

## INSTRUCTIONS FOR SUBMITTING A PROTEST PETITION ON A PROPOSED REZONING

A properly submitted petition protesting a rezoning proposal requires City Council to approve the change in zoning by a 3/4 majority vote; i.e., six of the seven members of Council must vote in favor of the rezoning or it is denied. This procedure is established by North Carolina General Statute 160A-385.

This document will guide an interested person through the steps necessary to qualify a petition protesting a rezoning. The following information must be submitted as described herein:

### A. Petition and accompanying materials.

1. A **petition** (attached) stating a protest by qualified signers to a particular rezoning must be submitted to the City Clerk within the time limits set forth in paragraph B. below. **Note that only the original forms will be accepted. Petitions cannot be accepted via facsimile or electronic mail.** The text shall clearly describe the location of the proposed rezoning either in layman's terms, by legal description or by the case number assigned to it for review by the Planning Commission.
2. In accordance with N.C. Gen. Stat. 160A-385, the petition against a change in zoning must be **signed by the owners** of either a) twenty percent (20%) or more of the area of the lots included in the proposed change or b) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. All owners of record for each parcel represented on the petition must sign the petition (i.e., if a husband and wife are both listed as owners of record by the New Hanover County Tax Office, both must sign the petition). If a corporation, partnership, LLC or other non-person entity is the owner, including a property owners' association, the petitioner shall provide the name of the entity owning the property along with the name and title of the person signing on behalf of the entity. Further documentation as to who is eligible to sign on behalf of the non-person entity may be required if public records do not disclose such information.
3. A **map** must be submitted with the petition clearly depicting the proposed area to be rezoned and the surrounding ownership pattern. (A copy of a New Hanover County tax map of the area showing the proposed rezoning and the property of those protesting would be acceptable.) The amount of property owned by each property owner must be shown to verify sufficiency and completeness of the petition.

- B. In accordance with G.S. 160A-386, all protest petitions must be received by the City Clerk at least two (2) normal work days (excluding Saturdays, Sundays and legal holidays) before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. For purposes of this procedure, two (2) days shall mean at least forty-eight (48) hours prior to the date and time of the hearing and shall not include the day of the hearing (i.e., if the hearing is on Tuesday, a petition must be received in the office of the City Clerk no later than Thursday at 5:00 PM). The hours prior to the time of the hearing on the scheduled date of the hearing shall not be added to the requisite forty-eight (48) hours to determine if such protest petition has been filed on time. "Legal holidays" shall mean all those days set forth in G.S. 103-4 and shall also include all approved state, county or city holidays since some of the required public records to determine the sufficiency of a petition may be unavailable for inspection due to office closings on these days.

To be considered, a petition shall be **complete in all respects** at the time of filing and no additions, corrections, revisions or other amendments shall be allowed subsequent to the filing deadline. The filing deadline shall be the designated time at least forty-eight (48) hours prior to the properly advertised date and time of the first scheduled public hearing and any tabling, continuance, postponement or other delay does not extend the filing deadline.

- C. The City Clerk shall notify the following departments upon receiving a petition:

1. City Manager
2. City Attorney
3. Development Services

The Planning Division shall review the signatures on the petition and determine their sufficiency under the requirements set forth herein (paragraph A. 2. and 3.). The Department will then submit its findings to the City Attorney. Final disposition shall be determined by the City Attorney and subsequently reported to the City Clerk and all other involved departments.

At the announcement of the rezoning request public hearing, the City Clerk will advise Council that a petition was submitted and will indicate whether or not it is valid. The City Clerk will record the submission of a petition in the minutes, and will indicate whether or not it was valid.

- D. The validity of a sufficient petition ends when Council legally completes its action on the rezoning request. A resubmission for the same rezoning request, properly submitted in accordance with Section 18-121 of the Land Development Code, Chapter 18 of the

Wilmington City Code, will require a new protest petition to require the 3/4 vote for Council approval. That petition must re-qualify under these requirements.

PETITION AGAINST THE REQUEST TO REZONE  
PROPERTY LOCATED ON \_\_\_\_\_

We the undersigned, being the owners of either a) twenty percent (20%) or more of the area of the property proposed for rezoning or b) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned do hereby protest against the proposed rezoning request to rezone said property from \_\_\_\_\_ to \_\_\_\_\_ and respectfully request that the provisions of N.C. Gen. Stat. 160A-385 be followed with respect to any action taken by City Council on the pending rezoning request.

Name	Signature	Address of Qualifying Property
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FOR CITY CLERK'S USE ONLY

Approved:

Received: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

Development Services

\_\_\_\_\_  
City Clerk

Valid/Invalid:

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City Attorney