

CHAPTER 5
Planning and Zoning

ARTICLE 1
COUNTY PLANNING COMMISSION

18-5-101. Definition of "unincorporated".

As used in W.S. 18-5-101 through 18-5-107, the word "unincorporated" means situated outside of cities and towns and when used with "territory" or "areas" it means territory or areas which are one (1) mile from the limits of a town or city having a population of two thousand (2,000) or less, two (2) miles from the limits of a town or city having a population between two thousand (2,000) and three thousand (3,000) and three (3) miles from the limits of a town or city having a population of three thousand (3,000) or over.

18-5-102. Powers of county commissioners.

Each board of county commissioners may provide for the physical development of the unincorporated territory within the county by zoning all or any part of the unincorporated territory.

18-5-103. Appointment of county planning commission; composition; powers and duties generally.

(a) To avail itself of the powers conferred by W.S. 18-5-101 through 18-5-107 the board of county commissioners shall appoint a county planning commission. The chairman of the board of county commissioners shall be an ex officio member of the commission. Other members of the commission shall own real property situated therein. The mayors of the incorporated communities within the county or their designees shall be members of the commission.

(b) The county planning commission shall recommend the boundaries of the various original districts and appropriate regulations to be enforced. The commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the board of county commissioners shall not hold its public hearings or take action until it has received a final report of the commission.

(c) The county planning commission shall use expert advice and information which may be furnished without cost by appropriate federal, state, county and municipal officials,

departments and agencies. All state officials, departments and agencies having information, maps and data pertinent to county planning or zoning are directed to make the same available for the use of the county planning commission and to furnish other technical assistance and advice they have available without additional cost to the county or municipality.

18-5-104. Duties of board of county commissioners; election for establishment of zoning district.

(a) The board of county commissioners shall determine how regulations, restrictions and boundaries of the districts shall be established and enforced, and how they may be amended, supplemented or changed.

(b) The board of county commissioners in which the proposed zoning district is situated shall order an election to be held sixty (60) days after they have determined by resolution that the health, safety and welfare of the people in the proposed zoning district requires such protection. The election shall be on the question of the organization and establishment of the district. The board of county commissioners shall publish notice of election, stating the purpose, describing the area and time and place of the election in a newspaper published in the county. The notice shall be inserted once weekly for four (4) weeks preceding the day of election. Ballots shall be prepared for the residents of the district and the qualifications of electors shall be the same as for general elections. The voting shall be conducted insofar as possible in the same manner as provided by law for general elections. The election shall be deemed carried if the voting residents of the area approve the same by a majority vote. If the proposed zoning district does not include any residents the county commissioners may establish the district.

18-5-105. Purpose of zoning; regulation of sanitary facilities; division of county into zones; building permits required.

(a) The purpose of zoning is to conserve and promote the public health, safety and welfare of the citizens of the county. The board of county commissioners shall provide by resolution for the regulation of sanitary facilities for buildings and other structures. Sanitary facilities means domestic water supplies, sewage disposal, rodent and insect control and the storage, collection and disposal of garbage and refuse.

(b) In order to accomplish the regulation of sanitary facilities the board of county commissioners shall divide the unincorporated territory of the county into zones as recommended by the county planning commission and shall regulate the erection, construction, reconstruction, alteration and uses of sanitary facilities to conform with the minimum requirements established by regulations of the public health authority having jurisdiction in each zone.

(c) It is unlawful to erect, construct, reconstruct, alter or change the sanitary facilities of any building or other structure within the zone without obtaining a building permit. The building permit shall not be issued unless the plans for the proposed sanitary facilities fully conform to all regulations then in effect. No building permit shall be issued for structures in areas not adequately served by water or sewerage systems until the proposed sanitary facilities have been approved by the public health authority having jurisdiction in the area.

18-5-106. Powers of county commissioners upon appeal; appeal from commissioners to district court and supreme court.

(a) The board of county commissioners has the following powers upon appeal to it from acts of the county planning commission or regulations promulgated in accordance with W.S. 18-5-101 through 18-5-107:

(i) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of W.S. 18-5-101 through 18-5-107 or any regulation adopted pursuant thereto;

(ii) To hear and decide exceptions to the terms of any regulation requiring board action;

(iii) To authorize in specific cases a variance from the regulation when not contrary to the public welfare. The variance may be granted when special conditions and a literal enforcement of the regulation results in unnecessary hardship.

(b) The decision of the county commissioners upon any exception made may be reviewed by the district court of the county upon appeal taken thereto in the same manner as an appeal from circuit courts in civil cases. The county clerk shall prepare a transcript of the case upon payment of the same fee as

required for a transcript from a circuit court, and the district court shall consider the case upon the issues shown in the transcript. At the time the transcript is filed with the clerk of the district court, the appellant shall execute and file a sufficient bond in a penal sum of two hundred dollars (\$200.00) with at least two (2) sureties approved by the clerk of court conditioned to prosecute the appeal without delay and if unsuccessful to pay all costs incurred by the county because of the appeal. The appellant shall within three (3) days after the transcript is filed in the district court give written notice to the county attorney that the transcript is filed. The notice shall state a time not less than three (3) days from the time of service when the appellant shall request a hearing and the district court shall at such time or at a future time as fixed by order of the court, hear and determine the appeal. If at the hearing it appears to the court that testimony is necessary for the proper disposition of the matter it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law which shall constitute a part of the proceedings upon which the determination of the court is made. The court may reverse, modify or affirm the decision brought for review. An appeal lies to the supreme court from the judgment of the district court in the same manner as provided for civil actions.

18-5-107. Violation of provisions.

If a building, structure or facility is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of the provisions of W.S. 18-5-101 through 18-5-107 or of any regulation made thereunder, the proper local authorities of the county, in addition to remedies which may be prescribed by local regulations, may institute any appropriate legal action to prevent or abate such unlawful acts.