



601 Main Street  
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## MEMORANDUM

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**TO:** PLANNING COMMISSION  
**FROM:** HALEY SEVENING, PLANNER I  
RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST  
**RE:** PUBLIC HEARING FOR PROPOSED ZONING ORDINANCE AMENDMENTS –  
GARBAGE/REFUSE AND RECREATIONAL VEHICLE PARKING  
**DATE:** JANUARY 22, 2020

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### **Background / History**

On September 24, 2019, the Planning Commission began discussions related to garbage can storage and recreational vehicle parking on residential properties. Discussion on the topics was spurred by results of a City wide inventory of code violations related to garbage cans and recreational vehicles. Results of the inventory indicated that current practice does not reflect what is required by the City Code. Based on these results, Staff recommended that the code be amended to better reflect current practice and allow more flexibility in the storage of garbage cans and parking of recreational vehicles. The following amendments were recommended by Staff:

- Garbage Can Storage
  - Allow garbage cans to be stored in the side yard without screening.
  
- Recreational Vehicle Parking
  - Restrict the number of vehicles allowed to park in the driveway.
  - Allow recreational vehicles to be parked in driveways seasonally and with size limitations, and to add other types of recreational vehicles (i.e. ATVs, UTVs, golf carts, jet skis, etc.).
  - Remove the screening requirement.
  - Clarify a hard, dust free surface as concrete, bitumen, or pavers to match the Off Street Parking and Loading Requirements under section 11-9-8 (E) of the City Code.

Following discussion, the Planning Commission directed Staff to draft an ordinance amendment based of Staff's recommendation. The Commission also directed Staff to complete an inventory of properties with gravel side parking areas to establish a baseline for properties that would be grandfathered, or exempt, from parking surface requirements in the draft recreational vehicle parking ordinance. For reference, the September 24, 2019 Planning Commission Meeting Minutes are included as an attachment. Also included as attachments are results of the City wide inventory and additional research on the topics of garbage cans and recreational vehicles.

On October 29, 2019 the Planning Commission continued discussions related to garbage can storage and recreational vehicle parking on residential properties. Staff presented a draft ordinance that included the following amendments:

- Garbage Can Storage

- Distinguishes commercial, industrial, and multi-family residential properties from single family residential properties.
  - Replaces wood with maintenance free material as an acceptable screening material (for commercial, industrial, and multi-family residential properties).
  - Permits the storage of garbage cans on residential properties in the side or rear yard without screening.
  - Exempts dumpsters and garbage cans from screening and location requirements when used for construction purposes.
- Recreational Vehicle Parking
    - Adds ATVs, dirt bikes, dune buggies, go-karts, golf carts, ice houses, snowmobiles, and UTVs as recreational vehicles.
    - Exempts non-motorized watercrafts from section and regulates them as exterior storage (canoes, kayaks, paddleboards).
    - Identifies three seasonal classifications (warm weather season, cold weather season, or year-round) for recreational vehicles.
      - Permits up to two (2) recreational vehicles to be parked in the driveway during periods of seasonal use.
    - Requires that all recreational vehicles be emptied of refuse, debris, junk, or other materials.
    - Limits recreational vehicles to thirty (30) feet in length.
    - Prohibits recreational vehicles from extending into or obstructing the public sidewalk or public right-of-way.
    - Allows only one recreational vehicle exceeding 24 feet to be parked on residential property
    - Removes the screening requirement.
    - Permits recreational vehicles to be parked in the rear or side yard on a surface of concrete, bitumen, or pavers entirely outside of the drainage and utility easement with a five (5) foot setback from property lines.
    - Includes exception for properties with existing gravel side parking areas.
      - Note: Staff completed an inventory for residential properties with gravel side parking areas and found that 51 properties currently have them. A list of exempt properties is included as an attachment.
    - Enumerates recreational vehicles parked on a trailer as one (1) recreational vehicle.
    - Removes nonconforming location permit.

Following presentation of the draft ordinance, the Planning Commission discussed the topics and provided feedback to Staff. A summary of the items discussed are outlined in the October 29, 2019 Planning Commission Meeting Minutes, which is included as an attachment. Two significant items to be noted are that during discussion the Planning Commission:

1. Questioned whether or not trailer tongues are included in the allowable length of recreational vehicles, and;
2. Requested that the City Attorney provide an opinion about allowing recreational vehicles to be parked within the public right-of-way.

**Staff Recommendation**

Staff discussed the above to items with the City Attorney. Both Staff and the City Attorney recommend that trailer tongues be included in the allowable length of recreational vehicles. Including all parts of the recreational vehicle in the allowable length reduces confusion for residents and makes enforcement of the ordinance more straightforward. Staff and the City Attorney also recommend that recreational vehicles not be allowed to park within public right-of-way. Recreational vehicles owned by residents should be located entirely on private property. Included as an attachment is a memo from the City Attorney outlining why recreational vehicles should not be parked within the public right-of-way.

The City Attorney also recommended that Section 11-9-8 (E) of the zoning ordinance, which regulates the surfacing of off-street parking areas, be amended to include the exemption for existing gravel side parking areas. Section 11-9-8 (E) states:

*“Surfacing: All parking spaces and driveways shall be surfaced with concrete, bitumen, or pavers in all zoning districts except in the UR district. Other materials such as decorative rock, gravel, sand, or bare soil are prohibited. This requirement also applies to open sales lots, open rental lots, and outdoor storage or display areas. All parking areas and driveways shall be maintained in a safe and proper manner. The owner shall not allow weeds or surface materials to become deteriorated.”*

The proposed amendment for Section 11-9-8 (E) is included in the draft ordinance.

Finally, Staff recommends that Section 7-2-3 (Parking Prohibitions) of the City Code be amended in association with the proposed recreational vehicle parking amendments. This section is not under the purview of the Planning Commission and will be reviewed by the City Council. However, Staff has included proposed ordinance amendments to this section for informational purposes. The proposed amendment to section 7-2-3 would allow recreational vehicles to park on the street for up to 48 hours for the purpose of loading and unloading.

