

# REVIEW OF TOWN OF BASIN SUBDIVISION REGULATIONS

## Introduction

Subdivision regulations and zoning are the two most common legal devices used to implement master plans. This short paper examines the current subdivision regulations for the Town of Basin, Wyoming and highlights key items needing to be addressed or changed to conform to key concepts of the 2012 master plan update or generally to improve subdivision development.

Subdivision regulations govern divisions of land. They set the standards for how new land parcels are legally described and the records needed to establish permanent title to the land. Subdivision regulations also ensure that the land will have the public improvements in place when it comes time to build and that those improvements will be constructed according to the municipality's standards. Reviewing subdivisions for needed infrastructure before they are built helps the municipality safeguard against future problems and costs.

## Current Status

The current subdivision regulations are found in Title 10 of the Municipal Code. Title 10 consists of four chapters and a total of 29 pages. The first chapter, "Administration and Enforcement," starts off with the municipality's policies for annexation and utility extensions. It also includes definitions, of which there are three – mobile home, mobile home court, and subdivision. The second chapter covers the initial plan review. The third chapter covers requirements for subdivisions other than mobile home parks, and the last chapter addresses the requirements for mobile home parks.

## Observations – Recommendations for Change

The following is not an exhaustive list, but a review of some of the most pressing or problematic items in the existing subdivision regulations. There are a number of excellent provisions in the existing subdivision regulations, but the focus of this analysis is to determine what should be changed. Consequently, the following pinpoints items that are insufficient or lacking.

### **1. Infrastructure – Developers' Responsibilities, Infrastructure Extensions, Phasing Development**

The requirements for completing infrastructure are lacking in several respects and could result in a number of problems for the town including "abandoned" subdivisions without infrastructure, and inconsistent requirements from subdivision to subdivision for developers' financial share. The existing regulations (10-3-2.J), state that costs will be negotiated between the Town and developer for electrical installation. Section 10-3-3.C.2 lists a number of ways that a developer can provide evidence of sufficient resources to complete infrastructure installation, but does not clarify that the Town should have the final say as to what is acceptable. Financial guarantees, such as bonds, may sound secure, but in fact they too can fail, leaving the municipality to finance the infrastructure. There is no reference to time limitations or deadlines for completing infrastructure. Under the existing regulations, a final plat could be filed and a separate contract established to "phase" infrastructure development. Phasing may be necessary and a logical step, but final plats should be

required for each separate phase, rather than a plat for the entire subdivision. Under the current regulations, a final plat could be filed, and lots sold long before the infrastructure is phased for that portion (if it is indeed ever finalized).

Recommendations:

- a. Identify in the subdivision regulations the infrastructure that must be completed by final plat. The town can require all infrastructure to be completed by final plat and not allow any to be completed later. Certainly infrastructure required for public health, safety, etc. would be good candidates for this list and includes water (including fire hydrants), sanitary sewers, streets, storm drainage facilities, power utilities (electricity, gas), lighting.
- b. If the town allows some infrastructure to be completed after final plat, it is suggested that this is the infrastructure not required for public health, safety, welfare, etc. This could include things such as sidewalks, pedestrian pathways (although a case can be made that these also are needed for public safety), cable and internet utilities, etc. (although it makes most sense to install these at the same time as other utilities).
- c. If the town does allow any improvements to be completed after final plat, the regulations should state a time-period by which they must be completed and require a financial guarantee approved by the council. The regulations should allow only the following guarantees: 1) cash (in escrow), 2) surety performance bonds, or 3) irrevocable letters of credit as these are the most stable. In addition, the total amount of the financial guarantee should include an overage amount of 15-25% to cover inflation and municipal administration if the developer defaults.
- d. Developers should be required to pay their pro-rata share of the costs of extending capital facilities to the subdivision, including but not limited to public streets, sewer lines, water supply lines and storm drains. If the subdivision is the only recipient of the extension, the developer will pay 100%.
- e. The subdivision regulations should set standards for phased development and clearly indicate that a separate final plat will be required for each phase.

**2. Divisions of fewer than 3 lots**

Basin's definition of subdivision is the same as that in state law, but there is authority for the town to have a narrower definition. Any division that creates only two lots is exempted from review under the current definition. This has the potential to create lots that do not conform to zoning, are not buildable, are smaller than zoning requirements, have access issues (e.g., through other lots or from the alley only), etc.

Section 11-1-14 "Splitting Property" of the zoning regulations addresses the two-lot divisions that are not covered by the subdivision regulations.

This does not belong in the zoning regulations. The town's requirements for land divisions should be in the subdivision regulations. Having land divisions in both zoning and subdivision regulations is at a minimum confusing and also sets up potential conflicts between the two.

There are no provisions for surveying land splits. Without a survey, potential problems with ownership, easements, property dimensions, and monumentation may be left for unsuspecting future lot buyers to resolve.

In the zoning regulations, a split is defined as “the sale or transfer of any portion of an existing lot or subdivided lot at the time of the enactment hereof within the town of Basin.” This definition could be liberally construed to allow for more than one part of the existing lot to be sold or transferred. So this definition could conflict with the subdivision regulations which address divisions creating 3 or more parcels. Another issue with the definition is the wording that splits only apply to lots existing “at the time of the enactment hereof.” It is assumed that enactment refers to the enactment of the zoning regulations, so there is the question of whether the town wanted to give preferential treatment to those older lots.

