

ORDINANCE NO. 401

AN ORDINANCE OF THE TOWN OF HANNA, CARBON COUNTY, WYOMING AMENDING TITLE 1, TITLE 2, TITLE 8, AND TITLE 17 OF THE HANNA TOWN CODE REGULATING NUISANCE VIOLATIONS WITHIN THE TOWN OF HANNA AND PROVIDING FOR THE APPOINTMENT OF A CODE ENFORCEMENT OFFICER TO ENFORCE NUISANCE REGULATIONS

WHEREAS, the Governing Body of the Town of Hanna wishes to preserve the public peace, health safety, and welfare of all residents of the Town of Hanna; and

WHEREAS, the Governing Body of the Town of Hanna has determined that it is in the best interest of the citizens of the Town to modify the procedures for regulating nuisances within the Town and for enforcing the Town's building codes, zoning ordinances, and nuisance ordinances.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF HANNA, CARBON COUNTY, WYOMING:

Section 1.01.110 is added to title 1 the Town code as follows:

1.01.110 SEVERABILITY. IF ANY PROVISION OF THIS CODE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF ANY SUCH ACT ARE SEVERABLE.

Section 2.06.020 of the Town code is repealed and reenacted, with amendments, as follows:

2.06.020 APPOINTMENTS.

A. THE TOWN MARSHAL SHALL BE APPOINTED BY THE MAYOR WITH THE CONSENT OF THE TOWN COUNCIL AND SHALL BE SUBJECT TO REMOVAL FROM OFFICE BY THE MAYOR WITH THE CONSENT OF THE TOWN COUNCIL. SUBJECT TO SUBSECTION B, ALL OTHER APPOINTMENTS TO OR PROMOTIONS WITHIN THE MARSHAL'S OFFICE SHALL BE MADE BY THE TOWN MARSHAL WITH THE APPROVAL OF THE MAYOR.

B. IN THE EVENT THAT THE POSITION OF TOWN MARSHAL IS VACANT, THE MAYOR WITH THE CONSENT OF THE TOWN COUNCIL MAY APPOINT A LICENSED PEACE OFFICER TO PROVIDE LAW ENFORCEMENT SERVICES TO THE TOWN ON A PART-TIME BASIS AND WITH A LIMITED SCOPE OF AUTHORITY TO BE DETERMINED BY THE MAYOR.

C. THE TOWN MARSHAL SHALL BE RESPONSIBLE FOR THE PERFORMANCE OF THE MARSHAL'S OFFICE. THE TOWN MARSHAL, WITH THE CONSENT OF THE MAYOR, MAY FROM TIME TO TIME DESIGNATE BY LETTER AN ACTING TOWN MARSHAL

TO SERVE AS HEAD OF THE DEPARTMENT DURING ANY EXTENDED ABSENCE BY THE TOWN MARSHAL FROM THE TOWN.

Subsection (A) to section 2.06.030 of the Town code is amended as follows:

A. ~~The Town Marshal~~ TOWN MARSHAL shall be the chief law enforcement officer for the Town of Hanna and have supervision over all matters pertaining to the ~~Hanna Marshal's Office~~ MARSHAL'S OFFICE, including all police officers and other law enforcement personnel, EXCEPT THAT THE TOWN CODE ENFORCEMENT OFFICER SHALL BE INDEPENDENT OF THE MARSHAL'S OFFICE AND SUBJECT TO THE DIRECT SUPERVISION OF THE MAYOR. ~~The Town Marshal~~ TOWN MARSHAL shall keep such records and make such reports concerning the activities of his or her department as may be required by ~~Statute~~ STATUTE or by the ~~Mayer~~ MAYOR or ~~Town Council~~ TOWN COUNCIL.

Chapter 2.09 is added to title 2 of the Town code as follows:

CHAPTER 2.09
CODE ENFORCEMENT OFFICER

2.09.010 APPOINTMENT. THE MAYOR WITH THE CONSENT OF THE TOWN COUNCIL MAY APPOINT A PERSON TO SERVE AS A CODE ENFORCEMENT OFFICER. THE CODE ENFORCEMENT OFFICER MAY BE REMOVED AT ANY TIME WITH OR WITHOUT CAUSE AND SHALL SERVE SOLELY AS AN AT-WILL EMPLOYEE. THE MAYOR WITH THE CONSENT OF THE TOWN COUNCIL MAY APPOINT THE TOWN MARSHAL TO SERVE AS THE CODE ENFORCEMENT OFFICER.

2.09.020 DUTIES AND RESPONSIBILITIES. THE CODE ENFORCEMENT OFFICER SHALL HAVE THE POWER AND DUTY TO ADMINISTER AND ENFORCE ALL PROVISIONS OF THE TOWN ZONING CODE, ALL OTHER BUILDING REGULATIONS, AND ANY BUILDING OR CONSTRUCTION CODES ADOPTED BY THE TOWN NOW OR THAT MAY BE ADOPTED IN THE FUTURE.

