

Use Control Area Example

City of Cheyenne

May 29, 2007

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General Topics to be Included in a Use Control Area Petition

A. **Introduction** - Describe the location and ownership of the site (cross-reference to an attached map of the site); size of the site; the source of the contamination; and the date the site was accepted into the VRP.

B. **Data** - Include a summary of all data collected, as required by the Preliminary Remedy Agreement, which indicates that the site exceeds cleanup standards necessary to support unrestricted use.

C. **Draft Remedy (ies) to be Proposed in the Remedy Agreement** - Describe the proposed land use for the site and a summary of the remedy(ies) to be used to support this land use. Describe how the remedy will be accomplished and how the outcome of the remedy implementation relates to the request for a Use Control Area designation.

D. **Justification for the Use Control Area** - Explain what would be necessary to make the site suitable for unrestricted use and why it is not feasible to implement this remedy, including an analysis of the amount of effort needed to attain unrestricted use versus the proposed use.

E. **Prohibited Future Uses** - Include a list of the uses which will be prohibited from occurring on the site if the Use Control Area is enacted.

F. **Public Notice Requirements** - Provide a summary of the public notice procedures to be followed regarding the petition.

G. **Remedy Agreement Acknowledgment** - Insert the following sentence into the petition: The site will be subject to a Remedy Agreement between "insert owner's name" and the Wyoming Department of Environmental Quality.

**CITY OF CHEYENNE, WYOMING
TRANSIT BUS STORAGE FACILITY**

**Restricted Use Control Area Petition
VRP SITE #1014**

COMES NOW, the City of Cheyenne (hereinafter referred to as "City"), and hereby requests that Voluntary Remediation Program (VRP) Site #1014 be designated a Restricted Use Control Area by the State of Wyoming, Department of Environmental Quality. The following information is offered in support of the City's Petition.

1. VRP Site #1014 (hereinafter referred to as "Site") is located at 2731 Happy Jack Road, Cheyenne, Wyoming. The Site is owned by the City and was accepted into the VRP on October 2, 2001. The Site is nearly surrounded by industrial and commercial activity. The nearest residential area is greater than 1/4 mile from the Site.

Following is the Site's legal description.

A parcel of land being an easterly portion of Lot 3 of Westland Subdivision, Fifth Filing in the City of Cheyenne, Laramie County, Wyoming, more particularly described as follows:

Beginning at the northeast corner of Lot 3, Westland Subdivision, Fifth Filing as recorded May 6, 1992, in Cabinet 6, Slot 62 of Laramie County records;

thence Az 270°, 12' 09" a distance of six hundred (600.00) feet along the north line of said lot 3 and the south line of Old Happy Jack Road to a point;

thence Az 180°, 13' 15" parallel with the west line of said Lot 3, a distance of three hundred eighty-seven and ninety-five hundredths (387.95) feet to a point on the north line of a quitclaim deed from the City of Cheyenne to Spradley Motors, Inc. as recorded in Book 1388, Page 574 of Laramie County records;

thence Az 90°, 13' 15" along the north line of said quitclaim deed a distance of two hundred seventy-six and ninety hundredths (276.90) feet to a point on the northwest right of way of the Burlington Northern Santa Fe Railroad;

thence Az 39°, 59' 45" along said northwesterly right-of-way a distance of five hundred five and two hundredths (505.02) feet to the Point of Beginning.

The Site is a smaller portion of the total extent of property found at 2731 Happy Jack Road. The total area at this address covers 245,000 ft. (5.6 acres). The Site, which is the subject of this petition for a Use Control Area, encompasses approximately 170,122 ft² (approximately 4 acres) within the larger 5.6 acre property.

Please see attached maps (Exhibits A and B) for a general location of the Site and a map of the Site.

2. The total property at 2731 Happy Jack Road currently houses the Cheyenne fleet maintenance facility, which consists of a precast building containing maintenance bays; chassis wash; welding shop; parts store room and offices. The smaller portion of the property which constitutes the Site is currently being used for outdoor storage; an aboveground fuel storage tank and pump island; a truck loading ramp and space for daily Transit Bus staging operations. These uses have been in effect since 1999.

