
CHAPTER SEVEN

LAND USE MANAGEMENT

7.1 INTRODUCTION

The examination of municipal land use policies and regulations is an important element of a municipal master plan. It is essential that future land use policies and regulations are generally consistent with the community vision outlined in the municipal master plan. Various land use law precedents essentially mandate that the rationale for any zoning regulations, zoning maps and other land use regulations are based upon findings or recommendations contained in a municipal master plan.

Chapter Seven examines the scope of existing land use regulations, identifies regulatory needs, and presents a recommended approach to addressing future land use management needs.

7.2 PURPOSE OF LAND USE REGULATIONS

Municipal land use regulations are typically adopted and enforced by small and large communities to maintain a reasonable set of community development standards that are traditionally outlined in zoning and subdivision regulations, as well as ordinances related to building codes and signs. In many cases, sign regulations are incorporated within a municipal zoning ordinance.

Effective municipal land use regulations attempt to balance land use development and investment opportunities and individual property rights with public health, safety and welfare considerations, community economic development objectives, natural resource conservation issues, and the enhancement of property values. Reasonable land use regulations help sustain property values and tend to attract private investments. In contrast, overly restrictive regulations and/or subjective regulatory requirements often frustrate existing property owners and potential new investors. The frustration of existing landowners and other potential investors can stifle private investment and threaten the economic viability of the community.

7.3 RELATIONSHIP TO THE MUNICIPAL MASTER PLAN

7.3.1 Zoning

W.S. 15-1-601(a) gives Wyoming municipalities the option to establish zoning regulations by ordinance. When adopted, W.S. 15-1-601(d) indicates that municipal zoning regulations are, in part, to be prepared in accordance with a comprehensive plan. The comprehensive plan refers to municipal master plans that are required in W.S. 15-1-503.

Other case law in the United States indicates that municipal zoning must be based upon rationale that is found in a comprehensive plan or municipal master plan. This is why the prevailing practice among professional planners in the United States is to prepare master plans that, in part, demonstrate intent for future land use management, e.g., zoning, or recommended development standards, but do not incorporate specific zoning provisions or zoning maps within the master plan report.

7.3.2 Subdivisions

W.S. 15-4-248 stipulates that any person subdividing land within a city or town for the purpose of selling lots is required to have the land surveyed and platted. Upon review, the city engineer is to advise the city manager concerning whether or not the proposed subdivision should be approved, rejected, or modified. Subsequently, the city manager is to provide a recommendation to the Town Council. If a subdivision plat is accepted by the Town Council, the Town Clerk is to certify the face of the subdivision plat drawing. The legislative intent of this statute is to provide authority to cities and towns for the review and approval of new land subdivisions.

While the Town of Thayne does not have a city engineer or city manager, the Town uses Sunrise Engineering, Inc. to provide these services. Consequently, Sunrise Engineering, Inc., or other firms, could provide these services to the Town of Thayne on a contractual basis as long as such firms would not provide services to entities seeking to develop a subdivision within the Town of Thayne.

W.S. 18-5-308 clarifies the geographical extent of a municipality's authority to review and approve subdivisions. W.S. 18-5-308 stipulates that the governing body, e.g., Town Council, must also approve any subdivision that is located within one mile of a municipal boundary.

Wyoming Statutes make no reference to conformance of the proposed subdivision to the municipal master plan. However, the general practice of many elected municipal leaders and municipal staff in Wyoming is to evaluate, in part, the consistency of the proposed subdivisions with the municipal master plan.

7.4 EVALUATION OF EXISTING LAND USE REGULATIONS

7.4.1 General

The Municipal Code of Thayne includes a number of regulations, procedures and standards that relate to land use management. These provisions are found in the following sections of the municipal code:

- Chapter 2, Section 05.010—creation of Planning Commission;
- Chapter 5, Section 01--building permit requirements;
- Chapter 8, Sections 01 through 08--subdivision regulations;

- Chapter 8, Sections 09 through 16--subdivision design standards; and,
- Chapter 8, Sections 17 and 18--annexation requirements and procedures;
- Chapter 8, Section 19--variance requirements and procedures;
- Chapter 9, Sections 01 through 11--zoning regulations; and,
- Chapter 18, Section 01 – subdivision review and approval procedures.

