

TO: Knoxville-Knox County Planning Commission
FROM: Amy Brooks, AICP | Executive Director
DATE: August 7, 2025
SUBJECT: Vested Rights Amendments – City of Knoxville
FILE #: 8-A-25-OA, Agenda Item #7

STAFF RECOMMENDATION:

Planning recommends approval of amendments to the City of Knoxville Zoning Code, Article 14.4 Zoning Administrator Powers, 15.3 Vesting, and 16.12 Zoning Appeals to align vested rights with recent state law changes per Tenn. Code Ann. § 13-4-310 et seq.



Law Department

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A handwritten signature in blue ink, likely belonging to Christina V. Magrans-Tillery, the Assistant City Attorney.

To: Knoxville-Knox County Planning Commission
From: City of Knoxville Law Department
Date: August 6, 2026
Re: Vested Rights (8-A-25-OA)

Recommendation

The City of Knoxville is recommending amendments to bring City code into compliance with recent changes from the Tennessee legislature. The proposed changes regarding vested rights impact Articles 14.4, 15.3 and 16.12 of the City's Zoning Code.

Background

Earlier this year, the state legislature changed the date when rights become vested from the date when the City approves the building permit or development, to the date when the applicant submits the required documentation in order to receive City approval of a building permit or development plan.

The state legislature also chose to extend the periods of time during which rights stay vested and, in part, to tie that time period to deadlines for administrative appeals. The amended vested rights statute applies to cities and is TENN. CODE ANN. § 13-4-310. The attached Exhibit A is a copy of the statute with tracked changes showing the recent updates.

Additionally, the amended statute leaves it to the City to decide whether to require that the applicant's submission be in "substantial compliance" with the local development ordinances and regulations, and to define what constitutes "substantial compliance."

Summary of Proposed Changes

Staff members from Planning and from the City departments of Policy, Law, and Plans Review & Building Inspections met and drafted the attached proposed ordinance amendments. Stakeholders provided suggestions, which were included. The amendments to Articles 14.4, 15.3, and 16.12 strive to bring the ordinance into compliance with the new state law by:

- 1) Defining "substantial compliance" for application submissions,
- 2) Establishing a reasonable deadline for appeals of administrative decisions to eliminate uncertainty for developers and provide clarity regarding the periods of time during which rights stay vested, and
- 3) Aligning the terminology of our ordinance with state law.

Exhibit 1

Proposed Amendments to Art. 14.4, 15.3, and 16.12

14.4 ZONING ADMINISTRATOR POWERS

The Zoning Administrator has the following powers pursuant to this Code. The Zoning Administrator may appoint a designee to act as the Zoning Administrator.

- A. To make final decisions on site plan review applications, as applicable.
- B. To make final decisions on zoning certification applications.
- C. To make final decisions on zoning interpretation applications.
- D. To make final decisions on temporary use permit applications.
- E. To make final decisions on requests for reasonable accommodation.
- F. To allow temporary use permit timeframe extensions per ~~Section~~ [Article](#) 9.4.
- G. Landscape plans for all development that require landscape per Article 12.
- H. To make final decisions on the status of vested rights per Article 15.3.

15.3 VESTING

In accordance with [and subject to](#) Tenn. Code Ann. § 13-4-310, the following provides for the vesting of developments through zoning applications.