2.09.030 CITATIONS. PURSUANT TO W.S. § 15-1-103(A)(L), THE CODE ENFORCEMENT OFFICER SHALL BE A SPECIAL MUNICIPAL OFFICER AND SHALL BE PERMITTED TO ISSUE CITATIONS TO ENFORCE ORDINANCES, RESOLUTIONS, AND REGULATIONS PERTAINING TO MUNICIPAL CODE ENFORCEMENT. THE TOWN COUNCIL MAY, BY RESOLUTION, LIMIT THE AUTHORITY OF THE CODE ENFORCEMENT OFFICER AT ITS DISCRETION.

Subsection (H) to section 8.24.010 of the Town Code is amended as follows:

Section 8.24.010 Nuisance Defined

The various nuisances described and enumerated in this section shall not be deemed to be exclusive, but shall be in addition to all other nuisances described and prohibited in this code.

- A. Obnoxious, Offensive Odors. The emission of obnoxious and offensive odors; the tainting of the air rendering it offensive and/or unwholesome so as to affect the health or comfort of persons residing in the neighborhood thereof, shall constitute a public nuisance.
- B. Discharging of Offensive Matter. The placing, throwing or discharging from or out of any house or premises, of any filthy, foul or offensive matter, liquid or effluent of any kind, into any street, alley or public place, or upon any adjacent lot or ground, shall constitute a public nuisance.
- C. Water Pollution. The obstruction or pollution of any watercourse, DRAINAGE PATH, or source of water supply in the Town.
- D. Stagnant Water. Any stagnant pool of water in the Town.
- E. Emission of Dense Smoke. The emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the Town so as to cause annoyance or discomfort to the public. For the purpose of testing and grading the density of smoke the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading, and smoke shall be defined as and declared to be dense when it is of a degree of density of number three of the chart, or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.
- F. Certain Weeds. Weeds determined to be noxious by the Wyoming Weed and Pest Council and as defined in Chapter 30 in Title 8 8.30 OF THIS CODE, any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind found growing in any lot or tract of land in the Town.
- G. Maximum Height Permitted. Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding eight inches anywhere in the Town except naturally occurring plant life in undeveloped areas of Town.
- H. Abandoned, Junked, etc., AND DERELICT VEHICLES. Unlicensed, abandoned or junk vehicles and parts or remains thereof parked upon private property, public property, public streets, alleys or ways are declared to be nuisances unless an exemption exists under Paragraph 3 PARAGRAPH 4 herein. The presence of an unlicensed vehicle abandoned, wrecked, dismantled, derelict or inoperative vehicle, on private or public property, that is declared to constitute a public nuisance may be abated as such in accordance with the provisions of this chapter.
1. ~~The tearing down, stripping or junking of such vehicles shall be permitted only where and when such use is specifically authorized, permitted or licenses under other ordinances of the Town and in strict accordance therewith; or which use is conducted entirely within the confines of an accessory garage building or behind a fences as defined in Paragraph 4 (a) herein, then only provided that such vehicle is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the Town.~~
 2. A vehicle shall be deemed to be "abandoned" under any of the following circumstances; provided, however, that a vehicle left unattended due to adverse road or weather conditions, acts of God, or mechanical difficulties shall not be deemed to be abandoned for the period required to see the passage of the condition or a reasonable time to remove the vehicle for repairs:
 - a. If the vehicle is left unattended on a public street, highway, alley, parking lot or other public property within the jurisdictional limits of the Town for more than twenty-four hours after a notice to impound has been placed upon the vehicle pursuant to the provisions

of Section 8.16.030 and the vehicle has been impounded and the notice of impound has been given pursuant Wyoming Statutes § § 31-13-101, et seq.;

b. If the vehicle has been left unattended on private property without the consent of the owner or person in lawful possession thereof.

3.2. ~~Derelect Vehicles~~. A vehicle, or parts thereof, shall be deemed to be "derelect" if the vehicle is:

- a. Inoperable to the extent that it is unable to perform its original intended function;
- b. Partially or wholly dismantled;
- c. Wrecked to the extent that prevents legal operation;
- d. Junked or intended to be recycled or scrapped;
- e. An Unlicensed vehicle

3. Exemptions. This ~~section~~ SUBSECTION defining ABANDONED AND derelect and abandon vehicles shall not apply to the following:

a. A vehicle that is enclosed in a secure building or sheltered. "Unsheltered" means located outside a garage or other building and visible upon any public street, alley, sidewalk or right-of-way or any adjoining piece of property. Items stored entirely within an enclosed garage, covered or completely shielded by a fence and not visible from the street or other public or private property shall be considered to be sheltered whether or not the garage doors or fence are open from time to time.

b. A vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise;

c. A vehicle in an appropriate storage or depository facility maintained in a lawful place and manner by a governmental agency;

d. An antique motor vehicle as defined in W.S. 31-2-210 which is licensed as provided by law.

e. A vehicle which is covered by an intact custom car cover made for the specific type and size of vehicle which it covers.

i. In no instance may a person have more than ~~four (4)~~ TWO (2) such covered vehicles unsheltered on his or her property.

ii. No covered vehicle may be stored on public property or right-of-way.

f. A race car that is currently actively engaged in racing and equipped for racing with roll cage, motor, windows removed, drivers name, sponsors, and number displayed. There is a limit of ~~four (4)~~ TWO (2) race cars on his or her property. Demolition cars are not considered race cars for purposes of this chapter. Demolition cars shall be considered derelect vehicles.

