

## ARTICLE 2

### APPLICABILITY OF ORDINANCE

#### Section 2.1     Applicability

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

#### Section 2.2     Vested Development Rights

2.2.1     **In General.** Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

- (A)     For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160D-1111 and the building permit has not been revoked pursuant to G.S. 160D-1115; or;
- (B)     For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
- (C)     For which a vested right has been established and remains valid and unexpired pursuant to this section.

2.2.2     **Additional Procedures for Establishing a Vested Right.** A vested right to commence with a planned development or use of property according to a site specific development plan shall be established upon approval of a conditional use permit by the Town Board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

2.2.3     **Term of a Vested Right.** A right, which has been vested by the Town of New London, shall remain vested for a period of three (3) years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Town Board when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- (A)     When a vested development plan has been at least 50% completed by the end of the vesting period, the project as a whole shall be given two (2) more years to complete development in conformance with the approved plan not to exceed a total vested period of five (5) years; and
- (B)     Prior to the vested right terminating at the end of the three (3) year period, the owner of the property may petition the Town Board for a one (1) time two (2)

year extension of the vested right not to exceed a total vested period of five (5) years. In its deliberations regarding the extension request, the Board may consider, among other things: a) the percentage of the project completed; b) a demonstration by the petitioner of good faith efforts made towards project completion; c) the reasons for the delay of project build-out; and d) the compatibility of the planned development with current town plans and the surrounding landscape. The Board may choose to extend the vested right for the entire project or only a portion of the project and may require one (1) or more design features shown on the plan or incorporated in the permit to meet the current code.

**2.2.4 Declaration of a Vested Right Upon Voluntary Annexation.** A petition for annexation filed with the Town under G.S. 160D-2-4.1 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. A statement that declares that no zoning vested right has been established under G.S. 160D-108 or G.S. 160D-108.1, 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 which may have existed shall be terminated.