

Chapter 40 PLANNING AND DEVELOPMENT¹

~~ARTICLE I. IN GENERAL~~

~~Sec. 40-1. Statement as to vested rights in petitions for annexation of noncontiguous areas.~~

~~All petitions for annexation of noncontiguous properties shall have attached a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1 or any successor statute. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1 or any successor statute shall be binding on the landowner and any such vested rights shall be terminated.~~

~~(Ord. No. 11-0104, § 1, 1-6-11)~~

Secs. 40-~~12~~—40-30. Reserved.

ARTICLE #I. PLANNING BOARD²

Sec. 40-31. Created.

A planning board for the city is hereby created.

(Code 1971, § 23-16; Ord. of 12-10-96, § 1)

Sec. 40-32. Composition.

The planning board shall consist of ten members, seven of whom shall be citizens and residents of the city and the other three shall be citizens and residents of the city's extraterritorial jurisdiction. The members who reside in the extraterritorial jurisdiction shall be entitled to equal rights, privileges and duties with other members of the board regardless of whether the matters at issue arise within the city or within the extraterritorial area.

¹Cross reference(s)—Administration, ch. 2Cross reference(s)—; buildings and building regulations, ch. 12Cross reference(s)—; environment, ch. 20Cross reference(s)—; floods, ch. 24Cross reference(s)—; historic preservation, ch. 28Cross reference(s)—; housing, ch. 30Cross reference(s)—; manufactured homes and trailers, ch. 34Cross reference(s)—; streets, sidewalks and other public places, ch. 46Cross reference(s)—; utilities, ch. 52Cross reference(s)—; [zoning ordinanceland development regulation](#), app. A; subdivision, app. B.

State law reference(s)—Planning and regulation of development, G.S. [160D-200; 202; 903160A-360](#) et seq.

²Cross reference(s)—Boards, commissions and committees, § 2-226 et seq.

State law reference(s)—Authority to create a planning agency, G.S. [160D-301160A-361](#).

(Code 1971, § 23-17; Ord. of 12-10-96, § 1)

Sec. 40-33. Appointment of members.

The members of the planning board required to be residents of the city shall be appointed by the [Hendersonville City Council](#). The other members shall be appointed by the [Henderson County Board of Commissioners](#); provided, however, that should such county board fail to make such appointments within 90 days following receipt of a resolution from the city board requesting such appointments, the [Hendersonville City Council](#) may make such appointments.

(Code 1971, § 23-18; Ord. of 12-10-96, § 1)

Sec. 40-34. Terms of members.

The members of the planning board shall serve for terms of three years; provided, however, appointed terms may be adjusted from time to time as stated in this section. It is the intention that terms of members shall be staggered in a balanced fashion. To that end, terms may be modified by the appointing authority, as necessary, so that all terms shall commence on such date as the [Hendersonville City Council](#) shall from time to time provide and so that no fewer than three and no more than four terms shall expire in any given year. Should it occur that any member no longer resides in the jurisdiction from which appointed, that member shall no longer be entitled to serve on the planning board and the position shall immediately be deemed vacant. Notwithstanding the foregoing, the [Hendersonville City Council](#) may remove any member of the planning board for the exhibition of a pattern of conduct that materially impairs or seriously threatens the ability of the commission to carry out its designated functions.

(Code 1971, § 23-19; Ord. of 12-10-96, § 1; Ord. No. 00-1166, § 1, 11-9-00; Ord. No. 07-0526, § 2, 5-3-07; Ord. No. 17-1079, § 10-5-17)

Sec. 40-35. Filling of vacancies.

Vacancies occurring for reasons other than the expiration of terms shall be filled as they occur for the period of the unexpired term.

(Code 1971, § 23-20; Ord. of 12-10-96, § 1)

Sec. 40-36. Officers.

In January of each year, the planning board shall elect a chairman and any other officers specified in its rules of procedure. The chairman and other officers shall hold office for one year and shall be eligible for reelection.

(Code 1971, § 23-21; Ord. of 12-10-96, § 1)

Sec. 40-37. Rules and regulations.

The planning board shall adopt rules of procedure for the conduct of its business and is authorized to adopt such further rules and regulations as are reasonable and necessary to the fulfillment of the duties delegated to it under this article.

(Code 1971, § 23-22; Ord. of 12-10-96, § 1)

Sec. 40-38. Quorum.

