

## HOUSE BILL NO. 366

INTRODUCED BY ROSENDALE, LONEY, C. SMITH, JACKSON, O'HARA, VANCE, TUTVEDT, SONJU,  
PRIEST

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; LIMITING A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO 182 DAYS FROM THE DATE IT BECOMES EFFECTIVE; ELIMINATING THE SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; PROHIBITING THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION IF REAL PROPERTY OWNERS REPRESENTING 20% ~~40%~~ OF THE TITLED PROPERTY OWNERSHIP PROTEST THE EXTENSION; AND AMENDING SECTION 76-2-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-2-206, MCA, is amended to read:

**"76-2-206. Interim zoning district or regulation.** (1) Subject to subsection (3), the board of county commissioners may establish an interim zoning district or interim regulation ~~as to address an emergency measure in order to promote~~ that poses a threat to the public health, safety, morals, and ~~general~~ welfare if:

(a) the purpose of the interim zoning district or interim regulation is to classify ~~and regulate~~ those uses and related matters that ~~constitute~~ must be regulated to mitigate the emergency; and

(b) the county: initiates within 30 working days a study or investigation to verify that an emergency exists and to identify the facts and circumstances that constitute the emergency.

~~—— (i) is conducting or in good faith intends to conduct studies within a reasonable time; or~~

~~—— (ii) has held or is holding a hearing for the purpose of considering any of the following:~~

~~—— (A) a growth policy;~~

~~—— (B) zoning regulations; or~~

~~—— (C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.~~

1 (2) A resolution for an interim zoning district or interim regulation must be limited to ~~4-year~~ 182 days from  
 2 the date it becomes effective. Subject to ~~subsection (3)~~ subsections (4) and (5), the board of county  
 3 commissioners may extend the resolution for 1 year, but not more than one extension may be made.

4 (3) The board of county commissioners shall observe the following procedures in the establishment of  
 5 an interim zoning district or interim regulation:

6 (a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim  
 7 regulation must be published ~~once a week for 2 weeks in a newspaper of general circulation within the county~~  
 8 AS PROVIDED IN 7-1-2121. The IN ADDITION TO THE REQUIREMENTS OF 7-1-2121, THE notice must state:

9 (i) the boundaries of the proposed district;

10 (ii) the specific emergency ~~or exigent circumstance~~ compelling the establishment of the proposed interim  
 11 zoning district or interim regulation;

12 (iii) the general character of the proposed interim zoning district or interim regulation, including how those  
 13 uses and related matters that constitute the emergency will be classified and regulated; AND

14 ~~(iv) the time and place of the public hearing; and~~

15 ~~(v)(IV)~~ that the proposed interim zoning district or interim regulation is on file for public inspection at the  
 16 office of the county clerk and recorder.

17 (b) At the public hearing, the board of county commissioners shall give the public an opportunity to be  
 18 heard regarding the proposed establishment of an interim zoning district or interim regulation.

19 (c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim  
 20 zoning district or interim regulation.

21 (4) The board of county commissioners shall observe the following procedures in the extension of a  
 22 resolution pursuant to subsection (2):

23 (a) A study or investigation as provided in subsection (1)(b) must be completed prior to the hearing on  
 24 the proposed extension of the resolution.

25 (b) Notice of a public hearing on the proposed extension of the resolution must be published for 2 weeks  
 26 in a newspaper of general circulation within the county AS PROVIDED IN 7-1-2121. The IN ADDITION TO THE  
 27 REQUIREMENTS OF 7-1-2121, THE notice must state:

28 (i) the boundaries of the existing interim zoning district;

29 (ii) the specific emergency that compelled the establishment of the existing interim zoning district or  
 30 interim regulation and the reason for the proposed extension of the resolution; AND

1 ~~\_\_\_\_\_ (iii) the time and place of the public hearing;~~

2 ~~(iv)(iii) that the proposed extension of the resolution is on file for public inspection at the office of the~~  
 3 ~~county clerk and recorder; and~~

4 ~~\_\_\_\_\_ (v) that for 30 days after the public hearing, the board of county commissioners will receive written~~  
 5 ~~protests to the proposed extension of the resolution from persons owning real property within the boundaries of~~  
 6 ~~the district whose names appear on the last-completed assessment roll of the county. The existing interim zoning~~  
 7 ~~district or interim regulation must remain in effect during the 30-day protest period.~~

8 (c) At the public hearing, which must be held prior to the expiration of the existing interim zoning district  
 9 or interim zoning regulation, the board of county commissioners shall give the public an opportunity to be heard  
 10 regarding the proposed extension of the resolution.

11 (5) (A) Upon the expiration of the 30-day period provided in subsection (4)(b)(v), the THE board of county  
 12 commissioners may in its discretion extend the resolution for the interim zoning district or interim regulation:  
 13 However, if real property owners representing 20% 40% of the titled property ownership in the district protest the  
 14 proposed extension of the resolution, the board of county commissioners may not extend the resolution and may  
 15 not include the area in an interim zoning district or as part of an interim regulation for a period of 1 year BY:

16 (I) A UNANIMOUS AFFIRMATIVE VOTE OF THE COUNTY COMMISSIONERS IN COUNTIES WITH THREE COUNTY  
 17 COMMISSIONERS;

18 (II) AN AFFIRMATIVE VOTE OF AT LEAST FOUR COUNTY COMMISSIONERS IN COUNTIES WITH FIVE COMMISSIONERS;

19 OR

20 (III) AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE COUNTY COMMISSIONERS IN COUNTIES WITH MORE  
 21 THAN FIVE COMMISSIONERS.

22 (B) A COUNTY COMMISSIONER MAY NOT ABSTAIN FROM VOTING UNLESS A PROVEN CONFLICT OF INTEREST EXISTS  
 23 AS DETERMINED BY THE COUNTY ATTORNEY."

24 - END -