

ORDINANCE NUMBER 619

AN ORDINANCE REPEALING TITLE 11 OF THE TOWN CODE IN ITS ENTIRETY AND SUPPLEMENTING THE TOWN CODE BY ADDING THE FOLLOWING TITLE TO THE TOWN CODE AS TITLE 11 ZONING REGULATIONS.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BASIN, BIG HORN COUNTY, WYOMING:

SECTION 1: Title 11 of the Basin Town Code shall be repealed in its entirety.

SECTION 2: The Basin Town Code shall be supplemented by adding the following Title 11 Zoning Regulations, to-wit:

SEE EXHIBIT "A" AS ATTACHED. (Available for Review at Town Hall.)

SECTION 3: If any portion of this ordinance is held or found to be invalid, the remainder of the ordinance shall continue to be in full force and effect.

SECTION 4: All ordinances or parts of ordinances of the Town of Basin in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall take effect and be in full force and effect on **September 19, 2013**, after having been published in the Basin Republican Rustler.

PASSED ON FIRST READING **JULY 9, 2013.**

PASSED ON SECOND READING **AUGUST 13, 2013.**

PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING **SEPTEMBER 10, 2013.**

TOWN OF BASIN, WYOMING
A Municipal Corporation

By: _____
AMY KANIA - Mayor

ATTEST:

DANIELLE CHAPMAN - Town Clerk

CHAPTER 1

GENERAL ZONING PROVISIONS

SECTION:

- 11-1-1: Title, Jurisdiction and Application
- 11-1-2: Finding, Scope
- 11-1-3: Authority
- 11-1-4: Related to Land Use
- 11-1-5: Definitions

11-1-1: Title, Jurisdiction and Application

This Title shall be known as the Town Of Basin Zoning Code. The jurisdiction of this Title is intended to apply to the use of land within the Town Boundaries including future lands hereafter annexed into the Town. This Title will also be used as a guiding document concerning input on County Land Use Plans or proposed subdivision of lands within 1 mile of the Town Boundaries as provided in W.S. 18-5-308 (b) as amended.

11-1-2: Finding, Scope

- A. Findings: The town council finds that the health, safety, and general welfare of the citizens of Basin will be best served by dividing the town into various zoning districts or zones and regulating the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within these zones. The zoning regulations of this title shall be in accordance with the Town of Basin Master Plan and shall be designed to accomplish the statutorily authorized purposes of:
1. Lessening congestion in the streets;
 2. Securing safety from fire, panic, and other dangers;
 3. Providing adequate light and air;
 4. Preventing the overcrowding of land;
 5. Avoiding undue concentration of population;
 6. Facilitating adequate provisions for transportation, water, sewerage, electrical power, schools, parks and other public requirements;
 7. Conserving the value of buildings and encouraging the most appropriate use of land throughout the city or town;
and
 8. Preserving, rehabilitating and maintaining historic properties and encouraging compatible uses within the neighborhoods or districts.

Additionally this title shall be designed to take into consideration of:

1. Providing for efficient and effective land use.
2. Providing for a variety of housing options.

B. Scope: The town council, acting in light of the above findings, does hereby resolve that this title shall govern all erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the town.

11-1-3: Authority

This title is adopted under the authority of sections 15-1-601 through 15-1-611 Wyoming Statutes, as amended.

11-1-4: Related to Land Use Plan

It is the policy of the Town of Basin Council that the enforcement, amendment and administration of this Zoning Code be accomplished with due consideration of the recommendations contained within the Town of Basin Master Plan and Future Land Use Map, as developed and amended from time to time by the Town of Basin.

11-1-5: Definitions

As used in this title, the following words and terms shall have the meanings ascribed to them in this section:

ADJACENT: All properties directly contiguous to a parcel under consideration as well as to any properties separated from said parcel by a public way.

ADJOINING: All properties contiguous to or abutting another property; properties on opposite sides of a street or alley are not considered as adjoining.

ADULT USE: Retail and/or entertainment establishments primarily engaged in offering adult entertainment and/or the sale of sexually explicit materials, including adult book and video stores, strip clubs, establishments featuring nude dancers, and similar uses.

AVERAGE LOT SIZE: The sum of the land area of land within the lots in a subdivision divided by the number of lots in the subdivision, not counting any land or lots dedicated for streets, parks or other public uses.

BED AND BREAKFAST INN: An owner-occupied, single-family dwelling where short-term lodging is provided through the rental of no more than four individual rooms to the general public.

BUILDING HEIGHT: The vertical distance of a building measured from the average elevation of the finished grade surrounding the building to the highest point of the building. Air conditioners, chimneys, church spires and steeples, mechanical equipment and similar appurtenances are exempt from building height restrictions.

COMMERCIAL: Land uses involving the purchase, sale or other transaction involving the handling or disposition of any

article, substance, commodity, or service for livelihood or profit, or the ownership or management of office buildings, offices, recreational or amusement enterprises, or maintenance and use of offices by professionals.

CONDITIONAL USE: A land use or development that may be allowed only after an in-depth review procedure and with appropriate restrictions or conditions as provided by this Zoning Code upon a finding that standards and criteria stated in this Code will be satisfied. A conditional use must conform to the Town of Basin Master Plan and be compatible with the existing neighborhood.

CONSTRUCTION: Includes any addition expanding the lot coverage or height of any building as well as to the erection of new buildings and shall further apply to the development of parking lots or establishment of other land uses that lack buildings.
DEQ: The Wyoming department of environmental quality or its successors.

