

PROTEST PETITION

(PROVIDE APPLICATION NUMBER)

(INDICATE APPLICATION TYPE)

City Case No. _____

____ Rezoning

____ Special Use Permit

____ Preliminary Development Plan

We, the undersigned, hereby protest the above-cited application on the following property *(address or property description)*: _____.

The undersigned are owners of real property located within the required area of notification for this application; and we realize our signatures must be verified by one of the signers of this Protest Petition as true and correct signatures in order for this Protest Petition to be valid. (The area of notification includes the real property located within 200 feet of the boundaries of the area subject to the application; or, if the area is adjacent to unincorporated property, the unincorporated property located within 1,000 feet.)

The undersigned, realize this Protest Petition must be submitted to the Office of the City Clerk within 14 days after the conclusion of the public hearing before the Planning Commission for this application. (The 14-day period begins the day following the conclusion of the public hearing and ends at 5:00 p.m. on the 14th calendar day thereafter.) Further, we realize this Protest Petition is in opposition to this application and our signatures cannot be removed after filing unless certain lawful actions are taken.

The undersigned, realize this Protest Petition must be filed in accordance with Kansas Statute and the Overland Park Municipal Code and is subject to the requirements therein. *(See K.S.A. 12-757; OPMC 18.140.150(C); and 18.140.200(A))* We further acknowledge that the City of Overland Park and its staff cannot give us legal advice or guarantee the sufficiency of this Protest Petition form, and that the City has suggested we consult with our own attorney to ensure this Protest Petition complies with all applicable statutory and city code requirements.

LEGAL SIGNATURE OF OWNER

PRINTED NAME OF OWNER

PROPERTY DESCRIPTION

(All owners of the property must sign)

(Address or lot and block number)

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

PROTEST PETITION GUIDELINES

This document is only an informational guide and does not constitute legal advice or representations. It is not a comprehensive guide to cover all scenarios or to guarantee compliance with the statutory and city code protest petition requirements, and there may be issues not addressed. Use of the City's protest petition form does not guarantee compliance with applicable statutory and city code requirements. You should consult with your own attorney in regard to the completion and filing of your specified protest petition in order to ensure compliance with all applicable statutory and city code requirements. **APPLICABLE CITY CODE AND STATE STATUTES SHALL CONTROL THE VALIDITY OF ANY PROTEST PETITION.**

1. Pursuant to applicable law, a valid Protest Petition to an application for either a rezoning, a special use permit, or a preliminary development plan requires the signatures of either: (i) at least 20 percent of the owners of the property for which the application is sought, or (ii) the owners of at least 20 percent of the total area located within the statutory area of notification, excepting public street and ways. *(Note: most protest petitions are by the latter.)* The area of notification includes the real property located within 200 feet of the boundaries of the area subject to the application, or, if the area is adjacent to unincorporated property, the unincorporated property within 1,000 feet of the boundaries of the area subject to the application. *(For specific calculations, consult with either the Johnson County Register of Deeds, a title company or a private attorney.)*

2. If a valid Protest Petition is filed with the City Clerk within 14 days after the date of the conclusion of the public hearing before the Planning Commission regarding the application, then the affirmative votes of 10 members of the Governing Body are needed in order to approve the application. The 14-day period begins with the day following the conclusion of the public hearing and ends at 5:00 p.m. on the 14th calendar day thereafter. *(See K.S.A. 12-757; OPMC 18.140.150(C); and 18/140.200(A).)*

3. The application number, the application type, and the description of the property as provided on the legally required notice for the application must be added to the Protest Petition in the designated spaces.

4. Signers of the Protest Petition must be either (i) the owners of the real property for which an application is sought; or (ii) owners of real property within the statutory area of notification for which the application is sought. *(See section 1 above)* Owners of real property outside the City limits but within the statutory area of notification for the application are eligible to sign the Protest Petition.

