

**ORDINANCE NO. ~~XXX-1058~~ (2024/2025)**

**AN ORDINANCE AMENDING CHAPTER 51 (JUNK, JUNK VEHICLES, AND MACHINERY) OF THE CITY CODE BY ADDING LANGUAGE PERTAINING TO SHIPPING AND STORAGE CONTAINERS**

**BE IT ENACTED** by the City Council of the City of Nevada, Iowa, as follows:

**SECTION 1. CHAPTER MODIFIED.** Chapter 51 (Junk, Junk Vehicles, and Machinery) is hereby amended by inserting the following underlined language and deleting the ~~strike through~~ language:

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**51.01 DEFINITIONS**

For use in this chapter, the following terms are defined:

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk motor vehicle” or “junk machinery” means any motor vehicle or machine stored or parked within the corporate limits of the City, whether on public or private property, which vehicle or machine is not enclosed in a permanent structure such as a garage or other building suited for the storage of motor vehicles or machinery, and which because of any one or more of the following characteristics set forth in the following paragraphs A through E constitutes a threat to the public health and safety:
  - A. Any vehicle or machine which could not be operated on the public streets and highways because the same is not currently licensed under the Iowa Motor Vehicles Laws then in effect;
  - B. Any vehicle or machine with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass;
  - C. Any vehicle with a broken, loose or missing fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe or decorative piece;
  - D. Any vehicle or machine which has become or threatens to become the habitat of rats, mice, snakes, vermin, insects or other wild or domestic animals;
  - E. Any vehicle or machine which contains gasoline, diesel oil or other flammable fuel in a container other than a factory-installed fuel tank;
  - F. Any vehicle or machine which is rendered inoperable by the lack of one or more wheels (exclusive of the “spare”), or the lack of an engine, transmission, differential, drive shaft, axle or any component part thereof, which absence or removal makes the vehicle or machine inoperable by its own power. Provided, however, this subsection does not prohibit the owner of a motor vehicle from making ordinary and routine repairs to any motor vehicle currently registered to said owner or a member of said owner’s immediate family, while such vehicle is parked on property owned or controlled by said owner when the ordinary and routine repairs do

not require the vehicle to be inoperable for more than fifteen days. And provided further, the 15-day limit referred to in this subsection may, in the discretion of the Mayor, Police Chief or Council, be extended for an additional 15-day period if the owner can demonstrate to the Mayor, Police Chief or Council that it is impossible to complete the ordinary and routine repairs within 15 days because of the unavailability of parts or other emergency beyond the control of the owner. In such a case, the Mayor, Police Chief or Council may grant written permission for an additional 15-day period; or

G. Any other vehicle or machine which, because of its defective or obsolete condition, in any way constitutes a threat to the public health or safety.

3. "Owner" includes but is not limited to any one or more of the following: (i) the current registered owner of any motor vehicle as shown by the public records of the office charged with licensing and registering motor vehicles in Iowa or any other state; or (ii) the owner of the land upon which the refuse, junk motor vehicle, ***Shipping Container*** or junk machinery is situated as the same is shown by the public records of the County Auditor. In the event the owner of land as described in this subsection does not occupy or control the property subject to this section, the word "owner" includes the person in control or in possession of the subject real estate. In the case of refuse or junk machinery whose actual ownership is not readily ascertainable by reference to public records in Story County, the owner of such refuse or junk machinery shall be deemed to be the same as the owner of the land upon which the refuse or machinery is located, or the person in possession of such land, or both. It is the intent of the Council to impose vicarious liability upon absent landlords as well as parties in possession for any violation of this chapter.

4. "Refuse" means all garbage, rubbish, ashes, inoperative appliances, scrap lumber and building materials, or other substances offensive to sight or smell or detrimental to the best interests of the community.

***5. "Shipping Containers" means a container (i) originally designed for or used in the parking, shipping, movement or transportation of freight, articles, goods or commodities; (ii) originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device; and/or (iii) storage moving "pods" or any other similar portable storage container, whether with or without wheels, and whether with or without a chassis. This definition includes the terms "transport containers" and "portable site storage containers" having a similar appearance to and similar characteristics of shipping containers. The definition of "Shipping Containers" is not intended to include pre-fabricated garden sheds.***

## 51.02 REFUSE, JUNK, JUNK MOTOR VEHICLES AND MACHINERY A NUISANCE.

It is hereby declared that storage within the corporate limits of the City of refuse or junk or of junk motor vehicles or junk machinery upon private property constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa ***and Chapter 50 of the Nevada City Code***. If any refuse, junk, junk motor vehicles or machinery is stored upon private property in violation hereof, the owner as defined in Section 51.01 of this chapter shall be prima facie liable for said violation. Provided, however, this chapter does not prohibit the temporary storage of refuse if the same is enclosed in a water-tight covered container made of galvanized steel or other non-rusting material, ***which is not a Shipping Container***.

