

(Note to be removed later – Council-approved items are green; items underlined in green are staff-proposed language prepared at Council’s request but not yet approved by Council)

ARTICLE 15. APPLICATION PROCESS

- 15.1 APPLICATION PROCESSES**
- 15.2 NOTICE**
- 15.3 VESTING**

15.1 APPLICATION PROCESSES

A. Application Submittal

All zoning applications must be filed as indicated in Table 15-1: Application Submittals. The application must be on forms provided by the entity with authority over the application and filed in such quantity and with such submittals as required by the instructions.

Table 15-1: Application Submittals		
Application	Authority	
	Zoning Administrator	Knoxville-Knox County Planning
Amendment (Text and Map)		•
Special Use Review		•
Variance	•	
Site Plan Review	•	
Planned Development		•
Certificate of Appropriateness		•
Zoning Interpretation	•	
Zoning Appeal of Administrative Body Decisions		•
Zoning Appeal of Administrative Official Decisions	•	

B. Pre-Application Conference

Prior to formal submittal of an application, the applicant may schedule a pre-application conference with the Zoning Administrator or Knoxville-Knox County Planning staff, as applicable. The purpose of a pre-application conference, which does not require a formal application or fees, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the formal application. No decision is made on the application.

C. Completeness

a. An application must include all information, plans, and data as specified in the application requirements. The Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, will examine all applications within ten business days of filing to determine completeness. If the application does not include all the submittal requirements for the application, the Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, will reject the application and provide the applicant with the reasons for the rejection. No further steps to process the application will be taken until all deficiencies are remedied.

b. After an application is determined to be complete and before action is taken on the application, any substantive change made by the applicant to the application requires resubmittal of the entire application and a new completeness review. Such revisions may require an additional payment of fees. Once the application is under consideration by the appropriate bodies, additional information or revisions are not subject to this provision.

D. Fees

Each application must be accompanied by the required filing fee, as established and modified, from time to time, in the City or Knoxville-Knox County Planning Commission fee schedule as adopted or approved by the City Council or Knoxville-Knox County Planning Commission. The failure to pay such fee when due is grounds for refusing to process the application and renders the application incomplete.

E. Withdrawal of Application

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a board or official, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing.

F. Consideration of Successive Applications

1. Within one year of the date of denial, a subsequent application for the same zoning approval will not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial.
2. If the application is resubmitted earlier than one year from the date of denial, the subsequent application must include a detailed statement of the grounds justifying its consideration. The Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, will make a determination as to whether the subsequent application is appropriate for resubmittal prior to the expiration of the one year wait requirement. If the Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, finds that there are no new grounds for consideration of the subsequent application, the application will be summarily, and without hearing, denied.

15.2 NOTICE

A. Required Notice

Table 15-2: Zoning Approvals Required Notice indicates the types of notice required for zoning applications. If the specific requirements of a zoning approval process contain contradictory information to Table 15-2, the specific requirements of the zoning approval control.

Table 15-2: Zoning Approvals Required Notice			
Zoning Application	Notice Type		
	Published	Mailed	Posted
Zoning Text Amendment Notice for Public Hearing	•		
Zoning Map Amendment Notice for Public Hearing	•	•	•
Comprehensive Updates and Revisions to Zoning Code and/or Zoning Map Notice for Public Hearing	•		
Special Use Review Notice for Public Hearing	•	•	•
Planned Development – Concept Plan Notice for Public Meeting		•	•
Planned Development – Preliminary Plan Notice for Public Hearing	•	•	•

B. Published Notice

When published notice is required, the City will publish notice in a newspaper of general circulation within the City. The notice must include the date, time, place, and purpose of such hearing/meeting, the name of the applicant, and the address of the subject property. Notice must be published no less than 15 days in advance of the scheduled action.

C. Mailed Notice

1. Knoxville-Knox County Planning will send written notice of the application, as specified in Table 15-2, and public hearing/meeting date to all property owners whose property is within 200 feet of the subject property.
2. Notice will be to the last known address of the property owner as listed on the tax rolls.
3. Notices will be mailed at least 12 days before the date of the first advertised hearing.
4. Notice is also required when an application is removed from the table unless the matter is being untabled for withdrawal only.

5. Mailed notice for map amendments and for general amendments to the zoning map initiated by the City Council or Knoxville-Knox County Planning Commission will also be provided to all property owners whose property is within the proposed amendment to the zoning map, the cost of which is born by the initiator of the request.
6. Nothing in this section prevents the City, Knoxville-Knox County Planning, or the applicant from giving additional notice as he/she may deem appropriate.
7. Mailed notice is not be required for changes to the annexation-related map amendments initiated by the City of Knoxville.
8. Mailed notice is not required for comprehensive updates and revisions to the Zoning Code and/or Zoning Map.