There shall be a quorum of a simple majority of the members of the planning board for the purpose of taking any official action required of the board.

(Code 1971, § 23-23; Ord. of 12-10-96, § 1)

Sec. 40-39. Powers and duties generally.

Except as limited in this article, the planning board shall have all the powers and duties provided by the General Statutes of North Carolina for municipal planning agencies.

(Code 1971, § 23-25; Ord. of 12-10-96, § 1)

Sec. 40-40. Hearings.

The planning board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the land development plan. Before adopting any such plan, it shall hold at least one public hearing thereon. The planning board ~~shall also~~ may conduct such hearings ~~as are necessary~~ for the purpose of considering applications for rezoning, site plan approval and ~~special~~ Special use-Use permits.

(Code 1971, § 23-28; Ord. of 12-10-96, § 1)

Sec. 40-41. Publicity generally.

The planning board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

(Code 1971, § 23-29; Ord. of 12-10-96, § 1)

Sec. 40-42. Records of proceedings.

The planning board shall keep a record of its findings and recommendations, which record shall be public.

(Code 1971, § 23-30; Ord. of 12-10-96, § 1)

Section 40-43. Conflict of Interest

A Planning Board member shall recuse themselves from voting on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on them or the applicant or other person subject to the decision is a person with whom the Planning Board member has a close familial, business, or other associational relationship, in accordance with G.S. 160D-109(c).

Secs. 40-443—40-75. Reserved.

ARTICLE III. PERMIT CHOICE AND VESTED RIGHTS³

Sec. 40-76. Purpose of article.

The purpose of this article is to implement the provisions of ~~G.S. 160A-385.1~~ G.S. 160D-108, G.S. 160D-108.1 and G.S. 143-755 pursuant to which rules regarding (1) the period of validity for a completed pending application for development approval, and (2) the establishment of a statutory zoning-vested right is established under a development regulation adopted by Hendersonville City Council. upon the approval of a site-specific development plan. To the extent that this Article conflicts with or omits provisions of G.S. 160D-108, 160D-108.1, or G.S. 143-755, the G.S. statutory provisions shall control. Nothing in this Article shall be deemed to limit the right of an Applicant to obtain a common law vested right in accordance with applicable law.

Part I Generally Applicable Provisions~~(Code 1971, § 23-51)~~

Sec. 40-77. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this ~~section~~ Article II, except where the context clearly indicates a different meaning. Words, terms and phrases which are not defined below shall have the meanings ascribed to them by the applicable land development regulation:

Applicant means a person who has submitted a Application for review under a land development regulation.

Application means the form or forms and all accompanying documents, exhibits, and fees required of an Applicant as part of the development review processes.

Application, Complete or Completed means an Application containing all of the required the form or forms and all required accompanying documents, exhibits, and fees required of an Applicant as part of the development review processes.

Application, Incomplete means and Application that does not contain all of the required form or forms and all required accompanying documents, exhibits, and fees required of an Applicant as part of the development review processes.

Approving authority means the person or board entity which is authorized by a land development regulation pursuant to article VII of the zoning ordinance to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan to approve a development permit.

Completeness determination means the process of determining if an Application for a development approval is or is not complete.

Development means any of the following (This definition does not alter the scope of regulatory authority granted by any state, federal or City law or ordinance.):

³State law reference(s)—Vested rights, ~~G.S. 160A-385.1~~ G.S. 160D-108 and 160D-108.1

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- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.

Development permit or Development approval means an administrative or quasi-judicial approval made pursuant to a land development regulation that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal, including any of the following:

- a. Zoning permits.
- b. Site plan approvals.
- c. Special use permits.
- d. Variances.
- e. Certificates of appropriateness.
- f. Plat approvals.
- g. Development agreements.
- h. Building permits.
- i. Plat approvals for the Subdivision of land.
- j. State agency permits for development.
- k. Driveway permits.
- l. Erosion and sedimentation control permits.
- m. Sign permit.
- n. Stormwater permit.
- o. Floodplain permit.

G.S. means the North Carolina General Statutes, as amended or replaced.

Initial development approval permit means the approval pursuant to article VII of the zoning ordinance whereby a development receives its initial approval first development permit received for a project. For projects undergoing special-use review, this will be the issuance of a special use permit for the project. For projects undergoing site plan review, this will be at the time of preliminary site plan approval unless the development is not required to go through preliminary site plan review, in which case the initial development approval will be final site plan approval. For projects undergoing zoning compliance review, the initial development approval will be the issuance of a zoning compliance certificate.

