

OVERVIEW OF WHY WE MUST REVISE MCA 76-2-205 & RESCIND SB294 -
REV 1-15-2025

In Brief:

1. Montana Supreme Court ruled MCA 76-2-205 unconstitutional because the 40%/50% vote was not equitable and did not impose any standards. Plus this MCA has wording allowing highly inefficient and ineffective communication between the municipal and the property owners.

2. As a result, SB294 amended MCA 76-2-205 with a new rule that said a zoning district with a petition of 20% or more of real property owners in that county could eliminate the district zoning.
 - a. In my opinion, SB294 is worse than the original MCA 76-2-205, although making MCA 76-2-205 constitutional because now a small majority (20%) can potentially petition the county commissioners to eliminate zoning completely with no replacement. Past Lake County attorney Wally Condon in Polson Montana agrees this is not a good law.

 - b. In addition, SB294 does not include wording that allows 51% of the property owners to vote on proposed zoning or a zoning amendment. The proposed changes Jack has made to MCA 76-205 solves all these issues.

 - c. [SB294 MUST be rescinded](#) (Link) and replaced with the proposed revisions to MCA 76-2-205. It appears that much of the wording that is in SB294 was just extracted word for word from MCA 76-2-205 and some sentences then lined out to eliminate the 40%/50% unconstitutional ruling in 2013.

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Bottom Line:

The new proposed REVISED MCA 76-2-205 will eliminate the need for SB294 and the 20% zoning change problem and adds back wording requiring any new zoning or zoning amendments will require an informed vote of the impacted local property owners whereby a 51% majority vote would decide the zoning amendment changes.

[MCA 76-2-205 REVISED](#) (Link) will streamline Montana local zoning changes by a simple vote from the local property and business owners impacted by the zoning change. This will also decrease the burden and liability upon the county commissioners to a simple majority vote of the local impacted property and business owners. The current legislative process is broken and needs to be fixed. I have given this legislation change to Montana Senator Mark Nolan with his promise to introduce during the 2022 to 23 legislative session however, this never happen nor could I get help from my own District representative or senator at that time.

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