



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE July 3, 2024

TO Members, Regulatory Reduction Task Force

FROM TaLise Hansen, Staff Attorney

SUBJECT Topic Summary: Wyoming and Other States' Zoning Protest Petition Statutes

INTRODUCTION

The Regulatory Reduction Task Force requested research on zoning protest petition statutes in other states at its May 2024 meeting. This topic summary provides an overview of the zoning protest petition statutes in other states, including which property owners are eligible to sign a protest petition, what percentage of property owners are required to sign a protest petition to be valid, and how many members of a local governing body are required to vote in favor of a proposed zoning change to become effective after a protest petition has been filed. This topic summary also discusses Wyoming's zoning protest petition statute.

ZONING PROTEST PETITION STATUTES IN THE UNITED STATES

Twenty-two states, including Wyoming, allow property owners within a certain distance of a proposed zoning change to file a written protest petition.¹ See **Appendix A** for the statute citations for all twenty-two states. Seven states² allow property owners to protest proposed zoning changes within both the city and county limits, while the remaining fifteen states³ only allow property owners to protest proposed zoning changes within city limits. Each state establishes which property owners are eligible to sign a protest petition and what percentage of property owners must sign a protest petition to be valid. Once a protest petition has been filed, each state requires an approval vote by a local governing body for the proposed zoning change to become effective. The threshold for an approval vote varies between states.

¹ Arizona, Colorado, Connecticut, Delaware, Illinois, Iowa, Kansas, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

² Arizona, Illinois, Iowa, Kansas, Mississippi, Nebraska, and Oklahoma.

³ Colorado, Connecticut, Delaware, Massachusetts, Michigan, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Dakota, South Dakota, Texas, and Wyoming.

A. States Allowing Protest Petitions in Both City and County Limits

Arizona, Illinois, Iowa, Kansas, Mississippi, Nebraska, and Oklahoma allow eligible property owners to sign protest petitions for proposed zoning changes in both city and county limits. Four out of these seven states have two separate statutes: one for city protest petitions and one for county protest petitions.⁴ Kansas and Mississippi have one statute that governs both city and county protest petitions.⁵ Oklahoma's statutes are divided by population. Only two population categories have protest petition statutes. Those are counties containing a city with a population of not less than 180,000 residents and all counties with a total population of 500,000 residents or more.⁶ These seven states allowing eligible property owners to sign protest petitions for proposed zoning changes in both city and county limits may impose different requirements for protest petitions within city limits compared to protest petitions within county limits. These differences will be highlighted throughout this topic summary.

B. Which Property Owners are Eligible to Sign a Protest Petition

Each state establishes which property owners are eligible to sign a protest petition by creating two ownership categories. The first ownership category is property owners within the area of the proposed zoning change. All twenty-two states allow property owners within the area of the proposed zoning change to be eligible to sign a protest petition. However, how property ownership is identified within the area of the proposed zoning change varies between states. Ten states⁷ provide that property owners of "the area of the lots" included in the proposed zoning change are eligible to sign a protest petition, while six states⁸ provide that property owners of "the area of land" included in the proposed zoning change are eligible to sign a protest petition. New Jersey and Texas provide that property owners of the area of the lots *or* land included in the proposed zoning change are eligible to sign a protest petition.⁹ Two states, Arizona and New Mexico, include property owners of both the area of the lots *and* of the land included in the proposed zoning change.¹⁰ A lot is defined as "a single unit of land, particularly in a municipal subdivision"¹¹ while an area of land is defined as a broader category, which may include a lot, tract, or parcel of land.¹²

The second ownership category is property owners who are within a specified distance, measured in feet, from the proposed zoning change. All twenty-two states allow property owners within a specified distance from the proposed zoning change to be eligible to sign a protest petition. The distance varies within a range of one hundred (100) feet of the proposed zoning change to one

⁴ Arizona, Illinois, Iowa, and Nebraska.

⁵ Kan. Stat. Ann. § 12-757; Miss. Code Ann. § 17-1-17.

⁶ Okla. Stat. Ann. tit. 19A §§ 863.17, 868.16.

⁷ Connecticut, Delaware, Iowa (city), Mississippi, Montana, Nebraska, New Hampshire, North Dakota, South Dakota, and Wyoming.

⁸ Colorado, Massachusetts, Michigan, Missouri, New York, and Oklahoma.

⁹ N.J. Stat. Ann. § 40:55D-63; N.M. Stat. Ann. § 3-21-6(C).