- A. Subject to item C, a vested property right ~~must be~~ [is](#) established [upon the earlier of an applicant's submission of, or](#) the City's approval of, a preliminary development plan, a final development plan where no preliminary development plan is required by ordinance or regulation, or a building permit allowing construction of a building where there was no need for prior approval of a preliminary development plan for the property on which that building will be constructed. During the vesting period in item C, the City's development standards in effect on the date of said approval remain the development standards applicable to that property or building during the vesting period in item C. [An applicant's submission must comply with Article 15.3.B.9 to trigger vested rights.](#)
1. [For the purposes of Article 15.3:](#)
- a. ["Submission" means the date on which an applicant submits to the City Plans Review and Building Inspections Department a complete application for approval of a building permit or development plan listed in Article 15.3.B.](#)
- b. ["Substantial compliance" means that the application is complete and:](#)
- i. [Does not require a variance;](#)
- ii. [If the project involves a special use, the project receives a Planning staff recommendation that the Planning Commission grant special use approval, and, in such case, the vested rights shall attach as of the date of submission;](#)
- iii. [Proposes nothing which the Zoning Code prohibits;](#)
- iv. [Does not propose a Planned Development under Article 16.7;](#)
- v. [Does not propose an expansion of a nonconforming use under Article 17.1.A.1; and](#)
- vi. [If the project is located in a DK, H, NC, IH, \(C\), HP or any other special purpose or overlay district, the project receives a Planning staff recommendation that the reviewing board issues the Certificate of Appropriateness or other approval, and, in such case, the vested rights shall attach as of the date of submission.](#)
- B. A vested property right is established with respect to any property upon the appropriate department's:
1. Approval of a preliminary or final development plan for any of the following Districts: RP-1, RP-2, RP-3, SC-1, SC-2, SC-3, PC-1, PC-2, BP-1, TND-1, or TC-1 Districts.
 2. Approval regarding a project in the I-1 District.
 3. Approval regarding a use on review.
 4. Approval of a certificate of appropriateness, when required.
 5. Approval of a form district project.
 6. Issuance of a site development permit.
 7. Issuance of a written finding from the Director of Plans Review and Building Inspections that allowing a property right to remain vested is in the best interests of the community.
 8. Any other approval or issuance specified in Tenn. Code Ann. § 13-4-310.

9. Receipt of a complete application, which is submitted in order to obtain approval of any of the items in this subsection 15.3.B and which substantially complies with the requirements of the Zoning Code.

C. The applicable vesting periods are as follows:

1. For building permits allowing construction of a building where there was no need for prior approval of a preliminary development plan for the property on which that building will be constructed, the vesting period begins on the day the building permit is issued. The vesting period lasts through the expiration of the building permit and any renewals, unless the applicant has not pursued with reasonable diligence site development or construction.
2. For ~~approval of~~ a preliminary development plan that does not progress in stages or phases, the initial vesting period is three (3) years subject to the following:
 - a. The applicant must secure and maintain all necessary permits during all vesting period(s) and any extension(s) in order to remain vested. During the initial vesting period, the applicant must obtain the City's approval of the final development plan and commence site preparation. If the applicant complies, then the vesting period will be extended an additional two (2) years.
 - b. During the two (2) year extension, the applicant must commence construction and, if commenced, the development standards in effect during the vesting period remain in effect until the City certifies final completion of the development or project.
 - c. In no event will the total vesting period exceed ten (10) years from the date of the ~~approval~~ submission of the preliminary development plan, unless the City grants an extension pursuant to an ordinance or resolution and the applicant secures and maintains any necessary permits during the ten (10) year period.
3. For ~~approval of~~ a preliminary development plan that progresses in two or more ~~stages~~ sections or phases, a separate vesting period as described in item C.2 applies to each section or phase subject to the following:
 - a. The applicant must secure and maintain all necessary permits during all vesting period(s) and any extension(s) in order to remain vested. The development standards in effect on the date of the ~~approval~~ submission of the preliminary development plan describing the first ~~stage~~ section or phase apply to all subsequent ~~stages~~ sections or phases.
 - b. If the applicant begins construction, the development standards in effect during the vesting period remain in effect until the City certifies final completion of the development or project.
 - c. In no event will the total vesting period for all ~~stages~~ sections or phases exceed fifteen (15) years from the date of the submission of the preliminary development plan for the first section or phase, unless the City grants an extension pursuant to an ordinance or resolution and the applicant secures and maintains any necessary permits during the fifteen (15) year period.
4. Notwithstanding this subsection C, a vesting period applicable either to an approved development plan or to an approved building permit shall not expire any earlier than three (3) years following the later date on which the appeal period for challenging such issuance has expired or the date on which all appeals of such issuance have been exhausted.

D. In accordance with Tenn. Code Ann. § 13-4-310(f), the City may terminate the applicant's vested rights under the following circumstances.

