

CHAPTER 1. GENERAL PROVISIONS AND VESTED RIGHTS

Article 1.A. General Provisions

Sec. 1-A-1 Title

- A. **Title.** This Unified Development Code (the "UDC") shall be officially known and cited as the Winter Park Unified Development Code.
- B. **Short Title.** This Unified Development Code may be referred to herein as "the UDC" or "this UDC".

Sec. 1-A-2 Authority

- A. **Home Rule Charter.** Pursuant to the Constitution of the State of Colorado, Article XX, Home Rule Cities and Towns, Section 6, *Home Rule for Cities and Towns*, the principal authority for this UDC is the Home Rule Charter of the Town of Winter Park, as may be amended from time to time, first approved on April 12, 1983.
- B. **Colorado Statutes.** The provisions of this UDC are also authorized by the Colorado Revised Statutes (C.R.S), including, but not limited to:
 - 1. Title 24, Government - State, Article 68, *Vested Property Rights*;
 - 2. Title 29, Government - Local, Article 20, *Local Government Regulation of Land Use*; and
 - 3. Title 31, Government - Municipal, Article 23, *Planning and Zoning*.

Sec. 1-A-3 Jurisdiction

These regulations are applicable within the following described as all land located within:

- A. The legal boundaries of the Town of Winter Park (Town); and
- B. Three miles of the corporate limits of the Town and not located in any municipality for the purposes of control with reference to major street plans only.
- C. Where the land is outside the municipal boundary of Winter Park and another municipal boundary is within three miles of the Winter Park boundary, the application of these regulations shall be governed by the provisions of C.R.S. Sec. 31-23-212, *Jurisdiction*.

Sec. 1-A-4 Purposes

The provisions of this UDC are adopted for the purposes of:

- A. Promoting the public health, safety and general welfare of the citizens of the Town;
- B. Implementing the 2019 Imagine Winter Park Town Plan;
- C. Guiding the future growth and economic development of the Town while balancing the protection of community resources and individual property rights;
- D. Achieving orderly, functional, and attractive development through land use and subdivision controls;
- E. Enhancing the special characteristics of the Town's natural and built environments;
- F. Creating a unique sense of place through proactive planning and contemporary regulations;
- G. Protecting and conserving the value of land and buildings;
- H. Conserving natural resources such as the scenic hillsides and mountain views, the Fraser River, Vasquez Creek and Little Vasquez Creek and their wetlands, floodplains, riparian areas, and wildlife habitat;
- I. Maximizing the compatibility and cohesiveness of land and buildings through good design and engineering practices;

- J. Preserving and enhancing the Town's natural environment and its parks, open spaces, and recreational amenities;
- K. Following good land management and construction practices to avoid natural and manmade hazards;
- L. Assuring good subdivision design and neighborhood quality through:
 - 1. Adequate road and utility infrastructure;
 - 2. The preservation of the natural topography and vegetation;
 - 3. Sufficient open space and views; and
 - 4. Good pedestrian and vehicular circulation, safety and comfort;
- M. Sustaining the quality natural environment of the region through resource protection, open space preservation, and the acquisition and development of public parks and recreation areas and facilities;
- N. Providing for a stable and diversified local economy to sustain and grow businesses for permanent residents, as well as for tourists and visitors;
- O. Capitalizing on the natural setting to create a town that is of unique character and an inheritable quality of living; and
- P. Establishing fair and efficient processes to facilitate quality growth and sustainable development.

Sec. 1-A-5 Applicability

- A. **Generally.** Except as hereinafter provided, no building, structure or land shall be used and no building or other structure shall be erected, reconstructed, structurally altered or maintained except in conformance with the regulations specified in this UDC, nor shall a yard or lot area be reduced in dimensions to an amount less than the minimum requirements specified by the provisions of this Title.
- B. **Public-Owned Property.** This UDC and its standards, requirements, and regulations is applicable to all public agencies and organizations to the full extent allowed by law and under the United States and Colorado Constitutions.
- C. **Effect on Permits, Licenses, or Approvals.** These regulations shall not abrogate, annul, modify or amend any permit, license or approval or any modification or amendment issued or authorized by the:
 - 1. Planning and Zoning Commission (PZC);
 - 2. Town Council;
 - 3. United States Forest Service (USFS);
 - 4. Grand County Planning Commission;
 - 5. Board of County Commissioners of Grand County; or
 - 6. Any other governmental authority having appropriate jurisdiction prior to the effective date of this UDC.
- D. **Effect on Vested Property Rights, Development Agreements, or Easements.** This UDC shall not be interpreted to interfere with or abrogate:
 - 1. Any vested property right established pursuant to C.R.S. 24-68-101, et seq. or with the provisions of Sec. 1-B-3, *Vested Rights*, of this UDC;
 - 2. The terms, conditions, or obligations of any development agreement or easement to which the Town is a party.
- E. **Effect on Private Restrictions.**
 - 1. *Generally.* This UDC shall not interfere with, abrogate, or annul any private easement, covenant, deed restriction, or other agreement between private parties.
 - 2. *Consistent Enforcement.* This UDC will be enforced on property that is subject to private restrictions in the same manner as other properties.