5. **Signers of the Protest Petition should sign their full names as they appear on the deed to the property recorded in the office of the Register of Deeds.** If Mary B. Smith signs as "Mrs. John Smith," her signature may not be counted. If the county records indicate that Mary B. Smith owns the property yet she has remarried and changed her name to Mary Jones, she should sign the Protest Petition "Mary Jones, formerly Mary B. Smith."

6. All owners of a particular parcel of property must sign in order to protest the application. If the parcel is owned in joint tenancy or tenancy in common, both joint tenants or all tenants in common must sign.

One co-owner cannot sign for another co-owner unless the former has an appropriate power of attorney to do so and the Protest Petition itself shows that the co-owner was authorized to sign for the other co-owner. *(See next section re: power-of-attorney.)* For example, if Mary Smith signs "Bill and Mary Smith" (or alternatively, "Mr. and Mrs. Bill Smith"), only her signature will be counted and the property will not be placed into protest for lack of the signature of the second owner. Likewise, if Mary Smith signs "Mary Smith" and then also signs "Bill Smith", the property will not be counted unless Mary has an appropriate power-of-attorney to sign for Bill Smith. *(See next section re: power-of-attorney.)*

7. If one person signs as attorney-in-fact for another person, the signature should note such action and a copy of the power-of-attorney should be provided. For example, if Mary Smith signs for Bill Smith she should sign "Bill Smith by Mary Smith, attorney-in-fact," and Mary should provide a copy of the power-of-attorney.

8. If a parcel is either owned by a trust or is held by a trustee for the benefit of a trust, then the trustee (*or trustees if appropriate*) must sign in order for the parcel to be placed into protest. For example, "Mary Smith, Trustee for the Smith Family Trust dated 10/11/12."

9. If a parcel is owned by a partnership, all of the partners must sign in order for the parcel to be placed into protest. Furthermore, the proper name in which the property is held and the address of the property must be shown on the Protest Petition.

10. If a parcel is owned by a corporation, only the signature of the president of the corporation can bind the corporation. Provided, any other officer given legal authority to bind the corporation may sign the Protest Petition if that the officer provides proper documentation of the officer's authority (*e.g., articles of incorporation, by-laws, corporate resolution, power-of-attorney or other document establishing the authority of that person to act on behalf of the corporation*). Furthermore, the proper name in which the property is held and the address of the property must be shown on the Protest Petition.

11. A Protest Petition may consist of one or more sheets entitled "Protest Petition." The signatures on each such sheet must be verified by a person who is one of the signers of one of the sheets constituting the Protest Petition and who is an owner of property within the statutory area of notification. The individual who verifies each sheet must have witnessed all of the signatures affixed to that sheet and must have his or her verifying signature notarized. If several such sheets are filed, a separate verification and notarization must be affixed to each sheet. One person may verify one or more such sheets.

It is recommended (*but not required*) that all signatures be on the "Protest Petition" form. Use of an attached blank sheet for additional signatures is strongly discouraged and may result in the Protest Petition being deemed invalid.

12. If there is evidence leading a reviewing City staff member to believe any signature is not genuine, such signature may be considered improper and insufficient.

13. The Protest Petition must be filed within 14 days after the date of the conclusion (*closing*) of the Planning Commission's public hearing regarding the application. (*Note: if the Planning Commission continues the public hearing to an additional date, the conclusion is deemed to occur on the last hearing date.*) In the event the City Council returns the application to the Planning Commission at a later date, the Protest Petition period will not re-open. State law provides that a Protest Petition can only be filed during the 14 days after the date of the conclusion of the Planning Commission's original public hearing.

14. The Protest Petition must be filed with the City Clerk for the City of Overland Park, Kansas, 8500 Santa Fe, Overland Park, Kansas, before 5 p.m. on or before the 14th day after the date of the conclusion of the public hearing before the Planning Commission. The day following the Planning Commission hearing shall be counted as the first day. If the 14th day falls on a weekend or holiday, the Protest Petition must be filed before 5 p.m. on the first business day following that weekend or holiday.

After the Protest Petition is filed with the City, various City departments will review the legality of the Protest Petition. If you have any questions about the Protest Petition procedure, or its completion, you should contact your private attorney.