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1. If the City finds in writing that the applicant violated terms and conditions specified in the approved development plan or building permit, the applicant will receive notice and has 90 days from the date of notification to cure all violations.
 2. If the City finds in writing that the applicant violated terms and conditions specified in a City ordinance or resolution, the applicant will receive notice and has 90 days from the date of notification to cure all violations.
 3. If the City finds in writing that the applicant: 1) intentionally supplied inaccurate information or knowingly made misrepresentations material to the issuance of a building permit or the approval of a development plan; or 2) knowingly did not construct the development in accordance with the issued building permit, approved development plan, or approved amendment for the building permit or development plan. In such case, the applicant has no right to cure the violations.
 4. If the City is required to enforce a state or federal law, regulation, rule, policy, corrective action, or other governance that precludes the development as contemplated in the approved development plan or building permit, the vested rights terminate unless within 90 days the applicant modifies the development plan or building permit in a way that brings the applicant into compliance with the new governance.
- E. A vested right does not preclude the City's enforcement of any development standard in accordance with any circumstances described in Tenn. Code Ann. § 13-4-310(g).
- F. In accordance with Tenn. Code Ann. § 13-4-310(h), any amendment to an approved development plan must first be approved by the City in order for the property rights to remain vested. The City may deny an amendment in accordance with Tenn. Code Ann. § 13-4-310(h) and, if such amendment is denied, the applicant may either proceed with no changes to the prior approved plan with the associated vested property right or, alternatively, may allow the vested property right to terminate and submit a new application in compliance with the development standards in effect at that time.
- G. Unless specifically addressed herein, all other provisions of Tenn. Code Ann. § 13-4-310 are adopted and incorporated by reference.
- H. Article 15.3 is controlling notwithstanding any other section of this Zoning Code.
- I. [The vesting rights for energy siting agreements are fully governed by Tenn. Code Ann. § 13-4-310.](#)
- J. [The Zoning Administrator shall make determinations under this Article, and anyone aggrieved by such determination may appeal in accordance with Article 16.12.](#)

16.12 ZONING APPEALS

A. Preliminary Appeals of Administrative Decisions

1. Purpose

This appeals process is intended to provide appropriate checks and balances both on the administrative zoning authority of the Zoning Administrator or Director of Plans Review and Building Inspections and on the administrative planning authority of the Knoxville-Knox County Planning staff.

2. Initiation

Any person or entity may appeal a decision made by the Zoning Administrator, Director of Plans Review and Building Inspections, or Knoxville-Knox County Planning staff, regarding a site plan review, zoning interpretation, temporary use permit, or any other administrative zoning decision related to this Code.

3. Authorization

- a. The Board of Zoning Appeals will take formal action on appeals of the decisions made by the Zoning Administrator or Director of Plans Review and Inspections.
- b. The Knoxville-Knox County Planning Commission will take formal action on all other decisions made by the Knoxville-Knox County Planning staff.

4. Procedure

- a. All applications to appeal a decision by the Zoning Administrator or Director of Plans Review and Building Inspections must be filed with the Zoning Administrator.
 - i. The Zoning Administrator will schedule the completed application for consideration by the Board of Zoning Appeals and shall post a sign no less than 12 days prior to the public hearing/ meeting date. Calculation of the notice period commences on the first date of posting, but does not include the hearing date.
 - ii. The Board of Zoning Appeals will consider the appeal at a public hearing.
 - iii. The Board of Zoning Appeals must evaluate the application based upon the evidence presented at the public hearing.
 - iv. Following the close of the public hearing, the Board of Zoning Appeals may affirm, modify, impose restrictions, or overrule the initial decision.
- b. All applications to appeal a decision by the Knoxville-Knox County Planning staff must be filed with the Knoxville-Knox County Planning Commission.
 - i. The Knoxville-Knox County Planning staff will schedule the completed application for consideration by the Knoxville-Knox County Planning Commission.
 - ii. The Knoxville-Knox County Planning Commission will consider the appeal at a public hearing.
 - iii. The Knoxville-Knox County Planning Commission must evaluate the application based upon the evidence presented at the public hearing.
 - iv. Following the close of the public hearing, the Knoxville-Knox County Planning Commission may affirm, modify, impose restrictions, or overrule the initial decision.

5. Limitations on Zoning Appeals

A zoning decision of the Zoning Administrator, Director of Plans Review and Building Inspections, or Knoxville-Knox County Planning staff may only be appealed if an application is filed within 30 days of the date of denial or the date when permit is issued pursuant to an approval. Daily notice of permits issued within the previous month shall be made available to the public on the City's website.

B. Final Appeals from Administrative Body Decisions to City Council

1. Purpose

The final appeals process is intended to provide appropriate checks and balances on the authority of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals.

2. Initiation

Any person aggrieved by any land use-related decision of the Knoxville-Knox County Planning Commission or the Board of Zoning Appeals may appeal to the City Council.

