



Montana Association of Counties
2715 Skyway Drive
Helena, MT 59602-1213
(p) 406.449.4360 | (f) 406.442.5238
maco@mtcounties.org | www.mtcounties.org

RESOLUTION 2022-11

STRIKE THE UNCONSTITUTIONAL PROTEST PROVISION IN PART 1 ZONING AND ADD A REFERENDUM PROVISION

It is the intent of the Montana Association of Counties to seek legislation that strikes the protest provision in Part 1 Zoning and adds a referendum provision to challenge a zoning district.

WHEREAS MCA 76-2-101(1) allows for citizens of a county to initiate the establishment of a zoning district by submitting a petition to the board of county commissioners; and

WHEREAS MCA 76-2-101(5) states that 50% of real property owners within a proposed district may protest and effectively block the creation of said zoning district; and

WHEREAS in *Rukstad v. Yellowstone County* the district court found the protest provision of MCA 76-2-101(5) to be unconstitutional; and

WHEREAS a referendum provision would be an appropriate means to challenge a citizen-initiated zoning district.

NOW, THEREFORE BE IT RESOLVED that the Montana Association of Counties believes the protest provision under MCA 76-2-101(5) should be struck and a referendum provision should be added to the statute for the challenge of the establishment of a citizen-initiated zoning district; and

BE IT FURTHER RESOLVED that the Montana Association of Counties will pursue legislation to strike the protest provision in MCA 76-2-101(5) and add a referendum provision to challenge a citizen-initiated zoning district.

SPONSOR:	YELLOWSTONE COUNTY
REFERRED TO:	LAND USE, PLANNING & DEVELOPMENT COMMITTEE (LUPD)
ADOPTED:	ANNUAL CONFERENCE – SEPTEMBER 28, 2022