

**RESOLUTION 08-12-CC-04
LANGUAGE AMENDMENT TO THE
SWEETWATER COUNTY ZONING RESOLUTION
NUISANCE REGULATIONS**

WHEREAS, on September 3, 2008 the Sweetwater County Land Use Department advertised that a public hearing would be held on October 8, 2008 at 10:00 a.m. proposing a Language Amendment to the Sweetwater County Zoning Resolution; and

WHEREAS, the Sweetwater County Planning and Zoning Commission held a public hearing on October 8, 2008 regarding these regulations, and;

WHEREAS, the Sweetwater County Planning and Zoning Commission at this public hearing requested and received public comment, and;

WHEREAS, after due consideration and discussion of all public comments received, the Planning and Zoning Commission voted 5-0 to recommend to the Sweetwater County Board of County Commissioners adoption of the Language Amendment to the Sweetwater County Zoning Resolution regarding Nuisance Regulations as stated below:

Section 1: General Definitions:

- a) A "Nuisance" is defined as any use or non-use of property, real or personal, which causes material injury to others or which endangers life, health, or safety or which is otherwise defined at common law, Wyoming State Statute, or herein.
- b) Screening or "Screened": The method by which the view from one property to another property is substantially shielded, concealed or hidden. Screening techniques include solid fences, walls, hedges, berms, or other approved features. No salvage items as defined by this article shall be used as a method of screening.
- c) Inoperable Vehicle: any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway due to lack of an engine, transmission, wheels, tires, or is not currently registered and displaying current license or permits or when such vehicle is totally or partially suspended above the ground by jack, block, or any other lifting device

Section 2: General:

- a) A site, property, tract, lot, building grounds, building, area or other property may be declared a nuisance by the Board of Sweetwater County Commissioners in conformance with Wyoming State Statutes 18-2-101(a)(viii) and 18-2-115 if a nuisance, as listed in Section 2(c) of this Article exists on said site, property, tract, lot, building grounds, area or other property.
- b) It shall be unlawful for any person to maintain or permit the existence of any nuisance upon property within the boundaries of the unincorporated areas of Sweetwater County, Wyoming.

- c) The following standards are hereby declared by the Sweetwater County Board of Commissioners for establishing when a site is a nuisance:
- 1) the outside storage, keeping or maintenance of inoperative and unlicensed vehicles excepting those that are in conformance with the regulations of a specific zone district or as excepted in Section 3 of this article;
 - 2) any building or structure (as well as fencing and screening) shall be considered a nuisance when, for want of repair, dilapidated, defective, or other hazardous condition produces an imminent endangerment to public health or safety;
 - 3) the maintenance or harboring of farm animals, livestock or domestic animals in the Unincorporated areas of Sweetwater County in an unsanitary manner that creates human health hazards;
 - 4) the accumulation of animal manure, animal feces, and waste products that allow for the breeding and propagation of insects and/or rodents, runoff of surface water from areas having deposits of animal manure or waste products onto adjacent or nearby properties or into water drainages and does not meet the EPA Livestock Manure Handling regulations;
 - 5) containing or discharging runoff of water containing pollutants or foul smelling substances that may be offensive to human senses;
 - 6) diverting of runoff and drainage or causing standing water in a manner that adversely affects neighboring properties;
 - 7) destabilizing of the ground surface in a manner that causes dust or other airborne matter which is offensive or dangerous to the health or safety of the public;
 - 8) discharging septic system/sewage effluent onto the ground or into water ways;
 - 9) causing or allowing the effluent from any cesspool septic tank, drain field or sewage disposal system to discharge upon the surface of the ground;
 - 10) maintaining weed growth or debris which, by its presence or manner of storage, presents a clear threat to public health or safety;
 - 11) maintaining presence of insect vector or rodent harborages;
 - 12) the unlicensed accumulation of materials, debris, garbage, waste recyclables, or other scrap or junk material such as but not limited to:
 - a) Combustible materials such as paper litter, cardboard or paper piles, piles of weeds or shrubbery trimmings, piles of wood, straw, hay, grass, etc., which by reason of its presence or manner of storage creates a potential fire hazard or allows for insect and/or rodent propagation;