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### ***51.03 SHIPPING CONTAINERS***

***Shipping containers placed on any property shall comply with the provisions of this section.***

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***A. Residential Zones. Shipping Containers are not allowed in residential zones. A temporary permit for a Shipping Container may be obtained for containers used ancillary to a construction or remodeling project with a valid permit. A temporary permit may allow placement of a container at a residential building site for up to one hundred eighty (180) days for temporary storage after the building permit is issued. The temporary permit can be extended with written permission from City of Nevada Building Official. The Shipping Container must be removed within ten (10) days after final building inspection after the end of construction. Shipping Containers may otherwise be allowed on a residential parcel for a period not to exceed ten (10) days through an official motion by the City Council.***

***B. Industrial Zone.***

***1. Shipping Containers are allowed in industrial zones; provided, that the use is in conformance with current permitted zoning uses. Placement of a Shipping Container for permanent or semi-permanent use shall require a building permit and shall have an engineered foundation and meet all other codes for placement on the property.***

***2. Shipping Containers are not allowed on industrially zoned properties on which the primary use is a nonconforming residential use unless a temporary permit is obtained.***

***C. Commercial Zones and Business Park District.***

***1. Shipping Containers are prohibited in the commercial zones and business park district, except for the following uses:***

***a. Shipping Containers may be used for shipping and receiving merchandise and goods, provided that the container does not remain stationary for more than ten (10) days.***

***b. Shipping Containers may be used for storing merchandise or goods, including long-term storage, provided the Shipping Container is not kept in the front setback area, designated parking areas, fire access lanes, or public right-of-way, and is screened with sight-obscuring fencing or landscaping approved by the Building Official.***

***c. Shipping Containers that are being used as shipping devices and for which all applicable Department of Transportation (DOT) licenses for the containers are active and valid, and which are not permanently installed. The city may require proof of active DOT licenses.***

***2. Shipping Containers are not allowed in the business park district or limited commercial zone when the primary use is a nonconforming residential use. A city right-of-way permit for a Shipping Container may be obtained or containers used ancillary to a project with a valid city permit. A temporary permit may allow placement of a container at a building site for up to one***

***hundred eighty (180) days for temporary storage after the building permit is issued.***

***D. Shipping containers are allowed on construction sites in the central business district, commercial, and industrial zones for construction or remodeling purposes where there is an active building permit if ancillary to a project with a valid commercial building permit. The Shipping Container shall be allowed during construction only and shall be removed within ten (10) days after final building inspection after the end of construction. A temporary permit may allow placement of a container at a commercial building site for up to one (1) year for temporary storage after construction is complete. The temporary placement permit may be extended up to an additional one hundred eighty (180) days by the Zoning Administrator.***

***E. Shipping Containers shall not impede traffic or pedestrians. No Storage Container shall be located in a circulation aisle/lane, fire access lane, sidewalk, off-street parking, public utility easement or city street or right-of-way is not allowed without approval from the Zoning Administrator.***

***F. Signs on containers must follow Zoning Code Section 165.20.***

***G. Accessory Storage Buildings are permitted on property in any residential zone or on any property the primary use of which is residential. For purposes of this subsection, an Accessory Storage Building means a building originally constructed for use as an accessory building for the storage of material and equipment accessory to a primary use located on the property, such as a pre-fabricated garden shed or similar structures specifically designed and intended for use on properties for storage purposes and which comply with all city ordinances applicable to detached accessory structures. For purposes of this chapter, Shipping Containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not Accessory Storage Buildings and are not allowed except as provided within this Chapter.***

***H. Notwithstanding the provisions set forth in subsection 51.03(A) of this section, the temporary placement of a Shipping Container or moving pod on residentially zoned properties, or on properties the primary use of which are residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding one hundred eighty (180) days in any one calendar year without approval from the Zoning Administrator.***

***I. Notwithstanding the provisions set forth in subsection 51.03(D) of this section, all contractors may use a Shipping Container for the temporary location of an office, equipment and/or materials storage structure during construction which is taking place on the property where the Shipping Container is located, if the use of the Shipping Container is authorized pursuant to a city zoning permit.***

***J. Vertical stacking of Shipping Containers and stacking of any other materials on top of or around any Shipping Container is prohibited in all districts.***