G. THE TEARING DOWN, STRIPPING OR JUNKING OF SUCH VEHICLES SHALL BE PERMITTED ONLY IN THE FOLLOWING SITUATIONS:

I. WHERE AND WHEN SUCH USE IS SPECIFICALLY AUTHORIZED, PERMITTED OR LICENSED UNDER OTHER ORDINANCES OF THE TOWN AND IN STRICT ACCORDANCE THEREWITH; AND

II. WHERE THE USE IS CONDUCTED ENTIRELY WITHIN THE CONFINES OF AN ACCESSORY GARAGE BUILDING OR BEHIND A FENCE. THIS PARAGRAPH APPLIES ONLY WHEN THE VEHICLE IS THE PROPERTY OF THE OWNER OR OCCUPIER OF THE LOT AND THE USE IS NOT A COMMERCIAL USE OF THE PROPERTY, UNLESS THE USE IS AUTHORIZED BY OTHER ORDINANCES OF THE TOWN.

H. A VEHICLE LEFT UNATTENDED FOR A REASONABLE TIME DUE TO ADVERSE ROAD OR WEATHER CONDITIONS, ACTS OF GOD, OR MECHANICAL CONDITIONS. A VEHICLE LEFT UNATTENDED FOR A REASON SET FORTH IN THIS SUBPARAGRAPH SHALL BE EXEMPT FROM THIS SECTION FOR ONLY THAT TIME REASONABLY NECESSARY FOR THE CONDITION TO PASS OR FOR THE VEHICLE TO BE REMOVED FOR REPAIRS.

I. Junk. "Junk" Any iron, glass, weeds, metal, lumber, stumps, grass, trash, straw, hedge trimmings, cut tree branches, paper, cordage, cloth, construction debris, building materials not intended for immediate use, or other waste or discarded material of any nature or substance whatsoever, or any scrap or salvage materials which are left or permitted to remain for any unreasonable period of time upon any real property located within the Town or any Town property within or without the corporate limits of the Town or upon or within the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel shall constitute a nuisance.

J. Foul, Offensive Conditions. Any cellar, vault, private drain, pool, privy, sewer or grounds upon any premises owned or occupied by any person who becomes nauseous, foul, offensive or injurious to the public health, or any grounds or other premises in such condition as to be offensive and/or unwholesome to the neighborhood shall constitute a nuisance.

K. Any refrigerator or freezer, electronic equipment or appliances which are not being utilized for its intended use.

L. Light Source facing neighboring property.

1. No artificial lighting shall shine directly upon any neighboring property or be so established that it shall shine directly upon any neighboring property or shall shine directly on or into any room or rooms, porches or patios of any neighboring structures or property as to be a nuisance. Nor shall any artificial lighting be maintained or operated from any structure or land in such a way as to be a nuisance to neighboring properties or as to impair vision through inordinate glare.

2. Exterior lighting facing neighboring property shall be hooded or shielded so that it does not produce an objectionable or inordinate glare on the neighboring property.

3. Any prohibited lighting now in existence, in connection with a permitted use or granted variance or in connection with a valid nonconforming use, which violates or does not conform to the provisions

hereof shall be altered, removed or replaced in conformity with the provisions hereof.

4. The following are exempt from the provisions of this ordinance:
- a. Traffic control signals and devices;
 - b. Street lights installed prior to the effective date of this ordinance;
 - c. Temporary emergency lighting (i.e. fire, police, repair workers);
 - d. Moving vehicle lights;
 - e. navigation lights (i.e. airports, heliports, radio/television towers);
 - f. Lighted signs that conform to the Town's sign ordinance;
 - g. Seasonal decorations with individual lights in place;
 - h. Sports field outdoor lighting (i.e. ball fields, football, soccer, ice rink, etc.);
 - i. Other special situations approved by the Town for Temporary or periodic events (i.e. rodeos, revivals, fairs, fiestas, carnivals, nighttime construction);
 - j. Covered porch lighting on single-family or multi-family homes; and
 - k. Security lights of any wattage that are controlled by a motion-sensor switch.

M. Keeping of Fowl (chickens, laying hens etc.)—Permit.

The keeping, stabling and corralling of fowl, without a valid permit in any zoned district within the Town is considered a nuisance.

N. ANY OTHER UNREASONABLE CONDITION TENDING TO CAUSE ANY OF THE FOLLOWING:

1. A SUBSTANTIAL REDUCTION IN THE VALUE OF PRIVATE OR PUBLIC PROPERTY OWNED BY OTHERS;
2. THE PROMOTION OF BLIGHT AND DETERIORATION;
3. INVITE PLUNDERING;
4. CREATE FIRE HAZARDS;
5. CONSTITUTE AN ATTRACTIVE NUISANCE CREATING A HAZARD TO THE HEALTH AND SAFETY OF MINORS; AND
6. CREATE A HARBORAGE FOR INSECTS, RODENTS, SKUNKS, AND OTHER WILDLIFE THAT IS INJURIOUS TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PUBLIC.

Section 8.24.020 of the Town code is amended as follows:

Section 8.24.020 Prohibited acts.

