

ELKO NEW MARKET - PLANNING COMMISSION MEETING

PC Members: Steve Thompson , Brad Smith, Heather Vetter, Nicole Kruckman, Kent Hartzler, and Harry Anderson
City Staff: City Planner Bob Kirmis, Community Development Specialist Renee Christianson and City Engineer Rich Revering



AGENDA

THURSDAY, JANUARY 4, 2018 @ 7:00 PM
COUNCIL CHAMBERS – NEW MARKET AREA HALL
601 MAIN STREET, PO BOX 99, ELKO NEW MARKET, MN 55020

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
Consider Approval of the Agenda
- 4. PUBLIC COMMENT** (public opportunity to comment on items not listed on the agenda)
- 5. ANNOUNCEMENTS**
- 6. APPROVAL OF MINUTES**
Consider Approval of the following:
 - A. December 5, 2017 Meeting Minutes
- 7. PUBLIC HEARINGS**
 - A. Draft Amendment to Zoning Ordinance - Commercial Vehicle Parking
- 8. GENERAL BUSINESS**
 - A. Comprehensive Plan - Review of Draft Land Use Plan & Transportation Plan
 - B. Draft Amendment to Zoning Ordinance - Definition of Residential Care Facilities
 - C. Draft Amendment to City Code - Small Cell Tower
- 9. MISCELLANEOUS**
 - A. City Staff/Consultant Business Updates & Reports
 - B. Planning Commission Questions & Comments
- 10. ADJOURNMENT**

BOARD NOTICE:

TO DETERMINE IF A QUORUM WILL BE PRESENT, PLEASE CONTACT ELKO NEW MARKET AREA HALL AT 952-461-2777
IF YOU ARE UNABLE TO ATTEND

PUBLIC NOTICE:

ANYONE SPEAKING TO THE BOARD SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
December 5, 2017
7:00 PM**

1. CALL TO ORDER

Chairman Thompson called the meeting of the Elko New Market Planning Commission to order at 7:05 p.m.

Commission members present: Thompson, Kruckman, Hartzler and Vetter

Note: Commissioner Hartzler arrived late to the meeting and was not present for agenda items 1 through 7

Members absent and excused: Smith and ex-officio member Anderson

Staff Present: Economic Development Specialist Christianson, City Planner Kirmis and City Engineer Revering

2. PLEDGE OF ALLEGIANCE

Chairman Thompson led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

Chairman Thompson requested that Item 8.D be removed from the agenda at this time. A motion was made by Kruckman and seconded by Vetter to approve the agenda with the following changes:

- A. The day of the meeting (as referenced on the agenda) be changed from "Thursday" to "Tuesday."
- B. Item 8.D related to small cell towers be removed from the agenda.

Vote for: Thompson, Kruckman and Vetter. Against: None. Abstained: None. Motion carried: (3-0).

4. PUBLIC COMMENT

There were no public comments.

5. ANNOUNCEMENTS

There were no announcements.

6. APPROVAL OF MINUTES

A motion was made by Thompson and seconded by Vetter to approve the minutes of the November 2, 2017 Planning Commission meeting with the following change:

- A. Under the commercial vehicle discussion (Item 8.A), reference to comments made by “Gene Meyer, 71 West Louis Street” be changed to “Gene Meger, 41 West Louis Street.”

Vote for: Thompson, Kruckman and Vetter. Against: None. Abstained: None. Motion carried: (3-0).

7. PUBLIC HEARINGS

There were no public hearings.

8. GENERAL BUSINESS

A. Comprehensive Plan - Land Use Chapter

Chairman Thompson asked Community Development Specialist Christianson to present the draft Land Use Plan chapter of the 2040 Comprehensive Plan (dated December 5, 2017). Christianson, with assistance from Planner Kirmis, provided an overview of the Comprehensive Plan update process and described the following:

- The elements of the Comprehensive Plan, including the various plans which comprise the complete document.
- The elements (subsections) of the Land Use Plan chapter of the Comprehensive Plan document.
- The 2030 Land Use Plan map.
- The draft 2040 Land Use Plan map presented at the November 2, 2017 Planning Commission meeting.
- Feedback received from the Planning Commission at the November 2, 2017 Planning Commission meeting.
- Proposed land use categories (which relate to the graphic depictions on the Land Use Plan map).
- Planning Commission considerations.
- A revised draft 2040 Land Use Plan map (dated December 5, 2017)
- The proposed Adelman property conceptual land Use Plan
- Requested Planning Commission feedback
- Next steps

It was specifically explained that a revised draft Land Use Plan map and supportive text have been prepared as a follow-up to discussion which took place at the November 2, 2017 Planning Commission meeting and that map revisions take into account specific feedback recently received from Adelman property representatives. It was noted that the Adelman family owns property located in the northwest and southwest quadrants of the County Road 2/Interstate 35 interchange and therefore have an interest in the City’s land use planning efforts which will apply to their property.

Christianson specifically noted that the draft Land Use Plan attempts to balance private development interests conveyed by the Adelman's with long-term planning principles. Christianson also explained that the inclusion of the "Business / Limited Industrial Park" land use category is a direct result of Adelman development interests and their specific requests to consider allowance of specific uses.

Following the Staff presentation, Jim Connelly of Appro Development spoke of behalf of the Adelman family partnership. Mr. Connelly expressed general comfort with the revised Land Use Plan. He did however, suggest that some opportunities for light industrial uses with accessory outdoor storage be allowed in the northwest quadrant of the County Road 2/Interstate 35 interchange.

