
Deborah G. Pearce, CMC, Town Clerk

CHAPTER 11 – ZONING

VESTED RIGHT PROVISIONS

AN ORDINANCE IMPLEMENTING THE STATUTORY VESTED RIGHT PROVISIONS OF G.S. 160A-385.1

WHEREAS, the North Carolina General Assembly ratified Senate Bill 766 on July 20, 1990 as Chapter 996 of the 1989 Session Laws (1990 Regular Session), effective October 1, 1991; and

WHEREAS, Chapter 996 has been codified as G.S. 160A-385.1; and

WHEREAS, G.S. 160A-385.1 provides for the establishment of a statutory "vested right" upon approval of a "site specific development plan"; and

WHEREAS, the Town of Youngsville is authorized and required to identify the specific types of zoning or land use approvals that constitute a "site specific development plan" within the meaning of G.S. 160A-385.1;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Youngsville, North Carolina:

11.101 Purpose.

The purpose of this chapter is to implement the provisions of G.S. 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

11.102 Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

Approval authority - The Youngsville Board of Commissioners designated by this chapter as being authorized to grant the specific approval that constitutes a site specific development plan.

Site specific development plan - A plan of land development to the Town for purposes of obtaining a Special Use Permit or Conditional Use Permit, for non-residential development not requiring a Special Use Permit or Conditional use Permit a site plan prepared in accordance with 702 of the Town of Youngsville Zoning Ordinance, or for single-family development a preliminary plat prepared in accordance with the Franklin County Subdivision Ordinance.

Zoning vested right - A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms of conditions of an approved site specific development plan.

11.103 Establishment of a Zoning Vested Right.

- (a) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Youngsville Board of Commissioners of a site specific development plan, following notice and public hearing.
- (b) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- (c) Notwithstanding subsections (a) and (b), approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (d) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (e) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.
- (f) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

11.104 Approval Procedures and Approval Authority.

- (a) Except as otherwise provided in this , an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
-

-
- (b) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.
 - (c) Notwithstanding the provisions of subsection (a), the application for a zoning vested right shall be considered and acted on by the Youngsville Town Board following notice and a public hearing in accordance with G.S. 160A-364.
 - (d) Each map, plat, site plan, or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until ___."
 - (e) Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
 - (f) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

11.105 Termination.

A zoning right that has been vested as provided in this chapter shall terminate:

- (a) at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
 - (b) with written consent of the affected landowner;
 - (c) upon findings by the Youngsville Board of Commissioners, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
 - (d) upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
-

-
- (e) upon findings by the Youngsville Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
 - (f) upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

11.106 Voluntary Annexation.

A petition for annexation filed with the Town of Youngsville under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

11.107 Limitations.

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.

11.108 Repealer.

In the event that G.S. 160A-385.1 is repealed, this ordinance shall be deemed repealed and the provisions hereof no longer effective.

11.109 Effective Date.

This chapter shall be effective October 1, 1991 and shall only apply to site specific development plans approved on or after October 1, 1991.

**CERTIFICATION THAT A STATUTORY ZONING VESTED RIGHT IS BEING
SOUGHT PURSUANT TO G.S. 160A-385.1**

As applicant for a (identify land use approval or permit that is being sought), I hereby certify that I am also seeking to acquire a vested right pursuant to G.S. 160A-385.1 and Chapter ___ of the Youngsville Town Code.

If the Youngsville Town Code provides that the approval authority for the type of land use approval or permit for which I am applying is a board, committee, or administrative official other than the Youngsville Board of Commissioners, I understand and agree that my application will be considered and acted on by the Youngsville Board of Commissioners, following notice and a public hearing.

_____ Date _____ Applicant

ATTACHMENT – A

Schedule of Zoning and Subdivision Development Fees – Town of Youngsville, NC	
Rezoning and Text Amendment Fees	
Rezoning petition	\$ 500.00
Conditional Rezoning petition & site specific plan	\$ 750.00
Petition an amendment to zoning or subdivision ordinances	\$ 500.00
Land Use	
Special Use Permits	\$ 500.00
Conditional Use Permits	\$ 300.00
Zoning Permit Application-Residential new construction	\$ 100.00, plus 60 per unit multi-family
Zoning Certification Letter or Certificate of Zoning Compliance	\$ 25.00
Accessory Use/Building-Residential (pool, fence, carport, deck or similar)	\$ 60.00
Home Occupation application	\$ 100.00
Non-Residential Fees – New Construction or Expansion	
Construction Value Less Than \$50,000	\$ 150.00
\$50,001 - \$100,000	\$ 250.00
\$100,001 - \$150,000	\$ 500.00
\$150,001 +	1/2 of 1% of
Non-Residential Fees – Renovation or Building Up-fit Construction or	
Construction Value Less Than \$50,000	\$ 100.00
\$50,000 +	1/2 of 1% of
Subdivisions, Shopping Centers, Planned Unit Developments (PUD)	
Minor Subdivision and Final Plats	\$ 125.00
Major Subdivision (Sketch Plan)	\$ 200.00
Major Subdivision (Preliminary Plan), Administrative Review Shopping Centers, PUD	\$ 300.00 plus \$5.00 per lot
Exempt Subdivision Review (Lots for Heirs/Estate Map, Recombination, Board of Adjustment	\$ 65.00

Appeals *The Board of Commissioners, in its discretion, may waive any and all appeal fees for prevailing parties	\$ 300.00 plus amount of fine, if appeal fails*
Variance	\$ 250.00
Signs	
On-Premise Signs (Wall Signs, Ground Signs, Awning, window)	\$ 75.00
Off-Premise Signs (billboards)	\$ 300.00
Telecommunications Towers/Collocations	
New Tower	\$ 6,500.00
Collocation Lease Negotiation Fee (Existing Tower)	\$ 5,000.00
Stealth Tower Application Fee	\$ 5,000.00
Traffic Impact Analysis (TIA) Retention of expert assistance and	
An applicant shall deposit funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation of traffic impact.	100% of costs
Consulting Engineer Review	
This is to fund the re-imbusement costs incurred by the Town of Youngsville for any Consulting Engineer to review and provide comments/recommendations on development plans. This would include (but is not limited to) the review of site and subdivision plans, field inspections, construction drawings, meetings and special projects. These fees will be due upon invoice.	Fee is actual cost from Engineer
Town Attorney Review	
This is to fund the re-imbusement costs incurred by the Town of Youngsville for the Town's Consulting Attorney that are above and beyond those costs covered by the retainer agreement. This would include (but is not limited to) the review of legal documents, preparation for court cases and meetings. Those fees will be due upon invoice.	Fee is actual cost from Attorney
Planning Consultation Fee	
An applicant shall reimburse for professional planning time on potential development activities that are more than an hour consultation that may or may not lead to an application for zoning and subdivision development	\$100 per/hour

CHAPTER 12 – PENALTIES

12.101 General Penalties; Enforcement of Ordinances; Continuing Violations.

(a) Administration