### **Requested Action**

Staff has prepared the attached draft amendments as directed by the Planning Commission at the September 2019 meeting. Minor changes have been made based on City Attorney review.

At this time, the Planning Commission is being asked to hold a public hearing on the proposed ordinance amendments. If the Commission is comfortable with the proposed changes following the public hearing, a recommendation for approval should be made to the City Council.

### **Attachments:**

Minutes – Planning Commission Meeting September 24, 2019

Minutes – Planning Commission Meeting October 29, 2019

Research Summary

Garbage Can Code Violations Map

Recreational Vehicle Code Violations Map

Garbage Can Storage Research Summary

Recreational Vehicle Parking Research Summary

Properties with Existing Gravel Side Parking

Types of Recreational Vehicles

Memo from City Attorney

Draft Ordinance Amendment – Garbage and Refuse, Recreational Vehicle Parking, Off-Street Parking

Draft Ordinance Amendment – Parking Prohibitions

## **A. Consider Zoning Ordinance Amendments – Garbage/Refuse and Recreational Vehicle Parking**

Planner Sevening introduced the agenda item and explained that City staff had recently conducted a citywide inventory of properties to determine the extent of compliance with Section 11-4 and 11-8 of the City code, which regulate garbage and refuse, and recreational vehicle parking. The results of the inventory, which showed significant noncompliance, were presented to the City Council on September 12<sup>th</sup>. The City Council was asked if they wanted staff to enforce the City code as currently written, or whether the code should be amended to determine if updates were needed. The City Council directed staff to bring the matter to the Planning Commission to determine if changes to the ordinance should be considered.

Sevening reviewed the current codes. In regards to garbage and refuse, she explained that the code currently requires that all garbage containers be kept within an enclosed building, or if stored outside, they shall be completely screened from view. Sevening displays examples of what the required screening could look like. On the date of the inspection, 44% of the properties in the City had violations related to storage of garbage cans. Of those, approximately 50% had garbage cans stored in front of their home and 50% had them stored on the side of their home.

In regards to the storage of recreational vehicles, Sevening explained that the current code requires that recreational vehicles be stored on a hard dust free surface, and that screening is required to the height of the recreational vehicle, or 6', whichever is less. On the date of the inspection, 16% of the properties in the City had violations related to the storage of recreational vehicles. Violations were primarily related to storing them in unpermitted locations, and without screening. She noted that the storage of recreational vehicles on properties may have a greater visual impact on neighborhoods.

Sevening explained that the City Council generally indicated that amendments to these sections should be considered. She stated that as part of the research, ten community codes were reviewed. She stated that, related to garbage can storage, nine of the ten communities allowed garbage cans to be stored outside. Half of those cities require screening of garbage containers.

All of the communities researched allow recreational vehicles to be parked in the driveway. Some permitted that seasonally, while some allowed year-round driveway parking. Some cities had size limitations, limitations on the number allowed, and most required recreational vehicles to be parked on a hard surface. Two of the cities required screening.

Sevening explained that, following completion of the citywide inventory and research of other community codes, staff had provided some preliminary recommendations for code amendments for discussion purposes. The Commission held discussion on the individual items.

Feedback from the Planning Commission regarding the storage of garbage cans was as follows:

- Kruckman stated that she does not believe the City should regulate the location of garbage cans on residential properties.
- Hanson stated that she cares about how her neighboring properties look and where garbage cans are placed. She stated it can affect the salability of a home and has visual impacts on the neighborhood.
- Humphrey stated that he is interested to know how the peer communities are regulating garbage cans, and would like to provide some consistency.
- Kruckman stated she is not in favor of requiring screening for garbage cans.
- Smith and Humphrey supported a requirement that that garbage cans be placed within an enclosed structure or if stored outside, they must be placed on the side or the rear of the home.

Following discussion regarding garbage cans, the Commission took an informal vote on the matter. It was moved by Humphrey, seconded by Hanson to recommend that the City code be amended to state that garbage cans must be placed in an enclosed structure, or in the side yard, or in the rear yard of a home, and that garbage cans will not be permitted in the front yard of a home. Motion carried: 3 – 1, with Kruckman placing the dissenting vote. Christianson noted that any change requires a formal public hearing, and action by the City Council.

Discussion was then held regarding recreational vehicle parking, as follows:

- There was discussion regarding the allowable parking surface. Christianson explained that in one section of the City code it clearly states that all driveway and parking surfaces in all residential, commercial and industrial zoning districts must be constructed with a concrete, bituminous, or paver surface. The recreational vehicle section of the code states that parking areas must be constructed with a “hard, dust-free surface”. She further explained that there was a period of time when a former consultant had opined that a gravel surface was a permissible surface for recreational vehicle parking. She explained that current City staff’s interpretation of the code is that gravel surfaces are not permitted because it contradicts the requirement that in all residential, commercial and industrial zoning districts must be constructed with a concrete, bituminous, or paver surface.
- Kruckman expressed concern about existing gravel parking spaces that may have been constructed during a previous time period. She did not want to place a financial burden on those property owners that have existing gravel surfaces by requiring them to upgrade the surface. Christianson stated that an inventory could be completed to determine how many gravel parking surfaces exist and when they were constructed. The City could include a grandfathering clause in any new ordinance to account for the existing gravel parking surfaces.

- Commissioner Humphrey commented on recreational vehicles that are allowed to be stored seasonally, and he recommended that a definition for “seasonally” be very clearly defined.
- Humphrey stated that vehicles that are over a certain size do have a visual impact on surrounding properties, and therefore, he does not believe that vehicles exceeding a certain size should be permitted in a driveway. He recommends that there be a length limit included in the ordinance.
- Commissioner Humphrey stated concern over future enforcement of the ordinance. He wanted to ensure that it would be enforced going forward.
- Hanson stated that there should be a limit on the length of a recreational vehicle parked in a driveway, and stated that the longer recreational vehicles can cause a safety issue based on impaired sightlines.
- Kruckman stated that recreational vehicles should not be allowed to encroach into the street right-of-way.
- Christianson noted that not all properties accommodate side yard parking of recreational vehicles. The majority of homes are constructed 10’ off of the side property line, and the majority of lots have a 5’ drainage and utility easement, leaving only 5’ for side yard parking.

