

Chapter 16. Vested Rights

Article 16.01. Vested Rights

Section 16.01.01. Introduction

- (a) Texas Local Government Code, Chapter 245 - Issuance of Local Permits, commonly referred to as the State's "Vested Rights Law", provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.

Section 16.01.02. Definitions.

- (a) The following terms shall have the meaning hereinafter ascribed to them under this section:

LGC – The Texas Local Government Code

Project – an endeavor over which the City (a regulatory agency, as defined by LGC Chapter 245) exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

Permit – a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provisions of, service from a water or wastewater utility owned, operated, or controlled by the City, 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 (i.e. subdivision master plan, preliminary plat or final plat).

Section 16.01.03. Administrative procedure for consideration of claim of vested rights.

- (a) Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
 - (1) The name, mailing address, and telephone number of the property owner (or the property owner's duly authorized agent);
 - (2) Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds description (if not platted), for which the property owner claims a vested right;
 - (3) Project name, type of permit and date the permit was filed;
 - (4) All regulations which the applicant is claiming do not apply to the project; and

(5) Attach all supporting documents, if any.

Section 16.01.04. Vested Rights Determination.

- (a) The City Manager will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project and shall identify in writing to the property owner, or designated agent, all claims for which vested rights have been granted (the "Vested Rights Determination").

Section 16.01.05. Appeal of Vested Rights Determination.

- (a) If the property owner believes that the Vested Rights Determination is in error, the property owner shall have the right to appeal such Vested Rights Determination within 30 days of the determination to the City Council, which will have jurisdiction to hear and decide the appeal pursuant to this ordinance and LGC Chapter 245.

Section 16.01.06. Permits, Projects, and Vested Rights.

- (a) An original permit application expires on or after the 45th calendar day after the date the application is filed, unless approved, if:
- (1) the applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
 - (2) the City provides to the applicant, not later than the 10th business day after the date the application is filed, written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
 - (3) the applicant fails to provide the specified documents or other information within the time provided in the written notice.
- (b) Permits and Projects Expiration.
- (1) Only a project which was in progress (as defined by LGC Section 245.003) or for which a permit application was filed after September 1, 1997, may be eligible to claim vested rights; any project for which the permit application was filed prior to September 1, 1997, or has expired, is not eligible.
 - (2) Vested rights do not begin to accrue until the filing of an original application or plan for development or plat application that gives the City fair notice of the project to which the permit applies and the nature of the permit sought.
 - (3) A project will expire 5 years from the date the first permit application was filed for the project with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse, and the project must comply with all current ordinances and requirements.

- (4) The following Permits (as well as other Permits satisfying the requirements of LGC Chapter 245), which include Plat Applications and Plats, may be relied on by a property owner or developer to establish certain vested rights for a Project unless otherwise exempted by LGC Section 245.004 or its successor statute. A Project will expire 5 years from the date the first Permit application was filed for the Project with the City if progress, as defined in LGC Section 245.005 or its successor statute, has not been made towards completion of the Project. An expired Project is considered dormant, vested rights lapse, and the Project must comply with current ordinances and requirements.
- (A) Plat Applications. Vested rights under LGC Chapter 245 will be recognized for the Project that is the subject of a completed application for a plat that has been filed with the City, provided all necessary fees have been paid.
 - (B) Plats. Vested rights under LGC Chapter 245 will be recognized for a Project associated with the property which is the subject of a plat that has been approved by the City Council or Official for the City provided that fair notice is provided with the plat application in accordance with LGC Chapter 245.
 - (C) Other Permits. For the purposes of determining whether any vested rights exist, any other Permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire 2 years after the date the application for the Permit was filed with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the Project.
- (5) Projects that were approved five years or more prior to the adoption date of this Chapter that were not subject to an expiration date and for which no progress has been made towards completion of the project, shall expire on the effective date of this Chapter.