¹⁰ Ariz. Rev. Stat. Ann. §§ 9-462.04(H), 11-814(D), (E); Tex. Code Ann. § 211.006(d).

¹¹ *Lot*, Wolters Kluwer Bouvier Law Dictionary (Stephen Michael Sheppard ed., desk 2012).

¹² *Missoula Rural Fire Dist. v. City of Missoula*, 950 P.2d 758, 762 (Mont. 1997) ("Although not statutorily defined, a "tract" or "parcel" of land is commonly understood to mean some area of land."). A tract is defined as "an area of real estate. A lot or parcel of land." *Tract*, Ballentine's Law Dictionary (3d. ed. 2010). A parcel is defined as "a lot or tract of real estate." *Parcel*, Ballentine's Law Dictionary (3d. ed. 2010).

thousand (1,000) feet. **Figure 1** provides a summary of the number of states in each distance category.

Figure 1. Distance of Property Owners from Proposed Zoning Change by State

Distance (measured in feet)	States
100	Delaware, Michigan, Nebraska (county), New Hampshire, New Mexico, New York
140	Wyoming
150	Arizona (city), Colorado, Montana, North Dakota
160	Mississippi (city and county)
185	Missouri
200	Iowa (city), Kansas (city), New Jersey, Texas
250	South Dakota
300	Arizona (county), Massachusetts, Nebraska (city)
500	Connecticut, Iowa (county)
1000	Kansas (county), Oklahoma (city and county)

Source: LSO analysis of state statutes.

The states also vary on whether they expressly include or exclude rights-of-ways when determining the specified distance from the proposed zoning change. Seven states,¹³ including Wyoming, exclude rights-of-ways while three states¹⁴ include rights-of-ways in calculating the distance from the proposed zoning change. The remaining states are silent on whether they include or exclude rights-of-ways when calculating the specified distance from the proposed zoning change.

The states further differ on the application of the specified distance. Five states including Wyoming require property owners to be immediately adjacent to the proposed zoning change within the specified distance.¹⁵ Eight states require property owners to be in a radius of the proposed zoning change within a specified distance.¹⁶ Three states measure the specified distance from the boundaries of the lot or land included in the proposed zoning change.¹⁷ Four states provide that property owners may be immediately adjacent to the proposed zoning change within the specified distance or directly opposite of the proposed zoning change within a specified distance.¹⁸

C. Percentage of Property Owners Required for Protest Petitions

All twenty-two states set a threshold for what percentage of property owners must sign a zoning protest petition to be valid. Most states, including Wyoming, require twenty percent (20%) or more of the eligible property owners to sign or file a protest petition for a proposed zoning change.¹⁹

¹³ Colorado, Kansas, Missouri, New Hampshire, New Mexico, North Dakota, and Wyoming.

¹⁴ Arizona (city), New Jersey, and Texas.

¹⁵ Iowa (county), Massachusetts, New Hampshire, Texas, and Wyoming.

¹⁶ Colorado, Connecticut, Kansas, Montana, New Jersey, New Mexico, North Dakota, and South Dakota.

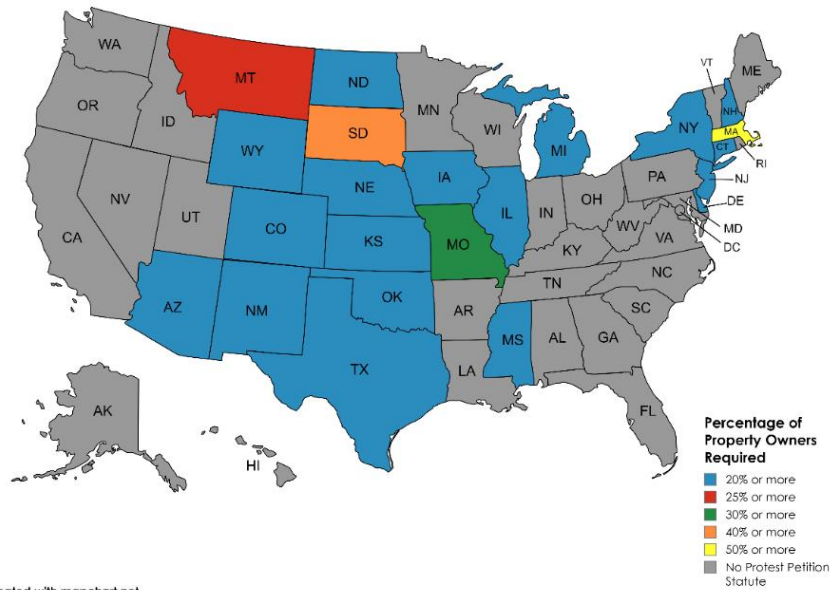
¹⁷ Iowa (city), Michigan, Missouri.