DESTRUCTION: The ruination of a building or structure by accident, fire, flood, wind or similar event where the cost of repair or reconstruction equals or exceeds 50 percent of the market value of the structure before the damage occurred.

DEVELOPMENT PLAN: A plan which serves as a basis of discussion between the planning commission and a developer. It should be of sufficient clarity and detail to fully determine compliance with the provisions of this title but should, also, be subject to change in response to recommendations of the planning commission.

HOME OCCUPATION: Any use conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof. There shall be no window display or other public display of any material or merchandise in connection with any home occupation. No sign shall be displayed on the premises advertising the occupation carried on in the home except one sign which shall not be more than two (2) square feet in area, and which shall be attached to the house.

INDUSTRIAL: Land uses involving the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INSTITUTIONAL USES: Group homes, day care centers, hospitals, nursing homes, convalescent homes, retirement homes and similar uses.

INTERIM USE: A temporary use of property until a particular date, until a particular event, or until zoning regulations no longer permit it. Interim use permits are not recorded and do not run with the land upon transfer. All interim uses shall conform to standards listed in the Interim Use Section of the Code.

LAND USE PERMIT: A permit issued by the Town Council or its authorized agent authorizing the use of land pursuant to the requirements of this Ordinance.

LOT: Lot shall be defined as numbered or otherwise described tract of land designated on a recorded deed of conveyance, plat and/or subdivision plat, and separated from other tracts, parcels or portions for the purpose of development or for the transfer of ownership, exclusive of public rights-of-way or private road easements.

MANUFACTURED HOME: A structure, transportable in one or more dependent sections, constructed in conformance with the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5401 et seq. as amended), which is built on a permanent chassis and designed to be used as a single family residential dwelling unit. See also definition of Mobile Home.

MANUFACTURED HOME PARK: An area occupied by three (3) or more manufactured homes or mobile home spaces. A manufactured home park is distinguished from a subdivision, in which lots are sold for the placement of manufactured homes, by its being in one ownership.

MASTER PLAN: A comprehensive long-range plan intended to guide the growth and development of the community or region, and one that includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities, and land use. The term master plan shall include the terms comprehensive plan and land use plan.

MOBILE HOME: A structure, transportable in one or more sections, designed for use as a single family residential dwelling unit, built on a permanent chassis, that was constructed prior to June 15, 1976 or is lacking certification of compliance with the National Manufactured Housing Construction and Safety Standards Act. Such a structure shall be considered to be a mobile home, whether or not the wheels originally mounted have been removed, and whether or not the structure has been placed upon a permanent foundation. A "trailer house" is the same as a mobile home. See also definition of Manufactured Home.

MODULAR CONSTRUCTION: A structure, transportable in one or more dependent sections, designed for use as a single family residential dwelling unit, not built on a permanent chassis, capable of being transported from the place of fabrication to the

site on which it is to be erected, where it is placed on a permanent foundation and, when assembled, meets all of the provisions of the Uniform Building Code or International Building Code for residential dwelling units.

PERMANENT FOUNDATION: A foundation meeting the Building Code and consisting of approved footings, crawl space or a basement.

PUBLIC USES AND FACILITIES: Public and quasi-public buildings, structures, and land uses operated by a governmental agency or non-profit community organization including non-residential schools, churches, meeting halls, parks, athletic fields, and governmental offices.

TRAILER HOUSE: see definition of mobile home

CHAPTER 2

DISTRICTS AND BOUNDARIES

SECTION:

- 11-2--1: Zoning Districts
- 11-2--2: Zoning District Map
- 11-2--3: Interpretation of the Zoning Map
- 11-2--4: District Regulations

11-2-1 Zoning Districts

The Town of Basin is hereby divided into the following zoning districts as shown below. These zoning districts are created in order to promote the orderly development of land within the Town of Basin.

<u>DISTRICT</u>	<u>DISTRICT INTENT</u>	<u>REFERENCE</u>
Residential (R)	Provides an area for residential development and compatible uses at a density designed to promote efficiency in the delivery of essential services.	11-2-4-2
Mixed Residential (MR)	Provides an area for residential, multiple family residential and manufactured housing development and compatible uses at a density designed to promote efficiency in the delivery of essential services.	11-2-4-3
Rural Residential (RR)	Provides areas of low density development and low density uses to preserve a predominantly rural residential and agricultural character.	11-2-4-4
Mixed Use (MU)	Provides an area that provides a transitional use between commercial and established residential uses.	11-2-4-5
Downtown (D)	Provides an area of commercial, public and residential that would retain much of its present physical character, which are predominantly older and historic buildings arranged in a traditional pattern.	11-2-4-6
Commercial (C)	Provides an area for the placement of retail, service and wholesaling providers and uses complimentary to such uses	11-2-4-7

	in areas where central services are available.	
Railroad Commercial (RC)	Provides an area for the placement of commercial establishments along the railroad corridor.	11-2-4-8
Institutional (IL)	Provides areas for the placement of educational, health and governmental operations in a manner designed to accommodate their unique physical development needs.	11-2-4-9
Industrial (I)	Provides areas for wholesale activities, warehouses and industrial operations such as manufacturing, assembly and fabrication activities whose external physical effects will be felt by some degree of surrounding properties.	11-2-4-10

11-2-2 Zoning District Map

The Zoning District Map of the Town of Basin is hereby adopted as the official Zoning District Map and is located at the Town Hall Offices.

