

CHAPTER 16 – TIMNATH LAND USE CODE

ARTICLE 5 – VESTING OF PROPERTY RIGHTS

16.5.1 Purpose2
16.5.2 General Provisions2

16.5.1 Purpose

This Section specifies procedures necessary to implement Article 68 of Title 24, C.R.S., as amended, which establishes a vested property right 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. (Ord. 10-2002)

16.5.2 General Provisions

- A. Request for Site Specific Development Plan Approval.** Landowners wishing the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., as amended, shall request that approval in writing at least thirty (30) days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the plan not a “site specific development plan,” and no vested property rights shall be deemed to have been created.
- B. Notice and Hearing.** No site specific development plan shall be approved until notice of such hearing has been published by the Town at least fourteen (14) days before the hearing, and after a public hearing called for that purpose. 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.
- C. Approval, Conditional Approval, Effective Date, Amendments, Referendum and Review.**
1. 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.
 2. The Board may approve a site specific development plan with 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 all of such terms and conditions shall result in a forfeiture of the vested property rights.
 3. In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board specifically finds to the contrary and incorporates such findings in its approval of the amendment.
 4. The approval of vested property rights shall be subject to all rights of referendum and judicial review.
 5. The approval of a vested property right by the Town forfeits any and all pre-existing vested property rights.

D. Notice of Approval.

1. Each plat or site plan constituting a site specific development plan by this Article shall contain the following notice: “This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 16 of the Timnath Municipal Code available at the Timnath Town Hall, 4100 Main Street, Timnath, Colorado 80547.” Failure to contain this statement shall invalidate the creation of the vested property right.
2. The developer shall publish a notice describing generally the type and intensity of the approved use, the specific parcel or parcels of property affected, the terms and conditions of any approval, and a statement 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 the newspaper of general circulation in Timnath chosen by the Town for publishing public notices. Failure of the developer to publish the notice constitutes a waiver of the vested right by the developer.

E. Duration of Vested Property Right. A property right which has been vested as provided herein shall, upon compliance with the terms and conditions of the approval thereof, remain vested for a period of three (3) years; except that the Board may, in their sole discretion, grant vested property rights for a longer period when warranted in light of all relevant circumstance, including but not limited to, the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Board in the ordinance approving such amendments.

F. Other Provisions Unaffected. Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions or requirements of this Code or the Town pertaining to the development or use of property, adopted or applicable before or after the approval of the site specific development plan.

G. 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 incurred by the Town related to such application, including but not limited to publication of notices, public hearing costs, county recording fees and third-party review costs.

H. Limitations. Nothing in this Section 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 Section shall be deemed to be repealed, and the provisions hereof no longer effective.

I. Disclosure of Previously Granted Vested Property Rights and Hazards.

1. Any petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and be accompanied by all SSDPs approved by any local government. Failure to so identify any previously approved vested property right and provide all approved SSDPs shall constitute a waiver of the vested rights created by any other local government upon annexation to the Town unless specifically provided otherwise in the ordinance of annexation adopted by the Town.

2. The applicant shall be required to include with any plan submitted for approval as an SSDP notice of any natural or manmade hazards on or in the immediate vicinity of the subject property which are known to the applicant or could reasonably be discovered at the time of submission of the plan. Should a hazard on or in the immediate vicinity of the property be discovered subsequent to the approval of an SSDP which would impose a serious threat to the public health, safety and welfare and is not corrected by the applicant, the vested property right created by such SSDP shall be forfeited by the applicant.
- J.** Development Agreement. Nothing herein shall be construed to limit the authority of the Town and a landowner to enter into a development agreement vesting property rights in the landowner. Such agreement shall be construed in accordance with the terms and conditions of said agreement and not be limited or expanded by the provisions of this Code. (Ord. 10-2002)

5.3 – XX Reserved.