3. In early 2000, the City of Cheyenne began preliminary investigations of this Site in anticipation of the development of an expanded transit and storage maintenance facility. During these preliminary investigations a trench was dug within the Site and evidence of pre-existing refuse was discovered. The waste consisted of decomposed remnants of burned refuse and glass bottles. A sample of the water encountered in the trench was taken. Laboratory results indicated that lead was present at .079 parts per million (ppm) which exceeded the Environmental Protection Agency's safe drinking water level of .05 ppm. Results of this investigation confirmed the previously unknown presence of buried waste apparently resulting from unregulated dumping by local residents and businesses for several decades prior to the City's purchase and development of the Site in 1980.

The City then embarked on a project to determine the extent and nature of the waste underlying this Site. A 50-foot by 50-foot grid was established over the eastern most half of the property. This grid was then used to locate a total of approximately 105 soil borings. The subsurface materials encountered at each boring were used to determine the estimated extent of the wastes. Apparently there are two, noncontiguous areas of waste. One is approximately one acre in size and the other on the eastern portion of the Site is approximately one-half acre in size. The top of the waste layer appears to range from four to ten feet below the ground surface. The thickness of the waste ranges from one to 12 feet. Depth to groundwater is ranges from eight to 12 feet. The estimated extent of both waste areas and the location of all borings can be viewed on attached Exhibit B.

Soil boring samples of the waste which exhibited the greatest potential for containing organic contaminants (based on readings from hand-held organic vapor meters) were submitted for laboratory analysis. Six samples were analyzed. The results of this analysis indicated that three samples contained levels of benzo(a)pyrene above the WDEQ's acceptable level of .062 ppm (this is the level considered to not pose a human health risk based on inhalation, ingestion or coming in direct contact with the compound). The levels observed were .17 ppm in two samples and .36 ppm in the third. Benzo(a)pyrene is a compound typically found in organic material which has been burned. A form of PCB (Aroclor 1268) was also found at a level which exceeded the WDEQ's acceptable level of .22 ppm. The level obtained by laboratory analysis was .747 ppm. PCB's are no longer made in the United States and are often found in old electrical transformers, fluorescent light fixtures or electrical appliances. These types of materials could

have been discarded at this Site decades ago. One of the samples analyzed for metals was found to have lead at a level above the WDEQ's human health threshold of 400 ppm. This sample was found to contain 638 ppm.

It must be noted that the results of laboratory analysis reflect the conditions at only isolated portions of the existing waste and these results can not be interpreted to apply to all of the wastes present at this site. This waste and its contents are variable, physically and chemically, throughout the identified extent. The estimated volume of this waste is 20,500 yd³. Consequently, in order to ensure that this Site would be suitable for such uses as residential housing, a daycare center, school etc., the waste would need to be completely excavated and removed from the Site. However, the cost for waste excavation (including waste removal, hauling, laboratory analytical requirements and disposal fees) and filling the area with suitable material is considered to be excessive.

Therefore, the City of Cheyenne would like to institute a provision contained within the VRP law at W.S. § 35-11-1609 which allows the owner of a contaminated site to petition the "appropriate governmental entity or entities" for the creation of a Use Control Area. The Use Control Area provision uses an administrative mechanism which runs with the property to preclude any other uses other than the one approved as part of the Use Control Area. In this instance, the City of Cheyenne has demonstrated the extent of the waste and the contaminants known to be present. By restricting all future uses of this Site through the adoption of a Use Control Area, the use prohibitions discussed below will run with the property for perpetuity thus ensuring that no one is inadvertently exposed to the wastes underlying this site.

As part of the original environmental assessment of this Site, the City of Cheyenne installed four groundwater monitoring wells. These wells were monitored three times from March of 2000 to November of 2002. During those sampling episodes, one well (MW-4) exhibited lead levels (during one sampling event conducted on June 14, 2002) higher than the EPA drink water standard for lead of .05 ppm. The location of the four monitoring wells can be viewed on attached Exhibit B. The proposed Use Control Area adoption does not apply to groundwater contamination. Therefore, the City of Cheyenne will be required by the WDEQ to continue monitoring MW-4 quarterly for at least eight quarters. Based on information obtained during the monitoring period, the City may petition the WDEQ/SHWD to reduce the frequency of the monitoring or terminate the monitoring activities. If lead levels in MW-4 are found to be greater than .05 ppm, the City and the WDEQ/SHWD will determine the most appropriate course of action regarding how to reduce the lead levels in groundwater.

