

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 179

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET CITY CODE
TITLE 11, CHAPTER 2-2, CONCERNING DEFINITIONS AND
TITLE 11, CHAPTER 5-14 CONCERNING DAYCARE FACILITIES AND
TITLE 11, CHAPTER 9-10 CONCERNING PARKING REGULATIONS AND
TITLE 11 CHAPTERS 25 AND 26 CONCERNING PERMITTED AND
CONDITIONAL USES**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET,
MINNESOTA ORDAINS:

SECTION 1. Section 11-2-2 of the Elko New Market City Code is hereby amended to add the following definitions:

CLINIC: Any establishment where human patients are examined, diagnosed or treated by licensed practitioners, and does not involve overnight stays. For this purpose, a licensed practitioner includes physicians, dentist, osteopaths, chiropractors, optometrists, psychologists, therapists, and physical therapists.

DAYCARE FACILITY: Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "nonresidential programs" as defined by Minnesota statutes section 245A.02, subdivision 10.

PHYSICAL RECREATION OR TRAINING: A business that provides physical exercise, training or recreation equipment or space for use on site. Health and fitness centers and clubs, dance studios, karate facilities and gymnastics facilities shall be considered examples of such use. Training or self-improvement shall be an important component of the activity, which is differentiated from commercial recreation uses, where sports are the predominate activity.

RECREATION, COMMERCIAL: A business directed towards the general public that offers recreational entertainment such s bowling alleys, billiard halls, ballrooms, roller rinks, movie theaters, miniature golf, golf courses, driving ranges, tennis courts, ball fields and the like that are operated by a private enterprise with the intention of earning a profit by providing entertainment for the public.

RETAIL ESTABLISHMENT: Establishments displaying and selling products produced off site intended for sale directly to the consumer within a building or portion of a building.

SERVICE ESTABLISHMENT: An establishment that provides labor, maintenance, repair services conducted within a building and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as shoe repair shop, seamstress or tailor shop, computer repair, appliance repair or other uses of similar character.

SECTION 2. Section 11-2-2 of the Elko New Market City Code is hereby amended to delete the following definitions:

~~COMMERCIAL RECREATION:~~ Uses such as bowling alleys, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

~~DAYCARE NURSERY:~~

- ~~A. Any state licensed facility as defined by Minnesota statutes section 245A.02, subdivision 10, as it may be amended, or home where children under twelve (12) years of age who are not members of the family or the superior or custodian in charge:
 - ~~a. Meet or are scheduled to meet regularly for more than one day a week, for all or part of the day; and,~~
 - ~~b. Need either to be watched or cared for while their parent or guardian is otherwise engaged, or to afford themselves opportunities for physical, social, emotional or intellectual growth.~~~~
- ~~B. This term shall not include hospitals, Sunday schools, facilities under the direction of an established and accredited school system, facilities used for club or organization meetings when such club or organization regularly meets no more than once a week, or casual babysitting.~~

~~RETAIL SALES:~~ Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

SECTION 3. The definition of “Office” in Section 11-2-2 of the Elko New Market City Code is amended to read as follows:

OFFICE: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations including attorneys, financial advisors, consultants, insurance and other uses of similar character. This includes administrative services provided to persons both on-site and off-site, and on a walk-in or appointment basis.

SECTION 4. Section 11-5-14 of the Elko New Market City Code is hereby amended as follows:

11-5-14: ~~COMMERCIAL~~ DAYCARE FACILITIES:

- A. Purpose: The regulation of ~~commercial~~ daycare facilities in this section is to establish standards and procedures by which daycare facilities can be conducted within the city without jeopardizing the health, safety, and general welfare of the daycare participants and/or the surrounding neighborhood. This section establishes the city's minimum requirements for the establishment of ~~commercial~~ daycare facilities ~~rather~~ other than in-home daycare facilities as allowed by state statute.
- B. Procedure: ~~Commercial~~ Daycare facilities, except as otherwise provided, shall be allowed as a ~~conditional use~~ in accordance with the zoning districts established by chapter 14 24 of this title, ~~subject to the regulations and requirements of section 11-3-2 of this title.~~ In addition to the city regulations, all daycare facility operations shall comply with the minimum requirements of the applicable Minnesota department of human services regulations.
- C. Special Requirements: ~~Commercial~~ Daycare facilities shall meet the following requirements as applicable:
1. Lot Requirements And Setbacks: The proposed site for a ~~commercial~~ daycare facility shall have a minimum lot area as determined by the Minnesota department of human services and the base zoning district in which it is located. The daycare facility shall meet the minimum setback requirements of the respective zoning districts.
 2. Screening: Where the ~~commercial~~ daycare facility is in or abuts any commercial or industrial use or zoned property, the daycare facility shall provide screening along the shared boundary of the two (2) uses. All of the required fencing and screening shall comply with the fencing and screening requirements in sections 11-5-4 and 11-5-5 of this chapter.
 3. Parking:
 - a. There shall be adequate off street parking which shall be located separately from any outdoor play area and shall be in compliance with chapter 9 of this title.
 - b. There shall be adequate short term parking or drop off area provided within close proximity to the main entrance. Short term or drop off parking shall accommodate three (3) car spaces and shall be designated as temporary in nature. The short term parking or drop off area shall not conflict with off street parking access and shall not conflict with pedestrian movement. The short term parking or drop off area is in addition to off street parking and loading spaces required by chapter 9 of this title.
 - c. Except as may be approved as part of a joint parking arrangement, as regulated by section 11-9-5 of this title, when a daycare facility is an accessory use within a structure containing another principal use, each use

