

ARTICLE 16. DEVELOPMENT AGREEMENTS AND VESTED RIGHTS

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16.1. APPLICABILITY.

The purpose of this Article is to establish an orderly process to develop land within the Town of Fairmont. It is also the intent of this Article to provide a clear and understandable development process that is fair and equitable to all interests, including the applicants/petitioners, affected neighbors, Town staff, related agencies, the Planning Board and the Town Board of Commissioners. The development review process applies to all development actions within the planning jurisdiction.

16.2. DEVELOPMENT AGREEMENTS.

Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources, creating community impacts and opportunities that are difficult to accommodate within traditional zoning processes, and require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development. Recognizing this, the NC General Assembly has authorized local governments to enter into development agreements with developers, subject to the procedures outlined in this Section.

When entering into such agreements, Town of Fairmont may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the Town 's development regulations. When the Town Board of Commissioners approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Section, the provisions of G.S. 160D-6-5(a) apply. Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

Statutory Reference – N.C.G.S. Chapter 160D- 1001 (a)-(d)

16.2.1. **Definitions.**

- A. Development. The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels.
- B. Public Facilities. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

Statutory Reference – N.C.G.S. Chapter 160D- 1002.

16.2.2. Authority. The Town may enter into a Development Agreement with a developer, subject to the procedures and standards of this section. In entering into such a Development Agreement, the Town may not exercise any authority or make any commitment not authorized by general or local act, and may not impose any tax or fee not authorized by otherwise applicable law. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the Development Agreement.

Statutory Reference – N.C.G.S. Chapter 160D- 1001(b) and 160D-1006(c).

16.2.3. Applicability. The Development Agreement procedure allows the Town and the developer to enter into an agreement for completion of the development, subject to compliance with specific requirements set down in the agreement. A Development Agreement may be applied to a development of any size, however, all proposed developments of at least 3 buildable acres shall be subject to a development agreement. The terms of a Development Agreement apply to all successors in interest.

Statutory Reference – N.C.G.S. Chapter 160D- 1004.

16.2.4. Duration. Development Agreement issued by the Town shall be of a reasonable length of time based upon the complexity of the development proposed in the agreement.

Statutory Reference – N.C.G.S. Chapter 160D- 1004.

16.2.5. Development Agreement Standards. For consideration of the Town to participate in a Development Agreement, a development subject to the agreement must meet the following criteria:

- A. Planned Development. The information regarding the property subject to the Development Agreement shall contain details of the property and the planned development in accordance with the NC State General Statute requirements.
- B. Phasing and Duration of Development. The development shall demonstrate phasing and participation in the proposed agreement shall be of reasonable terms that shall be specified in the agreement.
- C. Impact on Capital Improvements. The development shall demonstrate the impact on existing and future provisions of capital improvements by the Town including at least one of

the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

16.2.6. Contents of Application. An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, address all of the following:

- A. A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
- B. The duration of the agreement.
- C. A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.
- D. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
- E. A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.
- F. If the Development Agreement provides that the Town shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards).
- G. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.
- H. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.
- I. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety, or welfare of its citizens.
- J. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- K. An indemnification and "hold harmless" clause whereby the developer/property owner holds the Town and its agents harmless from liability for damages, injury, or death that may

arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

- L. The proposed Development Agreement may include the following:
 - i. A provision that the entire development or any phase of it be commenced or completed within a specified period of time.
 - ii. Other defined performance standards to be met by the developer.
 - iii. Other matters not inconsistent with law.

- M. The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.
 - i. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
 - ii. The development agreement also may cover any other matter, including defined performance standards, not inconsistent with N.C.G.S. Chapter 160D. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-8-4 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

Statutory Reference – N.C.G.S. Chapter 160D- 1006.

- iii. Modifications. Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. Changes which constitute a major modification may be determined as provided for in the development agreement. Changes which are deemed Minor may be processed administratively.

Statutory Reference – N.C.G.S. Chapter 160D- 1006(e).