Following discussion on the item, the Commission tentatively recommended that staff schedule a public hearing regarding amendments to the recreational vehicle section of the zoning ordinance at the October Planning Commission meeting. General items to be included in the revised ordinance include the following: restrict the number of recreational vehicles allowed to be parked on a property, restrict the size/length of recreational vehicles to be parked on a property, remove the screening requirement for recreational vehicle parking, and clarify the surfacing requirements for parking of recreational vehicles.

## 9. MISCELLANEOUS

### A. Community Development Updates

Christianson noted that a report containing Community Development updates was included in the Planning Commission Packet. Specifically reviewed was the status of the Pete’s Hill and Boulder Heights developments, and the Elko New Market Commerce Center. Commissioner Hanson asked if there were plans for a Kwik Trip in the community. Christianson stated that Kwik Trip is currently in a due diligence period on a property in the community. Christianson noted that staff is currently collected traffic data throughout the community.

### B. Planning Commission Questions and Comments

There were no further comments or questions from the Planning Commission.

1. The style of homes to be constructed on the lots, and the corresponding locations of driveways, has not yet been determined.
2. The lots in the townhome portion of the development are narrower than a typical single-family lot.

Motion carried (4-0).

## 8. GENERAL BUSINESS

### A. Consider Zoning Ordinance Amendments – Garbage/Refuse and Recreational Vehicle Parking

Planner Sevening presented the agenda item, which was a continuation from the September Planning Commission meeting. She introduced the topic noting that a citywide inventory had been conducted in August regarding the storage of garbage cans and recreational vehicles on residential lots in the City. She noted that 44% of the properties in the City had violations related to storage of garbage cans, and 16% of the properties in the City had violations related to the storage of recreational vehicles. She stated that staff had decided at that time not to enforce the ordinances as currently written because there were more than 900 homes in violation of these Codes. Alternatively, staff inquired with the City Council regarding the matter to determine if they wanted staff to enforce the ordinances as written, or if they wanted to consider an amendment to the ordinance. The City Council requested that the Planning Commission review the City Code related to these two items. At the September Planning Commission meeting there was discussion on the matter which resulted in the Planning Commission directing staff to draft a zoning ordinance amendment.

Sevening reviewed current ordinance language regarding storage of garbage containers and recreational vehicle parking. She then reviewed the proposed amendments as follows:

#### Section 11-4-1 - Storage of garbage and refuse containers:

- Distinguishes commercial, industrial, and multi-family residential properties from single family residential properties
- Replaces wood with maintenance free material as an acceptable screening material (for commercial, industrial, and multi-family residential properties)
- Single family residential properties can store garbage cans in side yard adjacent to garage, do not need to be screened from view
- Dumpsters or refuse containers used for construction purposes are exempt from location and screening requirements

#### Section 11-8-2 - Recreational Vehicle Parking:

- Adds ATVs, dirt bikes, dune buggies, go-karts, golf carts, ice houses, jet skis, snowmobiles, and UTVs as recreational vehicles
- Exempts non-motorized watercrafts from section and regulates them as exterior storage (canoes, kayaks, paddleboards)
- Identifies three seasonal classifications (warm weather season, cold weather season, or year-round) for recreational vehicles

- Permits up to 2 recreational vehicles to be parked in the driveway during periods of seasonal use
- Requires that all recreational vehicles be emptied of refuse, debris, junk, or other materials
- Limits recreational vehicles to 30 feet in length
- Prohibits recreational vehicles from extending into or obstructing the public sidewalk or public right-of-way
- Allows only one recreational vehicle exceeding 24 feet to be parked on residential property
- Removes the screening requirement for recreational vehicles
- Permits recreational vehicles to be parked in the rear or side yard on a surface of concrete, bitumen, or pavers entirely outside of the drainage and utility easement with a five (5) foot setback from property lines
- Includes exception for properties with existing gravel side parking areas
- Note: Staff completed an inventory for residential properties with gravel side parking areas and found that 51 properties currently have them.
- Enumerates recreational vehicles parked on a trailer as 1 recreational vehicle
- Removes nonconforming location permit

Regarding recreational vehicle parking, feedback and discussion was as follows:

- Commissioner Priebe asked is the tongue of a trailer would be included in the maximum allowable (30') length, or if the length requirement would apply only to the recreational vehicle (such as a boat) and not the trailer.
- Vice-Chairman Humphrey stated that any portion of the trailer should not extend into the public right-of-way.
- Commissioner Kruckman stated that she felt the tongue of trailer should be allowed within the right-of-way because a person can see over the trailer tongue and it would not obstruct a person's view.
- There was much discussion by the Planning Commission about whether there should just be a minimum setback requirement from the curb within the entire City. City staff noted that the right-of-way width on streets within the City varies greatly; there is not uniformity in boulevard widths.
- Christianson stated that the City Attorney would need to render an opinion about allowing parking of recreational vehicles, and specifically the tongue of a trailer, within the City right-of-way/boulevards. The Planning Commission requested a legal opinion on the matter.
- Humphrey expressed his desire to have an easily understood ordinance and an enforceable ordinance.
- Sevenson stated that she had completed an inventory of all properties in the City which currently have gravel side parking areas alongside their garages. These would be considered grandfathered under the draft ordinance which requires a paved or concrete surface.

