

Sponsor: Wooleyhand  
First Reading: 8/14/2023  
Second Reading: 9/11/2023

**ORDINANCE #70-23**

**AN ORDINANCE REGULATING THE PLACEMENT AND STORAGE OF PORTABLE ON DEMAND STORAGE UNITS AND DUMPSTERS ON PROPERTY IN THE TOWN OF WYOMING**

**WHEREAS**, Section 27 of the Charter of the Town of Wyoming authorizes the Town Council to “enact ordinances . . . relating to the government of the town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protections and preservation of property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances[;]”

**WHEREAS**, the Town Council of the Town of Wyoming has seen an increase in complaints regarding the placement of dumpsters and portable on demand storage units (“PODS”);

**WHEREAS**, the Town Council finds that improper and/or excessive placement of dumpsters and PODS can create traffic safety issues by restricting visibility at street intersections and driveways, can require pedestrians to enter the vehicular right-of-way when dumpsters or PODS are blocking sidewalks or driveway entrances, and can create visual blight in the Town of Wyoming; and

**WHEREAS**, in the opinion of the Town Council of the Town of Wyoming, it is necessary and in the best interest of the public health, safety, and welfare to establish regulations pertaining to the placement of dumpsters and PODS in order to reduce traffic safety hazards and minimize visual blight throughout the Town.

**NOW THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in Council duly met, that “An Ordinance Regulating the Placement and Storage of Portable On Demand Storage Units and Dumpsters on Property in the Town of Wyoming” be and hereby is adopted, as follows, to wit:

**Section 1. Purpose.** The Town of Wyoming seeks to reduce traffic safety hazards caused by dumpsters and Portable On Demand Storage Units being placed within the public right-of-way or on private property in a way that obstructs the view of motorist and pedestrians or obstructs passage along sidewalks, thereby forcing pedestrians to enter the vehicular right-of-way when walking down a street. Furthermore, the Town seeks to reduce the visual blight associated with dumpsters and PODS that are left on property for extended periods of time.

**Section 2. Definitions.** For purposes of this ordinance, the following terms are defined as follows:

*Dumpster* means any metal container, including roll-off dumpsters, used primarily for the temporary storage or deposit of waste materials, including debris, trash, or construction, renovation

or demolition waste and which is transportable such as to be delivered by, rolled off of, and picked up by a carrying vehicle that allows for the disposal and removal of its contents to a dump site. The term does not include dumpsters which are permanently placed for the collection of normal housed trash, such as at commercial locations or apartment complexes.

*Portable On Demand Storage Unit* (“PODS”) means any container not permanently affixed to the land and designed for the storage of personal property, construction materials and equipment, and/or for transport by commercial vehicle and which is typically rented to owners or occupants of property and stored on the owner’s or occupant’s property.

*Public right-of-way* means any land dedicated as a public street, road, alley, lane, highway, or sidewalk.

*Sight triangle* means that area at the corner of the intersection of two public rights-of-way where the views of approaching traffic should not be obstructed.

**Section 3. Use of PODS and Dumpsters.** PODS and dumpsters are permitted in the Town subject to the following restrictions:

(a) **Personal Use.** Upon receipt of a non-transferable permit from the Town Manager’s Office, any resident may store a PODS or dumpster on that resident’s property for up to two separate occasions within any consecutive twelve-month period, not to exceed, in the aggregate, a total of twenty days during any consecutive twelve-month period.

(b) **Construction Purposes.** For construction purposes, upon payment of a \$100.00 permit fee and receipt of a proper (non-transferable) permit from the Town Manager’s Office, any person may place or store a PODS or dumpster on any property for a period of up to 90 consecutive days during any consecutive twelve-month period. Such permit may be renewed or extended for an additional 90 consecutive days upon payment of additional \$100 permit fee. No PODS or dumpster shall be permitted to remain on the property upon the first of the following to occur: (i) the expiration of the 90- or 180-day permitted time limit; (ii) the expiration of the building permit; or (iii) the issuance of a Certificate of Occupancy. In order to qualify for a PODS or dumpster permit for construction purposes, a property owner must have paid for and been issued a building permit.