- b) Any waste petroleum or other chemical product (solid or liquid) or solid waste (rubbish) of any kind which, by reason of its presence or manner of storage, could contaminate surface or ground water or could inflict harm to the public directly by evaporation to the gaseous state, by burning, or direct physical contact; or, indirectly by harboring vermin;
 - c) Commercial or household: Appliances (washers, dryers, water heaters, refrigerators, etc.); Equipment (tools, and manufacturing equipment, metal products, construction equipment or materials, etc.); Machinery, Vehicles, Vehicle parts, Tires, or Similar Items which by reason of its presence or manner of storage presents a danger to the public or regulatory agencies from collapse, fire, entrapment, burning, or harboring of dangerous chemicals, or vermin harboring;
 - d) Household or commercial building parts and fixtures such as furniture, counters, tables, flooring, foundations and wall materials, roofing materials, electrical parts, mechanical systems parts, etc., which by its presence or manner of storage presents a danger to the public or regulatory agencies from collapse, fire, entrapment, burning, or harboring of dangerous chemicals or vermin;
- 13) allowing any discharge into the environment of toxic or noxious materials in such concentrations as to endanger the public health;
 - 14) any chemical and/or biological material that is stored, used or disposed of in such quantity or manner that creates a public health hazard;
 - 15) any condition or situation which renders a structure or any part thereof unsanitary, unhealthy or unfit for human habitation occupancy or use or renders any property unsanitary or unhealthy;
 - 16) failure to keep material, debris, waste, refuse or garbage in a closed container designed for such purposes;
 - 17) burning garbage, weeds and other debris in a manner that is offensive or dangerous to the health, and safety of the public;
 - 18) the depositing, placing, creating, or dumping of any putrid or decayed animal or vegetable matter, liquid, chemical, solid waste, refuse or garbage, in a public or private place so as to create a potential health hazard shall constitute a public nuisance;
 - 19) trees, vegetation, artificial light, and other items are considered a nuisance when they obstruct or limit visual observation of traffic control devices, vehicle usage, pedestrian travel ways, etc., or contribute to an unsafe condition for the public utilizing the right-of-ways;
 - 20) noises, except those uses excepted by Section 3 of this article, that exceed the maximum sound levels as prescribed in Table A, Noise Level Restrictions, beyond the site property lines, except that when a nonresidential

zoning district or activity abuts a residential zoning district, the residential zoning district standard shall govern.

**Table A
Noise Level Restrictions**

Zoning	Maximum Sound Level
Residential	60 dBA
Commercial or Industrial	70 dBA,

Note: "dBA" is the measure of sound levels in A-weighted decibels.

21) failure to comply with any law or rule regarding sanitation and health including but not limited to:

- a) plumbing,
- b) water supplies,
- c) waste disposal,
- d) storage of chemical pesticides or herbicides

Section 3 – Exceptions

The following under Section 3 of this article are not considered a public nuisance:

- a) The following vehicles, are not considered a public nuisance:
 - 1) Antique or historic motor vehicles, as defined by W.S. Section 31-1101(a)(xv)(A) and screened as defined by this article;
 - 2) Vehicles kept in an enclosed garage or storage building;
 - 3) Vehicles used for educational or instructional purposes by a proprietary school licensed in Wyoming and screened as defined by this article;
 - 4) Vehicles kept by licensed establishments and authorized storage yards and screened as defined by this article;
 - 5) Vehicles and equipment relevant to the operation of farms and ranches and screened as defined by this article;
- b) Maintenance of livestock in un-platted agricultural areas of the county shall not be considered a nuisance unless maintained in an unsanitary manner that creates human health hazards;
- c) Retention of farm products, supplies, equipment, and reusable materials at a working farm or ranch shall not be considered a public nuisance as long as such items and material are kept in such a manner that would not constitute a threat to public health or safety.
- d) The maximum sound levels of Table A in Section 2 of this article may be exceeded by temporary construction and maintenance activities, but any excessive noise generated by such activities shall be restricted to the hours between 7:00 A.M. and 10:00 P.M. In addition the movement of trains on existing railroad rights-of way, the movement of motor vehicles on public roads, the operation of farm machinery, the operation of watercraft, the operation of a permitted industrial facility or oil and gas or mining operation necessary to the extraction, production or exploration of the mineral

resources, or other sources of noise not attributable to a particular development is not considered a public nuisance.

Section 4 – Outdoor Storage

- a) Inoperable and unlicensed vehicles that are not considered a public nuisance either by exception or are in conformance by a specific zone district shall be stored in the rear yard and properly screened as defined by this article.
- b) The accumulation and storage of animal manure that is not considered a public nuisance shall be stored according to the EPA Livestock Manure Handling Regulations attached as Exhibit A to this article.