16.2.7. Procedure for Entering into Development Agreements with Developers.

- A. Submittal.
 - i. The Application for a Development Agreement shall be submitted, together

with all other related permit/development approval applications, to the Zoning Administrator.

- ii. The Zoning Administrator shall review the contents to ensure that the application is complete. If the application is not completed, the applicant shall be notified within ten (10) calendar days.
- iii. When the completed application is received and verified, the Zoning Administrator shall request and place the consideration of this application on the agenda for the next meeting of the Planning Board.

A. Review and Recommendation of the Planning Board. Following consideration and review, the Planning Board shall make on the following recommendations:

- i. The Town enter into the Development Agreement as submitted;
- ii. The Town enter into the Development Agreement application subject to modifications agreed to by the applicant, in writing; or
- iii. The Town not enter into the Development Agreement.

A. Consideration of the Development Agreement by the Board of Commissioners.

- i. Before entering in to a development agreement, the Town Board of Commissioners shall conduct a legislative hearing. The Town Clerk shall schedule a public hearing before the Town of Fairmont Board of Commissioners for the Development Agreement application. The notice provisions of G.S. 160D-6-2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. This hearing may be held jointly with any hearing required for other permits and approvals necessary of this same project.

Statutory Reference – N.C.G.S. Chapter 160D- 1005.

- ii. Following consideration and review of the recommendation from the Planning Board, the Board of Commissioners shall take one of the following actions:
 - 1) Enter into the Development Agreement as submitted;
 - 2) Enter into the Development Agreement, subject to modifications agreed to by the applicant, in writing;
 - 3) Not enter into the Development Agreement; or

- 4) Remand of the application back to the Planning Commission for further consideration.

16.2.8. Recordation. The developer shall record the agreement with the Robeson County Register of Deeds within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

Statutory Reference – N.C.G.S. Chapter 160D- 1011.

16.2.9. Approval of Debt. In the event that any of the obligations of the local governments in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt. The agreement shall be signed by the Town Attorney, Finance Director, and Mayor.

Statutory Reference – N.C.G.S. Chapter 160D- 1012.

16.2.10. Vesting.

- A. Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.
- B. Except for grounds specified in G.S. 160D-1-8(e), Town of Fairmont may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.
- C. In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, Town of Fairmont may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

Statutory Reference – N.C.G.S. Chapter 160D- 1007.

16.2.11. Termination. Development agreements may be terminated by mutual consent of the parties.

Statutory Reference – N.C.G.S. Chapter 160D- 1009.

16.2.12. Annual Review; Breach and Cure.

- A. Annual Review. During any period of time in which a development permit is active, the Town shall review the development at least once every 12 months for compliance with

the agreement. The developer shall be required to demonstrate good faith compliance with the terms of the Development Agreement.

Statutory Reference – N.C.G.S. Chapter 160D- 1009.

B. Breach and Cure

- i. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.
- ii. Material Breach: If the Town finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the Town shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and shall provide the developer a reasonable time in which to cure the material breach.
- iii. Failure to Cure Material Breach. If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Development Agreement.
- iv. Appeal. The notice of termination or modification may be appealed to the Board of Adjustment for review and decision.
- v. Other Penalties for Breach. An ordinance adopted pursuant to G.S. 160D-10.3 or the development agreement may specify other penalties for breach in lieu of termination, including but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

Statutory Reference – N.C.G.S. Chapter 160D- 1008.

16.2.13. Amendments to Development Agreement.

- A. Mutual Consent. A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
- B. Major Modification. Consideration of a proposed major modification of a Development Agreement shall follow the same procedures as required for initial approval of the agreement.
- C. Minor Modification. The Town Board of Commissioners delegates these to the Zoning Administrator who may approve minor modifications of the Development Agreement

with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

Cross Reference – Section 12.5.7.