3. Authorization

The City Council will take formal action on appeals of Knoxville-Knox County Planning Commission or Board of Zoning Appeals decisions.

4. Procedure

The petition must be filed with the Knoxville-Knox County Planning Commission no more than 15 days from the date of the Commission's decision to be considered, and must be scheduled for public hearing before City Council at the earliest date possible consistent with these regulations. The same applies to petitions regarding a decision from the Board of Zoning Appeals, except that these petitions must be filed with the Director of Plans Review and Building Inspections.

- a. The petition must be in writing. All such petitions must be submitted on forms available in the Knoxville-Knox County Planning Commission office or the Director of Plans Review and Building Inspections. Each petition must clearly describe the petitioner's grounds for the appeal.
- b. The Knoxville-Knox County Planning Commission will mail a copy of such petition by certified mail, return receipt requested, to any opposing party who registered as such at the time the matter was heard by the Knoxville-Knox County Planning Commission. If the petition is in regard to a decision from the Board of Zoning Appeals, the Director of Plans Review and Building Inspections will follow the same procedure.
- c. The City Council will consider de novo in public hearing and may affirm, modify, impose restrictions, or overrule the action of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals.
- d. Prior to holding such public hearing, at least 15-day notice of time and place of said hearing must be published once in a daily newspaper of general circulation in the City of Knoxville and Knox County. The notice must meet the following requirements:
 - i. It must be placed in the "Want Ads" section of the newspaper before the "Legal Notices" classification or similar section.
 - ii. The caption must be all capital letters no smaller than two-line type and contain the words "PUBLIC NOTICE—APPEAL OF (action to be appealed)."

5. Limitations on Appeals

A decision of Knoxville-Knox County Planning Commission or the Board of Zoning Appeals may only be appealed if an application is filed within 15 days of the date the decision is made.

6. **Issuance of Building Permit**

No building permit will be issued until 16 days after action by the Knoxville-Knox County Planning Commission or Board of Zoning Appeals. If the action of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals is appealed to City Council, no building permit will be issued until City Council has acted on the appeal.

[Images skipped and unaltered]

(Ord. No. O-21-2023, § 1, 1-24-23)

Exhibit 2
Tenn. Code Ann. § 13-4-301 et seq.
As Amended by 2025 Legislature (Shown in Redline)

13-4-301. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Chief legislative body” means the chief legislative body of the municipality, whether designated board of aldermen, board of commissioners or by other title;

(2) “Plat” includes plat, plan, plot or replot;

(3) “Street” or “streets” means and includes streets, avenues, boulevards, roads, lanes, alleys and other ways; and

(4)

(A) “Subdivision” means, in any county having a population of not less than thirty-two thousand seven hundred (32,700) nor more than thirty-two thousand seven hundred sixty (32,760), according to the 1980 federal census or any subsequent federal census, the division of a tract or parcel of land into two (2) or more lots, sites or other division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided;

(B)

(i) “Subdivision” means, in all counties except those in subdivision (4)(A), the division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less than five (5) acres, for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided;

(ii) As used in subdivision (4)(B)(i), “utility construction” does not include the mere extension of individual service pipes or lines for the purpose of directly connecting a single lot, site or other division to existing utility mains.

(5) “Submission” means:

(A) With respect to a development plan, the date on which an applicant submits to a local government a complete application for approval of the development plan; or

(B) With respect to a building permit, the date on which an applicant submits to a local government a complete application for approval of the building permit.

13-4-310. Power of municipal planning commission to promulgate provisions for development — Vesting period for development standards as to approved development plans.

(a) A municipal planning commission shall have the power to promulgate provisions in its subdivision regulations and recommend amendments to the zoning ordinance for the establishment of review and approval powers for site plans and the establishment under the zoning provisions for review and approval of planned unit developments, overlay districts, mixed use developments, condominiums and other types of sustainable design and development of property. The provision of well-designed and properly constructed infrastructure within such development is vital to the health, safety and welfare of the public utilizing said development and the community as a whole. These types of developments typically contain infrastructure that may be dedicated to a governmental entity or may be controlled by other types of bodies or nongovernmental entities including, but not limited to, property owner associations. These infrastructure and internal development improvements such as, but not limited to, public and nonpublic roads, water and sewer lines, landscaping, green space, sustainable design features and other improvements as required by the planning commission, either through its subdivision regulation or through the local government's zoning ordinance, shall be subject to bonding or other methods of guaranteeing their installation. The planning commission may set and hold these guaranteeing instruments or may designate to another governmental body that duty and function.