~~The accumulation or storage of derelict, abandoned, wrecked, dismantled, unlicensed or inoperative vehicles, weeds, litter or junk on private or public property is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for insects,~~

~~rodents, skunks and other vermin and to be injurious to the health, safety and general welfare of the public. Therefore, the presence of junk, litter, weeds, or an abandoned, derelict, wrecked, dismantled or inoperative vehicle, or unlicensed vehicle on private or public property, except as expressly permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. It is unlawful for any person to maintain or permit the existence of any nuisance on any property within the Town. Any person who may be in violation of this section shall, in addition to any penalty that may be imposed for the violation of this code, be subject to the provisions of this chapter. ANY PERSON IN VIOLATION OF THIS CHAPTER MAY BE CHARGED WITH A MISDEMEANOR AND PUNISHED BY A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS. EACH DAY A VIOLATION CONTINUES SHALL BE CONSIDERED A SEPARATE OFFENSE.~~

Section 8.24.030 of the Town code is amended as follows:

Section 8.24.030 Notice to abate nuisance—Compliance required

A. It shall be the duty of any person receiving the notice of a public TO ABATE nuisance as provided in this chapter to comply with the provisions of the notice and to abate such nuisance within fourteen (14) days after the receipt of such notice, and if such person shall fail or refuse to abate such nuisance within fourteen (14) days from receipt of such notice without just cause, ~~such failure is declared to be unlawful and shall constitute a misdemeanor. Each day such nuisance persists shall constitute a separate violation.~~ SUCH PERSON MAY BE CHARGED WITH A MISDEMEANOR AND PUNISHED BY A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS. EACH DAY A VIOLATION CONTINUES SHALL BE CONSIDERED A SEPARATE OFFENSE. THE CODE ENFORCEMENT OFFICER MAY AGREE, IN WRITING, TO ALLOW A PERSON RECEIVING A NOTICE TO ABATE NUISANCE A LONGER TIME TO ABATE THE NUISANCE PURSUANT TO THE CONDITIONS SET FORTH IN THE WRITING.

B. It is unlawful and shall constitute a misdemeanor for any person, after having received notice as provided in this chapter, to remove any vehicle or junk from private property to any other private property WITHIN TOWN LIMITS upon which storage is not permitted, or onto any public property WITHIN TOWN LIMITS.

C. If the nuisance is not abated within the time provided, and after notice as provided by 8.16.040 the Town may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance. ~~or assessed against the land upon which the nuisance exists or both.~~ THE TOWN RESERVES ALL RIGHTS AND REMEDIES AVAILABLE AT LAW OR IN EQUITY TO RECOVER ANY COSTS OF ABATEMENT INCURRED BY THE TOWN.

Section 8.24.040 of the Town code is amended as follows:

Section 8.24.040 Notice to abate nuisance -- Contents -- Procedure

A. Whenever the Town Marshal or his appointed representative CODE ENFORCEMENT OFFICER, OR OTHER OFFICIAL APPOINTED BY THE MAYOR WITH THE APPROVAL OF THE TOWN COUNCIL, is of the opinion that any condition is a public nuisance as defined herein, the Town Marshal or representative CODE ENFORCEMENT

OFFICER OR OTHER DESIGNATED OFFICIAL shall attempt to give written notice to the owner of the condition, if his or her address is known, to the owner of the land where the condition is located, and to any other person or entity known by the Town manager to have a security interest in the vehicle or junk CONDITION. ~~The notice shall be attempted by registered mail or personal service, if the address of the individual or entity is known. In the case of vehicles, where practical, the notice shall also be affixed to the windshield or some other part of the vehicle where it can be easily seen. Where affixing the notice to a vehicle is impractical, and in the case of junk, the notice shall be posted at the site or on the premises where the nuisance exists.~~

B. Such notice shall include substantially the following information:

1. A statement that a certain condition is a nuisance within the provisions of Section 8.24.010; in the case of a vehicle, the notice should include make, year and vehicle identification number if reasonably possible;
2. A description of the real property, by street address or otherwise, on which the nuisance exists;
3. A statement that such nuisance must be abated within fourteen (14) days from the date on the notice;
4. A statement that if the nuisance is not abated within the time provided, the Town may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both;
5. A statement that a hearing upon the allegation of a public nuisance and the assessment of costs may be requested by giving written notice to the clerk of municipal court within fourteen (14) days from the date on the notice, and that a request must specify the property concerning which the request is made, the requesting party's name and address, and the nature of the interest held by the requesting party; that upon request a hearing will be scheduled to determine if a public nuisance exists and as to the assessment of administrative costs and the costs of abatement; that if a hearing is not so requested the right to a hearing shall be waived;
6. A statement that failure to abate the nuisance may result in a Town abatement and/or criminal charges.
7. A STATEMENT THAT THE PERSON RECEIVING NOTICE TO ABATE NUISANCE MAY CONTACT THE MAYOR OR HIS DESIGNEE TO DISCUSS ADDITIONAL TIME TO ABATE THE NUISANCE.

