

Proposed Floodplain Regulation Updates

Workshop #3 - Vesting and Transition



Agenda – Workshop #3

- Key Considerations
- DOE's Refined Proposal
- Examples

Key Considerations

We are Trying to Prevent

- Creation of an unreasonable burden on projects that are very far along in the design process
- Delaying implementation longer than necessary, resulting in new buildings that are less resilient
- Situations where applicants could submit a "placeholder" application in order to fall under existing regulations

Milestone Suggestions from Stakeholders

- DOEE Stormwater Approval
- PUD (Planned Unit Development) Order
- Zoning Text/Map Amendment Order
- DCRA Acceptance of Building Drawings or Grading Plans
- Approval of any DCRA-issued permit for a project, including, without limitation, a foundation-to-grade permit.
- FEMA CLOMR-F approval to use fill to remove proposed vertical development pads out of the 100- or 500-year flood plain.
- Submission for
 - Design review or Planned Unit Development review by the Zoning Commission
 - Concept review by the Historic Preservation Review Board
 - Concept review by the Commission on Fine Arts
 - Preliminary or final design submission by the National Capital Planning Commission
 - Variance or special exception from the Board of Zoning Adjustment
 - Large tract review by the D.C. Office of Planning

Previous Proposal

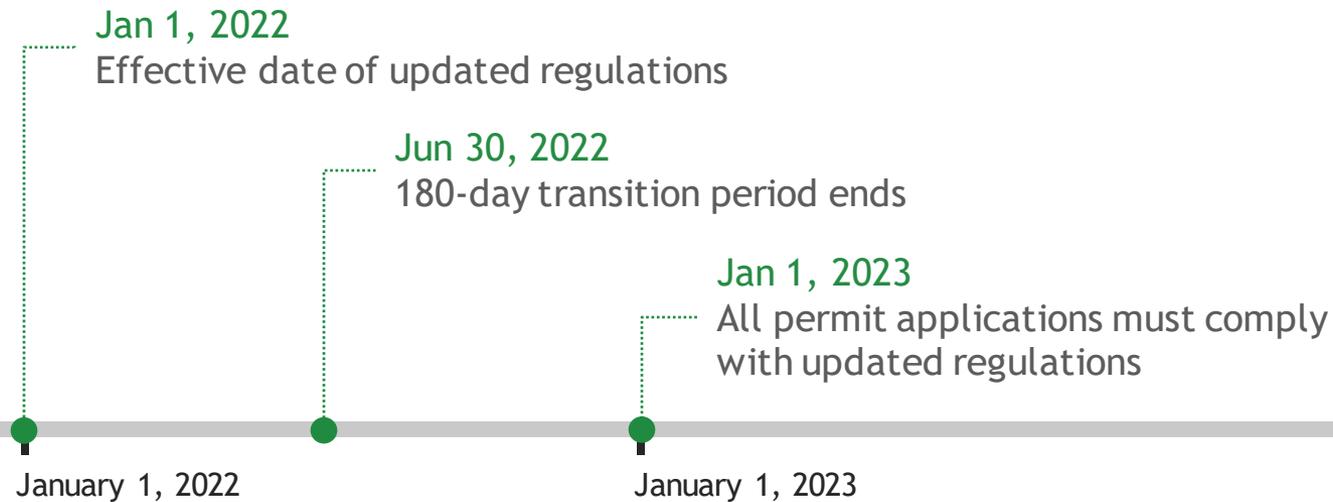
- DOEE's proposal is that the updated Flood Hazard Rules will be enforced starting 180 calendar days after final publication. However, an applicant that has submitted a complete and approvable application before the end of the 180 day transition period may comply with the current Flood Hazard Rules if:
 - DOEE approval is achieved with no more than three revised application submissions, and;
 - One of the following is true:
 - The application is ready to be approved within 365 calendar days after publication as final, or;
 - The application is ready to be approved within 465 calendar days after publication as final, and the application has been with the applicant (after DOEE returns comments and before the applicant submits revisions) for no more than 125 calendar days combined.

Refined Proposal

Refined Proposal - Overview

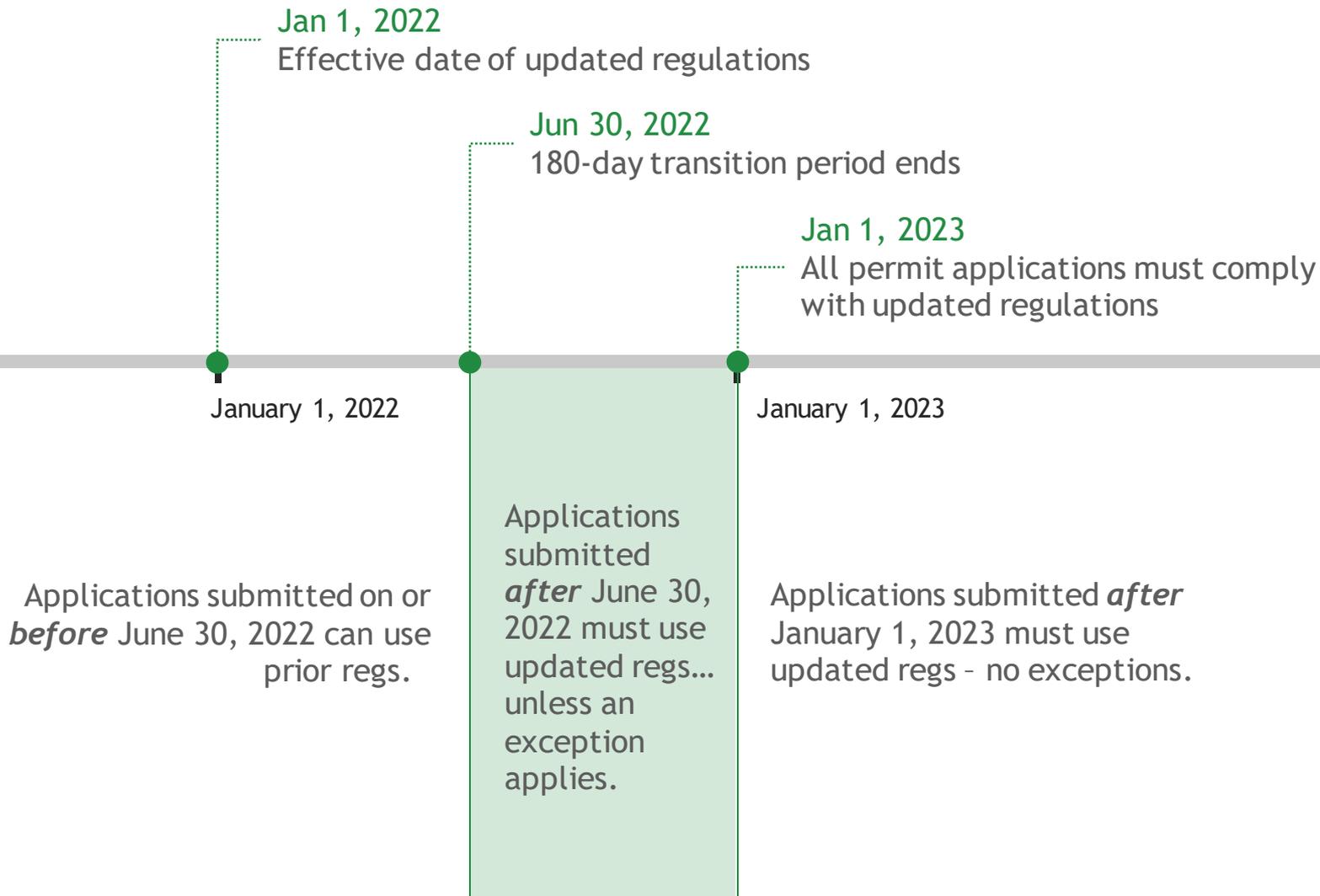
- The updated Flood Hazard Rules shall be enforced 6 months after publication as final, unless an exception applies.
- 12 months after publication, the updated Flood Hazard Rules shall be enforced, **no exceptions**.
- If a permit or permit application, under which the floodplain plan is approved, expires or is abandoned, then the Department's floodplain vesting shall be considered expired.*
 - Permit applications can be deemed abandoned if there is no applicant activity (or approval) within 180 days of application*
 - Permits in a floodplain can expire 180 days after issuance*

