

ORDINANCE NO. 276

AN ORDINANCE AMENDING TITLE III, "COMMUNITY PROTECTION," CHAPTER 2, "NUISANCES," OF THE NORWAY MUNICIPAL CODE OF ORDINANCES BY AMENDING CHAPTER 2 THEREIN TO DECLARE A NUISANCE AND PROVIDE FOR THE ELIMINATION THEREOF WITHIN THE CITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORWAY, IOWA:

SECTION 1. The purpose of this Ordinance is to declare prohibited nuisances within the City of Norway in violation of Title III, Chapter 2, "Nuisances," of the Norway Municipal Code of Ordinances.

SECTION 2. That Title III, "Community Protection," Chapter 2, "Nuisances," of the Norway Municipal Code of Ordinances be and the same is hereby amended by repealing Title III, Chapter 2, and enacting in lieu thereof a new chapter to be codified the same to read as follows:

3-2-1 NUISANCES DECLARED.

Whatever is injurious or offensive to the senses or an obstruction to the free use of property so as to essentially interfere with the comfortable enjoyment of life or property is a nuisance. Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section.

A. The erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which by occasioning noxious fumes, offensive smells or other annoyances becomes injurious and dangerous to the health, comfort or property of individuals or the public.

B. The causing or suffering of any offal, filth or noisome substance to accumulate or to remain in any place to the prejudice of others.

C. The obstructing or impeding, without legal authority, the passage of any navigable river, stream, creek, harbor or collection of water.

D. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

E. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

F. Houses of ill fame kept for the purpose of prostitution, gambling houses, houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

G. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or railway tracks, as to render dangerous the use thereof, especially near intersecting streets.

H. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

I. Airports.

J. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by any person, including a dealer in such articles, within the fire limits of this City, unless it is in a building of fire resistant construction approved by the City Council in consultation with the City Building Inspector.

K. The omission of dense smoke, noxious fumes or fly ash.

L. Dense growth of all weeds, grasses, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

M. Any dead, diseased or damaged tree or shrub which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.

The property owner, agent or occupants of property adjoining City streets or sidewalks shall prune, maintain and care for all trees, shrubs and bushes located upon the owner/occupier's property or located upon public street right-of-way or parking. Trees, shrubs and bushes which overhang onto a City street, alley or other roadway of the City must be trimmed to a height of thirteen (13) feet immediately above such streets, alleys or roadways. All trees, shrubs and bushes which overhang onto a sidewalk of the City must be trimmed to a height of eight (8) feet immediately above the sidewalk.

N. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields which have failed or do not function properly or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use, unless they are empty and cleaned with clean fill; an evolved cesspool or septic tank which does not comply with Iowa or Benton County Department of Health Regulations.

O. Any article or substance placed upon a street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct drainage or the use of such described place. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into or through the same; any stormwater detention basin not maintained in an appropriate manner so as to allow its proper function.

P. Causing or suffering the accumulation of any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice of others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained within State of Iowa or Benton County Public Health Department Guidelines.

Q. Accumulations of junk, including, but not limited to, old or scrap metals; old or discarded rope, rags, batteries, paper, trash, rubber debris, waste or used lumber or salvaged wood, dismantled vehicles, machinery and appliances or parts thereof, old or discarded glass, tinware, plastic, household goods or hardware.

R. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of forty-eight (48) hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junkyard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Norway Municipal Code of Ordinances.

S. Vehicles, RVs, motor homes, campers, boats, snowmobiles, ATVs, tractors, golf carts, other similar vehicles, and trailers parked on the lawn or yard of a residential property for more than seven (7) consecutive days, not on a driveway and not kept in a building or fenced area to obstruct the visibility of the vehicle from a public street or sidewalk or other public property or neighboring property.

RVs, motor homes, campers, boats, snowmobiles, ATVs, tractors, golf carts, other similar vehicles, and trailers shall not be parked on any City street for more than forty-eight (48) consecutive hours.

