

D# 82 VESTING

General Description

Vesting regulations are established based on the Washington State Vested Rights Doctrine, RCW 19.27.095, 58.17.033 and 36.70B.180. The doctrine attempts to balance the interests of developers and municipalities by freezing the law applicable to the review of a land use permit application on the date that the developer submits that application. It is designed to protect a developer's interest in having some certainty that the applicable rules will not continue to change while he or she attempts to develop or use the property, and to accommodate local governments' and the public's interest in shaping land use codes to meet their community's evolving needs. The RCW regulations have been further expanded via case law directly impacting the way vesting regulations are applied.

The goal of this docket item is to consolidate all vesting related text that currently exists in Title IV to one new section to simplify and stream the Code. In addition, this item would establish clear vesting regulations for specific land use applications and other permit applications reviewed by the City in one consolidated section. And lastly, to bring the City's vesting regulations into compliance with current vesting case law. The draft code change language is shown on Attachment A.

The following permits would vest upon a fully completed application: building permits, preliminary subdivisions, Conditional Use Permits, Shoreline Substantial Development Permits, and grading permits. The following permits would not vest: site-specific rezones, master site plan, site plan, binding site plan, and variance applications. Vesting regulations freeze zoning ordinances or land use controls but do not freeze health and safety regulations, procedural land use regulations, or GMA impact fees.

Impact Analysis

Effect on rate of growth, development, and conversion of land as envisioned in the Plan

This proposal does not affect growth, development, or the conversion of land.

Effect on the City's capacity to provide adequate public facilities

This proposal does not affect the City's capacity to provide adequate public facilities.

Effect on the rate of population and employment growth

This proposal does not affect the rate of population or employment growth.

Whether Plan objectives are being met as specified or remain valid and desirable

This type of proposal is not explicitly considered in the Comprehensive Plan.

Effect on general land values or housing costs

This proposal does not affect general land values or housing cost.

Whether capital improvements or expenditures are being made or completed as expected
This proposal does not relate to capital improvements or expenditures

Consistency with GMA, the Plan, and Countywide Planning Policies

This proposal does not affect and is not affected by GMA or the Countywide Planning Policies.

Effect on critical areas and natural resource lands

This proposal does not affect the rules and regulations involving critical areas and natural resource lands.

Effect on other considerations

Current state law permits municipalities to develop vesting schemes best suited to the needs of a particular locality. The proposal provided in Attachment A establishes vesting regulations to meet the minimum requirements of the Washington State Vested Rights Doctrine and current case law. One change included in the proposal would be to eliminate the vesting regulations to Binding Site Plans, as vesting is not required for this type of land use application.

Staff Recommendation

Staff recommends that Renton Municipal Code is modified as shown in Attachment A to clarify and stream line vesting regulations within Title IV and update the City's regulations with current case law.

Implementation Requirements

Add a new section to Title IV, RMC 4-1-045 Vesting and three new definitions to Chapter 11 for Complete Application, Development Regulations, and Vesting. In addition, revisions would be required to RMC 4-6-070, 4-7-230, 4-8-060, and 4-10-030.

New Code Section:

4-1-045 VESTING

A. PURPOSE

The purpose of this section is to implement state laws that provide for vesting. This section is intended to provide property owners, permit applicants, and the general public assurance that regulations for project development will remain consistent during the lifetime of the application. The Chapter also establishes time limitations on vesting for permit approvals and clarifies that once those time limitations expire, all current development regulations and current land use controls apply.

B. GENERAL: Vesting of applications are governed by the rules of RCW 19.27.095 and RCW 58.17.033

C. APPLICABILITY

This section applies to complete applications and permit approvals required by the City of Renton pursuant to Title IV, including and limited to, building permits (including but not limited to combo permits, grading licenses, and sign permits), preliminary plats, final plats, short plats, shoreline development permits, conditional use permits, and any other land use permit application that is determined by the Washington State legislature to be subject to the Vested Rights Doctrine.