Example Timeline - Overview*



**Dates presented are only for example clarity, and are not actual regulation dates*

Example Timeline - Overview*



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Refined Proposal – Exceptions

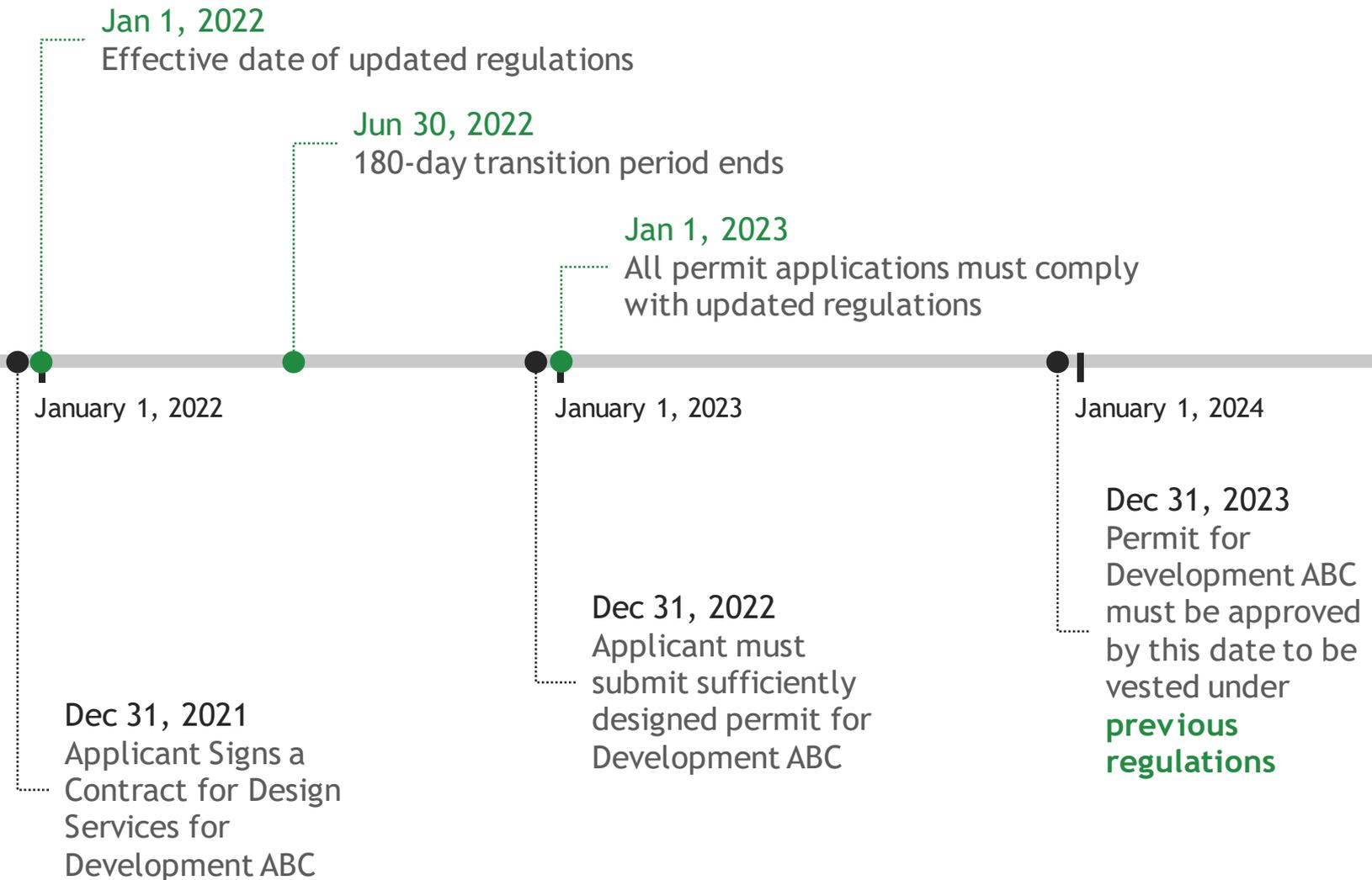
- Projects with an Executed Design Contract
- Projects with a Conflicting Prior Approval

Refined Proposal – Exception 1

Projects with an Executed Design Contract

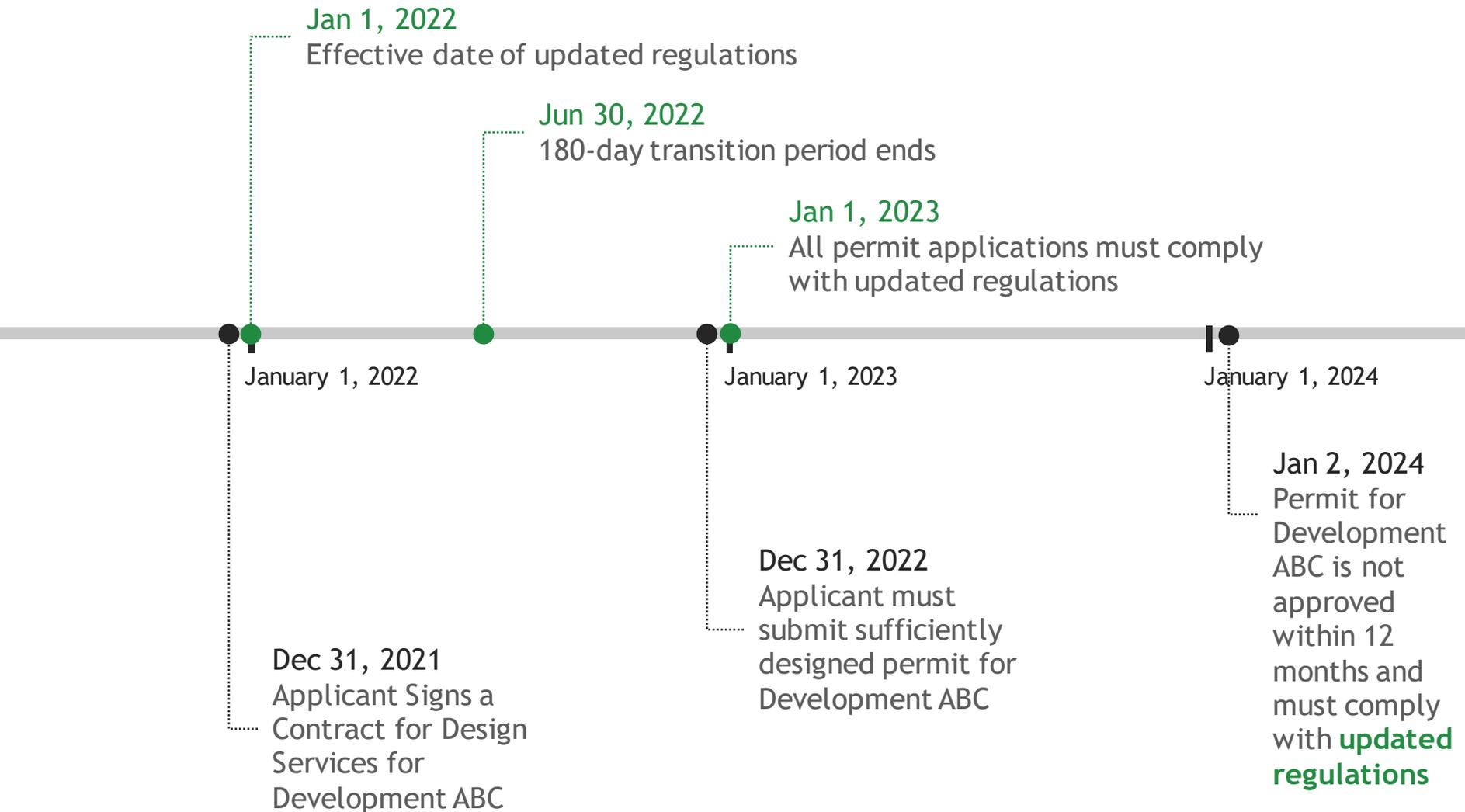
An applicant that has fully executed a design contract prior to the effective date of the new edition may comply with the preceding edition, provided the permit application is sufficiently complete to allow processing of the permit without substantial change or deviation, within 12 months after the effective date of the new edition.