The Zoning District Map may be amended from time to time by Ordinance and in compliance with any other applicable local or state laws.

The locations and boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning District Map," which map accompanies and is hereby declared to be a part this title.

11-2-3 Interpretation of the Zoning Map

Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made and published, the official Zoning Map, adopted by ordinance and updated by ordinance from time to time, shall be the final authority as the current zoning status of land within the Town of Basin.

- A. Appeals: Appeals concerning the exact location of a zoning district boundary line shall be heard by the Town of Basin Council.

11-2-4 District Regulations

Permitted, conditional, and interim uses are enumerated by each zoning district according to the Land Use Regulation Matrix, as amended by resolution. Permitted, conditional, and interim uses shall meet the required criteria of the zoning district.

Building and/or Land Use Permits are required unless specifically exempted or allowed without a permit. There shall be erected or placed no more than one principal use or structure on any lot in a Residential, Mixed Residential or Rural Residential District. In all other districts a second principal use or structure may be approved via conditional or interim use permit.

Whenever an application proposes a use not identified by this Ordinance as either a permitted, conditional or interim use, the Town Council, after review by the Planning Commission, shall issue a statement of clarification, finding that the use is either substantially similar in character and impact to a use identified as either allowed, permitted, conditional or interim within the particular district, or that the use is not sufficiently similar to another use listed within the district. Such statement of clarification shall include the findings that led to such conclusion.

If the proposed use is not sufficiently similar to a use regulated as either a permitted, interim, or conditional use in the specific district, the use shall be prohibited. If an enumerated use in the Land Use Regulation Matrix is not specifically identified as allowed, permitted, conditional, or interim; then such use shall be deemed prohibited in the corresponding zoning district.

11-2-4-1 Land Use Matrix:

A Land Use Matrix shall be adopted and amended by resolution to reflect permitted, conditional and interim uses by zoning district.

11-2-4-2 Residential Zone:

- A. Purpose: The purpose of the residential zone is to provide an area for single-family dwellings free from the traffic and congestion of industry, commerce, and areas of mixed residential use.
- B. Uses Permitted:
 - 1. See matrix
 - 2. Single-family dwellings of conventional and modular construction, home occupations, bed and breakfast inns, child day care facilities and dedicated parks and facilities are the only uses permitted in the residential zone.
- C. Performance Standards: Uses in the Residential District shall conform to the following zone specific standards.
 - 1. Bed and breakfast uses shall require adequate parking so as not to cause disruption to neighboring residents.
 - 2. The lower perimeter of any structure shall be fully enclosed from the lower edge of the dwelling unit to the ground. The material used to enclose the lower perimeter of the dwelling shall consist of wood or wood products, stucco, brick, rock, lap steel, lap aluminum or lap vinyl or a combination of these materials. Any material

used to enclose the lower perimeter of the dwelling unit shall be able to withstand the effects of wind, soil, decay, and the entry of rodents.

3. The home is attached to a permanent foundation in accordance with the U.S. Department of Housing and Urban Development Handbook, Permanent Foundations Guide for Manufactured Housing, September 1996
 - a. Alternate foundation methods must meet the minimum requirements of the manufacturer, or the United States Department of Housing and Urban Development Permanent Foundation Guide for Manufactured Housing.

11-2-4-3 Mixed Residential Zone

- A. Purpose: The purpose of the mixed residential zone is to provide adequate areas for single family and multiple-family dwellings as well as manufactured home dwellings and to maintain the attractiveness of the town's residential neighborhoods.
- B. Uses Permitted:
 1. See Matrix.
 2. Uses permitted in the mixed residential zone include single-family and multi-family dwellings of site-built, modular, and manufactured construction, manufactured home parks, home occupations, bed and breakfast inns, home-based business, dedicated parks and facilities.
- C. Uses Prohibited: Any use where the primary use is not ancillary to home occupation. Any accessory use that increases traffic to the neighborhood.
- D. Performance Standards: Uses in the Mixed Residential District shall conform to the following zone specific standards.
 1. Bed and Breakfast uses shall require adequate parking so as not to causing disruption to neighboring residents.
 2. Off-street parking: Multiple-family dwellings shall provide at least one and one-half (1 1/2) spaces of off street parking for each unit.
 3. Sidewalks: All multi-family structures shall have sidewalks that connect building entrances to parking areas and to the public sidewalk.
 4. The lower perimeter of any structure shall be fully enclosed from the lower edge of the dwelling unit to the ground. The material used to enclose the lower perimeter of the dwelling shall consist of wood or wood products, stucco, brick, rock, lap steel, lap aluminum or lap vinyl or a combination of these materials. Any material used to enclose the lower perimeter of the dwelling unit shall be able to withstand the effects of wind, soil, decay, and the entry of rodents.

11-2-4-4 Rural Residential Zone

- A. Purpose: The purpose of this zoning district is to allow for certain agricultural activities within the boundaries of the Town of Basin and allow low density residential uses and other low-intensity land uses such as public parks and recreational facilities.
- B. Permitted Uses:
 - 1. See Matrix.
 - 2. Uses permitted in the Residential and mixed residential zone.
 - 3. The growing of crops and the rearing, feeding, grazing and management of livestock. This is not intended to allow large commercial livestock operations with heavy concentration of livestock but rather to allow for light concentrations as appropriate for the lot size and including hobby farm operations.
- C. Uses Prohibited: Commercial and industrial activities, as defined in and provided for in this title, are prohibited in the rural residential zone.

