

**Survey of Western Interim Zoning Statutes**  
 Prepared for the 2009 Education and Local Government Interim Committee

State	Does the State have an Interim Zoning Statute?	Under what circumstances can interim zoning be adopted?	How long can interim zoning be in place?	Is there a related protest provision?
California	<p><b>Yes</b></p> <p><b>California Government Code § 65858. Interim ordinance as urgency measure</b></p> <p><b>Notable Provisions</b></p> <p><b>§ 65858(a) (urgency measure can be adopted without notice and hearing)</b></p> <ul style="list-style-type: none"> <li>- Without following the procedures required to adopt a zoning ordinance, the legislative body of a county or city may adopt an urgency measure as an interim ordinance to protect the public health, safety, and welfare.</li> <li>- Measure may prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or planning department is considering or studying or intends to study within a reasonable time.</li> <li>- Adoption of an interim ordinance under this urgency provision (and any extension of the ordinance) requires a four-fifths vote of the legislative body.</li> </ul> <p><b>§ 65858(b) (urgency measure can be adopted with notice and hearing and may be effective for a longer period).</b></p> <ul style="list-style-type: none"> <li>- Alternatively, a legislative body may adopt an interim ordinance <i>after</i> following the notice and hearing requirements.</li> <li>- An interim ordinance adopted under subsection</li> </ul>	<p>An interim ordinance may be adopted if it meets the <b>urgency standard</b> outlined in the statute: <i>to protect the public safety, health, and welfare.</i></p> <p>The interim ordinance must be “necessary to mitigate or avoid the specific, adverse impact identified.”</p> <p>Additionally, there must not be a “feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.”</p> <p><b>Restrictions</b></p> <ul style="list-style-type: none"> <li>- The legislative body shall not adopt or extend any interim ordinance unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare <b>and</b> that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use that is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.</li> </ul>	<p>Initially, 45 days</p> <p>After notice and public hearing, up to 10 months and 15 days, with an extension available up to 1 year.</p> <p>Not more than two extensions may be adopted.</p> <p>Under § 65858(b), an interim ordinance may be effective up to 22 months and 15 days if notice and a public hearing is provided after the initial 45-day period.</p>	No

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	(b) is only effective for 45 days from its adoption. - After notice and hearing, the legislative body (with a four-fifths vote) may extend the interim ordinance for 22 months and 15 days.			
Colorado	<b>Yes</b>  <b>Colorado Revised Statutes § 30-28-121 Temporary regulations</b>  <b>Notable Provisions</b> - County commissioners may adopt, by resolution and without public hearing, temporary regulations prohibiting or regulating any part of all unincorporated territory in the county or district.  - No public hearing required.	Not defined.  A county's authority to adopt temporary regulations under Colorado Revised Statute § 30-28-121, does not prohibit or limit a moratorium on development to conduct studies under the Colorado Local Government Land Use Control Enabling Act (Art. 20, title 29). See <i>Droste v. Bd. of County Comm'rs of Pitkin</i> , 141 P.3d 852 (Colo. App. 2005).	Up to 6 months	No
Idaho	<b>Yes</b>  <b>Idaho Code § 67-6523 (Emergency Ordinances and Moratoriums)</b>  <b>Notable Provisions</b> - Authorizes emergency ordinances and moratoriums. - Provides authority to adopt a new emergency ordinance and moratorium. - May proceed without recommendation of a commission, upon any abbreviated notice of hearing that it finds practical, to adopt the ordinance or moratorium.	<b>Idaho Code § 67-6523 (Emergency Ordinances and Moratoriums)</b>  - <b>Imminent peril</b> to the public health, safety, or welfare.	<b>Idaho Code § 67-6523 (Emergency Ordinances and Moratoriums)</b>  - Up to 182 days  - After 182 days, normal notice and hearing rules apply.  <b>Idaho Code § 67-6524 (Interim</b>	No.

