

**WORK SESSION AGENDA  
WYOMING CITY COUNCIL MEETING  
CITY COUNCIL CHAMBERS**

**Monday, October 13, 2014, 7:00 P.M.**

- 1) Call to Order**
- 2) Student Recognition**
- 3) Public Comment on Agenda Items (3 minute limit per person)**
- 4) Update on Medical Marijuana Facilities**
- 5) Proposed Ordinance for Lawns, Gardens and Water Efficient Landscaping**
- 6) Sale of Property Located at 3470 South Division Avenue**
- 7) Water Well Restriction Ordinance**
- 8) Any Other Matters**
- 9) Acknowledgement of Visitors/Public Comment (3 minute limit per person)**

MEMORANDUM

TO: Curtis L. Holt  
City Manager  
  
Chief Carmody  
City Clerk

FROM: Jack R. Sluiter  
Wyoming City Attorney

DATE: September 29, 2014

RE: Medical Marijuana Facility

On December 12, 2013, House Bill 4271 was passed by the Michigan House. That bill is now pending in the State Senate.

The Bill as currently passed allows for medical marijuana dispensaries (called "Provisioning Centers") and Medical Marijuana Testing Facilities (called "Safety Compliance Centers"). It also allows for dispensing of non-smokeable forms of marijuana which would allow the sale of marijuana baked goods and similar products.

The Act is currently passed by the House contains a section to allow a municipality to prohibit both types of facilities but also provides that a facility in operation as of the effective date of the final Act is grandfathered and can not be prohibited.

The Michigan Supreme Court has previously ruled that medical marijuana dispensaries are not allowed in the state since they were not provided for in the medical marijuana act. The purpose of this legislation is to allow these types of facilities.

Should the Council wish to use the section of the proposed statute which allows us to prohibit these types of facilities, I have prepared two ordinances for your review:

1. The amendment to add Article VI to Chapter 14 of the Code, the Business Regulations, provides for a prohibition of both provisioning centers and safety compliance centers within the City. That ordinance can be considered by the Council as a normal ordinance requiring two readings for adoption.

2. I have also prepared an ordinance to add Section 90-69 to the Zoning Code to prohibit medical marijuana provisioning centers and medical marijuana safety compliance facilities. This ordinance, is part of the Zoning Code which would require review by the Planning Commission prior to action by the City Council.

Curtis Holt  
Chief Carmody  
Page 2  
September 29, 2014

I am requesting discussion of these ordinances at the October 13 Council work session. Chief Carmody will be present to discuss the specific law enforcement issues related to these types of facilities.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADD ARTICLE VI TO  
CHAPTER 14 OF THE CODE OF THE CITY OF WYOMING  
ENTITLED "MEDICAL MARIJUANA FACILITIES"

THE CITY OF WYOMING ORDAINS:

Section 1. That Article VI is hereby added to Chapter 14 of the Code of the City of Wyoming to read as follows:

**ARTICLE VI**  
**MEDICAL MARIJUANA FACILITIES**

**Sec. 14-451. Findings of Fact.**

The City Council hereby determines that locating medical marijuana provisioning or distribution centers or businesses selling medical marijuana or medical marijuana safety compliance centers as defined by Michigan Law may result in increased crime and be a danger to public safety, will result in the need for increased use of resources of the public safety department to provide for these facilities and based upon the nature of commercial development in the City, will result in a blighting factor which will affect adjacent residential, commercial and/or industrial areas.

**Sec. 14-452. Definitions.**

For purposes of this chapter the following definitions shall apply:

(1) *Medical Marijuana Provisioning Center* or "provisioning center" means a commercial entity located in this state that acquires, possesses, manufactures, delivers, transfers, or transports medical marijuana to registered qualifying patients, directly or through the patients' registered caregivers. Provisioning center includes any commercial property where medical marijuana is sold to registered qualifying patients and registered primary caregivers. The location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's medical marijuana registration process in accordance with the Michigan medical marijuana act is not a provisioning center for purposes of this act.

(2) *Michigan medical marihuana (marijuana) act* means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(3) *Safety compliance facility* means an entity that tests marijuana produced for medical use for contaminants.

**Sec. 14-453. Prohibition of Facility.** Medical marijuana provisioning centers and safety compliance facilities as defined herein are hereby prohibited in the City.

Section 2. This ordinance shall be in full force and effect on the \_\_\_\_\_ day of

\_\_\_\_\_, 2014.

