



FAIR ZONING ACT

Summary: This model policy is designed to promote the production of housing by prohibiting or limiting zoning protests to expanded uses of private property. Because there is not a public interest in eliminating or restricting property rights, the policy prohibits challenges to rezoning approvals, unless the challenge is brought in a court of law by a property owner who can demonstrate a concrete and particularized harm. The party challenging a zoning change has the burden of proof and the court must review the evidence within 60 days. The policy also provides an alternative to a zoning protest ban, which would require a majority vote of the governing body to affirm a zoning change under protest in certain circumstances.

FAIR (Fairness, Accountability, and Integrity in Rezoning) Zoning Act

Section 1: Zoning protest prohibited

Once approved, a change in regulations, restrictions, or district boundaries that expands the allowable uses of private property shall not be subject to challenge, except in a court of law and only by property owners who can demonstrate a concrete and particularized harm caused by the approval. Such challenges shall be determined in the same manner as a challenge to a development permit in the Third-Party Challenges to Development Permits Act and subject to the provisions of that Act.

(Alternative) Section 1: Where zoning protests allowed; majority vote

If there is a protest against a change in the regulations, restrictions, or district boundaries that expands the allowable uses of private property signed by more than one of the owners who can demonstrate a concrete and particularized harm and who either own fifty percent or more of the area of the lots included in the proposed change, or comprise fifty percent or more of the owners within a distance of five hundred feet, the change is not effective except upon the affirmative vote of a majority of all the members of the governing body. In determining the five hundred feet, the width of any intervening street or alley shall not be included.

Section 2: Burden of proof

Notwithstanding any other law, parties challenging the change in the regulations, restrictions, or district boundaries in a court of law bear the burden of proof by clear and convincing evidence. Evidence may include expert testimony, scientific data, or other relevant information substantiating the alleged harms but may not include anecdotal evidence.



Section 3: Expedited review process

To minimize delays and uncertainty associated with challenges to changes in regulations, restrictions, or district boundaries, the court shall review the evidence substantiating the alleged harm within 60 days.

Want to learn more about this model policy in your state?

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