Following Mr. Connelly's comments, the following comments were offered by the City Staff and the Planning Commission:

- Community Development Specialist Christianson noted that it is important that a positive community image be provided to southbound travelers on Interstate 35. In this regard, concern was expressed to related to the allowance of outdoor storage in the northwest quadrant of the County Road 2/Interstate 35 interchange (and being visible from the Interstate and County Road).
- As a follow-up to Christianson's comment, Planner Kirmis suggested perhaps outdoor storage concerns in the northwest quadrant could be addressed through the allowed arrangement of uses and through subdivision design and implemented through the City's Zoning Ordinance. In this regard, it was suggested that "Business / Limited Industrial Park" lots which abut the interstate not be allowed to have accessory outdoor storage.
- The Planning Commission stressed the need to convey a quality community appearance to passersby on Interstate 35 and County Road 2 via directives provided in the Comprehensive Plan and/or the City's Zoning Ordinance.
- The Planning Commission supported flexibility for limited outdoor storage in both the northwest and southwest quadrants of the County Road 2/Interstate 35 interchange, with appropriate buffers from roadways and adjacent zoning districts.
- It was noted by the Planning Commission that applications for forthcoming development projects in the northwest quadrant will be subject to Planning Commission review and City Council approval (via the subdivision and site/building plan review process) and that site-specific issues can be addressed as part of such process.
- Planner Christianson noted that, if a particular use is listed as a permitted use within a specific zoning district, the Planning Commission will have limited input in the development design. It is therefore extremely important that design standards and desires of the Planning Commission be established in the City's Zoning Ordinance.

In response to received Planning Commission input (on the draft 2040 Land Use Plan), Community Development Specialist Christianson advised the Planning Commission that the Plan text will be refined and reviewed at the forthcoming January 5, 2018 Planning Commission meeting.

B. ATV and Golf Cart Discussion

At the November 2, 2017 Planning Commission meeting, Planning Commissioner Smith raised question regarding City regulations which pertain to the use of all-terrain vehicles (ATV's) and similar vehicles (i.e. golf carts) in the City. At the meeting, Smith indicated that he feels that the use of such vehicles in the City would be an economical means to run errands.

Community Development Specialist Christianson summarized the City's existing City Code regulations which pertain to the use of ATV's and similar vehicles. It was specifically noted that snowmobiles and ATV's are currently allowed on streets within the City only for the purpose of going to or returning from a non-highway are of permissible operation, and subject to other various conditions including, but not limited to, a licensing/registration requirement. It was also noted that golf carts are not currently regulated by the City Code.

Christianson also summarized her research of the adjacent communities regarding the allowance of ATV's and similar vehicles. Specifically, regulations applied in the Cities of Jordan, Lakeville, Lonsdale and New Prague were referenced. It was noted that none of the researched cities allow ATV's to be driven on city streets.

Christianson also noted that the regulation of ATV's and similar vehicles in the City is not considered a "zoning" issue which is regulated by the Zoning Ordinance, but is regulated by the City's Traffic Code. Further, Christianson expressed her opinion that City Code requirements related to ATV use have historically not been enforced to their full extent and that further investigation or attention into the issue may prompt increased enforcement of the City's existing requirements.

Following Community Development Specialist Christianson's presentation, the Planning Commission concluded that the regulation of ATV and similar vehicles in the City is not a "zoning" issue and is therefore outside of the purview of the planning Commission. In this regard, it was suggested that Planning Commissioner Smith raise the issue with the City Council if he chooses to pursue the matter further.

C. Food Truck Regulations and Discussion

Community Development Specialist Christianson informed the Planning Commission that the City has received an inquiry related to food trucks. Christianson noted that such uses are presently allowed in the City via a transient merchant license which is approved on an annual basis.

Recognizing that food trucks are growing in popularity, Christianson suggested that City Staff be directed to conduct research related the regulation of food trucks and identify possible City Code changes which may be in the best interest of the City.

Finally, Community Development Specialist Christianson noted that notification of the food truck inquiry and is only informational at this time and that she expects this item to be discussed further at the forthcoming January 2018 Planning Commission meeting.

Following Christianson's presentation, the Planning Commission suggested that the regulation of food trucks should be explored further by City Staff.

D. Small Cell Tower Discussion

Chairman Thompson noted that he is employed by a company which is directly related to the "small cell" industry. As a result, he advised the Planning Commission that the small cell tower discussion was removed from the agenda pending a determination by his employer whether his potential participation in related discussions would constitute a "conflict of interest."

9 MISCELLANEOUS

A. Grant Award - West Interchange Area AUAR

Community Development Specialist Christianson informed the Planning Commission that the City has been awarded \$77,500 for an AUAR to be completed for all property owned by the Adelman family near the County Road 2/Interstate 35 interchange. It was noted that such funds, along with a potential for \$38,750 in additional matching funds to be paid by the Adelman family, will fund an AUAR, a wetland delineation and a tree inventory (as steps toward the eventual development of the properties).

B. City Staff / Consultant Updates

Community Development Specialist Christianson provided updates on various City projects as provided in her memorandum dated December 5, 2017.

In response to Planning Commission inquiries, more detailed updates on the New Market Bank and Dakota Acres projects were provided.

C. Planning Commission Terms and Expectations

Community Development Specialist Christianson provided a summary of Planning Commissioner appointment terms and noted that the City imposes an educational requirement upon its Commissioners.

In regard to the educational requirement, Christianson encouraged the Commissioners to attend a Government Training Service (GTS) session which are conducted periodically.

Following Christianson's presentation, Chairman Thompson raised question whether the continuing education requirement applies to himself and other Commissioners whom have tenures of more than three years. It was concluded that issue will be investigated by Community Development Specialist Christianson.

D. Planning Commission Questions and Comments

The following comments/questions were discussed by the Planning Commission:

Dale DeGross Inquiry. Mr. DeGross, who has ownership interest in property located south of County Road 2 and east of France Avenue, asked the Planning Commission if the various uses depicted on the draft 2040 Land Use Plan map can be used as part of the marketing of his property.

Community Development Specialist Christianson advised Mr. DeGross that, while the draft Land Use Plan is generally supported by the Planning Commission at this time, it could change pending comments received from the City Council and the general public (as part of a community open house and public hearing).

Planning Commission Meeting Day. Chairman Thompson suggested that the day of Planning Commission meetings be changed. It was specifically noted meetings on Mondays, Tuesdays or Wednesday are preferred over the current Thursday meeting day. The Planning Commission specifically suggested that the second Tuesday of the month be investigated as an alternative meeting day.