I hereby certify that the above-entitled Ordinance was adopted by the City of Wyoming at a \_\_\_\_\_ session of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Heidi A. Isakson  
Wyoming City Clerk

Ordinance No. \_\_\_\_\_

JRS/sak  
09/29/14

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADD SECTION 90-69 TO  
THE CODE OF THE CITY OF WYOMING

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-69 is hereby added to the Code of the City of Wyoming to read as follows:

**Sec. 90-69. Medical marijuana facilities.**

Medical marijuana provisioning centers and medical marijuana safety compliance facilities as defined in Chapter 14 of this Code or any other facility to distribute medical marijuana shall not be allowed in any zone in the City. This section shall not apply to a location used by a primary caregiver to assist a qualifying patient as allowed in the Michigan Medical Marijuana Act as amended.

Section 2. This ordinance shall be in full force and effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

I hereby certify that the above-entitled Ordinance was adopted by the City of Wyoming at a \_\_\_\_\_ session of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Heidi A. Isakson  
Wyoming City Clerk

Ordinance No. \_\_\_\_\_

MAYOR  
Jack A. Poll

AT-LARGE COUNCILMEMBER  
Sam Bolt

AT-LARGE COUNCILMEMBER  
Kent Vanderwood

AT-LARGE COUNCILMEMBER  
Dan Burrill

1ST WARD COUNCILMEMBER  
William A. VerHulst

2ND WARD COUNCILMEMBER  
Richard K. Pastoor

3RD WARD COUNCILMEMBER  
Joanne M. Voorhees

CITY MANAGER  
Curtis L. Holt

## Staff Report

Date: August 4, 2014

Subject: Ordinance - Lawns, Gardens and Water Efficient Landscaping

From: Tim Cochran, City Planner - Community Services

Cc: Rebecca Rynbrandt, Director of Community Services

Meeting Date: August 11, 2014

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### Recommendation:

It is recommended that the City Council adopt the proposed Lawns, Gardens and Water Efficient Landscaping Ordinance to replace the existing Weed Ordinance.

### Sustainability Criteria:

Environmental Quality – The proposed ordinance provides minimum standards that allow property owners the ability to implement private gardens, grow food crops, install sustainable drought resistant plantings generally associated with LEED Certified developments, and provide/maintain naturalized plantings for the benefit of wildlife.

Social Equity – The ordinance provides for a broad range of landscape diversity which enhances the quality of life for all residents and businesses in the City. Personal preference and ethnic diversity can be displayed and enjoyed by applying the basic standards established through the ordinance.

Economic Strength – The provisions encourage sustainable gardening and landscaping practices. Enhanced landscaping is acceptable which leads to the overall beautification of the City. Water efficient landscaping is permitted as part of a LEED Certified or other development. This enhances the City's profile and supports companion economic developments. The ability to grow food crops provides for a greater disposable income, greater nutrition and educational opportunities for our residents.

**Discussion:**

The existing provisions are a weed control ordinance. They have remained essentially unchanged since 1983. The ordinance is basic, and requires there be no weeds and lawn cuttings when a height of 12 inches is reached. The City's practice (without standards) has been to allow ornamental shrubbery and garden areas when reasonably maintained. Over the last few years there has been a substantial increase in the number of people desiring to grow vegetable gardens where available on their property. This includes the front yard. Also, the City had no provisions within the ordinances to specifically allow drought tolerant landscaping as encouraged under LEED Certified developments, such as are found within Metro Health Village. As staff began looking into standards to properly regulate the potential diversity of landscapes, it became apparent that the extensive variety of plantings and arrangements possible should be encouraged so long as the respective plantings are properly placed and maintained. Under the proposed ordinance, the basic requirements are:

- Lawns and ornamental landscapes in the front yard areas. Vegetable or ornamental gardens may be placed in the rear yard. Small (16 sq. ft.) greenhouses are permitted.
- Native and adapted vegetation (drought tolerant) plantings are encouraged.
- Rank vegetation (uncultivated) and weeds are to be controlled or removed.
- Grass must still be cut when a height of 12 inches is reached.
- Undeveloped properties now must cut only the first 50 feet of the property as measured from the street.

**Budget Impact:**

A nominal fee would be required for a Water Efficient Landscaping Permit. It is anticipated that the fee will not cover all aspects of staff review and inspections. This would be somewhat off-set by administrative fees charged with mowing of overgrown lawns. However, the benefits of having a more beautiful, diverse, healthy and sustainable landscape within the community is highly valued.

**Lawns, Gardens and Water Efficient Landscaping**

**Sec. 82-61. Findings of Fact.**

The purpose of this section is to establish minimum standards for lawn maintenance, private gardens and water efficient landscaping. It is recognized that a variety of landscapes within a community adds diversity and richness to the quality of life for all residents. Turf grass lawns continue to be recognized as the dominant feature in the landscape; however, alternatives to this traditional type of lawn are recognized as important parts of a diverse, successful, enriching and sustainable landscape.

**Sec. 82-62. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning:

**Adapted Vegetation** means those trees, shrubs, wildflowers, grasses and other plants that naturally acclimate to this environment.

**Maintenance Plan** means a document submitted with an application for a Water Efficient Landscaping Permit demonstrating a precise course of maintenance for numerous individual plants in a landscape over months and seasons.

**Native Vegetation** means any trees, shrubs or plants (exclusive of noxious weeds) indigenous to this region.

**Natural Habitat** means a specially uncultivated and sensitive planting area whereupon native vegetation exists in a pristine state and provides home for a variety of species native to the area. Such vegetation shall maintain itself in a stable condition with minimal human intervention.

**Noxious Weeds** means an annual, biennial, or perennial plant designated by the Michigan Commissioner of Agriculture as injurious to public health, the environment, public roads, or other property.

**Private Garden** means an area for the non-commercial cultivation of flowers, vegetables, ornamental plants or similar plant materials on a property by an owner or authorized occupant.

**Rank Vegetation** means uncultivated plants growing at a rapid rate due to unplanned, unintentional, or accidental circumstances.

**Turf Grass** means cultivated vegetation consisting of a highly maintained surface of dense grass underlain by a thick root system.

**Water Efficient Landscaping Permit** means a permit issued by the City allowing an owner or occupant to cultivate native and adaptive vegetation as part of a Leadership in Energy and Environmental Design (LEED) or other environmentally sensitive planting. A Water Efficient Landscaping Permit exempts an owner or occupant from Section 82-63 (3) of this Chapter.

**Weeds** means any unsuitable, unwanted, or uncultivated vegetation, often causing injury to the desired vegetation type.

### **Sec. 82-63. General Requirements.**

(1) All lot areas not designated for buildings, pedestrians, vehicles, recreation or storage, shall be provided with turf grass or a combined ground cover of maintained gardens, hedges, trees, and shrubbery. No plantings are permitted within public right-of-ways without written authorization from the Public Works Department. Plantings shall be maintained so as to not obstruct sidewalks, alleys or streets.

(2) No owner or occupant of any parcel shall allow any noxious weeds on any part or portion of said parcel.

(3) No owner or occupant of developed properties shall allow any turf grass, weeds, or rank vegetation to grow to a height greater than twelve (12) inches. This section does not apply to any lands that are exempted by Section 82-64.

(4) Gardens shall be permitted anywhere upon private properties, with the exception of vegetable gardens, which are only permitted in rear yards. Gardens shall be maintained in a cultivated state except during the winter months. Gardens that are no longer under active cultivation shall be removed and replaced per (1) above. Designated garden areas shall be maintained free of weeds at all times throughout the year. Stands for the sale of garden produce or flowers are not permitted.

(5) Temporary greenhouses or hoop houses constructed with fabric or plastic walls and roof that are a maximum 16 square feet are permitted. Temporary greenhouses or hoop houses may be located only within the rear yard of properties, may be no closer than three feet to a property line, and must be maintained in good condition.

(6) On-site storage of compost and organic matter is permitted subject to the following:

A. Shall be permitted only in the rear yard a minimum of 10 feet from a property line.

B. May not exceed 64 square feet in area.

C. Shall not be visible from adjoining residential properties (shielded from view by shrubbery or fencing).

D. Shall be constructed of rigid and durable materials with a tightly fitted lid.

E. Shall be maintained to prevent odors.

#### **Sec. 82-64. Exemptions.**

(1) **Vacant Land.** The owner of vacant and unoccupied land consisting of a contiguous tract of one (1) acre or more is exempt from this Chapter provided the front 50 feet of the tract (as measured from the street pavement edge) is maintained as required under Section 82-63 (3).