(b) (1) A vested property right ~~shall be~~ is established, with respect to any property, upon the ~~approval, by~~ submission to the local government in which the property is situated, of:

(A) A preliminary development plan;

(B) ~~or~~ A final development plan where no preliminary development plan is required by ordinance or regulation;

(C) ~~or~~ A building permit allowing construction of a building where there ~~was~~ is no ~~need~~ requirement for prior approval of a preliminary development plan for the property on which that building will be constructed.

(2) Notwithstanding subdivision (b)(1), a vested property right is not established unless the plan or building permit substantially complies with the requirements of local development ordinances and regulations pursuant to subsection (e).

(3) During the vesting period described in subsections (c) and (d), the locally adopted development standards ~~which that~~ are in effect on the date of ~~approval~~ submission of a preliminary development plan or the date of approval of a building permit, as described by this subsection (b), shall remain the development standards applicable to that property or building during the vesting period.

(c) The vesting period applicable to a submitted application for a building permit for a preliminary development plan or a final development plan where no preliminary development plan is required by ordinance or regulation is a period of three (3) years, beginning on the date of submission of the plan to the local government pursuant to subsection (b). Unless an extension is granted by the local government, the vesting period

applicable to an approved construction project for which a building permit has been issued ~~shall begin~~ begins on the date of issuance of the building permit by the local government and ~~shall remain~~ remains in effect for the time period authorized by the approved building permit, including any approved renewal obtained by the applicant prior to the expiration or termination of the permit to be renewed; provided, that the applicant pursues site preparation with reasonable diligence ~~site preparation~~, if ~~applicable~~ such preparation is necessary, and construction.

(d)

(1) The vesting period applicable to a development plan shall be a period of three (3) years, beginning on the date of ~~the local government's approval~~ approval submission of the preliminary development plan; provided, that the applicant obtains local government approval of a final development plan, secures any necessary permits and commences site preparation within the vesting period. If the applicant obtains local government approval of a final development plan, secures any necessary permits, and commences site preparation within the vesting period, then the vesting period shall be extended an additional two (2) years to commence construction from the date of the expiration of the three-year period. During the two-year period, the applicant shall commence construction and maintain any necessary permits to remain vested.

(2) If construction commences during the vesting period, the development standards applicable during the vesting period shall remain in effect until the local government has certified final completion of the development or project; provided, the total vesting period for the project shall not exceed ten (10) years from the date of the ~~approval~~ approval submission of the preliminary development plan, excluding any vesting period provided for in subdivision (l)(2), unless the local government grants an extension pursuant to an ordinance or resolution; provided further, that the applicant maintains any necessary permits during the ten-year period.

(3) In the case of developments which proceed in two (2) or more sections or phases as described in the development plan, there shall be a separate vesting period applicable to each section or phase. The development standards which are in effect on the date of ~~approval~~ approval submission of the preliminary development plan for the first section or phase of the development shall remain the development standards applicable to all subsequent sections or phases of the development; provided, that the total vesting period for all phases shall not exceed fifteen (15) years from the date of the ~~approval~~ approval submission of the preliminary development plan for the first section or phase, excluding any vesting period provided for in subdivision (l)(2), unless the local government grants an extension pursuant to an ordinance or resolution; provided further, that the applicant maintains any necessary permits during the fifteen-year period.

(e) A local government may, by ordinance or resolution, specifically identify the type or types of development plans within the local government's jurisdiction that will cause property rights to vest; provided, that regardless of nomenclature used in the ordinance or resolution to describe a development plan, a plan which contains any of the information described in subdivision (k)(5) or (k)(6) shall be considered a development plan that will cause property rights to vest according to this section. Any such ordinance or resolution shall also specify what constitutes ~~approval of~~ a substantial compliance with the requirements of local development ordinances and regulations for the submission of a development plan within its jurisdiction. If a local government has not adopted an ordinance or resolution pursuant to this section specifying ~~what constitutes a development plan~~ substantial compliance that would trigger a vested property

right, then rights shall vest upon the **approval submission** of any plan, plat, drawing, or sketch, however denominated, that is substantially similar to any plan, plat, drawing, or sketch described in subdivision (k)(5) or (k)(6).