16.2.14. Assumption of Jurisdiction over Development Agreements.

- A. *Town Assumes Planning Jurisdiction.* If the Town assumes planning jurisdiction over property subject to a Development Agreement established by another jurisdiction, such development agreement shall be valid for the duration of the agreement, or eight years from the effective date of the Town 's assumption of planning jurisdiction over the subject property, whichever is earlier.
- B. *Rights and Obligations.* The parties to the development agreement and the Town shall have the same rights and obligations with respect to each other regarding matters addressed in the Development Agreement as if the property had remained in the previous jurisdiction.
- C. *Modification or Suspension.* The Town may modify or suspend the provisions of the Development Agreement if the Town determines that the failure to do so would place the residents of the area subject to the Development Agreement, or the residents of the Town 's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

16.2.15. Change of Jurisdiction.

- A. A development agreement entered into by Town of Fairmont before the effective date of a change of jurisdiction shall be valid for the duration of the agreement, or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.
- B. In assuming jurisdiction, Town of Fairmont may modify or suspend the provisions of the development agreement if the Town determines that the failure to do so would place the residents of the territory subject to the development agreement, or the residents of the Town, or both, in a condition dangerous to their health or safety, or both.

Statutory Reference – N.C.G.S. Chapter 160D- 1010.

16.3. VESTED RIGHTS AND PERMIT CHOICE.

16.3.1. *Purpose.* The purpose of this Section is to ensure reasonable certainty, stability, and fairness in the development regulation process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development. This purpose is based upon the General Assembly's recognition that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly has found that it is therefore necessary and desirable to provide for the establishment of certain vested rights. These provisions strike an appropriate balance between private expectations and the public interest.

Statutory Reference - § 160D-1014(a)
(Ord. 9/12/2016; Section 5.15)

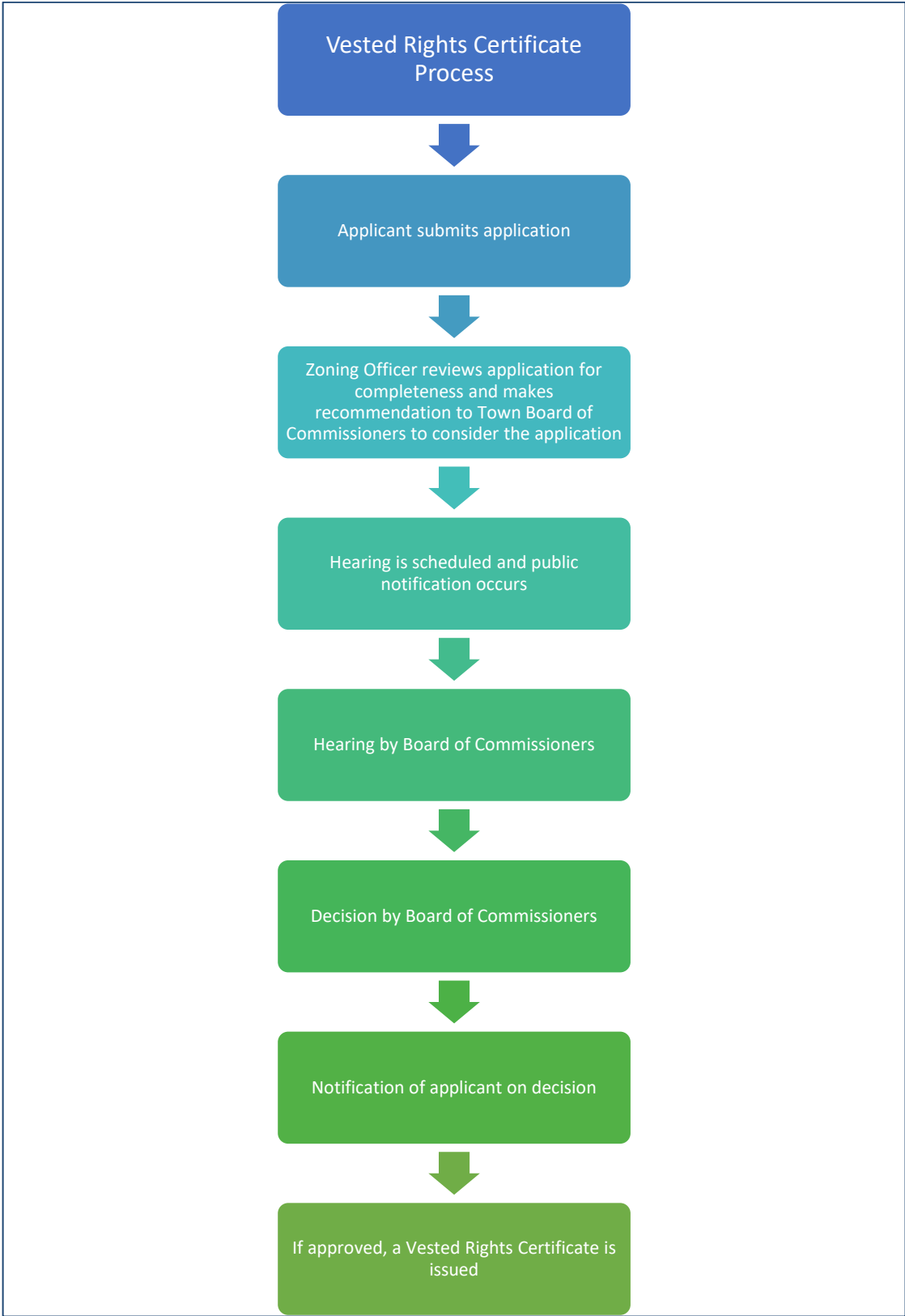
16.3.2. *Permit choice.* When an application made in accordance with local regulation is submitted for a development approval required pursuant to NCGS Chapter 160D-1014 and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the Town. The duration of vested rights created by development approvals are as set forth in Section 15.15.

