



First Reading: 6-4-07

Second Reading: 7-2-07

GENERAL

**ORDINANCE #17-07 OF THE TOWN OF WYOMING**

**AN ORDINANCE ESTABLISHING A PROCEDURE FOR THE DETERMINATION AND ABATEMENT OF PUBLIC NUISANCES WITHIN THE TOWN OF WYOMING, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.**

Be it ordained by the Town Council of the Town of Wyoming that a new ordinance, to be designated as Ordinance No. 41 of the Town of Wyoming, is hereby enacted and adopted, to read as follows:

Section 1 - Purpose and Intent.

The purpose and intent of this Ordinance is to establish an orderly procedure for the determination and abatement of public nuisances within the Town of Wyoming.

Section 2 - Public Nuisance Defined.

"Public Nuisance" shall mean any conduct or condition which endangers life, health, safety, or the general welfare of the Town of Wyoming, or any conduct or condition which obstructs the reasonable and comfortable use of any property, gives offense to the senses, or violates common decency, including any particular conduct or condition which the Town Council of the Town of Wyoming may by resolution determine to be unreasonable, unlawful, annoying, inconvenient, discomforting, or damaging to any person or property.

Section 3 - Public Nuisances Prohibited.

It shall be unlawful for any person, firm, corporation, association, or any other entity to cause or allow to exist any public nuisance within the Town of Wyoming. The Town of Wyoming is hereby authorized to take appropriate action, as set forth herein, for the determination and abatement of any public nuisance.

Section 4 - Determination of Public Nuisance; Notice.

The Town Council of the Town of Wyoming may, upon the complaint of any resident of the Town of Wyoming or upon its own motion, determine by resolution that any particular conduct or condition constitutes a public nuisance as defined by this Ordinance.

Upon determination that any particular conduct or condition constitutes a public nuisance as defined by this Ordinance, the Town Council of the Town of Wyoming shall give written notice (delivered in person or via certified mail) to the person, firm, corporation, association, or other entity causing or allowing such public nuisance to exist, which notice shall specify:

- (a) the conduct or condition constituting the public nuisance, and a statement that such conduct or condition has been determined to constitute a public nuisance which violates this Ordinance;
- (b) the action deemed necessary to remove or correct the conduct or condition constituting the public nuisance, and a statement that such action must be completed within thirty (30) days from the receipt of said notice;
- (c) the action, if any, which the Town of Wyoming may take upon failure to remove or correct the conduct or condition constituting the public nuisance; and
- (d) the penalties which may be imposed for violations of this Ordinance.

Such notice shall be presumed received upon personal delivery or upon the date such notice was deposited in the U.S. mail. The fact that such notice is not actually received shall not be a defense to enforcement of this Ordinance.

Section 5 - Opportunity for Public Hearing.

Any person, firm, corporation, association, or other entity which receives any notice given pursuant to Section 4 of this Ordinance may request, in writing and within fifteen (15) days of receipt of said notice, a public hearing before the Town Council of the Town of Wyoming, in order to show cause, if any, why the Town of Wyoming should not proceed, pursuant to Section 6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance.

If a public hearing is properly and timely requested pursuant to this Section, the Town of Wyoming shall not take any abatement action pursuant to this Ordinance until such a public hearing has been held. Such public hearing may be conducted at the next regularly scheduled meeting of the Town Council of the Town of Wyoming, or sooner if necessary, but in any event shall be conducted no later than sixty (60) days from the date upon which the Town of Wyoming receives the written request for said hearing.

If, after said public hearing, the Town Council of the Town of Wyoming determines that the Town of Wyoming should not proceed, pursuant to Section 6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance, then the Town of Wyoming shall take no abatement action pursuant to this

Ordinance. If, after said public hearing, however, the Town Council of the Town of Wyoming determines that the Town of Wyoming should proceed, pursuant to Section 6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance, then the Town of Wyoming may proceed, pursuant to Section 6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance; provided, nevertheless, that no abatement action shall commence any sooner than thirty (30) days after receipt of the notice required by Section 4 of this Ordinance.

If a public hearing is not properly and timely requested pursuant to this Section, then the Town of Wyoming may proceed, pursuant to Section 6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance.

Section 6 - Procedure for Abatement of Public Nuisance.

If any person, firm, corporation, association, or any other entity shall refuse or fail to remove or correct any conduct or condition constituting a public nuisance within thirty (30) days from the receipt any notice given pursuant to Section 4 of this Ordinance, then the Town of Wyoming may take whatever action is appropriate and reasonably necessary to abate such public nuisance, including but not limited to the physical removal or correction of said conduct or condition, and the Town of Wyoming or its designated agent is hereby authorized to enter upon any private property within the Town of Wyoming, without warrant, to accomplish this purpose. Any and all costs or expenses incurred by the Town

of Wyoming shall be assessed against the property harboring the public nuisance, and any such costs or expenses so incurred shall constitute a lien against said property which shall be collectible in the same manner as real property taxes within the Town of Wyoming.

Section 7 - Other Remedies.

In lieu of or in addition to the aforesaid procedure for the abatement of any public nuisance, the Town of Wyoming may file a civil action for injunctive relief to enjoin any violation of this Ordinance, or any appropriate civil or criminal action for enforcement of the penalty provided by Section 8 of this Ordinance, or both, in any court of competent jurisdiction.

Section 8 - Penalty for Violations.

Any person, firm, corporation, association, or other entity violating the provisions of this Ordinance may be sued or prosecuted before any court of competent jurisdiction, and upon judgment or conviction shall be liable for, forfeit, or pay a penalty or fine to the Town of Wyoming in the amount of \$100.00 for each violation. Each and every day that such violation occurs or continues shall constitute and be punishable as a separate offense.

Section 9 - Severability.

If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance which may otherwise be given effect,

and to this end the provisions of this Ordinance are hereby declared to be severable.

ENACTED AND ORDAINED this 2nd day of July, 2007.

TOWN COUNCIL OF THE  
TOWN OF WYOMING, DELAWARE

BY: Frankie Dale Rife  
Frankie Dale Rife, Mayor

Adopted: August 2, 1993

Amended Date: 7-2-07

Legally Posted: 7/3/07

Effective Date: 8/3/07