

Proposed Draft Ordinance

Chapter 125-8

VESTED RIGHTS

ARTICLE 1. IN GENERAL

Sec. 125-8.A. Purpose

The purpose of this chapter is hereby declared to:

- (a) Recognize that, in accordance with Chapter 245 of the Local Government Code of the State of Texas, an owner of real property may be accorded rights that allow development of a project pursuant to the rules and regulations as such rules existed on the date of first permit in a series of permits for the project;
- (b) Define a methodology that establishes and protects such vested rights of owners of real property while also promoting the vision for the Community as established in the Comprehensive Plan and the current requirements applicable to development; and,
- (c) Clarify the vested condition of projects approved and/or in progress prior to the August 10, 1999 adoption of zoning in League City.

Sec. 125-8.B. Applicability

- (a) This Chapter shall apply to:
 - (1) Any instance in which a property owner submits an application or Fair Notice Form in accordance with the requirements of this Chapter that is intended to result in approval, certification or similar action of one or a series of permits necessary for completion of a project, including preliminary plat, final plat, amended plat, minor plat, master site plan, site development plan, business registration, or permits for tree removal, building construction, grading or irrigation;
 - (2) Any instance in which a property owner acquires an approved development agreement from City Council; or,
 - (3) Any planned unit development established by City Council prior to June 1, 2013.
- (b) This Chapter shall not apply to:
 - (1) An application for a presubmittal meeting unless accompanied by a complete Fair Notice Form, or
 - (2) An application for a zoning change, with the exception of a special use permit or planned unit development.
- (c) Nothing contained within this Chapter shall limit the City's right to exempt a project or parts of a project or permit in accordance with Chapter 245 of the Local Government Code nor abridge the City's authority with respect to dormant projects as provided by Chapter 245 of the Local Government Code.
- (d) Date of filing of an application as established by this Chapter shall serve as the date of filing exclusively for purposes of recognizing and maintaining vested rights.

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Sec. 125-8.C. Definitions

Complete Application shall mean a submitted application that is fully and appropriately completed, in accordance with all city requirements, as necessary for review and consideration by City staff.

Complete Fair Notice Form shall mean a submitted Fair Notice Form that is fully and appropriately completed, in accordance with all city requirements, as necessary for review and consideration by City staff.

Developer shall mean any individual, corporation, partnership, or entity which owns property that is subject to the standards and regulations set forth in this code or which finances, manages, designs, administers, or invests in the development or redevelopment of the property.

Permit shall mean a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

Project shall mean an endeavor over which the City exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

Successful Application shall mean an application for a permit submitted and approved in accordance with the requirements of this code.

Vesting shall mean the right to undertake and complete the development and use of property under the adopted rules and regulations that were in place at the time the application for the applicable permit or project was made to the City.

ARTICLE 2. DETERMINATION OF VESTED RIGHTS

Sec. 125-8.D. Recognizing Vested Rights

- (a) A new project shall be considered to be vested if:
 - (1) A complete application is filed for a permit that is required to initiate, continue or complete a project;
 - (2) A property owner has acquired a development agreement from City Council; **or**
 - (3) A complete Fair Notice Form is filed in accordance with the requirements of this chapter.
- (b) An existing project shall be considered vested until it has become dormant or been allowed to expire in accordance with the requirements of this chapter.
- (c) An application that is submitted by certified mail shall only be considered following or simultaneous with submission of a fully and correctly complete Fair Notice Form.
- (d) A project that is vested shall remain vested until completion of the project or until the project becomes dormant or allowed to expire in accordance with the requirements of this chapter.

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- (e) Vested rights are exclusively conveyed to the project for which permits have been granted.
 - (1) Vested rights shall not be considered to be associated with a specific parcel, owner or applicant.
 - (2) If a project requires an amendment that impacts items for which the project has been vested or amendment requires a zoning change that will impact items for which the project has been vested, the project shall be considered a new project and shall become vested to the requirements in existence at the time of application for the most recent amendment. This requirement may be waived by action of the Planning and Zoning Commission if proven to be in the best interest of the City to allow such variance.
- (f) Vested rights exist in projects approved and/or in progress prior to August 10, 1999 adoption of zoning in League City as follows:
 - (1) Vesting rights exist for all elements provided for under Chapter 245 of the Local Government Code for which documentation is available to the City.
 - (2) Elements for which documentation is unavailable shall be governed by requirements established in the zoning ordinance as adopted August 10, 1999 with the exception that requirements specifically related to Planned Unit Development designations shall be in accordance with the zoning ordinance as amended January 9, 2001.
 - (3) For active projects designated Planned Unit Development on the zoning map associated with the zoning ordinance adopted August 10, 1999 the concept plan utilized by the City in subsequent development related proceedings shall be considered the concept plan for the project in place prior to August 10, 1999.