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	<p><b>Idaho Code § 67-6524 (Interim Ordinances and Moratoriums)</b></p> <p><b>Notable Provisions</b> - Authorizes interim ordinances and moratoriums.</p>	<p><b>Idaho Code § 67-6524 (Interim Ordinances and Moratoriums)</b></p> <p>- If a governing board finds that a plan, a plan component, or an amended plan is being prepared for its jurisdiction, a governing board may adopt interim ordinances following the applicable notice and hearing procedures.</p>	<p><b>Ordinances and Moratoriums)</b></p> <p>- Must state a definite period of time. - Cannot exceed 1 year.</p>	No.
Montana	<p><b>Yes</b></p> <p><b>Montana Code Annotated § 76-2-206 (County authority for interim ordinances)</b></p> <p><b>Notable Provisions</b> - County may establish interim zoning district or interim regulation as an <u>emergency</u> measure. - Board is required to publish notice of a hearing on the interim zoning regulations or zoning district once a week for 2 weeks in a newspaper of general circulation. - Notice must include specific requirements set forth in 76-2-206, MCA.</p> <p><b>Montana Code Annotated § 76-2-306 (City or town)</b></p> <p><b>Notable Provisions</b> - Interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the legislative body is considering</p>	<p><b>§ 76-2-206 (County)</b></p> <p>- May be adopted to promote the public, health, safety, morals, and general welfare under specific circumstances set forth in § 76-2-206, MCA). -Must be an emergency and county must be conducting or intends to conduct a study within a reasonable time <b>OR</b> has held or is holding a hearing for the purpose of considering a growth policy, zoning regulations, or a revision to a growth policy.</p> <p><b>§ 76-2-306 (City or town)</b></p> <p>- An interim ordinance may be adopted if it meets the <b>urgency standard</b> outlined in the statute: <i>to protect the public health, safety, and welfare.</i></p>	<p><b>§ 76-2-206 (County)</b></p> <p>- Resolution for interim zoning district is limited to 1 year. - Board may extend resolution for 1 year, but no more than one extension may be made.</p> <p><b>§ 76-2-306 (City or town)</b></p> <p>- Effective for up to 6 months. - The legislative body may extend the</p>	No.

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	<p>or studying or intends to study within a reasonable time.</p> <ul style="list-style-type: none"> <li>- Takes effect upon passage; provided, however, a hearing is first held upon notice reasonably designed to inform all affected parties and in no event shall notice be less than publication in a newspaper of general circulation at least 7 days before the hearing.</li> </ul>		<p>interim ordinance for 1 year (with two-thirds vote).</p> <ul style="list-style-type: none"> <li>- No more than two extensions may be adopted.</li> </ul>	
North Dakota	<p><b>No</b></p> <p>North Dakota counties may have adopted interim zoning regulations. Authority is unclear.</p>			
Oregon	<p><b>Yes</b></p> <p><b>Oregon Revised Statutes § 197.520</b></p> <p><b>Notable Provisions</b></p> <ul style="list-style-type: none"> <li>- Focus is on moratoria and not interim zoning, per se.</li> <li>- May not be adopted unless the city, county, or special district has provided written notice to the Department of Land Conservation and Development.</li> <li>- Written findings justifying the need for the moratorium are required.</li> <li>- A public hearing on the adoption of the moratorium and the findings supporting the moratorium are required.</li> </ul>	<p><b>Urban or urbanizable land</b></p> <ul style="list-style-type: none"> <li>- A moratorium may be justified by demonstrating the need to prevent a shortage of public facilities that would otherwise occur during the effective period of the moratorium.</li> <li>- Requires findings showing the extent of the need beyond the estimated capacity of the existing public facilities expected to result from the new land development.</li> <li>- The moratorium must be reasonably limited to those areas of the city, county, or special district where a shortage of key public facilities would otherwise occur.</li> </ul>	<p>No longer than 120 days.</p> <p>May be extended provided the city, county, or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:</p> <ul style="list-style-type: none"> <li>(a) verify the problem giving rise to the need for a moratorium still exists;</li> <li>(b) demonstrate that reasonable progress is being made to alleviate the problem</li> </ul>	No.