Community Development Specialist Christianson indicated that she will follow-up on the Planning Commission's request to change the Planning Commission meeting day.

10. ADJOURNMENT

A motion was made by Hartzler and seconded by Vetter to adjourn the meeting at 8:27 p.m. Vote for: Thompson, Kruckman, Hartzler and Vetter. Against: None. Abstained: None. Motion carried: (4-0).

Submitted by:



Renee Christianson
Community Development Specialist



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: DRAFT AMENDMENT TO SECTION 11-8-3 OF THE CITY CODE / ZONING ORDINANCE, PERTAINING TO COMMERCIAL VEHICLE PARKING
DATE: JANUARY 4, 2018

Background / History

At the November 2, 2017 Planning Commission meeting there was discussion regarding a proposed amendment to Section 11-8-3 of the City Code / Zoning Ordinance pertaining to commercial vehicle parking. There was consensus and support by the Planning Commission regarding the draft ordinance language. The next step is a required public hearing on the proposed changes. Following a public hearing by the Planning Commission, the Commission should make a recommendation to the City Council regarding adoption of the proposed Zoning Ordinance amendment.

A recap of the issue is as follows:

Based on the current Elko New Market Zoning Code, commercial vehicles are broken down into the following two categories which are contained in the Definitions section of the City Code.

Class I: Vehicles with a gross vehicle weight rating (GVWR) of more than eighteen thousand (18,000) pounds, or any of the following types of vehicles regardless of weight, including, but not limited to: semitrailers, the tractor portion of semi-trucks, garbage trucks, tank trucks, dump trucks, flatbed trucks, tow trucks, cattle trucks, coach buses or school buses designed to carry more than twenty (20) persons or any similar vehicle.

Class II: All vehicles other than class I commercial vehicles including pickup trucks, vans, trailers and school buses designed to carry twenty (20) persons or less. Vehicles shall also be eight feet (8') in height or under, a maximum of twenty four feet (24') in length and no more than eighteen thousand (18,000) pounds.

Section 11-8-3 of the City Code currently precludes parking of all commercial vehicles, both Class I and Class II vehicles, on all residential lots unless the lot is zoned commercial. There has been consensus by the Planning Commission that the Code should be amended to allow certain Class II commercial vehicles to be permitted in residential zoning districts.

Draft ordinance language was presented to the Planning Commission at both the May and November, 2017 Planning Commission meetings. In addition, research of other cities codes was conducted to see what is commonly allowed and how commercial vehicles are defined by other communities.

Research

Staff researched the commercial vehicle parking regulations of eight surrounding communities. The research is shown in the attached table, and a summary shown below.

- Shakopee – Commercial vehicles (over 1 ton) not allowed in residential zoning districts
- Savage – Commercial vehicles (over 10,000 lbs GVWR or more than 22’ in length) are not allowed in residential districts. They currently have an exemption for tow trucks used for emergency response.
- Prior Lake – Commercial vehicles (more than 9,000 lbs GVWR or more than 22’ in length) not permitted to be parked outside in residential zoning districts. One vehicle may be allowed in connection with an approved home occupation.
- Jordan – Commercial vehicles (over 1.5 ton capacity) not permitted to be parked outside in residential districts. One commercial vehicle may be stored within a garage.
- Belle Plaine – Commercial vehicles (over 9,000 lbs GVWR) not permitted in residential districts unless stored within a garage.
- New Prague – Does not regulate commercial vehicle parking in residential districts, other than semis.
- Lonsdale – “Major” commercial vehicles (more than 19,500 lbs GVWR) not permitted in residential districts. Two “Minor” commercial vehicles (19,500 GVWR or less) may be parked on a residential lot if used as the resident’s primary form of transportation to/from the resident’s job or associated with a permitted home business.
- Lakeville – Commercial vehicles (used for commercial purposes, greater than 8’ in height, greater than 22’ in length) not allowed in residential districts.

The gross vehicle weight rating (GVWR), or gross vehicle mass (GVM) is the maximum operating weight/mass of a vehicle as specified by the manufacturer including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo but excluding that of any trailers. In order for the Planning Commission to get a general frame of reference for a gross vehicle weight rating (GVWR), below is a table showing for GVWR for 2017 Ford Super Duty Trucks.

2017 FORD SUPER DUTY TRAILER TOWING & PAYLOAD SPECS

Model:	F-250 Super Duty	F-350 Super Duty (SRW)	F-350 Super Duty (DRW)	F-450 Super Duty (DRW)
Base Curb Weight:	6,489 - 7,104 lbs	6,653 - 7,317 lbs	7,077 - 7,694 lbs	8,590 lbs
GVWR:	9,900 - 10,000 lbs	9,900 - 11,500 lbs	14,000 lbs	14,000 lbs
GCWR:	28,700 lbs	28,700 lbs	36,000 - 40,000 lbs	41,800 lbs
Payload:	TBA	TBA	TBA	TBA
Conventional Trailer Tow:	15,000 - 18,000 lbs	15,000 - 18,000 lbs	21,000 lbs	21,000 lbs
Max Tongue Weight:	10% of trailer weight	10% of trailer weight	10% of trailer weight	10% of trailer weight
5th Wheel Trailer Tow:	14,700 - 18,600 lbs	20,600 - 21,500 lbs	27,300 - 27,500 lbs	27,500 lbs
Gooseneck Trailer Tow:	14,700 - 18,600 lbs	20,600 - 21,500 lbs	27,300 - 27,700 lbs	32,500 lbs
Max GAWR, Front:	5,250 lbs (4x2) 5,600 lbs (4x4)	5,250 lbs (4x2) 5,600 lbs (4x4)	5,250 lbs (4x2) 6,000 lbs (4x4)	6,000 lbs
Max GAWR, Rear:	6,340 lbs	6,340 lbs	10,300 lbs	9,900 lbs
Available Axle Ratios:	3.31 : 1, 3.55 : 1	3.31 : 1, 3.55 : 1	3.55 : 1, 4.10 : 1	4.30 : 1

Based on the language suggested by staff at the May, 2017 Planning Commission meeting, Elko New Market's code would be more lenient than six (6) of the eight (8) communities surveyed. The only communities with more lenient codes would be New Prague and Lonsdale. To be noted is that the City's Code would preclude any of the following types of vehicles from being parked/stored within a residential zoning district, regardless of the gross vehicle weight rating: semis, garbage trucks, tank trucks, dump trucks, flatbed trucks, tow trucks, cattle trucks, coach busses or school buses designed to carry more than twenty (20) persons or any similar vehicle.