Land development regulations or Development Regulations means any State statute, rule or regulation, or local ordinance affecting the development or use of real property, including any of the following:

- a. Zoning regulation, including zoning maps.
- b. Subdivision regulation.
- c. Erosion and sedimentation control regulation.
- d. Floodplain or flood damage prevention regulation.

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- e. [Mountain ridge protection regulation.](#)
 - f. [Stormwater control regulation.](#)
 - g. [Wireless telecommunication facility regulation](#)
 - h. [Historic preservation or landmark regulation.](#)
 - i. [Housing code.](#)
 - j. [Building code.](#)
 - k. [Nonresidential building and structure code.](#)

Landowner means [the holder of the title in fee simple. Absent evidence to the contrary, the City will rely on the tax records for Henderson County to determine who is the landowner. As used herein, "landowner" refers to all holders of the title in fee simple of a parcel of real property. The land owner may authorize a person holding a valid option, lease, or contract to purchase to act as his/her agent or representative for the purpose of making applications for development approvals.](#)~~any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan under this article.~~

Permit choice means [the right to choose to apply the land development regulations in effect at the time of the Completed Application for the initial development permit, to all applications for development approvals submitted within the eighteen \(18\) month period following the date of the Completed Application for the initial development permit. Permit choice also refers to the right of an Applicant to choose to apply the land development regulation in effect at the time of a Completed Application following a successful legal challenge to the wrongful denial of, or illegal, permit decision associated with the Completed Application if the land development regulation was amended between the time of the Completed Application and the successful legal challenge.](#)

Site specific vested right means [a vested right granted pursuant to the approval of a site specific vesting plan.](#)

Site-specific ~~development vesting plan~~ means [a plan which has been submitted to the city by a landowner, pursuant to article VII of the zoning ordinance, city in which an Applicant requests vesting pursuant to Sections _____ through _____ and which describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. A variance shall not constitute a site specific development plan site specific vesting plan, and approval of a site specific development plan site specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. In order to be considered a site specific vesting plan, a plan must include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this Article that would trigger a site specific vested right is listed below, or is otherwise identified specifically in a land development regulation. The document that triggers the statutory vesting shall be so identified at the time of its approval.](#)

Zoning Statutory vested right means [a right pursuant to G.S. 160A-385.1108 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan, land development regulation in place at the time of the application for the development permit. If a development regulation is amended between the time of submission of the Completed application for a](#)

development permit and approval of the development permit, and the applicant chooses to apply the land development regulation in effect at the time of submission of the completed application, the statutory vested right shall confer a vested right to develop under the chosen land development regulation for the period of validity.

Vested means the right to develop in accordance with the land development regulations in place at the time of the submission of a Complete Application for a development approval.

Sec. 40-78. Completeness Determination.

- (a) Applicants shall submit applications to the land development regulation administrator or designated person or entity in accordance with terms of the applicable land development regulation. Until an application is determined to be complete in accordance with the requirements of the applicable land development regulation, an application has not been submitted.
- (b) On receiving a development application, the land development regulation administrator or designated person or entity shall, within determine whether the application is complete or incomplete.
- (c) Application Incomplete. On determining that the application is incomplete, the land development regulation administrator or designated person or entity shall, as appropriate, provide the applicant written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness review. If the applicant fails to resubmit an application within thirty (30) consecutive calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. The thirty (30) day period may be extended by the land development regulation administrator or other designated person or entity.
- (d) Application Complete. On determining that the application is complete, the land development regulation administrator or other designated person or entity shall:

 - (1) Accept the application as submitted in accordance with the procedures and standards of land development regulation in effect at the time of the submittal; and
 - (2) Provide the applicant written notice of application submittal acceptance.

Part 2. Statutory Vested Rights.

~~{Code 1971, § 23-52}~~

~~Cross-reference(s) — Definitions generally, § 1-2 Cross-reference(s) —.~~

Sec. 40-78. Establishment of ~~zoning~~ statutory vested right.