T. Unsafe, dilapidated or dangerous structures or mobile homes, including all buildings or structures which are structurally unsafe

or not provided with adequate ingress or egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

U. All junkyard or salvage operations, except those specifically permitted by Ordinance and operating in full compliance with the Norway Municipal Code of Ordinances.

V. Open burning of trash, refuse, recyclable items, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, except as permitted at designated times under Chapter 9 of this Code. Outdoor cooking or burning of wood is permitted if performed in an approved container constructed of steel, brick or masonry.

W. Any accumulations of ice, water and snow on public sidewalks or failure to remove said accumulations within forty-eight (48) hours after the creation of such accumulations exist shall constitute a nuisance and shall be immediately abated.

X. The parking of motor vehicles on private property without the consent of the property owner or the responsible party.

Y. The sounding of any horn or other signaling device on any vehicle or revving a motor on any street, public or private place within the City, except as a danger warning, which makes an unreasonably loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of fifty (50) feet.

Z. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard fifty (50) feet from the source of the amplified sound.

AA. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.

BB. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 7:00 a.m. and 9:00p.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.

CC. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.

DD. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.

EE. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of ten (10) inches or more, nor shall any person allow their grass to grow unattended with a consistent height above ten (10) inches.

FF. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.

GG. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, and public enclosure, lot, vacant or occupied.

HH. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

II. Any hazardous material, thing or condition on property which may contribute to injury of any person present on the property, including but not limited to open holes, open wells, open foundations, dangerous trees or limbs, abandoned refrigerators or trapping devices.

JJ. The storage of any appliances, scrap metal, indoor furniture, bedsprings, mattresses, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects located on private property and visible from the public right-of-way or adjoining property.

KK. Pools and ponds containing stagnant water.

LL. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding seventy-two (72) hours.

MM. Junk vehicles, as defined in Section 3-2-6 herein.

NN. Rusty, deteriorated, dilapidated, unused or unusable play equipment.

OO. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

PP. Revving, racing or accelerating motor vehicles or engines of any type which can be distinctly heard fifty (50) feet from the source of the noise, to the disturbance of a person on any adjoining or neighboring property.

3-2-2. NOTICE TO ABATE NUISANCE OR CONDITION.

Whenever the Mayor or other authorized municipal officer or employee finds that a nuisance or other condition exists, that person may cause to be sent to the property owner a written notice to abate the nuisance within a reasonable time after notice. Said notice shall be deemed given when mailed.

The notice to abate shall contain:

1. A description of what constitutes the nuisance condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance.
4. A reasonable time within which to complete the abatement.
5. Notice that the person may request a hearing before the City Council if the person feels that a nuisance does not exist or that the person is not responsible for the nuisance.

3-2-3. REQUEST FOR HEARING AND APPEAL.

A. A person receiving a notice to abate a nuisance or condition may request a hearing before the City Council as to whether a nuisance or prohibited condition exists or whether the person receiving the notice is the responsible party. A request for a hearing must be made in writing and delivered to the City Clerk's Office within ten (10) days of the date of the notice letter which is being appealed.

B. A hearing will be held, as determined by the City Council in its sole discretion, within thirty (30) days of the filing of such appeal. The hearing may be held at a time longer than thirty (30) days following the notice of appeal if agreed to by the parties. Following the appeal hearing,

the Council will make a decision and inform the appealing party of that decision. The ruling of the City Council shall be final.

3-2-4 EMERGENCY.

If it is determined that an emergency exists by reason of the continued maintenance of a nuisance or condition, the City may perform any action that the City deems necessary, without prior notice to the property owner, and assess the cost to the property owner as permitted by law.

3-2-5 PENALTY.

Any person failing to abate the nuisance in violation of this Ordinance shall be subject to a municipal infraction or simple misdemeanor citation as permitted by law.