Example Timeline – Design Contract*



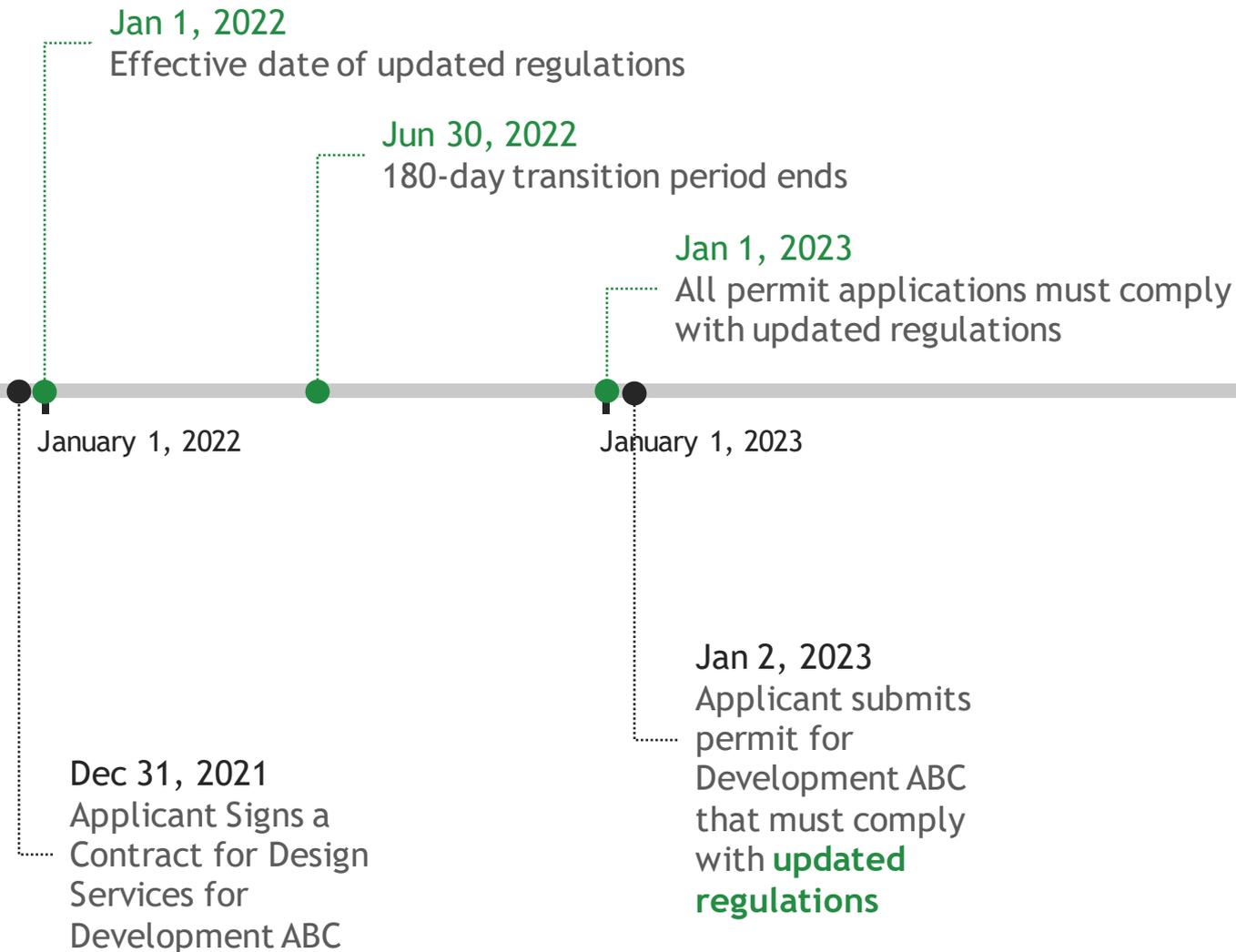
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Example Timeline – Design Contract*



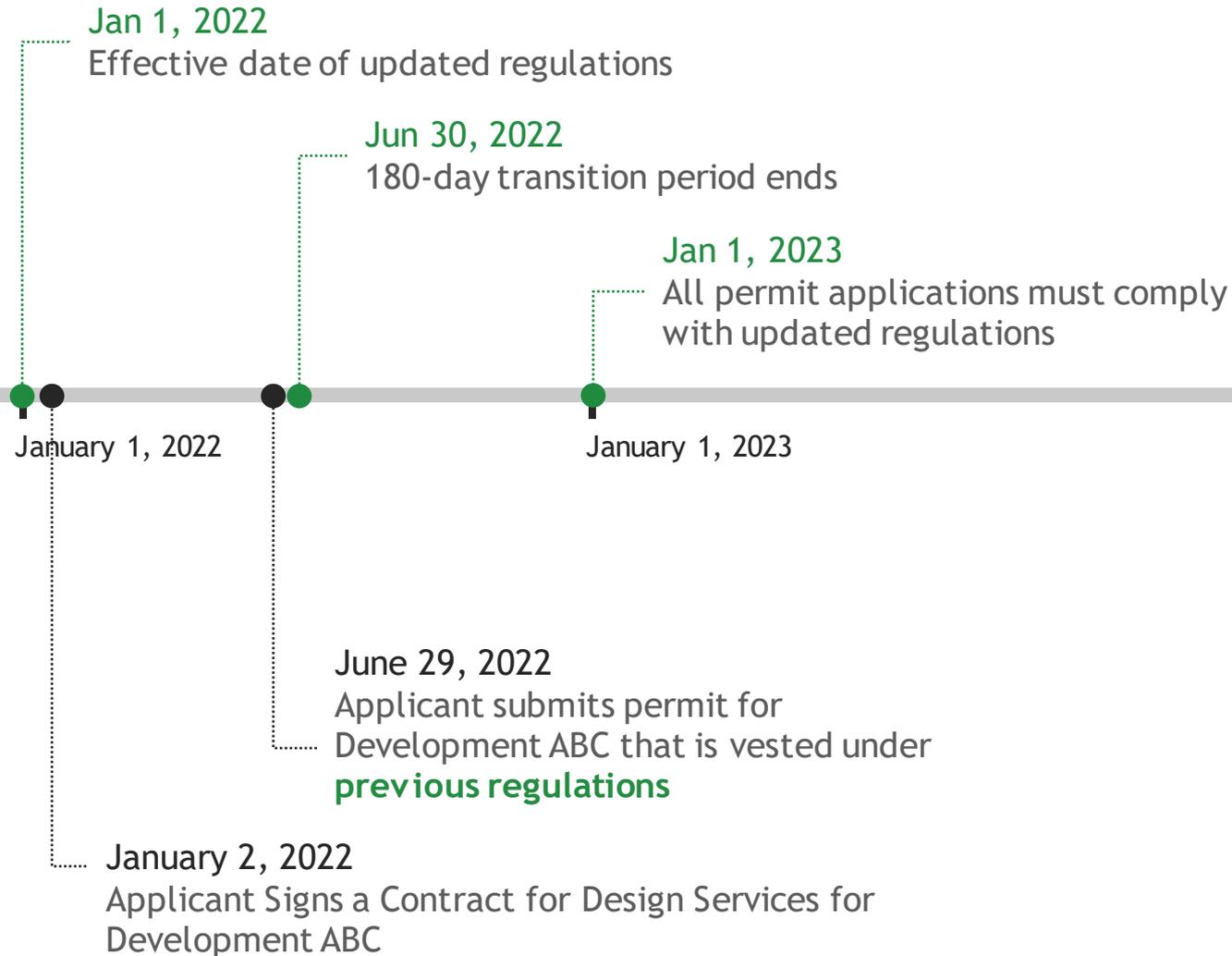
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Example Timeline – Design Contract*



