



## Legislation Details (With Text)

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**Type:** Conference Session Item      **Status:** Agenda Ready  
**File created:** 10/3/2016      **In control:** Town Council Meeting  
**On agenda:** 10/17/2016      **Final action:**  
**Title:** Proposed Ordinance Changes - Sec. 18-248. - Protest against proposed change  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Sec.\_18\_248.\_\_\_\_Protest\_against\_proposed\_change wProposed Amendments

| Date | Ver. | Action By | Action | Result |
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**Subject:**  
Proposed Ordinance Changes - Sec. 18-248. - Protest against proposed change

### BACKGROUND SUMMARY :

A recent protest against a rezoning brought to light the stringent nature of our current code related to the need for a required super majority vote for approval, even if only 20% of surrounding property owners object and sign a protest form. Likewise, the deadline for submission of such protest needs to be considered in order to provide adequate time for staff and Council to determine the merits of the protest. In light of these issues with the current code, Council has asked the Town Attorney and Planning Director to recommend changes that would address these concerns. Draft changes are being submitted to Council at your October 17 work session so that Council may review staff's recommendation before moving the item forward.

### OVERVIEW :

Proposed Ordinance Changes

Sec. 18-248. - Protest against proposed change.

In case of a protest against any change of zone boundaries or rezoning of property signed by ~~20~~ **50** percent, or more, of ~~any one of~~ the following groups:

- (1) The owners of lots included within the area of the proposed change;
- (2) The owners of lots abutting the area included in such proposed change; and
- (3) The owners of lots directly opposite the area included in such proposed change, where such area abuts upon a street;

Such change shall not become effective except by the favorable vote of six-sevenths (????) of all the Town Council.

***For purposes of this section, a protest petition must be submitted in writing and received by***

*the Town Clerk \_\_??\_\_ days prior to the public hearing before Town Council on the proposed change in zone boundaries or rezoning. The owners of any lots submitting any such protest petition shall execute such protest petition under oath that they are the legal owner or authorized representative of any such lot owner. If the owner of any lot is a corporation or condominium, the petitioner shall submit the appropriate documentation demonstrating he/she is the authorized representative for the lot owner.*

(Code 1969, § 18-248)

#### **SUMMARY/STAFF IMPRESSIONS :**

Staff believes that 50% or more of surrounding property owners should be required to sign a protest form before requiring a super majority 6 of 7 votes. However, staff leaves it to Council to recommend what super majority vote would be appropriate as well as the deadline for when the petition must be received in order to be considered.

#### **RECOMMENDATION :**

Staff recommends that Council initiate a change in the ordinance to require that 50% of all surrounding property owner must object to a rezoning and sign a formal petition in order to require a super majority vote. Council should determine what an acceptable super majority would be as well as the deadline for submission of a protest.