Regarding the storage of garbage cans, feedback and discussion was as follows:

- Kruckman expressed concern about people having to move landscaping along sides of homes to accommodate garbage can storage.
- Priebe expressed concern about people having to do extra snow removal to place garbage cans on the side of the home.
- Priebe stated that it was not a good use of City staff time to enforce codes related to storage of garbage cans.
- Kruckman stated that she felt the City Code should regulate overflowing garbage cans but not the placement/location of garbage can storage. Christianson stated this topic (overflowing garbage cans) is currently regulated under another section of the City Code.
- Christianson reviewed the statistics regarding storage of garbage cans, stating that of the 44% who were currently not complying with City Code, approximately 50% of those already had garbage cans stored on the side of the home. Therefore, approximately 22% of the homes in the City would not be complying with the proposed draft ordinance.
- Kruckman asked what the concern was about the storage garbage cans. Christianson stated that the concern was the visual impact on the neighborhood.
- Sevening stated that City staff has received complaints regarding where people store their garbage cans, which is what prompted the discussion on the topic.
- Hansen stated that she feels the current draft ordinance is a compromise between the current ordinance, which does not allow garbage cans to be stored outside, and not regulating their placement.
- Kruckman wants to concentrate on regulating overflowing trash and not garbage can placement.
- Hansen and Humphrey stated that they support the draft ordinance as presented, which allow outside storage of garbage cans on the side of the garage but not in the front yard.
- Kruckman and Priebe stated that they do not believe that the placement of garbage cans should be regulated by the City.
- Sevening reviewed Sections 5-1-5 and 11-4-3-A of the City Code that currently state garbage must be contained within enclosed containers.

Sevening explained that a public hearing is required for the proposed zoning ordinance amendments. She also explained how the City might advertise any proposed and/or adopted amendments to the ordinance such as Facebook posts, etc.

Christianson advised the Commission that City staff needed to advance two large projects being worked on so this ordinance amendment item may not be scheduled for discussion on the next Planning Commission meeting. Vice-Chairman Humphrey suggested that the most important projects be advanced as a priority, and that these possible ordinance amendments be processed before the spring of 2020. Staff indicated that they had enough information and feedback from the Commission to schedule a public hearing in the future.

## 9. MISCELLANEOUS

### A. Community Development Updates

# Research Summary

## City Wide Inventory

On August 27 and August 29, 2019, Staff completed a code enforcement inventory related to storage of garbage cans and recreational vehicle parking across the entire City. The results of the inventory are included in the attached maps, which highlight the properties in violation of section 11-4-1 or 11-8-2.

**Garbage Can Storage.** Through the inventory, Staff found that 741 properties (44% of properties in Elko New Market) had violations related to garbage cans. All violations were for storing garbage cans outside without screening. Of the properties in violation of section 11-4-1, approximately 50% had garbage cans located on the side of the home and the other 50% had them located in front of the garage doors. Included below are two pictures showing examples of violations related to the storage of garbage cans.



**Recreational Vehicle Parking.** Compared to garbage cans, recreational vehicle parking violations were fewer in number, but have the potential to have a much greater visual impact. Through the inventory, Staff found that 274 properties (16% of properties in Elko New Market) had violations related to recreational vehicle parking. The majority of the violations were for parking recreational vehicles in a prohibited location (i.e. on the driveway) or on a prohibited surface (i.e. grass) or without proper screening (to the height of the vehicle or a height of 6', whichever is less). Although approximately 30% of the properties with a recreational vehicle present had it/them parked in a permissible location, only one provided screening in accordance with section 11-8-2. Included below are a variety of pictures showing examples of violations related to recreational vehicle parking.



It is worth noting that because the inventory was conducted the week before Labor Day weekend, there may have been an increased presence in recreational vehicles as compared to normal. However, despite the timing, Staff believes the inventory is a fairly accurate representation of recreational vehicle presence in Elko New Market.

### **Research – Area Cities**

In addition to completing the City wide inventory, Staff researched garbage can storage and recreational vehicle parking requirements in 10 other area cities: Apple Valley, Belle Plaine, Farmington, Jordan, Lakeville, Lonsdale, New Prague, Prior Lake, Savage, and Shakopee. A summary of the requirements for each city are included below. More detailed information about each city's requirements is included as attachments.

**Garbage Can Storage.** Generally, Staff found that most cities researched allow garbage cans to be stored outside in the side or rear yard. Only five of the cities researched require garbage cans to be screened from view when stored outside.

**Recreational Vehicle Parking.** Staff found that all of the cities researched allow recreational vehicles to be parked in driveways. Six of the cities allow them in the driveway year round and the remaining four allow them in the driveway seasonally, based on the type of recreational vehicle. However, some cities do have size limitations that prevent large vehicles (i.e. exceeding 34' in length) from being parked in the driveway unless granted a conditional use permit.

The majority of the cities also allowed recreational vehicles to be stored in the side or rear yard, without screening, but did require that they be parked on a hard or improved surface. The most common number of recreational vehicles that cities allow on a property is three, but some had a reduced number specific to the number of recreational vehicles allowed in the driveway.