11-2-4-5 Mixed Use Zone

- A. Purpose: The purpose of the mixed use zone is to provide for the continuation of existing commercial and residential land uses and to allow for new commercial and residential buildings within the zone. The zone is also intended to improve the appearance of Basin's commercial corridors and to allow residential use to continue without excessive impacts from any new commercial land uses.
- B. Uses Permitted:
 - 1. See Matrix.
 - 2. Uses allowed in the residential, mixed residential and commercial zone.
- C. Performance Standards: The following performance standards shall apply to new construction and new land uses in the mixed use zone:
 - 1. Residential Performance Standards: All new residential construction in the mixed use zone shall conform to the standards in the Mixed Residential Zone.
 - 2. Commercial Performance Standards: All new commercial construction and land uses in the mixed use zone shall conform to the performance standards of Commercial Zone.
 - 3. Commercial Development Adjoining Residential: Whenever new commercial or new multi-family housing construction or land use is proposed on a site adjoining a lot with existing residential building, the following additional performance standards shall apply to the development:
 - a. Screening: The proposed development shall provide a visual screen, such as a board fence, along the side property line adjoining any lot with an existing residential building.
 - b. Lighting: All outdoor lighting shall be planned and installed to be compatible with the area. Area lighting shall utilize full cut-off shields and shall

not be placed more than 18 feet above ground level. Excessive site lighting is prohibited and lighting of adjoining properties shall be minimized.

- c. Signs: Any freestanding sign shall be located at least 10 feet back from any property lines.

11-2-4-6 Downtown Zone

- A. Purpose: The downtown zone is established for the purpose of providing for commercial, office, public, and residential uses that retain the character of Basin's traditional downtown area including the Courthouse Square.
- B. Uses Permitted:
 - 1. See Matrix.
 - 2. Residential use is permitted above the ground floor level of any multi-story building in the downtown zone.
- C. Performance Standards: Uses in the downtown zone shall conform to the following performance standards:
 - 1. Parking: On-site parking is not required for buildings located on sites smaller than 17,500 square feet. On larger sites, on-site parking may be required as necessary to accommodate parking demand in excess of available on-street parking adjoining the site.

11-2-4-7 Commercial Zone

- A. Purpose: The commercial zone is established for the purpose of providing an area for commercial use where other uses are secondary and where adequate parking may be provided by new commercial establishments.
- B. Uses Permitted:
 - 1. See Matrix
- C. Uses Prohibited: Residential and mixed residential Uses
- D. Performance Standards: The following performance standards shall apply to new construction and new land uses in the commercial zone:
 - 1. Sidewalks: All structures shall have sidewalks that connect building entrances to parking areas and to the public sidewalk.
 - 2. Parking: Commercial developments shall provide off-street parking adequate for employees and customers. Such parking areas shall have adequate drainage and lighting, and safe access to public streets. Parking areas shall be located no closer than five (5) feet to any property line.
 - 3. Lighting: All outdoor lighting shall be planned and installed to be compatible with the area. Area lighting shall utilize full cut-off shields and shall not be placed more than 18 feet above ground level. Excessive site lighting is prohibited and lighting of adjoining properties shall be minimized.

11-2-4-8 Railroad Commercial Zone

- A. Purpose: The railroad commercial zone is established for the purpose of providing an area for heavy commercial uses

including agricultural products processing in areas along the railroad tracks historically used for these purposes. This is also the only zone where adult uses are allowed.

- B. Uses Permitted:
 - 1. See Matrix.
 - 2. Adult uses, agricultural products processing, agricultural supplies sales and storage, equipment and fuel sales and storage, storage elevators, truck storage yards, warehouses, wholesale storage, and land uses that are permitted in the commercial zone.
- C. Prohibited Uses: Residential and mixed residential uses.
- D. Performance Standards: The following performance standards shall apply to new construction and new land uses in the commercial zone:
 - 1. Parking: Commercial developments shall provide off-street parking adequate for employees and customers. Such parking areas shall have adequate drainage and lighting, and safe access to public streets.

11-2-4-9 Institutional Zone

- A. Purpose: The purpose of the institutional zone is to accommodate the Wyoming Retirement Center and similar institutional uses in a spacious campus setting.
- B. Permitted Uses: Retirement center, related uses, and accessory uses.
- C. Performance Standards: There are no pre-established setbacks or other requirements for the institutional zone. Maximum design flexibility is afforded with development specifications established through a master site plan reviewed by the planning commission. The master site plan shall show immediate and future development with integrated site planning for parking, access, circulation, building locations and designs, open space, drainage, and utilities. Construction of buildings shall require an approved master site plan prior to construction approval.

11-2-4-10 Industrial Zone

- A. Delineation: The limits of the industrial zone shall be shown on the official zoning map of the town.
- B. Purpose: The industrial zone is established for the purpose of providing an area for industrial use where other uses which limit the normal scope of industrial operations are secondary.
- C. Uses; Permitted:
 - 1. See Matrix.
 - 2. Commercial zone uses.
 - 3. Railroad Commercial Zone uses.
 - 4. Light and Heavy Industrial Uses.
- D. Uses Prohibited: No adult uses are permitted in the industrial zone. In addition, industrial land uses are

permitted in the industrial zone excepting the following which are excluded from the town limits:

1. Commercial livestock operations.
2. Oil refineries.
3. Power generating station.
4. Rendering plants.
5. Any other industry that the planning commission and Town Council has ruled unsuitable due to odor, glare, noise, safety and health hazards, etc.

