITY HOLDS A PUBLIC HEARING FOR A MORATORIUM BASED ON PUBLIC FACILITY SHORTAGE (ORS 197.520(2));
 - CITY HOLDS A PUBLIC HEARING FOR A MORATORIUM BASED ON COMPELLING NEED TO PREVENT PUBLIC HARM OVER NEEDS OF DEVELOPMENT (ORS 197.520(3)).

MORATORIUM WITHOUT JUSTIFICATION

- IF THE CITY ENTERS INTO A MORATORIUM WITHOUT A LEGAL OR FACTUAL JUSTIFICATION, DEVELOPERS MAY APPEAL THE CITY'S DECISION (WHICH MUST BE MADE AT A PUBLIC HEARING).

MORATORIUM WITH JUSTIFICATION

- IF THE CITY ENTERS INTO A MORATORIUM WITH A LEGAL OR FACTUAL JUSTIFICATION OF COMPELLING NEED.
- MORATORIUM IS VALID FOR 120 DAYS, EXTENSIONS WILL REQUIRE ADDITIONAL PUBLIC HEARINGS.
- FAILURE TO SHOW AFFIRMATIVE MOVEMENT TOWARDS SOLVING ISSUE ALLOWS APPEAL OF DECISION TO EXTEND MORATORIUM.