C. SERVICE OF NOTICE.

1. THE NOTICE SHALL BE ATTEMPTED BY CERTIFIED MAIL OR PERSONAL SERVICE, IF THE ADDRESS OF THE INDIVIDUAL OR ENTITY IS KNOWN. THE NOTICE OF ABATEMENT SHALL ALSO BE POSTED AT THE SITE OR ON THE PREMISES WHERE THE NUISANCE EXISTS.
2. In the event that notice, as provided in subsection A of this section, cannot be given to each individual known by the ~~Town Marshal or his representative~~ CODE ENFORCEMENT OFFICER OR OTHER DESIGNATED OFFICIAL to have an interest in the vehicle or junk NUISANCE, service shall be made by publication. ~~Such notice by publication shall be made by one publication in a newspaper of general circulation in Carbon County.~~ SUCH SERVICE SHALL

COMPLY WITH RULE 4 OF THE WYOMING RULES OF CIVIL PROCEDURE. The notice of publication shall contain the same information required in the notice described in subsection A B of this section. Notice by publication may contain multiple listings of public nuisances.

D. Proof of notice shall be made by the certification of any officer or employee of the Town, or affidavit of any person over eighteen years of age, naming the person to whom notice was given and specifying the time, place and manner thereof. Proof of notice shall be made in each case and maintained for a period of two (2) years from the date of abatement of the nuisance for which notice has been given.

Section 8.24.050 of the Town code is amended as follows:

Section 8.24.050 Hearing procedure

A. A request for a hearing upon the allegation of a public nuisance and the assessment of costs shall be made in writing and delivered to the municipal court clerk within ~~fourteen (14)~~ THIRTY (30) days from the date of the notice to abate NUISANCE. Such request shall specify the property concerning which the request is made, the requesting party's name and address, and nature of the interest held by the requesting party in the ~~vehicle or junk~~ NUISANCE.

~~B. In the event of a public nuisance as defined in Section 8.24.010, of which notice has been given, and which remains unabated for more than fourteen (14) days, the Town Marshal or his representative shall may application to the Municipal Judge or such other individual or group as designated by the Town council to act as a hearing examiner for an order to abate, remove or cause the removal of the vehicle or junk; provided, however, that if a proper request for hearing is filed, abatement shall only proceed upon after a hearing and order of the municipal judge or hearing examiner.~~

CB. In the event a request for hearing is filed as provided, a hearing shall be held before the ~~municipal judge or such other~~ AN individual or group as designated by the Town council to act as hearing examiner SERVE AS A HEARING OFFICER. THE TOWN MUNICIPAL JUDGE MAY SERVE AS THE HEARING OFFICER. The purpose of the hearing shall be to confirm or deny the existence of a public nuisance; CONFIRM THE COSTS OF ABATEMENT ASSERTED BY THE TOWN; OR ~~and for taking~~ TAKE such further action as is authorized under this chapter. Notice of the time, place and hour of the hearing shall be sent at least ten days in advance of the hearing to the requesting parties and the Town attorney.

DC. At such hearing, all parties and the Town shall be afforded an opportunity to present evidence, to cross-examine and present argument; provided that all persons testifying shall be sworn; irrelevant, immaterial or unduly repetitious evidence shall be excluded; and the decision of the, ~~municipal judge or hearing examiner~~ shall be based upon the type of evidence commonly relied upon by reasonably prudent people in the conduct of their serious affairs.

ED. ~~At or after such hearing, and in the event of confirmation that a public nuisance exists, the municipal judge or the hearing examiner, as the case may be, may resolve or order that the Town Marshal and/or Town employees or agents remove or otherwise abate the nuisance; provided, however, that if the circumstances justify, in the opinion of the municipal judge or person presiding at the hearing, the time for abatement may be~~

delayed. In the event a nuisance is confirmed, administrative and removal costs may also be assessed at the hearing. IF THE HEARING OFFICER CONFIRMS THAT A NUISANCE EXISTS, THE HEARING OFFICER MAY ORDER A PARTY SERVED WITH A NOTICE TO ABATE NUISANCE AND WHO APPEARS AT THE HEARING TO ABATE THIS NUISANCE WITHIN A TIME TO BE SPECIFIED BY THE HEARING OFFICER. THE HEARING OFFICER MAY FURTHER AUTHORIZE THE TOWN TO REMOVE OR ABATE THE NUISANCE IF NOT OTHERWISE REMOVED OR ABATED WITHIN THE TIME ORDERED BY THE HEARING OFFICER. THE HEARING OFFICER MAY ALSO ORDER A PARTY SERVED WITH A NOTICE TO ABATE NUISANCE TO PAY ALL COSTS AND EXPENSES ARISING FROM OR RELATED TO ANY WORK PERFORMED BY THE TOWN TO ABATE THE NUISANCE, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES INCURRED IN ENFORCING ANY ORDER ENTERED BY THE HEARING OFFICER. If it is found that a public nuisance does not exist, THE TOWN'S abatement authority shall be denied and costs shall not be assessed.

F. ~~Appeals from adverse decisions rendered by the hearing examiner or municipal judge pursuant to subsection D of this section may be made to the district court in the same manner as an appeal from an adverse decision rendered by an agency in a contested case under the provisions of Section 16-3-114 of the Wyoming Statutes, 1977. The municipal judge or hearing examiner, as provided in subsection C of this section, is an agency within the meaning of the Wyoming Administrative Procedures Act and adverse decisions may be appealed in the manner provided therein.~~

GE. In the event a request for hearing or appeal, as provided, is not filed, the right to a hearing shall be considered to have been waived AND ALL PARTIES RECEIVING NOTICE TO ABATE THE NUISANCE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ABATING THE NUISANCE, AND THE TOWN SHALL BE DEEMED TO HAVE AUTHORITY TO ABATE THE NUISANCE IMMEDIATELY AFTER THE TIME FOR REQUESTING A HEARING HAS EXPIRED.

