



City of Green River
City Council Meeting
Agenda Documentation

Preparation Date: October 10, 2022	Department: Development Services
Meeting Date: October 18, 2022	Department Head: Mark Westenskow
	Presenter: Mark Westenskow

Subject:

Consideration of approval on the 1st Reading for a proposed Language Amendment to the City of Green River Code of Ordinances adding a new Chapter 17 to Appendix B, to establish procedures for the consideration of petitions for Restricted Use Control Area Overlay District (RUCAO) pursuant to Article 16 of the Wyoming Environmental Quality Act.

Background/Alternatives:

In its 2000 session, the Wyoming Legislature created new opportunities, procedures, and standards for voluntary remediation of contaminated sites. Under certain circumstances, the Wyoming Department Environmental Quality (DEQ) Voluntary Remediation Program (VRP) may allow land owners to restore contaminated land to a restricted site use cleanup level (a reduced standard). The owner of the site who proposes long-term restrictions on the use of the site shall petition local government to create a use control area, as required by W.S. §35-11-1609.

City staff was contacted by an environmental consulting company working with Union Pacific Railroad on the voluntary cleanup of a contaminated site owned by Union Pacific and located in the City of Green River. In order for the City to consider petitions from a property owner to designate such property as a restricted use control area overlay district (RUCAO), the City zoning ordinance needs to provide a procedure for filing, processing and considering such petitions. A Draft ordinance is attached.

On September 14, 2022, the Planning and Zoning Commission considered this Language Amendment at a Public Hearing. The Planning and Zoning Commission asked several questions about the background behind the proposed Language Amendment. The Planning and Zoning Commission is expected to make a formal recommendation on the proposed Language Amendment at their October 12, 2022 meeting.

Attachments:

Ordinance for 1st Reading

Fiscal Impact:

None

Staff Impact:

N/A

Legal Review:

Approved 10/5/2022

Suggested Motion:

I move to approve on the 1st Reading the proposed Language Amendment to the City of Green River Code of Ordinances adding a new Chapter 17 to Appendix B, to establish procedures for the consideration of petitions for Restricted Use Control Area Overlay District (RUCAO) pursuant to Article 16 of the Wyoming Environmental Quality Act.

ORDINANCE 22-_____

AN ORDINANCE ADDING A NEW CHAPTER 17 TO APPENDIX B OF THE GREEN RIVER CODE OF ORDINANCES, CITY OF GREEN RIVER, STATE OF WYOMING, TO ESTABLISH PROCEDURES FOR THE CONSIDERATION OF PETITIONS FOR RESTRICTED USE CONTROL AREA OVERLAY DISTRICTS PURSUANT TO ARTICLE 16 OF THE WYOMING ENVIRONMENTAL QUALITY ACT.

WHEREAS, an owner of real property within the City is engaged in a voluntary remediation of that property with the Wyoming Department of Environmental Property; and

WHEREAS, such owner is desirous of submitting a petition to the City to designate such property as a restricted use control overlay district (RUCAO), pursuant to Article 16 of the Wyoming Environmental Quality Act; and

WHEREAS, the City zoning ordinances do not provide a process or procedures for filing, processing and considering such petitions; and

WHEREAS, after notice given as prescribed by law, a public hearing was held before the Planning and Zoning Commission of the City of Green River, Wyoming on _____, 2022, following which the Planning and Zoning Commission recommended to the Governing Body of the City of Green River the adoption of creation procedures for RUCAO Districts, and

WHEREAS, after notice given as prescribed by law, a public hearing on the adoption of creation procedures for RUCAO Districts was held before the Governing Body of the City of Green River on _____, 2022, and

WHEREAS, the Governing Body has determined to accept the recommendation of the Planning and Zoning Commission and adopt creation procedures for RUCAO Districts.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GREEN RIVER, SWEETWATER COUNTY, STATE OF WYOMING:

Section 1. That the following Chapter 17 is added to Appendix B, City of Green River Code of Ordinances, and is hereby created to read as follows:

CHAPTER 17
RESTRICTED USE CONTROL AREA
OVERLAY DISTRICT – CREATION PROCEDURES
(RUCAO DISTRICT)

Section 17.1 GENERALLY.

The restricted use control area overlay district is intended to establish long-term use restrictions for property in the city on which soil is contaminated. Use restrictions are applied to protect the community from contact with contaminants. Any modification to any RUCAO, including removal of the RUCAO designation, requires compliance with Article 16 of the Wyoming Environmental Quality Act (WEQA) and coordination with the Wyoming Department of Environmental Quality (WDEQ).

Section 17.2 STATUTORY AUTHORITY

These rules are based in part on Article 16 of the WEQA, W.S. 35-11-101 et seq, Voluntary Remediation of Contaminated Sites.

Section 17.3 PROCEDURES FOR SUBMISSION

a. The Owner of the site who proposes long-term use restrictions on the use of the site shall submit a petition, as required by Article 16 (W.S. 35-11-1609(a)) of the WEQA).

b. A use control area may be created or modified only upon submission of a petition by the owner of 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.

(c) The 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, shall set the boundaries of the RUCAO District in the petition. The petition will include a map and legal description of the proposed use control area and specify restricted uses.

(d) Upon submission of a petition for long-term use restrictions, the owner shall give written notice of the petition to all surface owners of record of land contiguous to the site and publish notice of the petition and a public hearing once per week for four (4) consecutive weeks in a newspaper of general circulation in Sweetwater County. The notice shall identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the City Development Services office, and provide the date, time and place of the Planning and Zoning Commission meeting at which the 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.

(e) The Planning and Zoning Commission can modify the petition if warranted only during the public hearing, with WDEQ and site owner concurrence. If the petition is found acceptable, the Planning and Zoning Commission shall approve the petition and recommend the petition to the Governing Body of the City for final approval. The Governing Body shall adopt or reject the petition. If the petition is rejected or required to be modified, it shall be returned to the Planning and Zoning Commission and the 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 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 the overlay zone as presented in the petition.

(f) The petition shall be finally approved or denied within 180 days after the petition has been received by the Development Services office. The owner and the 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.

Section 17.4 MODIFICATIONS TO RUCAOS

Modifications to RUCAOS shall follow the process described in Section 17.3.

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

PASSED, ADOPTED AND APPROVED this _____ day of _____, 2022.

Pete Rust, Mayor

ATTEST:

Chris Meats, City Clerk

1st Reading:

2nd Reading:

3rd Reading: