

## **ARTICLE 1 - GENERAL PROVISIONS**

### **1.1 Authority and Enactment**

In pursuance of the authority granted by the General Statutes of North Carolina, Chapter 160A, Article 19 Part 3, be it ordained by the Town Council of the Town of Navassa as follows.

### **1.2 Title**

This ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Navassa, North Carolina, and may be referred to as the Zoning Ordinance or as the Town of Navassa Zoning Ordinance.

### **1.3 Purpose**

For the purpose of promoting the health, safety, morals and general welfare, this ordinance is adopted by the governing body to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

The zoning regulations in this ordinance are in accordance with a land use plan and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

### **1.4 Jurisdiction**

These regulations shall be effective throughout the corporate limits of the Town of Navassa, North Carolina as now or hereafter fixed.

### **1.5 Interpretation**

In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, are at variance with the requirements of this ordinance, the most restrictive, or that imposing the highest standards, shall govern.

### **1.6 Severability**

## Town of Navassa Zoning Ordinance

It is hereby declared to be the intention of the Town Council of the Town of Navassa, North Carolina, that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance because the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase. Whenever any condition or limitation is included in an order authorizing a special use district, conditional use permit, variance, zoning compliance permit, certificate of occupancy or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision hereof, and to protect the public health, safety and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

### **1.7 Application of Regulations**

The regulations set forth in this ordinance shall affect all land, every structure, and every use of land and/or structure and shall apply as follows:

- (1)** No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, or structurally altered except in compliance with the regulations of this ordinance for the district in which it is located.
- (2)** No structure shall hereafter be erected or altered so as to exceed the height limit or density regulations of this ordinance for the district in which it is located.
- (3)** No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements and other requirements of this Ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.
- (4)** No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another structure or use.
- (5)** In any district, no more than one (1) principal building or use may be erected on a single lot of record, except:
  - (A)** as specifically permitted in other sections of this ordinance; and
  - (B)** two (2) primary residences may be erected on a single lot of record provided that said lot is greater than two times the required minimum lot size for the zoning district in which it is located and provided that the two residences are no closer to each other than twice the minimum side yard setback required in the zoning district in which the lot is located.

## **1.8 Interpretation of Regulations**

The regulations in this Ordinance shall be enforced and interpreted according to the following rules.

- (1)** Uses not designated in the district regulations as permitted, permitted with additional development standards or conditional shall be prohibited except as provided in Section 4.2(2). Uses permitted with additional development standards and conditional uses are permitted according to the additional regulations imposed. Conditional uses can be approved only by the Town Council as specified in this ordinance. Additional uses may be added to the Ordinance by amendment.
- (2)** Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.
- (3)** Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

## **1.9 Vested Development Rights**

### **(1) Generally**

Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

- (A)** For which a building permit has been issued prior to the effective date of the Ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or
- (B)** For which a zoning permit has been issued prior to the effective date of the Ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
- (C)** For which a vested right has been established and remains valid and unexpired pursuant to this section.

### **(2) Additional Procedures for Establishing a Vested Right**

A vested right to commence a planned development or use of property according to a site specific development plan shall be established upon approval of the site specific development plan. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

**(3) Term of a Vested Right**

A right, which has been vested by the Town of Navassa, shall remain vested for a period of three years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Town Council when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- (A)** When a vested development plan has been at least fifty percent (50%) completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
- (B)** Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate board for a one-time two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:
  - 1. the percentage of the project completed;
  - 2. a demonstration by the petitioner of good faith efforts made towards project completion;
  - 3. the reasons for the delay of project build-out; and
  - 4. the compatibility of the planned development with current Town plans and the surrounding landscape. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code.

**(4) Declaration of a Vested Right upon Voluntary Annexation**

A petition for annexation filed with the Town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

**1.10 Repeals and Enactment**

**(1) Repeal of Conflicting Ordinances**

Town of Navassa Zoning Ordinance

All ordinances or parts of ordinances of the Town of Navassa which are in conflict or inconsistent with this Ordinance are repealed and superseded to the extent necessary to give this Ordinance full force and effect.

**(2) Statute of Limitations**

In accordance with G.S. 160A-364.1, a cause of action as to the validity of this Ordinance, or amendment thereto, shall accrue upon the adoption of this Ordinance or amendment thereto, and shall be brought within two (2) months as provided in G.S. 1-54.1.

**(3) Effective Date**

This Ordinance shall take effect and be in force from and after \_\_\_\_\_ 2009.

**(4) Adoption**

Duly adopted by the Town Council of the Town of Navassa, North Carolina, this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Eulis Willis, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

[SEAL]