Section 8.24.060 of the Town code is amended as follows:

Section 8.24.060 Removal--Voluntary consent--Affidavit

A. The owner of any ~~vehicle or junk~~ NUISANCE or the owner of real property where any ~~junk or vehicle has been abandoned~~ NUISANCE EXISTS may voluntarily consent to the removal of such property THE NUISANCE by the Town. In order to give such consent, all owners of the property NUISANCE shall execute an affidavit AGREEMENT in a form acceptable to the Town attorney, stating that there are no other owners of the property NUISANCE, or lien holders having a security interest in the property NUISANCE; that unless waived by the Town the owners will reimburse the Town for the actual costs of removal or such other costs as are established by the Town manager for such removal; and that such reimbursement will be made to the Town within thirty days of removal. Such affidavit shall constitute a statement by the owners signing such affidavit that they will indemnify the Town for any loss or expense alleged by any other party as a result of removal or disposal. The execution of such affidavit shall also release the Town from any obligation to account or pay over to the owners any amount the Town receives for the property.

B. ANY AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION MAY CONTAIN ANY TERMS AND CONDITIONS NOT CONTRARY TO LAW THAT MAY BE AGREED UPON BY THE

PARTIES. AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION MUST CONTAIN, AT A MINIMUM, THE FOLLOWING CONDITIONS:

1. REPRESENTATIONS AND WARRANTIES BY THE PERSON(S) CLAIMING OWNERSHIP OF THE NUISANCE THAT THERE ARE NO OTHER OWNERS OF THE NUISANCE OR LIEN HOLDERS HAVING A SECURITY INTEREST IN THE NUISANCE;
2. A PROMISE BY THE PERSON(S) CLAIMING OWNERSHIP OF THE NUISANCE TO INDEMNIFY, DEFEND, AND HOLD THE TOWN HARMLESS FOR ANY LOSS, CLAIM, DAMAGE, OR EXPENSE ALLEGED BY ANOTHER PARTY AS A RESULT OF ANY TOWN EFFORTS TO REMOVE OR DISPOSE OF THE NUISANCE;
3. A RELEASE OF THE TOWN FROM ANY OBLIGATION TO ACCOUNT OR PAY OVER TO THE OWNERS ANY AMOUNT THE TOWN RECEIVES FOR ANY PROPERTY REMOVED OR DISPOSED OF PURSUANT TO THE AGREEMENT.

Section 8.24.070 of the Town code is amended as follows:

Section 8.24.070 Disposal--Assessment of costs

- A. Any ~~vehicle or junk~~ PROPERTY CONSTITUTING A NUISANCE which is impounded or removed and taken into custody, as provided in this chapter, may be disposed of according to the provisions of W.S. § 7-2-111 ~~of the Wyoming Statutes, 1977, or W.S. §§ 31-13-101, ET SEQ. 31-13-109 and 31-13-110 of the Wyoming Statutes, 1977~~
- B. The Town Council shall, from time to time, determine and fix an amount to be assessed as administrative costs in relation to enforcement of this chapter. This cost of administration may be set as a fixed sum per removal or as a percentage of the actual cost of removal under this chapter. The Town may take any action allowed by law to collect, the actual costs of removal and storage of any property constituting a public nuisance. Nothing herein shall prohibit the Town to right to waive cost of removal
- C. Costs and expenses shall include, but are not limited to, the actual costs and expenses in time of Town employees or Town-authorized contractors and in materials concerning the actual actions of abatement of the nuisance, transportation to and from the property, title searches or certifications, preparation of lien documents, foreclosures and other related expenses, including but not limited to reasonable attorney's expenses.
- D. ANY INDIVIDUAL ORDERED TO PAY THE COSTS AND EXPENSES OF ABATEMENT OF A NUISANCE MAY REQUEST A HEARING ON THE COSTS OF ABATEMENT WITHIN THIRTY (30) DAYS OF RECEIVING NOTICE THE COSTS AND EXPENSES OWED TO THE TOWN. ANY HEARING PURSUANT TO THE SUBSECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 8.24.050 OF THIS CHAPTER.

Section 8.24.080 of the Town code is amended as follows:

Section 8.24.080 Search warrant

- A. ~~The Town Marshal or his representative~~ TOWN ATTORNEY may make application to the municipal court for authority to enter upon land to examine ~~vehicles or junk~~ A NUISANCE for the purpose of making a determination as to whether a public nuisance exists and/or securing information as to the ownership of a ~~vehicle or junk~~ NUISANCE ~~thought to constitute a public nuisance~~ and/or securing information as to the identity of

the person or persons in control of the land where the ~~vehicle or junk~~ NUISANCE is situated.