3. *No Duty to Search for Private Restrictions.* The Town has no duty to search for the existence of private restrictions on property.
4. *Private Agreements.* The Town will not interpret, apply, or enforce agreements between two private parties.
5. *Private Party Responsibility.* Parties to private covenants who seek development approvals that are inconsistent with their private covenants do so at their own risk that the covenants may be enforced by other private parties who may have standing to file suit.

Sec. 1-A-6 General Rules

- A. **Required Compliance.** No person, firm, partnership, corporation, or other entity may use, occupy, or develop land, buildings, or structures unless the use, occupancy, or development is in compliance with this UDC.
- B. **Minimum Standards, Requirements, or Regulations.** The provisions of this UDC shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, morals, convenience, prosperity and welfare.
- C. **Review Criteria in Deciding Violations.** Any matter brought before the Board of Adjustment (BOA), Planning and Zoning Commission, or Town Council to decide a violation of this UDC shall consider the applicable review criteria stated in this UDC.

Sec. 1-A-7 Effective Date

- A. **Effect.** The regulations of this UDC shall take effect upon adoption by the Town Council, and may be adopted prior to the adoption the Official Zoning Map. However, the UDC regulations will not take effect until after the Official Zoning Map is adopted.
- B. **Supersede Prior Regulations.** Except as otherwise stated in this UDC or State of Colorado Statutes, on the Effective Date and thereafter, this UDC shall supersede all prior regulations governing the development of land, buildings, and structures in the corporate limits of the Town.
- C. **After the Effective Date.** Except as set out in [Article 1.B, Transitional Provisions and Vested Rights](#), all development applications and proposals filed on or after the Effective Date of this UDC shall be processed in accordance with the standards, regulations, and requirements of this UDC.

Sec. 1-A-8 Consistency with Plans

Pursuant to the requirements of C.R.S. Title 31, Article 23, *Planning and Zoning*, zoning within the Town of Winter Park shall be in accordance with the Town's Master Plan adopted by Town Council Resolution 1669, Series 2018 and the Three-Mile Plan adopted by Town Council Resolution 1687, Series 2019, and as may be subsequently amended.

Sec. 1-A-9 Conflicting Provisions

- A. **Conflict with Other Governmental Regulations.** If the provisions of this UDC are inconsistent or in conflict with those of the State, the more restrictive provision shall control, as permitted by law.
- B. **Conflict with Other Regulations or Agreements.** If any provision of this UDC is inconsistent or in conflict with any other provision of this UDC or other adopted resolutions, ordinances, or regulations of the Town, the more restrictive provision shall control.

Sec. 1-A-10 Severability

The provisions of this UDC shall be severable, in accordance with the following:

- A. **Invalid Provision within Title.** If any provision of this Title is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared that:
 1. The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and

2. Such decision shall not affect, impair, or nullify the UDC as a whole or the application thereof. The remainder of the UDC shall continue in full force and effect.
- B. **Invalid Development Approval Condition.** If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the approval of any similar application that is not specifically included in that judgment.

Article 1.B. Transitional Provisions and Vested Rights

Sec. 1-B-1 Purpose and Applicability

- A. **Purpose.** The purposes of this Article is to establish the rights of applicants and landowners who:
1. Have submitted or are in the process of submitting development applications before the effective date of this UDC; or
 2. Have obtained specific vested real property rights pursuant to state law.
- B. **Applicability.** This Article shall pertain to all development applications governed by this UDC prior to the effective date of this UDC.