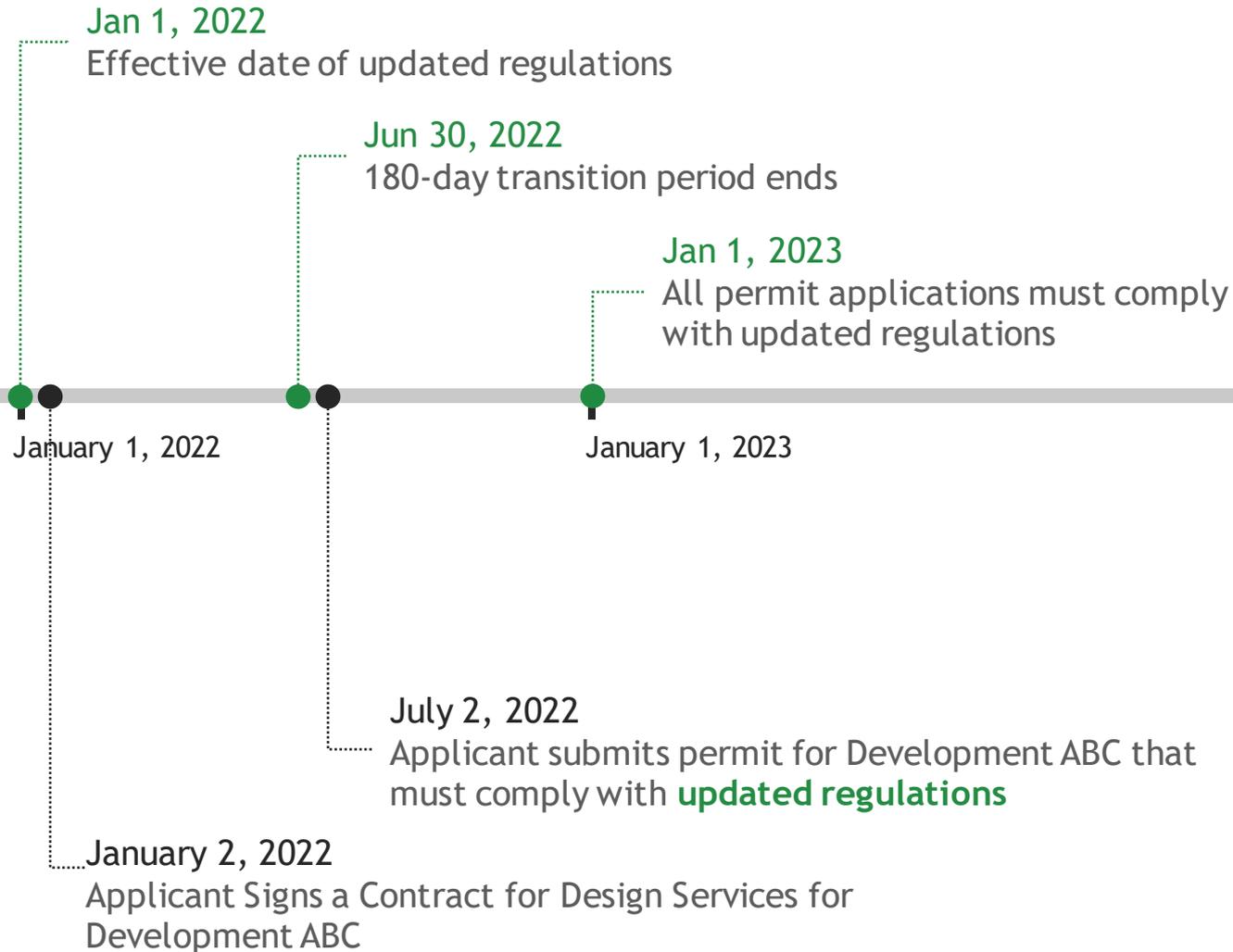
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Example Timeline – Design Contract*



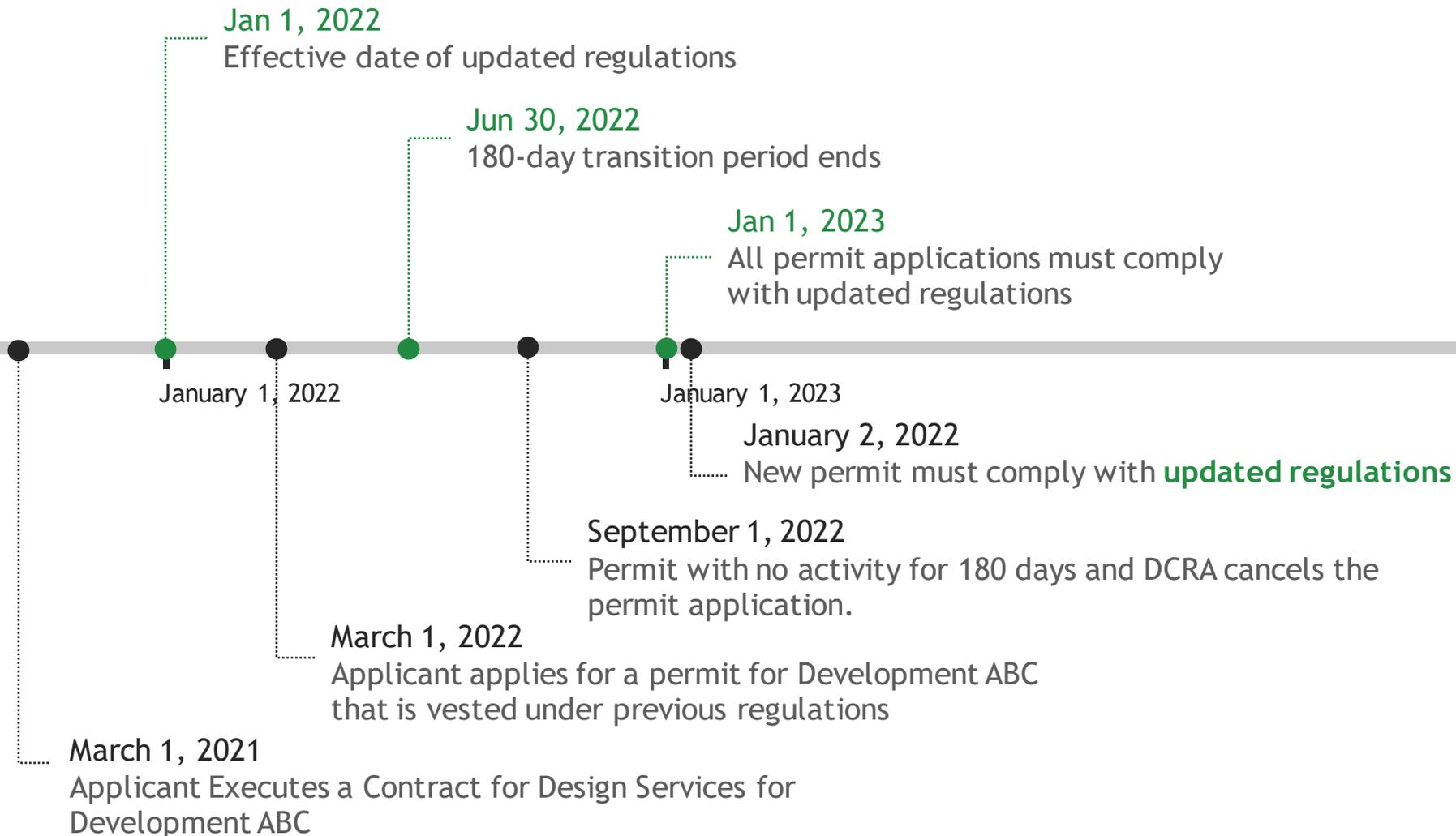
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Example Timeline – Design Contract*