(2) **Public Lands.** All City properties maintained as natural habitat for public purposes including, but not limited to, regional storm water detention basins and naturalized park areas, are exempt from this Chapter.

#### **(3) Water Efficient Landscaping Permit.**

A. The City will consider requests for a Water Efficient Landscaping Permit. Applications shall be made to the City Planner. Within 30 days of filing the application, the City Planner shall conclude the review. Consideration of whether to grant or deny the permit request shall be based on submittal of all required information, ability to comply with the maintenance program, and consideration of potential detriment to adjoining properties or the public welfare. Appeals from denials may be made to the Housing Board of Appeals. Notice shall be given to adjoining properties regarding this appeal. A Water Efficient Landscaping Permit shall grant any property owner or occupant the ability to cultivate native and adapted vegetation on his/her property and be exempted from the requirements of Section 82-63 (3) of this Chapter.

B. An application for a Water Efficient Landscaping Permit shall contain the following information:

1. Statement of intent and purpose in cultivating the native and adaptive vegetation.
2. Site plan showing lot lines, buildings, driveways, parking areas and location of proposed vegetation.
3. Common names and quantities of the plant species the property owner or occupant plans to cultivate.
4. A maintenance program.

5. Name, address and phone number of the professional landscaping company which has been hired to perform maintenance; or the name, address, phone number and qualifications of the person(s) who will be responsible for the maintenance.

**Sec. 82-65. Revocation.**

The City may regularly inspect any property holding a Water Efficient Landscaping Permit for compliance with the maintenance program on file with the City. For any property out of compliance, the City shall give notice to the holder of the permit by US Mail stating that the property must be brought into compliance within a minimum of thirty (30) days. Should the period pass without action by the holder of the permit, the City shall:

1. Revoke the Water Efficient Landscaping Permit.
2. Remove all improperly maintained native and adaptive vegetation. In addition, the City shall assess the property for all fees associated with the inspection of the property and removal of improperly maintained native and adaptive vegetation in accordance with Section 82-66 of this Chapter.

**Sec. 82-66. Violations.**

If any owner fails to comply with Section 82-63, the City is hereby authorized to notify the owner of such property to cut and remove the weeds, rank or any improperly maintained native and adaptive vegetation under a Water Efficient Landscaping Permit. The notice shall be as prescribed in Section 1-26 to the owner as his name appears on the latest assessment roll or the actual occupant, if known. If the owner fails, neglects or refuses to comply with the notice, the City may, within five days after notice, cut and remove the weeds, rank, native or adaptive vegetation and charge the owner at cost plus 100 percent based upon quarterly hours, a minimum of one hour per lot, and may place the charges on the tax roll to be added to the taxes for the property for the next year and/or placing a lien against the subject property.

In lieu of the notice as required in this Section the City may publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by May 1 of that year will be cut by the City, and the owner of that property charged with the cost under the provisions of this Section. The City may cut the weeds as many times as is necessary and charge the cost to the property owner.

10/20/14

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO ACCEPT AN OFFER FOR THE SALE OF CITY OWNED PROPERTY  
LOCATED AT 3470 S. DIVISION AVENUE, A VACANT LOT, FORMERLY THE  
LOCATION OF A CITGO GAS STATION

WHEREAS:

1. In November 2009 the vacant property at 3470 S. Division, PPN 41-18-18-352-005 was in tax foreclosure by Kent County and was transferred to the City of Wyoming in December 2009.
2. The demolition of all structures was ordered in January 2010.
3. The DEQ approved project completion after removing the underground storage tanks at the location.
4. The Assessor valued the Fair Market Value for the property at \$40,000.
5. The sale of real property was posted on the City Website on September 3, 2014.
6. One bid was received from Auto Sport Realty to purchase the property for \$40,000.

NOW, THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council does hereby accept the bid of Auto Sport Realty, for the sale of property located at 3470 S. Division Avenue for \$40,000. All executed documents shall be approved as to form by the City Attorney.

Moved by Councilmember:  
 Seconded by Councilmember:  
 Motion Carried        Yes  
                                   No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on:

\_\_\_\_\_  
Heidi A. Isakson, Wyoming City Clerk

Resolution No. \_\_\_\_\_



MEMORANDUM

TO: Curtis L. Holt  
City Manager

Bill Dooley  
Director of Public Works

FROM: Jack R. Sluiter  
Wyoming City Attorney

DATE: September 29, 2014

RE: Water Well Restriction Ordinance

Attached is a draft ordinance to prohibit or restrict use of water wells in areas which may contain contaminated groundwater. This type of ordinance is required by the MDEQ for future use of contaminated sites. The draft ordinance is in a form acceptable to the MDEQ. It was provided to me in draft form by economic development counsel Scott Smith. I have modified the draft ordinance to fit within our code provisions. The draft has been sent to Bill Dooley and Attorney Smith for their review.