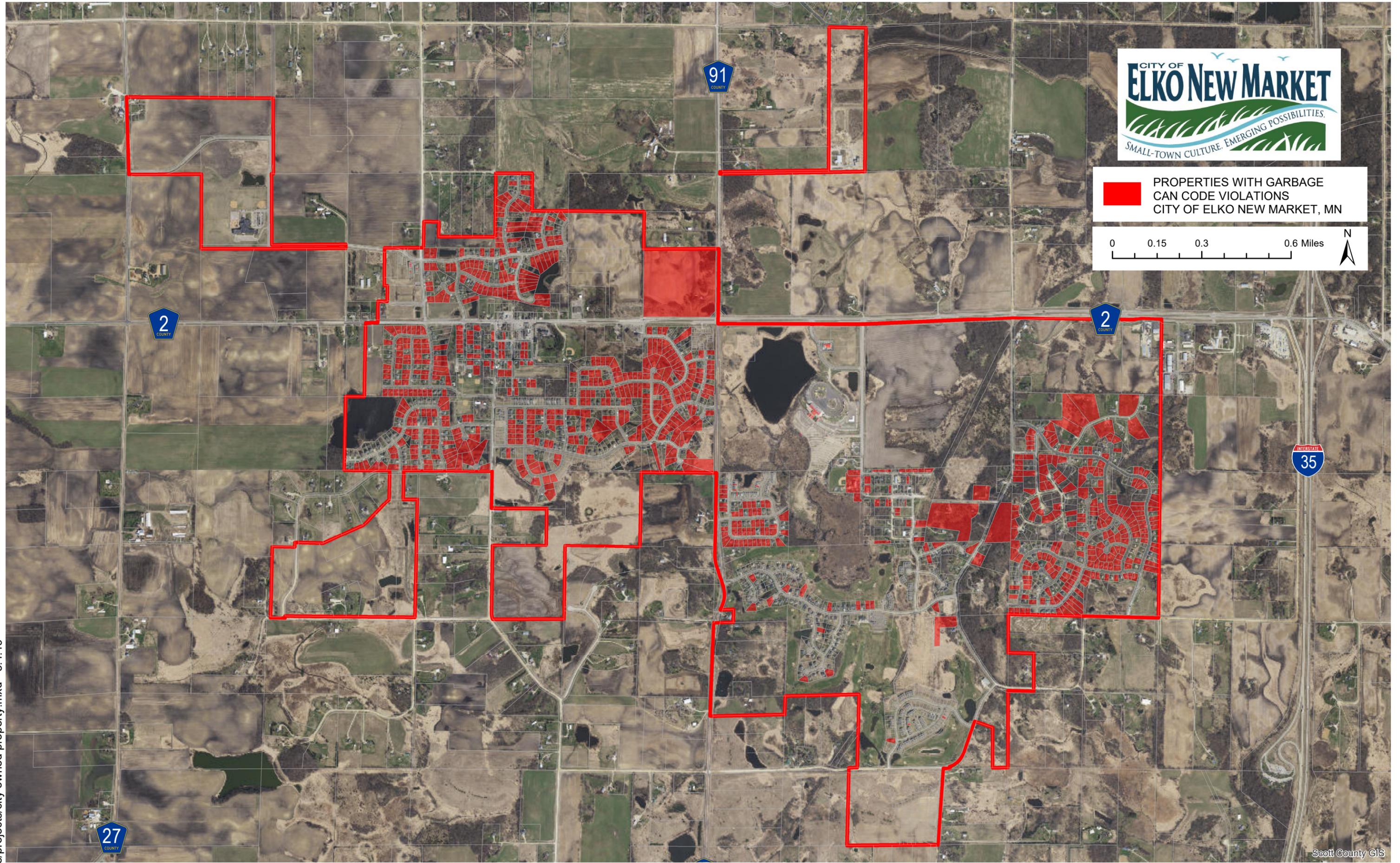
### **Research – Gravel Side Parking Areas**

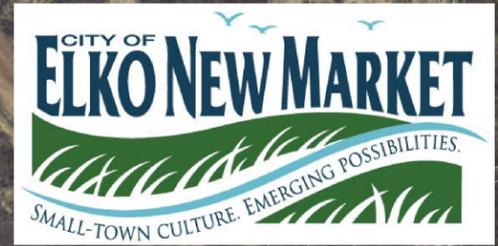
Following direction from the Planning Commission, Staff completed an inventory of properties with gravel side parking areas within the City. Staff found that 51 properties have existing gravel side parking areas. A list of properties with existing gravel parking areas is included as an attachment.