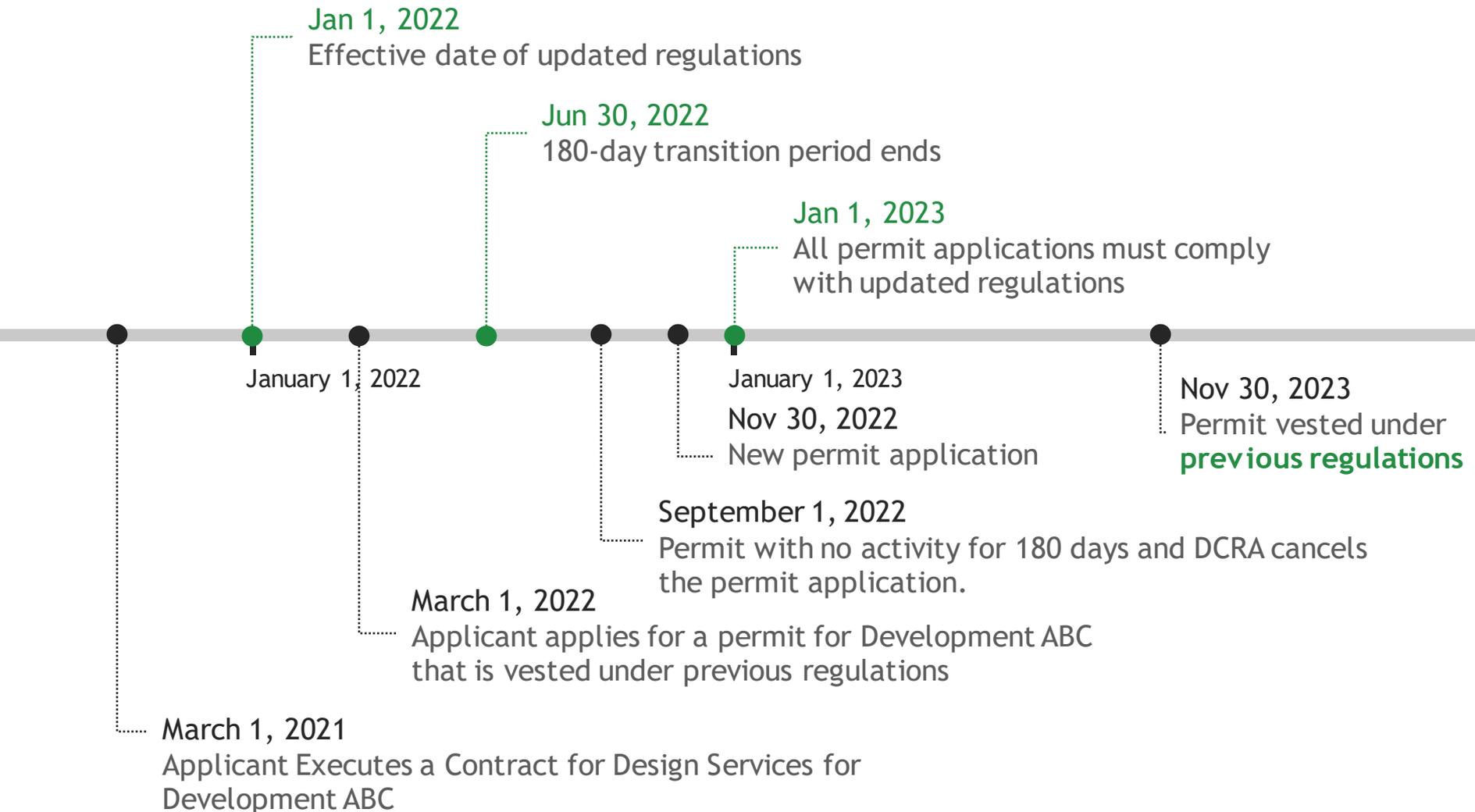
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Example Timeline – Design Contract* with Permit Expiration/Abandonment



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Example Timeline – Design Contract* with Permit Expiration/Abandonment



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Refined Proposal – Exception 2

Projects with a Conflicting Prior Approval

Applications for which DOEE determines that an unexpired approval or final report listed below shows evidence of a conflict with compliance with [the proposed updated Flood Hazard Rules]...and was issued prior to the effective date of the updated Rules may comply with the preceding Flood Hazard Rules:

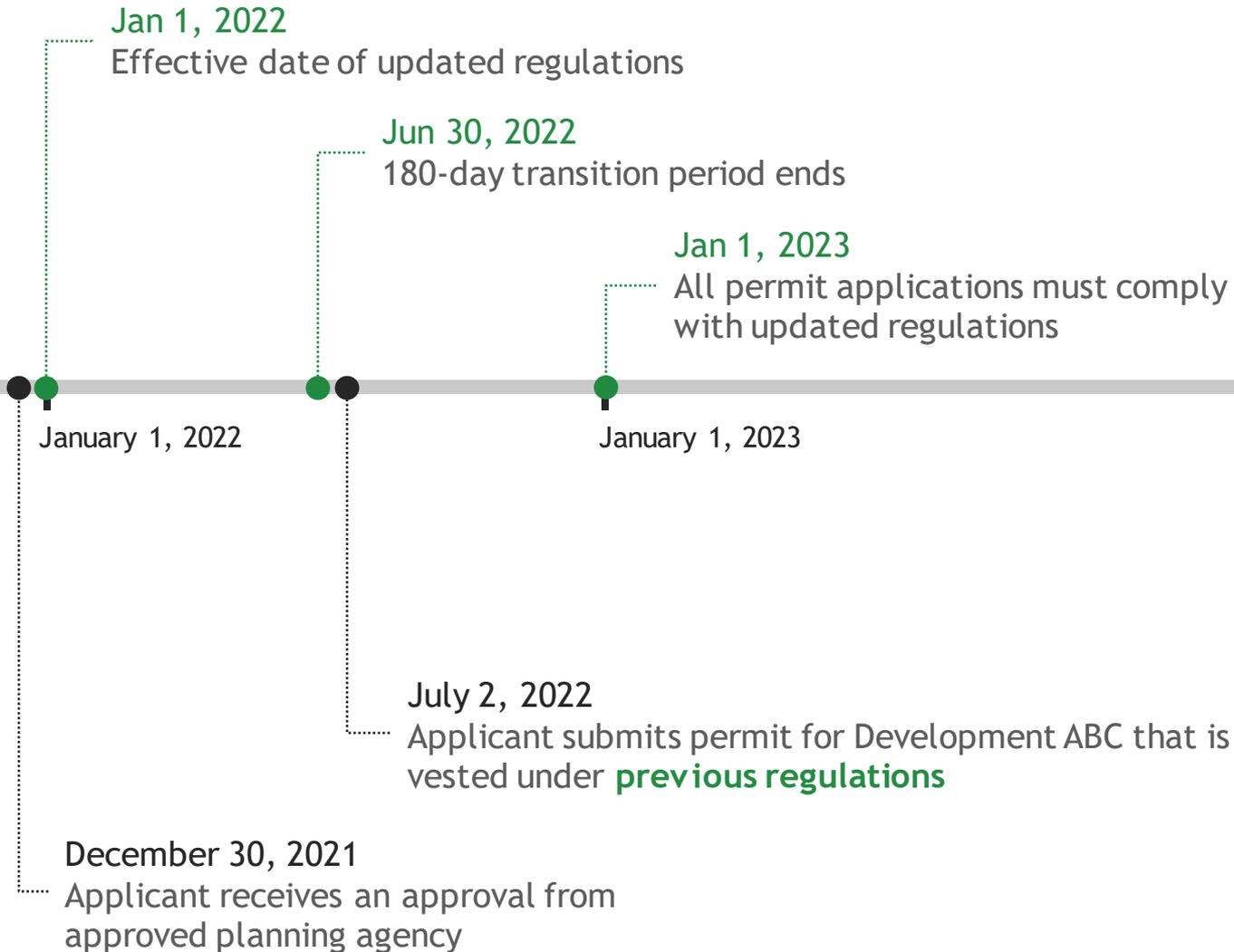
- Concept review by the Historic Preservation Review Board;
- Concept review by the Commission on Fine Arts;
- Preliminary or final design submission by the National Capital Planning Commission; or
- Variance or special exception from the Board of Zoning Adjustment.
- Large Tract Review by the District Office of Planning.