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	<p>- The city, county or special district proposing the moratorium must determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations, or procedures within the period of effectiveness of the moratorium.</p> <p><b>Note:</b></p> <p>- This statute separates land uses into two categories: (1) urban or urbanized; and (2) rural. There are specific categories for each category.</p>	<p>- The housing and economic development needs of the area affected must be accommodated as much as possible in any program for allocating any remaining public facility capacity.</p> <p><b>Note:</b></p> <p>- A moratorium that is not based on a shortage of public facilities may be justified <b>ONLY</b> by a demonstration of a compelling need. Need is demonstrated by reasonably available information and requires specific findings for each category of land.</p>	<p>giving rise to the moratorium; and (c) set a specific duration for the renewal of the moratorium. No extension may be for a period longer than 6 months.</p>	
South Dakota	<p><b>Yes</b></p> <p><b>South Dakota Codified Laws § 11-2-10 Emergency temporary ordinances</b></p> <p><b>Notable Provisions</b></p> <p>- Limited to time periods during which studies for the development of comprehensive plans are being conducted.</p> <p>- Requires at least 1 public hearing.</p>	<p>As an emergency measure, a board may adopt a temporary zoning ordinance and map and a temporary subdivision ordinance to protect the public health, safety, and general welfare.</p> <p><b>Note:</b></p> <p>- The board must hold at least one public hearing before it can adopt or renew emergency measures.</p> <p>- Notice of the hearing must been given at least 10 days in advance through publication in the county</p>	<p>Emergency measures are limited to 1 year after becoming effective.</p> <p>May be renewed for 1 year, but in no case can the measure be in effect for more than 2 years.</p>	<p>Not specifically. Section 11-2-10.1 authorizes any person who is aggrieved by the adoption of an emergency ordinance that is not necessary to protect</p>

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		newspaper.		public health, safety or welfare to seek an injunction.
Washington	<p><b>Yes</b></p> <p><b>Rev. Code Wash. § 35.63.200. (cities and towns).</b>  <b>Moratoria and interim zoning controls.</b></p> <p><b>Notable provisions</b></p> <ul style="list-style-type: none"> <li>- Council or board that adopts a moratorium or interim zoning control without holding a public hearing must hold such a hearing within 60 days of its adoption.</li> <li>- Requires written findings of fact to justify its actions.</li> </ul> <p><b>Rev. Code Wash. § 36.70.790 (counties) Interim Zoning.</b></p> <p><b>Notable Provisions</b></p> <ul style="list-style-type: none"> <li>- Limited to the time period in which the planning agency is conducting studies or hearings in advance of adopting a zoning map or making amendments or additions to a zoning map.</li> <li>- The purpose of the interim zoning provision shall be to classify or regulate uses and related matters as constitute the emergency for which the interim provision has been adopted.</li> </ul>	<p>None provided.</p> <p>County may adopt interim zoning as an <b>emergency</b> measure to protect the public health, safety, and general welfare.</p>	<p><b>Applies to both cities and counties.</b></p> <ul style="list-style-type: none"> <li>- Moratoria and interim zoning controls are effective up to 6 months, but may be effective up to 1 year if a work plan is developed for related studies providing for the longer period.</li> <li>- Moratorium or interim zoning control may be renewed for one or more 6-month periods if a subsequent public hearing is held and findings of fact are made before each renewal.</li> </ul>	<p>No.</p> <p>No.</p>

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	<p>- Board that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a hearing must do so within 60 days of its adoption.</p> <p>-As with city interim zoning, the county board must adopt findings of fact justifying its action (either before the hearing or immediately thereafter).</p>			
Wyoming	<p><b>No.</b></p> <p><b>Comments</b></p> <p>Interim zoning is not codified in Wyoming. However, counties have implied powers pursuant to Wyo. Stat. § 18-5-201, et seq. (general planning statutes) to enact zoning regulations on an emergency basis.</p>	<p>Upon the recommendation of a planning and zoning commission, a board of county commissioners may adopt a “freeze-resolution in appropriate circumstances without prior notice and hearing.” <i>See Schoeller v. Board of County Com’rs of Park County</i>, 568 P.2d 869 (Wyo. 1977).</p> <p>- Upon adoption of the “freeze-resolution” notice must be provided in a local publication and a hearing must be held on whether to extend the freeze-resolution to develop a comprehensive plan.</p> <p>- If the freeze-resolution is extended, the board must adopt a comprehensive plan within a reasonable time.</p>	<p>Not clear. There does not appear to be a set timeline in place. The board has “reasonable” time to develop a comprehensive plan after adopting a “freeze resolution.”</p>	<p>No.</p>