There are currently two areas where this ordinance is needed. They are as follows:

1. The 36<sup>th</sup> Street General Motors site
2. A closed gas station at 28<sup>th</sup> and Longstreet

I would like to discuss this ordinance at the October 13 Council work session.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADD ARTICLE VI TO  
CHAPTER 30 OF THE CODE OF THE CITY OF WYOMING  
ENTITLED "WATER WELL RESTRICTION"

THE CITY OF WYOMING ORDAINS:

Section 1. That Article VI entitled "Water Well Restriction" is hereby added to Chapter 30 of the Code of the City of Wyoming to read as follows:

**ARTICLE VI**  
**WATER WELL RESTRICTION**

**Sec. 30-201. Findings of Fact.**

The City has been informed and hereby finds that an aquifer in certain areas of the City has been contaminated or otherwise adversely impacted by hazardous substances and that identified public health, safety and welfare risks may affect drinking water drawn from certain areas of such impacted aquifers. The City has determined that it is necessary and appropriate to prohibit and/or otherwise restrict the use of wells to supply water in and from the affected areas in order to protect City residents by minimizing the health, safety and welfare risks and minimizing the potential for migration of contaminated groundwater into presently unaffected groundwater.

**Sec. 30-202. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning:

- (1) *Affected Parcel* means a parcel of land, any part of which is located within a Restricted Zone.
- (2) *Applicant* means a person who applies or applied for the establishment of a Restricted Zone pursuant to this Article.
- (3) *City* means the City of Wyoming
- (4) *City Property* means any interest in real property owned or held by the City and shall include but not be limited to the follow: (i) Real property owned by the City; (ii) Real property leased by the City as Lessee; and (iii) City streets, alleys or other City rights-of-way or easement.
- (5) *Contaminated Groundwater* means groundwater in which there is present concentrations of materials that exceed drinking water criteria under the Safe Drinking Water Act, 1976 PA 399, as amended, or the residential drinking water criteria established by the MDEQ in operational memoranda or rules promulgated pursuant to Part 201, Environmental Remediation Act

(MCL 324.20101 et seq.) or Part 213, Leaking Underground Storage Tanks (MCL 324.21301a et seq.), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 et seq., dependent upon whether the release is regulated pursuant to Part 201 or Part 213.

(6) *Domestic Use* means the use of water by humans for drinking, cooking, food preparation and other food-related services, cleaning, washing, bathing and similar household-type water uses in any dwelling, or in any building in which commercial/business, governmental/public or industrial activities are conducted. The term does not include water used solely for closed-loop heat pumps, non-contact cooling, or production and/or processing purposes of commercial or industrial enterprises.

(7) *Irrigation Use* means the use of water for lawn, garden or landscaping irrigation on a residential parcel of land. The term does not include water used for commercial, agricultural or farm irrigation, except as specifically directed by the MDEQ.

(8) *MDEQ* means the Michigan Department of Environmental Quality or its successor agency.

(9) *OWDMA* means the Office of Drinking Water and Municipal Assistance of the MDEQ or its successor agency.

(10) *Owner* means the holder of record title for a parcel of land and also the occupant of a parcel of land in possession under a land contract or lease.

(11) *Person* means any individual, partnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.

(12) *Restricted Zone* means an area or areas described within section 30-203 of this Ordinance for which prohibition of wells and the use of groundwater applies and includes parcels of land that are legally described in this Ordinance, and as amended from time to time as provided in this Ordinance.

(13) *Well* means an opening in the surface of the earth for the purpose of removing fresh water through non-mechanical or mechanical means for any purpose other than a public emergency or conducting response actions that are consistent with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (“NREPA”), the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, or other applicable statute.

**Sec. 30-203. Restricted Zone.** The following described area in the City shall be a Restricted Zones under this Article. They may be referred to by reference to the name provided in the caption preceding its description. Additional Restricted Zones, along with a map illustrating the Restricted Zone, may be added by amending the Ordinance in accordance with Section 30212 and all other applicable laws and code provisions.

