

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, JANUARY 6, 2020, 7:00 P.M.

1) Call to Order

2) Invocation – Pastor Bruce Osbeck, Faith Reformed Church

If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.

3) Pledge of Allegiance

4) Roll Call

5) Student Recognition

6) Approval of Minutes

From the December 16, 2019 Regular Meeting

7) Approval of Agenda

8) Public Hearings

If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.

7:01 p.m. To Consider Approval of a Transfer Application for an Industrial Facilities Exemption Certificate in the City of Wyoming from Lee Steel Corporation to Maksteel USA, LLC

9) Public Comment on Agenda Items

This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.

10) Presentations and Proclamations

- a) Presentations
- b) Proclamations

11) Petitions and Communications

- a) Petitions
- b) Communications

12) Reports from City Officers

- a) From City Council
- b) From City Manager

13) Budget Amendments

14) Consent Agenda

All items under this section are considered to be routine and will be enacted by one motion with no discussion. If discussion is desired by a Councilmember, that member may request removal from the Consent Agenda.

- a) To Appoint Eugene Kort as a Member of the Parks and Recreation Commission for the City of Wyoming
- b) To Reappoint Kent Vanderwood to the Kent County Waste-to-Energy Advisory Committee

15) Resolutions

- c) To Approve the Transfer of an Industrial Facilities Exemption Certificate from Lee Steel Corporation to Maksteel USA, LLC

16) Award of Bids, Contracts, Purchases, and Renewal of Bids and Contracts

- d) To Authorize Payment to Miss Dig System, Inc.
- e) To Authorize Payment to the Kent County Drain Commission for the Division Avenue Drain Repairs
- f) For Award of Bids
 - 1. Furnish and Install Video Surveillance System at the Public Works Building
 - 2. Furnish and Install Video Surveillance System at Battjes and Lamar Parks

17) Ordinances

- 22-19 To Amend Chapter 90 of the City Code by Amending Section 90-221 in Article 2 and by Amending Section 90-402B in Article 4 (Final Reading)
- 23-19 To Amend Chapter 90 of the City Code by Amending Section 90-709 in Article 7 (Final Reading)
- 1-20 To Amend Chapter 2, Article IV, of the Code of Ordinances by Adding Division 9 to Provide for a Service Charge in Lieu of Taxes for the 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Housing Project (First Reading)

18) Informational Material

19) Acknowledgment of Visitors

This public comment period is an opportunity to share concerns or present topics to the City Council that were not part of this meeting's agenda. This is not an opportunity for dialog with Council, but Council may make referrals or request staff to follow up. Please provide your name and address when approaching the podium. There is a 3 minute limit per person.

20) Closed Session (as necessary)

21) Adjournment

RESOLUTION NO. _____

RESOLUTION TO APPOINT EUGENE KORT AS A MEMBER OF
THE PARKS AND RECREATION COMMISSION FOR THE CITY OF WYOMING

WHEREAS:

1. Eugene Kort has submitted an application requesting appointment to the Parks and Recreation Commission for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2020.
3. City Council wishes to appoint Eugene Kort as a member of the Parks and Recreation Commission.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan does hereby appoint Eugene Kort as a member of the Parks and Recreation Commission of the City of Wyoming for the unexpired term ending June 30, 2020.

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 January 6, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

RESOLUTION NO. _____

RESOLUTION TO REAPPOINT KENT VANDERWOOD TO THE KENT COUNTY
WASTE-TO-ENERGY ADVISORY COMMITTEE

WHEREAS:

1. The City of Wyoming is entitled to representation on the Kent County Waste-to-Energy Advisory Committee.
2. It is the desire of the Wyoming City Council to reappoint Councilmember Kent Vanderwood as a Wyoming representative to the Kent County Waste-to-Energy Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby reappoint Councilmember Kent Vanderwood as a member of the Kent County Waste-to-Energy Advisory Committee as the City's representative for 2020.

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 January 6, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

RESOLUTION NO. _____

RESOLUTION TO APPROVE THE TRANSFER OF INDUSTRIAL FACILITIES EXEMPTION
CERTIFICATE FROM LEE STEEL CORPORATION TO MAKSTEEL USA, LLC

WHEREAS:

1. The City of Wyoming established Industrial Development District 241, under Act 198, Public Acts of 1974, as amended, by adopting Resolution Number 19327 on October 18, 1999.
2. On September 19, 2011, the Wyoming City Council approved Industrial Facilities Exemption Certificate (IFT) Number 2011-545 for Lee Steel Corporation for \$1,535,000 for real property and \$4,550,000 for personal property for twelve (12) years with Resolution Number 23991.
3. Lee Steel Corporation merged with Maksteel USA, LLC on March 7, 2019 and is no longer the owner of the facility located at 5875 Weller Ct SW.
4. Maksteel USA, LLC filed an application for the transfer of Industrial Facilities Exemption Certificate Number 2011-545.
5. Section 21 of Public Act 198 of 1974, as amended provides for the transfer of Industrial Facilities Exemption Certificate with the approval of the local governmental unit.
6. Before acting on this transfer, the City Council held a public hearing on January 6, 2020, in the Council Chambers, City Hall, 1155 28th Street SW, Wyoming, Michigan, at 7:01 p.m., at which hearing the applicant, the Assessor, and a representative of the affected taxing units were afforded an opportunity to be heard on this application.

NOW, THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council finds does hereby approve the transfer of Industrial Facilities Exemption Certificate Number 2011-545 to Maksteel USA, LLC.

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 January 6, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE PAYMENT TO
MISS DIG SYSTEM, INC.

WHEREAS:

1. As detailed in the attached Staff Report, the Miss Dig System, Inc. notification system allows the City to properly mark its utilities to prevent damage and service disruption.
2. It is recommended the City Council authorize the annual payment in the amount of \$15,699.75 for the 2020 calendar year to Miss Dig System, Inc.
3. Funds for the fees are budgeted for in the Street, Water and Sewer Other Services account numbers: 202-441-47400-956.000, 590-441-54200-956.000 and 591-441-56700-956.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize payment to Miss Dig System, Inc. in the total amount of \$15,699.75.

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 January 6, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Invoice

STAFF REPORT

Date: December 22, 2019

Subject: Miss Dig System, Inc. Invoice Payment Authorization

From: Aaron Vis, Assistant Director of Public Works

Date of Meeting: January 6, 2020

RECOMMENDATION:

It is recommended that the City Council authorize payment of the Miss Dig System, Inc. invoice of \$15,699.75 for the City's mandatory participation in the Miss Dig utility notification system for the 2020 calendar year.

COMMUNITY, SAFETY, STEWARDSHIP:

The Miss Dig system provides notification to the City of where and when work will be done near City utilities. This limits the amount of damage that can be done to City utilities, ensures that those working near utilities can do so in a safe manner, and prevents significant service disruption.

