

ORDINANCE NO. 804

AN ORDINANCE REGARDING LEGAL ADVERTISEMENTS

WHEREAS, The City of Mills amended its City Code to provide for the following provisions:

2.90.30 Legal Advertisements.

Pursuant to the Provisions found at Article 13, Sec. 1, of the Wyoming Constitution, in all instances in which there exists a Statute requiring the Town of Mills to advertise or place notices in a newspaper, the Town of Mills shall instead place said notice or advertisement, except where it elects to do the same in a newspaper, on the Town’s website and three designated public places in the Town of Mills. Unless provided for otherwise, the public places will be the Mills Town Hall, the Mills Library and the United States Post Office in the Town of Mills. All such notices shall remain in place for that period specified by State Statute for running an advertisement or a notice in a newspaper.

Nothing in this provision shall preclude the Town from running an advertisement or notice in a newspaper should it choose to do so.

and;

WHEREAS, The City of Mills, together with the Town of Bar Nunn, has been sued twice over the above referenced provision by Lee Enterprises, the owner of the Casper Star Tribune, which brought its suit once with the Wyoming Press Association, and

WHEREAS, Lee Enterprises maintains in its suit that the meaning of the term “newspaper” is such that legal notices must be placed in a print newspaper, of which the Casper Star Tribune is the only example in Natrona County, and for which most municipalities have only one such source available to them, and

WHEREAS, The presence of only one newspaper in Natrona County means that the municipalities in Natrona County, Wyoming are captives of the Casper Star Tribune, if Lee Enterprises’ reading of the law is correct, which leaves the Casper Star Tribune free to charge any amount it might wish in order for municipalities to run legal notices in a journal of declining circulation.

WHEREAS, The City of Mills and the Town of Bar Nunn have brought a counterclaim challenging the constitutionality of the Wyoming State Statutes requiring publication in newspapers of certain notices, which further challenges the presumption that the term “newspaper” in 2023 means a print newspaper, such as it meant in 1876, the date first cited by Lee Enterprises regarding one of the subject statutes; and

WHEREAS, The goal of the municipalities is to have as wide of distribution and the most effective distribution of information which is provided in legal notices; and

WHEREAS, In 2023 print newspapers are not the most effective means of providing such notice, as exhibited by the fact that the circulation of the Casper Star Tribune is smaller in 2023 than it was in 1923, and less than 100 people receive the newspaper in Mills, Wyoming; and

WHEREAS, Print newspapers have largely been supplanted by electronic media and even the Casper Star Tribune only publishes electronically four days out of seven; and

WHEREAS, while at one time Natrona County was served by more than one print newspaper, today only the Casper Star Tribune remains in print circulation, and it is not even printed in Natrona County, Wyoming; and

WHEREAS, The Casper Star Tribune, when printed, depends upon the United States Post Office to deliver its papers, rather than delivery personnel who can assure a timely delivery; and

WHEREAS, Natrona County Wyoming is served by no less than the following electronic media outlets:

- The Casper Star Tribune, which publishes electronically and in print three times per week.
- Oil City News, which publishes electronically daily.
- Cowboy State Daily, which publishes electronically daily.
- WyoFile, which publishes electronically.
- The Casper College Chinook, which publishes electronically.
- Town Square Media, which publishes electronically.
- Wyoming News Now, which publishes electronically.
- K2 Radio, which publishes electronically.

WHEREAS, Some, or all, of the above referenced electronic media are suitable for the publication of legal notices required by Wyoming State Statutes, and

WHEREAS, The above referenced ordinance was brought under Wyoming's Home Rule provisions; and

WHEREAS, The State of Wyoming and Lee Enterprises are maintaining that the municipalities may not exempt themselves from the publication statutes, in spite of their widely varying terms and unequal application to various municipalities, and

WHEREAS, The goal of the municipalities has always been, and remains, to provide the most effective notice to the public in the most cost effective manner;

NOW THEREFORE, The City Council of the City of Mills hereby repeals those portions of the aforementioned ordinance, with the strikes noted in red below, and passes the following amended text:

2.90.30 Legal Advertisements.

The term “newspaper”, in so far as it is used by the Statutes of the State of Wyoming, requiring publication by municipalities of certain notices and information is undefined. This ordinance, therefore, sets forth the meaning of the terms “newspaper” and publish for the purpose of complying with Wyoming State Statutes by the City of Mills and the matters to be considered by the town in regard to the same.

- A. Whenever possible the City shall take into consideration the circulation of the newspaper when placing notices, with such consideration to consider ultimate circulation, timeliness, and the cost of placing the notice. While cost or circulation need not alone dictate which newspaper is chosen, it shall be a matter that shall be taken into consideration.

- B. Whenever the term “newspaper” is used by a Wyoming State Statute which requires a municipality to place a notice or publication in the same, the city may:
 - i. Rely on the common understanding of the meaning of the term “newspaper” as it existed at the time of the first Wyoming Statute to use the same. If this is done, it will require no any further act by the City Council in order for that understanding to apply.

 - ii. Adopt, by resolution, the 21st Century understanding of “newspaper” for any particular purpose, which shall mean an electronic publication satisfying the following criteria:
 - a. An electronic publication, to include a website which;
 - b. Is published or maintained on a daily basis, and which;
 - c. Is published for the purpose of distributing information and news in a fashion similar to that of a print newspaper and which;
 - d. Includes Natrona County, Wyoming as part of its routine coverage.

- C. Whenever the term “publish” is used by a Wyoming State Statute which requires a municipality to publish a notice in a “newspaper”, the following shall be presumed to apply:
 - i. “Publish”, in the case of a print newspaper, shall be presumed to mean “printed and distributed”, wherever the statute makes reference to a

locality, such as within a municipality or county, unless the city establishes a good and sufficient basis for reading the same in another manner, and records the same my way of a resolution.

- ii. “Publish”, in the case of electronic media, shall be presumed to mean electronically issued on a website which meets the definition of a “newspaper” as set forth above, which can reasonably be determined to be directed towards or read within a municipality or county.

D. In any instance in which the city determines to publish a notice in an electronic newspaper, such as is described in 2.90.30(B)ii above, it shall publish the same on its website and store a copy of the electronic notice for a period of five (5) years, unless a statute, ordinance or resolution requires a longer time period. Publication of a notice in an electronic newspaper may include a active link to the city’s publication on its website, which shall suffice for publication as long as it was specifically done for the purpose of giving notice.

PASSED on 1st reading the _____ day of _____, 2023.

PASSED on 2nd reading the _____ day of _____, 2023.

PASSED, APPROVED AND ADOPTED on 3rd and final reading this _____ day of _____, 2023

CITY OF MILLS, WYOMING

Leah Juarez, Mayor

Sara McCarthy, Council

Brad Neumiller, Council

Cheri Butcher, Council

Tim Sutherland, Council

ATTESTED:

Christine Trumbull, City Clerk