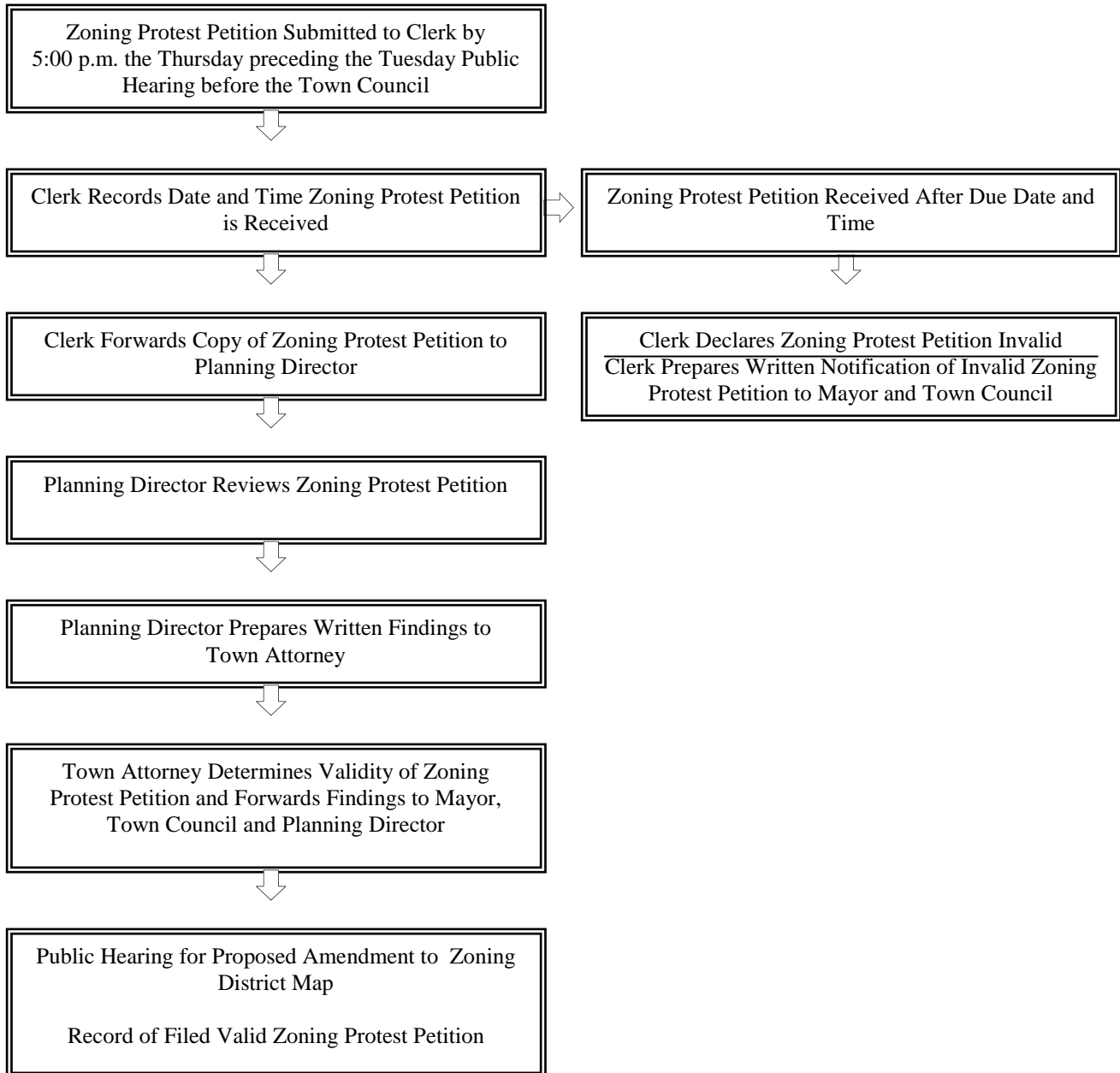


TOWN OF APEX ZONING PROTEST PETITION



TOWN OF APEX ZONING PROTEST PETITION

1. Protest petition forms will be issued to petitioners by the Planning Department. Only forms prescribed by the Town of Apex will be accepted.
2. Protest petitions for a proposed zoning amendment must be returned to the Town Clerk by 5:00 p.m. on the Thursday preceding the Tuesday public hearing before the Town Council. The Town Clerk's office is located on the 2nd Floor of the Apex Town Hall Campus, 73 Hunter Street.
3. Upon receipt of the protest petition, the Town Clerk will record the date and time on the protest petition.
4. If the protest petition is received after 5:00 p.m. on the Thursday preceding the Tuesday public hearing by the Town Council, the Town Clerk will declare the protest petition invalid. The Town Clerk will acknowledge this decision, in writing, to the Mayor and Town Council. Copies of this decision will be sent to the Planning Director and the Town Attorney.
5. If the protest petition is received on time, the Town Clerk will send a copy of the protest petition, a copy of the zoning application, and a copy of the zoning map to the Planning Director.
6. The Planning Director will review the materials and determine whether the proposed amendment:
 - i) Would initially zone property added to the territorial coverage of the Unified Development Ordinance as a result of annexation or otherwiseOR
 - ii) Is a proposed amendment to an adopted special use district or conditional zoning district that would neither:
 - a) Change the types of uses that are permitted within the special use or conditional zoning district,
 - b) Increase the approved density for residential development, within the special use or conditional zoning district,
 - c) Increase the total approved size of nonresidential development within the special use or conditional zoning district,OR
 - d) Reduce the size of any buffers or screening approved for the special use or conditional zoning district.

The Planning Director will advise the Town Attorney, in writing, of his/her findings.

7. Upon receipt of the Planning Director's findings, the Town Attorney will determine the validity of the protest petition. These findings will be given to the Mayor, Town Council, and Planning Director prior to the public hearing to be held on the proposed zoning amendment being protested.
8. If action is not taken on the proposed zoning amendment at the meeting which the public hearing is held, each future agenda which the proposed amendment appears will show that a valid protest petition has been filed, unless a person who has signed a protest petition withdraws his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in N.C.G.S. 160A-385(a) at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.
9. If action is taken on the proposed zoning amendment at the meeting which the public hearing is held, the Town Council will adopt a written statement of their action (adopting or rejecting the zoning amendment).

TOWN OF APEX ZONING PROTEST PETITION

GUIDELINES FOR COMPLETING A VALID PROTEST PETITION

