



Legislation Details (With Text)

File #: 71082 **Version:** 2 **Name:** Protest Rezoning
Type: Ordinance **Status:** Passed
File created: 4/18/2022 **In control:** Attorney's Office
On agenda: 6/7/2022 **Final action:** 6/7/2022
Enactment date: 6/22/2022 **Enactment #:** ORD-22-00054
Title: ALTERNATE - Amending MGO 28.182 Text and Map Amendments to repeal 28.182(5)(C). Repealing MGO Sec. 28.182(5)(c) ("Protest Petition") and amending MGO Sec. 28.182(5)(b) to include a two-thirds (2/3) favorable vote by Common Council to pass zoning map amendments.
Sponsors: Juliana R. Bennett, Satya V. Rhodes-Conway

Indexes:

Code sections:

Attachments: 1. Public_Comments_05-19-22_05-23-22.pdf, 2. Zoning Text Memo 5-23-22 Protest Petitions.pdf, 3. 052322-060722_CC_public_comments.pdf

Date	Ver.	Action By	Action	Result
6/7/2022	2	COMMON COUNCIL	Adopt Alternate	Pass
5/23/2022	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT WITH CONDITIONS - PUBLIC HEARING	Pass
4/19/2022	1	COMMON COUNCIL	Refer For Public Hearing	Pass
4/18/2022	1	Attorney's Office	Referred for Introduction	

Fiscal Note

No City appropriation required.

Title

ALTERNATE - Amending MGO 28.182 Text and Map Amendments to repeal 28.182(5)(C). Repealing MGO Sec. 28.182(5)(c) ("Protest Petition") and amending MGO Sec. 28.182(5)(b) to include a two-thirds (2/3) favorable vote by Common Council to pass zoning map amendments.

Body

DRAFTER'S ANALYSIS: This amendment removes ordinance repeals the provision allowing for a protest petition to be filed associated with zoning map amendments and amends the vote threshold from a simple majority to two-thirds (2/3) of Common Council for all map amendments. Currently, whenever a zoning map amendment (also commonly known as a "rezoning") is under review, the provision in MGO Sec. 28.182(5)(c) allows for 20% of property owners or registered electors within 100 feet of the subject property to file a protest petition. If the petition is deemed valid, the Common Council would need a supermajority (3/4) favorable vote in order to pass a zoning map amendment.

Historically, protest petitions were a tool for landowners to have more power - the protest petition was included in the nation's first comprehensive zoning ordinance. Protest petitions became standard in model zoning codes adapted in the 1920s and 30s throughout the United States. Wisconsin state law used to require municipalities to protest petitions procedures in their local ordinances. That requirement was eliminated in 2017 WI Act 243, which went into effect January 1, 2019. Madison may lawfully remove the protest petition procedure from MGO Sec. 28.182.

Under Madison's current ordinance, protest petitions delay the Common Council vote until the next council

meeting and require a supermajority (3/4) favorable vote to pass. The vast majority of Council actions - laws, ordinances, resolutions and motions - are passed by a simple majority vote. For example, under Sec. 2.19, appropriations from City funds are made by supermajority vote, but even the annual budget is passed by simple majority. Removing the protest petition provision aligns the vote threshold with other zoning land use-related votes, such as text amendments. This change does not restrict public comment and meeting participation, residents impacted by the zoning map amendment are still able to participate Plan Commission and the Common Council meetings where the amendments are voted on and discussed.

Finally, the ordinance amends the vote threshold for map amendments from a simple majority of Common Council to two-thirds (2/3) vote.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (c) entitled "Protest Petition" of Subsection (5) entitled "Decision" of Section 28.182 entitled "Text and Map Amendments" of the Madison General Ordinances is repealed.

2. Subdivision (b) entitled "Action by Common Council" of Subsection (5) entitled "Decision" of Section 28.182 entitled "Text and Map Amendments" of the Madison General Ordinances is amended as follows:

"(b) ~~Action by Common Council. The Common Council shall not act upon a text amendment or map amendment until it has received a recommendation from the City Plan Commission as provided above. The map amendment shall not become effective except by a favorable vote of two-thirds (2/3) of the members of the Common Council voting on the proposed change.~~"