** Note: Applicant has burden of proof of a conflict.*

Potential Conflicts

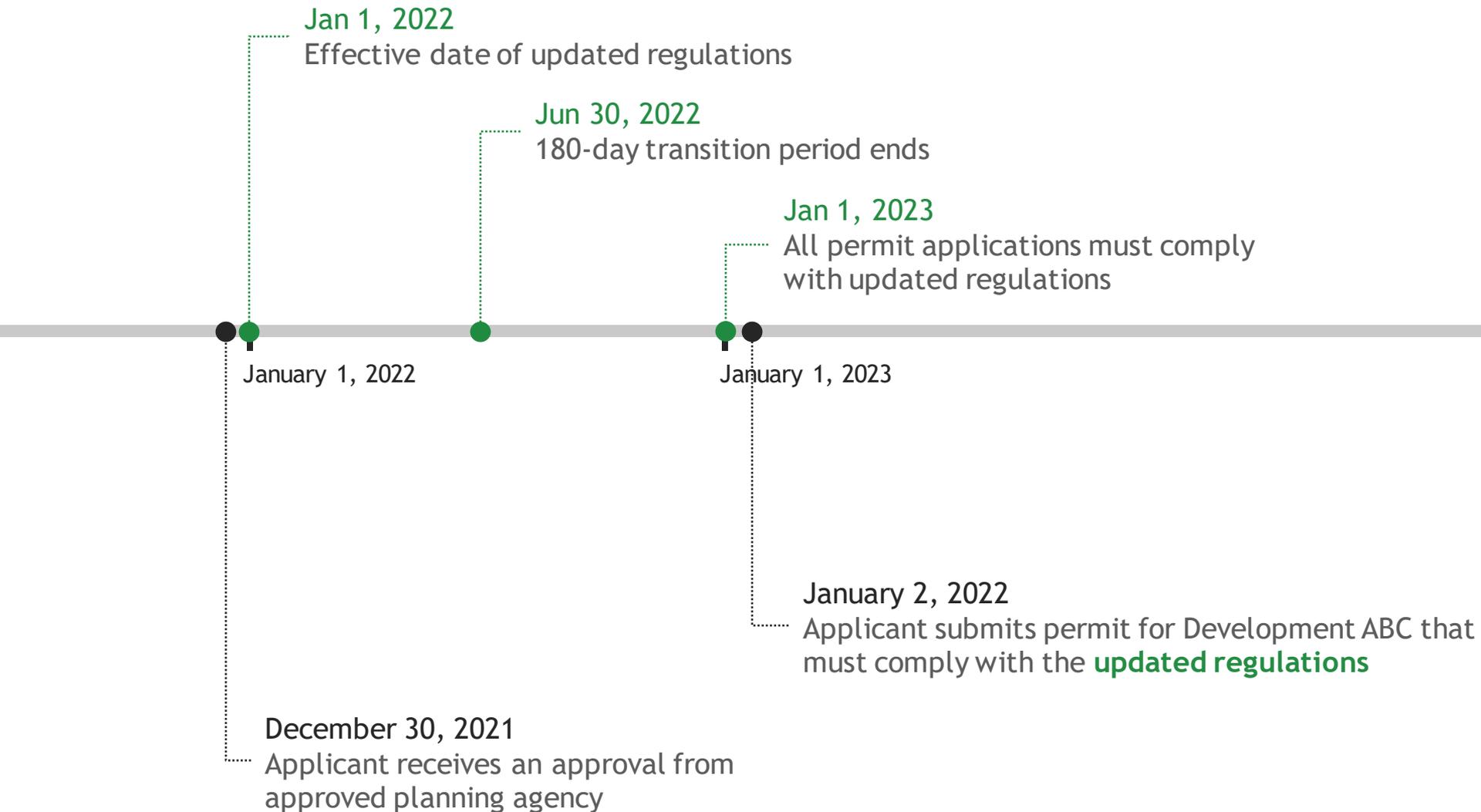
- Elevation of building
- Dry floodproofing
- Wet floodproofing
- Mechanical/Electrical/Plumbing elevation

Example Timeline – Approval Exceptions



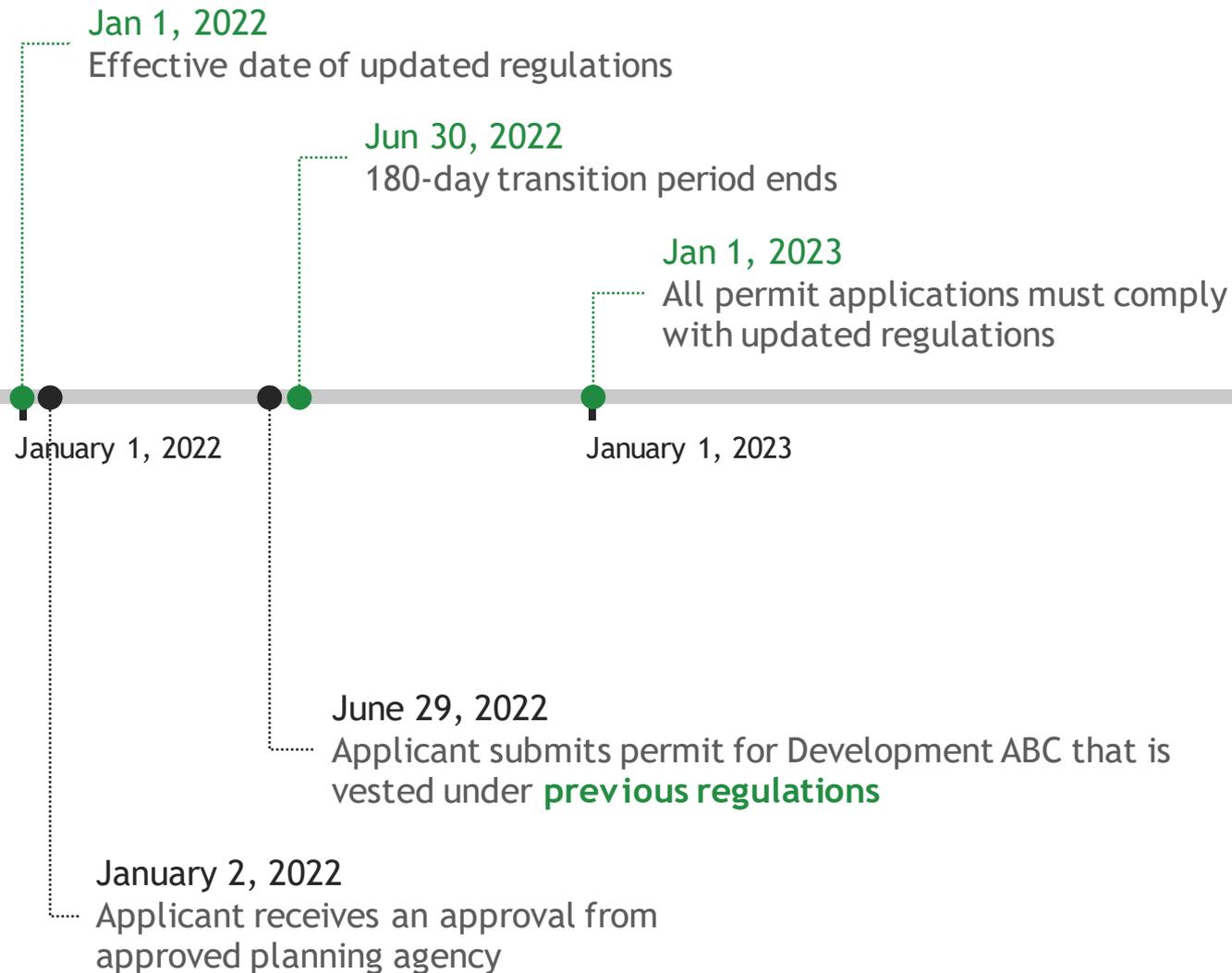
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Example Timeline – Approval Exceptions