4. The City of Cheyenne, Transit Program is proposing to construct a consolidated transit storage and operations facility on this Site. The City has applied for and received a Federal Department of Transportation grant to construct this consolidated facility. This facility is needed because the demands on the Cheyenne Transit Program have increased. The Cheyenne Transit Program initially began as client-based services for agencies and has increased to general public service, with a deviated fixed route system. Current transportation service includes: fixed-route, ADA Para-Transit, Park-N-Ride and some contractual services. There is a need for a reliable and efficient system to manage the operations, storage and maintenance of the transit fleet.

As provided in the Transit Development Plan the Cheyenne Transit Program utilizes several facilities to provide its services. These facilities include:

- Administrative Offices located at 2022 Capital Avenue
- Central Maintenance and outside storage facility on Happy Jack Road
- Oil and Lube facility at 15th and Snyder

Although it is not necessarily unique for transit systems of similar size to utilize multiple facilities, the Cheyenne Transit Program is certainly different in that its operations are spread between three different locations, as opposed to only one or two separate locations. This presents a challenge to the Program's operation since drivers start and finish their day in one location, dispatch scheduling and administration staff at a different location. Thus resulting in lack of consistency and coordination of day-to-day communication with drivers and maintenance. Inevitably, significant staff time is consumed traveling to and from the different sites. This reduces the Program's ability to more tightly control its operation and maintain overall accountability. Utilizing the Site for construction of a new transit operations and storage facility will provide among other things increased efficiency of transit operations; better coordination of transit functions, and improved service to the users of the transit system.

Construction of this facility will provide a continuous concrete/asphalt barrier over the waste underlying this Site and preclude any future, inadvertent excavation into the waste.

5. The following uses will be prohibited from occurring on the Site should it be designated a Use Control Area.

- A. Residential
- B. Hotel or Motel
- C. Nursing Home
- D. Jail or Juvenile Detention Center
- E. Daycare
- F. Hospital or Hospice
- G. School
- H. Fraternity or Sorority
- I. Zoo
- J. Animal Shelter
- K. Animal Boarding, Treatment or Care Facility
- L. Food Processing Facility
- M. Greenhouse
- N. Plant Nursery
- O. Any Raising of Edible Plants, Roots or Fruit Bearing Trees or Shrubs
- P. Dairy Farm

- Q. Overnight Camping
- R. Recreational Vehicle Park
- S. Hunting or Trapping
- T. Commercial Gasoline Station
- U. Chemical Manufacturing Facility
- V. Landfill
- W. Any Unregulated Generation, Storage, Transportation, or Disposal of Any Flammable Explosives, Radioactive Materials, Hazardous Wastes, or Toxic Substances.

6. The following Public Notice procedures will be followed regarding this Petition.

The City will provide written notice of the Petition to all surface owners of record of land contiguous to the Site. The City will also publish Notice of the Petition and a Public Hearing once per week for four (4) consecutive weeks in a newspaper of general circulation in Cheyenne, Wyoming. Such Notice will identify the property, generally describe the Petition and proposed use restrictions, direct that comments may be submitted to the Development Office of the City of Cheyenne, and provide the date, time and place of the Planning Commission Meeting at which the Petition will be heard and discussed. The Public Hearing will be held no sooner than forty-five (45) days after the first publication of the notice.

7. The Site will be subject to a remedy Agreement between the City of Cheyenne and the Wyoming Department of Environmental Quality.

Respectfully submitted this _____ day of _____, 2004

CITY OF CHEYENNE, WYOMING

Date: _____

By: _____

Jack R. Spiker, Mayor

(SEAL)

Attest:

Carol. A. Intlekofer, City Clerk

Notice of Public Hearing

The **“insert name of the appropriate City Office”** has petitioned the Cheyenne City Council of Laramie County for the creation of a Use Control Area under W.S. § 35-11-1609 on its real property at 2731 Old Happy Jack Road, including the area **“insert a description of the property”** in Cheyenne, Laramie County, Wyoming.