Sec. 1-B-2 Transitional Provisions

- A. **Generally.** It is the intent of the UDC to respect pending applications and development approvals.
- B. **Scope of Approvals.** This Section shall not be interpreted to confer rights upon any applicant that is not set out within the scope of a development's approval.
- C. **Pending Applications.** Each application for development approval shall be evaluated only by the adopted ordinances and technical regulations in effect at the time that each complete application was submitted.
- D. **Development Applications that Precede this UDC.** Approved developments may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval is valid and has not lapsed.
- E. **Planned Development.**
1. *Generally.* Final development plans for a planned development approved prior to the effective date of this UDC may be carried out and are governed according to the terms and conditions of their approvals, unless expressly repealed or modified as provided in Sec. 7-D-5, *Planned Development*.
 2. *Phased Approval.* Final development plans for a planned development that were preliminarily approved prior to the effective date of this UDC, but with phases requiring final approval after the effective date of this UDC may seek approval in accordance with the standards and procedures of this UDC should the applicant so desire.
- F. **Application to Subdivision Plats.**
1. A modification or amendment to Chapter 2, *Zoning Districts and Use Standards*, adopted after the approval of a residential subdivision plat that affects the exterior appearance of a single-family house, including the type and amount of building materials; or the required landscaping does not apply to that subdivision based on:
 - a. The date the plat was approved; or
 - b. The date the Town accepts the subdivision improvements offered for public dedication.
 2. This Section does not prevent the Town from:
 - a. Adopting or enforcing building codes;
 - b. Prohibiting the use of building materials that have been proven to be inherently dangerous; or

- c. Adopting or enforcing amendments to this UDC that do not affect the provisions within Chapter 2, *Zoning Districts and Land Use*.
- G. **Prior Conditions of Approval.** Conditions of development approvals that were granted prior to the effective date remain in full force, regardless of the standards of this UDC.
- H. **Right to Complete Construction.** This UDC does not require any change in the plans, construction, or designated use of any structure if:
 - 1. A building permit for the structure was lawfully issued prior to the effective date of this UDC;
 - 2. The building permit had not by its own terms expired prior to the effective date of this UDC, or as set out in [Sec. 7-C-11, Expiration of Approvals](#); and
 - 3. Construction pursuant to the building permit was commenced prior to the expiration of the permit and within 90 days of the effective date of this UDC, or an amendment to this UDC, and was thereafter diligently pursued to completion.
- I. **Right to Occupy.** A structure may be occupied by, and a certificate of occupancy may be issued for, the use designated on a building permit, subject to [Article 7.A, Nonconformities](#).
- J. **Stale Applications.** Applications for development approval that are not pursued with due diligence may expire pursuant to [Sec. 7-C-11, Expiration of Approvals](#).
- K. **Existing Violations.** Any violations of previous versions of any code or ordinance of the Town shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement set forth in [Article 7.H, Enforcement, Violations, and Penalties](#).

Sec. 1-B-3 Vested Rights

- A. **Purpose.** The purpose of this Section is to provide the procedures necessary to implement the provisions of C.R.S. Title 24, Article 68, *Vested Property Rights*, as amended that establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of an approved site specific development plan that receives approval by the Town Council, under these provisions. By adopting this Section, the Town does not acknowledge that the establishment of vested property rights is a matter of statewide concern which supersedes the local enactments of the Town Council, a home rule municipal corporation.
- B. **Approval.** A site specific development plan that creates vested property rights under C.R.S. Title 24, Article 68, *Vested Property Rights* shall be deemed approved upon the effective date of the Town Council's action relating to these provisions.
 - 1. *Necessary Approval Language.* Each map, plat, site plan, or master site plan constituting a site specific development plan shall contain the following language: "Approval of this plan creates a vested property right pursuant to Section 24-68-103, C.R.S., Sec. 24-68-103, *Vested Property Right - establishment - waiver*, as amended".
 - 2. *Amendments.* If, after such approval, amendments are made to the site specific development plan with the approval of the legal and equitable title owner, the amendment shall relate back to the date of original approval of the site specific development plan and shall not extend the vested rights originally approved.
 - 3. *Terms and Conditions.* A site-specific development plan may be approved with terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and as provided in this UDC.
 - 4. *Forfeiture.* Failure to comply with such terms and conditions shall result in forfeiture of the vested property rights.
- C. **Optional Clause.** Each landowner may decide to pursue vested property rights approval from the Town or may elect to waive the vested property rights along with the application and review process of any land development application pursuant to the UDC. Each landowner must notify the Town by completing an application stating that vested property rights are being sought or waived, 25 days prior to the date said approval of a site specific development plan would be considered by the Town.