Marek Towing Request

Following some recent enforcement action regarding the parking of a tow truck in a residential district, the City received a letter from Marek Towing (attached) on September 29, 2017 requesting that tow trucks be allowed to park in residential zoning districts. A representative of Marek Towing also attended the October and November Planning Commission meetings to present their request. They are requesting that the City Code be amended to exempt tow trucks serving an emergency response purpose from the definition of a Class I commercial vehicle. Kevin Marek, owner of Marek Towing, submitted photographs of his tow trucks and a listing of their gross vehicle weight for reference purposes.

Staff Recommendation

Staff recommends that, following a public hearing on the proposed ordinance amendment, the Planning Commission recommend approval of the attached ordinance to the City Council.

City Attorney Comments

The City Attorney has reviewed the draft ordinance and has no comments or concerns.

CURRENT ORDINANCE LANGUAGE

11-8-3: COMMERCIAL VEHICLE PARKING:

- A. Definitions: Commercial vehicle references (including class I and class II) included within this section shall have the meanings provided in section [11-2-2](#) of this title. (Ord. 5, 12-14-2006)
- B. General Requirements: No commercial vehicle or equipment shall be parked (off street or on street) or stored in a residential district except when loading, unloading, or rendering a service. Except for short term parking (48 hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile driver's licenses. (Ord. 5, 12-14-2006; and. 2011 Code)
- C. Parking On Residential Property: **No commercial vehicles may be parked, stored or otherwise located on any residential lot in an area zoned residential within the City. Commercial vehicles may be parked, stored or otherwise located on residential lots within an area zoned commercial,** provided the following requirements are satisfied:
1. Class I Commercial Vehicles:
 - a. Class I commercial vehicles, as defined by section [11-2-2](#) of this title, may be parked or stored on a residential lot with a minimum lot size of two and one-half (2¹/₂) acres. The commercial vehicle shall be entirely screened from neighboring residential property with a one hundred percent (100%) opaque screen consisting of wooden fencing, landscaping, berms or a combination of the foregoing. A commercial vehicle shall not be parked or stored within one hundred fifty feet (150') of any neighboring residential dwelling unit.
 - b. Class I commercial vehicles that do not meet the requirements of subsection C(1)(a) of this section may be parked or stored on a residential lot, provided the commercial vehicle is used as the resident's primary form of transportation to the resident's job or is associated with a permitted home business and the commercial vehicle was parked or stored on the residential lot on or before the effective date hereof. Class I commercial vehicles may be replaced with a comparable vehicle if the applicant resides on the same residential lot and has an updated administrative permit. An administrative permit shall terminate upon the sale of the property.
 - c. The owner of a residential lot that meets the requirements of subsections C1a and C1b of this section shall be required to apply for and receive an administrative permit allowing the class I commercial vehicle to remain parked or stored on the residential lot. The administrative permit issued pursuant to this subsection C1c may be revoked for any violation of this code. The administrative permit shall be renewed annually and is not transferable.
 - d. The administrative permit shall be renewed on an annual basis and may be revoked or declined by the city. The administrative permit shall be issued pursuant to the terms of section [11-3-4](#) of this title. Administrative permit fees shall be determined by the city council.
 - e. Class I commercial vehicles may be parked on a residential lot when loading, unloading, rendering a temporary service benefiting the premises or providing emergency services.

2. Class II Commercial Vehicles: Class II commercial vehicles may be parked on a residential lot if used as the resident's primary form of transportation to the resident's job or if associated with a permitted home business.
- D. Contracting And Excavating Equipment: All contracting and excavating equipment located on residential lots shall be stored inside an accessory building or garage. (Ord. 5, 12-14-2006)

SUGGESTED ORDINANCE AMENDMENT LANGUAGE

11-8-3: COMMERCIAL VEHICLE PARKING:

- A. Definitions: Commercial vehicle references (including class I and class II) included within this section shall have the meanings provided in section [11-2-2](#) of this title. (Ord. 5, 12-14-2006)
- ~~B. General Requirements: No commercial vehicle or equipment shall be parked (off street or on street) or stored in a residential district except when loading, unloading, or rendering a service. Except for short term parking (48 hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile driver's licenses. (Ord. 5, 12-14-2006; and, 2011 Code)~~
- C. Parking On Residential Property: ~~No commercial vehicles may be parked, stored or otherwise located on any residential lot in an area zoned residential within the City. Commercial vehicles may be parked, stored or otherwise located on residential lots within an area zoned commercial, provided the following requirements are satisfied:~~ Commercial vehicles shall not be parked, stored or otherwise located on residential property or in residential zoning districts unless the following conditions are satisfied:
1. Class I Commercial Vehicles:
 - a. Class I commercial vehicles, as defined by section [11-2-2](#) of this title, may be parked or stored on a residential lot with a minimum lot size of two and one-half (2¹/₂) acres. The commercial vehicle shall be entirely screened from neighboring residential property with a one hundred percent (100%) opaque screen consisting of wooden fencing, landscaping, berms or a combination of the foregoing. A Class I commercial vehicle shall not be parked or stored within one hundred fifty feet (150') of any neighboring residential dwelling unit.
 - b. Class I commercial vehicles that ~~may not be parked on a residential lot under~~ do not meet the requirements of subsection C(1)(a) of this section may be parked or stored on a residential lot, provided the commercial vehicle is used as the resident's primary form of transportation to the resident's job or is associated with a permitted home business, and the commercial vehicle was parked or stored on the residential lot on or before ~~12-14-2006, the effective date hereof.~~ Class I commercial vehicles may be replaced with a comparable vehicle if the applicant resides on the same residential lot. ~~and has an updated administrative permit. An administrative permit shall terminate upon the sale of the property.~~
 - c. The owner of a residential lot that meets the requirements of subsections C(1)(a) ~~and or~~ C(1)(b) of this section shall be required to apply for and receive an administrative permit allowing the Class I commercial vehicle to remain parked or stored on the residential lot. The administrative permit issued pursuant to this subsection ~~It~~ may be revoked for any violation of this code. The administrative permit shall be renewed annually and is not transferable. The administrative permit shall be issued pursuant to the terms of Section 11-3-4 of the City Code. Administrative permit fees shall be determined by the City Council.
 - d. ~~The administrative permit shall be renewed on an annual basis and may be revoked or declined by the city. The administrative permit shall be issued pursuant to the terms of section [11-3-4](#) of this title. Administrative permit fees shall be determined by the city council.~~

