

**ARTICLE 5.**

**Vesting of Property Rights**

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## **Vesting of Property Rights**

### **Sec. 5.1. Purpose.**

The purpose of this Article 5 is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended, which establishes a conditional period of vested property rights for a landowner to undertake and complete development of real property under the terms and conditions of an approved site specific development plan. No vested rights shall be created within the Town except through a site specific development plan.

### **Sec. 5.2. Definitions.**

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

1. *Landowner* shall mean any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.
2. *Property* means all real property subject to land use regulation by the Town.
3. *Site specific development plan* shall mean and be limited to the final plat of a subdivision or a final site plan of a Planned Unit Development (also known as a "final development plan") when approved by the Board of Trustees by ordinance duly adopted.
4. *Vested property rights* shall mean the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

### **Sec. 5.3 Creation of Vesting Rights**

1. Request for site specific development plan approval.
  - a. For those developments for which the landowner wishes to establish vested property rights pursuant to Article 68 of Title 24, C.R.S., as amended, the landowner shall request the vesting approval in writing at least thirty (30) days prior to the date approval of the final plat or final development plan is scheduled to be considered by the Board of Trustees.
  - b. For those developments for which the landowner wishes to establish vested property rights pursuant to Article 68 of Title 24, C.R.S., but such vesting was not requested prior to approval of the final plat or final development plan, the landowner shall request the vesting approval within five (5) years of the date the Board of Trustees originally approved the final plat or final development plan. The vesting request must be made in writing and received at least thirty (30) days prior to the expiration of the post-approval period described herein..
  - c. Failure of the landowner to request approval within the timeframes established in this section shall render the subject plat or plan not a site specific development plan, and no vested property rights shall be deemed to have been established.
2. Notice and hearing. No site specific development plan shall be approved until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least fifteen (15) days before the hearing. Such notice may, at the Town's option, be combined

with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.

3. Approval, conditional approval, effective date, amendments, referendum, and review.
  - a. A site specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan, including any amendments thereto.
  - b. The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.
  - c. In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of the term of a vested property right, shall be the date of the original site specific development plan approval, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its written approval of the amendment.
  - d. The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site specific development plan approval and establishment of vested property rights.
4. Notice of approval.
  - a. Each map, plat, site plan or other document constituting a site specific development plan shall contain the following notice: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended. Approval was granted for (enter number) years effective (enter date)." Failure to contain this statement shall invalidate the creation of the vested property right.
  - b. For developments where vesting is granted pursuant to this section, after approval of a final plat or final development plan, the landowner shall prepare an amended final plat or final development plan, as appropriate, and record the same with the Weld County Clerk and Recorder. Such amended final plat or final development plan shall include the notice described in paragraph a. of this subsection 4, and contain signatures of all affected property owners, mortgagees, and/or lienholders as identified by an updated title commitment.
  - c. In addition, the Town shall publish a notice describing generally the type and intensity of the use approved, the specific parcel of property affected and stating that a vested property right has been created. The notice shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town.

**Sec. 5.4 Duration of vested property right.**

1. A property right which has been vested as provided in this Article shall remain vested for a period of three (3) years.
2. At no time shall the vesting period extend beyond eight (8) years following the original date of approval of the site specific development plan.
3. The Board of Trustees may, in its sole discretion, grant vested property rights for a longer period when warranted in light of all relevant circumstances, including but not limited to:
  - a. The size and phasing of the development
  - b. Economic cycles
  - c. Market conditions
4. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Board of Trustees in the written ordinance approving such amendments.

**Sec. 5.5 Other provisions unaffected.**

Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of real property.

**Sec. 5.6 Payment of costs.**

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town pertaining to such application, including but not limited to publication of notices, public hearing and review costs, county recording fees, and review costs.

**Sec. 5.7 Limitations.**

Nothing in this Code is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article 5 shall be deemed to be repealed and the provisions hereof no longer effective.