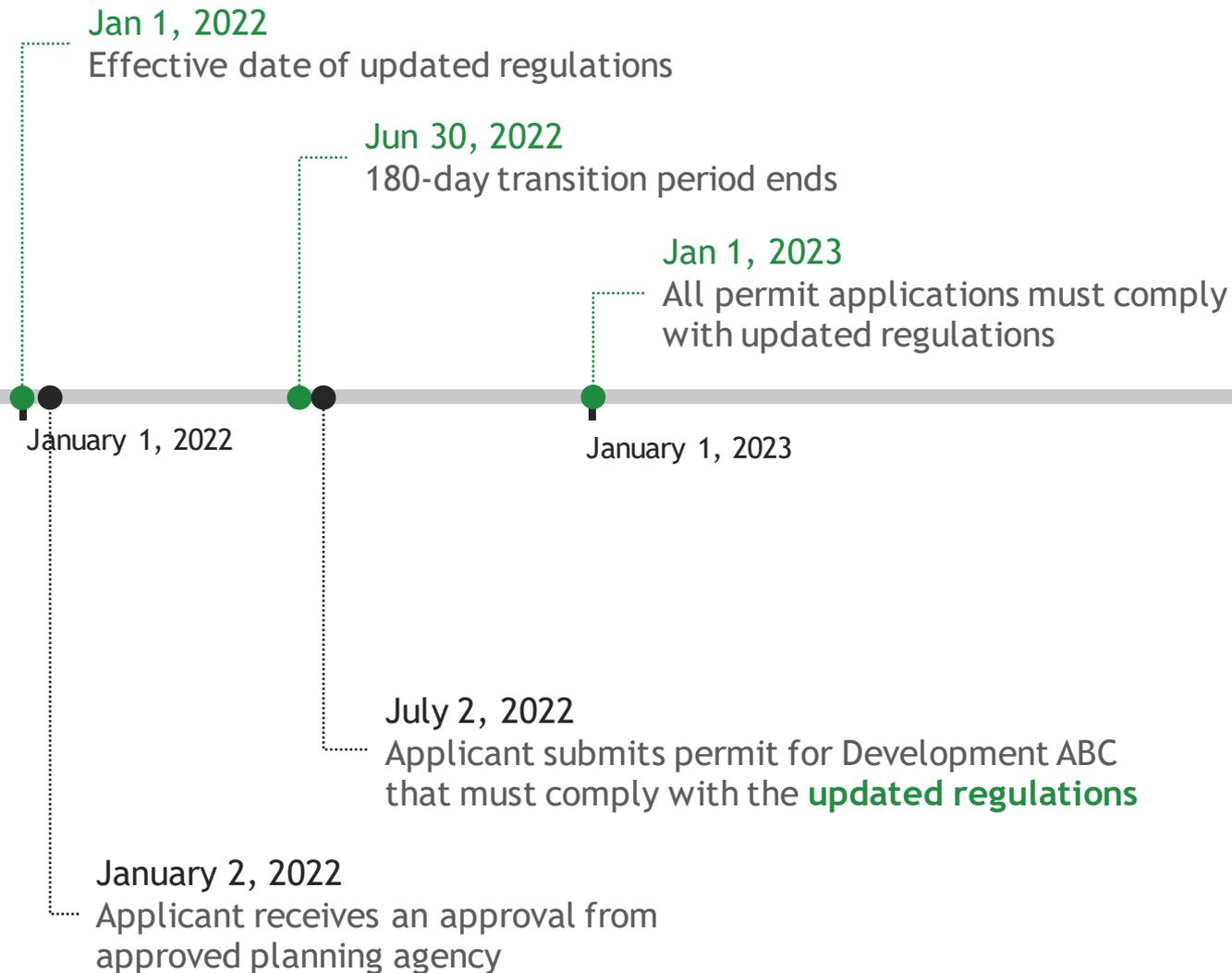
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Example Timeline – Approval Exceptions



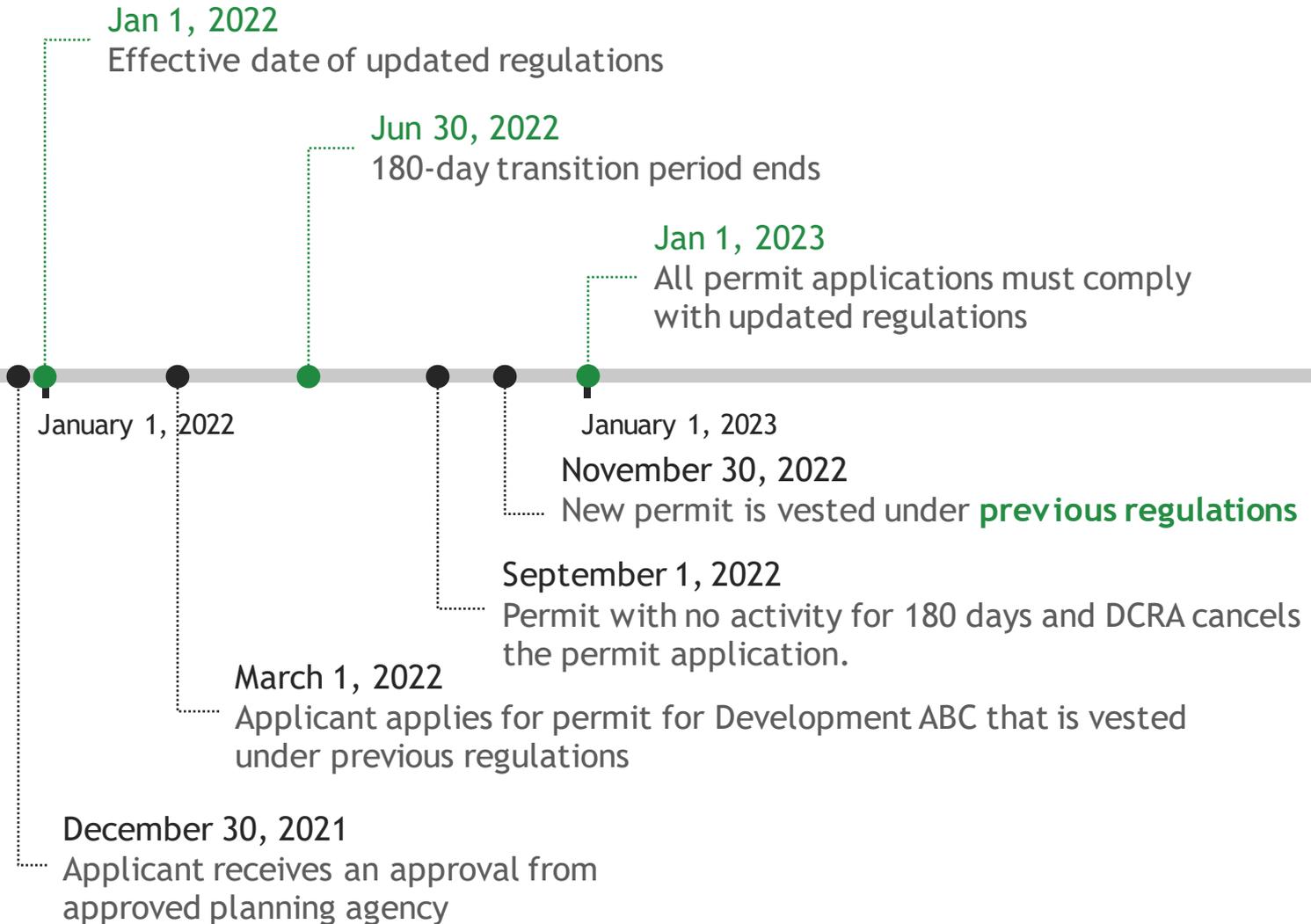
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Example Timeline – Approval Exceptions



