



Rezoning & Text Amendment Procedure

Town of Navassa
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Excerpt from the Town of Navassa Zoning Ordinance Adopted on June 24, 2009:

ARTICLE 16 - Administration

16.7 Amendments (Zoning Map Amendments and Text Amendments)

This Zoning Ordinance, including the Zoning Map, may be amended only by the Town Council, according to the procedures of this Article. Any proposed amendments may be initiated by the Town Council, Planning Board, or Board of Adjustment of the Town of Navassa. Proposed amendments to the text of this Ordinance may also be initiated by any resident or “record owner” of real property lying within the jurisdiction of the Town. Any “record owner” of real property lying in the jurisdiction of the Town may initiate a request for a change in the zoning classification of his/her real property.

(1) Application

An applicant who is not representing the Town shall submit an application on a form provided by the Town and the applicant shall provide any additional information related to the proposed map and or text amendment requested in writing by the Zoning Administrator, Planning Board or Town Council. The Zoning Administrator shall transmit the original application to the Planning Board, who shall provide a recommendation to the Town Council on the proposed amendment. The original application shall be filed in the Town Hall after consideration by the Town Council. A fee in accordance with the adopted fee schedule shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be considered nor a public hearing held until such fee is paid.

(A) Map Amendment

A complete application for a map amendment, also known as a rezoning, shall contain the following information.

1. A statement of the present zoning regulations or district boundary;
2. The name and signature of the applicant;
3. The tax parcel number of the lot proposed to be rezoned;
4. The names and addresses of the owners of the lot in question; and
5. A map of the proposed amendment showing the tax parcel number of the subject property and of adjacent properties. The map shall show ownership of adjacent lots along with the use of each adjacent property and shall be attached to the application form.

(B) Text Amendment

A complete application for an amendment to the text of this Ordinance shall consist of:

1. The name and address of the applicant;
2. The Ordinance section proposed to be changed;
3. The existing text proposed to be changed;
4. The proposed changes to the text of the Ordinance; and
5. A written justification for the requested amendment including consistency of the proposal with Town land use plan policies;

(2) Planning Board Action

(A) Planning Board Review

The Planning Board shall have at least forty-five (45) days to make a recommendation concerning the amendment before the Town Council may hold a public hearing on the amendment. The Planning Board may review and make a recommendation on the proposed amendment either before or after the public hearing.

(B) Statement of Consistency with Adopted Plans

In accordance with N.C.G.S. 160A-383, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the adopted land use plan and any other applicable officially adopted plan. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the land use plan or another plan shall not preclude consideration or approval by the governing board.

(3) Public Hearing

The Town Council shall hold a public hearing before any amendment to this Ordinance shall be approved.

(A) Notification

Notice of the public hearing shall be published in a newspaper of general circulation in the Navassa area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(B) Map Notification

Whenever there is a map amendment involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. The person or persons mailing such notices shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(C) Vicinity

If a zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, the Town may, as an alternative method of notification, elect to publish notice of the hearing as required by N.C.G.S. 160A-364. Such notification shall not be less than one-half of a newspaper page in size. The advertisement shall be effective only for owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent tax listing for the affected property, shall be notified according to the first class mail provisions listed above.

(D) Posting of Hearing Notices

When a zoning map amendment is proposed the Town shall post a notice of the public hearing on the site proposed for the rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice of interested persons.

(E) Governing Board Statement

Prior to adopting or rejecting any zoning amendment, including a rezoning to a special use district or a small-scale rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted land use plan and any other officially adopted plan that is applicable, pursuant to N.C.G.S. 160A-382 and 160A-383. Such statement shall explain why the Council considers the action taken to be reasonable and in the public interest. The statement may be prepared in advance of the hearing and may be prepared by the Zoning Administrator, the Planning Board, or the Town Council.

(F) Amendments Inconsistent with Adopted Plans

The Town Council shall consider Planning Board recommendations and consistency with the Town's adopted plans when determining amendments. The Town's adopted plans include but are not limited to the CAMA Land Use Plan and the Future Land Use Plan. Council may find that the CAMA Land Use Plan, Future Land Use Plan and other plans must be revised and amended to be consistent with other Town documents and ordinances before affected development activity can continue or move forward.

(4) Protest Petitions

If a qualified protest as defined in N.C.G.S. 160A-385 is filed against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Council. For the purposes of this subsection, 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.

(A) Protest Petition Qualification

To qualify as a protest under this section, 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 a one-hundred (100) foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the one-hundred (100) foot buffer area as long as that street right-of-way is one-hundred (100) feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the one-hundred (100) foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.

(B) Withdrawal of Petition

No protest against any change in or amendment to a zoning Ordinance or zoning map shall be valid or effective for the purposes of N.C.G.S. 160A-385 unless it 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, and unless it shall have been received by the Town clerk in sufficient time to allow the Town at least two (2) normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Town Council may by Ordinance require that all protest petitions be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. 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.