E. Performance Standards: Uses in the industrial zone shall conform to the following performance standards:

1. Parking: All industrial uses shall provide off-street parking adequate for employees and customers. Such parking areas shall have adequate drainage and lighting, and safe access to public streets.

11-2-4-11 Lot Size and Bulk Regulations by Zoning District

ZONE	MINIMUM LOT SIZE	STREET SETBACK	ALLEY SETBACK	OTHER LOT LINE SETBACKS	MAXIMUM BUILDING HEIGHT
Residential	6,000 Sq Feet	20'	5'	5'	35 Feet
Mixed Residential	5,000 Sq Feet	20'	5'	5'	35 Feet
Rural Residential	2 Acres*	20'	20'	20'	35 Feet
Mixed Use	7,500 Sq Feet	20'	5'	5'	35 Feet
Downtown	5,000 Sq Feet	20'	0'	0'	35 Feet
Commercial	7,500 Sq Feet	20'	5'	5'	35 Feet
Railroad Commercial	7,500 Sq Feet	20'	5'	5'	56 Feet
Institutional	NONE	NONE	NONE	NONE	56 Feet
Industrial	20,000 Sq Feet	30'	5'	5'	56 Feet

*Except that subdivisions may have smaller lots, with a minimum lot size of 21,780 square feet, provided the average lot size of the subdivision shall be two (2) acres or more.

CHAPTER 3

PLANNING AND ZONING COMMISSION

SECTION:

- 11-3--1: Finding
- 11-3--2: Authority
- 11-3--3: Meetings
- 11-3--4: Jurisdiction
- 11-3--5: Members
- 11-3--6: Quorum

11-3-1 Finding

The Town of Basin Council appointed the Zoning Planning Commission on January 7, 1975 known as the Basin Planning Commission to evaluate city growth and make recommendations to the city regarding what measures to take to control or direct it.

11-3-2 Authority

This Commission is adopted under the authority of sections 15-1-501 through 15-1-604 Wyoming Statutes, as amended.

11-3-3 Meetings

Meetings of the board shall be held at the call of the chairperson, and at such other times as the board may determine. The chairperson, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

11-3-4 Jurisdiction

The board shall have the following powers:

- A. The commission, after holding public hearings, shall adopt and certify to the governing body a master plan for the physical development of the municipality.
- B. The commission has all powers necessary to perform its planning functions and promote municipal planning and may:
 - 1. Make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, other organizations and citizens;
 - 2. Recommend to the Town Council programs for public improvement and their financing.
- C. To recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein.

- D. Review and make recommendations to the Town Council concerning building and/or development as required in Town Code.

11-3-5 Members

The Board shall consist of seven (7) members comprised of one (1) member of the Town Council and six (6) members from the incorporated community appointed by the Mayor with the consent of the Council.

Appointments will be for three (3) years and be staggered to allow for two members to be appointed every year. Maximum number of consecutive terms is three (3).

11-3-6 Quorum

A minimum quorum of four (4) members is required for any action at a meeting of the Planning Commission.

CHAPTER 4

ADDITIONAL PROVISIONS

SECTION:

- 11-4-1: Severability
- 11-4-2: Concurrent Application
- 11-4-3: Nonconformities
- 11-4-4: Mobile and Manufactured Homes
- 11-4-5: Variances
- 11-4-6: Zone Changes and Other Amendments

11-4-1 Severability

Should any portion of this title or the application of it to specific circumstances be held invalid in a court of competent jurisdiction the remainder of this title and its application to other circumstances shall remain unaffected.

11-4-2 Concurrent Application

Where other ordinances of the town or standards of state or federal law apply to building or construction regulated by this title, the more restrictive shall govern.

11-4-3 Nonconformities

Any use or structure lawfully existing upon the effective date of this Title may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:

- A. A nonconforming use of land or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record if it will increase the area of nonconformity or create another nonconformity on the parcel.
- B. Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use, including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the non-conforming use.
- C. Nonconforming principal and accessory structures may be expanded or enlarged upon issuance of the appropriate permits provided that the use of the property conforms to zoning district regulations, that the expansion or enlargement meets current zoning district regulations and all applicable statutes and rules are complied with, and no other nonconformities are created. Such expansion or enlargement of a nonconforming principal or accessory structure may be approved along with a development plan in

conjunction with a building or land use permit application provided the area of the new improvements does not add to the existing nonconformity nor does it create another nonconformity. All additions or alterations which expand or enlarge the total existing structure area on the parcel which cannot meet all other current zoning district regulations may only be authorized by a variance.

- D. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations that do not extend or intensify the nonconforming use. Nothing in this section will prevent the placing of a structure into a safe condition after it has been declared unsafe by a Building Official.
- E. Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be reviewed and recommended by the Planning Commission and with approval of the Town Council.
- F. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent or less of its estimated assessed value as indicated in the records of the county assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of its estimated assessed value as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged.
- G. When any lawful non-conforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Title and it shall not thereafter be changed to any non-conforming use or structure.
- H. If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of the land or the structure shall be in conformity with the provisions of this Title.
- I. Nonconforming uses or structures that are declared by the Town Council to be public health and/or safety nuisances shall not be allowed to continue as legal nonconforming uses or structures.

