

Rules and Procedures for Protest Petitions

Effect of a Valid Protest Petition:

A rezoning case with a valid protest petition requires a $\frac{3}{4}$ vote of the Town Council (not excused from voting) for approval. Without a protest, a simple majority vote is required for approval.

Requirements for Signing and Filing a Protest Petition:

This form, or exact copies, must be used. To protest a rezoning case, a property owner may join with owners of other properties in signing and filing a protest petition, or may sign and file their own separate petition.

If property is owned by more than one person or entity, each is an owner and must sign the petition for it to be valid.

- Own signature: each person signing must sign his or her own name. No person may sign for another unless a valid Power of Attorney is filed with the protest petition.
- Husband and Wife – for property owned by a husband and wife, each spouse must sign.
- Tenants in common and Joint tenants – for jointly owned property, each and every tenant in common or joint owner must sign.
- Corporations (including homeowners associations that are incorporated): for property owned by a corporation, the president, vice-president, or other duly authorized agent must sign.
- Limited liability company – for property owned by a limited liability company, all members, or the manager must sign.
- Partnership: for property owned by a partnership, a general partner must sign.
- Unincorporated Associations; for property owned by an unincorporated organization or association, a duly authorized officer or agent must sign for the association.
- Religious Body: for property owned by a religious society, congregation or other body, a duly authorized trustee, officer or agent must sign.
- Condominiums and Home Owner's Associations that are not corporations – for property owned by a condominium association or homeowner's association that is not a corporation, a duly authorized officer or agent must sign.
- Estate – for property left by a decedent, the heirs or devisees must sign.
- Minor or Incompetent – for property owned by a minor or incompetent, the owner's guardian must sign.

A property owner's signature **must** include the address or tax parcel number of their qualifying property.

Validity Determination

To qualify as a valid protest for purposes of the $\frac{3}{4}$ vote by Council (excluding vacant seats and those excused from voting), the petition must be signed by the owners of either:

- (i) twenty percent (20%) or more of the area included in the proposed change, or
- (ii) five percent (5%) of the total area within 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 is not 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 is measured from the property line of that parcel.

Exemptions from a Valid Protest:

In accordance with G.S. 160A-385, protest petitions **do not apply** to certain map changes. (Protest petitions that are filed but determined to be invalid will be shown to the Town Council 'for their information'.)

- Any map amendment that initially zones property that has been newly added to the Town's jurisdiction by annexation or otherwise; and
- Any map amendment to an adopted conditional use district if the amendment does not: (i) change the types of uses that are permitted, (ii) increase the approved density for residential development, (iii) increase the total approved size of non-residential development, or (iv) reduce the size of any buffers or screening approved.

Deadline for Receipt of Petitions:

All protest petitions must be received in the office of the Town Clerk, 316 N. Academy Street, Cary, NC 27513, no later than 4 p.m. at least two full business days before the date of the Town Council public hearing. For example, Town Council public hearings are normally held on a Thursday. Therefore, the petition must be received no later than 4 p.m. on the Monday prior to the Thursday Town Council hearing.

Withdrawal of Protest Petitions:

A person who has signed a protest petition may withdraw his or her name from the petition by submitting a signed document to the Town Clerk identifying the rezoning case and stating that the signer has withdrawn his or her name from the petition. Withdrawal may occur at any time prior to the Town Council's vote on the proposed map amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the map amendment will trigger the $\frac{3}{4}$ voting requirement. A withdrawn protest may not be reinstated after the Deadline for Receipt of Petitions.

Town Regulations governing Protest Petitions: LDO Section 3.4.1 (F)

State General Statutes Governing Protest Petitions: NCGS 160A-385, NCGS 160A-386

Received by Town Clerk

Date _____ Time _____

**Town of Cary
Rezoning Protest Petition Form**

BEFORE SIGNING - SEE REVERSE SIDE FOR REQUIREMENTS FOR A PROTEST PETITION.

We, the undersigned property owners, do hereby protest rezoning case # _____, for property identified as: _____.

We object to the zoning map amendment and request that the ¾ rule be invoked for the following reason(s) (optional):

(If additional space is needed, please attach a separate sheet).

PROPERTY OWNERS (Individual owners sign in the first block. Persons signing for an entity, sign in the second block and indicate in what capacity you are signing for the entity, e.g., president, vice president, manager, member, general partner, officer, agent, on the 'Title' line. Also indicate that you are authorized to sign.) :

INDIVIDUALS WHO ARE OWNERS:

<u>Print Name of Protester</u>	<u>Property Address/PIN #</u>	<u>Mailing Address</u>	<u>Signature</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

ENTITIES THAT ARE OWNERS:

<u>Property Address/PIN #</u>	<u>Authorized to Sign Y/N</u>	<u>Print Name of Signer</u>	<u>Title</u>	<u>Signature</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____