D. Posted Notice

1. The applicant will post a sign no less than 12 days prior to the public hearing/meeting date. Calculation of the notice period commences on the first date of posting, but does not include the hearing date.
2. The notice sign must state the nature of the proposal or application, reviewing body contact information (telephone number and internet address), and the date and time and of the public hearing/meeting.
3. Failure to post the notice sign as required is sufficient cause for postponement of the public hearing/meeting. However, failure to post notice signs as required does not preclude the Knoxville-Knox County Planning Commission from acting on any application or proposal properly before it.

15.3 VESTING

In accordance with Tenn. Code Ann. § 13-4-310, the following provides for the vesting of developments through zoning applications.

A. Subject to item C, a vested property right must be established upon the City's approval of a preliminary development plan, a final development plan where no preliminary development plan is required by ordinance or regulation, or a building permit allowing construction of a building where there was no need for prior approval of a preliminary development plan for the property on which that building will be constructed. During the vesting period in item C, the City's development standards in effect on the date of said approval remain the development standards applicable to that property or building during the vesting period in item C.

B. A vested property right is established with respect to any property upon the appropriate department's:

1. Approval of a preliminary or final development plan for any of the following Districts: RP-1, RP-2, RP-3, SC-1, SC-2, SC-3, PC-1, PC-2, BP-1, TND-1, or TC-1 Districts.
2. Approval regarding a project in the I-1 District.
3. Approval regarding a use on review.
4. Approval of a certificate of appropriateness, when required.
5. Approval of a form district project.
6. Issuance of a site development permit.
7. Issuance of a written finding from the Director of Plans Review and Building Inspections that allowing a property right to remain vested is in the best interests of the community.
8. Any other approval or issuance specified in Tenn. Code Ann. § 13-4-310.

C. The applicable vesting periods are as follows:

1. For building permits allowing construction of a building where there was no need for prior approval of a preliminary development plan for the property on which that building will be constructed, the vesting period begins on the day the building permit is issued. The vesting period lasts through the expiration of the building permit and any renewals, unless the applicant has not pursued with reasonable diligence site development or construction.

2. For approval of a preliminary development plan that does not progress in stages or phases, the initial vesting period is three years subject to the following:

a. The applicant must maintain all necessary permits during all vesting period(s) and any extension(s) in order to remain vested. During the initial vesting period, the applicant must obtain the City's approval of the final development plan and commence site preparation. If the applicant complies, then the vesting period will be extended an additional two years.

b. During the two year extension, the applicant must commence construction and, if commenced, the development standards in effect during the vesting period remain in effect until the City certifies final completion of the development or project.

c. In no event will the total vesting period exceed ten years from the date of the approval of the preliminary development plan.

3. For approval of a preliminary development plan that progresses in two or more stages or phases, a separate vesting period as described in item C.2 applies to each section or phase subject to the following:

a. The applicant must maintain all necessary permits during all vesting period(s) and any extension(s) in order to remain vested. The development standards in effect on the date of the approval of the preliminary development plan describing the first stage or phase apply to all subsequent stages or phases.

b. If the applicant begins construction, the development standards in effect during the vesting period remain in effect until the City certifies final completion of the development or project.

c. In no event will the total vesting period for all stages or phases exceed 15 years.

D. In accordance with Tenn. Code Ann. § 13-4-310(f), the City may terminate the applicant's vested rights under the following circumstances.

1. If the City finds in writing that the applicant violated terms and conditions specified in the approved development plan or building permit, the applicant will receive notice and has 90 days from the date of notification to cure all violations.

2. If the City finds in writing that the applicant violated terms and conditions specified in a City ordinance or resolution, the applicant will receive notice and has 90 days from the date of notification to cure all violations.

3. If the City finds in writing that the applicant: 1) intentionally supplied inaccurate information or knowingly made misrepresentations material to the issuance of a building permit or the approval of a development plan; or 2) knowingly did not construct the development in accordance with the issued building permit, approved development plan, or approved amendment for the building permit or development plan. In such case, the applicant has no right to cure the violations.

4. If the City is required to enforce a state or federal law, regulation, rule, policy, corrective action, or other governance that precludes the development as contemplated in the approved development plan or building permit, the vested rights terminate unless within 90 days the applicant modifies the development plan or building permit in a way that brings the applicant into compliance with the new governance.

E. A vested right does not preclude the City's enforcement of any development standard in accordance with any circumstances described in Tenn. Code Ann. § 13-4-310(g).

F. In accordance with Tenn. Code Ann. § 13-4-310(h), any amendment to an approved development plan must first be approved by the City in order for the property rights to remain vested. The City may deny an amendment in accordance with Tenn. Code Ann. § 13-4-310(h) and, if such amendment is denied, the applicant may either proceed with no changes to the prior approved plan with the associated vested property right or, alternatively, may allow the vested property right to terminate and submit a new application in compliance with the development standards in effect at that time.

G. Unless specifically addressed herein, all other provisions of Tenn. Code Ann. § 13-4-310 are adopted and incorporated by reference.

H. Article 15.3 is controlling notwithstanding any other section of this Zoning Code. (Per 5/30 Council vote)