

CHAPTER 222

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**GOVERNMENT - LOCAL**

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**HOUSE BILL 99-1280**

BY REPRESENTATIVES McPherson, Dean, King, Larson, May, McElhany, McKay, Paschall, Pfiffner, Spradley, Stengel, Taylor, and T. Williams;  
also SENATORS Lamborn, Congrove, Epps, Musgrave, and Tebedo.

**AN ACT**

CONCERNING THE PROTECTION OF PROPERTY DEVELOPMENT RIGHTS ESTABLISHED IN PROPERTY INCLUDED IN APPROVED SITE SPECIFIC DEVELOPMENT PLANS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 24-68-102 (1) and (4), Colorado Revised Statutes, are amended, and the said 24-68-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-68-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) ~~"Landowner" means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.~~ "APPLICATION" MEANS A SUBSTANTIALLY COMPLETE APPLICATION FOR APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN THAT HAS BEEN SUBMITTED TO A LOCAL GOVERNMENT IN COMPLIANCE WITH APPLICABLE REQUIREMENTS ESTABLISHED BY THE LOCAL GOVERNMENT. FOR LOCAL GOVERNMENTS THAT HAVE PROVIDED FOR THE REVIEW AND APPROVAL OF SITE SPECIFIC DEVELOPMENT PLANS IN MULTIPLE STAGES, "APPLICATION" MEANS THE ORIGINAL APPLICATION AT THE FIRST STAGE IN ANY PROCESS THAT MAY CULMINATE IN THE ULTIMATE APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN.

(1.5) "LANDOWNER" MEANS ANY OWNER OF A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY, AND INCLUDES THE HEIRS, SUCCESSORS, AND ASSIGNS OF SUCH OWNERSHIP INTERESTS.

(4) (a) "Site specific development plan" means a plan ~~which~~ THAT has been

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

submitted to a local government by a landowner or ~~his~~ SUCH LANDOWNER'S representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but need not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a preliminary or general development plan, a conditional or special use plan, a development agreement, or any other land use approval designation as may be utilized by a local government. What constitutes a site specific development plan under this article that would trigger a vested property right shall be finally determined by the local government either pursuant to ordinance or regulation or upon an agreement entered into by the local government and the landowner, and the document that triggers such vesting shall be so identified at the time of its approval.

(b) ~~A variance shall not constitute a site specific development plan.~~ "Site specific development plan" shall not include ~~a sketch plan as defined in section 30-28-101 (8), C.R.S., or~~ A VARIANCE, a preliminary plan as defined in section 30-28-101 (6), C.R.S., OR ANY OF THE FOLLOWING:

- (I) A SKETCH PLAN AS DEFINED IN SECTION 30-28-101 (8), C.R.S.;
- (II) A FINAL ARCHITECTURAL PLAN;
- (III) PUBLIC UTILITY FILINGS; OR
- (IV) FINAL CONSTRUCTION DRAWINGS AND RELATED DOCUMENTS SPECIFYING MATERIALS AND METHODS FOR CONSTRUCTION OF IMPROVEMENTS.

**SECTION 2.** Article 68 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-68-102.5. Applications - approval by local government.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, AN APPLICATION FOR APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN AS WELL AS THE APPROVAL, CONDITIONAL APPROVAL, OR DENIAL OF APPROVAL OF THE PLAN SHALL BE GOVERNED ONLY BY THE DULY ADOPTED LAWS AND REGULATIONS IN EFFECT AT THE TIME THE APPLICATION IS SUBMITTED TO A LOCAL GOVERNMENT. FOR PURPOSES OF THIS SECTION, "LAWS AND REGULATIONS" INCLUDES ANY ZONING LAW OF GENERAL APPLICABILITY ADOPTED BY A LOCAL GOVERNMENT AS WELL AS ANY ZONING OR DEVELOPMENT REGULATIONS THAT HAVE PREVIOUSLY BEEN ADOPTED FOR THE PARTICULAR PARCEL DESCRIBED IN THE PLAN AND THAT REMAIN IN EFFECT AT THE TIME OF THE APPLICATION FOR APPROVAL OF THE PLAN.

(2) NOTWITHSTANDING THE LIMITATIONS CONTAINED IN SUBSECTION (1) OF THIS SECTION, A LOCAL GOVERNMENT MAY ADOPT A NEW OR AMENDED LAW OR REGULATION WHEN NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC HEALTH AND SAFETY AND MAY ENFORCE SUCH LAW OR REGULATION IN RELATION TO APPLICATIONS PENDING AT THE TIME SUCH LAW OR REGULATION IS ADOPTED.

**SECTION 3.** 24-68-103 (1), Colorado Revised Statutes, is amended to read:

**24-68-103. Vested property right - establishment - waiver.** (1) (a) EACH

LOCAL GOVERNMENT SHALL SPECIFICALLY IDENTIFY, BY ORDINANCE OR RESOLUTION, THE TYPE OR TYPES OF SITE SPECIFIC DEVELOPMENT PLAN APPROVALS WITHIN THE LOCAL GOVERNMENT'S JURISDICTION THAT WILL CAUSE PROPERTY RIGHTS TO VEST AS PROVIDED IN THIS ARTICLE. ANY SUCH ORDINANCE OR RESOLUTION SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE. EFFECTIVE JANUARY 1, 2000, IF A LOCAL GOVERNMENT HAS NOT ADOPTED AN ORDINANCE OR RESOLUTION PURSUANT TO SECTION 24-68-102 (4) SPECIFYING WHAT CONSTITUTES A SITE SPECIFIC DEVELOPMENT PLAN THAT WOULD TRIGGER A VESTED PROPERTY RIGHT, THEN RIGHTS SHALL VEST UPON THE APPROVAL OF ANY PLAN, PLAT, DRAWING, OR SKETCH, HOWEVER DENOMINATED, THAT IS SUBSTANTIALLY SIMILAR TO ANY PLAN, PLAT, DRAWING, OR SKETCH LISTED IN SECTION 24-68-102 (4).

(b) A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a site specific development plan, following notice and public hearing, by the local government in which the property is situated.

(c) ~~Such~~ A 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. A local government 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 shall result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights. A site specific development plan shall be deemed approved upon the effective date of the local government legal action, resolution, or ordinance relating thereto. Such approval 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, in a newspaper of general circulation within the jurisdiction of the local government granting the approval, of a notice advising the general public of the site specific development plan approval and creation of a vested property right pursuant to this article. Such publication shall occur no later than fourteen days following approval.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1999