

MEMORANDUM

To: Mayor J.B. Lawrence and Blowing Rock Town Council
From: Kevin Rothrock, Planning Director
SUBJECT: Removing Protest Petitions from Land Use Code
DATE: April 12, 2016

In fall of 2015, the NC General Assembly ratified multiple changes to land use regulations found in the NC General Statutes. One of those changes was the removal of protest petitions that required supermajority approval of zoning changes. Since 1923, protest petitions had been a way for neighbors to submit a petition to protest a potential zoning district change thus triggering a 3/4 majority affirmative vote to approve the zoning change. This amendment to the statute affects towns and counties statewide.

Consistent with NC General Statutes, language related to protest petitions from Article 9, Section 16-9.6 and Article 23, Section 16-23.7 has been deleted and highlighted in the text below and an attached draft ordinance for consideration.

At the March 17th meeting, the Planning Board recommended approval of the draft ordinance.

Article 9 - Zoning Districts and Zoning Map

Section 16-9.6 Conditional Districts (CD)

(B) Formal Review.

(1) Procedure. Formal review shall be in accordance with the procedures contained in Section 16-23.1, "Amendments", except as modified herein.

(2) Site-Specific Development Plan. Conditional zoning is intended to link map amendments with a specific development plan and uses; therefore, the limitations contained in Section 16-10.5 concerning the range of uses proposed shall not apply.

(3) Decisions. Decisions by the Board of Commissioners shall be by majority vote. ~~unless a valid protest petition has been filed, in which case, a 3/4 majority vote of eligible members shall be required for approval.~~

Article 23 - Amendments

Section 16-23.7 Protests to Zoning District Changes. If a petition opposing a change in the zoning classification is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership. To trigger the three-fourths vote requirement, the petition must:

a) Be signed by the owners of twenty percent or more either of: (i) the lots included in a proposed change; or

1) the lots within 100 feet of either side or the rear of the tract to be rezoned; or

2) the lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.

b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.

c) Be received by the Town clerk in sufficient time to allow the Town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.

d) Be on a form provided by the Town clerk and contain all the information requested on this form.

ORDINANCE NO. 2016-__**AMENDING SECTION 16-9.6 AND SECTION 16-23.7 OF THE LAND USE ORDINANCE
PERTAINING TO PROTEST PETITIONS**

WHEREAS, Sections 16-9.6 and 23.7 of the Land Use Ordinance outlines procedures for protest petitions on zoning map amendments; and

WHEREAS, Since 1923, protest petitions have been used in North Carolina to trigger a 3/4 majority approval of zoning map amendment; and

WHEREAS, In 2015, the North Carolina General Assembly removed protest petitions from NC General Statutes which affected all counties and cities statewide; and

WHEREAS, zoning authority is given to local governments through the NC General Assembly and NC General Statutes, therefore the Blowing Rock Town Council hereby acts consistently with the laws of North Carolina.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Blowing Rock, North Carolina, that:

Section 1. Article 9, Section 16-9.6 of the Land Use Ordinance is hereby amended to read as follows:

"Article 9 - Zoning Districts and Zoning Map**Section 16-9.6 Conditional Districts (CD)****(B) Formal Review.**

(1) Procedure. Formal review shall be in accordance with the procedures contained in Section 16-23.1, "Amendments", except as modified herein.

(2) Site-Specific Development Plan. Conditional zoning is intended to link map amendments with a specific development plan and uses; therefore, the limitations contained in Section 16-10.5 concerning the range of uses proposed shall not apply.

(3) Decisions. Decisions by the Board of Commissioners shall be by majority vote. ~~unless a valid protest petition has been filed, in which case, a 3/4 majority vote of eligible members shall be required for approval.~~

Section 2. Article 23, Section 16-23.7 of the Land Use Ordinance is hereby amended to read as follows:

"Article 23 - Amendments

~~**Section 16-23.7 Protests to Zoning District Changes.** If a petition opposing a change in the zoning classification is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership. To trigger the three-fourths vote requirement, the petition must:~~

- ~~a) Be signed by the owners of twenty percent or more either of: (i) the lots included in a proposed change; or

 - ~~1) the lots within 100 feet of either side or the rear of the tract to be rezoned; or~~
 - ~~2) the lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.~~~~
- ~~b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.~~
- ~~c) Be received by the Town clerk in sufficient time to allow the Town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.~~
- ~~d) Be on a form provided by the Town clerk and contain all the information requested on this form."~~

Section 3. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end, the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective upon adoption.

Adopted this the ____ day of _____, 2016.

J.B. Lawrence, Mayor

ATTEST: _____
Sharon H. Greene, Town Clerk