(1) 36<sup>th</sup> Street SW Restricted Zone. The 36<sup>th</sup> Street SW Restricted Zone consists of approximately acres generally described as follows:

(2) 28<sup>th</sup> Street SW Restricted Zone. The 28<sup>th</sup> Street SW Restricted Zone consists of approximately acres generally described as follows:

**Sec. 30-204. Prohibition.** Except as provided in Section 30-205, no person shall install or utilize, or allow, permit or provide for the installation or utilization of a Well on any Affected Parcel. Any existing Well at the time of the enactment of a Restricted Zone on any Affected Parcel within that Restricted Zone shall be plugged/abandoned at the expense of the Applicant for that particular Restricted Zone and as provided for in Section 30-207 and in accordance with applicable laws, regulations and ordinances, unless such existing Well falls within one of the exceptions listed in Section 30-205. Except as provided in Section 30-205, no person shall use any groundwater from an Affected Parcel.

**Sec. 30-205. Exceptions.** A person may install or utilize, or allow, permit or provide for the installation or utilization of a Well in any Restricted Zone if any of the following exceptions applies and the requirements of the exception are complied with. The party proposing an exception to the Well prohibition shall conduct all appropriate inquiry and prepare due care analysis pursuant to Part 201 or Part 213 of the NREPA.

(1) *Proof of No Influence.* If the MDEQ determines based on information provided to it by the person seeking this exception that the use of a Well in a Restricted Zone will not exacerbate existing groundwater contamination, and that water from the proposed Well will not be affected by Contaminated Groundwater, and proof of those determinations is delivered to the City, the Well may be used.

(2) *Groundwater Monitoring/Remediation.* A Well may be used for groundwater monitoring and/or remediation as part of a response activity or corrective action approved by the MDEQ or the United States Environmental Protection Agency.

(3) *Construction Dewatering.* A Well may be used for construction dewatering if the following conditions are satisfied: (i) the use of the dewatering Well will not result in unacceptable exposure to Contaminated Groundwater, possible cross-contamination between saturated zones, or exacerbation of Contaminated Groundwater, as defined in Part 201 of NREPA; and (ii) the water generated by that activity is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction. Any exacerbation caused by the use of the Well under this exception shall be the responsibility of the person operating the de-watering well, as provided in Part 201 or Part 213 of NREPA.

(4) *Processing Activities.* If the MDEQ determines that the use of a Well for non-contact heating, cooling, production, or processing involved in industrial or commercial activities will not cause migration or exacerbation of contaminated Groundwater and proof of that determination is delivered to the City, such use of the Well under terms and conditions specified by the MDEQ will be allowed. All information necessary for the MDEQ determination described in this subsection shall be provided by the person seeking this exception.

(5) *Public emergencies.* A Well may be used in the event of a public emergency. Notice of such use shall be provided to the MDEQ within a reasonable time thereafter.

**Sec. 30-206. Sources of Water Supplied for Domestic and Irrigation Use.**

(1) For Affected Parcels that are not already connected to the City water system on the day of enactment of a Restricted Zone, the Applicant of the Restricted Zone shall be responsible for the costs to connect those Affected Parcels within that Restricted Zone to the City water system. Furthermore, for Affected Parcels that have a Well on the day of enactment of a Restricted Zone which is used primarily for Irrigation Uses, the Applicant of the Restricted Zone shall be responsible for the costs to connect the irrigation system on the Affected Parcel within that Restricted Zone to the City water system.

(2) This Section shall not be deemed as affecting the rights and remedies of an Owner, or any other person or entity and/or of any federal, state or local government that may exist under any law, regulation, rule, ordinance, order, agreement and/or remedial action plan addressing

groundwater within the City.

(3) In no event shall the City be required to incur any expense or cost under this Ordinance, except as may otherwise be approved by the City Council for a public works project or by a separate agreement with the Applicant, Owner, other person or entity, or a governmental body or agency.