DISCUSSION:

The Miss Dig System is the utility notification system for the State of Michigan as legislated through Public Act 174 of 2013 (Miss Dig Underground Facility Damage Prevention and Safety Act). It is designed to provide excavators and the general public the ability to request underground utility locations with a single call or electronic order. Miss Dig is a not-for-profit independent company that processes this requested information and passes it along to affected utilities for proper utility marking. Miss Dig does not perform the actual utility marking.

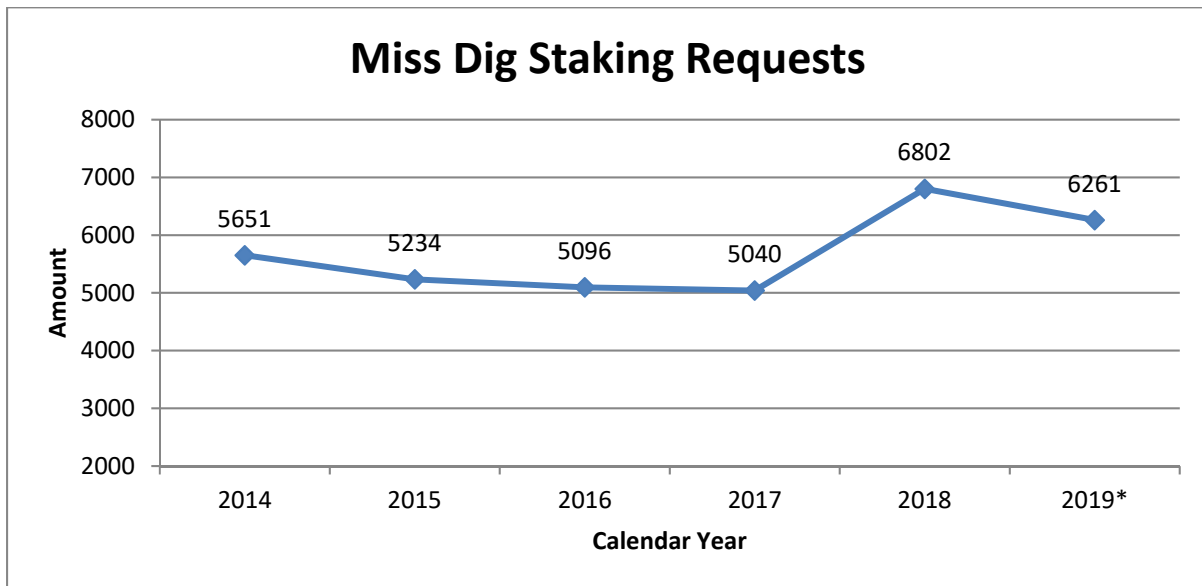
For Wyoming, the affected utilities include: electric for street lighting, traffic signal wiring, fiber optic cables, sanitary sewer system, storm sewer system, and water distribution system (including transmission lines and water services). Once City staff receives the staking request, appropriate marking of the potentially impacted utilities occurs. Staking request response times range from emergency (within three hours) to normal (within three days).

The Miss Dig system is free for those requesting locating services and is funded by member agencies such as the City of Wyoming. The fee consists of four components:

- **Membership Fee.** This fee is based on the number of Miss Dig tickets placed with the notification center. For the 2020 calendar year, this fee is \$10,270.65.
- **Education Fee.** The Miss Dig System Education Fee is used to educate members, contractors and homeowners. This fee is based on the annual membership fee, and totals \$2,500.00.
- **Annual Maintenance Fee for Databases on the System.** This fee is based on the number of databases for utilities that the City has listed within the Miss Dig system and totals \$515.20.

- **Annual Maintenance Fee for Remote Member Accesses on the System.** This fee is based on the number of accounts that the City has within the system that grants staff the ability to modify, update and respond to Miss Digs. This annual fee is \$192.75.
- **System Enhancement Fee.** New for the 2020 calendar year, this fee will be invoiced in installments over a 3-year period to fund State requirements. For 2020, this fee is \$2,221.15.

The City continues to see an increase in Miss Dig ticket requests, primarily due to (re)development, gas utility upgrades, and significant increase in underground fiber installations. The chart below depicts annual staking requests since 2014 (2019 totals are as of December 22):



BUDGET IMPACT:

Sufficient funds are available in the street, sewer and water other services account numbers: 202-441-47400-956.000, 590-441-54200-956.000, and 591-441-56700-956.000.

ATTACHMENT:

Miss Dig System, Inc. Invoice

MISS DIG System, INC.
 3285 LAPEER ROAD WEST
 AUBURN HILLS, MI 48326
 [248-370-6411]

Invoice

Date	Invoice #
12/6/2019	20200479

Bill To

WYOMING CITY
 ATTN: PUBLIC WORKS DEPT.
 2660 BURLINGAME AVE., SW
 WYOMING, MI 49509-0905

Account #	P.O. No.	Terms	EMAIL
200WYO		Net 30	

Description	Qty	Rate	Amount
2020 Transmission-based Membership Fee	1	10,270.65	10,270.65
2020 Education and Awareness Fee for Section 6(2) Compliance	1	2,500.00	2,500.00
2020 Annual Maintenance Fee for Codes on the System	10	51.52	515.20
2020 Annual Maintenance Fee for Remote Member Access Accounts	5	38.55	192.75
2020 First of Three Annual Adjustment Fee for Necessary System Enhancements	1	2,221.15	2,221.15

This invoice is due no later than 30 days from date of invoice. Interest rate at the rate of 1 1/2 % per month, 18% per annum will be charged on past due accounts.

Total

\$15,699.75

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE PAYMENT TO THE KENT COUNTY DRAIN
COMMISSION FOR THE DIVISION AVENUE DRAIN REPAIRS

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council authorize payment to the Kent County Drain Commission for the Division Avenue Drain repairs in the total estimated amount of \$11,641.90.
2. Funds are available in the Major Streets Maintenance account number 202-441-46300-930.000 and Local Streets Maintenance account number 203-441-56300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize payment to the Kent County Drain Commission for the Division Avenue drain repairs in the amount of \$11,641.90.

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 January 6, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Invoice

Resolution No. _____

STAFF REPORT

Date: December 12, 2019

Subject: Authorize Payment to the Kent County Drain Commission for Division Avenue Drain Repairs

From: Aaron Vis, Assistant Director of Public Works

Date of Meeting: January 6, 2020

RECOMMENDATION:

It is recommended that the City Council authorize payment to the Kent County Drain Commission for cleaning of the Division Avenue Drain in the amount of \$11,641.90.

COMMUNITY, SAFETY, STEWARDSHIP:

The Division Avenue Drain conveys stormwater to Plaster Creek primarily from Buchanan and Division Avenues, 28th Street between Buchanan and Division, and several local streets. Proper maintenance of the Division Avenue Drain is necessary to ensure that the concrete infrastructure conveying stormwater is in good condition. Failure to properly maintain this infrastructure will result in premature pipe failure and increase the sediment discharged to Plaster Creek.