***K. Shipping Containers must be kept in good repair and be secured against unauthorized entry. A Shipping Container is not in a state of good repair when it is incapable of being moved intact, holes in the container exist due to damage or rust, or it has been infested with vermin or other pests. Any Shipping Container that has deteriorated and not in a state of good repair must be removed immediately.***

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***L. A Shipping Container may not be used as a dwelling or living quarters, nor for camping, cooking or recreation purposes for any amount of time in any district.***

***M. As a condition of approval, Shipping Container sites shall be required to meet all applicable zoning and property maintenance regulations.***

***N. Material stored within Shipping Containers are subject to review by the Fire Chief. He/she shall conduct such investigation or inspection and make such recommendations that he/she consider necessary. Failure to timely eliminate any fire hazards as recommended by the Fire Chief shall constitute a municipal infraction.***

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**51.03 51.04 NOTICE TO ABATE**

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Upon discovery of any refuse, junk, junk motor vehicle or junk machinery stored upon private property within the corporate limits of the City in violation of Section 51.02 of this chapter, ***or upon discovery of a Shipping Container not in compliance with Section 51.03 of this chapter,*** the Police Chief shall within ten (10) days notify by certified mail or hand delivery all owners whose identity can be readily ascertained, as said owners are defined pursuant to Section 51.01 of this chapter, that:

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1. The refuse, junk, motor vehicle, machine ***or Shipping Container*** constitutes a nuisance under the provisions of this chapter;

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2. The owner must remove the refuse or junk or remove or repair the motor vehicle, machinery, ***or Shipping Container*** in accordance with the terms of this chapter; and

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3. Failure to remove or repair as herein provided will be sufficient cause for its removal by the City at the owner's cost, or each of them, and furthermore, that failure to remove or repair may subject the owners to a ***municipal infraction.***

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**51.04 51.05 DUTY OF ALL OWNERS TO REMOVE OR REPAIR**

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Each and every owner who violates the provision of Section 51.02 ***or Section 51.03*** must within fifteen (15) days after receipt of written notice from the Building Official remove all refuse and junk or remove the motor vehicle, machinery, ***or Shipping Container*** to an auto salvage yard or junk yard duly licensed by the City, or to a lawful place of storage outside the City limits, or repair the defects which caused such motor vehicle, machinery, ***or Shipping Container*** to violate the provisions of this chapter, including licensing if a motor vehicle is not currently licensed. Mere licensing of any such motor vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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**51.05 51.06 ABATEMENT**

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If such owner fails to remove said refuse or junk or fails to remove or repair the motor vehicle, machinery, ***or Shipping Container*** in accordance with the terms of this chapter, the City shall abate such nuisance by causing the refuse, junk, motor vehicle, machinery, ***or Shipping Container*** to be removed and disposed of in the case of refuse and junk, and removed and impounded and sold or disposed of as specified in this chapter and prescribed for the disposal and sale of abandoned vehicles, in the case of motor vehicles or machinery. The cost of abatement and all charges incidental thereto shall be charged to the owner.

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**SECTION 2. REPEALER.** All ordinances or parts or ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved 1<sup>st</sup> Reading on this \_\_\_ day of July, 2024.

Passed and approved 2<sup>nd</sup> Reading on this \_\_\_ day of July, 2024.

Passed and approved 3<sup>rd</sup> and Final Reading on this \_\_\_ day of August, 2024. Enacted upon publication

\_\_\_\_\_  
Brett Barker, Mayor

ATTEST:

\_\_\_\_\_  
Kerin Wright, City Clerk

1<sup>st</sup> Reading – July ~~22~~  , 2024

Motion by Council Member   , seconded by Council Member   , to adopt the first reading of Ordinance No. ~~XXX-1058~~ (2024/2025).

AYES:     
NAYS:     
ABSENT:   

2<sup>nd</sup> Reading – ~~August 12~~July, 2024

Motion by Council Member   , seconded Council Member by   , to approve the second reading of Ordinance No. ~~XXX-1058~~ (2024/2025).

AYES:     
NAYS:     
ABSENT:   

3<sup>rd</sup> Reading – August ~~26~~  , 2024

Motion by Council Member   , seconded by Council Member   , to approve the third and final reading of Ordinance No. ~~XXX-1058~~ (2024/2025).

AYES:     
NAYS:     
ABSENT:   

The Mayor declared Ordinance ~~XXX-1058~~ (2024/2025) adopted.

I certify that the foregoing was published as Ordinance No. ~~XXX-1058~~ (2024/2025) on the ~~26th~~   day of August 2024.

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Kerin Wright, City Clerk