The property is owned by the City of Cheyenne, and is zoned **“insert zoning designation.”** This property is currently being used as a City of Cheyenne vehicle maintenance facility. This property is underlain by unregulated waste materials (primarily municipal solid waste) apparently disposed at the property for several decades prior to the City of Cheyenne purchasing the property in early 1980. The City of Cheyenne is proposing to use the property for a new transit bus storage facility. The following uses of the property within the Use Control Area will be prohibited: residential; nursing home; jail or juvenile detention center; daycare; hospital or hospice; school; fraternity or sorority; zoo; animal shelter, animal treatment or care facility, or kennel; food processing facility; greenhouse or plant nursery; any raising of edible plants or roots, or fruit bearing trees or shrubs; dairy farm or horse boarding; overnight camping or recreational vehicle park; hunting or trapping; dry cleaners; commercial gasoline station, auto repair or service; chemical manufacturing facility; landfill; any unregulated generation, storage, transportation, or disposal of any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials; any use which may or shall cause or permit a violation of any federal, state or local laws, ordinances or regulations.

For further information regarding the Use Control Area, you may contact the Wyoming Department of Environmental Quality's Project Manager Paige Smith (307-777-8759), or the City of Cheyenne's representative **“insert name and phone number of contact.”** A public hearing regarding the City of Cheyenne's petition for the creation of a Use Control Area will be held by the Cheyenne City Council in the **“insert place and address, date and time of the hearing.”**

If you wish to submit letters or written comments to be included in the packet for the Council members, you must submit them to the **“insert receiving body”** by **“insert date that is no sooner than 30 days from the date of the first publication of the notice.”** You may also attend the public hearing and present written and/or oral comments at that time.

If you have any questions, contact the **“insert name of appropriate office and phone number.”**

DEQ Suggested Changes to Draft Ordinance

ORDINANCE NO. _____

ENTITLED: "THAT CHAPTER 17, TITLE 105, SECTION .010 AND FOLLOWING OF CHEYENNE CITY CODE, AS APPROVED BY ORDINANCE NO. BY THE GOVERNING BODY ON _____ DATE _____ IS HEREBY AMENDED TO READ AS FOLLOWS:"

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That the following section is hereby created to read as follows:

Chapter 17.105 Added:

CHAPTER 17.105
RESTRICTED USE CONTROL AREA
OVERLAY DISTRICT – CREATION PROCEDURES
(DISTRICT RUCAO)

SECTIONS:

17.105.010 GENERALLY.

1)

THE RESTRICTED USE CONTROL AREA OVERLAY DISTRICT IS INTENDED TO ESTABLISH LONG-TERM USE RESTRICTIONS FOR PROPERTY IN THE CITY ON WHICH SOIL ~~OR GROUNDWATER~~ IS CONTAMINATED. USE RESTRICTIONS ARE APPLIED TO PROTECT THE COMMUNITY FROM CONTACT WITH CONTAMINANTS.

ANY ~~CHANGE OR~~ MODIFICATION *TO ANY RUCAO*, INCLUDING REMOVAL OF THE RUCAO DESIGNATION, REQUIRES COMPLIANCE WITH ~~W.S. 35-11-1609~~ ARTICLE 16 OF THE WYOMING ENVIRONMENTAL QUALITY ACT (WEOA) AND COORDINATION WITH THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY (WDEQ) ~~VOLUNTARY REMEDIATION PROGRAM COORDINATOR.~~

17.105.020 STATUTORY AUTHORITY.

THESE RULES ARE BASED *IN PART* ON ~~W.S. 35-11-1609~~ ARTICLE 16 OF THE WEOA, VOLUNTARY REMEDIATION OF CONTAMINATED SITES.

2)

17.105.030 PROCEDURES FOR SUBMISSION.

A. THE OWNER OF A SITE WHO PROPOSES LONG-TERM USE RESTRICTIONS ON THE USE OF THE SITE SHALL SUBMIT A PLAN PETITION, AS REQUIRED BY ARTICLE 16 (W.S. 35-11-1609(a)) OF THE WEOA, TO THE DEVELOPMENT OFFICE.