Sec. 125-8.E. Fair Notice Form

- (a) A Fair Notice Form is intended to:
 - (1) Provide an indication to City staff of intention to submit an application for a permit required to initiate a project that is eligible for vesting; or,
 - (2) Request certification of vested rights for an existing project that is not considered dormant based upon previously approved permits that have not been permitted to expire.
- (b) A Fair Notice Form shall be provided by city staff and shall include, at minimum:
 - (1) Indication of the purpose of submission of the Fair Notice Form;
 - (2) General information location and general description of the property, type of proposed project, and general information regarding the property owner and applicant;
 - (3) Acknowledgement that a Fair Notice Form must be followed by submission of an application for a permit within 45 days of the filing date of the form, unless the purpose of the submission is to establish vested rights for an existing project;
 - (4) Sufficient details about a project as needed to vest the project in accordance with Chapter 245 of the Local Government Code including lot coverage, lot dimensions,

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lot size, building size, amount of open space, all in accordance with the appropriate property classification;

- (5) Notation indicating that submission of a Fair Notice Form without a complete application is acknowledgement that the application is incomplete as is required to be provided within ten (10) days of the date of submission; and
 - (6) Permit approval history sufficient to establish existing vesting in the instance that the Fair Notice Form is submitted for purposes of establishing vested rights for an existing project.
- (c) Vesting will begin on the date indicated on a complete Fair Notice Form.
- (d) A complete Fair Notice Form must be submitted within 24 hours of the date indicated on the Fair Notice Form.

ARTICLE 3. EXPIRATION OF VESTED RIGHTS

Sec. 125-8.F. Expiration of a project

- (a) A project shall expire if:
- (1) A successful application expires;
 - (2) No progress has been made within five years of the date that the first permit application for the project was filed; or
 - (3) The last permit issued that vests a project expires after the fifth (5th) anniversary of the date that the first permit application of the project was filed and is, therefore, considered dormant.
- (b) Progress toward completion of the project shall include at least one of the following:
- (1) A complete application for a final plat or plan is submitted;
 - (2) A good faith attempt is made to file a complete application for a permit necessary to begin or continue towards completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project in the aggregate amount of five percent of the most recent appraised value of the real property on which the project is located, exclusive of land acquisition;
 - (4) Fiscal security is posted with the City to ensure performance of an obligation required by the City; or
 - (5) Utility connection fees or impact fees for the project have been paid to the City.
- (c) 30 days prior to declaration that a project is expired the city shall notify a property owner in writing of the impending expiration of the project along with options that will allow the project to continue, including:
- (1) Indication of proof that progress has been made in accordance with standards established in Chapter 245 of the Local Government Code, or

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- (2) Request for a single, one-year extension to be approved by the Planning & Zoning Commission in order to establish progress in accordance with standards established in Chapter 245 of the Local Government Code. The request shall include information necessary to show that a one-year extension will allow the property owner to establish sufficient progress.
- (d) If a one-year extension is granted and a project remains unable to make sufficient progress, then the project shall expire at the end of the one-year extension.

Sec. 125.8.G. Expiration of an application

An applicant shall have 45 days from the point that an application or a complete Fair Notice Form is filed to submit a complete application. An application shall be considered expired 45 days from the date at which the application was filed if:

- (1) The applicant has failed to provide documents or other information necessary to comply with all technical requirements, form and content necessary to be considered a complete permit application;
- (2) Within ten (10) business days of the date from which the application was filed, the City has provided written notice of the failure to provide specific documents or other information and delineated the date at which the application will expire if said information is not provided in the manner necessary to consider the application complete; and,
- (3) The applicant fails to provide the specific documents or other information in the manner necessary to consider the application complete within the time provided in the written notice.

Sec. 125-8.H. Expiration of a permit

Unless otherwise specified, a permit that represents one or more of a series necessary to complete a project shall be considered expired on the second anniversary of the date of approval of the application, unless progress has been made toward completion of the project that is directly related to said permit.