



AN ACT REVISING COUNTY ZONING LAWS; PROVIDING FOR A REFERENDUM TO TERMINATE ZONING DISTRICTS; REMOVING CERTAIN PROTEST PROVISIONS THAT HAVE BEEN INVALIDATED BY THE MONTANA SUPREME COURT; PROVIDING MINIMUM LOT SIZE RESTRICTIONS IN RESIDENTIAL ZONING; AMENDING SECTION 76-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Referendum to terminate zoning district. (1) Real property owners in a zoning district may petition the board of county commissioners to submit a referendum to the registered electors residing in the zoning district to terminate the zoning district. The petition must be in writing and contain the signatures and addresses of 20% or more of the real property owners in the zoning district. The petition requesting a referendum for the termination of a zoning district must be delivered to the county clerk and recorder, who shall endorse on it the date when the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the real property owners within the zoning district, the county clerk and recorder shall notify the county commissioners.

(2) On receipt of a valid petition described in subsection (1), the county commissioners shall submit the referendum to the registered electors residing in the district in an election conducted pursuant to Title 13, chapter 1, part 5.

Section 2. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

- (1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must:
- (a) state:
 - (i) the boundaries of the proposed district;
 - (ii) the general character of the proposed zoning regulations;
 - (iii) the time and place of the public hearing;
 - (iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;
 - (b) be posted not less than 45 days before the public hearing in at least five public places, including but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; and
 - (c) be published once a week for 2 weeks in a newspaper of general circulation within the county.
- (2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.
- (3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.
- (4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.
- (5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:
- (a) the boundaries of the proposed district;
 - (b) the general character of the proposed zoning regulations;
 - (c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;
 - (d) that for 30 days after first publication of this notice, the board of county commissioners will receive written ~~protests~~ comments ~~to~~ on the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.
- (6) Within 30 days after the expiration of the ~~protest~~ comment period, the board of county

commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. ~~However, if 40% of the real property owners within the district whose names appear on the last completed assessment roll or if real property owners representing 50% of the titled property ownership whose property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year."~~

Section 3. Minimum lot size restrictions. A board of county commissioners may not adopt zoning regulations under this part that require minimum lot sizes in an area zoned for residential use unless:

- (1) the zoning regulation requiring minimum lot sizes is applied to land that is within 3 miles of the limits of an incorporated municipality; or
- (2) the county has adopted a land use map in its growth policy pursuant to 76-1-601(5) that sets forth projected population densities and recommended minimum lot sizes.

Section 4. Codification instruction. [Sections 1 and 3] are intended to be codified as an integral part of Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, part 2, apply to [sections 1 and 3].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Applicability. [Sections 1 and 2] apply to zoning districts created pursuant to Title 76, chapter 2, part 2, on or after January 1, 2021.

- END -

I hereby certify that the within bill,
SB 294, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 294

INTRODUCED BY J. ESP

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