A valid protest petition filed in opposition to a rezoning requires the Town Council to approve the rezoning by a vote of three-fourths of the Council members (however, vacant positions on the Council and members who are excused from voting shall not be considered 'members of the Council' for calculation of the requisite supermajority). Where there is no valid protest petition the Town Council may approve the rezoning by a simple majority. A valid protest petition must meet one of the following:

- 1) Be signed by the owners of twenty percent (20%) or more of the area included in the proposed change

OR

- 2) Be signed by the owners of five percent (5%) of the land in a 100-foot-wide buffer extending along the perimeter of each discrete or separate area proposed to be rezoned
 - (a) If the property is owned by more than one person or entity, each is an owner and each must sign the petition. If the property is owned by a married couple, both must sign. However, if one person (including a spouse) has authorized another person (including the other spouse) to sign on his/her behalf then the authorized person may sign for both and initial as indication of his/her authorization.
 - (b) A street right-of-way is not included in computing the 100-foot buffer unless the right-of-way is more than 100' wide. If the right-of-way is 100' wide or less, the measurement is computed as if the right-of-way isn't there.
 - (c) The 100-foot-wide buffer is measured from the property line if less than the entire parcel is proposed for rezoning.
- 3) The protest petition shall be written on a form prescribed and furnished by the Town of Apex.
- 4) The protest petition shall state the proposed zoning change is being protested.
- 5) The protest petition must be received by the Town Clerk, at 73 Hunter Street, at least 2 working days prior to the public hearing not including Saturdays, Sundays or legal holidays. The day of the public hearing does not count in the calculation of the 2 working days.
- 6) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in N.C.G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

These guidelines are provided as a convenience and are not legal advice. You should obtain advice from a lawyer in assembling a protest petition. Any reliance on these guidelines is at your own risk.

TOWN OF APEX ZONING PROTEST PETITION

The items in this box must be completed by Town Clerk!!

Date Submitted: _____ **Rezoning Case Number:** _____

Time Submitted: _____

Public Hearing Date before the Town Council: _____ @7:00 P.M.

We, the undersigned, are owners of property either included within a proposed change/amendment to the zoning ordinances/map or immediately adjacent thereto or within the 100-foot-wide buffer.

We do protest the proposed change/amendment to the zoning ordinance/map described as follows:

Property is located at/on _____

From _____ zoning district classification

To _____ zoning district classification

Owner

Address

- | | |
|------------|-------|
| 1.) _____ | _____ |
| 2.) _____ | _____ |
| 3.) _____ | _____ |
| 4.) _____ | _____ |
| 5.) _____ | _____ |
| 6.) _____ | _____ |
| 7.) _____ | _____ |
| 8.) _____ | _____ |
| 9.) _____ | _____ |
| 10.) _____ | _____ |

Reference: N.C. G.S. 160A-385(a) & 160A-386

Protest petitions must be returned to the Town Clerk by 5:00 p.m. on the Thursday preceding the public hearing to be held the following Tuesday evening.