¹⁸ Delaware, Illinois (city), Mississippi, and New York.

¹⁹ Arizona (city and county), Colorado, Connecticut, Delaware, Illinois (city), Iowa (city and county), Kansas (city and county), Michigan, Mississippi (city and county), Nebraska (city and county), New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma (city and county), Texas, and Wyoming.

However, four states require larger percentages. Montana requires a protest petition to be signed by twenty-five percent (25%) or more of the eligible property owners.²⁰ Missouri requires a protest petition to be signed by thirty percent (30%) or more of the eligible property owners.²¹ South Dakota requires a protest petition to be signed by at least forty percent (40%) of the eligible property owners.²² Massachusetts sets the highest threshold percentage by requiring a protest petition to be signed by fifty percent (50%) or more of the eligible property owners.²³ See **Figure 2** for a map of the percentages of property owners required by state for a valid protest petition.

Figure 2. Percentage of Property Owners Required for Valid Protest Petitions by State



Source: LSO analysis of state statutes.

D. Vote Required by the Governing Body for the Zoning Change to Become Effective

All twenty-two states require an approval vote by a local governing body for a proposed zoning change to become effective after a protest petition has been signed by the required percentage of eligible property owners. Nine states require an affirmative vote of two-thirds (2/3) of all the members of the governing body for the zoning change to become effective.²⁴ Seven states, including Wyoming, require an affirmative vote of three-fourths (3/4) of all the members of the governing body for the proposed zoning change to become effective.²⁵ Michigan requires "a [two-thirds] (2/3) vote of the legislative body, unless a larger vote, not to exceed [three-fourths] (3/4) vote, is required by ordinance or charter" for a proposed zoning change to become effective.²⁶

²⁰ Mont. Stat. Ann. § 76-2-305(2).

²¹ Mo. Rev. Stat. § 89.060.

²² S.D. Codified Laws § 11-4.5.

²³ Mass. Ann. Laws ch. 40A, § 5.

²⁴ Colorado, Connecticut, Massachusetts, Missouri, Montana, New Hampshire, New Jersey, New Mexico, and South Dakota.

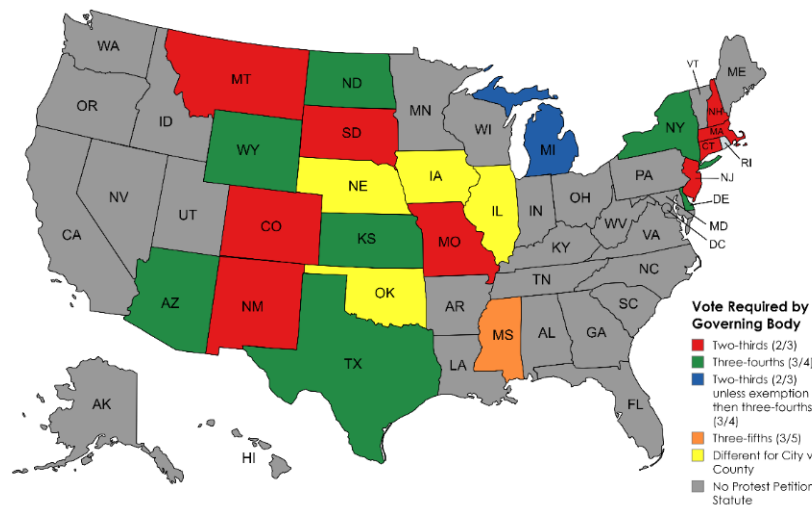
²⁵ Arizona (city and county), Delaware, Kansas (city and county), New York, North Dakota, Texas, and Wyoming.

²⁶ Mich. Comp. Laws § 125.3403(1).

Mississippi requires a "favorable vote of three-fifths (3/5) of the members of the legislative body" for the zoning change to become effective.²⁷

Four out of the seven states that allow property owners to sign zoning protest petitions for zoning changes in both city and county limits impose different requirements for the vote by a local governing body for a proposed zoning change to become effective.²⁸ Illinois requires a favorable vote of two-thirds (2/3) of the governing body of the city but requires a favorable vote of three-fourths (3/4) of the governing body of the county.²⁹ Nebraska is the opposite requiring a favorable vote of three-fourths (3/4) of the governing body of the city and a favorable vote of two-thirds (2/3) of the governing body of the county.³⁰ Iowa requires a favorable vote of three-fourths (3/4) of the governing body of the city but requires a favorable vote of at least three-fifths (3/5) of the governing body of the county.³¹ Oklahoma is particularly unique by requiring a unanimous vote of all the members of the governing body for a proposed zoning change to become effective in counties containing a city with a population of not less than 180,000 residents but requires a majority vote of the members of the governing body for a proposed zoning change to become effective in counties with a population of 500,000 residents or more.³² See **Figure 3** for a map of the votes required by the governing body for a proposed zoning change to become effective by state.