- J. No repair, replacement, maintenance, improvement or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

11-4-4 Mobile and Manufactured Homes

- A. Mobile or manufactured homes that are older than July 13, 1994, will not be permitted anywhere within the Town of Basin. Existing mobile/manufactured homes that are older shall be considered as grandfathered as of the effective date of this Title and will be allowed unless or until they are considered a health and safety nuisance/problem. At such time that a mobile/manufactured home is removed from the property, the property can no longer be occupied by a mobile/manufactured home unless it is of the appropriate age and if otherwise permitted within the area. Any and all mobile or manufactured homes located within the Town of Basin must have an affixed manufacturer's certification as outlined in the code of federal regulations title 24, section 3280.11.
- B. All mobile/manufactured home parks shall conform to subdivision standards per Title 10 (subdivision code) and applicable state standards. No compliance permit shall be issued prior to DEQ approval of the plans and specifications.

11-4-5 Variances

The Town Council shall have the exclusive power to order the issuance of variances from the terms of this ordinance. All such variances shall be granted in accordance with W.S. Title 15, as amended.

- A. Application: Application for a variance shall be made, in writing, to the Basin Planning Commission at least ten (10) working days before a regular planning commission meeting. The application shall explain precisely from which standard a variance is sought and the reasons a variance is needed. The non-refundable fee must be paid prior to the application being considered.
- B. Standards: No variance from the strict application of any provision of this title may be granted unless:
 - 1. There are special circumstances or conditions, fully described in written findings, which are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the title;

2. For reasons fully set forth in the written findings, the circumstances or conditions are such that the strict application of the provisions of the title would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and
 3. A practical difficulty with compliance of the standard is established.
 - a. Practical difficulties, as used in connection with the criteria for granting of a variance, means:
 - (1) The property owner proposes to use the property in a reasonable manner not permitted by the Zoning and Subdivision Ordinance;
 - (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner;
 - (3) The variance, if granted, will not alter the essential character of the locality;
 - (4) Economic considerations alone do not constitute practical difficulties.
 - (5) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
 4. The granting of the adjustment is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 5. The granting of the adjustment is in harmony with the comprehensive Town Master Plan.
- C. Action: The planning commission shall review each application for a variance and shall within sixty (60) days:
1. Recommend to the Town Council that the variance be granted;
 2. Recommend to the Town Council that the variance be granted with conditions;
 3. Recommend to the Town Council that the variance be rejected; or
 4. Call a public hearing on the variance.
- D. Approval by Town Council: The town council shall, at the first regular meeting following any recommendation from the planning commission, approve, disapprove or request further information of any actions taken by the planning commission, with the exception that the planning commission

may call a public hearing without approval of the town council.

- E. Public Hearing: In the event that a public hearing is called, the applicant shall pay for notice fees and the Town shall publish notice of said hearing at least twice in the town's official newspaper. The notice shall contain the location of the proposed variance and a description of it.
- F. Action After Hearing: After a public hearing on an application for a variance the planning commission shall:
 - 1. Recommend to the Town Council that the variance be granted;
 - 2. Recommend to the Town Council that the variance be granted with conditions;
 - 3. Recommend to the Town Council that the variance be rejected.
- G. Conditions: The governing body may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- H. The Planning Commission and Town Council must make an affirmative finding on all five (5) criteria listed above **(11-4-5-3a)** in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under the terms of this Ordinance.
- I. The written report to be included with any action by the Planning Commission and Town Council shall outline the reasons for approval or denial.

11-4-6: Zone Changes and Other Amendments

- A. Application: Application for a zone change shall be made, in writing, to the planning commission at least ten (10) working days in advance of a regular planning commission meeting. The application shall contain an accurate description of the area for which the change is requested and a description of the proposed use if the change is granted. A non-refundable fee shall be paid prior to any consideration of the zone change.
- B. Initial Consideration: At its initial consideration of the application for a zone change, the planning commission shall set a date for a hearing on the zone change.
- C. Notice: A hearing on a zone change shall be preceded by at least twenty (20) days' notice in the town's official newspaper and by notice to all adjacent landowners by

certified mail. Notice shall be at the expense of the applicant.

- D. Master Plan: All zone changes shall be consistent with the Town of Basin Master Plan.
- E. Action: After the hearing on the proposed zone change, the planning commission shall within sixty (60) days:
 - 1. Certify the change to the town council for inclusion on the official zoning map of the town.
 - 2. Recommend to the town council that the change be rejected.
- F. Hearing by Town Council: Upon receiving a certification or recommendation concerning a zone change, the town council shall set the date for a public hearing on the proposed zone change. Such a hearing shall be preceded by at least fifteen (15) days' notice in the town's official newspaper.
- G. Action by Town Council: After holding its hearing on a proposed zone change, the town council shall within thirty (30) days:
 - 1. Accept the change by majority vote;
 - 2. Accept the change with additional conditions; or
 - 3. Reject the change by majority vote.
- H. Exceptions to Majority Vote Rule: Where the owners of twenty percent (20%) or more of the adjacent lots file a written protest to the change, at least seventy five percent (75%) of the members of the town council must vote in favor of the change to secure its adoption.
- I. Official Zoning Map: Upon town council final acceptance of a zoning change, the town clerk shall cause the change to be shown on the official zoning map, with said change to be endorsed with the signature of the mayor.
- J. Other Amendments: All other amendments to the zoning ordinance, including any amendment to the text of the ordinance, comprehensive revision of the ordinance, and comprehensive revision of the zoning map, shall be processed in accordance with requirements of subsections A through I of this section except that the notice to all adjacent landowners of subsection C is not required.