e. d. Class I commercial vehicles may be parked on a residential lot when loading, unloading, rendering a temporary service benefiting the premises or providing emergency services.

e. No more than one Class I commercial vehicle may be parked on a residential lot and permitted under this Section.

~~2. Class II Commercial Vehicles: Class II commercial vehicles may be parked on a residential lot if used as the resident's primary form of transportation to the resident's job or if associated with a permitted home business.~~

2. Class II Commercial Vehicles:

a. Class II commercial vehicles, as defined by section 11-2-2 of this title, may be parked on a residential lot if used as the resident's primary form of transportation to the resident's job or if associated with a permitted home business.

b. No more than two Class II commercial vehicles may be parked on a residential lot.

D. Parking In Commercial Zoning Districts: Class I and Class II commercial vehicles may be parked in commercial zoning districts subject to requirements of Chapter 9 and Chapter 26 of this title.

E. Parking In Industrial Zoning Districts: Class I and Class II commercial vehicles may be parked in industrial zoning districts subject to requirements of Chapter 9 and Chapter 27 of this title.

~~D~~ E. Contracting And Excavating Equipment: All contracting and excavating equipment located on residential lots shall be stored inside an accessory building or garage. (Ord. 5, 12-14-2006)

MAREK TOWING – TRUCK SUBMITTAL



Truck 35.
2015 Dodge 5500 (I) plate 21,000 GVW



Truck 29
2005 Chev 5500 (H) plate 18,000 GVW



Truck 25
2001 Chev 6500 (H) plate 18,000 GVW



Truck 32
2012 Ford F650 (J) plate 26,000 GVW



Truck 33
Freightliner M2 (J) plate 26,000 GVW



Truck 34
Freightliner M2 (J) plate 26,000 GVW

Note from Kevin Marek: "As the pictures above show these are not large box trucks or semi-trucks. The trucks do not go home loaded or store cars at the residence; they are only the empty truck as pictured above. As you can tell we have late model equipment and take pride in their appearance."

September 29, 2017

City of Elko/ New Market

I am Kevin Marek, owner of Marek's Towing & Repair. We are a local towing and automotive repair business in Lakeville, MN and have been servicing the Elko/New Market and south metro area for the past 60 years. We have ten employees, five of which live in the town of Elko/ New Market. My wife and I also live one mile north in New Market Township. So, as you can see, we choose to live and support our community.

I am writing, because I have been informed by the Chief of Police of a parking complaint of one of my tow trucks parking on Louis Street. Our driver that owns that house has owned his house and has worked at Marek's since 2006 with no other complaints of parking.

A requirement of employment at Marek's Towing requires the drivers to drive equipment home so we can assure a quick response time to accidents and public assistance for the local police & fire departments, state patrol and the County Sheriff's office.

I am aware that the wording of the city ordinance classifies tow trucks as commercial vehicles. However, because of the nature of our business and the necessity of such trucks to have fast and safe removal of roadway hazards, I am asking to have tow trucks included as emergency vehicle exemption.

Towing is a 24 hour industry and we must be available to serve the community at all hours of the day and night, which is why it is essential to the community that these employees have their vehicles with them on nights and weekends.

Our equipment is not stationarily parked in a residential area. They come and go hourly and daily as needed. The trucks would be parked residentially for on call hours only.

I have talked with both the Chief of Police and Fire Chief about response time and how it would differ if our equipment would not be with our drivers. They understand its importance and agree response times would suffer. For the safety of all Police, fire Rescue and the public we need to clear the scene quickly.

I hope you can see our request to change the wording in the parking ordnances to reclassify tow trucks as emergency vehicles as they are needed for the people that live and work in the community.

Kevin Marek

Marek's Towing & Repair Inc.

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

ORDINANCE NO. 163

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET CITY CODE
TITLE 11, CHAPTER 8-3, CONCERNING COMMERCIAL VEHICLE
PARKING**

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

SECTION 1. Section 11-8-3 of the Elko New Market City Code is hereby amended to read as follows:

- A. Definitions: Commercial vehicle references (including class I and class II) included within this section shall have the meanings provided in section [11-2-2](#) of this title. (Ord. 5, 12-14-2006)
- B. Parking On Residential Property: Commercial vehicles shall not be parked, stored or otherwise located on residential property or in residential zoning districts unless the following conditions are satisfied:
 1. Class I Commercial Vehicles:
 - a. Class I commercial vehicles, as defined by section [11-2-2](#) of this title, may be parked or stored on a residential lot with a minimum lot size of two and one-half (2^{1/2}) acres. The commercial vehicle shall be entirely screened from neighboring residential property with a one hundred percent (100%) opaque screen consisting of wooden fencing, landscaping, berms or a combination of the foregoing. A Class I commercial vehicle shall not be parked or stored within one hundred fifty feet (150') of any neighboring residential dwelling unit.
 - b. Class I commercial vehicles that may not be parked on a residential lot under subsection C(1)(a) of this section may be parked or stored on a residential lot, provided the commercial vehicle is used as the resident's primary form of transportation to the resident's job or is associated with a permitted home business, and the commercial vehicle was parked or stored on the residential lot on or before 12-14-2006. Class I commercial vehicles may be replaced with a comparable vehicle if the applicant resides on the same residential lot.