Figure 3. Vote Required by the Governing Body for the Zoning Change to Become Effective by State



Created with mapchart.net

Source: LSO analysis of state statutes.

²⁷ Miss. Code Ann. § 17-1-17.

²⁸ Illinois, Iowa, Nebraska, and Oklahoma.

²⁹ 65 Ill. Comp. Stat. § 5/11-13-14; 55 Ill. Comp. Stat. § 5/5-12014(a).

³⁰ Neb. Rev. Stat. Ann. §§ 19-905, 23-165.

³¹ Iowa Code §§ 414.5, 335.7.

³² Okla. Stat. Ann. Tit. 19A §§ 863.17, 868.16.

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E. Wyoming

W.S. 15-1-603 governs zoning protest petitions in Wyoming, which provides in part:

(a) If there is a protest against a change in the regulations, restrictions or district boundaries signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change, or of those immediately adjacent within a distance of one hundred forty (140) feet, the change is not effective except upon the affirmative vote of three-fourths (3/4) of all the members of the governing body. In determining the one hundred forty (140) feet, the width of any intervening street or alley shall not be included.³³

This statute only applies to proposed zoning changes within cities and towns and does not apply to proposed zoning changes within counties.³⁴ In Wyoming, the protest petition must be signed by twenty percent (20%) of the property owners of the area of the lots included in the proposed zoning change or property owners immediately adjacent to the proposed zoning change within one hundred forty (140) feet.³⁵ In calculating the one hundred forty (140) feet, rights-of-ways including the width of any intervention street or alley are not included. In order for a proposed zoning change to become effective after a protest petition has been signed by twenty percent (20%) of the eligible property owners, Wyoming requires approval by three-fourths (3/4) of all members of the governing body of the city or town.³⁶

Please let me know if you have any questions or need further information.

³³ W.S. § 15-1-603(a).

³⁴ *See id.*

³⁵ *Id.*

³⁶ *Id.* Governing body means "the council or commission constituting the elected legislative body of any city or town including the mayor who is the presiding officer." W.S. 15-1-101(a)(vi).

APPENDIX A

STATE	STATUTE CITATION
Arizona	Ariz. Rev. Stat. Ann. § 9-462.04 (city) Ariz. Rev. Stat. Ann. § 11-814 (county)
Colorado	Colo. Rev. Stat. § 31-23-305
Connecticut	Conn. Gen. Stat. Ann. § 8-3
Delaware	Del. Code Ann. tit. 22, § 305
Illinois	65 Ill. Comp. Stat. Ann. § 5/11-13-14 (city) 55 Ill. Comp. Stat. Ann. § 5/5-12014 (county)
Iowa	Iowa Code Ann. § 414.5 (city) Iowa Code Ann. § 335.7 (county)
Kansas	Kan. Stat. Ann. § 12-757 (city) Kan. Stat. Ann. § 19-2960 (county)
Massachusetts	Mass. Ann. Laws ch. 40A, § 5.
Michigan	Mich. Comp. Laws § 125.3403
Mississippi	Miss. Code Ann. § 17-1-17
Missouri	Mo. Rev. Stat. § 89.060
Montana	Mont. Stat. Ann. § 76-2-305
Nebraska	Neb. Rev. Stat. Ann. § 19-905 (city) Neb. Rev. Stat. Ann. § 23-165 (county)
New Hampshire	N.H. Rev. Stat. Ann. § 675:5
New Jersey	N.J. Stat. Ann. § 40:55D-63
New Mexico	N.M. Stat. Ann. § 3-21-6
New York	N.Y. CLS Town Law § 265
North Dakota	N.D. Cent. Code § 40-47-05
Oklahoma	Okla. Stat. Ann. tit. 19A, § 863.17 (counties containing a city of 180,000 population) Okla. Stat. Ann. tit. 19A, § 868.16 (counties of over 500,000 population)
South Dakota	S.D. Codified Laws § 11-4.5
Texas	Tex. Code Ann. § 211.006
Wyoming	W.S. § 15-1-603