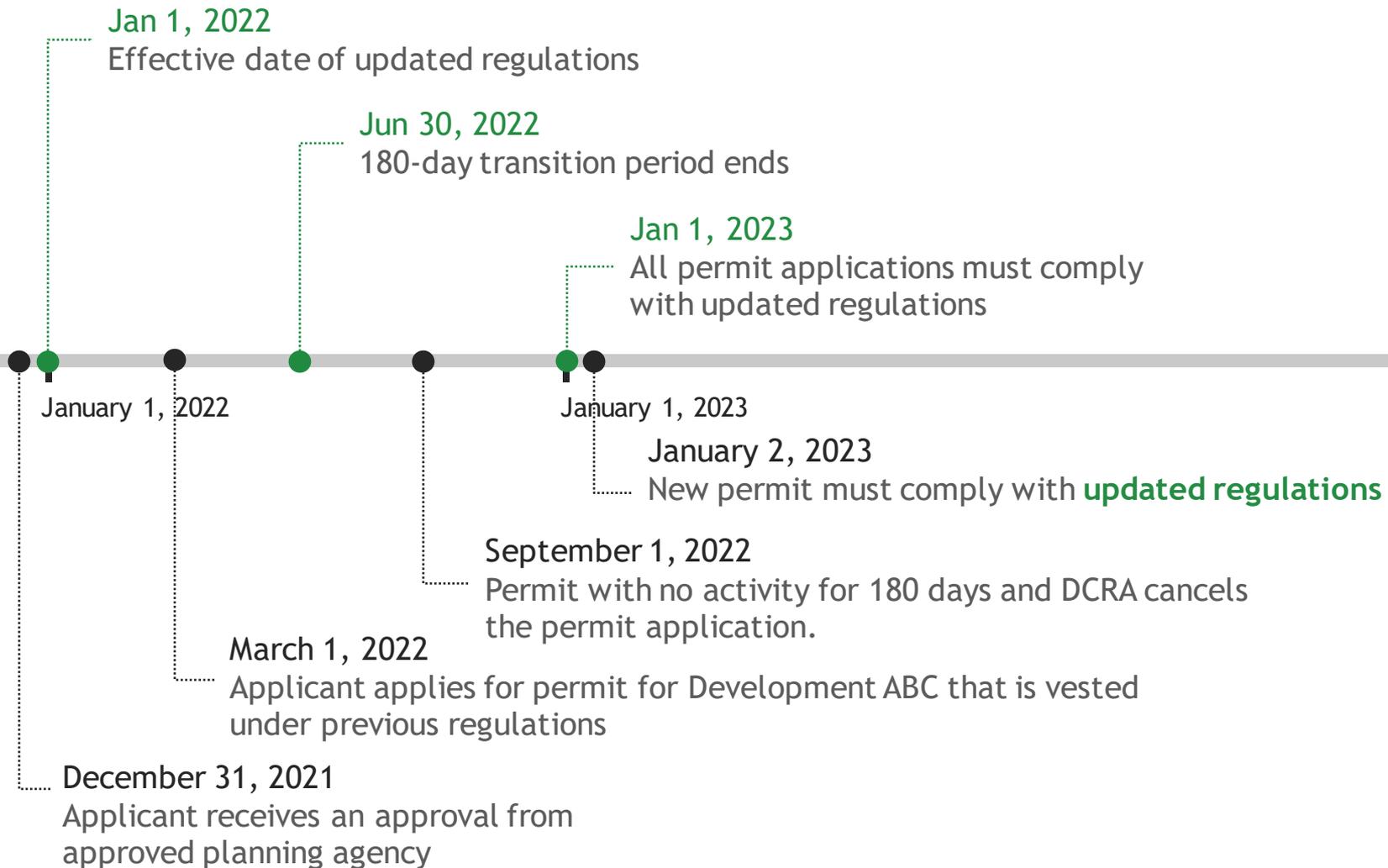
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Example Timeline – Approval Exceptions with Permit Expiration/Abandonment



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Example Timeline – Approval Exceptions with Permit Expiration/Abandonment



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Comparison with Construction Codes

| Topic | Construction Codes | Flood Hazard Rules |
|--------------------------|---|---|
| Transition Period | None; immediately effective upon publication. | 180-day transition period. |
| Design Contracts | Work in accordance with design contract executed prior to effective date is vested under previous regs if permit application occurs within 12 months of effective date. | Work in accordance with design contract executed prior to effective date is vested under previous regs if permit application occurs within 12 months of effective date. |
| Milestones and Approvals | N/A | Certain milestones and approvals can vest a project under previous regs if applicant can demonstrate evidence of a conflict. |
| | | |

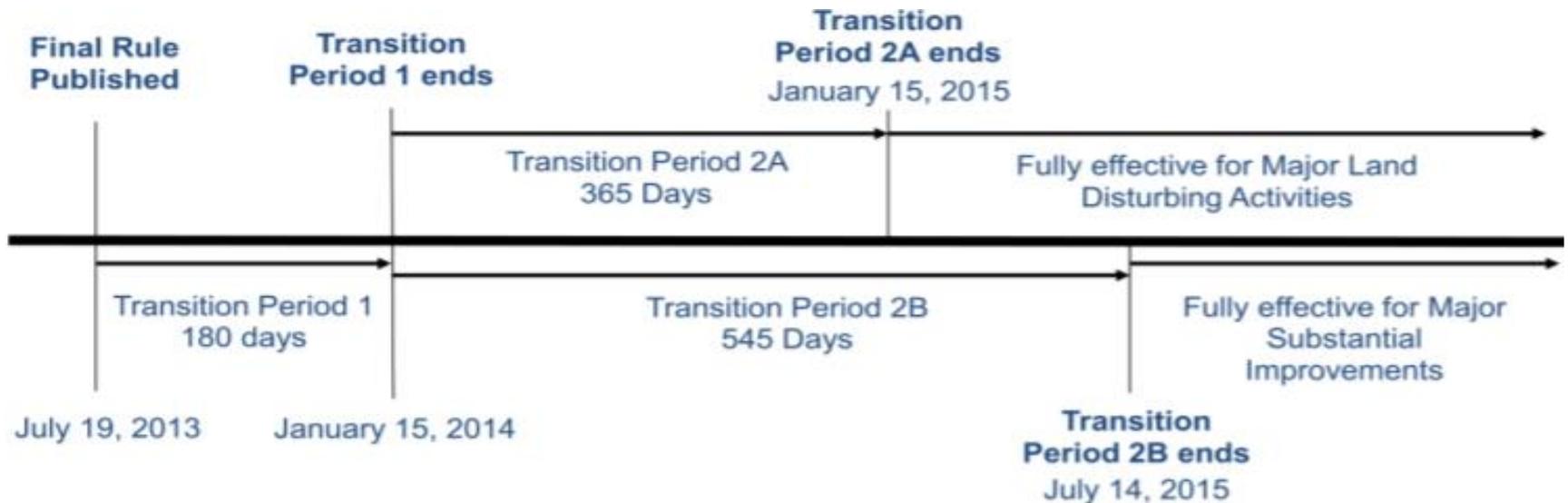
Interactive Polling!

Thank You!!

Appendix

Stormwater Regulations

- Areas of projects for which an Advanced Design (AD) has been submitted and for which approval has not expired shall comply with the stormwater management requirements in place at the time of submittal.
- Areas of multi-phased projects for which all stormwater infrastructure and BMPs are installed in compliance with a DDOE-approved SWMP during an earlier phase of construction shall be deemed to have met the stormwater management requirements.



Stormwater Regulations

- Areas of projects for which an Advanced Design (AD) has been submitted and for which approval has not expired shall comply with the stormwater management requirements in place at the time of submittal.
 - AD: Detailed design for an area of a project described explicitly in a:
 1. Stage Two (2) Planned Unit Development (PUD) application to the District Zoning Commission;
 2. Application for design review under the Capitol Gateway Overlay District to the District Zoning Commission; and
 3. Final design submission to the National Capital Planning Commission (NCPC).
- Areas of multi-phased projects for which all stormwater infrastructure and BMPs are installed in compliance with a DDOE-approved SWMP during an earlier phase of construction shall be deemed to have met the stormwater management requirements.

Construction Codes

- **Section 123.1.3:** Where a contract for design has been executed prior to the effective date of the new edition of the Construction Codes, but no permit applications for work covered by the design contract have been filed, permit applications for work covered by the design contract shall be allowed to be filed, processed...and any work authorized...under the previous edition of the Construction Codes, subject to the following conditions:
 - The applicant shall file the permit application sufficiently complete to allow processing of the permit without substantial change or deviation, within 12 months after the effective date of the new edition of the Construction Codes.
 - The permit shall be obtained and the permit fee paid in full by the applicant within 12 months after the filing date.

Construction Codes

- **Section 105.10** Any permit issued shall become null and void, upon occurrence of any one of the following circumstances, unless a permit extension has been obtained under Section 105.11: 1. The authorized work is not begun...within 180 days after the permit is issued where the permit is issued for work...located wholly or partially within a Flood Hazard Area;
- **Section 105.3.5** An application for a permit for any proposed work shall be deemed to have been abandoned: 1. One hundred eighty days after the date of filing, unless such application has been pursued in good faith, an extension has been granted pursuant to Section 105.3.5.1, or a permit has been issued.