c. The owner of a residential lot that meets the requirements of subsections C(1)(a) or C(1)(b) of this section shall be required to apply for and receive an administrative permit allowing the Class I commercial vehicle to remain parked or stored on the residential lot. The administrative permit issued pursuant to this subsection may be revoked for any violation of this code. The administrative permit shall be renewed annually and is not transferable. The administrative permit shall be issued pursuant to the terms of Section 11-3-4 of the City Code. Administrative permit fees shall be determined by the City Council.

d. Class I commercial vehicles may be parked on a residential lot when loading, unloading, rendering a temporary service benefiting the premises or providing emergency services.

e. No more than one Class I commercial vehicle may be parked on a residential lot and permitted under this Section.

2. Class II Commercial Vehicles:

a. Class II commercial vehicles, as defined by section [11-2-2](#) of this title, may be parked on a residential lot if used as the resident's primary form of transportation to the resident's job or if associated with a permitted home business.

b. No more than two Class II commercial vehicles may be parked on a residential lot.

C. Parking In Commercial Zoning Districts: Class I and Class II commercial vehicles may be parked in commercial zoning districts subject to requirements of Chapter 9 and Chapter 26 of this title.

D. Parking In Industrial Zoning Districts: Class I and Class II commercial vehicles may be parked in industrial zoning districts subject to requirements of Chapter 9 and Chapter 27 of this title.

E. Contracting And Excavating Equipment: All contracting and excavating equipment located on residential lots shall be stored inside an accessory building or garage. (Ord. 5, 12-14-2006)

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

ADOPTED this 11th day of January, 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



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
BOB KIRMIS, , NORTHWEST ASSOCIATED CONSULTANTS
RE: 2040 COMPREHENSIVE PLAN – LAND USE PLAN & TRANSPORTATION PLAN
DATE: JANUARY 4, 2018

Background / Introduction

The Metropolitan Council requires that cities within the Metropolitan area update and adopt a Comprehensive Plan at least once every ten years. The Plan is required to contain certain elements. The Planning Commission has been reviewing various elements/chapters of the plan over the last several months. Below is an outline of the various proposed Plan chapters. At the January Planning Commission meeting staff will present, for Planning Commission review and feedback, the draft Land Use Plan and Transportation Plan.

- Introduction
- Planning Tactics
- Inventory
- Policy Plan
- Development Framework
 - Natural Environment Plan
 - Land Use Plan
 - Solar Resources Plan
 - Transportation Plan
 - Water Supply Plan
 - Sanitary Sewer Plan
 - Surface Water Management Plan
 - Park and Trail Plan
- Implementation

Land Use Plan

At the December, 2017 Planning Commission meeting, a draft version of the 2040 Land Use Plan (map and text) was submitted for Planning Commission review feedback. Staff provided an overview of the Comprehensive Plan update process and reviewed the draft Comprehensive Plan map. It was noted that the previous “mixed use” land use category is not included in the draft plan, and that a “Business / Limited

Industrial Park” land use category is now included as a direct result of discussions with property owners near the interchange area.

Feedback was received from the Planning Commission and specifically, feedback regarding providing flexibility for limited outdoor storage near the interchange area while maintaining a positive image of the community. The text shown in the draft land use chapter has been amended to reflect feedback from the Planning Commission.

The Metropolitan Council requires that residential densities within the City’s planned growth areas be a minimum of three units per net acre. Following the December Planning Commission meeting, and endorsement by the Planning Commission regarding the draft land use map, staff calculated the proposed residential densities. Unfortunately, the map presented at the December, 2017 meeting did not depict densities required by the Metropolitan Council. This means that more areas of the City need to be guided to medium and/or high density residential. Staff chose to change some areas that were previously guided to low and medium residential to a more intensive residential land use designation, and also increase the description of density range within each land use category. Although not yet reviewed by the Metropolitan Council, the map and text shown in this (January 2018) submittal meets the three units per net acre directive. Staff will review the changes at the Planning Commission meeting on January 4, 2018.

Transportation Plan

The City Engineer has provided draft Transportation Plan for Planning Commission review, along with associated maps. The draft plan identifies a system of future roadways based on functional classification. There will be some minor corrections made to a few of the maps.

Requested Action

Staff is requesting feedback from the Planning Commission regarding the draft Land Use Plan and draft Transportation Plan. If the Planning Commission is agreeable with the draft text and maps, the Commission should recommend that these draft chapters be forwarded to the City Council for consideration.

When the draft versions of the Development Framework have been reviewed and conceptually approved by the Planning Commission and City Council, an open house will be scheduled to gather community input.

Staff Recommendation

Staff recommends that the Commission provide feedback on the draft plan chapters and make a recommendation to the City Council.

INTRODUCTION

Based upon the foundation established by previous planning efforts including Planning Tactics, Inventory and Policy Plan, this chapter provides the framework to guide and direct future community growth and improvements in the City of Elko New Market through the year 2040. The Land Use Plan is a narrative and graphic description that provides the background and rationale for land use designations as represented on the Land Use Plan Maps. The Land Use Plan also holds an educational and decision-making function by helping to improve the general understanding of how continued City growth is expected to occur.

