

Vesting Guidance: ZR 16 Zoning Regulations

A. Prior to September 6, 2016 (the effective date of the 2016 Regulations, or “ZR 16”) all building permit applications will only be processed in accordance with the 1958 Regulations unless an applicant affirmatively requests in writing that the application be reviewed under ZR 16 (“the ZR 16 Option”). However, building permit applications processed under the ZR 16 Option shall only be issued on or after September 6, 2016.

B. Beginning September 6, 2016, all building permit applications will only be processed under ZR 16, except for a “Vested Application,” which instead shall be processed under the 1958 Regulations.

1. *A Vested Application is an application for a building permit (NOT to include a foundation-to-grade, sheeting-and-shoring, or other supplemental permit) that is either:*

- An application:
 - i. that is officially accepted by DCRA as being complete (which is defined as when DCRA has assigned the application to “Begin Review” status in ProjectDox) prior to September 6, 2016; and
 - ii. that proposes a building, structure, or use which is consistent with the 1958 Regulations or which is made consistent with the 1958 Regulations no later than September 5, 2017, thereby permitting a building permit to be issued by that date; and
 - iii. that does not propose, on or after September 6, 2016, any substantial revision, to include a change of use or increase in gross floor area, lot occupancy, building height, penthouse height, number of stories, or number of units.
- An application that is officially accepted by DCRA as complete on or after September 6, 2016 that meets the circumstances enumerated in Subtitle A, § 102.3 (a completed Large Tract Review or an approval by the Zoning Commission, Board of Zoning Adjustment, Historic Preservation Board, or Commission of Fine Arts) and that includes plans that are consistent with the final decision of the review.

2. *No other circumstance allows for a building permit application to be considered a Vested Application including, but not limited to, the following:*

- A sheeting-and-shoring permit application or issuance.
- A foundation-to-grade permit application or issuance.
- A raze permit application or issuance.
- A demolition permit application or issuance.
- A subdivision application or recorded plat.
- A Zoning Determination letter.
- A Preliminary Design Review Meeting (PDRM).

- Participation in the Third Party Review (TPR) program – vesting occurs when an application is officially accepted by DCRA as being complete.
3. *A Vested Application (not including Vested Applications that would qualify under Subtitle A, § 102.3) will only be processed under ZR 16 where:*
- The Applicant has selected the ZR 16 Option; or
 - The plans submitted with the Vested Application undergo substantial revisions, to include a change of use or increase in gross floor area, lot occupancy, building height, penthouse height, number of stories, or number of units, on or after the effective date of ZR 16 (September 6, 2016); or
 - The plans associated with the Vested Application do not fully comply with the 1958 Regulations as of the close of business on September 5, 2017 and thereby prevent DCRA from issuing by that date a building permit for the Vested Application.
4. *A Vested Application that would qualify under Subtitle A, § 102.3 based on an Order of the Zoning Commission or the Board of Zoning Adjustment will only be processed under ZR 16 where:*
- The Applicant affirmatively abandons the Order and selects the ZR 16 Option; or
 - The Applicant proposes deviations to the plans approved by the Order:
 - i. The deviation affects a modification or variance for an area of relief already granted by the Order; or
 - ii. The deviation exceeds the following limitations provided in Subtitle A, § 304.2, unless authorized pursuant to flexibility granted by the Order:
 - a. Deviations not to exceed two percent (2%) in percentage of lot occupancy, or gross floor area of any building that is the direct result from structural or building code requirements;
 - b. Deviations not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;
 - c. Deviations not to exceed two percent (2%) in the number of parking or loading spaces; and
 - d. The relocation of any building within five feet (5 ft.) of its approved location, for reasons of unforeseen subsoil conditions or adverse topography.
 - Deviations prompting a review under ZR 16 also may require a referral for a modification to the Zoning Commission or the Board of Zoning Adjustment, including where the deviation would violate or modify a condition in the Order, as appropriate.
5. *A Vested Application that would qualify under Subtitle A, § 102.3 based on a completed Large Tract Review or approval by the Historic Preservation Review Board (HPRB) or the Commission of Fine Arts (CFA), will only be processed under ZR 16 where the plans submitted with the Vested Application are no longer consistent with the final plans for the*

completed Large Tract Review or the plans approved by the Historic Preservation Review Board or the Commission of Fine Arts. Any modification that is not consistent with the final plans will subject the building permit application to review under ZR 16 and may require referral for modification to the Large Tract Review process or to the HPRB or CFA.