DISCUSSION:

The Kent County Drain Commission owns and maintains several drains within the City of Wyoming. When the Drain Commission performs maintenance activities on these drains the City of Wyoming is invoiced for this work consistent with the Drain Code.

Portions of the Division Avenue Drain were televised in the summer of 2019 as part of stormwater screening activities. A significant amount of sediment was observed indicating a repair was needed; however, the Drain could not be completely investigated as some portions were not accessible. In order to continue the investigation, an access manhole was installed in the early fall of 2019. This work was approved by the City Council on October 7, 2019 with resolution number 26510.

Once the access manhole was installed, the Kent County Drain Commission continued their investigation. A significant amount of sediment and encrustation was mechanically removed with a robotic cutter from approximately 1,000 feet of this drain. The attached invoice from the Kent County Drain Commission includes this cleaning work that occurred in the fall of 2019.

Later this spring, the next segments of the Drain will be investigated to determine where the excessive sediment is coming from. Repairs may be necessary depending on what is found.

BUDGET IMPACT:

Sufficient funds exist in the major streets maintenance account number 202-441-46300-930.000 and local streets maintenance account number 203-441-56300-930.000.

ATTACHMENT:

Kent County Drain Commission Invoice #2019-084

Office of the Drain Commissioner

1500 Scribner Ave NW
Grand Rapids, MI 49504-3233
Phone: (616) 632-7910
Fax: (616) 632-7915



INVOICE

TO: Aaron Vis, Asst Director of Public Works
City of Wyoming
2660 Burlingame Ave SW
Wyoming, MI 49509-2825
(616) 530-7264
avis@wyomingmi.gov

INVOICE DATE: 12/11/19
INVOICE NUMBER: 2019-084

DRAIN NAME
DIVISION AVENUE

QTY	DESCRIPTION	UNIT PRICE	TOTAL
1	Plummer's Environmental Services Inc Invoice Date: 12/2/2019 Invoice #: 19105857	11,641.90	11,641.90
NET DUE 30 DAYS			TOTAL \$ 11,641.90

Please make checks payable to: **KENT COUNTY DRAIN COMMISSIONER**



Invoice

10075 Sedroc Industrial Drive
 Byron Center, MI 49315
 Phone # 616-877-3930
 Fax # 616-877-3937

Terms **Date** **Invoice #**
 Net 30 12/2/2019 19105857

Bill to:
 Kent County Drain Commission
 1500 Scribner
 Grand Rapids, MI 49504

Service Location:
 2555 Buchanan
 Wyoming, MI 49504

P.O. No. **Manifest No.** **Work ordered by:** Ken Yonker

Service D...	Description	Units	U/M	Unit Price	Extended Price
	Performed robotic cutting in storm pipe to clear path for inspection, cutting out the heavy encrustation and debris. Used vactor to high pressure jet multiple sections of storm sewer. Televised storm sewer using PACP standards. Work performed on 10/17, 11/8, 11/12, 11/14, 11/15, 11/19, and 12/2.				
	Schwalm Robotic Cutter Hourly Rate	32.25	hr	300.00	9,675.00
	Camera Truck Hourly Rate	4.42	hr	210.00	928.20
	Vactor Hourly Rate	4.42	hr	235.00	1,038.70
				Total	\$11,641.90

We gladly accept credit cards. A 2.9% surcharge will be applied to transactions paid using this payment method. Based on invoice date and terms, there will be a 1.5% interest charge per month on past due invoices.

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BIDS

WHEREAS:

1. Formal bids have been obtained on the below listed items.
2. The bids received have been reviewed and evaluated as per the attached Staff Report.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bids for the listed items as recommended in the attached Staff Report and summarized below.

Item	Recommended Bidder	Cost
Furnish and Install A Video Surveillance System at the Public Works Building	Siemens	\$30,020.34
Furnish and Install A Video Surveillance System at Battjes and Lamar Park	Siemens	\$17,223.50

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 January 6, 2020.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Contracts

Resolution No. _____

STAFF REPORT

DATE: December 18, 2019

SUBJECT: Video Surveillance System – Public Works and Community Services
(Battjes & Lamar Parks)

FROM: Pat Firestone, Director of Information Technology

MEETING DATE: January 6, 2020

RECOMMENDATION:

It is recommended that the City Council approve the bid(s) received from Siemens, for the installation of video surveillance system(s) at the City of Wyoming Public Works facility, Battjes Park, and Lamar Park, for a total of \$48,208.

COMMUNITY, SAFETY, STEWARDSHIP:

Video surveillance systems at City facilities assist to deter and protect community investments, assist City employees in monitoring these facilities for identification of needed attention, and assist in possible public safety events. The City has been actively upgrading obsolete, disparate video surveillance systems as needed and leveraging consistent platforms for ease of support and design. As with other City technical and mechanical infrastructure, these systems require periodic upgrading due to age, non-functional components, and obsolescence.

DISCUSSION:

Information Technology staff, due to involvement and design of previous surveillance systems throughout the City, worked with Public Works and Community Service's staff, to identify appropriate updates and enhancements to their aging surveillance systems at the Public Works facility and Battjes & Lamar parks. The camera hardware and software chosen, is fully-compatible with similar and recent projects throughout the City of Wyoming, allowing standardized support, ease of training, and savings in future upgrading of storage units and environments. The systems proposed will expand coverage at all (3) locations, offer much better resolution, and include a standardized platform for support. Once the design was completed, a full Request for Proposal (RFP) bid request was published.

Eight (8) bids were received on December 3rd, 2019. Four (4) for the Public Works project, and four (4) for the Battjes & Lamar parks projects. The lowest bid for both projects is recommended to be accepted.

Public Works Bids:

BIDDER	BID	NOTES
KnightWatch	45,915.00	
MidState	43,557.42	
Presidio	36,909.72	
Siemens*	29,331.40	+\$688.94 for NVR sized to 18TB = 30,020.34

Battjes & Lamar Park Bids

BIDDER	BID	NOTES
KnightWatch	25,585.00	
MidState	25,080.91	
Presidio	19,196.00	
Siemens*	17,223.50	

BUDGET IMPACT:

Funding (\$30,633) for the Public Works video surveillance system is available in the solid waste fund 230-441-44300-978.000 and Motor Pool capital outlay buildings fund 662-441-58500-977.000. Funding (\$17,575) for the Battjes & Lamar park video surveillance system(s) is available in the Community Service's parks and recreation fund's parks and facilities-capital outlay account 208-752-75600-980.091.

End of Report

*Bid price reflects 2% discount if awarded both Public Works and Battjes / Lamar Parks.

CITY OF
Wyoming
MICHIGAN

PUBLIC WORKS VIDEO SURVEILLANCE SYSTEM CONTRACT
CITY OF WYOMING, MICHIGAN

This Contract is made as of the Effective Date between the City and the Contractor.