GROWTH MANAGEMENT

Thrive MSP Regional Development Guide Directives. The Metropolitan Council’s *Thrive MSP 2040* regional development guide designates the City of Elko New Market as a “Rural Center.” In this regard, the Metropolitan Council has established certain land use-related expectations for the City. These expectations are as follows:

- *Plan for forecasted population and household growth at overall average densities of at least 3-5 units per acre for new development and redevelopment.*
- *Strive for higher-density commercial uses and compatible higher-density residential land uses in the commercial core of the community to ensure efficient uses of existing infrastructure investments.*
- *Work with adjacent jurisdictions to execute orderly annexation agreements where forecasted growth exceeds land capacity within existing City boundaries.*
- *Work to focus forecasted growth in areas with existing infrastructure capacity to protect existing farm land and prime agricultural soils for the long term.*
- *Adopt ordinances that coordinate development with infrastructure availability.*
- *Identify areas that will accommodate post-2040 growth forecasts and implement strategies to preserve these areas for future growth and plan for necessary infrastructure improvements.*

Goals and Policies. As indicated in the Metropolitan Council Policy Plan, an established goal of the City of Elko New Market is to promote growth strategies for orderly and efficient land use which are consistent with the *Thrive MSP 2040* regional development guide. With this in mind, the preceding Metropolitan Council growth expectations have been integrated into the City’s growth management policies as provided below:

1. Plan for forecasted population and household growth at overall average densities of at least 3-5 units per acre (for new development and redevelopment).



2. Strive for higher-density commercial uses and compatible higher-density residential land uses in the commercial core of the community to ensure efficient uses of existing infrastructure investments.
3. Work with adjacent jurisdictions to execute orderly annexation agreements where forecasted growth exceeds land capacity within existing City boundaries.
4. Work to focus forecasted growth in areas with existing infrastructure capacity to protect existing farm land and prime agricultural soils for the long term.
5. Adopt ordinances that coordinate development with infrastructure availability.
6. Identify areas that will accommodate post-2040 growth forecasts and implement strategies to preserve these areas for future growth and plan for necessary infrastructure improvements.
7. Collaborate with abutting counties and townships, as necessary, to ensure that near-term development outside of the City's 2040 MUSA boundary (but within the ultimate MUSA boundary) does not hinder long-term urbanization objectives for the area.
8. Maintain development projects within the limitations assigned to the City by regional agencies (i.e. the Minnesota Pollution Control Agency and/or the Metropolitan Council) regarding public utility availability and potential sewer discharge.
9. Require developers or benefiting property owners to assume all or the significant majority of the improvement/service costs, and agree to pay assessments associated with extending service to their property.
10. Require developers to acknowledge and hold all governmental units harmless should there be:
 - Limitations on sewer hookups imposed.
 - A lack of land available within the undesignated MUSA reserve area.
11. Deny development or subdivision applications that qualify as premature based on non-conformity with this Comprehensive Plan or the City's Zoning and/or Subdivision Ordinances relative to:
 - Infill policies
 - Adequacy of roads or highways serving the subdivision or development
 - Adequacy of stormwater management or treatment facilities
 - Adequacy of safe water supply

- Adequacy of safe sewage disposal system
- Adequacy of support facilities (i.e. police, fire, schools, parks, etc.)
- Consistency with environmental protection policies or regulations
- Consistency with the City's five-year Capital Improvement Program

Undesignated MUSA Reserve. In 2005, the former Cities of Elko and New Market entered into an “undesignated Metropolitan Urban Service Area (MUSA) reserve” agreement with the Metropolitan Council. This agreement, which was subsequently applied to the merged City of Elko New Market, is intended to help manage existing and anticipated growth in the Elko New Market area. The agreement provides the opportunity to designate the acreage, types and density of land uses, and local/regional service levels for each five-year stage to the year 2040, with the exact location of each stage unspecified. As part of this staging option, an undesignated MUSA reserve boundary is mapped, but the timing of when and where a parcel is considered developable is driven by the ability to respond to market forces in a controlled manner not by a fixed staging area. By not designating the specific developable parcels by stage in advance, the community may reduce the problems associated with landowners withholding development on land designated for urban services, thereby driving up land prices. The undesignated MUSA reserve boundary (2040 MUSA) is illustrated on Figure 5.2.1.

The following growth management-related conditions, as identified in Elko New Market's 2030 Comprehensive Plan and part of the City's 2005 agreement with the Metropolitan Council, will continue to be imposed as part of the 2040 Comprehensive Plan Update:

1. The development at each stage will be built at or above the negotiated densities;

The Metropolitan Council has forecasted a total of 4,400 households and a population of 11,900 persons for the 2040 planning period. Considering that the City of Elko New Market has experienced extremely limited population growth since the adoption of the 2030 Plan in 2008, it is anticipated the existing acreage allocations within the existing undesignated MUSA reserve will accommodate residential land demands through the 2040 planning period. The City expects residential densities to be 3 or more units per acre.

2. New development is contiguous to the current urban service area;

According to the 2030 Regional Development Framework, "achieving a connected land use pattern that can be served efficiently and economically with urban services will be more important than adherence to regulatory requirements such as making new growth contiguous with existing development." This policy is considered relevant to the 2040 Comprehensive Plan Update and recognizes that extraordinary circumstances may exist that warrant the development of a land use pattern and corresponding infrastructure development that may not necessarily be contiguous to the existing urban service area. Such circumstances may include the development of institutional uses that serve a public good such as schools and/or public health and safety facilities. Other such circumstances may include the development of highway dependent commercial uses

along I-35 that positively influences the development of other uses within the community. This Plan supports this policy as a means of managing the pace of growth and the City's investment in public infrastructure.

3. Development at each stage can be accommodated within the planned capacity of the regional sewer system;

The recent expansion of the Empire Waste Water Treatment Plant service area and the City's connection to the Metropolitan interceptor (2011) will provide the City adequate capacity to accommodate the forecasted development per within the 2040 undesignated MUSA reserve boundary.