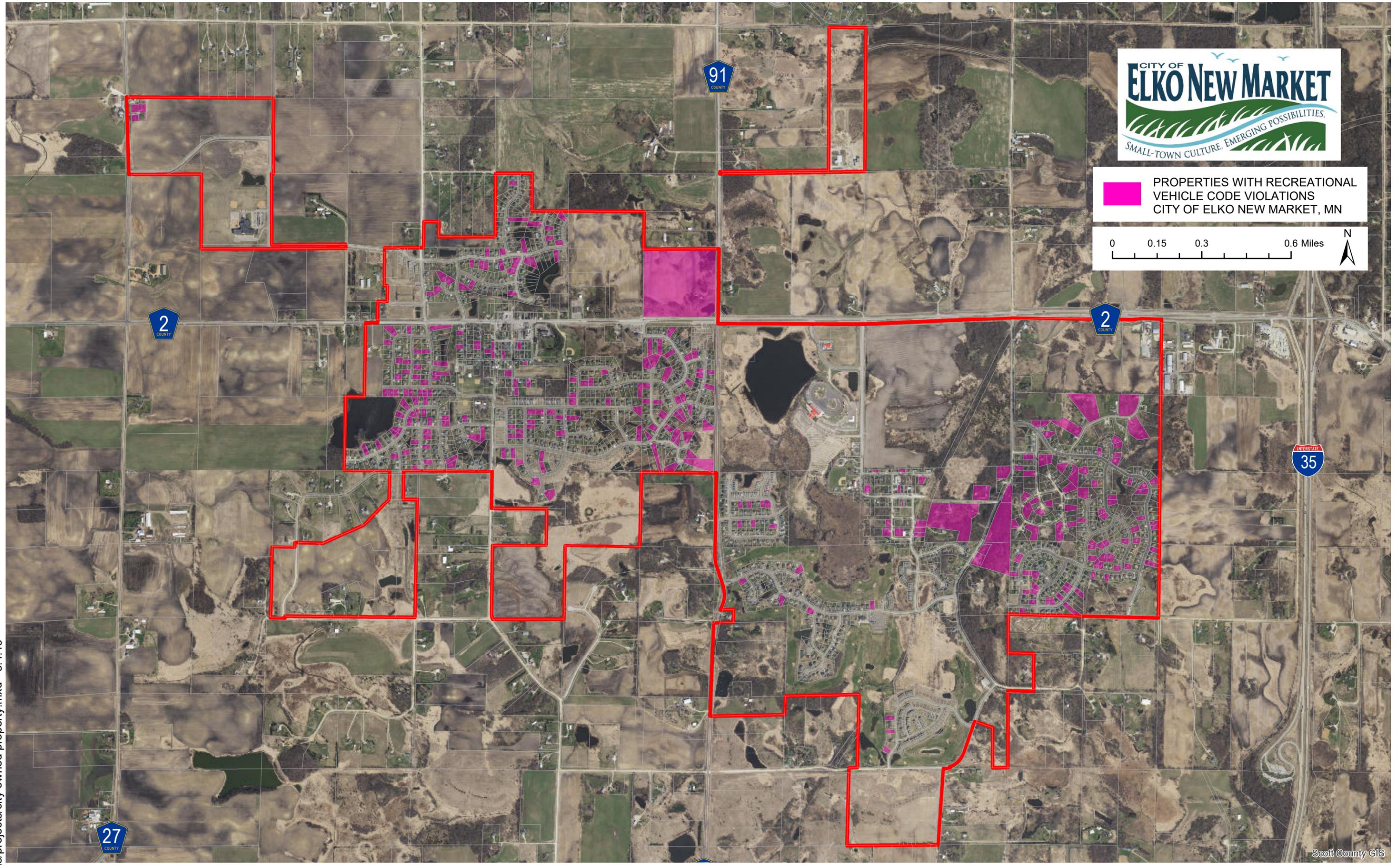
 PROPERTIES WITH GARBAGE  
CAN CODE VIOLATIONS  
CITY OF ELKO NEW MARKET, MN

0 0.15 0.3 0.6 Miles 





PROPERTIES WITH RECREATIONAL  
VEHICLE CODE VIOLATIONS  
CITY OF ELKO NEW MARKET, MN



## Garbage Can Storage Research Summary

	Allowed Outside?	Screening Required if Outside?	Requirements/Notes
<b>Elko New Market</b>	Yes	Yes	"In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. All dumpsters, garbage containers, or refuse bins that are stored outside shall be screened from view. Acceptable methods of screening include enclosures made of wood fencing material, brick or a combination thereof. Gates and doors which allow access to the refuse containers shall have a latching mechanism which keeps it closed/locked when not in use."
<b>Apple Valley</b>	Yes	Yes, in side yard, but not rear yard.	"When not placed for collection as specified in division (C) below, the containers, as relates to single-family dwellings, may be stored in the rear of the premises, may be stored in the sideyard setback if screened from the street and adjoining properties, or may be stored within any structure located on the premises. Containers stored outside shall be maintained in such a manner as not to permit entry of or harborage for animals, insects, or other vermin."
<b>Belle Plaine</b>	Yes	No	"Residential refuse and recycling containers shall be stored in rear or side yards or kept indoors. At no time shall residential refuse or recycling containers be stored in front yards."
<b>Farmington</b>	Yes	No	Farmington does not regulate the storage of garbage cans in single-family residential districts.
<b>Jordan</b>	Yes	No	Jordan does not regulate the storage of garbage cans in single-family residential districts.
<b>Lakeville</b>	Yes	No	"1. For detached single-family dwellings, waste and recycling receptacles not contained within principal structures shall be exempt from conformance with subsection B of this section, but shall comply with the following: a. Receptacles shall be located in side or rear yards, but not the side of a corner lot or rear yard of a double frontage lot abutting a public right of way. b. Receptacles shall be set back a minimum of five feet (5') from all property lines."
<b>Lonsdale</b>	No	N/A	"The following are hereby declared to be a nuisance affecting health: ...Accumulation of garbage, trash, yard waste or refuse not stored inside the dwelling unit, garage or at a point behind the front of the dwelling unit or garage, except between the hours of 6:00 p.m. the night before collection and 10:00 p.m. on the designated collection day, during which time all garbage, trash, yard waste or refuse, properly contained may be deposited at the curb;"
<b>New Prague</b>	Yes	Yes	"In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or property, contained in a closed container designed for such purposes. All dumpsters, garbage containers, or refuse bins that are stored outside shall be screened from view. Acceptable methods of screening include enclosures made of wood fencing material, brick or a combination thereof."
<b>Prior Lake</b>	Yes	Yes, if visible from public view (from street/sidewalk).	"Garbage cans and other garbage and refuse containers shall be so located as to be out of the public view except on the day of the pickup."
<b>Savage</b>	Yes	Yes, if visible from public view (from street/sidewalk).	"Refuse and recycling containers shall be stored in a location as to be out of the public view except for collection. All containers shall be kept in good repair and in sanitary condition."
<b>Shakopee</b>	Yes	Yes, if visible from front curb line.	"...Receptacles shall be removed by 7:00 p.m. on the designated day of collection and shall not otherwise be stored in areas of the front yard visible from the front curb line."

## Recreational Vehicle Parking Research Summary

	Permitted in Driveway?	Seasonally Permitted in Driveway?	Permitted in Side Yard? (1')	Permitted in Side Yard? (5')	Permitted in Rear Yard?	Screening Required?	Parked on Hard Surface?	Maximum # Allowed?	Notes
<b>Elko New Market</b>		Folder tent campers and small utility trailers only.	Folder tent campers and small utility trailers only.	Yes	Yes	Yes	Yes	3	
<b>Apple Valley</b>	Yes				Yes		Yes		Lots less than 1 acre: 1 class 2 vehicle, or 2 class 1 vehicles. Lots more than one acre: 4 (at least two must be completely screened from view) Provision about campers/motor homes not being occupied.
<b>Belle Plaine</b>	Yes			Yes	Yes		Yes (includes gravel or landscape pavers)	3	Provision about campers/motor homes not being occupied.
<b>Farmington</b>	Yes			Yes	Yes		Yes		Allowed in ROW subject to street parking provisions.
<b>Jordan</b>		Yes		Yes	Yes		Yes	3	Recreational vehicles outside of seasonally allowed time may only be parked in side or rear yard on hard surface.
<b>Lakeville</b>	Yes			Yes	Yes		Yes	2	If stored in side yard, must be paved. Does not need to be paved if in rear yard.
<b>Lonsdale</b>	Yes			Yes		Yes	Yes	3	Has a table with types of recreational vehicles and their seasonal classification: warm weather, cold weather, year-round.
<b>New Prague</b>		Yes	Yes	Yes	Yes		Yes (includes gravel)		Recreational vehicle may not obstruct the public sidewalk or public right of way. Recreational vehicles exceeding 40' in length may not be parked outside unless granted a conditional use permit.
<b>Prior Lake</b>		Yes		Yes	Yes				Must be operable/licensed.
<b>Savage</b>		Yes		Yes	Yes	Yes		3, but only 2 permitted in driveway	Recreational vehicles parked outside may not exceed 34' in length unless granted a conditional use permit.
<b>Shakopee</b>	Yes			Yes				2, but only 1 permitted in driveway	