(f)

(1) During the vesting period described in subsections (c) and (d), the locally adopted development standards which are in effect on the date of **approval submission** of a preliminary development plan or the issuance of a building permit, whichever applies, shall remain the development standards applicable to the property described in such preliminary development plan or permit, except such rights shall terminate upon a written determination by the local government under the following circumstances pursuant to subdivision (f)(2):

(A) When the applicant violates the terms and conditions specified in the approved development plan or building permit; provided, that the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the local government may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;

(B) When the applicant violates any of the terms and conditions specified in the local ordinance or resolution; provided, the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the local government may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;

(C) Upon a finding by the local government that the applicant intentionally supplied inaccurate information or knowingly made misrepresentations material to the issuance of a building permit or the approval of a development plan or intentionally and knowingly did not construct the development in accordance with the issued building permit or the approved development plan or an approved amendment for the building permit or the development plan; or

(D) Upon the enactment or promulgation of a state or federal law, regulation, rule, policy, corrective action or other governance, regardless of nomenclature, that is required to be enforced by the local government and that precludes development as contemplated in the approved development plan or building permit, unless modifications to the development plan or building permit can be made by the applicant, within ninety (90) days of notification of the new requirement, which will allow the applicant to comply with the new requirement.

(2) A written determination by the local government of the occurrence of any of the circumstances provided in subdivision (f)(1) shall cause the vested property rights to terminate; provided, however, that a local government may allow a property right to remain vested despite such a determined occurrence when a written determination is made that such continuation is in the best interest of the community.

(g)

(1) A vested development standard shall not preclude local government enforcement of any development standard when:

(A) The local government obtains the written consent of the applicant or owner;

(B) The local government determines, in writing, that a compelling, countervailing interest exists relating specifically to the development plan or property which is the subject of the building permit that seriously threatens the public health, safety or welfare of the community and the

threat cannot be mitigated within a reasonable period of time, as specified in writing by the local government, by the applicant using vested property rights;

(C) Upon the written determination by the local government of the existence of a natural or man-made hazard on or in the immediate vicinity of the subject property, not identified in the development plan or building permit, and which hazard, if uncorrected, would pose a serious threat to the public health, safety, or welfare and the threat cannot be mitigated within a reasonable period of time, as specified in writing by the local government, by the applicant using vested property rights;

(D) A development standard is required by federal or state law, rule, regulation, policy, corrective action, order or other type of governance that is required to be enforced by local governments, regardless of nomenclature; or

(E) A local government is undertaking an action initiated or measure instituted in order to comply with a newly enacted federal or state law, rule, regulation, policy, corrective action, permit, order or other type of governance, regardless of nomenclature.

(2) A vested property right does not preclude, change, amend, alter or impair the authority of a local government to exercise its eminent domain powers as provided by law.

(3) This section shall not preclude, change, amend, alter or impair the authority of a local government to exercise its zoning authority, except a vested property right, once established as provided for in this section, precludes the effect of any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development of the property, while vested, as described in an approved development plan or building permit.

(4) In the event the local government enacts a moratorium on development or construction, the vesting period authorized pursuant to this section shall be tolled during the moratorium period.

(h)

(1) An amendment to an approved development plan by the developer must be approved by the local government to retain the protections of the vested property right. An amendment may be denied based upon a written finding by the local government that the amendment:

(A) Alters the proposed use;

(B) Increases the overall area of the development;

(C) Alters the size of any nonresidential structures included in the development plan;

(D) Increases the density of the development so as to affect traffic, noise or other environmental impacts; or

(E) Increases any local government expenditure necessary to implement or sustain the proposed use.

(2) If an amendment is denied by the local government based upon such a written finding, then the applicant may either proceed under the prior approved plan with the associated vested property right or, alternatively, allow the vested property right to terminate and submit a new application under this section. Notwithstanding this subsection (h), a vested property right shall not terminate if the local government determines, in writing, that it is in the best interest of the community to allow the development to proceed under the amended plan without terminating the vested property right.

(i) A local government shall not require an applicant to waive the applicant's vested rights as a condition of approval or as a consideration of approval of a development plan or the issuance of a building permit.

(j) A vested property right shall attach to and run with the applicable property and shall confer upon the applicant the right to undertake and complete the development and use such property under the terms and conditions of a development plan, including any amendments thereto or under the terms and conditions of any building permit that has been issued with respect to the property.