- D. **Public Notice.** A public notice generally describing the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation within the Town. The notice shall include the following information:
- (i) A statement advising the public of the site specific development plan approval, including the name of the project, the type and intensity of the use approved and the specific property or development parcels affected;
 - (ii) A statement that a vested property right has been created in accordance with Article 68 of Title 24, C.R.S., including the duration of the vested property right; and
 - (iii) A statement that the citizen's rights of referendum shall run from the date of publication.
- E. **Other Provisions Unaffected.** Approval of a site specific development plan shall not constitute an exemption or waiver of any provision of this UDC.
- F. **Duration and Termination of Vested Property Rights.**
1. A vested property right extends for a period of three years from the date of the site specific development plan approval. The Town Council may approve a period of vested property rights exceeding three (3) years by approval of a development agreement, which shall be part of the site specific development plan.
 2. The guidelines in this paragraph shall be considered when determining whether to grant vested property rights for a period greater than three (3) years, provided that site specific development plans that are granted vested property rights for a period greater than three (3) years because of the size, phasing or absorption rate of such site specific development plan should have separate vesting created for the various phases of the development, as set forth below. It shall be the burden of the applicant to propose appropriate reasons for granting a vested property right that is greater than three (3) years.
 - a. The size and phasing of the development, specifically, but not limited to, whether the development can be reasonably completed within the vested rights period;
 - b. Economic cycles and specifically but not limited to resort community economic cycles, regional and state economic cycles and national economic cycles;
 - c. Market conditions and specifically but not limited to absorption rates for leasing and sales of similar development projects;
 - d. Compliance with the Winter Park Comprehensive Plan and other community planning documents;
 - e. Proposed public amenities and benefits that enhance the project and the overall attractiveness of the Winter Park community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe and phasing with development;
 - f. Projected public financial benefits or costs estimated to be caused by the development project, including the timeframe for realization by the Town or other public entities and potential costs for operation and maintenance of any new public amenities or infrastructure dedicated to the Town or other public entities;
 - g. The breadth and scope of the requested vested property right, including but not limited to the extent to which such vested property right restricts the Town's ability to apply future legislatively adopted fees and regulations for the purpose of providing public infrastructure, public services and public facilities and for the purpose of meeting evolving community needs;
 - h. The terms of any existing site specific development plans with development agreements for the applicant's property that specify the duration of vested property rights;
 - i. Any proposed modifications to previously approved vested property rights to address changed conditions within the Winter Park community, compliance with the Comprehensive Plan and other community planning documents or performance of previously approved site specific development plans; and
 - j. Any other factors deemed relevant by the Council when determining to grant a vested property right for a period greater than three (3) years.

3. Any site specific development plan for a multiple-phase development approved after adoption of the UDC, may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Town Council. Such review shall include but not be limited to whether the landowner, developer, successors or assigns are in compliance with its obligations to the Town, including but not limited to the terms and conditions of a site specific development plan, a development agreement and any other agreements between the landowner, developer, successor and assigns and the Town, as they may have been amended from time to time.
- G. **Extension of Vested Property Rights.** A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least six (6) months prior to the expiration of the vested property rights. No application for extension of a vested property right shall be approved until after providing notice and conducting public hearings in compliance with Subsection 1-B-3(D). The guidelines 1-B-3(F) shall be considered when determining whether to grant an extension to a vested property right. An extension of a vested property right shall be approved by ordinance. The notice of approval provisions in 1-B-3(D) above shall apply to any approval for extension of vested property rights.
- H. **Forfeiture of Vested Property Rights.** Failure to abide by the terms and conditions of a vested property right will result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
1. The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the Town Council stating the grounds therefor.
 2. No vested property right shall be deemed forfeited until after providing notice and conducting a public hearing. Notice shall be provided by publishing notice in a newspaper of general circulation, posting notice in the designated official places of posting and mailing notice to the property owner sent to the address of record according to the County Assessor's records via first-class United States mail at least thirty (30) days prior to the date of a hearing. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner.
 3. At the hearing, the Town Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a vested property right. The Town Council may continue the public hearing to allow additional evidence to be gathered and presented.
 4. If the Town Council finds a failure to abide by the terms and conditions of the vested property right, the Town Council may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way or other lands or easements previously dedicated or conveyed to the Town or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.
- I. **Limitations.** Nothing in this Section is intended to create any vested property right, but only to implement the provisions of C.R.S. Title 24, Article 68, *Vested Property Rights*, as amended.