CHAPTER 5

ENFORCEMENT, APPEALS AND PENALTIES

SECTION:

11-5-1: Enforcement

11-5-2: Appeals

11-5-3: Penalty

11-5-1 Enforcement

- A. Violation Defined: It shall be a violation of this title to make any use of property or commence construction or other land use or development activities not expressly permitted by this title, without a compliance permit, or other required approval granted pursuant to this title.

- B. Action by Zoning Officer: When the zoning officer determines that a zoning violation has occurred and informal resolution is unsuccessful or inappropriate due to the nature of the violation, the zoning officer shall send a notice of violation to the responsible party by certified mail, return receipt requested. The notice shall state the location of the property, the nature of the violation, the section(s) of this title being violated, a time limit for compliance not exceeding ten (10) days, the penalty for violations, and suggested corrective actions. The zoning officer shall also send a copy of the notice to the town attorney.

- C. Revocation of Permits. If the zoning officer finds that any construction is not in accordance with the approved zoning compliance permit or is in violation of this or any other pertinent regulations, or that there has been any misrepresentation in connection with the application for the permit, the zoning officer shall notify the responsible party of such findings and that the violation must be corrected. The responsible party shall have ten (10) working days in which to reply to such notification. If such reply or correction is not made, the zoning officer shall revoke the permit and shall provide to the responsible party a written notice of the revocation, including the reasons for the revocation and notice of the right of appeal to the Town Council. No person shall proceed with any part of such construction after such notice is received.

- D. Town Attorney: If a violation is not remedied within the time limit specified in a notice of violation, the town attorney shall use all appropriate legal means to enforce compliance with this title.

11-5-2 Appeals

- A. Appeals from Action of Zoning Officer: Appeals from a decision by the zoning officer may be made, in writing, to the Town Council. Such appeals must be filed with the zoning officer at least ten (10) working days before a regular meeting of the council.
- B. Appeals from Action of Town Council: Appeals from a decision of the Town Council may be made to district court as provided by law.

11-5-3 Penalty

Violations of this title shall be punishable as provided in section 1-4-1 of this code. Each day in which the violation continues shall be ruled a separate offense.

CHAPTER 6

PERMITS AND FEES

SECTION:

- 11-6-1: Zoning Compliance Permits
- 11-6-2: Interim and Conditional Use Permits
- 11-6-3: Fees

11-6-1 Zoning Compliance Permits

- A. **Permit Required:** A zoning compliance permit issued by a designated zoning officer shall be required for all construction or building.
- B. **Review before Issuance:** All zoning compliance permit applications for industrial uses, commercial uses, institutional uses, public uses and facilities, mobile home courts, planned residential developments, and multi-family dwellings shall require development plan review and approval by the planning commission.
- C. **Form of Application:** Applications for zoning compliance permits and development plans shall be made on forms provided by the town. The planning commission is authorized to develop appropriate forms that specify the necessary project information, site layout, and design details that applicants should provide to allow the commission to efficiently conduct its review.
- D. **Basis of Review:** Review shall be based on a development plan submitted to the zoning officer at least ten (10) working days prior to a regular planning commission meeting. The planning commission shall review development plans for conformance to the performance standards, zone regulations, and other standards contained in this title and to the general and specific intent of the master plan for the Town of Basin.
- E. **Further Information Requests.** Further information may be requested by the planning commission at the first meeting the application is reviewed. The request may cover any aspect of a proposed development which is dealt with in the performance standards, zone regulations, and other standards contained in this title or the master plan for the Town of Basin. Further information shall be submitted before review may continue.

- F. Issuance after Review: After review of the development plan by the planning commission, the planning commission shall within sixty (60) days:
1. Recommend to the Town Council to approve the permit;
 2. Recommend to the Town Council to approve the permit with conditions;
 3. Recommend to the Town Council to reject the permit, filing its reasons for doing so in writing within five days after the decision is made;
 4. Call and advertise a public hearing on the application at its next regular meeting.
- G. Public Hearings: In the event that a public hearing is called, the applicant shall pay publishing fees and the Town shall publish notice of said hearing at least twice in the town's official newspaper. The notice shall contain the location of the proposed development and a description of it.
- H. Action after Hearing: After a public hearing on an application for a development plan, the planning commission shall:
1. Recommend to the Town Council to approve the plan;
 2. Recommend to the Town Council to approve the plan with conditions;
 3. Recommend to the Town Council to reject the plan, filing its reasons for doing so in writing within five days after the decision is made.
- I. Permit Issuance: The designated zoning officer may issue zoning compliance permits when the officer is satisfied that the proposed project conforms to the requirements of this title. In cases where planning commission approval of a development plan is required, the officer shall issue the zoning compliance permit only after the planning commission has reviewed and the Town Council has approved the plan.
- J. Duration of Permit. A zoning compliance permit is valid for one year. If physical construction is not substantially underway within one year from the date granted the permit is said to be expired. Application would again be necessary before proceeding.

11-6-2 Interim and Conditional Use Permits

Any use listed as a Conditional or an Interim Use in this Title shall be permitted only upon application to the planning commission, review and recommendation of the Planning Commission, approval and issuance of a Conditional/Interim Use Permit by the Town Council, and only after any additional approval required under applicable official controls of any other governmental jurisdiction.