(c) All PODS and dumpsters shall be set back at least three (3) feet from all property lines. PODS and dumpsters may not be placed within the public right-of-way. Anything herein to the contrary notwithstanding, in order to preserve sight triangles, PODS and dumpsters may not be placed within 6 feet of any property line abutting a public right-of-way intersection.

(d) The location of a PODS or dumpster shall not negatively impact the health, safety, and/or welfare of the public including, but not limited to, blocking access to fire hydrants, blocking access to or obstructing pedestrian or vehicular travel along the public right-of-way, or obstructing the view or sight triangles of drivers and/or pedestrians at streets and intersections.

(e) No more than one PODS and/or dumpster may be located on a property at the same time.

(f) A PODS shall be no larger than 10 feet by 16 feet, and a dumpster shall no larger than 40 cubic yards in size.

#### **Section 4. Civil Penalties and Enforcement.**

(a) Ordinance Enforcement. The building inspector shall issue a citation and civil penalty for violations of this Ordinance to the owner of the property where the violation occurred and/or to the person committing the violation. The citation shall include the appeals procedures outlined herein, and shall be posted on the property and either hand delivered or mailed via certified mail to the property owner and/or the person committing the violation.

(b) Civil Penalties.

1. A civil penalty of \$50.00 shall be assessed for any violations of this ordinance, which shall constitute and be collected as a civil penalty. Each and every day that a violation of this ordinance continues shall constitute a separate violation.
2. Civil penalties may be collected through any lawful means available, including by adding unpaid civil penalties to the property tax bill of the property that was the subject of the civil penalty as authorized by 25 *Del. C.* § 2901(a)(1)(i).

(c) Appeals Procedures. Whenever a penalty is issued hereunder, the property owner or any other responsible party shall have fifteen (15) days from the date of the citation to file a written appeal with the Town Clerk. The Town Clerk shall schedule a date for the town council to hear the appeal, which hearing shall be held as soon as practical within fifteen (15) days of the date of the appeal. The appellant and all other persons affected by the ordinance violation shall have the right to be heard at the hearing. Additional violations and corresponding penalties shall not accrue from the time an appeal is filed through the date the appeal is heard.

(d) Legal Action. Anything herein to the contrary notwithstanding, the Town Council or the building inspector may initiate any civil legal action in the name of the Town of Wyoming, at law, in equity, or otherwise, in any court of competent jurisdiction, including but not limited to actions seeking injunctive or other affirmative relief.

**Section 5. Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the Town Council.

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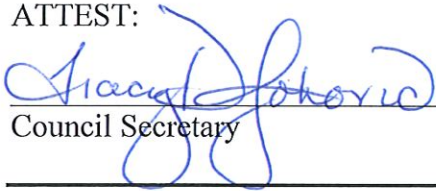
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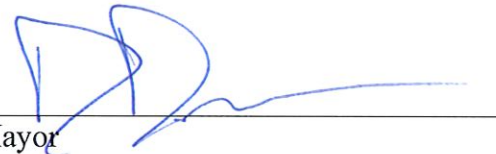
This Ordinance requires a permit to place a portable on demand storage unit (“PODS”) or dumpster on a property. PODS and dumpsters may not be placed within the public right-of-way. This ordinance prohibits PODS and dumpsters from being placed within the first 3 feet of any property line and/or in any manner that obstructs the use of the public-right-of-way. PODS and dumpsters may not be placed within 6 feet of any property lines abutting a public right-of-way intersection. PODS and dumpsters may be situated on a property for up to an aggregate of 20 days in a twelve-month period of time, but PODS and dumpsters being used for construction purposes may be used for up to 90 consecutive days, with one 90-day extension possible. A violation of this ordinance may result in a civil penalty of \$50.00, with each day a violation continues constituting a new violation. The ordinance contains notice and appeals procedures for challenging a violation.

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This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Wyoming at its regular Council meeting on September 11, 2023.

ATTEST:

  
\_\_\_\_\_  
Council Secretary

  
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Mayor

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This shall certify that a copy of this Ordinance was posted at the Town Hall on September 12, 2023.

So Certifies:

9/11/23  
Date

  
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