shall be calculated separately for determining the total off street parking spaces required.

4. Signage: All signing and informational or visual communication devices shall be in compliance with chapter 12 of this title.
5. Building Requirements: The building plans for the construction or alteration of a structure that is to be used as a daycare facility shall be submitted to the city for review by the city building official to ensure that the structure is in compliance with the state building code. The facility shall meet the following conditions:
 - a. Architectural Appearance: The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause incompatibility with neighboring properties or constitute a blighting influence within a reasonable distance of the lot.
 - b. Land Use Compatibility: Internal and external site land use compatibility and sufficient peripheral area protections shall be provided by the daycare facility.
 - c. Play Space: Play space shall be adequately enclosed where necessary to prevent children from leaving the premises unattended.
 - d. Outdoor Areas: Outdoor play areas shall not be provided within the required front yard setbacks.
6. Conditions Of Permit: The planning commission and city council may impose such conditions on the granting of a ~~commercial~~ daycare facility conditional use permit as may be necessary to carry out the purpose and provisions of this title.
7. State Licenses Required: Proof of approved applicable state licenses shall be provided to the zoning administrator prior to the building official granting a certificate of occupancy.
8. ~~Noneonforming Facilities: Existing commercial daycare facilities lawfully existing on the effective date hereof may continue as nonconforming uses. They shall, however, be required to obtain applicable state and city permits for their continued operation. Any existing commercial daycare facility that is discontinued for a period of more than thirty (30) days, or is in violation of the ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this section.~~
89. Inspections: The city hereby reserves the right, upon issuing any ~~commercial~~ daycare facility conditional use permit, to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this section or any conditions additionally imposed.

SECTION 5. Section 11-9-10 of the Elko New Market City Code is hereby amended as follows:

11-9-10: NUMBER OF PARKING SPACES REQUIRED:

<u>Uses</u>	Required Number Of Parking Spaces
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Commercial:		
	Automobile repair (associated with motor fuel station)	2 for each service stall, plus motor fuel requirements
	Automobile repair, major	At least 2, plus 4 for each service stall
	Automobile repair, minor	1 per 200 square feet of floor area
	Automobile sales	1 per 500 square feet of showroom, plus 1 for each 3,000 square feet of outdoor sales lot
	Bank	- 1 for each 300 square feet of floor area; plus 5 stacking spaces for each drive-up window
	Bar, tavern, nightclub	At least 1 per 3 patron seats, plus 1 per employee on the largest work shift
	Beauty shop or barbershop	- 2 per chair, plus 1 per employee on the largest work shift
	Boarding house	At least 1 for each person for whom accommodations are provided for sleeping
	Bowling alley	5 for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure
	Car wash (accessory to motor fuel station)	4 off street stacking spaces per drive-through car wash. The bay inside the car wash shall not be considered a stacking space
	Car wash (drive-through) as principal use	A minimum of 10 or 1 for each employee on the maximum shift, whichever is greater
	Community center, private club, lodge, museum, art gallery	10, plus 1 for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure
	Convenience grocery <u>store</u>	1 per 100 square feet of floor area. Parking areas at pump islands may be counted as parking spaces
	Fitness center	- 1 per exercise station (e.g., strength machine or cardiovascular), plus 1 per employee on the largest work shift, plus

		additional parking spaces required for ancillary uses
	Funeral home	20 per chapel or parlor, plus 1 for each company vehicle maintained on site. Adequate stacking space shall also be provided for staging funeral processions
	Grocery or supermarket	1 per 100 square feet of floor area of customer sales and service, plus 1 per 200 square feet of floor area of storage
	Hotel or motel	At least 1 for each dwelling unit or lodging room, plus 1 additional for each 8 units. Additional spaces shall be required for liquor or restaurant facilities
	Instructional studio (dance, karate, music, and similar uses)	1 for each 200 square feet of floor area
	Laundromat	1/2 per machine
	Ministorage	2 per dwelling unit or employee area, plus 1 per 6,000 square feet of indoor storage area
	Motor fuel station	1 per pump, plus 1 per employee on the largest work shift. With convenience grocery, include 1 per 100 square feet of floor area. Parking areas at pump islands may be counted as parking spaces
	Outdoor storage and/or display of retail merchandise	1 per 2,000 square feet of outdoor storage or display area in addition to the total parking required on the site for the individual use
	<u>Personal Service (beauty shops, electrolysis, nail care, tanning, physical therapy, therapeutic massage, tattooing, and similar uses)</u>	<u>2 per chair or bed, plus 1 per employee on the largest work shift</u>
	<u>Physical Recreation or Training (fitness centers, dance studios, karate facilities and similar uses)</u>	<u>1 per 200 square feet of floor area</u>
	Pool hall and arcade	1 per 4 patrons at the maximum occupancy load of the facility, plus 1 per employee on the largest work shift, plus 1 per 100

		square feet of kitchen, dining, or snack bar area
	Religious institution, theater, auditorium	1 for each 3 seats, based upon maximum design capacity, plus additional spaces as may be required herein for related uses contained within the principal structure
	Restaurant (fast food)	1 per 50 square feet of floor area, plus 1 per employee on the largest work shift
	Restaurant (sit down) including outdoor seating	5 per 1,000 square feet of floor area
	Restaurant, take out (no seating)	1 per 100 square feet of floor area
	Retail sales and multiple occupancy retail service building	1 per 250 square feet of floor area and outdoor sales space
	Retail establishments-Retail sales/service and storage-	1 per 200 square feet of floor area of retail space and 1 per 500 square feet of storage area-
	<u>Service establishments (provides labor, maintenance or repair)</u>	<u>1 per 200 square feet of floor area</u>
Industrial:		
	Industrial	A minimum of 1 per employee on the largest work shift, plus 1 per company vehicle regularly stored on premises, plus additional spaces that may be required depending upon the specific use
	Manufacturing, fabricating or processing of a product	1 per 1,000 square feet of floor area, plus 1 for each company owned truck (if not stored inside the principal structure)
	Manufacturing, office	1 per 350 square feet of floor area, plus 1 per company vehicle not stored within the principal structure
	Warehouse:	
	Office area	1 per 400square feet of office area
	Warehouse area	1 per 1,000 square feet of floor area, plus 1 per company vehicle not stored within the principal structure
Institutional:		

	Cemetery		1 per employee
	Church		1 per 3 seats of maximum capacity
	Community recreation center		1 per 250 square feet of floor area, or 1 per 4 patrons at the maximum occupancy load, whichever is greater, plus 1 per employee on the largest work shift
	Hospital		2 per 3 patient beds, plus 1 per employee on the largest work shift
	Library		1 per 250 square feet of floor area or 1 per 4 seats at the maximum occupancy load, whichever is greater, plus 1 per employee on the largest work shift
	School, college or trade		1 per staff member on the largest work shift, plus 1 per 2 students of the largest class attendance period
	School, elementary and junior high		1 per 7 students based upon building design
	School, high school and post high school facilities		1 per 3 students based upon building design capacity, plus 1 per classroom
Office:			
	Medical, dental, or chiropractic office or clinic		5 per doctor or dentist, plus 1 for each employee on the largest work shift
	Office (business and professional)		1 for each 400 square feet of floor space
	Veterinary office (with or without kennels)		3 per doctor, plus 1 per employee on the largest work shift
Recreational:			
	Athletic field (private or private nonprofit)		1 per 8 seats of design capacity
	Athletic stadium/auditorium/indoor sports area		1 per 4 seats
	Golf course		4 per hole, plus 50 percent of the requirements for any other associated use, except in planned residential, resort, or commercial developments, which have

