

Review of Town of Basin Zoning Ordinance

Introduction

This review of the Town of Basin Zoning Ordinance has two purposes. The first is to identify potential problems with the ordinance and recommend corrective measures. The second is identify desirable updates that would bring the ordinance into conformance with the new 2012 Master Plan. This review and the recommended revisions to the ordinance are not intended to completely rewrite or replace the current ordinance. Instead, this review is to achieve a more limited "tune-up" consistent with the limited budget allocated to this work.

The Basin Zoning Ordinance is Chapters 1 and 2 of Title 11 of the Town of Basin Code. The ordinance is very basic and has little in terms of procedures or standards. There are eight zones, with most being cumulative (uses allowed in each higher zone are allowed in lower zones, with residential the highest zone and industrial the lowest). Two zones, the Residential Holding Zone and the Political Subdivision zone are listed in the code but do not appear on the Official Zoning Map. The Town Planning Commission and the Town Council share most of the decision making authority.

There is always a balance to consider when creating or updating the zoning ordinance of a small town. Adding detail to the ordinance can make the process clearer, remove ambiguity, and lead to better development. At the same time, brevity in the ordinance is valued as this can help make the ordinance more accessible and more easily understood. In addition, the town's zoning administration experience may be limited, which works against having a complex ordinance.

Basin's zoning ordinance is quite simple but this is probably appropriate. It certainly could be beneficial if the Town were to completely rewrite the zoning ordinance, starting from scratch when the Master Plan is completed. However, such an effort is not possible within the Town's budget. Fortunately, the ordinance can be substantially improved with the "tune-up" changes recommended below.

Review of the Zoning Ordinance

1. Code interpretation

There are several key parts of the ordinance that use terminology or phrases that are open to widely different interpretations. This can lead to problems enforcing the ordinance. Examples include the definition of construction, which includes "development of parking lots and other 'open-air' projects." It would be better to more clearly specify what "open-air projects" are. This is important because the definition of construction helps determine to which projects the zoning ordinance applies.

In many places, the ordinance uses non-specific phrases. The development plans that are reviewed by the Planning Commission "should be of sufficient clarity and detail to fully determine compliance" with the zoning ordinance. Other areas of the ordinance refer to landscaping, saying the new projects "shall be landscaped in order to maintain the attractiveness of the town." Again, this is standard that could be interpreted in widely different ways. Similar vague standards are used in sections on parking, traffic control devices, open space, and lighting.

2. Development quality

As part of the master plan process, the Town should identify needs for improving the quality of development. For example, so far in the master plan process, town citizens have complained about the character of certain developments that have occurred. Should the zoning ordinance be revised to prevent similar developments from occurring in the future? In general, there are few standards specified in the ordinance and this may be part of the problem.

3. Lot splitting provisions

The section on Lot Splitting is really a subdivision matter and should be moved to the subdivision regulations. For discussion of lot splitting issue, see the Subdivision Ordinance review.

4. Cumulative zoning

The cumulative style of zoning that Basin uses for the Residential, Mixed Residential, Commercial, and Industrial zones is generally considered an antiquated form of zoning. This is because it is more difficult to follow the town master plan when certain types of development are allowed anywhere. This can also lead to conflicting land uses within a single zone. The more up-to-date practice is to have specific purposes for each zone and list the allowed uses accordingly. Mixture of uses, such as residential with commercial can be allowed, but it is done on purpose instead of happening more randomly.

5. Nonconforming uses

The ordinance's section on non-conforming uses allows their expansion. There is great potential for expanding non-conforming uses creating land use conflicts with neighbors. In addition, the ordinance is lacking other basic provisions for non-conforming uses, such as not allowing re-establishment of a nonconforming use after it has ceased for a long time.

6. Procedural inconsistencies

Some of the zones have certain issues decided by the Planning Commission and others decided by the Town Council. For example, in the Political Subdivision zone, lighting issues are reviewed by the Planning Commission while traffic devices and parking issues are reviewed by the Town Council. This split responsibility can be confusing to these boards as well as to the applicant and interested public.

7. Connection to master plan

In town planning practice, the zoning ordinance is a tool for carrying out the town's master plan. In Wyoming, courts have held this and implied that zoning must be consistent with the master plan. However, Basin's zoning ordinance does not state that carrying out the master plan is one of the ordinance's major purposes. Because of the extensive process involved in making a master plan, including a great deal of public involvement, the master plan is the most important foundation for zoning. Affirmatively making the connection between the plan and the ordinance makes the ordinance stronger in a legal sense.

Once the new Master Plan is finalized, the Town should review the terms of various zones to make sure use, lot size, building setback, and other requirements are consistent with the plan.

8. Map problems

There are several potential problems with Town's Official Zoning Map as it related to the text of the zoning ordinance. First, the Residential Holding zone is not shown on the zoning map. It apparently was replaced on the map by the newer Mixed Agricultural zone. The Residential Holding zone is essentially a zone where no new land uses are allowed but the Planning Commission can be quickly change the zoning to either Residential or Mixed Residential at the landowner's request.

The second issue it the Political Subdivision zone, which applies to land owned by public agencies such as the town, county, state, fire district, etc. This zone does not appear anywhere on the zoning map. The zone is intended to allow the existing public uses but any change in use requires Planning Commission and Town Council review.

The third potential problem is possible mismatches between the current zoning map and current or likely future land use. Examples primarily are commercial or industrial zoned areas that are likely to be residential areas in the future (and may already be used for residential purposes). The zoning ordinance says residential use is discouraged (but not prohibited) in Commercial zones. Similarly, the Agricultural zone says it is for low density residential use but the zone does not include a minimum lot size (which presumably would be larger than lot size minimums in other areas).