

TITLE 11

VESTED PROPERTY RIGHTS

Subject

Chapter

Vested Property Rights 1

CHAPTER 1

VESTED PROPERTY RIGHTS

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11-1-1: **TITLE:** The title of this regulation shall be the Town "Vested Property Rights Regulation" and may be so cited and pleaded.

11-1-2: **AUTHORITY:** The Town is expressly enabled to establish and administer this regulation by title 24, article 68, Colorado Revised Statutes, 1973, as amended. Should further authorizing legislation exist prior to adoption of this regulation or be enacted following adoption of the regulation, this regulation is additionally deemed to be adopted pursuant thereto.

11-1-3: **SCOPE:** The provisions of this regulation shall apply to all private and public property located within the Town except as otherwise prohibited by State of Colorado or by Federal law.

11-1-4: **LEGAL STANDING:**

(A) Interpretation and Application:

- (1) The provisions of this regulation shall be considered the minimum requirements for the protection of the public health, safety, welfare, comfort, convenience and prosperity of the present and future residents within the Town. Consequently, this regulation shall be regarded as remedial and,

where appropriate, it shall be construed liberally in order to accomplish its purpose.

- (2) Whenever a given element in this regulation contains provisions regarding the same subject matter as any other regulation or any other law, statute, regulation, resolution or contract of the Town, the provisions of this regulation shall prevail whenever possible.
- (3) Words in this regulation used in the present tense may include the future tense, words in the singular may include the plural, words in the plural may include the singular, the word "shall" is mandatory and the word "may" is permissive.
- (B) Separability: Should any part, section or provision of this regulation be declared illegal, unconstitutional or otherwise invalid by any court of competent jurisdiction, such action shall have no bearing upon the validity, application or effect of the remainder of this regulation or any other regulation of the Town.
- (C) Adoption and Enactment: The various parts, sections and provisions of this regulation shall take effect immediately upon their adoption or enactment by the appropriate authorities within the Town and they shall remain in full force until amended, repealed replaced.
- (D) Repeal: Any existing provisions of regulations previously adopted by the Town which conflict with any provision of this regulation required by the provisions of title 24, article 68, Colorado Revised Statutes, 1973, and all subsequent amendments thereto are hereby declared to be null, void and repealed.

11-1-5: **PURPOSE:** The purposes of this regulation are as stated in section 24-68-101, Colorado Revised Statutes, 1973, as amended, and this regulation is adopted for the purpose of local government compliance with title 24, article 68, Colorado Revised Statutes, 1973, as amended.

11-1-6: **DEFINITIONS:** As used within this Title 11, the following shall apply:

LANDOWNER: Any owner of a legal or equitable interest in real property, including the heirs, successors and assigns of such ownership interest.

APPLICANT: Landowner.

PROPERTY: All real property subject to land use regulation in the town.

SITE SPECIFIC

DEVELOPMENT PLAN:

A previously approved and valid final subdivision plat, final PUD plan, or other development approval as allowed by a majority vote of the Town Board, that has been approved by the Town Board, upon request by the landowner and in compliance with the provisions of this regulation, as a site-specific development plan. In the event that more than one of these development approvals is involved in a land development change, it shall be the final approval that is eligible to become a site-specific development plan.

VESTED PROPERTY RIGHT:

The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan, as provided for within the provisions and limitations of this regulation.

11-1-7: REVIEW AND ACTION ON A PROPOSED SITE-SPECIFIC DEVELOPMENT PLAN:

(A) Submittal Requirements:

- (1) Any landowner wishing to have a proposed land development change eligible to be approved as a site-specific development (see Section 11-1-6, "Definitions") so approved shall request that the proposed thirty (30) days before the eligible land development change is scheduled to be considered by the Town Board for final
- (2) Such requests shall be submitted in writing to the Town Board, stating the proposed change(s) that the landowner wished to have approved as a site-specific development plan, the reason(s) why the landowner so wishes the approval and duration of time that the landowner wishes the vested property right to endure.

Failure to so request within thirty (30) days of the final approval of the eligible land development change shall render the approval not a site specific development plan and no vested property right shall be deemed to have been created.

- (3) All maps, charts, plats and other documents submitted as requirements for approval of land development changes that a land owner wishes to be designated as site-specific developments must contain in a prominent location in clear, visible lettering the following statement: Approval of this document may create a vested property right of three (3) or more years duration on the affected property, pursuant to local land use regulations and title 24, article 68, Colorado Revised Statutes, 1973, as amended.

(B) Review Procedures/Three (3) Year Vested Site-Specific Development Plans:

Approval or conditional approval of the eligible proposed land use change by the Town Board of the Town shall also constitute approval of the proposed change as a site-specific development plan, within the limitations of this regulation; provided, that the provisions of this regulation and all other land development regulations and provisions of the Town are complied with by the landowner and the landowner's agents or representatives. Such approved site specific development plans shall create a vested property right of three (3) years duration. Denial of the eligible proposed land use change shall also cause denial of approval of the proposed site-specific development plan and no vested property right shall be deemed to have been created.

(C) Review Procedures/Other Site-Specific Development Plans:

Upon approval or conditional approval of a eligible proposed land use change that would create a site-specific development plan with a vested property right of more than three (3) years duration the Town Board shall then consider and decide by majority vote the duration of the vested property right to be granted. In so deciding, the Town Board shall base its decision on the following considerations:

- (1) All adopted comprehensive plans and other regulations of the Town;
- (2) The extent, intensity, characteristics, development time and duration of the land use change(s) encompassed within the site-specific development plan;
- (3) The professional level and extent of experience of the landowners and the landowner's record of accomplishing similar proposed plans.
- (4) The potential fiscal consequences, budget implications and other financial and institutional consequences to the residents and local governments of the Town of approving a vested property right of more than three (3) years duration.