The applicant for a conditional/interim use permit shall fill out and submit to the Planning Commission an Application for

Conditional/Interim Use Permit at least ten (10) days prior to a regularly scheduled Planning Commission meeting. When such permit is completed and submitted, the appropriate fee shall be paid in order for the application to be considered complete and to receive consideration by the Planning Commission. A site evaluation shall be conducted by the appointed town designee and, as applicable, the Planning Commission prior to consideration of the permit by the Town Council.

- A. Required Findings of Fact. The Planning Commission shall during its public hearing consider and include in its recommendation to the Town Council consideration of the following findings-of-fact:
 - 1. Whether the proposed use adversely affects the public safety, health, morals, convenience and general welfare of the occupants of surrounding land;
 - 2. Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land;
 - 3. Whether the proposed use adversely affects property in the surrounding area;
 - 4. Whether the proposed use is in conformance with the Comprehensive Town Master Plan or Land Use Plan; and,
 - 5. Whether adequate utility, drainage and other such necessary facilities have been or can be provided.

- B. In consideration of the granting of any conditional use permit throughout the Town Council shall evaluate the effect of the proposed use upon:
 - 1. The maintenance of the public health, safety and welfare;
 - 2. The location of the site with respect to existing and proposed access roads;
 - 3. Its compatibility with adjacent land uses;
 - 4. Its compatibility with the intent of the zoning district in which such use is proposed;
 - 5. Its compatibility with the objectives of this Title and its consistency with the Town of Basin Land Use Plan.
 - 6. The ability to provide pedestrian and bicycle access, as noted in the site plan, to any customer/tenant ingress/egress of the building, including from a public right-of-way and off-street parking area that serves the use in a manner which minimizes non- vehicular/vehicular conflicts.

- C. Upon consideration of the factors listed above, the Planning Commission may attach such reasonable conditions, in addition to those required elsewhere in Ordinance, which it deems necessary for the furtherance of the purposes set forth in this Title. Such conditions attached to conditional use permits may include, but shall not be limited to:
 - 1. Increased yards and setbacks;
 - 2. Limitations on odor, dust, noise, and light pollution;

3. Periods and/or hours of operation;
 4. Minimum number of off-street parking spaces;
 5. Type of construction;
 6. Adequate access for all pedestrians, including those using wheelchairs or any other mobility aid, subject to requirements in the Americans with Disabilities Act.
 7. Deed restrictions;
 8. Landscaping and vegetative screening;
 9. Specified sewage treatment and water supply connections;
 10. Location of signs;
 11. Requirement to notify the Town of Basin within 30 days of the transfer of ownership of a property subject to a conditional use permit;
 12. Any other reasonable requirements necessary to fulfill the purposes and intent of this Title.
- D. The procedure for applying for a conditional/interim use permit is as follows:
1. An applicant desiring a conditional/interim use permit shall fill out and submit to the Planning Commission a completed Conditional/Interim Use Permit Request form.
 2. The appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission.
 3. The appointed town designee shall make a written recommendation to the Planning Commission.
 4. The Planning Commission shall advertise a public hearing to be held.
 5. The Planning Commission will forward its recommendation to the Town Council for consideration at its next scheduled meeting. If it recommends approval of the conditional/interim use permit, the Commission may recommend conditions it considers necessary to protect the public health, safety and welfare.
- E. Public Hearings: In the event that a public hearing is called, the applicant shall pay publishing fees and the Town shall publish notice of said hearing at least twice in the town's official newspaper. The notice shall contain the location of the proposed development and a description of it.
- F. Action after Hearing: After a public hearing on an application for a development plan, the planning commission shall:
1. Recommend to the Town Council to approve the plan;
 2. Recommend to the Town Council to approve the plan with conditions;
 3. Recommend to the Town Council to reject the plan, filing its reasons for doing so in writing within five days after the decision is made.
- G. The Town Council will act upon the request at the next regular meeting after receiving recommendations from the Planning Commission. The Town Council may affirm, deny or modify the recommendation provided by the Planning

Commission. If it grants the conditional/interim use permit the Town Council may impose reasonable conditions it considers necessary to protect the public health, safety and welfare. Such conditions may include a time limit for the use to exist or operate.

- H. If a time limit or periodic review is included as a condition by which a conditional/interim use permit is granted, the conditional/interim use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Town to schedule such public hearings and the owner of land having a conditional/interim use permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of conditional/interim use permits may be granted by the Town Council at the time of review at its discretion.
- I. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the original Conditional Use Permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

11-6-3 Fees

In order to defray administrative costs, the applicant will pay all costs associated with the processing of applications for zoning compliance, conditional use permits, interim use permits, variance requests, and zone change or amendments, a schedule of fees shall be as follows:

Zoning Compliance/Land Use Permit:

MOBILE/MANUFACTURED/MODULAR HOME	Included in Building Permit Fee
RESIDENCE/PRINCIPAL STRUCTURE	Included in Building Permit Fee
ACCESSORY STRUCTURE/ADDITION TO EXISTING STRUCTURE	Included in Building Permit Fee
LAND USE	\$25.00

Other Fees:

ZONE CHANGE/AMENDMENT	\$300
CONDITIONAL/INTERIM USE PERMIT	\$300
VARIANCES	\$300
FLOOD PLAIN DEVELOPMENT PERMIT	\$300
NOTICE FEE (Applies to all permits requiring a public hearing)	\$100 or proof of proper notice
ENGINEERING/OTHER PROFESSIONAL REVIEWS	Hourly Rate Billed to Town plus 2%
LATE FEE	\$100 for construction or new land use prior to permit approval

