

Sponsor: Mayor Dale Rife  
First Reading: 11/7/11  
Second Reading: 12/5/11

**ORDINANCE #8-11**

**AN ORDINANCE REGULATING ABANDONED, WRECKED, DISMANTLED,  
INOPERATIVE, OR UNREGISTERED VEHICLES**

**BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance #8-11 "An Ordinance Regulating Abandoned, Wrecked, Dismantled, Inoperative, or Unregistered Vehicles" be and hereby is enacted, as follows to wit:

Section 1. Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in any particular tense, gender, or number shall include any other tense, gender, or number necessary to render meaningful any language used herein. The word "shall" is always mandatory and never merely directory.

(A) "Town" is the Town of Wyoming, a municipal corporation of the State of Delaware.

(B) "Vehicle" is any machine propelled by power other than human power, designed to travel above, along, or below the ground, by use of wheels, treads, runners, or slides, to transport persons or property, or to pull machinery or other trailers or carriages, and shall include without limitation, any automobile, truck, trailer, motorcycle, tractor, buggy, or wagon.

(C) "Wrecked, Dismantled, or Inoperable Vehicle" is any vehicle, with or without a current and valid registration, which (i) is entirely or partially wrecked, junked, or dismantled, (ii) is in such a state of disrepair as to be incapable of being operated in the manner for which it was designed or intended, or (iii) has had its wheels, engine, transmission, or any other substantial part thereof removed.

(D) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(E) "Private Property" is any real property within the Town which is privately-owned and which is not defined as public property herein.

(F) "Public Property" is any real property in the Town which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, rights-of-way, easements and other similar property.

(G) "Abandoned Vehicle" is any vehicle, with or without a current and valid registration, which is left unattended on public property for a period in excess of two weeks under such circumstances as to cause such vehicle reasonably to appear to have been abandoned and includes, without limitation, any unregistered vehicle as defined herein.

(H) "Unregistered Vehicle" is any vehicle which is without a current and valid registration from, or otherwise properly registered with the appropriate Division of Motor Vehicles, and includes any vehicle without a license plate and any vehicle with a fictitious registration or a fictitious license plate.

Section 2. Wrecked, Dismantled, Inoperable, or Unregistered Vehicles on Public Property Prohibited and Declared a Violation. No person shall park, store, leave, or abandon, or permit the parking, storing, leaving, or abandonment of, any wrecked, dismantled, or inoperable vehicle, or any unregistered vehicle, of any kind, whether attended or not, upon any public property within the Town for a period of time in excess of 72 hours. The presence of any such vehicle(s), or any parts thereof, on public property, is hereby declared to be a violation which may be abated in accordance with the provisions of this ordinance. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the 72-hour period. This section does not apply to vehicles parked or stored on public property by the Town.

Section 3. Abandonment of Vehicles on Public Property Prohibited and Declared a Violation.

(A) No person shall park, store, leave, or abandon, or permit the parking, storing, leaving, or abandonment of, any vehicle (not otherwise prohibited as a wrecked, dismantled, or inoperable vehicle, or otherwise prohibited as an unregistered vehicle), of any kind, upon any public property within the Town, even if bearing a current and valid registration, for a period of time in excess of two weeks under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. The presence of any such vehicle(s), or any parts thereof, under such circumstances is hereby declared to be a violation which may be abated in accordance with the provisions of this ordinance. This section does not apply to vehicles parked or stored on public property owned by the Town.

(B) Any person may notify the Wyoming Police Department, in writing, of the fact that they will be absent from the Town or otherwise unable to move their vehicle for an extended period of time (as specified therein) and, in such event, that person's vehicle shall not be deemed to be in violation of this section of this ordinance until the expiration of two weeks from the time specified by the written notice to the Wyoming Police Department. Provided, however, that nothing in this paragraph shall excuse such persons from compliance with other Town Ordinances regulating the parking and/or storage of vehicles on public property in the Town.

Section 4. Wrecked, Dismantled, Inoperable, or Unregistered Vehicles on Private Property Prohibited and Declared a Violation; Exceptions.

(A) No person shall park, store, leave, or abandon, or permit the parking, storing, leaving, or abandonment of, any wrecked, dismantled, or inoperable vehicle, or any unregistered vehicle, of any kind, whether attended or not, upon any private property within the Town in excess of 15 days. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the 15-day period. The presence of any such vehicle(s), or any parts thereof, on private property is hereby declared a violation which may be abated in accordance with the provisions of this ordinance.