B. The municipal court has authority to issue search warrants and other process necessary to enforce this chapter.

C. A warrant shall issue only upon affidavit sworn to before a municipal judge that establishes the grounds for issuing the warrant. If the judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the purpose of the search, and naming or describing the place to be searched. The warrant shall be directed to the ~~Town manager, his representative~~ TOWN MARSHAL, THE TOWN CODE ENFORCEMENT OFFICER, or to any officer authorized to enforce or assist in enforcing the laws of the state or of the Town. The warrant shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. The warrant shall command that the search take place forthwith. The warrant shall direct that it be served in the daytime, but for good cause shown, the warrant may direct that it be served at any time.

Section 8.24.100 of the Town code is hereby amended as follows:

Section 8.24.100 Abatement--Court action authorized

The ~~Town~~ TOWN attorney may take any action allowed by law to collect the actual costs of removal and storage of any property constituting a nuisance including but not limited to instituting such legal actions in the name of the Town in any court having jurisdiction over such matters against any property, OR responsible party(s), for which the charge for abating a nuisance under this chapter has remained unpaid for a period of thirty days after a written statement therefore has been rendered to the responsible party of the property involved. ~~Further, the Town council, pursuant to Wyo. Stat. 15-4-204, may order that the amount charged for abating a nuisance under this chapter becomes a lien against the premises and collected in the same manner as delinquent assessments for local improvement districts pursuant to Title 15, Chapter 6, Article 5 of Wyoming Statutes and all amendments thereto. Nothing herein shall prohibit the Town's right to waive the cost of removal as outlined in this section.~~

Section 8.24.110 of the Town code is amended as follows:

Section 8.24.110 Litter removal--Authorization--Notice--Cost to be a lien

In addition to any other penalties or remedies, the ~~Town Marshal or his designee~~ TOWN CODE ENFORCEMENT OFFICER OR OTHER DESIGNATED OFFICIAL is authorized and empowered to serve notice upon the occupant or the owner, or his agent, to remove litter from his private property. If the litter is not removed within five days after service of notice, the ~~Town Marshal or his designee~~ TOWN CODE ENFORCEMENT OFFICER OR OTHER DESIGNATED OFFICIAL shall have it removed and the cost of removal shall be assessed against the property and constitute a lien thereon. The owner shall be notified, in writing, of the amount assessed, and if it is not paid, it shall be collected in the same manner as provided by ~~8-16-100~~ SECTION 8.24.100 TO THIS CHAPTER.

Subsection (B) is added to section 8.24.120 of the Town code as follows:

B. ANY PERSON WHO VIOLATES THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS, AND EACH DAY A VIOLATION IS PERMITTED TO EXIST SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION TO THE CRIMINAL ACTION PROVIDED IN THIS SECTION, THE TOWN MAY BRING SUCH LEGAL ACTION OR PROCEEDINGS DEEMED NECESSARY TO RESTRAIN, CORRECT OR ABATE SUCH VIOLATION.

Section 8.24.130 of the Town code is amended as follows:

Section 8.24.130 Nuisance Citations

The Town marshal or designated code enforcement officers are hereby granted authority to enforce the ordinances found in this CHAPTER through the use of forfeitable citations through COMMANDING APPEARANCE BEFORE the ~~Hanna Municipal Court~~ TOWN MUNICIPAL COURT using the bond schedule developed by the ~~Hanna Town Council~~ TOWN COUNCIL.

Section 8.24.140 of the Town code is amended as follows:

Section 8.24.140 Penalty

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than seven hundred fifty dollars and shall be ordered to abate the nuisance. Each act in violation of any of the provisions hereof shall be deemed a separate offense AND EACH DAY A VIOLATION IS ALLOWED TO EXIST SHALL CONSTITUTE A SEPARATE VIOLATION.

Section 8.24.150 of the Town code is repealed and reenacted with amendments as follows:

SECTION 8.24.150 REMOVAL OF ABANDONED OR DERELICT VEHICLES

ANY ABANDONED OR DERELICT VEHICLE THAT MUST BE REMOVED FROM PRIVATE PROPERTY AS PART OF THE TOWN'S ABATEMENT OF ANY NUISANCE SHALL BE IMPOUNDED BY THE TOWN MARSHAL OR OTHER POLICE OFFICER AND DISPOSED OF PURSUANT TO THE PROVISIONS OF W.S. § 31-13-108, *ET SEQ.*

Section 8.24.160 of the Town code is repealed in its entirety.

Section 8.24.170 of the Town code is repealed in its entirety.

Section 8.24.180 of the Town code is repealed in its entirety.

Section 8.24.190 of the Town code is amended as follows:

Section 8.24.190 Abandoned iceboxes or refrigerators

Whosoever abandons or stores any refrigeration unit or icebox in such a place as to be easily accessible to children without first having made adequate provisions to prevent entry into such refrigeration unit or icebox or without having removed all latches,

catches, locking devices or the door thereof, so that escape from the interior may be had, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be punished in accordance with the penalties in Section 1.16.010 of the Municipal Code of the Town SUBJECT TO A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS AND SHALL BE ORDERED TO ABATE THE VIOLATION. EACH DAY A VIOLATION IS ALLOWED TO EXIST SHALL CONSTITUTE A SEPARATE VIOLATION.