Section 5 – Enforcement

- a) The Board of County Commissioners shall delegate its authority to declare a property to be a nuisance to one or more Sweetwater County Nuisance Officers. It shall be the duty of a Sweetwater County Nuisance Officer to issue orders on behalf of the Board of County Commissioners declaring properties to be nuisances when it reasonably appears from application of the standards established in Section 2 above that nuisances exist.
- b) Written notice shall be provided with the order declaring the property to be a nuisance. Said written notice shall comply with the requirements of W.S. §18-2-115(b) and shall be filed, served and posted as provided in W.S. §18-2-115(b). Procedure for an owner or occupant to deny the existence of any of the allegations of the nuisance order shall be as provided in W.S. §18-2-115(c), and court proceedings on the order and answer shall be as provided in W.S. §18-2-115 (c) and (d). Appeals from the judgment or final order of the district court shall be taken as provided in W.S. §18-2-115(e).
- c) W.S. §18-2-101 (a)(viii) provides the following enforcement measures and civil penalties for failure to comply with a final order:

No person shall create, continue or permit nuisances to exist in violation of a final order issued pursuant to W.S. 18-2-115. Any resolution passed by a board of county commissioners pursuant to this paragraph is enforceable, in addition to other remedies provided by law, by injunction, mandamus or abatement. **Whoever fails to comply with a final order shall be assessed a civil penalty of up to one hundred dollars (\$100.00) per day for each day the violation continues.** No resolution issued pursuant to this paragraph shall regulate any permitted industrial facility or oil and gas or mining operations necessary to the extraction, production or exploration of the mineral resources. Nothing in this paragraph shall be construed to impair or modify any rights afforded to farm or ranch operations pursuant to the Wyoming Right to Farm and Ranch Act. *(Emphasis added.)*

- d) For ease of reference, W.S. § 18-2-115, in its entirety, provides as follows:

18-2-115.Nuisance abatement; procedures.

(a) A board of county commissioners shall, by resolution, establish standards for determining when a site may be declared a nuisance under W.S. 18-2-101(a)(viii).

(b) A board of county commissioners may issue an order declaring a property to be a nuisance under W.S. 18-2-101(a)(viii) and shall provide written notice to the owner or occupant of the property describing with specificity the nature of the nuisance and the steps required for abatement. The order shall be in writing, shall state the grounds for the order and shall be filed in the office of the clerk of the district court of the county in which the property is situated. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the owner or occupant with a written notice that the order has been filed and shall remain in force, unless the owner or occupant files his objections or answer with the clerk of the district court within twenty (20) days. A copy of the order shall be posted in a conspicuous place upon the property.

(c) Within twenty (20) days of service of an order issued under subsection (b) of this section, the owner or occupant may file with the clerk of the district court and serve upon the board of county commissioners issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the order shall become a final order declaring the site a nuisance and fix a time when the order shall be enforced. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in subsection (d) of this section.

(d) The court shall hold a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains all or any part of the order, the court shall issue a final order and fix a time within which all or any part of the final order shall be enforced.

(e) An appeal from the judgment or final order of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure.

**SAMPLES OF SOUND LEVELS
(FOR INFORMATIONAL PURPOSES ONLY AND
IS NOT INTENDED FOR ENFORCEMENT PURPOSES)**

Typical Level (Decibels)	Example	Dangerous Time Exposure
0	Lowest sound audible	All exposure is safe
30	Quiet Library, soft whisper	All exposure is safe
40	Quiet office, or living room	All exposure is safe
50	Light traffic at a distance, refrigerator, gentle breeze, normal conversation	All exposure is safe

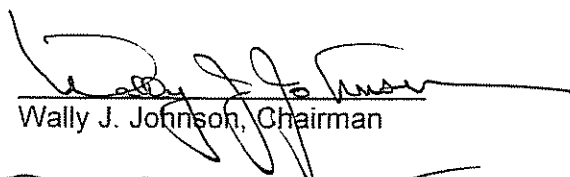
60	Air conditioner at 20 feet, sewing machine	All exposure is safe
70	Busy traffic, noisy restaurant, Vacuum Cleaner	Risk begins
80	Subway, heavy city traffic, alarm clock at two feet	Over 8 hours
90	Truck traffic, noisy home appliances, shop tools, lawnmower.	Under 8 hours
100	Chainsaw, boiler shop, pneumatic drill	Under 2 hours
120	Rock concert in front of speakers	Serious danger
140	Gunshot, jet plane	Any exposure can cause damage
180	Rocket launching pad	Hearing Loss inevitable

WHEREAS, the Sweetwater County Board of County Commissioners held a public hearing in regards to this matter on December 16, 2008 and has given due consideration to the recommendation of the Planning and Zoning Commission and to all the evidence and testimony presented at the hearing;

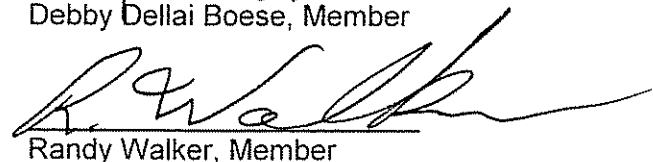
NOW THEREFORE be it resolved that this Language Amendment, as stated above, be APPROVED.

Dated this 16th day of December, 2008.

Sweetwater County
Board of County Commissioners


Wally J. Johnson, Chairman


Debby Dellai Boese, Member


Randy Walker, Member

Attest:


Steven Dale Davis, County Clerk