Statutory Reference - § 160D-1014(b)

16.3.3. *Process to claim vested right.* A person claiming a statutory or common law vested right may submit information to substantiate that claim on a form approved by the Town Board of Commissioners to the Zoning Administrator who shall make an initial determination as to the existence of the vested right. The Zoning Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

Statutory Reference - § 160D-1014(c) and 160D-108.1

Figure 16.1 Vested Rights Certificate Process



16.3.4. Types and duration of statutory vested rights. Except as provided by this section and subject to Section 16.2 of this Article, amendments in local development regulations shall not be applicable or enforceable with regard to a development that has been permitted or approved pursuant to this Article so long as one of the approvals listed in this Article remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under one Section does not preclude vesting under one or more other Sections or by common law principles.

(A) Six months -- Building permits. Pursuant to G.S. 160D-11-9, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.

(B) One year -- Other local development approvals. Pursuant to G.S. 160D-4-3(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(C) Two to five years -- Site specific vesting plans.

i. Duration. A vested right for a site specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the Town. The Town may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be in the discretion of the Town and shall be made following the process specified by Section 16.3.4.(C)(iv) below for the particular form of a site specific vesting plan involved.

ii. Relation to building permits. A right vested as provided in this Section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S.160D-11-9 and G.S. 160D-11-13 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this Section exists.

iii. Requirements for site specific vesting plans. For the purposes of this section a “site-specific vesting plan” means a plan submitted to the Town which identifies with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional

zoning, or any other development approval as may be used by a local government.

- (a) Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
 - (b) What constitutes a site specific vesting plan shall be defined by the relevant development regulation and the development approval that triggers vesting shall be so identified. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In the event the Town fails to adopt a regulation setting forth what constitutes a site specific vesting plan, any development approval shall be considered to be a site specific vesting plan.
 - (c) A variance shall not constitute a “site specific vesting plan” and approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site specific vesting plan.
- iv. Process for approval and amendment of site specific vesting plans. If a site specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site specific vesting established by this Section. If the site specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-6-2 shall be held.
- (a) The Town may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights.
 - (b) The Town shall not require a landowner to waive vested rights as a condition of developmental approval. A site specific vesting plan shall be deemed approved upon the effective date of the Town’s decision approving the plan or such other date as determined by the Town Council upon approval.
 - (c) An approved site specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows:

- (1) Any substantial modification must be reviewed and approved in the same manner as the original approval;
- (2) Minor modifications may be approved by staff, if such are defined and authorized by local regulation.