3)

B. A USE CONTROL AREA MAY BE CREATED OR MODIFIED ONLY UPON SUBMISSION OF A PLAN PETITION BY THE OWNER OF ~~A SITE~~ A PARCEL OF REAL PROPERTY ACCEPTED AS A "SITE" IN THE WDEQ, VOLUNTARY REMEDIATION PROGRAM AND NOTICE AND PUBLIC HEARING AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AND SHALL INCLUDE ONLY THE SITE, UNLESS ADJACENT PROPERTY OWNERS CONSENT ~~IN WRITING TO INCLUSION SHOULD BE COORDINATED WITH THE DEVELOPMENT DIRECTOR AND THE WDEQ VOLUNTARY REMEDIATION PROGRAM COORDINATOR.~~

4)

C. THE PLAN PETITION TO ESTABLISH A USE CONTROL AREA SHALL CONTAIN DATA, INFORMATION AND ANY REMEDY OPTIONS REQUIRED IN A PRELIMINARY REMEDIATION AGREEMENT UNDER W.S. 35-11-1606. THE PROPERTY OWNER, IN CONJUNCTION WITH THE WDEQ DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL SET THE BOUNDARIES OF THE RUCAO DISTRICT IN THE PLAN PETITION. THE PLAN PETITION WILL INCLUDE A MAP AND LEGAL DESCRIPTION OF THE PROPOSED USE CONTROL AREA AND SPECIFY RESTRICTED USES. ~~THE PLAN MUST BE ACCOMPANIED BY A LETTER FROM THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY (WDEQ) INDICATING WDEQ REVIEW AND COORDINATION.~~

5)

D. UPON SUBMISSION OF A PLAN PETITION FOR LONG-TERM USE RESTRICTIONS, THE OWNER SHALL GIVE WRITTEN NOTICE OF THE PLAN PETITION TO ALL SURFACE OWNERS OF RECORD OF LAND CONTIGUOUS TO THE SITE. ~~THE DEVELOPMENT OFFICE WILL~~ AND PUBLISH NOTICE OF THE PLAN PETITION AND A PUBLIC HEARING ONCE PER WEEK FOR FOUR (4) CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN LARAMIE COUNTY. THE NOTICE SHALL IDENTIFY THE PROPERTY, GENERALLY DESCRIBE THE PLAN PETITION AND PROPOSED USE RESTRICTIONS, DIRECT THAT COMMENTS MAY BE SUBMITTED TO THE DEVELOPMENT OFFICE, AND PROVIDE THE DATE, TIME AND PLACE OF THE PLANNING COMMISSION MEETING AT WHICH THE PLAN PETITION WILL BE HEARD AND DISCUSSED. THE PUBLIC HEARING SHALL BE HELD NO SOONER THAN **FORTY-FIVE (45)** DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE.

6)

E. THE PLANNING COMMISSION CAN ~~AMEND OR~~ MODIFY THE PLAN PETITION IF WARRANTED ONLY DURING THE PUBLIC HEARING, WITH WDEQ AND SITE OWNER CONCURRENCE. IF THE PLAN PETITION IS FOUND ACCEPTABLE, THE PLANNING COMMISSION SHALL ADOPT THE PLAN PETITION AND CERTIFY THE PLAN PETITION TO THE GOVERNING BODY(S). THE "GOVERNING BODY" SHALL ADOPT OR REJECT THE PLAN PETITION. IF THE PLAN PETITION IS REJECTED OR REQUIRED TO BE MODIFIED, IT SHALL BE RETURNED TO THE PLANNING

COMMISSION AND OWNER (WHO SHALL CONFER WITH THE WDEQ) FOR FURTHER REVIEW. HOWEVER, ANY MODIFICATION SHALL BE CONDUCTED IN ACCORDANCE WITH SUBSECTION D. ABOVE INCLUDING PUBLIC NOTICE AND HEARING. IF THE PLAN PETITION IS TO BE ACCEPTED, IT SHALL BE ADOPTED BY ORDINANCE AND THE OVERLAY DESIGNATION PLACED ON THE OFFICIAL ZONING MAP. THE GOVERNING BODY WILL STIPULATE AND DEFINE THE SPECIFIC BOUNDARY OF THIS OVERLAY ZONE, AS PRESENTED IN THE PETITION.

