

ENROLLED ACT NO. 61, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2008 BUDGET SESSION

AN ACT relating to counties; providing for regulation of nuisances by counties; providing procedures for declaring a nuisance; providing for resolutions establishing standards; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 18-2-115 is created to read:

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

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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.

Section 2. W.S. 18-2-101(a)(vi) and by creating a new paragraph (viii) and 35-10-408 are amended to read:

18-2-101. General powers.

(a) Each organized county in the state is a body corporate and politic. The powers of the county shall be exercised by a board of county commissioners which may:

(vi) Establish a surface water drainage system, utilities and drainage management; ~~and~~ and

(viii) Declare and abate nuisances which the commission determines to be a threat to health or safety as provided in W.S. 18-2-115. No person shall create, continue or permit nuisances to exist in violation of a final order

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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.

35-10-408. Additional authority of counties, cities and towns to regulate nuisances.

(a) Nothing in this act ~~contained~~ shall be so construed as to prevent any city, town or village, incorporated under the laws of this state, or the proper corporate authority thereof, from passing or enforcing any ordinance, bylaw, regulation or rule, regulating, restraining, or prohibiting nuisances of any kind or character, or from enforcing any ordinance, bylaw, rule or regulation thereupon, already passed and in force.

(b) Nothing in this act shall be construed as to prevent any county from passing or enforcing any resolution regulating, restraining, or prohibiting nuisances which the commission determines to be a threat to health or safety pursuant to W.S. 18-2-101(a)(viii), or from enforcing any resolution already passed and in force.

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Section 3. This act is effective July 1, 2008.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk