

UDO-CC34

AN ORDINANCE AMENDMENT PROPOSED BY PLANNING AND DEVELOPMENT SERVICES STAFF MODIFYING CHAPTERS 2, 3, AND 4 OF THE *UNIFIED DEVELOPMENT ORDINANCES (UDO)* IN RESPONSE TO THE NC GENERAL ASSEMBLY'S PASSAGE OF HB926.

Be it ordained by the _____ that the Unified Development Ordinances are amended as follows:

Section 1. Section 2.7.2.C of the UDO is amended as follows:

2.7.2 THE APPLICABLE GENERAL STATUTES

C. ESTABLISHMENT OF VESTED RIGHT

1. A vested right shall be deemed established upon the valid approval or approval with conditions by the Elected Body in compliance with all provisions of this Ordinance or Subdivision Regulations, as applicable, of a site specific development plan, following notice and public hearing.
2. The Elected Body may approve a site specific development plan upon such terms and conditions as authorized in **Section 3.2.11, Site Plan**, **Section 3.2.15, UDO Text Amendment** and **Section 3.2.19, Zoning Map Amendment**, and upon making such findings as are required for approval by this Ordinance.
3. Notwithstanding **Section 2.7.2A, Purpose**, and **Section 2.7.2B, Definitions**, approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.
4. A site specific development plan shall be deemed approved upon the effective date of approval by the approving authority or ordinance relating thereto, and only to the extent of that approval.
5. The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the local jurisdiction, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this section.
6. A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
7. A vested right obtained by permit or other local government approval shall not preclude the use or extinguish the existence of any other vested right or use by right attached to the property.
8. If a special use permit expires and does not vest, the current zoning classification or regulation for the property applies.

NOTE: Items to be removed are indicated with a ~~strikethrough~~; items to be added are shown as **highlighted**. Items with a single underscore are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

Section 2. Section 3.2.19.A.15 of the UDO is amended as follows:

3.2.19 ZONING MAP AMENDMENT

A. GENERAL USE DISTRICTS

15. **RESERVED** LIMITS ON RESUBMITTAL

a. ~~PREVIOUS DENIAL~~

~~i. In the event that a petition to amend the zoning maps is denied by the Elected Body, a period of two (2) years must elapse before another petition for the same kind of change in the regulations or for the same zoning classification of land previously involved may be submitted.~~

~~ii. Further, a period of one year must elapse before a new petition for any change in zoning classification of land previously involved may be submitted.~~

~~iii. Such one year or two (2) year period shall be measured from the date of acceptance of the previous petition by the Planning Board for the change in the classification of the land.~~

~~iv. The limitations on the filing of new petitions in this subparagraph shall not preclude the filing by a property owner or the acceptance of a new petition from a property owner within the one year or two (2) year waiting periods following the filing of a petition by a petitioner other than the owner of the property affected, if the owner of such property opposed rezoning at a public hearing before the Planning Board or expressed opposition to the proposed rezoning in writing to the Planning Board prior to such public hearing.~~

b. **ELECTED BODY AUTHORITY**

~~i. Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes to the district boundaries of the zoning ordinance, or any zoning or rezoning of property.~~

~~ii. Further, nothing in this section shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment.~~

~~iii. Any such consideration, reconsideration or act by the Elected Body shall comply with the notice requirements for ordinance amendments contained in this Ordinance.~~

Section 3. Section 4.3.2.D of the UDO is amended as follows:

4.3.2. INTERPRETATION

D. SPLIT JURISDICTION

~~If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and~~

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~~recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.~~

1. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the land, including all development phases on the land, to any one of those local governments.

2. In the event no mutual agreement or written consent under subsection (1) of this section exists, the landowner of land lying within the planning and development regulation jurisdiction of more than one local government may elect the planning and development regulations of the local government where the majority of the total acreage of the parcel of land is situated.

3. This section shall only be applicable to planning and development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement under subsection (1) of this section shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in every county where the land is located within 14 days of the adoption of the last required resolution.

Section 4. This ordinance shall be effective upon adoption.

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