# Types of Recreational Vehicles

Golf Cart

Utility Task Vehicle

All-Terrain Vehicle



Dirt Bike

Dune Buggy

Go-Kart



Utility Trailers

Open



Enclosed



**Campers**

Fifth Wheel



Folding Tent



Travel



Truck



**Motor Homes**

Class A



Class B



Class C



## Motorized Watercrafts

### Boats



### Jet Ski



### Snowmobile



### Ice House



## MEMORANDUM

FROM: ANDREA McDOWELL POEHLER,  
CITY ATTORNEY  
SHANA CONKLIN, ASSISTANT CITY ATTORNEY

DATE: DECEMBER 4, 2019

RE: LIABILITY CONCERNS WITH RECREATIONAL VEHICLES IN RIGHT-OF-WAY

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CAMPBELL KNUTSON  
PROFESSIONAL ASSOCIATION

This Memorandum outlines issues that may arise if the City allows recreational vehicles to extend into the City's right-of-way when parked in a driveway. Cities have an obligation to maintain and properly care for its rights-of-way. A right-of-way would include, but is not limited to, a city sidewalk, a bicycle lane, streets, boulevards, and ditches.

The City should consider the following potential issues that would arise if it permits any individual to place a recreational vehicle on any right-of-way:

- 1) The City has an Obligation to Comply with the Americans with Disabilities Act (ADA).** Cities are subject to the requirements of the Americans with Disabilities Act (ADA), 28 C.F.R. § 35.151. Permitting a recreational vehicle to remain parked on a City's sidewalk presents a substantial impediment to all pedestrians, but particularly to individuals who have physical disabilities, including the visually impaired. A recreational vehicle parked on the sidewalk would impede an individual's ability to safely use the sidewalk to travel. If a pedestrian utilizes a wheelchair, walker, or another mobility device, a recreational vehicle blocking the pedestrian's path would substantially interfere with the person's ability to use the sidewalk. It may not be possible for the person to safely maneuver around the recreational vehicle.
- 2) The City Needs to Protect its Access to the Right-of-Way to Complete Road Construction, Sidewalk Repair, and Utility Projects.** Permitting a recreational vehicle to park on the City's right-of-way may intrude on the City's ability to complete road work, sidewalk repairs, or utility projects as needed. The City's ability to control or regulate the parking of the recreational vehicles would be greatly reduced. Removing recreational vehicles from the right-of-way in order to complete regular maintenance projects could cause delays and additional staff time.
- 3) Emergency Services Use the Right-of-Way.** If a recreational vehicle obstructed the right-of-way by parking on the sidewalk near a fire hydrant or other critical access point for first responders, it would impair the City's ability to adequately respond to emergency situations. First responders' response time may be delayed, and any recreational vehicles in the right-of-way may sustain damage creating potential liability for the City in the event of damage to any vehicle extending into the City's right of way.

Generally, a City is responsible for maintaining its ownership interest and management of City property and its rights of way. For example, the City has a code provision that specifically regulates use of its right of way, including requirements for work in the right of way, or obstruction of the right of way, which typically requires permitting and registrations and payment of the appropriate fees. In other cases, where a property owner encumbers City property or right of way with an improvement, the City traditionally requires an encroachment agreement approved by the City Council. A common occurrence would be a fence, private

utilities or landscaping improvements. In such cases, the encroachment agreement provides that the owner would hold the City harmless and indemnify the City for any damage or liability created as a result of the encroachment and allows the City to terminate the encroachment when determined necessary by the City. Allowing vehicles to encroach within City right of way by ordinance is not consistent with its right of way management ordinance or the protections provided under an encroachment agreement.

If the City grants the right for any recreational vehicle to extend into any City right-of-way, the City creates conflict with its existing ordinance, hinders its ability to exercise its discretion, when necessary, to protect public health, safety, and welfare of the community and may create violations of the ADA. It also would prohibit the City from imposing protective conditions on placing obstructions in a right-of-way, when appropriate.

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

**ORDINANCE NO. XXX**

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET  
CITY CODE TITLE 11, CHAPTER 4 CONCERNING  
GARBAGE AND REFUSE, TITLE 11, CHAPTER 2  
CONCERNING RECREATIONAL VEHICLE DEFINITIONS,  
TITLE 11, CHAPTER 8 CONCERNING RECREATIONAL VEHICLE  
PARKING, AND TITLE 11, CHAPTER 9 CONCERNING  
SURFACING AND MAINTENANCE OF OFF STREET PARKING AREAS**

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

**SECTION 1.** Section 11-4-3 of the Elko New Market City Code is hereby amended in its entirety to read as follows:

- A. In all zoning districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes.
1. For commercial, industrial, or multi-family residential properties, all dumpsters, garbage containers, or refuse bins that are stored outside shall be screened from view.
    - a. Acceptable methods of screening include enclosures made of maintenance free material, brick or a combination thereof. Gates and doors which allow access to the refuse containers shall have a self-latching mechanism which keeps it closed/locked when not in use.
  2. For single-family and two family properties, all garbage containers or refuse bins not contained within an enclosed building shall be stored in the side or rear yard adjacent to the garage, except that garbage containers or refuse bins shall not be located in the side yard of a corner lot or rear yard of a double frontage lot abutting a public right of way. At no time shall receptacles be stored in front yards.
  3. When used for the purposes of construction, all dumpsters, garbage containers, or refuse bins are exempt from the screening and location requirements of this section.
- B. The owner of vacant land shall be responsible for keeping such land free of refuse.