Many of these sections have been amended via a number of municipal ordinances since their initial adoption. Many of these ordinances have not yet been integrated into the overall municipal code. For example, it appears that the subdivision procedures originally outlined in Chapter 8 have been repealed by Chapter 18, Section 1, which was adopted by the Thayne Town Council on June 12, 2000. However, the repeal of Chapter 8.01 is not reflected in Chapter 18.

7.4.2 Planning Commission

Section 2.05.010 creates a planning commission that can be comprised by as many members as the governing body, or Thayne Town Council, prescribes. Planning commission members are to be appointed by the Mayor with the advice and consent of the governing body. Section 2.05.010 is consistent with State statutes.

While W.S. 15-1-502 appropriately provides flexibility concerning the composition and operation of municipal planning commissions, it is recommended that the Thayne Municipal Code identify a specific number or range of persons who can serve on the municipal planning commission. It is recommended that five persons be appointed to the Thayne Planning Commission. This size enables the planning commission to:

- Comprise an odd number of persons that can make decisions by simple majority; and,
- Maintain an established quorum, e.g., three persons, when two planning commission members are absent.

Noticeably absent from Section 2.05.010 is a description of the authority and scope of responsibilities of the planning commission. This information is especially pertinent to persons who come before the Planning Commission for various types of land use reviews and approvals. Residents and potential investors need to have clarity concerning the role of the Planning Commission and its relationship to the ultimate decisions of the Thayne Town Council. These responsibilities should be outlined in the planned revision to the Town's land use regulations.

7.4.3 Zoning Regulations

7.4.3.1 Zoning Districts

Zoning regulations outlined in Chapter 9 of the Municipal Code of Thayne establish six zoning districts. These districts include:

- Agricultural-residential (AR1);
- Agricultural-residential-mobile home (AR2);
- Commercial (C-1);
- Commercial (C2);
- Heavy commercial-light industrial; and,
- Industrial (I-1).

The original formation of two agricultural-residential districts in the municipal code is understandable given the historical agricultural development of the community. Agricultural land uses remain a part of the community and should continue to be promoted in the municipal code. However, some newer residential neighborhoods in the community have transitioned to exclusive residential use.

In this context, one new rural residential district could be included in the planned revision of the zoning regulations. This zoning district could authorize detached single family homes, mobile or manufactured homes, agricultural support facilities; as well as crop and livestock production.

A new mixed residential district would also be desirable to encourage the development of residential neighborhoods that could include a combination of residential uses such as detached and attached single family homes, as well as residential apartment buildings. If desired, residential apartment structures or residential condominiums could be included in a separate residential zoning district.

The establishment of a new mixed commercial-residential district is also recommended. Such a zoning district would help implement recommendations outlined in Chapters Four and Six of the master plan that recommend the authorization of mixed commercial retail-residential uses along portions of the U.S. Highway 89 corridor. Where a mixed use is desired by a landowner, retail commercial activities would be authorized on the ground floor; residential housing, e.g., apartment or condominium, would be permitted on the second floor. Otherwise, this zoning district would accommodate only general commercial facilities. The establishment of a new mixed commercial-residential district could possibly be accomplished through the modification of the existing C-2 Commercial District regulations.

Chapters Four and Six of the master plan also call for the development of one or two business parks that would include a combination of commercial and light industrial land uses, but exclude commercial retail establishments. In order to attract the development of new commercial and light industrial activities, it is important that potential sites remain available in the community to accommodate these land uses. Otherwise, new business parks can quickly become filled by commercial retail operations. To accomplish this, municipal zoning regulations could establish a new zoning district for business parks or a modified heavy commercial-light industrial district.

If the heavy commercial-light industrial district is retained, some of the authorized uses, such as overnight or short-term campground facilities, commercial storage facilities, vehicle sales and service operations, could be shifted to general commercial (C-1) district.

Light manufacturing businesses and welding shops would remain as authorized uses in the heavy commercial-light industrial district or be included in a new business park district.