"Bid Documents" means the bid together with the invitation to bid, bid specifications, city standard terms and conditions, plans, instructions to bidders, bid form, and other documents comprising the bid package to furnish and install video surveillance system at Public Works Building, a copy of which are attached as Exhibit A.

"City" means the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, Wyoming, MI 49509.

"Contractor" means Siemens Smart Infrastructure, A Delaware limited liability company with a local office at 1525 Gezon Parkway SW, Wyoming, MI 49509, a part of Siemens Industry, Inc., a Delaware corporation the registered Michigan address of which is The Corporation Company, 40600 Ann Arbor Rd E, Suite 201, Ann Arbor, MI 48170.

"Effective Date" means December 2, 2019.

TERMS AND CONDITIONS

In exchange for the consideration in and referred by this Contract, the parties agree:

1. Contractor will provide the materials and services in accordance with the Bid Documents.
2. City will pay the Contractor in accordance with the Bid Documents.
3. Waived or modified specifications are as follows:

No payment bond is required. No performance bond or other form of performance assurance is required.

4. This is the only agreement between the parties regarding its subject matter. There are no other agreements, representations or warranties. **No terms and conditions apply other than those expressly and fully stated in the Bid Documents.** This contract can be amended only in writing signed by both City and Contractor.

City and Contractor have signed this Contract as of the Effective Date.

CITY OF WYOMING

SIEMENS SMART INFRASTRUCTURE

By: _____
Jack A. Poll, Mayor

By: _____
Karl Wyble, Account Executive

By: _____
Kelli A. Vandenberg, City Clerk

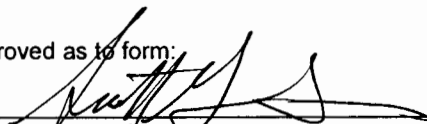
Date signed: January __, 2020

Date signed: January __, 2020

By: _____
Andrew Schneller

Approved as to form:

Date signed: January __, 2020



Scott G. Smith, City Attorney

CITY OF
Wyoming
MICHIGAN

BATTJES AND LAMAR PARKS VIDEO SURVEILLANCE SYSTEM CONTRACT
CITY OF WYOMING, MICHIGAN

This Contract is made as of the Effective Date between the City and the Contractor.

"Bid Documents" means the bid together with the invitation to bid, bid specifications, city standard terms and conditions, plans, instructions to bidders, bid form, and other documents comprising the bid package to furnish and install video surveillance system at Battjes and Lamar Parks, a copy of which are attached as Exhibit A.

"City" means the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, Wyoming, MI 49509.

"Contractor" means Siemens Smart Infrastructure, A Delaware limited liability company with a local office at 1525 Gezon Parkway SW, Wyoming, MI 49509, a part of Siemens Industry, Inc., a Delaware corporation the registered Michigan address of which is The Corporation Company, 40600 Ann Arbor Rd E, Suite 201, Ann Arbor, MI 48170.

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No payment bond is required. No performance bond or other form of performance assurance is required.

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City and Contractor have signed this Contract as of the Effective Date.

CITY OF WYOMING

SIEMENS SMART INFRASTRUCTURE

By: _____
Jack A. Poll, Mayor

By: _____
Karl Wyble, Account Executive

By: _____
Kelli A. VandenBerg, City Clerk

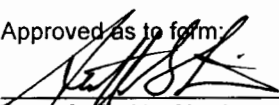
Date signed: January __, 2020

Date signed: January __, 2020

By: _____
Andrew Schneller

Approved as to form:

Date signed: January __, 2020



Scott G. Smith, City Attorney

ORDINANCE NO. 22-19

ORDINANCE TO AMEND CHAPTER 90 OF THE CITY CODE BY AMENDING
ARTICLE 2, SECTION 90-221 AND BY AMENDING ARTICLE 4, SECTION 90-402B

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 90, Article 2, Section 90-221 of the Code of Ordinances, City of Wyoming, Michigan is amended to read as follows:

Sec. 90-221 DEFINITIONS "U"

Underground storage tank system: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

Urgent care center: A medical clinic that treats humans or animals with expanded hours that is specially equipped to diagnose and treat a broad spectrum of illnesses and injuries. Urgent care centers accept unscheduled, walk-in patients seeking medical attention during all posted hours of operation.

Use: See "accessory use, building or structure" and/or "principal building or use".

Section 2. That Chapter 90, Article 4, Section 90-402B of the Code of Ordinances, City of Wyoming, Michigan is amended to read as follows:

Sec. 90-402B PERMITTED USES AFTER SPECIAL USE APPROVAL

The following uses may be permitted in the B-1 business district subject to the approval of the planning commission:

- (1) Public utility buildings, telephone exchange buildings, electric transformers.
- (2) Radio and television towers.
- (3) Secondhand dealer.
- (4) Drive through restaurants.
- (5) Urgent care centers.

Section 3. This ordinance shall take effect on _____, 2019.

Kelli A. Vandenberg
Wyoming City Clerk

November 26, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Proposed Zoning Ordinance Text Amendments to add Urgent Care Centers as a Special Use approval in a B-1 District and add a definition for Urgent Care Center (Sections 90-402B and 90-221)

Recommendation: To approve the subject Zoning Ordinance amendments.

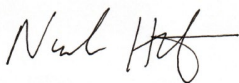
Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 19, 2019. A motion was made by Hegyi, supported by Van Duren, to recommend to the City Council adoption of the recommended revised *Sections 90-402B Permitted Uses After Special Approval and 90-221 Definitions "U" Zoning Ordinance* text amendments. The motion passed unanimously following discussion. A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following please find some general information.

The City of Wyoming restricts where different types of medical facilities, such as hospitals, medical clinics, and doctor's offices, are permitted in the city. Urgent care centers are currently not specifically noted in the Wyoming zoning ordinance. These facilities are becoming more popular as methods for delivering health care continue to evolve. These facilities typically are open 24 hours or have hours late into the evening and early in the morning, unlike traditional medical offices with 9am-5pm hours of operation. Urgent care centers are distinctly different from hospitals with emergency center operations and are appropriately placed near residential neighborhoods to ensure residents have convenient access to their services when experiencing a need for medical attention any hour of the day.

The proposed text amendments are attached.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services

Article 2 – Definitions
CITY OF WYOMING ZONING ORDINANCE

allow holding of water to a depth of greater than 24 inches, intended for swimming, bathing or relaxation. The definition of swimming pool includes spa, hot tubs and similar devices.
(Ord. No. 5-11, § 2, 8-1-11; Ord. No. 3-12, § 1, 3-5-12, Ord. No. 14-16, 11-7-16)

Sec. 90-220 DEFINITIONS "T"

Truck terminal: A structure to which goods, except raw or unprocessed agricultural products, natural minerals, equipment or other resources, are delivered for immediate distribution or to be amalgamated or divided for delivery in larger or smaller units to other points, or for distribution, amalgamation, or division involving transfer to other modes of transportation. Also, a semi-trailer storage yard facility.

