

Section 145. Vested Rights.

(Amended 12/4/91)

- A. **Purpose.** The purpose of this ordinance is to implement the provisions of G.S. 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.
- B. **Establishment of a Zoning Vested Right.**
1. A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the City Council as applicable, of a site specific development plan, following notice and public hearing.
 2. The approving authority may approve a site specific development plan upon such terms as may be reasonably necessary to protect the public health, safety, and welfare.
 3. Notwithstanding subsections (a) and (b), approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
 4. The establishment of a zoning vested right shall not preclude the application of overlay zoning 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 land-use regulation by the City of Jacksonville. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to site specific development plan upon the expiration or termination of the vested right in accordance with this ordinance.
 5. A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of the site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
- C. **Approval Procedures and Approval Authority.**
1. In order to obtain a zoning vested right, the applicant must request in writing at the time of application, that the application be considered and acted on by the City Council, following proper notice and public hearing. The applicant must indicate at the time of application, on a form provided by the City of Jacksonville Planning Department, that a zoning vested right is being sought. A reasonable fee shall be set by the City Manager, subject to City Council review, may be charged to offset administrative expenses involved in announcing for public hearing a zoning vested right.
 2. A site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (2 years from approval date [see paragraph 5 in this ordinance])."

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3. Following approval or conditional approval of a site specific development plan, nothing in this ordinance shall exempt such a plan from subsequent reviews and 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.
4. Nothing in this ordinance shall prohibit the revocation of the vested right or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

D. Duration.

1. A zoning right that been vested as provided in this ordinance shall remain vested for a period of two years unless specifically provided otherwise pursuant to subsection (b). This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
2. Notwithstanding the provisions of subsection (a), the approval authority may provide that right shall be vested for a period exceeding two (2).
3. Upon issuance of a building permit, the expiration provisions of G.S. 160A-418 and the revocation provisions of G.S. 160A-422 shall apply, except that a building permit shall not expire or be revoked while a zoning vested right under this section is outstanding.

E. Termination. A zoning right that has been vested as provided in this ordinance shall terminate:

1. at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
2. with the written consent of the affected landowner;
3. upon findings by the City Council, by ordinance after notice and a public 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, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
4. upon payment to the affected landowner of 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 City, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

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5. upon findings by the City Council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority for the site specific development plan; or
 6. upon the enactment or promulgation of a State or Federal law or regulations that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
- F. **Voluntary Annexation.** A petition for annexation filed with the City under G.S. 160A-31 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.