7) F. THE PETITION SHALL BE FINALLY APPROVED OR DENIED WITHIN 180 DAYS AFTER THE PETITION HAS BEEN RECEIVED BY THE PLANNING COMMISSION. THE OWNER AND THE PLANNING COMMISSION/GOVERNING BODY MAY AGREE TO EXTEND THE TIME PERIOD IN WHICH THE GOVERNING BODY IS TO VOTE UPON THE PETITION. THE GOVERNING BODY MAY, ON A VOTE TAKEN WITHIN 180 DAYS AFTER THE PETITION IS RECEIVED, CONDITION ITS VOTE APPROVING THE PETITION UPON THE OWNER'S SUBSEQUENT FILING OF THE DETERMINATION BY THE WDEQ DIRECTOR THAT A REMEDY CAN BE SELECTED THAT MEETS THE REQUIREMENTS OF W.S. 35-11-1605 AND IS CONSISTENT WITH THE OWNER'S PETITION.

8) ~~17.105.040 TRANSIT FACILITY~~ (SUBSECTIONS A AND B HAVE BEEN MOVED TO PROPOSED DRAFT ORDINANCE 17.106)

9) ~~C. THE PROPERTY OWNER SHALL CONSENT IN WRITING TO THE RUCAO BY AN INDEMNITY AND INSTITUTIONAL CONTROL AGREEMENT DATED AND PLACED OF RECORD WITH THE COUNTY CLERK, AS NUMBERED INSTRUMENT OF RECORD.~~

~~17.105.050 ADDITIONAL RUCAOS:~~

10) ~~ADDITIONAL RUCAOS SHALL BE ESTABLISHED UNDER THE PROCEDURES AND AUTHORITY OF THIS ORDINANCE.~~

~~17.105.060 40 AMENDMENTS AND CHANGES MODIFICATIONS TO RUCAOS:~~

11) ~~MINOR VARIATIONS TO RUCAOS MAY BE APPROVED BY THE DEVELOPMENT DIRECTOR WITH THE COORDINATION OF THE WYDEQ VOLUNTARY REMEDIATION COORDINATOR. MAJOR CHANGES MODIFICATIONS TO RUCAOS SHALL FOLLOW THE PROCESS DESCRIBED IN 17.105.040-030.~~

Section 2. This ordinance shall be in full force and effect upon its passage and publication.

FIRST READING: _____
SECOND READING: _____
THIRD AND FINAL READING: _____

JACK R. SPIKER, MAYOR

SEAL
ATTEST:

Carol A. Intlekofer, City Clerk

Publish Date:

ENTITLED: "THAT CHAPTER 17, TITLE 106, SECTION .010 AND FOLLOWING OF CHEYENNE CITY CODE, AS APPROVED BY ORDINANCE NO. BY THE GOVERNING BODY ON _____ DATE _____ IS HEREBY CREATED TO READ AS FOLLOWS:"

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That the following section is hereby created to read as follows:

Chapter 17.106 Added:

CHAPTER 17.106
TRANSIT FACILITY RUCAO

~~17.105.040~~ 17.106.010 TRANSIT FACILITY RUCAO SPECIFIED.

A. THE FOLLOWING PROPERTY IS IN THE TRANSIT FACILITY RUCAO AND IS LOCATED AT 2731 HAPPY JACK ROAD:

12)

A PARCEL OF LAND BEING AN EASTERLY PORTION OF LOT 3 OF WESTLAND SUBDIVISION FIFTH FILING IN THE CITY OF CHEYENNE, LARAMIE COUNTY, WYOMING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 3 WESTLAND SUBDIVISION FIFTH FILING AS RECORDED MAY 6, 1992 IN CABINET 6 SLOT 62 OF LARAMIE COUNTY RECORDS; THENCE AZ 270 DEGREES, 12 MINUTES, 9 SECONDS A DISTANCE OF SIX HUNDRED (600) FEET ALONG THE NORTH LINE OF SAID LOT 3 AND THE SOUTH LINE OF OLD HAPPY JACK ROAD TO A POINT; THENCE AZ 180 DEGREES, 13 MINUTES, 15 SECONDS PARALLEL WITH THE WEST LINE OF SAID LOT 3 A DISTANCE OF THREE HUNDRED EIGHTY-SEVEN AND NINETY-FIVE HUNDRETHS (387.95) FEET TO A POINT ON THE NORTH LINE OF A QUITCLAIM DEED FROM THE CITY OF CHEYENNE TO SPRADLEY MOTORS, INC AS RECORDED IN BOOK 1388, PAGE 574 OF LARAMIE COUNTY RECORDS; THENCE AZ 90 DEGREES, 13 MINUTES, 15 SECONDS ALONG THE NORTH LINE OF SAID QUITCLAIM DEED A DISTANCE OF THREE HUNDRED SEVENTY-SIX AND NINETY HUNDREDTHS (276.90) FEET TO A POINT ON THE NORTHWEST RIGHT-OF-WAY OF THE BURLINGTON NORTHERN SANTA FE RAILROAD; THENCE AZ 39 DEGREES, 59 MINUTES, 45 SECONDS ALONG SAID NORTHWESTERLY RIGHT-OF-WAY A DISTANCE OF FIVE HUNDRED FIVE AND TWO HUNDREDTHS (505.02) FEET TO THE POB.

13)

B. USE RESTRICTIONS FOR THE TRANSIT FACILITY RUCAO.
THE FOLLOWING USES OF THE PROPERTY SPECIFIED IN THE TRANSIT FACILITY
RUCAO ARE PROHIBITED:

- RESIDENTIAL;
- HOTELS OR MOTELS;
- NURSING HOME;
- JAIL OR JUVENILE DETENTION CENTER;
- DAYCARE;
- HOSPITAL OR HOSPICE;
- SCHOOLS;
- FRATERNITY OR SORORITY;
- ZOO,
- ANIMAL SHELTER, ANIMAL BOARDING, TREATMENT, OR CARE FACILITY;
- FOOD PROCESSING FACILITY;
- GREENHOUSE, PLANT NURSERY, ANY RAISING OF EDIBLE PLANTS, ROOTS,
OR FRUIT BEARING TREES OR SHRUBS;
- DAIRY FARM:
- OVERNIGHT CAMPING, RECREATIONAL VEHICLE PARK, HUNTING OR
TRAPPING;
- COMMERCIAL GASOLINE STATION;
- CHEMICAL MANUFACTURING FACILITY;
- LANDFILL; AND
- ANY UNREGULATED GENERATION, STORAGE, TRANSPORTATION, OR
DISPOSAL OF ANY FLAMMABLE EXPLOSIVES, RADIOACTIVE MATERIALS,
HAZARDOUS WASTES, TOXIC SUBSTANCES, OR RELATED MATERIALS; ANY USE
WHICH MAY OR SHALL CAUSE OR PERMIT A VIOLATION OF ANY FEDERAL, STATE OR
LOCAL LAWS, ORDINANCES OR REGULATIONS ~~ANY USE OF THE GROUND WATER~~
~~EXCEPT AS APPROVED BY WDEQ.~~

17.106.020: PROCEDURES FOR SUBMISSION; PUBLIC NOTICE AND HEARING

A. ALL REQUIREMENTS FOR SUBMISSION IN ACCORDANCE WITH CITY
ORDINANCE 17.105 HAVE BEEN MET.

14)

B. PUBLIC NOTICE WAS CONDUCTED, IN ACCORDANCE WITH 17.105.030, ON
(INSERT DATES). PUBLIC HEARING, IN ACCORDANCE WITH 17.105.030, WAS HELD ON
(INSERT DATE). THE VOTE OF THE PLANNING COMMISSION WAS TAKEN ON (INSERT
DATE) AND THE PETITION WAS APPROVED BY (INSERT NUMBER) OF VOTING
COUNCIL MEMBERS PRESENT.

Section 2. This ordinance shall be in full force and effect upon its passage and
publication.