(Ord. No. 5-11, § 2, 8-1-11)

Sec. 90-221 DEFINITIONS "U"

Underground storage tank system: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

Urgent care center: A medical clinic that treats humans or animals with expanded hours that is specially equipped to diagnose and treat a broad spectrum of illnesses and injuries. Urgent care centers accept unscheduled, walk-in patients seeking medical attention during all posted hours of operation.

Use: See "accessory use, building or structure" and/or "principal building or use".

(Ord. No. 5-11, § 2, 8-1-11)

SEC. 90-222 DEFINITIONS "V"

Variance: A relaxation or modification of the requirements of this chapter, authorized by the zoning board of appeals, under the provisions of this chapter and Act 110 of the Public Acts of 2006, as amended.

- (1) *Non-use variance:* A variance approved by the zoning board of appeals relaxing one or more requirements of this chapter related to buildings, lots, setbacks, and other dimensional requirements.
- (2) *Use variance:* A variance approved by the zoning board of appeals allowing a use of land not otherwise permitted in a zoning district.

Vehicle related uses:

1. Purpose, Validity, and Scope	2. Definitions	3. General Requirements	4. Zoning Districts	5. Development Review <ul style="list-style-type: none">• Site Plans• Special Land Uses• Condominiums• PUDs	
6. Off-street Parking	7. Signs	8. Alternative & Renewable Energies	9. Nonconformities	10. Appeals and Administration	11. Form Based Code
Use Table	Zoning Map				

**Article 4B – B1 Zoning District
CITY OF WYOMING ZONING ORDINANCE**

- (c) Stationer.
 - (d) News dealer.
 - (e) Apparel shop.
 - (f) Household appliances.
 - (g) Flower shop.
 - (h) Gift shop.
 - (i) Variety stores.
 - (j) Bookstores, recordings and videos for sale or rental, except those defined as an adult bookstore.
- (11) Accessory buildings and uses customarily incidental to the above uses.
 - (12) Off-street parking.
 - (13) Municipal buildings and uses.

(Code 1983, § 60.52; Ord. No. 2-96, § 1, 2-20-96; Ord. No. 8-00, § 2, 5-15-00; Ord. No. 3-11, § 2, 5-2-11)

Sec. 90-402B PERMITTED USES AFTER SPECIAL APPROVAL

The following uses may be permitted in the B-1 business district subject to the approval of the planning commission:

- (1) Public utility buildings, telephone exchange buildings, electric transformers.
- (2) Radio and television towers.
- (3) Secondhand dealer.
- (4) Drive through restaurants.
- (5) Urgent care centers.

1. Purpose, Validity, and Scope	2. Definitions	3. General Requirements	4. Zoning Districts	5. Development Review	<ul style="list-style-type: none"> • Site Plans • Special Land Uses • Condominiums • PUDs
6. Off-street Parking	7. Signs	8. Alternative & Renewable Energies	9. Nonconformities	10. Appeals and Administration	11. Form Based Code
Use Table	Zoning Map				

AGENDA ITEM NO. 5

Request to amend Zoning Code Section 90-402B Permitted Uses after Special Use Approval in a B-1 District to include Urgent Care Facilities and Section 90-221 Definitions "U". (Wyoming Planning)

Hofert explained that the B-1 zone district currently allows medical offices; the R-4 zone district allows medical clinics and medical office complexes. Urgent care centers are currently not specifically noted in the Wyoming Zoning ordinance and are markedly different from medical offices and medical clinics. Hofert stated that these facilities are becoming more popular as methods for delivering health care continue to evolve and emergency room prices rise. Unlike traditional medical clinics, which operate on a 9-5 schedule, these facilities can be open 24 hours. Hofert noted that urgent care centers are appropriately placed near residential neighborhoods to ensure residents have convenient access to their services when experiencing a need for medical attention any hour of the day.

Hofert read the proposed text changes and stated that it is the Development Review Team's recommendation that Planning Commission recommend to City Council adoption of the revised Section 90-221 Definitions "U" and Section 90-402B Permitted Uses After Special Use Approval.

Chair DeLange opened the public hearing and seeing no public comment the Chair closed the public meeting.

Motion made by Hegyi, supported by VanDuren, to recommend to City Council approval of the adoption of the revised Section 90-221 Definitions "U" and Section 90-402B Permitted Uses After Special Use Approval.

Goodheart asked if ambulances would be accepted at the urgent care centers. Hofert explained that ambulances are only accepted at hospitals.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 6

Request for Preliminary Plat Tentative Approval for Rivertown Valley Phase V. The property is located at Wilson and 56th (Section 32) (TMGB Wilson LLC)

Hofert explained that this project was previously granted preliminary plat tentative approval but that approval has since expired. The developer is coming back before the board to re-apply for approval. Hofert explained that this request is for Phase Five of a larger project. This phase includes a large section of Reserve Drive.

ORDINANCE NO. 23-19

ORDINANCE TO AMEND CHAPTER 90 OF THE CITY CODE BY AMENDING
SECTION 90-709 IN ARTICLE 7

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 90, Article 7, Section 90-709 of the Code of Ordinances, City of Wyoming, Michigan is amended to read as follows:

Sec. 90-709 OFF-PREMISES ADVERTISING SIGNS

(1) Off-premises advertising signs shall be located on property abutting a freeway and shall not be placed beyond 300 feet of the freeway right-of-way. A 300-foot setback shall be required from the intersection of any freeway access or egress and the intersecting street.

(2) A drawing with specifications prepared and sealed by a registered engineer or architect of the state shall be filed with the city prior to the issuance and approval of a permit and construction. **For clarity of intent, "construction" within this section shall include conversion.**

(3) Off-premises advertising signs may be constructed to a maximum size of 672 square feet per face, provided they are located within 100 feet of a freeway right-of-way. Any off-premises advertising sign placed farther than 100 feet from the freeway right-of-way shall not exceed 300 square feet per face.

(4) **No off-premises advertising sign structure shall be constructed, or converted, closer than 750 feet to another off-premises advertising sign structure in any direction. No two off-premises advertising sign structures located on the same side of a freeway may be closer than 1,500 feet. No off-premises LED advertising sign structure or other structures utilizing electronic messaging technologies shall be constructed closer than 2,500 feet to another off-premises LED advertising sign structure or other structures utilizing electronic messaging technologies and facing the same direction of travel. Distances are to be measured along the freeway right-of-way line. Refer to the *Distance Requirements Graphic*.**

(5) Off-premises advertising signs shall not exceed the building height restrictions for the zone where erected.

(6) Off-premises advertising signs located adjacent to a major thoroughfare shall be at least 500 feet from any residential district.

(7) Tri-vision off-premises advertising signs are allowed, but message changes may occur no less than seven seconds apart.