~~{↗}A statutory vested right may be established by the issuance of any of the following development permits stated in the table below, and each shall have the period of validity, expiration and applicability as stated.~~

<u>Type of Development permit</u>	<u>Period of Validity*</u>	<u>Expiration and applicability</u>
<u>Building permit</u>	<u>6 months</u>	<u>As required by G.S. 160D-1111, work must begin within 6 months or the building permit will expire. Notwithstanding the foregoing, for any building permit issued for a project which has established a site specific vested right, the building permit shall not expire while the site specific vested right is valid and in effect.</u>
<u>Development permit</u>	<u>12 months</u>	<u>Development permits are valid for a period of twelve months, unless specifically provided otherwise in a land development regulation.</u>
<u>Site Specific Vesting Plan</u>	<u>24 months</u>	<u>Must be established as provided in Section _____ below. The qualifying development permit must be identified as a site specific vesting plan at the time of approval</u>
<u>Multi-phased project</u>	<u>7 years from initial site plan approval</u>	<u>The entire project is vested for the period of validity if the project meets the meeting the following criteria:</u> <ol style="list-style-type: none"> <u>1. Minimum of 25 acres in size</u> <u>2. Subject to a master plan with committed elements showing the type and intensity of use of each phase.</u> <u>3. Submitted for development permit approval to occur in more than 1 phase.</u>
<u>Development agreement</u>	<u>Per the agreement</u>	<u>Ref G.S. 160D-108 and 160D-1007.</u>
<p><u>*Period of validity refers to the time period during which the permit will not expire due to the passage of time without work being substantially commenced. If work substantially commences during the period of validity, the development permit will not expire due to the passage of time, unless work is intentionally and voluntarily discontinued for a period of 24 months (for building permits 12 months). The period of discontinuance is tolled during an appeal or legal challenge. Period of validity is also sometimes referred to as the vesting period.</u></p>		

Sec. 40-79. Establishment of site specific vested right.

- (a) The following development permits shall qualify as a site specific vesting plan upon approval if they have the required level of detail shown (ref definitions above)
 - (1) Final Plat for a minor subdivision.
 - (2) Preliminary Plat or Final plat for a conservation subdivision.
 - (3) Preliminary Plat or Final plat for a major subdivision.
 - (4) Final Plat for an expedited subdivision.
 - (5) Final Site Plan
- (b) No separate application shall be required for a site specific vesting plan. The Application for the underlying development approval for the development permits identified in Sec. 40-78(a) may serve as the application for site specific vesting plan approval if the application specifically requests that the underlying development approval be considered a site specific vesting plan
- (c) The Application for the underlying development approval shall be processed in the manner required by the applicable land development regulation.

The approved development permit must specify that the development permit has also been approved as a site specific vesting plan at the time of the approval in order for the development permit to qualify as a site specific vesting plan under this Article. An application for site specific development plan approval shall be processed in accordance with the procedures established in article VII of the zoning ordinance.

(d) _____

(a) ~~(b)~~ — A ~~zoning~~ site specific vested right shall be deemed established as of the date of the initial development approval pursuant to ~~article VII of the zoning ordinance~~ land development regulation.

(e) _____

(b) ~~(c)~~ — The approving authority may approve a ~~site specific development plan~~ site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare if the underlying approval is obtained through an evidentiary hearing.

(f) _____

(c) ~~(d)~~ — Notwithstanding anything stated in this Article, subsections (a) and (b) of this section, approval of a ~~site specific development plan~~ site specific vesting plan with the condition that a variance be obtained shall not confer a ~~zoning vested right~~ site specific vested right unless and until the necessary variance is obtained.

(g) _____

(d) ~~(e)~~ — The establishment of a ~~zoning~~ site specific 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, nor does it preclude the application of ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the city, 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~~ site specific vesting plan upon the expiration or termination of the vested right in accordance with this article.

(h) _____

(i) ~~(f)~~ — A ~~zoning~~ site specific 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~~ site specific vesting plan, all successors to the original landowner shall be entitled to exercise such right, while applicable.

~~(Code 1971, § 23-53)~~

Sec. 40-~~7980~~. Effect of ~~site specific development plan~~ a statutory vested right approval.

- (a) Except where a longer period of time is authorized pursuant to ~~article VII of the zoning ordinance~~ land development regulation, a ~~zoning vested right~~ statutory vested right that has been vested as provided in this ~~Article~~ shall remain vested for ~~a period of two years~~ the period of validity specified in Sec. _____ above without regards to whether the work has substantially commenced or not. This vesting shall not be extended by any amendments or modifications to ~~a site specific development plan~~ the underlying development approval unless expressly provided by the approving authority at the time the amendment or modification is approved.
- (b) Unless extended by the approving authority in accordance with the provisions of ~~article VII of the applicable zoning ordinance~~ land development regulation, the right to construct improvements ~~development plan~~ shall terminate at the end of the vesting period unless the work has substantially commenced. Anyone desiring to develop property in accordance with a lapsed ~~site specific development plan~~ development approval, that is, one for which the vesting period of validity has ~~terminated~~ expired, must submit a new application for the

underlying development approval and, for site specific vesting plans, designate the new application as an application for ~~new site specific development plans~~ site specific vesting plan, application under article VII of the zoning ordinance.

