

Staff Amendment #2: Zoning Protests

Staff recommends that **Section 2.2.4.2, Review Authority**, be revised as follows to align with recent State Legislative changes per Section 211.0061 of the Texas Local Government Code. This amendment does not change the substance of the original language and seeks to rearrange text to provide clarity and avoid duplication. All markups, shown in red, reflect changes to the current adopted Development Code.

Section 2.2.4.2 Review Authority

The city council shall finally decide all types of development applications, appeals, or petitions for relief authorized under this development code Table 2.1.

- A. Super-Majority Vote.** Development applications where a super majority vote is required by this development code shall not become effective except by the favorable vote of six members of the City Council under the following circumstances:
1. When the planning and zoning commission recommends denial of the application.
 2. Except as specified in subsection 3, when a written protest against the application is signed by the owners of 20 percent or more of either:
 - a. The area of the subject property; or
 - b. The land adjoining the subject property; or
 - c. The land within 200 feet of the subject property; or
 - d. The land within 400 feet of the subject property.
 3. When a written protest for a zoning change, that is not a comprehensive zoning change as defined by the Texas Local Government Code, is signed by the owners of at least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change has the effect of allowing more residential development than the existing zoning regulation or district boundary and does not have the effect of allowing additional commercial or industrial uses unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development.
 4. In computing the percentage of land area under Section 2.2.4.2.A above, the area of streets and alleys shall be included in the computation and the land area is not calculated individually for each tract of land subject to a proposed change in a zoning regulation or district boundary but in the aggregate for all tracts of land subject to the change. For purposes of this subsection, the following shall apply:
 - a. The written protest of any one owner of land owned by two or more persons shall be presumed to be the protest of all such owners;
 - b. The written protest must be submitted to the city clerk at least five business days before the date of the meeting at which the proposed change is to be considered;

- c. A person who wishes to withdraw a signature from a written protest must submit a signed, written request for the withdrawal to the city clerk by the deadline for submitting a written protest. A signature may not be otherwise withdrawn; and
- d. An application may not be modified to change the boundaries of the subject property after a written protest application requiring a super-majority vote of the city council has been submitted.

B. Effect on Planning and Zoning Commission Decisions. The authority of the city council to hear appeals and applications for relief in specific instances described in this Section 2.2.4.1 shall not be construed to divest the planning and zoning commission of its final approval authority over subdivision plats and development plats.

C. Effect on Historic Designations. The City Council shall have exclusive authority to approve the designation of properties as local historic landmarks and the inclusion of properties in a local historic district pursuant to Section 211.0165 of the Texas Local Government Code.