16.3.5. Seven years -- Multi-phase developments. A multi-phased development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(A) For purposes of this Section, “multi-phased development” means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

16.3.6. Indefinite -- Development agreements. A vested right of reasonable duration may be specified in a development agreement approved under Article 10 NCGS Chapter 160D.

Statutory Reference - § 160D-1014(d)

16.3.7. Continuing review. Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

A. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

Statutory Reference - § 160D-1014(e)

16.3.8. Exceptions.

- A. A vested right, once established, precludes any zoning action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:
- (1) With the written consent of the affected landowner;
 - (2) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;
 - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant’s fees incurred after approval by the Town together with

interest as is provided in G.S. 160D-1-6. Compensation shall not include any diminution in the value of the property that is caused by such action;

- (4) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town to the vested right; or
 - (5) Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.
- B. The establishment of a vested right under this section shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.
- C. Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Statutory Reference - § 160D-1014(f)

16.3.9. Miscellaneous provisions.

- A. A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.
- B. Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

Statutory Reference - § 160D-1014(g)

16.4. VESTED RIGHTS CERTIFICATE.

16.4.1. Purpose. A Vested Rights Certificate allows an applicant with an approved and unexpired Site Plan, Subdivision Plan, or Final Plat to “vest” the plan or plat, in accordance with the ordinance. Such “vesting” allows development to continue on an approved plan even if certain deadlines are not met and/or there are code changes that might otherwise affect continued development of the property.

16.4.2. Application. An application for a Vested Rights Certificate may be filed concurrently or following approval of a Site Plan, Subdivision Plan, or Final Plat application. In approving the vested rights certificate, the Zoning Administrator may apply conditions of approval.

16.4.3. Applicability. A vested right may be established, in accordance with Chapter 160D-108 of the North Carolina General Statutes. The types of vesting plans and duration of those plans are outlined in Section 16.3 of this Ordinance.

16.4.4. Vested Rights Certificate Procedure.

- A. Pre-Application Conference Required. A pre-application conference with the Zoning Administrator is required.
- B. Application Submittal and Acceptance. Applications may be initiated by the landowner on a form approved by the Town Board of Commissioners.
- C. Staff Review. The Zoning Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with the Vested Rights Certificate Review Standards in Section 16.4.4. of this Ordinance.
- D. Public Notification. Public notification shall comply with the standards outlined in quasi-judicial hearings included in Section 6.5.
- E. Town Board of Commissioners Review and Decision.
 - i. Conduct Hearing. The hearing shall comply with the standards outlined in quasi-judicial hearings included in Section 6.5.
 - ii. The Town Board of Commissioners, after the conclusion of a quasi-judicial hearing, shall decide the application in accordance with the Vested Rights Certificate Review Standards. The decision shall be one of the following:
 - 1. Approval of the vested rights certificate as proposed;
 - 2. Approval of a revised vested rights certificate;
 - 3. Denial of vested rights certificate; or
 - 4. Remand of the vested rights certificate application to the Planning and Development Director for further review.

16.4.5. Vested Rights Certificate Review Standards. A vested rights certificate shall be approved if the applicant demonstrates:

- A. The vested rights certificate is for an approved site plan, group development plan, or preliminary plat;
- B. The development is valid and unexpired; and
- C. Any required variances have been obtained.

16.4.6. Vested Rights Certificate.

- (a) Following approval of a vested right, each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan established a zoning vested right under N.C.G.S. Chapter 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

16.4.7. Amendment. Amendment of vested rights certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.