(B) This section shall not apply to:

(1) any vehicle enclosed within a building or fence on private property in such a manner that it is not visible from without such enclosure; or

(2) any vehicle held in connection with a business enterprise lawfully licensed by the appropriate governmental agency for the servicing and repair of such vehicles and properly operated in an appropriate business zone pursuant to the zoning ordinances of the town.

Section 5 - Order for Removal.

(A) On Public Property. Whenever it comes to the attention of the Wyoming Police Department that any violation as defined in § 2 or 3 of this ordinance appears to exist on public property, the Wyoming Police Department shall cause a written order to be affixed to the vehicle, declaring the existence of the violation and ordering whosoever has an interest in the vehicle to comply with this ordinance by removing said vehicle within 72 hours of the notice.

(B) On Private Property. Whenever it comes to the attention of the Wyoming Police Department that any violation as defined in § 4 of this ordinance appears to exist on private property, the Wyoming Police Department shall, in addition to affixing an order to the vehicle itself as provided in § 5 (a) above, deliver a copy of said notice to the owner and occupant of the property. If a copy cannot be delivered to the owner and occupant, a copy of the order shall be left at the property with a duplicate copy sent to the owner and occupant by certified mail, return receipt requested.

(C) Form or Order. Any orders required under § 5 (a) or (b) above shall contain the following information:

- (1) a description of such vehicle, including the make, year, model, color and registration number, if known;
- (2) the location of such vehicle;
- (3) the date and time that the order was affixed to the vehicle;
- (4) an order for removal within 72 hours from the time the order was affixed to the vehicle;
- (5) that upon failure to comply with the order for removal, the Wyoming Police Department shall remove or cause to be removed such vehicle;
- (6) a statement that, by removing or causing the removal of such vehicle, the Wyoming Police Department is not seizing, effecting, or exercising exclusive possession, dominion, or control over such vehicle, and further, that the person who is entitled to possession of the vehicle may at any time reclaim and recover possession of the vehicle, upon payment of all charges incurred in the removal and storage of the vehicle by the wrecker or towing service removing and/or storing such vehicle; and
- (7) that the owner of the vehicle and/or the owner or occupant of the property upon which such vehicle is located may request a hearing before the Town council at which hearing they may introduce such witnesses and evidence as they deem necessary and relevant to the issue of whether the vehicle constitutes a violation as defined herein. The order shall state that any request for a hearing shall be in writing addressed to the Town Clerk and filed within 72 hours (not

counting weekends or holidays) following the affixing of the order on the vehicle under § 5 (a) or (b) above.

Section 6 - Hearing Procedures.

(A) Upon receiving a request for a hearing pursuant to §5(c)(7), the Town Clerk shall set the hearing for the next regular meeting of the Town Council and shall, in addition to placing it upon the meeting agenda, give notice to the person requesting the hearing and to the Wyoming Police Department. No other notices are required.

(B) At such hearing, the Wyoming Police Department shall produce evidence relevant to the issue of whether or not the vehicle is a violation of this ordinance. The person requesting such hearing shall then be permitted to introduce such witnesses and evidence as he desires relevant to that issue.

(C) All witnesses shall be placed under oath. Strict rules of evidence shall not be required but the Town Council may accept any relevant evidence of a probative nature which, in the opinion of the Town Council, is such as could reasonably be relied upon by persons of common sense and prudence.

(D) At the conclusion of such hearing, the Town Council shall determine, by majority vote, whether or not they find that the vehicle constitutes a violation of this ordinance. Such determination, with a brief statement of the findings upon which that decision was made, shall be entered in the minutes of the meeting.

Section 7 - Removal of Vehicles. Within the time for removal set forth in the order for removal, or within 72 hours of the hearing at which the Town Council determines that the vehicle is in violation of this ordinance, the owner of the abandoned, wrecked, dismantled, inoperable, or unregistered vehicle and (if on private property) the owner or occupant of the private property on which the same is located, any or all of them, shall cause the removal of the vehicle. If the violation is not remedied within the time set forth herein, the Wyoming Police Department is hereby authorized to remove or have removed such vehicle from the premises. Except for the Wyoming Police Department and employees of the Town working in concert with the Wyoming Police Department, such vehicles shall be removed only by wreckers or towing services duly licensed by the State of Delaware. It shall be unlawful for any person to interfere with, hinder, or refuse to allow the Wyoming Police Department and/or any person acting in concert with or at the direction of the Wyoming Police Department to enter upon private property for the purpose of removing a vehicle under the provisions of this ordinance.