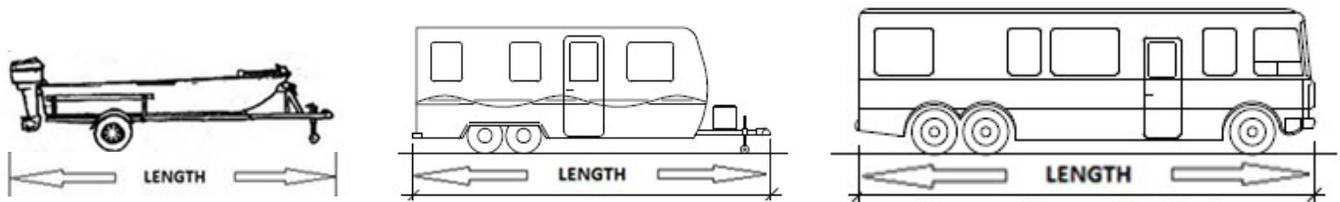
**SECTION 2.** The recreational vehicle related definitions in Section 11-2-2 of the Elko New Market City Code is hereby amended in its entirety to read as follows:

**RECREATIONAL VEHICLE:** Any motor vehicle or trailer primarily used for sport/leisure activities, travel, camping, hauling, and/or temporary lodging, including, but not limited to: all-terrain vehicles (ATV), campers, dirt bikes, dune buggies, go-karts, golf carts, ice or fish houses, motor homes, motorized watercrafts, snowmobiles, trailers, and utility task vehicles (UTV).

**SECTION 3.** Section 11-8-2 of the Elko New Market City Code is hereby amended in its entirety to read as follows:

A. Recreational Vehicle Parking: Up to three (3) licensed and operable recreational vehicles, as defined in this title, may be parked outside of an enclosed building on a residential property provided that:

1. The recreational vehicle is not parked or stored on public property or public right-of-way, including public sidewalks.
2. Only one (1) of the three recreational vehicles allowed may exceed twenty four (24) feet in length and no recreational vehicle may exceed thirty (30) feet in length. The length measurement shall include the entire length of the recreational vehicle, including the trailer and tongue of the recreational vehicle.



3. The recreational vehicles may be located on an established driveway during periods of seasonal use, provided that:

- a. The recreational vehicles comply with the following seasonal classifications. If a recreational vehicle is not specifically listed, the most similar recreational vehicle listed, as determined by the zoning administrator, shall be used to determine seasonal classification.

<b><u>Year-Round</u></b> <b>January 1 – December 31</b>	<b><u>Warm Weather Season</u></b> <b>April 1 – October 31</b>	<b><u>Cold Weather Season</u></b> <b>November 1 – March 31</b>
All-Terrain Vehicles (ATVs) Dirt Bikes Dune Buggies Go-Karts Golf Carts Trailers Utility Task Vehicles (UTVs)	Campers Motor Homes Motorized Watercrafts	Ice or Fish Houses Snowmobiles

- b. No more than two (2) recreational vehicles are parked on the driveway.

4. Except in the UR District and as otherwise provided herein, the recreational vehicles are parked in the rear or side yard on a surface of concrete, bitumen, or pavers. If a gravel side parking area was constructed on the property prior to the effective date hereof, recreational vehicles may be parked on the existing gravel surface.
  5. The recreational vehicles are located entirely outside of public easements or buffer yards and provide a five (5) foot setback from property lines. Recreational vehicles within a side yard of a corner lot abutting a public right of way must be set back ten (10) feet from the property line abutting a public right of way.
- B. Enumeration: For the purpose of this section, snowmobiles, ATVs, motorized watercrafts, and other recreational vehicles parked on a trailer shall constitute one recreational vehicle.
- C. Covering Vehicles: In the event a tarp or other material is used to cover the vehicles, the color of the tarp or material shall be an earthen tone of black, brown, gray, or green.
- D. Loading And Unloading: Recreational vehicles used for the sole purpose of loading and unloading the vehicle are exempt from subsections A1, A2, and A3 for up to three (3) days. This subsection is not meant to circumvent the intent of this section.

**SECTION 4.** Section 11-9-8 (E) of the Elko New Market City Code is hereby amended as follows:

- E. Surfacing: Except in the UR District and as otherwise provided under this subparagraph E, all parking spaces and driveways shall be surfaced with concrete, bitumen, or pavers in all zoning districts except in the UR district. Other materials such as decorative rock, gravel, sand, or bare soil are prohibited. This requirement also applies to open sales lots, open rental lots, and outdoor storage or display areas. All parking areas and driveways shall be maintained in a safe and proper manner. The owner shall not allow weeds to grow through the surface or surface materials to become deteriorated. If a gravel side parking area was constructed on the property prior to the effective date hereof, the surface shall be permitted for parking. No such surface shall be expanded or enlarged.

**SECTION 5.** This ordinance shall take effect immediately upon its passage and publication.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 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

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

**ORDINANCE NO. XXX**

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET  
CITY CODE TITLE 7, CHAPTER 2 CONCERNING PARKING PROHIBITIONS**

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

**SECTION 1.** Section 7-2-3 of the Elko New Market City Code is hereby amended in its entirety to read as follows:

- A. No owner of a motor vehicle shall leave, park, or permit the same to stand on any city street or alley for more than forty eight (48) hours. Commercial and recreational vehicles, as defined in section 11-2-2 of the zoning ordinance, may not be parked on any city street or alley except as follows:
1. Recreational vehicles may be parked on any City street or alley for up to forty eight (48) hours when being used for the purposes of loading and unloading.
  2. Commercial vehicles may be parked on any City street or alley when being used for the purposes of loading, unloading, rendering a temporary service benefiting the premises or providing emergency services.
- B. No owner of a motor vehicle shall leave, park, or permit the same to stand on a street or alley between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. between November 1 and April 1 of the following year, or at any other time when the national weather service forecast accumulation is two (2) or more inches of snow, until the street or alley has been plowed. Residences without an established driveway, to include new construction, are exempt from winter parking restrictions.
- C. No owner of a motor vehicle shall leave, park, or permit the same to block access to a driveway or block access to a mailbox.

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

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020 by the City Council for the City of Elko New Market.

**CITY OF ELKO NEW MARKET**

BY: \_\_\_\_\_  
Joe Julius, Mayor

**ATTEST:**

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Thomas Terry, City Administrator/Clerk