The formation of a community and public district is also recommended. Such a zoning district would accommodate facilities associated with government operations or private facilities that are generally available for public use. If included, residents and future investors can become more aware of where these facilities may be located in the future.

The establishment of a recreation-conservation district is also recommended to sustain future opportunities for recreation, as well as conserve lands that are unsuitable or less desirable for future land use expansion. Some areas within or adjacent to the community are situated within the 100-year flood plain or larger wetland areas. Future land use expansion is not recommended within the 100-year flood plain to minimize potential damages to human life and property. Wetland areas support stormwater detention, help improve surface water quality, and provide valuable wildlife habitat. At the same time, the 100-year flood plain and local wetlands could be used to support outdoor recreational activities that require no facility development. Other parts of the community, which already include recreational facilities, could also be included within this zoning district.

7.4.3.2 *Zoning Map*

With adoption of the municipal master plan, the recommended types and location of future land uses will require a revision of the municipal zoning map. The community land use plan map presented in Chapter Six of this municipal master plan should provide a general guide for these revisions. In essence, the municipal master plan is to provide the rationale for more specific zoning district designations included within the municipal zoning map.

7.4.3.3 *Development Criteria*

Zoning regulations contained in Chapter 9 of the Municipal Code of Thayne generally include provisions for development criteria relating to minimum lot area, minimum building setbacks, as well as minimum and maximum floor space requirements. However, more recent regulations adopted for commercial (C2) district in November 2006 (Ordinance 240) include requirements concerning maximum floor space, landscaping, and outdoor lighting. The incremental development of zoning regulations has led to some inconsistency in development criteria that have been adopted for each zoning district. Existing criteria and standards should be reorganized, re-examined and, in some cases, expanded.

It is recommended that additional criteria such as maximum building height and vehicular parking and storage be incorporated into the regulations associated with each zoning district. Maximum building heights should primarily reflect local fire suppression capabilities. Vehicular parking and storage provisions should consider off-street parking needs, issues associated with the parking of larger semi-trailers and trucks, and the storage of inoperable vehicles. The parking of recreational vehicles is already addressed in Section 9.10.125 of the Thayne Municipal Code.

Development criteria for future zoning districts should also incorporate maximum lot densities rather than traditional minimum lot sizes. The design and construction of future residential subdivisions within the Town of Thayne, as well as areas within one mile of the municipal boundary, are likely to encounter some wetlands, areas containing some soil limitations, and important wildlife habitat. In view of these considerations, the inclusion of cluster zoning in municipal zoning regulations would enable the developer to design subdivisions at assigned maximum residential density levels rather than a defined minimum lot size. At the same time, the flexibility in the layout of residential lots would enable developers to circumvent important natural resource areas and areas with potential development constraints.

7.4.3.4 Sign Regulations

Chapter 9, Section 10 needs revision to provide greater flexibility to businesses operating in the community. The scope of present sign regulations does not recognize that commercial businesses frequently desire to use a combination of signage to advertize their products and services. The selection of signage is generally dependent upon their location, visibility to pedestrian and vehicular traffic, as well as the type and size of property used by the business.

Existing sign regulations need to be revised and expanded to provide standards for a combination of potential commercial signage such as awning, canopy, window, projecting or suspended, wall, time and temperature, monument, and free-standing signs. The incorporation of pictures and illustrations into the regulations can facilitate understanding of municipal regulations by the municipal planning commission, business representatives, and the general public.

7.4.4 Subdivision Regulations

Subdivision regulations presented in Chapter 18, Section 101 generally provide a reasonable process for the review and approval of subdivisions, as well as some useful design and development standards. The subdivision and review process could be enhanced through the inclusion of a pre-application conference where applicants can gain an understanding of subdivision application requirements. Sunrise Engineering, Inc. included some subdivision plan requirements in its development of *Public Works Standards Specifications and Drawings* which was published in May 2008. Appropriate requirements should be incorporated into any future revision of overall subdivision regulations.