		otherwise adequate provisions for parking
	Golf driving range, miniature golf, archery range	10, plus 1 for each 100 square feet of floor area
	Skating rink, ice or roller	1 per 300 square feet of floor area, plus 1 per employee on largest work shift
	Tennis, racquet, handball court	4 per court, plus 1 per employee on the largest work shift
Residential:		
	Assisted living facility	$\frac{1}{2}$ per unit
	Daycare facility nursery –	1 per teacher/employee on the largest work shift, plus 1 off street loading space per 6 students
	Elderly (senior citizen) housing (uses with occupancy limited to persons age 55 and over)	1 per unit; $\frac{1}{2}$ of required stalls may be provided at initial development for projects with occupancy restricted to persons age 55 and older. The development shall include a proof of parking area sufficient to meet the parking requirements
	Group home (dwelling)	1 per sleeping room or 1 for every 4 beds
	Manufactured home	2 per manufactured home (a minimum of 1 shall be enclosed)
	Multiple-family (apartment) dwelling (see also Multiple-family guest parking herein)	$1\frac{1}{2}$ for each efficiency and 1-bedroom unit and $2\frac{1}{4}$ for units with 2 or more bedrooms. A minimum of 1 of the required parking spaces per unit shall be an enclosed garage space. A land area requirement credit of 300 square feet toward the satisfaction of lot area requirements shall be given for each garage under the principal building
	Multiple-family guest parking	$\frac{1}{2}$ per townhouse or apartment unit, distributed throughout the development, in addition to the required parking per unit
	Nursing home other than assisted living facility	1 per 6 patient beds, plus 1 per employee on the largest work shift
	One- and two-family residence	A 440 square foot attached garage shall be constructed at the same time as the

		principal structure. For lots of record established after the effective date hereof, all site plans for single-family homes shall provide for the location of a 3 stall attached garage, whether or not construction is intended
	Townhome dwelling unit (see also Multiple-family guest parking herein)	Each dwelling unit shall have an attached garage with a minimum of 2 garage spaces and 2 driveway spaces per unit. The minimum garage shall be 220 square feet for dwellings with basements and 540 square feet for dwellings without basements. Garages shall be a minimum of 20 feet in width
	Uses not listed	The parking requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the zoning administrator

SECTION 6. The reference to “Commercial Daycare Facilities” in Section 11-25D-4 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 7. The reference to “Commercial Daycare Facilities” in Section 11-25E-4 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 8. Section 11-26A-2 of the Elko New Market City Code is hereby amended as follows:

11-26A-2: PERMITTED USES:

Subject to applicable provisions of this title, the following are permitted uses in the B-1 district:

- Clinics
- Daycare facilities
- Office
- Personal wireless service antennas located on a public structure or existing tower as regulated by [chapter 13](#) of this title
- Personal services
- Physical recreation or training
- Restaurant, fast food (without drive-through facilities)
- Restaurant, sit down
- Retail establishments
- Service establishment

Sexually oriented business, accessory, subject to the provisions of section [11-5-16](#) of this title

Sexually oriented business, principal, subject to the provisions of section [11-5-16](#) of this title

Veterinary clinic (without animal kennels)

SECTION 9. Section 11-26A-4 of the Elko New Market City Code is hereby amended to delete “commercial daycare facilities” and “professional and commercial (leased) offices” as conditional uses, and the reference to “Motor Fuel Stations” as a conditional use is amended to read “Motor Fuel Stations and Convenience Stores.”

SECTION 10. The reference to “Daycare Nurseries” in Section 11-26B-2 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 11. The reference to “Commercial Daycare Facilities” in Section 11-26B-5 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 12. Section 11-26C-2 of the Elko New Market City Code is hereby amended to delete Commercial Recreation as a Permitted Use, and add Recreation, Commercial as a Permitted Use.

SECTION 13. The reference to “Commercial Daycare Facilities” in Section 11-26C-4 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 14. Section 11-26D-3 of the Elko New Market City Code is hereby amended to delete Retail Sales Establishment as a Permitted Use, and add Retail Establishments as a Permitted Use.

SECTION 15. The reference to “Commercial Daycare Facilities” in Section 11-26D-5 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 16. Section 11-26E-2 of the Elko New Market City Code is hereby amended to delete Commercial Recreation as a Permitted Use, and add Recreation, Commercial as a Permitted Use.

SECTION 17. The reference to “Commercial Daycare Facilities” in Section 11-26E-4 of the Elko New Market City Code is hereby amended to read “Daycare Facilities.”

SECTION 18. Section 11-26F-4 of the Elko New Market City Code is hereby amended to delete Indoor Commercial Recreation as a Conditional Use, and add Recreation, Commercial as a Conditional Use.

SECTION 19. Section 11-26G-4 of the Elko New Market City Code is hereby amended to delete Indoor Commercial Recreation as a Conditional Use, and add Recreation, Commercial as a Conditional Use.

SECTION 20. This Ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 25th day of October, 2018 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Robert Crawford, Mayor

ATTEST:

Sandra Green, City Clerk