(8) Off-premises advertising signs may incorporate an electronic message center (EMC), subject to the following:

(a) No permit shall be issued for an off-premise advertising sign structure utilizing digital technology unless, the permit applicant demonstrates that five non-conforming sign structures located within the city boundaries are demolished. The applicant will reduce the number of existing non-conforming signs demolished if the applicant demonstrates that four non-conforming sign structures located within the city's form based code districts are demolished.

(b) All signs meet the distance requirements established in 90-709 (4).

(c) The entire sign face shall be a moving image display and shall only convey a single product or message at any one time.

(d) Except for the change from one display to the next, which shall be instantaneous, each individual sign display shall be stationary. No elements of the display may move, flash or scroll, except to change from one display to the next.

- (e) Displays may change no less than seven seconds apart. Each change shall be a fade from one display to the next, with the duration of the transition (fade-out/fade-in) no less than one-half of a second.
- (f) Maximum brightness of an EMC shall not exceed 0.2 foot candles above ambient light.
- (g) All signs regulated under this section shall possess and utilize automatic dimming controls set to automatically adjust to the limits defined in this section.
- (h) Owners of signs regulated under this section shall submit an initial third-party certification for each sign verifying the sign is equipped with a sensor or other device that automatically determines the ambient light and is programmed to automatically adjust according to ambient light conditions, and that the sign is programmed to comply with the 0.2 footcandle measurements.
- (i) Sign owners shall, at the city's request, provide a report from a third party testing agency documenting that the light emitted from the sign meets the minimum illumination standard defined in this section. The certified report shall be submitted within 15 days of the written request from the city. A certified report is valid for a period of 90 days. The third party testing agency shall adhere to the city's accepted procedures for testing which are provided by the Building Inspections Department.
- (j) In addition to the above requirements, signs allowed under this section shall be configured to default to a static display in the event of mechanical failure.

Section 2. That Chapter 90, Article 7, Section 90-709 of the Code of Ordinances, City of Wyoming, Michigan is amended to include the *Distance Requirements Graphic*, a copy of which is attached as Exhibit A.

Section 3. This ordinance shall take effect on _____, 2019.

Kelli A. VandenBerg
Wyoming City Clerk

Ordinance No. 23-19

Exhibit A
DISTANCE REQUIREMENTS GRAPHIC

Distance Requirements Between Signs



	<p><i>Digital billboards must be a minimum of 2500' apart when on the same side of the road</i></p>
	<p><i>Digital billboards must be a minimum of 2500' apart when on opposite sides of the road and facing the same direction</i></p>
	<p><i>A digital billboard must be a minimum of 1500' apart from a static billboard when on the same side of the road and facing the same direction</i></p>
	<p><i>A static billboard must be a minimum of 750' apart from all other billboards in all directions when on the opposite side of the road facing a different direction</i></p>

November 26, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Proposed Zoning Ordinance Text Amendments to amend Section 90-709 Off-Premises Advertising Signs

Recommendation: To approve the subject Zoning Ordinance amendment.

Dear Ms. VandenBerg,

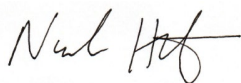
The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 19, 2019. A motion was made by Goodheart, supported by Micele, to recommend to the City Council adoption of the recommended amended *Sections 90-709 Off-Premises advertising Signs* Zoning Ordinance text amendment. The motion passed unanimously. A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following is information staff thought would be helpful.

In a recent review of the Off-Premises Advertising ordinance adopted on July 15, 2019, staff discovered that the graphic presented to the Planning Commission, City Council, and community were inadvertently left out of the final adopted ordinance. The graphic (Distance Requirements Between Signs), was a key companion product in the billboard review and presentation process that was intended to be integrated into the zoning code.

Staff has clarified language in the ordinance to reflect the policy direction from both Planning Commission and City Council. The ordinance now refers to, and includes, the graphical element as well as revised language to more clearly articulate the distance requirements. Please note that no changes to the distances or other content have been made, the recommended minor revisions merely attempt to provide clarity and make the ordinance more user friendly.

The proposed text amendments are attached.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services

(Ord. No. 20-08, § 1, 1-5-09; Ord. No. 4-10, §§ 1, 2, 5-17-10; Ord. No. 7-10, §§ 1—3, 5-17-10; Ord. No. 1-11, §§ 7—10, 2-7-11; Ord. No. 14-13, §§ 3—5, 9-3-13; Ord. No. 15-14, §§ 8, 9, 7-21-14)

Sec. 90-709 OFF-PREMISES ADVERTISING SIGNS

- (1) Off-premises advertising signs shall be located on property abutting a freeway and shall not be placed beyond 300 feet of the freeway right-of-way. A 300-foot setback shall be required from the intersection of any freeway access or egress and the intersecting street.
- (2) A drawing with specifications prepared and sealed by a registered engineer or architect of the state shall be filed with the city prior to the issuance and approval of a permit and construction. For clarity of intent, "construction" within this section shall include conversion.
- (3) Off-premises advertising signs may be constructed to a maximum size of 672 square feet per face, provided they are located within 100 feet of a freeway right-of-way. Any off-premises advertising sign placed farther than 100 feet from the freeway right-of-way shall not exceed 300 square feet per face.

~~Except as noted in section (8) below, no off premises advertising sign structure shall be constructed closer than 750 feet to another off premises advertising sign structure in any direction, except that no two off premises advertising sign structures located on the same side of a freeway may be closer than 1,500 feet. Distances are to be measured along the freeway right of way line. No off premises LED advertising sign structure utilizing a moving image display shall be constructed closer than 2,500 feet to another off premises LED advertising sign structure utilizing a moving image display and facing the same direction of travel.~~

- ~~(4) No off-premises advertising sign structure shall be constructed closer than 750 feet to another off-premises advertising sign structure in any direction. No two off-premises advertising sign structures located on the same side of a freeway may be closer than 1,500 feet. No off-premises LED advertising sign structure or other structures utilizing electronic messaging technologies shall be constructed closer than 2,500 feet to another off-premises LED advertising sign structure or other structures utilizing electronic messaging technologies and facing the same direction of travel. Distances are to be measured along the freeway right-of-way line. Refer to the Distance Requirements Graphic.~~

~~(4)~~

- (5) Off-premises advertising signs shall not exceed the building height restrictions for the zone where erected.
- (6) Off-premises advertising signs located adjacent to a major thoroughfare shall be at least 500 feet from any residential district.
- (7) Tri-vision off-premises advertising signs are allowed, but message changes may occur no less than seven seconds apart.
- (8) Off-premises advertising signs may incorporate an electronic message center (EMC),

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subject to the following:

(a) No permit shall be issued for an off-premise advertising sign structure utilizing digital technology unless the permit applicant demonstrates that six non-conforming sign structures located within the city boundaries are demolished.