D. VESTING OF BUILDING APPLICATIONS

Building Permits: A valid and fully complete building application for a project that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit, zoning, and other land use controls in effect on the date of such valid and fully complete building application.

- 1. Supplemental Information:** Supplemental information required after acceptance shall not affect the validity of the vesting for such application.
- 2. Revisions:** Revisions requested by an applicant to a vested, but not yet approved, application shall be deemed a new application when such revisions would result in a substantial change in the basic site design plan, intensity, density, and the like, involving a change of ten percent (10%) or more in area or scale. Vesting for the new application shall occur upon the date of submission of a valid and fully complete building application for the changed project.

E. VESTING OF LAND USE PERMIT APPLICATIONS

Land Use Permits: The following applies to all applications described in Section 4-1-045C, excluding building permits.

- 1.Consistency Review:** Applications shall be reviewed for consistency with the applicable development regulations in effect on the date the application is deemed complete.

2. Construction and Utility Standards: An application shall be reviewed for consistency with the construction and utility standards in effect on the date the separate application for a construction or utility permit is deemed complete. An applicant may submit a separate construction or utility permit application simultaneously with any application described in Section 4-1--045C above to vest for construction or utility standards. A site development application for stormwater design and construction may vest on the date of preliminary plat or conditional use permit application if the applicant submits construction permit application within 180 days of complete preliminary plat or conditional use permit application and is consistent with the information listed in RMC 4-8-120A, B and C, and any site-specific information identified in a pre-application meeting summary. The application or approval of a construction or utility permit or the payment of connection charges or administrative fees to a public utility does not constitute a binding agreement for service and shall not establish a vesting date for development regulations used in the review of applications described in Section 4-1--045C above.

3. Effective Regulations: An application utilizing vested rights shall be subject to all development regulations in effect on the vesting date.

4. Identified development: An application that is deemed complete is vested for the specific use, density, and physical development that is identified in the application submittal. The application is not vested to processes and procedures.

5. Applicable Standards: Applications submitted that are not listed in Section 4-1-045C above shall be governed by the standards applicable to the specific application type. These applications shall not vest for any additional development regulations.

6. Owner Responsibility: The property owner is responsible for monitoring the time limitations and review deadlines for the application. The City shall not be responsible for maintaining a valid application. If the application expires, a new application may be filed with the Department, but shall be subject to the development regulations in effect on the date of the new application.

F. DURATION OF APPROVALS

1. Building Permits: Development of a Building shall be based on the controls contained in the approved permit application. Vesting rights applicable to building permit applications would expire pursuant to permit expiration identified in the International Building Code (IBC) and adopted by reference herein in RMC 4-5-050.

2. Preliminary Plat: Development of an approved preliminary plat shall be based on the controls contained in the Hearing Examiner's decision. A final plat meeting all of the requirements of the preliminary plat approval shall be submitted within five years of the effective date of the Hearing Examiner's decision, unless a different time limitation was specifically authorized in the final approval. Any extension of time beyond this five years limitation may contain additional or altered conditions and requirements based on current development regulations and other land use controls.

3. Final Plat: The lots in a final plat may be developed by the terms of approval of the final plat, and the development regulations in effect at the time the preliminary plat application was deemed complete for a period of five years from the recording date

unless the **legislative body** finds that a change in conditions creates a serious threat to the public health, safety or welfare.

