

Planning Legislation Passed by the Tennessee Legislature - 2014

SB 0915 by Niceley / HB964 by Todd

Planning, Public - As introduced, allows development standards in effect on date of application for building permit or approval of preliminary plat or site plan to remain the standards for final approval of the development. - Amends TCA Section 13-4-310 and Section 13-3-413.

Summary – This bill provides:

- A vested property right shall be established upon the approval of a preliminary development plan (or final if a preliminary is not required) or the approval of a building permit
- The locally adopted development standards in effect on the date of the approval of a preliminary development plan or approval of a building permit shall remain the development standards applicable to the property during the vesting period.
- The vesting period applicable to a construction project for which a building permit has been issued shall **begin on the date of issuance of the building permit and remain in effect for the time period authorized by the permit**; provided the applicant pursues site preparation and construction with reasonable diligence.
- The vesting period applicable to a development plan shall be a period of **three years**, beginning on the date of the local government's approval of a preliminary development plan; provided the applicant obtains approval of a final development plan, secures any necessary permits, and commences site preparation within the vesting period. If the applicant obtains approval of a final development plan, secures necessary permits, and commences site preparation within that period, **then the vesting period shall be extended an additional two years to commence construction.**
- If site preparation or building construction commences during the vesting period, the development standards applicable during the vesting period shall remain in effect until the local government has certified final completion of the development; **provided the total vesting period shall not exceed ten years from the date of approval**, unless an extension is granted.
- In the case of developments having two or more phases, there shall be a separate vesting period applicable to each phase. The development standards in effect on the date of approval of the preliminary development plan for the first phase of the development shall remain the standards applicable to all subsequent phases of the development; **provided the total vesting period for all phases shall not exceed fifteen years from the approval of the preliminary plan**, unless an extension is granted.
- A local government may, by ordinance or resolution, specifically identify the types of development plans within the jurisdiction that will cause property rights to vest;

provided that that all nomenclature established in the ordinance or resolution is consistent with the bill. Any such ordinance or resolution must also specify what constitutes approval of a development plan.

- The vested rights applicable to development plan or a building permit shall terminate upon a written determination by the local government:
 - When the applicant violates the terms and conditions specified in the approved development plan or permit; provide the applicant is given 90 days to cure the violation and further provided that the local government may grant in writing an additional time period to cure the violation; or
 - When the applicant violates any of the terms and conditions specified in the local ordinance or resolution; provided the applicant is given 90 days to cure the violation; and further provided that the local government may grant in writing an additional time period to cure the violation; or
 - Upon a finding by the local government that the applicant intentionally supplied inaccurate information or knowingly made misrepresentation material to the issuance of a building permit or approval of a development plan or knowingly did not construct the development in accordance with the issued permit or approved development plan or an approved amendment to the plan; or
 - Upon the enactment or promulgation of a state or federal law, regulation, rule, policy, governance, corrective action, or other governance, regardless of nomenclature, that is required to be enforced by the local government and that precludes development as contemplated, unless modifications can be made by the applicant to bring the plan or permit into compliance.
- The local government may allow a development right to remain vested despite a finding of violation of one of the conditions listed above upon a written determination that such is in the best interests of the community.
- A vested development standard shall not preclude local government enforcement of any development standard where:
 - The local government obtains the written consent of the applicant or owner;
 - The local government determines, in writing, that a compelling, countervailing interest exists relating specifically to the development plan or building permit that seriously threatens the public health, safety or welfare of the community and the threat cannot be migrated within a reasonable period of time;
 - Upon a written determination by the local government of the existence of a natural or man-made hazard on or in the immediate vicinity of the subject property, not identified in the development plan or permit, and which hazard, if uncorrected, would pose a serious threat to the public health, safety, and welfare of the community;
 - A development standard is required by federal or state law, rule, regulation, policy, etc. that is required to be enforced by the local government; or

- A local government is undertaking an action or measure to comply with a newly enacted federal or state law, rule, regulation, policy, order or other type of governance.
- A vested development right does not preclude, change, amend, impair, or alter the authority of a local government to exercise its eminent domain powers.
- This section does not preclude, change, amend, or impair the authority of a local government to exercise its zoning authority. A vested property right, once established, **precludes the effect of any zoning action that would change, alter, impair, prevent, or otherwise delay the development of the property while vested.**
- The vesting period shall be tolled during any government enacted construction moratorium.
- Any amendment to an approved development plan must be approved by the local government to retain the vested development right. If the amendment is denied, the applicant may either proceed under the prior approved plan or allow the vested right to terminate and submit a new application.
- A local government shall not require an applicant to waive the vested rights as a condition of approval of a development plan or issuance of a building permit.
- A vested development right shall attach to and run with the applicable property.
- Definitions are provided for: preliminary development plan, final development plan, site preparation, construction, development standards, development plan, and applicant.
- For purposes of local government adoption of a vested property rights ordinance or resolution this act shall take effect upon becoming a law. For all other purposes this act shall take effect on January 1, 2015.

[SB 1614](#) by [*Norris](#) ([HB 1410](#) by [*McCormick](#))

Agriculture - As introduced, defines agriculture to include entertainment activities that occur on land where farm products and nursery stock are produced; required that the Tennessee Right to Farm Act be construed broadly to effectuate its purposes. - Amends TCA Title 1, Chapter 3, Part 1; Title 43, Chapter 1, Part 1 and Title 43, Chapter 26, Part 1.

Summary – As noted, this bill adds entertainment to the definition of agriculture, however, the term is not defined. The bill also adds the same definition in Title 43, the code title that deals generally with agriculture. The bill then amends TCA § 43-26, the Right to Farm Act, adding to the definition of farm operations a reference back to the definition of agriculture. Finally, the bill adds language that the Right to Farm Act shall be broadly construed.

Since the term entertainment is not defined and is to be broadly construed, the apparent effect of this bill will be to allow any form of entertainment on farmland as long as a commercial farming operation is active. The language of the bill does qualify entertainment somewhat.

The bill provides: “Entertainment activities conducted in conjunction with, but secondary to, commercial production of farm products and nursery stock, when such activities occur on land used for the commercial production of farm products and nursery stock.”

[SB 1706](#) by [*Niceley](#) ([HB 1545](#) by [*Bailey](#))

Agriculture - As introduced, clarifies that buildings used as residences by farmers and farm workers are “incidental to the agricultural enterprise”. - Amends TCA Title 13, Chapter 7, Part 1.

Summary – The effect of this bill will be to assure that building permits cannot be required for these type residences. The bill amends TCA § 13-7-114, the section that deals with the agricultural exemption under county zoning.