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## 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 or Knoxville-Knox County Planning, as appropriate, 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.

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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.](#)