~~(b) No off-premise LED advertising sign structure utilizing a moving image display shall be constructed closer than 2,500 feet to another off-premise LED advertising sign structure utilizing a moving image display and facing the same direction of travel.~~

~~(b)(c)~~ All signs meet the distance requirements established in 90-709 (4).

(c) The entire sign face shall be a moving image display and shall only convey a single product or message at any one time.

(d) Except for the change from one display to the next, which shall be instantaneous, each individual sign display shall be stationary. No elements of the display may move, flash or scroll, except to change from one display to the next.

(e) Displays may change no less than seven seconds apart. Each change shall be a fade from one display to the next, with the duration of the transition (fade-out/fade-in) no less than one-half of a second.

(f) Maximum brightness of an EMC shall not exceed 0.2 foot candles above ambient light.

(g) All signs regulated under this section shall possess and utilize automatic dimming controls set to automatically adjust to the limits defined in this section.

(h) Owners of signs regulated under this section shall submit an initial third-party certification for each sign verifying the sign is equipped with a sensor or other device that automatically determines the ambient light and is programmed to automatically adjust according to ambient light conditions, and that the sign is programmed to comply with the 0.2 footcandle measurements.

(i) Sign owners shall, at the city's request, provide a report from a third party testing agency documenting that the light emitted from the sign meets the minimum illumination standard defined in this section. The certified report shall be submitted within 15 days of the written request from the city. A certified report is valid for a period of 90 days. The third party testing agency shall adhere to the city's accepted procedures for testing which are provided by the Building Inspections Department.

(j) In addition to the above requirements, signs allowed under this section shall be configured to default to a static display in the event of mechanical failure.

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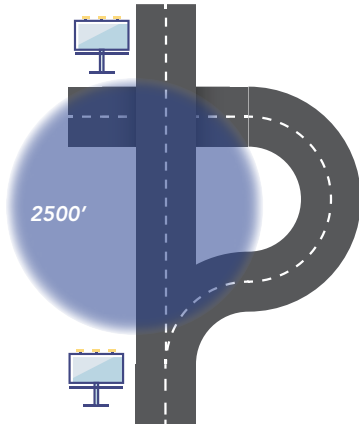
Distance Requirements Between Signs



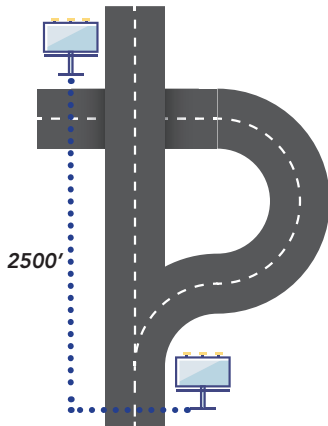
Digital Billboard



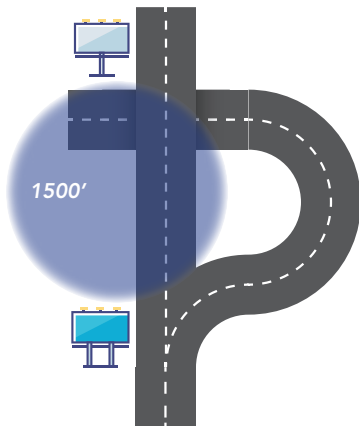
Static Billboard



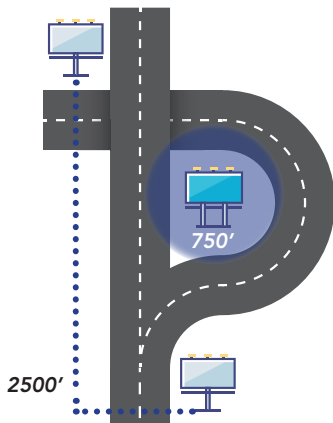
Digital billboards must be a minimum of 2500' apart when on the same side of the road



Digital billboards must be a minimum of 2500' apart when on opposite sides of the road and facing the same direction



A digital billboard must be a minimum of 1500' apart from a static billboard when on the same side of the road and facing the same direction



A static billboard must be a minimum of 750' apart from all other billboards in all directions when on the opposite side of the road facing a different direction

A vote on the motion carried unanimously

Motion by Weller, supported by Hegyi, to approve the site plan dated 10/7/2019 subject to compliance with conditions 1-8. Discussion followed.

Weller asked for clarification on the storm water calculations, staff clarified.

Goodheart asked about the storm water review process. Henckel outlined the process.

DeLange stated that he was worried about parking in the gravel area. He would like the commission to consider a barrier to block parking. The commissioners discussed this in great detail.

There was conversation about the amount of parking. Mr. Dixon stated that it is highly unlikely that all members are at the facility at the same time since it is by appointment only.

Hegyi asked what the implications would be if someone parked on the gravel portion. Hofert explained that code enforcement would follow up if a violation was reported.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 4

Request to amend Zoning Code Section 90-709 Off-Premises Advertising Signs. (Wyoming Planning)

Hofert explained that Planning Commission and Council adopted the most recent revision to Section 90-709 in July. Hofert stated that the “Distance Requirements Between Signs” graphic, which was always meant to be integrated into the zoning code, was inadvertently left out of the final adopted ordinance. The proposed Zoning Text Amendment includes the “Distance Required Between Signs” graphic and minor revision to language to make the text more user friendly. Hofert stated that no substantive changes are proposed, the intent is to provide clarity.

Hofert read the proposed text changes and stated that it is the Development Review Team’s recommendation that Planning Commission recommend to City Council adoption of the revised Section 90-709 Off-Premises Advertising Signs.

Chair DeLange opened the public hearing at 8:09pm. Seeing no public comment the Chair closed the public meeting.

Motion made by Goodheart, supported by Micele, to recommend to City Council approval of the adoption of the revised Section 90-709 Off-Premises Advertising Signs.

A vote on the motion carried unanimously.

ORDINANCE NO. 1-20

ORDINANCE TO AMEND CHAPTER 2, ARTICLE IV, OF THE CODE OF ORDINANCES
BY ADDING DIVISION 9 TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES
FOR THE 28WPHASETwo LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED
PARTNERSHIP HOUSING PROJECT

THE CITY OF WYOMING ORDAINS:

Section 1. Amendment. That Chapter 2, Article IV, of Code of Ordinances, City of Wyoming, Michigan, is amended by adding Division 9 to read as follows:

DIVISION 9
TAX EXEMPTION AND SERVICE CHARGE FOR 28WPHASETwo LIMITED
DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP HOUSING PROJECT

Sec. 2-306B. Purpose.

(a) Pursuant to section 15a of the Act, MCL 125.1415a, the city may encourage the development of low and moderate income housing by providing a service charge in lieu of property taxes. The city is authorized by that statute to establish or change the service charge to be paid in lieu of taxes by classes of housing exempt from property taxation under that statute at an amount the city chooses, not to exceed the taxes that would be paid.

