

BOROUGH OF WEST WYOMING

ORDINANCE NO. 5 OF 2025

ODOR NUISANCE, INDUSTRIAL ODOR IMPACT, AND REGISTRATION ORDINANCE

§1. Title; Purpose; Authority; Construction.

A. **Title.** This Ordinance shall be known and cited as the “Odor Nuisance, Industrial Odor Impact, and Registration Ordinance.”

B. **Purpose.** To protect public health, safety, and general welfare, and residents’ quiet enjoyment of property, by preventing and abating unreasonable, noxious, or pervasive odors that migrate beyond the property on which they originate and materially interfere with persons of ordinary sensibilities.

C. **Authority.** This Ordinance is enacted pursuant to the Borough’s general police powers, including the authority to define, prohibit, prevent, and abate public nuisances and to provide for enforcement and penalties as authorized by the Pennsylvania Borough Code, 8 Pa.C.S. §§ 101 et seq., as amended.

D. Construction; Relationship to State/Federal Law.

This Ordinance regulates public nuisances and quality-of-life impacts from odors. It does **not** establish air-emission limits, require air permits, or regulate emissions otherwise governed by Commonwealth or federal law. Compliance with any DEP permit, approval, or regulation does **not** preclude a finding of public nuisance under this Ordinance.

E. **Agricultural Notice.** Odors arising from “normal agricultural operations,” as defined and preempted under Pennsylvania law, are exempt to the extent of such preemption. They remain subject only where not expressly preempted.

§2. Legislative Findings.

A. Migrating industrial and process-related odors can substantially and unreasonably interfere with the health, safety, and quiet enjoyment of life and property by Borough residents and businesses.

B. A registration program and Odor Management Plans (OMPs), combined with complaint response, reasonable controls, and enforcement, are necessary to prevent and abate odor nuisances while supporting compliant industrial activity.

C. Coordination with neighboring municipalities, the Borough's Code Enforcement Officer, and the Regional Police Department promotes efficient, consistent enforcement and public safety.

§3. Definitions.

A. **Borough** means the Borough of West Wyoming, Pennsylvania.

B. **Code Enforcement Officer (CEO)** means the Borough's duly appointed code official(s) or authorized designees charged with enforcing this Ordinance.

C. **Detectable Odor** means an odor perceptible to a person of ordinary sensibilities and reasonably describable by character (e.g., chemical, putrid, sulfurous, solvent).

D. **Industrial Odor Source** means any non-residential process, operation, activity, equipment, storage/handling, or waste/by-product management that emits odors detectable on or beyond the property line.

E. **Odor Management Plan (OMP)** means a written plan adopted and implemented by a source to prevent, reduce, and respond to odor impacts, including housekeeping, storage/handling, capture/containment, odor controls, maintenance, complaint response, training, recordkeeping, and milestones.

F. **Odor Nuisance** means a detectable odor on or beyond the property line that, considering frequency, duration, intensity, character, and geographic extent, unreasonably interferes with the health, safety, or quiet enjoyment of property by persons of ordinary sensibilities.

G. **Property Line** means the legally recorded boundary of a lot or parcel.

H. **Regional Police Department** means the regional police agency serving West Wyoming Borough and adjacent municipalities, or any successor agency.

§4. Registration; OMP; Updates.

A. Who must register.

All Industrial Odor Sources operating or intending to operate in the Borough shall register and file an OMP:

1. **New sources:** Before commencing operation.
2. **Existing sources:** Within sixty (60) days after the effective date of this Ordinance.

B. Contents of Registration.

Registration shall include:

- (i) facility/operator information and 24/7 responsible contact;
- (ii) site plan or narrative of odor-generating activities;
- (iii) OMP;
- (iv) description of control equipment and maintenance;
- (v) complaint-response protocol;
- (vi) Safety Data Sheets for primary odorants/solvents (if applicable);
- (vii) DEP permits/approvals (if applicable).

C. Annual renewal; updates.

Registrations renew annually by January 31. A material change in process or ownership requires an update within thirty (30) days.

D. Fees.

Registration and renewal fees shall be set by Council resolution and may be amended by resolution.

E. Non-transferability.

Registration confers no vested rights and is non-transferable.

§5. Prohibited Acts; Prima Facie Evidence.

A. General prohibition.

No person shall cause or permit an Odor Nuisance.