Section 8.24.200 of the Town code is amended as follows:

Section 8.24.200 General Dangerous Conditions

A. It is unlawful for any person to maintain or permit the existence of any condition that is a danger to life, health, or property within the Town. Dangerous conditions include, but are not limited to: structures in violation of the Uniform Building Code for the Abatement of Dangerous Buildings as outlined in section 15.20.010 of the Municipal Code of Town, trees in danger of falling, all or in part, unprotected excavations, improper storage of hazardous or toxic materials, conditions that facilitate the spread of disease, vermin and pests. Whosoever permits the existence of a dangerous condition shall be guilty of a misdemeanor; and upon conviction thereof shall be punished in accordance with the penalties in Section 1.16.010 of the Municipal Code of the Town. The procedure for abatement of Dangerous Conditions shall be per section 2.19.210 and 2.19.220 of the Hanna Municipal Code.

B. WHOSOEVER PERMITS THE EXISTENCE OF A DANGEROUS CONDITION SHALL BE GUILTY OF A MISDEMEANOR; AND UPON CONVICTION THEREOF SHALL BE SUBJECT TO A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS AND SHALL BE ORDERED TO ABATE THE VIOLATION. EACH DAY A VIOLATION IS ALLOWED TO EXIST SHALL CONSTITUTE A SEPARATE VIOLATION.

C. SUBJECT TO SUBSECTION D OF THIS SECTION, A DANGEROUS CONDITION SHALL BE DEEMED A NUISANCE AND ABATED ACCORDING TO THE PROCEDURES SET FORTH IN THIS CHAPTER.

D. DANGEROUS CONDITIONS IMPOSING IMMINENT RISK OF HARM.

1. IN THE CASE WHERE THE TOWN MAYOR, AFTER CONSULTATION WITH THE TOWN CODE ENFORCEMENT OFFICER, TOWN MARSHAL, AND TOWN ATTORNEY, DEEMS THAT A DANGEROUS CONDITION POSES AND IMMINENT THREAT OF SERIOUS HARM TO PERSONS OR PROPERTY, THE TOWN MAY TAKE ALL REASONABLE STEPS NECESSARY TO IMMEDIATELY MITIGATE THE RISK OF HARM, INCLUDING BUT NOT LIMITED TO ENTERING UPON THE PROPERTY TO REMOVE THE CONDITION AND ASSESS THE COSTS AGAINST THE OWNER OF THE PROPERTY ON WHICH THE DANGEROUS CONDITION OCCURS.

2. IF THE TOWN MITIGATES OR ABATES A DANGEROUS CONDITION PURSUANT TO THIS SUBSECTION, THE OWNER OF THE PROPERTY ON WHICH THE DANGEROUS CONDITION OCCURS MAY REQUEST A HEARING WITHIN FOURTEEN DAYS OF THE TOWN'S ACTION. THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 8.24.050 OF THIS CHAPTER.

Section 8.24.210 of the Town code is repealed in its entirety.

Section 8.30.050 of the Town code is repealed in its entirety.

Section 17.12.070 is added to title 17 of the Town code as follows:

17.12.070 SANITATION AND WATER SUPPLY.

AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION, ALTERATION OR RELOCATION OF ANY BUILDING FOR HUMAN USE OR OCCUPANCY WITHIN THE CORPORATE LIMITS OF THE TOWN, WHICH WILL NOT BE CONNECTED TO THE TOWN WATER AND SEWAGE SYSTEMS, SHALL BE CONSIDERED AND TREATED BY THE TOWN AS A REQUEST FOR A VARIANCE AND SHALL BE CONSIDERED AND DISPOSED OF IN THE SAME MANNER AND ACCORDING TO THE SAME CRITERIA APPLIED TO THE APPROVAL AND DISAPPROVAL OF VARIANCES. THE VARIANCE FILING FEE AND APPLICATION SHALL BE DEEMED WAIVED.

Subsection (B) to section 17.88.080 of the Town code is amended as follows:

B. A violation of any provision of this title shall be deemed a misdemeanor, ~~punishable by a fine of not more than one hundred dollars for each offense. Each day's continuance of such violation shall be deemed to be a separate offense~~ NUISANCE. EACH DAY A VIOLATION IS ALLOWED TO EXIST SHALL CONSTITUTE A SEPARATE OFFENSE. A VIOLATION OF THIS TITLE SHALL BE ENFORCED CONSISTENT WITH THE PROCEDURES AND REMEDIES SET FORTH IN CHAPTER 8.24 OF THIS CODE.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF HANNA, CARBON COUNTY, STATE OF WYOMING, THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS APPROVAL, PASSAGE AND ADOPTION.

PASSED on FIRST READING dated this 11 day of JULY 2023.

PASSED on SECOND READING dated this 8TH day of AUGUST 2023.

PASSED on THIRD READING dated this 12 day of SEPTEMBER 2023.

PASSED, APPROVED AND ADOPTED THIS 12TH DAY OF SEPTEMBER 2023.

Town of Hanna

Jon Ostling, Mayor

ATTEST:

Vivian Gonzales, Town Clerk

ATTESTATION

I, Vivian Gonzales, the Town Clerk for the Town of Hanna, Wyoming, do hereby certify that the above ordinance shall be adopted in its entirety after passage and publication, and posted in the manner required by law.

Vivian Gonzales, Town Clerk