(D) Special Conditions Attached to Site-Specific Development Plans:

- (1) Following approval or conditional approval of and eligible land use change that would create a site-specific development plan, the Town Board may attach to the site-specific development plan such additional conditions and special provisions as it may reasonably deem necessary to protect the public health, safety and welfare. These conditions and provisions shall be conveyed in written form to the landowner, with written notice of the action taken, within ten (10) working days of the date that the action was taken.

(E) Planning Commission Participation in Plan Review:

The Town Board may, at its discretion, as a routine matter or on a case-by-case basis, seek advice and recommendations from the Town Planning Commission,

regarding all aspects of a proposed and vested property rights. Such Planning Commission recommendations and advice may include but need not be limited to conditions and provisions that should be attached to the plan and the Planning Commission may, in turn, seek the advice of referral agencies in preparing its own recommendations. Any referral agency procedures initiated by the Planning Commission shall comply with the subdivision referral agency procedures and provisions of the Town.

11-1-8: REVIEW AND REVOCATION OF AN APPROVED SITE-SPECIFIC DEVELOPMENT PLAN: At such intervals as a specified in its decision, or at such other time as circumstances may warrant, the Town Board may request the Town Planning Commission to review the terms, conditions or other provisions of a site-specific development plan approval issued by the Town Board and upon review of the permit provisions, the Planning Commission may recommend to the Town Board time periods in which any violations of the terms or conditions shall be corrected, and how the corrections shall be accomplished or the Planning Commission may recommend revocation of the approval of the site-specific plan approval.

In the event that the Town Planning Commission recommends revocation of the plan approval or other significant corrective action, such recommendation and the reasons for it shall be forwarded to the Town Board within ten (10) days of that action and within thirty (30) days of receiving such recommendation the Town Board shall schedule a public hearing, to be conducted as specified in subsection 9-17-2(A) of the Municipal Code of Lyons.

Following the conduct of the public hearing,. the Town Board shall act to revoke or to impose additional or amended conditions or sanctions on the site-specific development plan approval previously granted. Subsequent failure of a landowner, or a landowner's agents or representatives, to comply within the stipulated time , periods or with any of the other conditions and provisions under which the site-specific development plan was originally approved or to comply with the revised conditions and provisions, shall be adequate reason for revocation of a site-specific development plan approval by the Town Board without the conduct of additional public hearings.

Upon revocation of the approval of site-specific development plan. any vested property rights previously created shall cease to exist and notice of the revocation of the site-specific development plan and abolition of the vested property rights shall be published in a local newspaper of general circulation as specified in Section 11-1-9 of this regulation.

At the request of a landowner or by mutual consent of a landowner and the Town Board, site-specific development plans and their terms and conditions may be amended, provided such amendments comply with the procedural requirements of this Section 11-1-8 and the notification requirements of Section 11-1-9. At the discretion of the Town Board in the case of mutually agreed upon amendments of a minor or technical sort. the public hearing requirements contained in subsection 11-1-7(C) may. however, be suspended.

11-1-9: NOTIFICATION OF APPROVAL OF A SITE-SPECIFIC DEVELOPMENT PLAN AND CREATION OF VESTED PROPERTY RIGHTS: Any vested property rights created by approval of a site-specific development plan shall be deemed established upon the approval or conditional approval of the site-specific development plan. Within fourteen (14) days of approval of a site-specific development plan, the Town shall cause to be published in a local newspaper of general circulation notice of the approval or conditional approval of a site-specific development plan and creation of a vested property right.

11-1-10: LIMITATIONS: The provisions of this Title 11 shall be limited by the following provisions and stipulations:

- (A) The purpose of this Title 11 is solely to implement the provisions of title 24, article 68, Colorado Revised Statutes, 1973, as amended. In the event of the repeal of said Article or a judicial determination that said article is invalid or unconstitutional, this title shall be deemed to be repealed, the provisions contained herein shall no longer apply, and the Town Board may, at its discretion, upon the conduct of a public hearing, revoke all vested property rights previously created by this Title 11.
- (B) In taking action on site-specific development plans the Town Board may impose any such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.
- (C) All vested property rights created by the authority of this Title 11 may be modified, diminished or abolished by circumstances that include, but are not necessarily limited to, the following events:
 - (1) Consent of an affected landowner;
 - (2) Failure of the affected landowner to conform to the provisions and conditions under which a site-specific development plan was approved;
 - (3) Discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time the site-specific development plan was approved so long as such hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare;
 - (4) Payment of just compensation to an affected landowner; and
 - (5) Application by the Town Board of land use and related regulations which are general in nature and applicable to all property subject to land use regulation by the Town.
- (D) Approval of a site-specific development plan shall not constitute an exemption from or a waiver of any provisions of the land use regulations or other lawfully established provisions of the Town pertaining to the development, use or exchange of property unless such exemption or waiver is expressly granted by the Town.

11-1-11: **SCHEDULE OF FEES:** The following schedule of fees shall apply to land use actions included in this Title 11:

- (A) Application for approval of a site-specific development plan: \$100.00. (Ord 489, 3-21-88)