

## **ARTICLE II. APPLICABILITY.**

### **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. No principal or accessory structure used for bona fide farm purposes and located more than 250 feet from the nearest property line abutting a residential use shall be subject to the design, height, or size requirements specified in this ordinance for such.

### **2-2. Vested Development Rights.**

#### *(A) 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:

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change so long as the permit remains valid and unexpired pursuant to G.S. 160D-1111 and the building permit has not been revoked pursuant to G.S. 160D- 1115; or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

#### *(B) Additional procedures for establishing a vested right.*

A vested right to commence a planned development or use of property according to a site specific development plan shall be established upon approval of a special use permit, a conditional use permit, a special exception permit, or conditional zoning by the appropriate 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 certificate of zoning compliance shall be vested.

#### *(C) Term of a vested right.*

A right, which has been vested by the Town of Richfield, shall remain vested for a period of three 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 which approves the modification or amendment. Any request for modification or extension of a vested right shall be required to follow the same notice and hearing requirements as the initial zoning action establishing the vested right. 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:

- (1) When a vested development plan has been at least fifty percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
- (2) Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate board for a one-time two-year extension of the vested right not to exceed a total vested period of five 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 area. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the certificate of zoning compliance to meet the current ordinance.

(D) *Declaration of a vested right upon voluntary annexation.*

A petition for annexation filed with the town under G.S. 160D-2-4 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 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.