4. **Conditional Use Permit:** An approved conditional use permit shall be allowed to develop for a period of two years from the effective date of the permit approval unless a different time limitation was specifically authorized in the final approval. The development of an approved conditional use permit shall be governed by the terms of approval of the permit unless the **legislative body** finds that a change in conditions creates a serious threat to the public health, safety or welfare.
5. **Permits Associated with a Preliminary Plat:** Permit applications, such as Planned Urban Developments (PUD) applications that are approved as a companion to a preliminary plat application shall remain valid for the duration of the preliminary and final plat as provided in subsections 2. And 3. above.
6. **Short Plat:** The lots in a short plat may be developed by the terms and conditions of approval, and the development regulations in effect at the time the application was deemed complete for a period of five years from the recording date unless the **legislative body** finds that a change in conditions creates a serious threat to the public health, safety or welfare.
7. **Shoreline Development Permits:** An approved Shoreline Permit shall be allowed to develop pursuant to the lime limitations listed in RMC 4-9-190J. The development of an approved shoreline permit shall be governed by the terms of approval of the permit unless the **legislative body** finds that a change in conditions creates a serious threat to the public health, safety or welfare.
8. All approvals described in this Section shall be vested for the specific use, density, and physical development that is identified in the permit approval.

G. MODIFICATIONS

Proposed modifications to an application listed is Subsection B. above, excluding Building Permits, which has been deemed to be complete by the Department shall be treated as follows:

1. Modifications proposed by the Department of Community and Economic Development to an application shall not be considered a new application.
2. Any modification to an application may require revised public notice and/or additional review time.
3. Modifications proposed by the applicant to an application which meet or exceed any of the criteria for a major revision and/or amendment, pursuant to the applications applicable revision and/or amendment criteria, shall require a new application. The new application shall conform to the development regulations which are in effect at the time the new application is submitted.
4. Proposed modifications to applications that do not exceed the major revision and/or amendment criteria shall be reviewed for the development regulations in effect on the date of the original complete application.

H. WAIVER OF VESTING

A property owner may voluntarily waive vested rights at any time during the processing of an application by delivering a written and signed waiver to the Director stating that the property owner

agrees to comply with all development regulation in effect on the date of delivery of the waiver. Any change to the application is subject to the modification criteria described above in Subsection E of this Section and may require revised public notice and/or additional review time.

4-6-070 TRANSPORTATION CONCURRENCY REQUIREMENTS:

B. DEFINITIONS OF TERMS USED IN THIS SECTION:

~~9. **Vested:** The right to develop or continue development in accordance with the laws, rules, and other regulations in effect at the time vesting is achieved. The time vesting is achieved is determined in accordance with brightline vesting rules included in State legislation and case law.~~

4-7-230 BINDING SITE PLANS:

N. BINDING EFFECT:

~~1. Vesting: Upon filing of a complete application for a binding site plan, the application shall be considered under the binding site plan ordinance, the zoning, and other development regulations in effect on the date of application for the land uses and development identified in the binding site plan application or identified in a complete site plan review application filed in conjunction with or processed concurrently with a binding site plan application.~~

21. Legal Lots: Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record.

32. Enforceable: Approved binding site plans shall be enforceable by the City. All provisions, conditions and requirements of the binding site plan shall be legally enforceable on the purchaser or on any person acquiring a lease or other ownership interest of any lot, tract, or parcel created pursuant to the binding site plan. The binding site plan shall include a provision requiring that any subsequent development of the site shall be in conformance with the approved binding site plan. A sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan that does not conform to the requirements of the binding site plan approval, shall be considered a violation of this Section, shall be a nuisance and may be subject to an injunction action in Superior Court or such other remedies provided by City Code.

4-8-060 SUBMITTAL REQUIREMENTS – GENERAL:

B. VESTING OF APPLICATION: See RMC 4-1-045 Vesting

~~Is a legal doctrine whereby a valid and fully complete building application for a project that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit, zoning, or other land use controls in effect on the date of such valid and fully complete building application.~~

~~1. Supplemental information required after acceptance shall not affect the validity of the vesting for such application.~~

~~2. Revisions requested by an applicant to a vested, but not yet approved, application shall be deemed a new application when such revisions would result in a substantial change in the basic site design plan, intensity, density, and the like, involving a change of ten percent (10%) or more in area or scale. Vesting for the new application shall occur upon the date of submission of a valid and fully complete building application for the changed project.~~

D. COMPLETE APPLICATION:

~~Unless waived by the Development Services Division, the requirements for a full complete land use, building, or public works permit application shall consist of the information listed in RMC 4-8-120A, B and C, and any site specific information identified in a preapplication meeting summary. Application fees pursuant to RMC 4-1-140 through 4-1-200 are also required for a complete application.~~

Comment [VD1]: Does this still make since? Not sure we need this due to the amendment to the fees??? Ask Neil.

