

## Chapter 5

### VESTED PROPERTY RIGHTS

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#### 10-5-1: Purpose:

The purpose of this Chapter is to provide the procedures necessary to implement the provisions of C.R.S. § 24-68-101, et seq. as amended. (Ord. 2-2007, eff. 9/6/2007)

#### 10-5-2: Definitions

- A. "Application" means the completion and filing with the Town of all documents required by the Town for consideration of a site specific development plan. (Ord. 2-2007, eff. 9/6/2007)
- B. "Major Amendment" means an amendment to a site specific development plan which substantially changes the use, intent, arrangements of lots and alignment of major circulation patterns, density levels, provisions governing common or open spaces. A major amendment includes any other amendment that substantially changes the character of a site specific development plan. (Ord. 2-2007, eff. 9/6/2007)
- C. "Site Specific Development Plan" means for all developments, the final approval step, irrespective of its title, which occurs prior to building permit application; provided, however, that if the landowner wishes the approval to have the effect of creating vested rights under C.R.S. § 24-68, as amended, the landowner must so request at least 20 days prior to the date the approval is to be considered. Failure to so request renders the approval not a "Site Specific Development Plan", and no vested rights shall be deemed to have been created. (Ord. 2-2007, eff. 9/6/2007)
- D. "Site Specific Development Plan" shall not include a variance, an outline development plan or preliminary plat as defined by the Town of Westcliffe Subdivision Regulations, as amended, or by C.R.S. § 30-28-101(6) or (8), an application for annexation, approval of a use by special review, a final architectural plan, public utility filings or final construction drawings or related documents specifying materials and methods for construction of improvements. (Ord. 2-2007, eff. 9/6/2007)

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<sup>1</sup> Title 10, Chapter 5, "Vested Property Rights", Section 7 "Payment of Costs" is repealed and the remaining are re-numbered. Ord. 13-2016, eff. 10/6/2016

- E. "Vested property right" means the right to undertake and complete the development and use of property under the terms and conditions of a Site Specific Development Plan. (Ord. 2-2007, eff. 9/6/2007)

### **10-5-3: Notice and Hearing**

No Site Specific Development Plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the Town's option be combined with the notice required by C.R.S. § 31-23-304, as amended, for zoning regulations, or with any other required notice. At such hearing interested persons shall have an opportunity to be heard. (Ord. 2-2007, eff. 9/6/2007)

### **10-5-4: Approval and Effective Date**

- A. A Site Specific Development Plan shall be deemed approved upon the effective date of the approval by the Board of Trustees of the final approval step as set forth in section 10-2-2.C, above. (Ord. 2-2007, eff. 9/6/2007)
- B. If amendments to a site specific development are proposed and approved, the effective date of such amendments, for proposes of duration of a vested property right, shall be the date of the approval of the original Site Specific Development Plan, unless the Board of Trustees specifically finds to the contrary and incorporates such finding in its approval of the amendment. (Ord. 2-2007, eff. 9/6/2007)

### **10-5-5: Forfeiture of Vested Property Rights**

The following shall cause a forfeiture of the vested rights granted for the original site specific development plan and shall make the approval of the plan null and void: (1) a major amendment to a site specific development plan as proposed by the developer and approved by the planning commission, (2) failure of the developer to complete the development of an approved site specific development plan within three (3) years of the effective date of approval, or (3) failure of the developer to comply with any terms for approval of the site specific development plan. (Ord. 2-2007, eff. 9/6/2007)

### **10-5-6: Notice of Approval**

Each map, plat, or site plan or other document constituting a Site Specific Development Plan shall contain the following words. "Approval of this plan may create a vested property right pursuant to C.R.S. § 24-68-101, et seq., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. A notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a property right has been created shall be published once, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation with the Town. (Ord. 2-2007, eff. 9/6/2007)

**10-5-7: Other Provisions Unaffected** (Ord. 13-2016, eff. 10/6/2016)

Approval of a Site Specific Development Plan shall not constitute an exemption from or waiver of any other provisions this Code or regulation pertaining to the development and use of property. (Ord. 2-2007, eff. 9/6/2007)

**10-5-8: Limitations** (Ord. 13-2016, eff. 10/6/2016)

Nothing in this Chapter is intended to create any vested property right, except as required by C.R.S. § 24-68-101, et seq., as amended, but is intended only to implement the provisions of that statute. If that statute is repealed or declared by a court of law to be invalid, this article shall be deemed repealed, and its provisions shall no longer be effective. (Ord. 2-2007, eff. 9/6/2007)