

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

ORDINANCE NO. 213

**AN ORDINANCE AMENDING CITY OF
ELKO NEW MARKET CITY CODE TITLE 6, CHAPTER 5
CONCERNING PUBLIC NUISANCES**

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

SECTION 1. Section 6-5B-7 and 6-5B-8 of the Elko New Market City Code are hereby deleted in their entirety and amended to read as follows:

6-5B-7: ENFORCEMENT; INSPECTIONS:

The city administrator or authorized designee shall enforce the provisions relating to nuisances. In abating or ordering the abatement of nuisances defined in Article B, the city administrator or authorized designee shall cause or order the nuisance to be removed. Any enforcement official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no enforcement officer (i.e. city administrator or authorized designee) shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the enforcement officer has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, or the entry is otherwise authorized by law.

6-5B-8: ABATEMENT PROCEDURES:

- A. Notice: The city administrator or authorized designee has the authority to determine that a condition on a property constitutes a nuisance. Upon that determination, an owner of record or occupant of the premises shall be notified in writing that a public nuisance exists and that the nuisance shall be terminated or abated. The city administrator or authorized designee shall provide the notice to the owner of record or occupant in person or by mail. A failure to receive the notice does not invalidate the service of the notice. The notice shall describe the nuisance and provide ten (10) days, or a reasonable timeframe as determined by the city administrator, for the nuisance to be abated. If the nuisance is not abated within that timeframe, the city administrator or authorized designee may issue an Order pursuant to this section. The notice must state that if the owner or occupant fails to remedy the nuisance within the time provided in the notice, the City will abate the nuisance at the expense of the owner or occupant.

- B. An Order shall be given as set forth in this subsection. The Order shall include the following:
1. The nuisance shall be abated within ten (10) days of the Order, unless the city administrator or authorized designee reasonably determines that additional time is required to abate the nuisance.
 2. The Order shall identify and describe the nuisance and shall specify the steps that may be taken to abate the nuisance.
 3. The Order shall state that the City will abate the nuisance and assess the costs against the property if the nuisance is not abated within the timeframe specified in the Order.
 4. The Order shall be served by the city administrator or authorized designee on the owner of record or occupant of the premises in person or by mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept the Order, the Order shall be served by posting it on the premises. A failure to receive the notice does not invalidate the service of the notice.
 5. The Order shall include a statement that the Order may be appealed to city council by filing a written request with the city clerk before the appeal deadline which shall be the abatement deadline designated in the Order. Upon receipt of a timely appeal notice, the city clerk shall schedule the hearing at the next regularly scheduled city council meeting.
 6. If the required actions specified in the Order are not complied with, the city administrator or authorized designee may obtain an administrative search warrant to enter the property and inspect the nuisance condition, obtain a court order permitting the City to abate the nuisance, or take any other lawful action to abate the nuisance and assess the costs as prescribed in 6-5B-9.
- C. Hearing. The city council shall hold a hearing if requested as outlined in this Section. The city council shall give the appellant an opportunity to present evidence and testimony. The city council may sustain, overrule, or modify the Order of the enforcement officer. If the city council determination requires abatement, the city council shall, in a resolution, fix a time within which the nuisance must be abated and may provide that, if the nuisance is not eliminated within the time specified, the City may abate the nuisance and assess the costs of the abatement to the subject property as a special assessment.
- D. Emergencies; Summary Abatement: In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subsections A of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the city council may order summary enforcement and abate the

nuisance. To proceed with summary enforcement, the enforcement official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The enforcement official shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the city council meeting to consider the question of summary enforcement. The city council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subsection A of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the city council may order summary enforcement and abate the nuisance.

- E. Immediate Abatement: Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety and assessing the costs of the abatement against the property in accordance with 6-5B-9.

SECTION 2. This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 14th day of May, 2020 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk