

**TOWN OF MEAD, COLORADO
ORDINANCE NO. 877**

**AN ORDINANCE OF THE TOWN OF MEAD, COLORADO, REPEALING
AND REPLACING ARTICLE V OF CHAPTER 16 OF THE
MEAD MUNICIPAL CODE**

WHEREAS, the laws of the State of Colorado provide procedures in relation to the creation of statutory vested property rights, which are codified in Article 68, Title 24, Colorado Revised Statutes (the “Vested Property Rights Law”); and

WHEREAS, the General Assembly has declared the establishment of statutory vested property rights to be a matter of statewide concern; and

WHEREAS, the establishment of vested property rights promotes reasonable certainty, stability, and fairness in the land use planning process; and

WHEREAS, the Town of Mead desires to repeal and replace its existing vested property rights regulations in order to foster cooperation between the public and private sectors in the area of land use planning and provide a regulatory framework to secure the reasonable investment-backed expectations of landowners; and

WHEREAS, the Board of Trustees desires to amend the Mead Municipal Code to ensure consistency with the Vested Property Rights Law.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Amendment of Mead Municipal Code. Article V of Chapter 16 of the Mead Municipal Code currently titled as “Vesting of Property” is hereby repealed in its entirety and replaced in full to read as follows:

ARTICLE V

Vested Property Rights

Sec. 16-5-10. Purpose.

The purpose of this Article is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site specific development plan. No vested rights shall be created within the Town except through a site specific development plan.

Sec. 16-5-20. Definitions.

As used in this Article, unless the context otherwise requires:

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors and assigns of such ownership interests.

Property means all real property subject to land use regulation by the Town of Mead.

Site specific development plan means and is limited to the *final plat* of a subdivision or a *final site plan* (for multi-family, commercial or industrial development) when approved by the Board of Trustees by ordinance duly adopted.

Vested property rights means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Sec. 16-5-30. Request for site specific development plan approval.

For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request such an approval renders the plan not a site specific development plan, and no vested property rights shall be deemed to have been created.

Sec. 16-5-40. Notice and hearing.

No site specific development plan shall be approved until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least twenty-one (21) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.

Sec. 16-5-50. Approvals, effective date, amendments, referendum and review.

- (a) A site specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan, including any amendments thereto.
- (b) The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.

- (c) In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.
- (d) The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site specific development plan and creation of vested property rights.

Sec. 16-5-60. Notice of approval.

- (a) Each map, plat or site plan or other document constituting a site specific development plan shall contain the following notice: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.
- (b) In addition, the Town shall publish a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected, and stating that a vested property right has been created. The notice shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town.

Sec. 16-5-70. Duration of vested property right.

A property right which has been vested as provided herein shall remain vested for a period of three (3) years; except as provided in Section 16-5-100 of this Article.

Sec. 16-5-80. Other provisions unaffected.

- (a) Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of property.
- (b) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Further, the establishment of a vested property right shall not preclude the application of ordinances or regulations as otherwise permitted by Colorado Revised Statutes Title 24, Article 68, as amended.

(c) A site specific development plan for which a vested right has been created shall not be exempt from subsequent reviews and approvals to ensure compliance with the terms and conditions of the plan's approval.

Sec. 16-5-90. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town pertaining to such application, including but not limited to publication of notices, public hearing and review costs, county recording fees and review costs. The site specific development plan shall not be recorded until all fees have been paid.

Sec. 16-5-100. Rights by agreement.

The Board of Trustees may enter into agreements with the landowners providing that property rights shall be vested for a period exceeding three (3) years, where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, economic cycles, and market conditions. Such agreements shall be adopted as legislative acts subject to referendum. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Board of Trustees in the ordinance or resolution approving such amendments.

Sec. 16-5-110. Limitations.

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof no longer effective.

Section 3. Effective Date. This ordinance shall be published and become effective as provided by law.

Section 4. Remaining provisions. Except as specifically amended hereby, all other provisions of the Mead Municipal Code shall continue in full force and effect.

Section 5. Codification Amendments. The codifier of the Mead Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this ordinance within the Mead Municipal Code.

Section 6. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, section, subsection, sentence, clause or phrase is declared invalid.

Section 7. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 8. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 27TH DAY OF AUGUST, 2018.

ATTEST:

By: Mary E. Strutt
Mary E. Strutt, CMC, Town Clerk



TOWN OF MEAD:

By: Joyce E. Palaszewski
Joyce E. Palaszewski, Mayor Pro Tem