4-9-200 MASTER PLAN AND SITE PLAN REVIEW:

J. EXPIRATION, EXTENSIONS, AND VESTING:

1. Non-Phased Plans:

a. Master Plans: The Hearing Examiner shall determine, and document in writing, an appropriate expiration date for the Master Plan, granting up to five (5) years. An applicant shall submit a complete Site Plan application for the development within the specified time frame if a Site Plan was not combined with the Master Plan application. The Administrator or designee may grant a one year extension for good cause.

b. Site Plans: The final approval of a Site Plan shall expire within two (2) years of the date of approval. A single two (2) year extension may be granted for good cause by the Administrator or designee. The Administrator or designee may determine at his or her discretion that a public hearing before the Hearing Examiner is required for such extension.

~~c. Vesting: As long as the development of a project conforms to the approved plan and building permits are submitted within the relevant time limits, the zoning regulations in effect at the time of the original approval shall continue to apply. However, all construction shall conform to the International Building Code and Uniform Fire Code regulations in force at the time of building permit application.~~

2. Phased Plans:

a. Master Plans: The Administrator or designee may grant Master Plan approval for large projects planned to be developed or redeveloped in phases over a period of years exceeding the five (5) year time limit for non-phased plans. Such approval shall include clearly defined phases and specific time limits for each phase and a determination of eligibility for any extensions of the time limits.

b. Site Plans: An applicant may submit a Site Plan application for either the entire site or a portion of the site covered by a Master Plan, provided the application complies with phasing and timing requirements of the Master Plan approval. In every case, the Site Plan application and review shall cover at least that portion of the site which is directly related to the proposed development as well as any areas that may be impacted by the development.

~~c. Vesting: As long as the development of a project conforms to the approved plan and applicable timing and approved phasing schedule, the zoning regulations in effect at the time of the original approval shall continue to apply. However, all construction shall conform to the International Building Code and Uniform Fire Code regulations in force at the time of building permit application.~~

Non-Conforming Section:

4-10-030 ~~PENDING PERMITS VALID — VESTING:~~

~~Changes in the plans, construction, or intended use of a building shall not be required when a building permit has heretofore been issued, or when a complete application has been submitted to the Building Official before the effective date of amendments to the development regulations. (Ord. 4963, 5-13-2002) (Repealed)~~

New Definitions:

4-11-030 DEFINITIONS C:

Complete Application: Unless waived by the Department of Community and Economic Development, the requirements for a full complete land use, building, or public works permit application shall consist of the information listed in RMC 4-8-120A, B and C, and any site-specific information identified in a pre-application meeting summary, and any required application fee pursuant to the fee schedule.

4-11-040 DEFINITIONS D:

Development Regulations (for vesting purposes): The following controls placed on development or land use activities by the City, including but not limited to, Comprehensive Plan Policies, zoning regulations, subdivision regulations, shoreline management regulations, road design standards, site development regulations, sign regulations, critical areas regulations, and all development regulations and land use controls that must be satisfied as a prerequisite to obtaining approval of an application for development. For the purposes of this definition, construction and utility regulations such as stormwater standards and erosion/sediment control requirements contained in the Development Regulations, building standards, fire standards, sewer utility standards, and Health Department standards are not considered development regulations or land use controls. Title IV, processes and procedures are not considered development regulations or land use controls.

4-11-220 DEFINITIONS V:

Vesting: The establishment of a date that is used to determine which development regulations the Department of Community and Economic Development and the Hearing Examiner will apply to the review of a valid and fully complete application or approved and unexpired development permit.