- (c) Work shall be determined to be substantially commenced if substantial progress has been made in the physical commencement of the work. Substantial commencement may include, but not be limited to the following:
- (1) The project has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
 - (2) The project has installed substantial on-site infrastructure; or
- ~~(d)~~ Upon issuance of a building permit, the expiration provisions of G.S. 160~~DA-1111418~~ and the revocation provisions of G.S. 160~~DA-1115422~~ shall apply, except that a building permit shall not expire or be revoked because of the running of time while a ~~zoning vested right~~ site specific vested right under this section is outstanding.
- (d)
- ~~(e)~~ ~~(d)~~ Following approval or conditional approval of a ~~site specific development plans~~ site specific vesting plan, nothing in this article 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.
- (e)
- (f) ~~(e)~~ Failure to abide by the terms and conditions of a ~~site specific development plans~~ site specific vesting plan approval will result in a forfeiture of vested rights. Nothing in this article 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~~ land development regulation.

~~(Code 1971, § 23-54)~~

Sec. 40-8~~19~~. Termination of a site specific vested right.

A ~~zoning~~ site specific vested right that has been ~~vested~~ established as provided in this article, shall terminate:

- (1) At the end of the applicable ~~vesting period~~ period of validity with respect to buildings and uses for which no valid building permit applications have been filed if the work on the project has not substantially commenced;
- (2) With the written consent of the affected landowner;
- (3) Upon findings by the ~~Hendersonville city~~ City council, by ordinance after notice and an evidentiary public hearing, that natural or manmade 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 plans~~ site specific vesting plan;
- (4) 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 city, 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);

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- (5) Upon findings by the ~~Hendersonville city-City council~~Council, by ordinance after notice and an ~~evidentiary-hearing~~, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approving by the approving authority of the ~~site-specific-development-plansite specific vesting plan~~; or
 - (6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the ~~site-specific-development-plansite specific vesting plan~~, in which case the approving 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.

~~(Code 1971, § 23-56)~~

Sec. 40-82~~1~~. Voluntary annexation.

A petition for annexation filed with the city under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any ~~zoning-vested-rightsite specific 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~~160D-108.1. A statement that declares that no ~~zoning-vested-rightsite specific vested right~~ has been established under G.S. ~~160A-385.1 or G.S. 153A-344.1~~160D-108.1, or the failure to sign a statement declaring whether or not a ~~zoning-vested-rightsite specific vested right~~ has been established, shall be binding on the landowner, and any such ~~zoning-vested-rightsite specific vested right~~ shall be terminated.

Part 3 – Permit Choice~~(Code 1971, § 23-57)~~

Sec. 40-83. Applicability.

~~If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made, or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, permit choice shall apply.~~

Sec. 40-84. Effect of Permit Choice.

~~—If permit choice is applicable, the applicant may choose whether to apply the land development regulation at the time of the submission of the completed application or the land development regulation in effect at the time of the issuance of the development approval. If the applicant chooses the version of the land development regulation at the time of the submission of the completed application, the applicant shall not be required to wait until the outcome of the amendment to the land development regulation prior to a decision being made on the development permit.~~

~~(a)~~

~~—If an applicable land development regulations is amended after a development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the land development regulation will apply to the development permit.~~~~Sec. 40-82. Limitations.~~

~~(b)~~

~~(c) If a permit application is placed on hold at the request of the applicant for a period of six (6) consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the City for a period of six (6) consecutive months or more, the application~~

review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall apply to the application.

(d) Any person aggrieved by the failure of the City to comply with this section may apply to Henderson County Superior Court for an order compelling compliance and the court may issue that order.

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

~~(Code 1971, § 23-58)~~

~~Sec. 40-83. Repealer.~~

~~If G.S. 160A-385.1 is repealed, this article shall be deemed repealed and the provisions thereof no longer effective.~~

~~(Code 1971, § 23-59)~~