(k) As used in this section:

(1) “Applicant” means a landowner or developer who is responsible for filing with the local government an application for a building permit, a development plan or application for a permit requisite to a development plan, or the representatives, assigns, successors, transferees, heirs or agents of such landowner or developer;

(2) “Construction” means the erection of construction materials in a permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation, demolition or removal shall be deemed to be construction; provided, that work shall be carried on diligently and complies with all applicable requirements;

(3) “Development plan” means both a preliminary development plan and a final development plan;

(4) “Development standards”:

(A) Means all locally adopted or enforced standards, regulations or guidelines applicable to the development of property, including, but not limited to, planning; local storm water requirements, layout, design; local construction standards for buildings, streets, alleys, curbs, sidewalks; zoning as provided for in subsection (g); lot size; lot configuration; yard dimensions; and off-site improvements, including public or private infrastructure, in which an applicant may acquire vested rights or vested property rights according to this section; and

(B) Does not include standards required by federal or state law; or building construction safety standards which are adopted pursuant to authority granted under § 68-120-101;

(5) “Energy siting agreement” means a voluntary energy siting agreement approved by a local government pursuant to § 5-6-119 or § 6-54-148;

(6)

(A) “Final development plan” means a plan which has been submitted by an applicant and approved by a local government describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals:

(i) A planned unit development plan;

(ii) A subdivision plat;

(iii) General development plan;

(iv) Subdivision infrastructure construction plan;

(v) Final engineered site plan; or

(vi) Any other land-use approval designation as may be utilized by a local government;

(B) Unless otherwise expressly provided by the local government, such a plan shall include the boundaries of the site; significant topographical and other natural features affecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures or a building envelope; and the location of all existing and proposed infrastructure on the site, including water,

sewer, roads, and pedestrian walkways. A variance shall not constitute a final development plan, and approval of a final development plan with the condition that a variance be obtained shall not confer a vested property right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type of use, the intensity of use, and the ability to be served with essential utilities and road infrastructure for a specified parcel or parcels of property may constitute a final development plan;

(7) “Preliminary development plan” means a plan which has been submitted by an applicant and that depicts a single-phased or multi-phased planned development typically used to facilitate initial public feedback and secure preliminary approvals from local governments. Examples of information found on development plans include proposed land uses, density and intensity of development, public utilities, road networks, general location of off-street parking, building location, number of buildable lots, emergency access, open space, and other environmentally sensitive areas such as lakes, streams, hillsides, and view sheds. An approved preliminary development plan serves as a guide for all future improvements within defined boundaries; and

(8) “Site preparation” means excavating, grading, demolition, removing excess debris to allow for proper grading, or providing a surface for a proper foundation, drainage, and settling for a development project, and physical improvements including, but not limited to, water and sanitary sewer lines, footings, or foundations installed on the site for which construction permits are required.

(l)

(1) A vested property right is also established with respect to property upon the approval of an energy siting agreement by the legislative body of the local government in which the property is situated. During the vesting period described in subdivision (l)(2), the locally adopted development standards that are in effect on the date of approval of an energy siting agreement, including any modifications to such standards pursuant to the terms of the energy siting agreement, remain the development standards applicable to that property or building during the vesting period.

(2) The vesting period applicable to an energy siting agreement precedes the vesting periods described in subsections (c) and (d) and shall be for the following period, unless the energy siting agreement expires or is validly terminated by the local government in accordance with its terms during the vesting period:

(A) Ten (10) years where no preliminary or final development plan is required by ordinance;

(B) Seven (7) years where no preliminary development plan is required by ordinance; or

(C) Five (5) years where a preliminary development plan is required by ordinance.

(m) Notwithstanding this section to the contrary:

(1) A vesting period applicable to a development plan approved by a local government must not expire earlier than three (3) years following the later of the date on which the appeal period for challenging such approval has expired or the date on which all appeals of such approval have been exhausted; and

(2) A vesting period applicable to a building permit issued by a local government must not expire earlier than three (3) years following the later of the date on which the appeal period for challenging such issuance has expired or the date on which all appeals of such issuance have been exhausted.

(n) Any question related to the power of a board of appeals to hear and render decisions on applications for approval of development plans under a special exception authorized by an ordinance passed by the municipal legislative body, or to hear and render decisions on any other matter authorized by the municipal legislative body under the power granted pursuant to § 13-7-206(a), must be resolved in favor of the board of appeals having the authority described in such ordinance.