Development standards should also be re-organized and expanded to provide greater clarity to engineers responsible for the preparation of preliminary and final subdivision plats. Selected standards outlined in Chapter 18 of the Thayne Municipal Code, Wyoming Department of Environmental Quality Water Quality Rules and Regulations, as well as Thayne Public Works Standards Specifications and Drawings, should also be incorporated into these standards. Additional standards associated with outdoor lighting should also be considered.

The incorporation of some recommended design guidelines with development standards should also be considered during the planned revision of land use regulations. For example, a few design guidelines relating to architectural design of commercial structures might be included. While such guidelines are typically subjective in nature, their inclusion into development standards can provide guidance to developers, investors, and design professionals concerning design preferences of the Town of Thayne. Using this approach, development standards can remain flexible, but reflect some subjective community preferences.

7.4.5 Annexation

Annexation procedures outlined in Chapter 8, Sections 17 and 18 are generally consistent with Article 4 of Title 15 of the Wyoming Statutes. Article 4 outlines the process for annexation of private and public properties into a city or town.

7.4.6 Building Permits

Chapter 5 of the Municipal Code of Thayne requires building permits for all building construction, alterations, or changes in building use, as well as the collection of building permit fees. A more refined building permit process should be established that differentiates new residential and commercial construction from the completion of minor building improvements. Further, the building permit regulations should outline when building inspections associated with new residential and commercial construction will take place during the construction process.

7.5 RECOMMENDED APPROACH TO FUTURE LAND USE MANAGEMENT

7.5.1 Prepare and Adopt a Municipal Land Development Code

As stated earlier, existing land use regulations are presently scattered throughout various chapters of the Municipal Code of Thayne. The scope and inter-relationship of these regulations lend themselves to the establishment of a unified land development code within one chapter of the municipal code. Such an approach would foster greater understanding of municipal land use regulations by a wide variety of users.

The land use development code would generally contain, at least, the following sections:

- General Provisions
- Land Use Review and Approval Procedures
- Zoning Regulations
- Development Standards
- Annexation Process
- Appeals and Enforcement
- Definitions and Rules of Interpretation

The inclusion of an Overlay Districts section to the Land Development Code might also be useful. Overlay districts represent additional zoning requirements that are applied to proposed development projects within a geographical area of the community, but do not change underlying zoning regulations. Overlay districts are often established by communities to conserve surface and groundwater supplies, minimize the impact of potential flood hazards, and other special considerations.

The consolidation of land use regulations within one title of the municipal code is very desirable to facilitate future access to municipal land use regulations by the residents, landowners, potential investors, the Town Council and Planning and Zoning Commission, and municipal staff. For Thayne, the municipal land development code would ideally include provisions, as described as follows in Sections 7.5.1.1 through 7.5.1.6.

7.5.1.1 *General Provisions*

Aside from the general purpose and intent of the land development code, the general provisions section of the land development code should include, in part, the authority for the establishment of the municipal planning and zoning board, board of adjustment, part-time zoning administrator and part-time building inspector. This information provides residents and potential investors with concise information concerning the responsibility of municipal representatives and the scope of their authority.

7.5.1.2 *Land Use Review and Approval Procedures*

An important portion of a land development code is the outline of application, review and approval procedures for various types of land use actions. Land use actions appropriate to a Thayne land development code would include, at least, future amendments to the community land use plan, subdivisions, zone changes, planned unit developments, and variances.

The identification of these procedures enables the general public to conveniently determine what information needs to be provided to the Town of Thayne, the process for approval, opportunities for public comment, and the criteria used for project approval. The definition of these procedures facilitates the development of a more consistent process for land use approvals. Greater consistency in the review and approval process generates greater trust from local residents.

7.5.1.3 *Zoning Regulations and Related Zoning Map*

Zoning regulations for the Town of Thayne should include several types of zoning districts. As stated earlier, some existing zoning districts should be modified or eliminated to encourage future commercial investment and other planned land uses that are envisioned in this municipal master plan. Regulations for each zoning district would desirably outline, at least, the purpose of the district, permitted uses, minimum lot area, lot coverage, setbacks, building height, fencing, vehicular parking and storage, and accessory uses.

A revised zoning map should be prepared concurrently with the preparation of the municipal land development code. The municipal zoning map will identify the location of several types of zoning districts. As stated earlier, the location of specific zoning districts that are depicted on the zoning map should generally be consistent with the more general land use designations that are included in the community land use plan map (see Chapter Six).