**Sec. 30-207. Enforcement.** The City Manager, or his designee, shall be the official having the authority to enforce this Ordinance. After the Effective Date of this Ordinance, the enforcement official shall contact all Owners of Affected Parcels, which from the information available to the City, appear to have Wells prohibited under this Ordinance (if any), giving written notice of the need to cease using such Wells and of the need for establishment of a Domestic Use water source (to the extent required) as prescribed, under Section 30-206, or to obtain approval or acknowledgment of an exception under Section 30-205. The Owner shall immediately take steps so as to comply with the provisions of this Ordinance with regard to provision of Domestic Use water within sixty (60) days from the date of such notice. Any existing Well in violation of this Ordinance shall then be plugged or abandoned in conformance with applicable legal requirements. Where, upon information available to the enforcement official, it is suspected that a Well is being used on an Affected Parcel in violation of this Ordinance, the enforcement official may inspect such Affected Parcel and serve an appropriate notice and order of such violation requiring that action be taken promptly by the Owner to bring the Affected Parcel into compliance. If the Owner fails to act in accordance with such order, the enforcement official may seek remedies and penalties as provided in Section 30-208.

**Sec. 30-208. Penalty.** Any person who violates any provision of this Ordinance shall be liable for a municipal civil infraction under the provisions of the Code of Ordinances. The penalty for each violation shall be \$500. In addition, the City may seek an order from a court of appropriate jurisdiction requiring compliance with this Ordinance and may also seek collection of costs and attorney fees associated with such enforcement action. Any violation of this Ordinance is a public nuisance, subject to abatement, and any Well in violation of this Ordinance shall be immediately taken out of service and lawfully abandoned in compliance with applicable legal requirements. A court of competent jurisdiction may order any person violating any provision of this Ordinance to properly and lawfully remove or abandon a Well.

**Sec. 30-209. Building and Zoning Permits.** No permit for the construction or alteration

of a building or structure nor any permit for any zoning approval shall be issued by the City Building and Zoning Administrator for any improvement on an Affected Parcel which has, or proposes, a water supply from a Well in violation of this Ordinance.

**Sec. 30-210. Administrative Liability.** No officer, agent or employee of the City or member of the City Council shall render himself personally liable for any damage which may occur to any person or entity as the result of any act or decision performed in the discharge of his duties and responsibilities pursuant to the Ordinance.

**Sec. 30-211. Amendment; Repeal.** The MDEQ, an Applicant, an Owner, an entity involved in performing remedial actions in order to seek approval of a No Further Action Report under Section 20114d of Part 201 or in performing corrective actions in order to seek approval of a Closure Report under Section 21312a of Part 213 or other interested party may request in writing to add parcels to or delete parcels from a Restricted Zone or to establish an additional Restricted Zone or to otherwise amend or repeal this Ordinance, and shall provide advance notice to the MDEQ and any Applicant for such Restricted Zone of any proposed change hereunder, including the reasons supporting such request. The amendment or repeal of this Ordinance shall be by an appropriate ordinance adopted in the same manner as this Ordinance, and any such action shall be in the sole legislative discretion of the City Council.

**Sec. 30-212. Notification of Lapse, or Intent to Amend or Repeal.** At least thirty (30) days prior to any action regarding a proposed amendment or repeal in whole or in part of this Ordinance, the City shall notify the MDEQ and any Applicant of its intent to so act. The City shall also notify the MDEQ and any Applicant that this Ordinance may lapse at least thirty (30) days prior to the Ordinance being allowed to lapse.

**Sec. 30-213. Reimbursement of Additional City Construction Costs.** The Applicant of a Restricted Zone shall reimburse the City for the reasonable additional costs the City incurs for dewatering Contaminated Groundwater or disposing of soils impacted by Contaminated Groundwater in connection with the construction activity undertaken by the City on City property in that Restricted Zone, provided that the City supplies the Applicant with documentation confirming the amount and necessity of such additional costs, including the extent to which they exceeded the cost of dewatering or disposing of materials not impacted by Contaminated Groundwater.

**Sec. 30-214. Saving Clause.** A prosecution which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a

prosecution which is started within one (1) year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

**Sec. 30-215. Publication and Recording.**

(1) If the release for which this ordinance or amendment to this ordinance is sought is regulated pursuant to Part 201, then this ordinance or amendment to the ordinance shall be published and maintained in the same manner as zoning ordinances.

(2) If the release for which this ordinance or amendment to this ordinance is sought is regulated pursuant to Part 213, then the ordinance or amendment ordinance shall be filed by the Applicant with the register of deeds as an ordinance affecting multiple properties.

Section 2. This ordinance shall be in full force and effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

I hereby certify that the above-entitled Ordinance was adopted by the City of Wyoming at a \_\_\_\_\_ session of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Heidi A. Isakson  
Wyoming City Clerk

Ordinance No. \_\_\_\_\_