There are some limited design requirements (such as provision of utilities) but no procedural guidelines other than the requirement for town approval. Having written procedures for review and approval would help to make the process of land “splits” less subject to the vagaries of case-by-case approach, which can lead to claims of preferential treatment.

Recommendation:

- a. Change the definition of subdivision to include all divisions in subdivision review. About half the towns in Wyoming presently do this. The Town could also create an expedited review process for two-lot subdivisions so that the full review process would not be required.
- b. Alternatively, move the "Land Splitting" section out of the zoning ordinance and put it in the subdivision regulations. Along with that, the section should be modified to:
  - i. require surveying,
  - ii. change the definition of lot so that original lots can only be divided once using the Land Splitting process,
  - iii. include additional design requirements like conformance with lot size requirements and having public street frontage, and
  - iv. include procedural requirements for review of splits.

**3. Review Fees – Additional Costs**

The existing regulations do not require any subdivision review fees, yet the process of reviewing and approving subdivisions costs the municipality.

Recommendations:

- a. Require review fees to be paid prior to initial plan review and for final plat review. Establish a separate fee schedule, so that subdivision regulations do not need to be amended as fees change.
- b. Include a provision in the review fee schedule to require the developer to pay costs of professional or technical expertise that may be required by the Town to determine effects of the

subdivision. Examples could include the cost of a professional engineer to review the design and completion of methods proposed to address high water table.

#### **4. Design Standards – General**

The design standards are at the heart of the purpose of subdivision regulations – to ensure adequacy of infrastructure to and within the subdivision and compatibility of that infrastructure to what already exists or is planned for within the municipality. The existing regulations include a few very specific standards, such as the paving requirements for streets, and much looser broad statements and references to standards located in other documents, such as the Town’s comprehensive plan and erosion control ordinance. Vague standards are problematic because they are subject to interpretation, often result in a “moving target” for developers, and if applied inconsistently from one subdivision to the next can result in lack of continuity in appearance and function across town as well as a potential legal issue.

##### Recommendations:

- a. Check to make sure that the documents referenced as containing standards actually do specify standards.
- b. If the town has a capital improvements plan and annual work plans with standards, these would be an excellent basis for subdivision standards. If the town does not have a capital improvements plan with regular updates, it is strongly recommended they do so.
- c. Be as specific as possible with the standards. Remember that if the standards change, the subdivision regulations have to be amended, so it may make sense to reference the standards in other existing documents.

#### **5. Streets, Pedestrian Pathways, Lighting**

Because the street standards are very specific in the subdivision regulations, the town should review them to make sure they are accurate, particularly after the comprehensive plan is updated. Work on the plan indicates that the town may be moving toward street design that is more pedestrian-friendly, landscaped, etc. Currently the subdivision regulations require a 40’ surface width, which is wider than needed for a residential area. No subdivision is required to have pedestrian pathways, but where they are proposed, standards dictate they are adjacent to the curb, although having some landscaped buffer between the driving lanes and sidewalk (boulevard sidewalks) is safer and more appealing. There are no requirements for street lighting, except in the mobile home park/court standards. Lighting that is “human-scaled” – not too tall or too bright—is more appropriate for residential areas and pedestrian pathways.

##### Recommendations:

- a. Requirements for streets, pedestrian pathways and sidewalks, lighting, etc. should be revised to conform to the updated comprehensive plan. Provide as many specific examples as possible, including drawings or photos, to clarify what is intended. Because it is assumed that the street design will be a template for the entire town (as streets are renovated over time), and not just

new subdivisions, this is a good example of where standards would exist as a stand-alone document.

- b. The town should identify the pedestrian pathways (other than sidewalks along streets) it would like to see around/through town and require subdivisions to provide adequate rights-of-way for these pathways.

## **6. Conformance with Zoning**

The existing regulations do not clarify that new subdivisions should conform to zoning requirements.

### Recommendation:

Require conformance with zoning requirements. Accurately scaled lot layouts should be submitted to show that proposed development meets standards for set-backs, maximum lot coverage for buildings, parking, etc.

## **7. Open Space/Park Dedication**

The regulations require that where a subdivision contains land designated as public open space in the town's comprehensive plan that the developer shall dedicate 295 square feet per potential resident to the public. For subdivisions without any open space designated land, the developer shall pay the cash equivalent (in undeveloped land values). The moneys "may be used for public open space acquisition and development." The open space requirement for mobile home parks is 200 square feet per unit to be used for recreation or recreational vehicle parking.

### Recommendations:

1. Open space requirements should be at least the same for mobile home parks as for residential development. A case can be made that the smaller lot size required for mobile home lots (as compared to residential lots) would indicate more open space is needed, not less. Parking lots should not qualify as open space.
2. The town should consider creating a designated fund for receipt of open space cash contributions and using these funds for open space/parks only.

## **8. Vacating plats**

The regulations do not spell out the review or requirements for vacating plats, aggregating parcels boundary line adjustments, or plat amendments.

### Recommendation:

If vacating plats, aggregation, boundary line adjustments, and plat amendments are not addressed elsewhere in the municipal code, it is suggested they be added.