7.5.1.4 *Development Standards*

Development standards should also be incorporated into the land development code in order that future land subdivisions are designed and constructed in a manner that is complementary to municipal road network, as well as municipal water and wastewater systems.

Development standards should also include a combination of design guidelines and standards for the installation of outdoor lighting and commercial signs. Design guidelines are recommended criteria that simply signal the preferences of the community. In contrast, mandatory standards specify requirements for items such as the type of pipe that would be constructed in a water collection system serving a new residential subdivision.

7.5.1.5 *Appeals and Enforcement*

Another important section in the land development code relates to appeals and enforcement. It is important that residents and municipal staff are fully cognizant of the rights of residents and potential investors to appeal decisions and actions of the zoning administrator, building inspector, or other municipal staff. This appeals and enforcement section would ideally include rules for proceedings before a municipal board of adjustment. Enforcement provisions should also outline the authority of appropriate municipal representatives to enter and inspect properties.

7.5.1.6 *Definitions*

Perhaps one of the most important sections in the overall land development code is the definition of selected terms used in the land development code. The clarity of selected terms in the land development code is essential to promoting effective decisions by the Thayne Planning and Zoning Commission and the Thayne Town Council. The same information is equally important to enhance the understanding of the general public.

7.5.2 *Reactivate Planning Commission*

Once revisions to the land use regulations are completed, it is recommended that the functions of the Town of Thayne's Planning Commission be reactivated. The reactivation of the Planning Commission will help clarify and provide an orderly process for land use planning, as well as ease the workload of the Thayne Town Council.

7.6 RESOURCES SUPPORTING FUTURE LAND USE MANAGEMENT

7.6.1 Geographical Information System

Preparation of this master plan involved the expansion and use of a geographical information system (GIS) that was originally developed by Thayne Councilman Bob King using ArcGIS software. The Thayne GIS was initially established using available parcel data that was made available by Lincoln County. This information was supplemented with available spatial data from various public and private agencies. Subsequently, Pedersen Planning Consultants incorporated September 2008 land use inventory data and other spatial data into the Thayne GIS.

It is recommended that available spatial and tabular data in the Thayne GIS be converted into published map files that can be read by ArcReader software. This free software enables users to access and review available spatial and tabular data from ArcGIS; at the same time, users cannot edit any of these files. With a nominal investment made for file conversion and limited user training, a wide range available land use, infrastructure, and natural resource data can be conveniently accessed by municipal staff, the Town Council, and the Thayne Planning Commission.

Land use information contained in the Thayne GIS should be updated as changes in land use occur. An existing building layer should be expanded to record building permit and inspection data and linked to digital photos of any property or any building in the community. This will facilitate future land use management efforts by the Town of Thayne.

Periodic updates of the Thayne GIS could be made by a private contractor. It is recommended that available spatial and tabular data contained in the Thayne GIS be updated on an annual basis.

7.6.2 Implementation of the Land Development Code

In order to process future applications for zone changes, land subdivisions, the Town of Thayne may require some limited staff support to review one or more types of land use applications. The Town Clerk's office could make available application forms for zone changes, building permits and other approvals. The Town Clerk or a designee could also attend and prepare minutes of each monthly meeting of the Thayne Planning and Zoning Commission.

The review of some actions may occasionally require the insights of a professional engineer or planner. In order to address this need, the Town of Thayne should retain a professional engineer or planner on an hourly basis to review applications for land use plan amendments, new subdivisions, rezoning, planned unit development projects, and variances on an as-needed basis. The consultant would review proposed project applications, inspect related properties, identify relevant project issues, and make

recommendations to the Thayne Planning and Zoning Commission and the Thayne Town Council. Recommendations of the consultant would be presented in the form of brief staff reports and onsite presentations to both bodies.