3-2-6 JUNK/NUISANCE VEHICLES.

A. A junk or nuisance vehicle shall mean any licensed or unlicensed vehicle within the City limits of the City of Norway which is located outside of a fully enclosed structure, which has any one (1) or more of the following characteristics:

1. Broken windshield, window, headlight, taillight or any other cracked or broken glass.
2. Broken or loose fender, door, bumper, hood, door handle, side mirrors, window handle, steering wheel, trunk, exhaust pipe.
3. Any vehicle which has become a habitat of rats, mice, raccoons, possums, snakes or any other vermin or insects.
4. Any vehicle which is leaking gasoline or other flammable or nonflammable fuel or other liquids.

5. Any vehicle that lacks an engine or one (1) or more wheels, structural parts, or lacks the ability to move on its own volition five (5) feet forward and five (5) feet back.

6. A vehicle which is not in compliance with the equipment provisions of Chapter 321, Iowa Code, or is not in legally drivable condition.

7. A vehicle which does not have a current and valid registration with current plates/tag displayed.

8. A vehicle with one (1) or more flat tires.

3-2-7 PARKING A NUISANCE VEHICLE.

Except as herein provided, it is declared that the parking of a nuisance vehicle within the corporate limits upon either public or private property constitutes a threat to the health and safety and enjoyment of the citizens of Norway and is declared a nuisance within the meaning of the Municipal Code of the City of Norway, and any nuisance vehicle as defined herein shall be prohibited to remain in the City in violation of the Norway Municipal Code.

3-2-8 EXCEPTIONS.

This Ordinance shall not apply to the following vehicles:

A. A vehicle enclosed in a building or behind a fence or elsewhere in a location that is not visible from any adjoining public or private property.

B. A vehicle located at a properly zoned repair garage or body shop.

C. A wrecked or demolished vehicle on the property of a repair business, as long as the repairs shall be made within sixty (60) days and that the vehicle be brought into compliance with this Ordinance within the aforementioned sixty (60) days.

D. If a vehicle is being repaired within the City limits, it must contain a valid registration and license at all times. If such vehicle is being repaired on private property or property that is not zoned for a repair garage or body shop, it shall be located in an enclosed building or on a hard-surfaced location that is not visible from adjoining private or public property and is brought into full compliance with this Ordinance within fourteen (14) days.

3-2-9 NOTICE TO ABATE JUNK OR NUISANCE VEHICLES.

Upon discovery of any junk or nuisance vehicle located within the City in violation of this Ordinance, the Mayor or other City official or employee may notify the owner of the property upon which the vehicle is located and/ or the last known registered owner of the vehicle, by ordinary mail, the existence of the nuisance vehicle.

The nuisance notice shall notify the person that the vehicle constitutes a nuisance under the provisions of this Ordinance and that the person must remove or, if applicable, repair the nuisance vehicle in accordance with the terms of this Ordinance and that failure to bring the vehicle into compliance may cause further action by the City to abate the nuisance vehicle.

Such notice shall be deemed given when mailed. The notice will give the individual a reasonable amount of time in which to abate the nuisance, giving the location of the vehicle and the condition of the vehicle.

If the owner of the nuisance vehicle or owner of the property on which the nuisance vehicle is located shall fail to remove or repair the vehicle in accordance with the terms of this Ordinance, the City may request that a municipal infraction citation or criminal citation be issued to

the owner of the vehicle or to the property owner where the nuisance vehicle is located. All costs of this action shall be assessed against the owner of the vehicle if determined to be in violation of this Ordinance.

SECTION 3. Repealer. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. Severability. 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 5. Effective Date. This Ordinance shall be in effect after its final passage, approval and publication as required by law.

PASSED AND APPROVED this 14th day of January, 2016.

CITY OF NORWAY, IOWA

By: _____

Martin Schulte, Mayor

ATTEST: _____

Wendy Erger, City Clerk