Section 8 - Notice of Removal.

(A) Within 5 days of the removal of such vehicle, the Wyoming Police Department shall give written notice (by certified mail, return receipt requested) of the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this

ordinance. The notice shall give the location where the vehicle is stored and the costs being incurred for removal and storage.

(B) The Wyoming Police Department shall also contact the Delaware Division of Motor Vehicles and such other agencies and departments of government in this and other states as are reasonably necessary to ascertain the name and addresses of other persons with a record interest in the vehicle, including lien holders. Such other persons shall be given notice in the same manner as stated in subsection (A) above.

(C) Notice under this section shall contain the following information:

- (a) year, make, model and serial number of vehicle;
- (b) the name and address of the last known registered owner of the vehicle, if available;
- (c) the vehicle registration number and the title registration number of the vehicle, if available;
- (d) the date on which the vehicle was removed; the location from which the vehicle was removed; and
- (f) the location at which the vehicle is being stored.

The notice shall also advise the persons to whom it is given that the vehicle is subject to all the provisions of the Delaware "garageman's lien" statute, that under the terms thereof, it is subject to being sold at public sale unless reclaimed, and that the person who is entitled to possession of the vehicle may reclaim it upon payment of all charges incurred in the removal and storage of the vehicle.

(D) If unable to identify properly the last registered owner of any vehicle, or if unable to obtain with reasonable certainty the names and addresses of the owner or other interested parties, including lien holders, it shall be sufficient notice under this section to publish the notice described in subsection (C) once in one newspaper of general circulation in the Town of Wyoming. Such notice by publication may contain multiple listings of vehicles.

Section 9. Disposition of Motor Vehicles. Any person who tows, removes, stores, or keeps a vehicle at the direction of the Wyoming Police Department acting under the provisions of this ordinance shall, from the time of taking possession thereof, be entitled to all rights, remedies and authority as provided under the Delaware "garageman's lien" statute, 25 Del. C. Chapter 39 as it may be amended from time to time hereafter or any future corresponding provision of law. In exercising such rights, remedies, and authority, such persons shall be governed, in all respects, by the terms of that statute.

Section 10. Liability for Towing and Storage Expenses. In the event that the Town should be or become liable for all or any portion of the expenses incurred in the removal and storage "of such vehicle, the Town may:

(A) recover same from the owner of the vehicle and/or the owner of the private property from which it was removed in an action for debt; or

(B) add that amount to the tax bill of the person owning the private property from which the vehicle was removed, or both; provided, however, that wherever the private property from which such vehicle has been removed is occupied by a person other than the owner of the property, the occupant shall be primarily responsible and the Town shall not seek to recover from the owner of the property (either in an action at law or by tax collection proceedings) before it exhausts reasonable efforts to recover from the occupant, but this shall not prohibit the Town from joining both the property owner and occupant in one action for debt.

Section 11. Penalty. Any person knowingly causing or permitting a violation of this ordinance shall forfeit and pay a fine of not less than \$100.00 plus costs of prosecution. Each day following the expiration of the 72-hour period for removal shall constitute a separate offense.

Section 12. If any section, subsection, paragraph or other provision of this ordinance, or its application to any person or circumstances shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision, of its application to other persons or circumstances. The Town Council hereby expresses the intent that it would have enacted the other provisions of this ordinance as if the invalid or unconstitutional provision was not contained therein.

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### Synopsis

This ordinance prohibits leaving wrecked, dismantled, inoperative or unregistered vehicles on public property for more than 72 hours or on private property for more than 15 days. Exceptions to this rule for vehicles on private property include vehicles enclosed by a building or fence or businesses that service and repair vehicles. All other vehicles may not be left on public property for more than two weeks under circumstances which make it appear that the vehicle has been abandoned. Procedures are outlined whereby notice is provided that a vehicle is in violation of the ordinance. Appeals procedures are provided by this ordinance, along with procedures for the removal and disposition of the vehicle and liability for towing and storing a vehicle. Violators of the ordinance are subject to a fine not less than \$100 plus costs.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on December 5, 2011.

Attest: Pamela B. Haddick So Certifies: Frankie Dale Rife  
Town Clerk Mayor

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This shall certify that a copy of this Ordinance was posted at the Town Hall on 12/7, 2011.

12/7/11 Date So Certifies: Pamela B. Haddick