7.7 ANNEXATIONS

7.7.1 Annexation Process

Article 4 of Title 15 of the Wyoming Statutes outlines the process for annexation of private and public properties into a city or town. Before any lands are eligible for annexation, the governing body of any town, i.e. Town Council, must demonstrate that:

- the proposed annexation is for the protection of the health, safety and welfare of the persons residing in the area and in the city or town;
- the proposed annexation would constitute a natural, geographical, economical and social part of the annexing city or town;
- the proposed annexation is contiguous with, or adjacent to, the annexing city or town;
- the area sought for annexation represents a logical and feasible addition to the annexing city or town; and,
- the extension of basic public services, e.g., water supply and distribution, which are customarily available to town residents, will, within reason, be made available to the proposed annexation area.

Towns and cities may initiate proceedings to annex lands if the proposed annexation meets the preceding conditions and limitations which are outlined more fully in W.S. 15-1-402. Town or city councils are required to prepare:

- a. a legal description;
- b. a listing of the current mailing address of each landowner;
- c. a map showing identifiable landmarks and boundaries of the proposed annexation area;
- d. a proposed annexation report that will include:
 - a map of the proposed annexation area;
 - the total estimated cost of infrastructure improvements that the municipality will impose upon landowners of property comprising the annexation;
 - a list basic and other services available to residents of the city or town and a timetable when those services will become available to the proposed annexation area;
 - a projected annual fee or service cost for municipal services;
 - the current and projected property tax mill levies that will be imposed by the municipality; and
 - the cost of infrastructure improvements required within the existing boundaries of the municipality to accommodate the proposed annexation.

Before any lands are eligible for annexation, the Town Council is required to advise affected landowners and any affected public utility with the estimated cost of anticipated infrastructure improvements. This information is to be furnished to affected landowners and public utilities within ten days prior to the required public hearing associated with the proposed annexation.

If the annexation complies with the conditions outlined in W.S. 15-1-402, the governing body shall adopt a resolution certifying compliance. If the area does not comply, no further action is to be taken on the proposed annexation.

For those annexations considered to be in compliance, the town or city council is required to establish a date, time and place for public hearing. In essence, the public is given an opportunity to express its conclusions concerning whether or not the proposed annexation complies with W.S. 15-1-402. The required public hearing is to be held not less than 30 days or not more than 180 days after the petition for the annexation has been certified to be complete. The Town Clerk is to publish a public notice, at least, twice in a newspaper of general circulation, at least, 15 business days prior to the date of the public hearing.

After the public hearing, the town or city council will annex the proposed annexation by ordinance if the governing body finds that the conditions outlined in W.S. 15-1-402 exist and the required procedures for annexation have been met. Further, no annexation is to create a land area within the boundaries of the city or town that is not annexed. Subsequently, the town clerk will file a map of the proposed annexation area and a copy of the ordinance approved by the governing body with the county clerk.

If more than fifty percent of the landowners of a proposed annexation area, or one landowner or landowners owning more than fifty percent of the area to be annexed, file written objections with the clerk of the annexing municipality within twenty (20) business days after the public hearing, no further action may be taken on any area within the proposed annexation within two years. However, if seventy-five percent or more of the perimeter of the proposed area to be annexed is contiguous to the corporate limits of the annexing city or town, written objections will not be applicable.

7.7.2 Relationship to Master Plan Implementation

Recent annexations to the Town of Thayne are desirable and important to future implementation of the Thayne Municipal Master Plan. Adjoining land areas, particularly east of the municipal boundary, have been recommended for future residential and commercial development.

Future private investment and related land use expansion can be encouraged, in part, by the annexation of properties adjoining the municipal boundary. Investors are typically more comfortable investing in land development projects where supporting public services are readily available. The availability of public services reduces initial land development costs, as well as long-term operation and maintenance expenditures.

Future annexations can also enable the Town of Thayne to more effectively influence the type, location, and quality of future land use development on lands surrounding the present municipal boundary. As revised zoning and subdivision regulations are established, more reasonable and effective land use controls can help enhance the construction quality associated with future residential, commercial and industrial development projects. An improved built environment can also contribute to an improved investment climate.

The future development of annexed lands typically generates increased property values and increased property tax revenues. A portion of these revenues are distributed to municipal government. Similarly, sales tax revenues to municipal government are derived from commercial development projects that generate retail sales.