(b) The city finds that (i) housing Low Income Persons and Families is a public necessity, (ii) the city will be benefited and improved by such housing, (iii) the encouragement of the development of such housing by providing a property tax exemption for such housing is a valid public purpose, (iv) the provisions of this ordinance for tax exemption and the service charge in lieu of taxes during the period provided by this Division are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption, and (v) development of such housing will further related public purposes such as development of the Project to enhance the downtown area of the city.

(c) The Sponsor has offered, subject to receipt of an allocation under the LIHTC Program by the Authority and a Mortgage Loan, to acquire and construct, own and operate the Project to serve Low Income Persons and Families and the Sponsor has offered to pay the city on account of the Project an annual service charge for public services in lieu of all *ad valorem* property taxes.

Sec. 2-307B. Definitions.

(a) *Act* means the State Housing Development Authority Act of 1966, 1966 PA 346, 125.1401 *et seq.*

(b) *Authority* means the Michigan State Housing Development Authority.

(c) *Annual Shelter Rent* means the total collections during an agreed annual period from or paid on behalf of all occupants of the Project for rent or occupancy charges, exclusive of Utilities charges.

(d) *LIHTC Program* means the Low Income Housing Tax Credit program administered by the Authority under section 42 of the United States Internal Revenue Code of 1986, 26 USC §42.

(e) *Low Income Persons and Families* means persons and families eligible to move into a housing project.

(f) *Mortgage Loan* means a loan that is federally-aided (as defined in section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the Project.

(g) *Project* means the housing project for Low Income Persons and Families and related amenities and development located on the Project Property acquired, constructed, owned and operated by the Sponsor, subject to income and rent restrictions under the LIHTC Program and a Mortgage Loan, in accordance with the Site Concept Plan prepared by Hooker De Jong, labeled "Apartments at 28 West Place," submitted to the City by Magnus Capital Partners on March 12, 2019, subject to such changes as may be (i) required by planning, zoning, construction code and other governmental permits and approvals or (ii) approved by the City Council of the city.

(h) *Project Property* means the following described real property:

Part of the NW 1/4 of Section 14, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the NW corner of said Section 14; thence S88°11'56"E 827.00 feet along the North line of said Section 14; thence S00°24'13"E 460.00 feet along the East line of the West 827 feet of said NW 1/4; thence S88°22'14"E 558.12 feet to the PLACE OF BEGINNING of this description; thence S88°22'14"E 441.77 feet to the East line of the West 1827 feet of said NW 1/4; thence S00°24'13"E 569.32 feet along said East line to the North line of Prairie Parkway; thence N88°22'21"W 461.94 feet along said North line; thence N01°37'39"E 568.98 feet to the place of beginning.

(i) *Sponsor* means 28WPhaseTwo Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan for the Project on the Property.

(j) *Utilities* means charges for gas, electric, water, sanitary sewer and other utilities furnished to the Project or its occupants and paid by the Sponsor.

Sec. 2-308B. Property Tax Exemption.

(a) Pursuant to section 15a of the Act, from the time construction of the Project begins the Project and the land on which it is located shall be exempt from *ad valorem* property taxes.

(b) This exemption shall remain in effect during the period any portion of the Mortgage Loan remains outstanding and that the Project remains subject to income and rent restrictions, but not longer than 50 years.

Sec. 2-309B. Annual Service Charge.

(a) There shall be paid to the city an annual service charge in lieu of *ad valorem* property taxes equal to 1.0% of the Annual Shelter Rent collected for the Project during each operating year.

(b) The annual service charge in lieu of taxes for each operating year of the Project shall be payable in the same manner as general property taxes are payable to the City/Township and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be payable not later than each August 31 immediately following the conclusion of that operating year. Delinquent payments will be subject to the same interest and penalties, and shall be collectible in the same manner as provided for under the City Charter, this Code of Ordinances and the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq.*).

(c) The amounts paid pursuant to this section shall be in addition to the amounts paid pursuant to any municipal services agreement between the Sponsor and the city.

Sec. 2-310B. Contractual Effect of Ordinance.

(a) To the extent not otherwise prohibited by the constitution and laws of the state of Michigan, regardless of any part of subsection 15a(5) of the Act, MCL 125.1415a(5), to the contrary, a contract between the city and the Sponsor with the Authority as a third party beneficiary of the contract to provide the tax exemption and accept payments in lieu of taxes as provided in preceding sections of this division is create and effectuated by the adoption of this division of the Code of Ordinances, City of Wyoming, Michigan.

(b) The Authority and the Sponsor are relying on this adoption and continued effect of this Division to determine the Project's financial feasibility and its qualification for the LIHTC Program and Mortgage Loan. The city is relying on (i) the allocation under the LIHTC Program and the making of the Mortgage Loan for the Project, and (ii) on the acquisition, construction, ownership and

operation of the Project as defined in this Division.

Section 2. Effective Date. This ordinance shall take effect on the later of 15 days after its adoption or upon its publication as required by law.

Section 3. Severability. The sections and provisions of this ordinance are severable. If any section or provision of this ordinance is determined by any court of competent jurisdiction to be unconstitutional or invalid that determination shall not affect the validity of this ordinance as a whole or any section or provision of this ordinance, other than the section or provision so declared to be unconstitutional or invalid.

Section 4. Inconsistency. To the extent permitted by law, provisions of ordinances that are inconsistent with this ordinance are repealed. If such a general repealer is ruled ineffective and any provision of this ordinance is inconsistent with any provision of any other ordinance, the provision of this ordinance shall be controlling.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on January 20, 2020.

Kelli A. VandenBerg,
Wyoming City Clerk

Ordinance No. 1-20
Introduced: 01.06.2020

STAFF REPORT

Date: December 23, 2019
Subject: 28 West PhaseTwo Project
From: Megan Sall, Deputy City Manager
Meeting Date: January 6, 2020

RECOMMENDATION:

It is recommended City Council approve the introduction (first reading) of the Ordinance to Amend Chapter 2, Article IV, of the Code of Ordinances by Adding Division 9 to Provide for a Service Charge in Lieu of Taxes for the 28WPHASETWO Limited Dividend Housing Association Limited Partnership Housing Project.

COMMUNITY, SAFETY, STEWARDSHIP:

This would allow a payment in lieu of taxes for the second and final phase of the 28 West housing project. It would provide additional below market rate housing opportunities for those who cannot afford market rent in an attractive development in proximity to Rapid bus service area schools, and grocery, pharmacy, retail, and restaurant businesses. In addition to the PILOT, with the approval of a proposed municipal services agreement (to be considered at the same January 20 meeting as final adoption of the ordinance), the city would receive funds that would significantly offset property tax revenues the city would forego in granting the tax exemption.

DISCUSSION:

The Council already approved the PILOT for Phase One of this project, construction of which is now underway.

BUDGET IMPACT:

No funds are budgeted for or from the proposed development.