B. Prima facie evidence.

Any of the following constitutes prima facie evidence of an Odor Nuisance:

1. Two or more verified observations of a detectable odor by a CEO at or beyond the property line within any twenty-four (24) hour period; **or**
2. Three or more independent complaints from separate households or businesses within a thirty (30) day period, corroborated by at least one verified observation by a CEO or the Regional Police Department.

C. Continuing violation.

Each day an Odor Nuisance continues constitutes a separate violation.

§6. Complaint Response; Inspections; Records; Regional Coordination.

A. 24/7 contact; response.

Sources shall maintain a 24/7 responsible contact. Upon Borough notification of a complaint, the source shall respond promptly and, when requested, provide a written summary of corrective actions within forty-eight (48) hours.

B. Inspections.

CEOs and Regional Police may conduct exterior inspections from public rights-of-way or with lawful consent. Interior access requires consent or lawful authority.

C. Records.

Upon issuance of a Notice of Violation (NOV), the Borough may require complaint logs, maintenance records, and relevant documentation reasonably related to odor sources.

D. Regional coordination.

The Borough may coordinate with the Regional Police and neighboring municipalities to share data, conduct joint observations, and coordinate cross-boundary odor abatement.

E. DEP/Zoning coordination.

The Borough may refer matters implicating state air rules to DEP while concurrently pursuing nuisance abatement. Where physical controls require zoning/building approvals, the operator must obtain approvals from Luzerne County or other authorities with jurisdiction.

§7. Odor Management Plans; Abatement Orders.

A. Implementation required.

All Industrial Odor Sources shall implement their OMP. Upon an NOV, OMP revisions must be submitted within thirty (30) days.

B. Abatement orders.

The CEO may issue abatement orders with performance milestones and verification steps.

C. Administrative guidelines.

Council may adopt guidelines by resolution addressing complaint logging, field-olfactometer use (if used), and OMP requirements.

§8. Transitional Provisions for Existing Industrial Odor Sources.

A. Applicability.

Applies to any Industrial Odor Source lawfully operating before this Ordinance's effective date.

B. No grandfathering.

Lawful operation does not immunize a nuisance.

C. Compliance schedule.

1. **Interim controls (60 days):** housekeeping, covered storage, enclosure/negative pressure where feasible, point-source controls, complaint-response protocol.

2. **Engineered controls (120 days):** installation and verification of engineered odor controls.
3. **Safe harbor:** While a source meets approved milestones, civil penalties will be deferred except for imminent hazards or willful violations.

D. Temporary variance.

Council may grant a temporary variance up to six (6) months upon clear and convincing evidence of undue hardship not of the source's making and implementation of interim odor controls.

E. Cooperative Compliance Agreement (CCA).

The Borough and source may enter a CCA with milestones and reporting. Timely compliance qualifies for the safe harbor.

§9. Exceptions.

- A. Temporary municipal or public works using reasonable practices.
- B. Emergencies requiring immediate action to protect life or property.
- C. Normal residential activities unless they create an Odor Nuisance.
- D. Normal agricultural operations, to the extent preempted by state law.

§10. Enforcement; Penalties; Remedies.

A. Civil enforcement (MDJ).

Violations may be enforced as civil violations before the Magisterial District Judge, who may impose penalties up to \$500 per violation per day plus costs and attorney fees as authorized by the Borough Code.

B. Criminal summary enforcement.

Alternatively, the Borough may prosecute violations as summary offenses before the MDJ with fines as authorized by law.

C. Equitable relief.

The Borough may seek injunctive relief in the Court of Common Pleas.

D. Non-exclusive remedies.

Remedies are cumulative.

§11. Appeals.

A person aggrieved by a Registration determination, NOV, abatement order, OMP determination, or variance decision may appeal in writing to **Borough Council or a designated hearing officer** within ten (10) days of service. Council shall schedule a hearing within thirty (30) days and issue a written decision. Further appeal lies to the Court of Common Pleas as provided by law.

§12. Repealer; Severability; Effective Date.

- A. All inconsistent ordinances or parts thereof are repealed to the extent of the inconsistency.
- B. Invalid provisions shall be severed; the remainder remains in force.
- C. This Ordinance takes effect upon adoption by Borough Council.

ENACTED AND ORDAINED, this 10th day of November 2025, by the Council of the Borough of West Wyoming, Pennsylvania.

Attest: Bonnie Arnore
Borough Administrator

Gary Stavish
Gary Stavish
President, Borough Council

Approved this 10th day of November 2025:

Randy Colarusso
Mayor Randy Colarusso