FIRST READING:

SECOND READING:
THIRD AND FINAL READING:

JACK R. SPIKER, MAYOR

SEAL
ATTEST:

Carol A. Intlekofer, City Clerk

Publish Date:

Explanation of Changes Proposed to the City of Cheyenne's Draft Ordinance

- 1) 17.105.010: The term “groundwater is proposed for deletion because a Use Control Area (UCA) only applies to soil contamination. The term “change” is proposed for deletion because the statute (W.S. 35-11-1609) only uses the term “modification.” The reference to entire Article 16 is proposed for addition to ensure that the entire VRP legislation is acknowledged within the Ordinance
- 2) 17.105.020 and .030 A: These changes are proposed to clarify the basis for the majority of the rules being proposed within the Ordinance. The term “plan” has been changed to “petition” within Subsection .030(A) and throughout the rest of the draft Ordinance because “petition” is the term used in the VRP statute.
- 3) 17.105.030 B. Text has been proposed for addition to clarify that a piece of property being considered for a UCA must have first been accepted into the VRP as a “site.” The term “site” is defined in W.S. 35-11-103(g)(x). The text shown in ~~strikeout~~ at the end of this subsection is proposed for deletion because this language is not found in the statute.
- 4) 17.105.030 C. Proposed changes include substituting the term “petition” for “plan” and substituting the WDEQ acronym for the spelled out title. Deletion of the last sentence is proposed because the requirement for a letter from the WDEQ is not in the VRP statute. However, the WDEQ will always work closely with a land owner in the development of a UCA petition and the execution of the petition process. This coordination will be documented in the VRP Site file maintained by the WDEQ.
- 5) 17.105.030 D. This subsection has been changed to reflect the requirement in W.S. 35-11-1609 (d) that the property owner conducts the newspaper publication. If desired, the City Development Office can publish the notice in all cases as is currently implied (regardless of whether the City is or is not the owner of the property), but the City must write this Ordinance to apply to all future UCA situations. In addition, this Ordinance is proposing a minimum of 45 days between the first publication and the public hearing. The statute requires a minimum of 30 days. The City can be more conservative than the statute, but was this intentional? The term “Laramie County” has been added in reference to the newspaper circulation location.
- 6) 17.105.030 E. The term “amend” is proposed for deletion because this term is not in the VRP statute. In addition, text has been added indicating that the petition can't be modified unless done so during the public hearing and then only with DEQ concurrence. The VRP statute was written to allow the public to view the proceedings regarding the approval of the UCA. Therefore, the UCA can not be changed outside of public view. This is also the reasoning for adding the provisions later in this subsection which require that any modifications made by the City Council shall be subject to re-publication and hearing.
- 7) 17.105.030 F. This is a new subsection which adds the statutory requirements regarding approval of the petition and the required time frame.
- 8) 17.105.040 A and B. These subsections are proposed for relocation to proposed Ordinance 17.106.

9) 17.105.040 C. This subsection is proposed for deletion because the UCA is embodied within the Remedy Agreement which is developed and signed by the land owner and the WDEQ. The land owner then files the Remedy Agreement with the County Clerk. Therefore, it is unnecessary to discuss the filing of the UCA within the Ordinance because the filing actually takes place after the Ordinance is approved and outside of the Ordinance process.

10) 17.105.050: This Section is proposed for deletion because it is unnecessary within an Ordinance that is simply prescribing the procedures which must be addressed when adopting a RUCAO and not actually containing any ultimately approved RUCAOs.

11) 17.105.060: This Section has been revised to .040 and the title is proposed for revision to "Modifications to RUCAOS." Amendments and changes are not found in the VRP statute, but "modifications" are allowed. However, modifications must follow the same procedures used for the adoption of a RUCAO as required by W.S. 35-11-1609(b).

12) (Page 4) New draft Ordinance numbered 17.106. This proposal suggests that a separate Ordinance be developed for the Transit Site and all future UCAs which may be adopted. This will alleviate potential problems the WDEQ foresees if this and future UCAs are embodied in a living document.

13) 17.106.010 B. The future prohibited uses are proposed for listing to make this subsection more readable. Other prohibited uses, as presented in the draft public notice (provided in an e-mail memorandum dated 11/14/2003), are also proposed for inclusion. In addition, the reference to the "use of the ground water" is proposed for deletion because restrictions on the use of groundwater are not part of the Transit Site UCA.

14) 17.106.020: This is a new Section added to verify that all necessary administrative procedures were followed in order to create the City Transit Site UCA.