4. The local community adopts a premature subdivision ordinance;

The Elko New Market Subdivision Ordinance includes provisions related to premature development. Such provisions ensure that development proceeds in an orderly fashion by denying development or subdivision applications that qualify as premature based on non-conformity with this Comprehensive Plan or the City's Zoning and/or Subdivision Ordinances relative to:

- *Infill policies*
- *Adequacy of roads or highways serving the subdivision or development*
- *Adequacy of stormwater management or treatment facilities*
- *Adequacy of safe water supply*
- *Adequacy of safe sewage disposal system*
- *Adequacy of support facilities (i.e. police, fire, schools, parks, etc.)*
- *Consistency with environmental protection policies or regulations*
- *Consistency with the City's five-year Capital Improvement Program*

5. Local infrastructure implications for all potentially designated areas have been determined and candidate sites that fall outside the capability of the local community to implement - via its Capital Improvement Plan (CIP) or other approved financing plan - have been eliminated from consideration for development;

The Elko New Market Facility Plans specifically address sanitary sewers, water supply, surface water management and transportation issues. These plans have analyzed future needs of the community and included specific recommendations for infrastructure improvements where necessary. The undesignated MUSA reserve boundary has been established based on these plans and the ability for the City to efficiently service the area.

6. The local community development program (for example, financial commitments, five-year CIPs) provides the requisite local service and infrastructure needs of the proposed development for each stage, preserving the planned capacity and service level in the regional highway system; and

The Elko New Market Facility Plans specifically address sanitary sewers, water supply, surface water management and transportation issues. These plans have analyzed future needs of the community and included specific recommendations for infrastructure improvements where necessary. The undesignated MUSA reserve boundary has been established based on these plans and the ability for the City to efficiently service the area.

In addition, as part of the implementation phase, the City of Elko New Market will update its local Capital Improvement Program (CIP) to be consistent with the Comprehensive Plan.

7. Annual reporting of local use of the MUSA reserve and corresponding local CIP adjustments are required as a condition of agreement.

The City of Elko New Market agrees to provide the Metropolitan Council with an annual accounting of development projects in the cities including expansions, type of development, location, number of units, acreage, net density, and associated flows.

8. Timely notification of annexation proposals.

The City of Elko New Market agrees to provide the Metropolitan Council with timely notification of annexation. This is important to ensure proper communication between the City and the Metropolitan Council as well as notification of when the Ultimate Land Use Plan goes into effect.

Much of the land area outside the City of Elko New Market boundaries, but within the undesignated MUSA reserve, is currently guided Urban Expansion Area by the Scott County Land Use Plan, which designates residential densities of 1 unit per 40 acres (with a clustering option). As part of this Comprehensive Plan update, this same area has been analyzed as to the most appropriate land uses should public utilities be made available or the land area annexed into City jurisdiction. These proposed land use designations are illustrated on the City's 2040 Ultimate Land Use Plan. It is the intention of this Comprehensive Plan to preserve the areas currently outside the City boundaries in accordance with Scott County's Land Use Plan until such time that public utilities are made available or the area is annexed into the City. At such time, the City's Ultimate Land Use Plan (as may be amended) shall take precedence over the Scott County Land Use Plan.

Strategies for Managing Growth. In addition to the City's development regulations (to manage the pace of growth and investment in public infrastructure), the City shall consider the implementation of the following growth management strategies to ensure that development which is proposed does not strain City resources:

1. Maintain development projects within the limitations assigned to the City by regional agencies (i.e. Minnesota Pollution Control Agency and/or Metropolitan Council) with regard to public utility availability and potential sewer discharge.
2. Require developers or benefiting property owners to assume all or the significant majority of the improvement/service costs, and agree to pay assessments associated with extending service to their property.
3. Require developers to acknowledge and hold all governmental units harmless should there be:
 - Limitations on sewer hookups imposed.
 - A lack of land available within the undesignated MUSA reserve area.
4. Deny development or subdivision applications which qualify as premature based on non-conformity with this Comprehensive Plan or the City's Zoning and/or Subdivision Ordinances relative to:
 - Infill policies
 - Adequacy of roads or highways serving the subdivision or development
 - Adequacy of stormwater management or treatment facilities
 - Adequacy of safe water supply
 - Adequacy of safe sewage disposal system
 - Adequacy of support facilities (i.e. police, fire, schools, parks, etc.)
 - Consistency with environmental protection policies or regulations
 - Consistency with the City's five-year Capital Improvement Program

EXISTING LAND USES

City of Elko New Market (Existing Municipal Boundary). In total, the City of Elko New Market measures approximately 3.3 square miles in size and overlays 2,180 acres of land. This acreage figure includes the recently annexed City public works site (40 acres) and the 50-acre site upon which the Boulder Heights subdivision is expected to develop.

Figure 5.2.2 and the following tables identify existing land uses within Elko New Market's current municipal boundaries, as reported by the Metropolitan Council. Existing land uses in the City are primarily reflective of historic development patterns which occurred in the former Cities of Elko and New Market. The land use categories referenced below are those utilized by the Metropolitan Council. Excepting agricultural/undeveloped lands, single family detached residential uses are the most predominant use within the City. Such uses overlay 650 acres of land and 29 percent of the City's total land area. Multiple family residential uses make up the balance of the housing stock, representing one percent of the total acreage devoted to housing.



Commercial uses comprise only three percent of the City’s land area (55 acres) and only four acres of land in the City are presently devoted to industrial uses.

Elko New Market Existing Land Use (Acreage) 2016		
Land Use	Acres	% of Total
Agricultural and Undeveloped	1111	51%
Agriculture - 424 acres (19%)		
Undeveloped Land - 687 acres (32%)*		
Residential	650	29%
Single Family Detached - 615 acres (28%)		
Multi-family - 35 acres (1%)**		
Commercial	55	3%
Industrial	4	---
Institutional	79	4%
Park and Recreational	219	10%
Park, Recreational or Preserve - 88 acres (4%)		
Golf Course - 131 acres (6%)		
Mixed Use	1	---
Open Water Total	61	3%
Total	2,180	100%
Source: Met Council and NAC		
* Includes 50-acre Boulder Heights site		
** Includes 6-acre Market Village Apartments site		

2040 Metropolitan Urban Service Area. Figure 5.2.3 depicts existing land uses within the proposed 2040 Metropolitan Urban Service Area (MUSA) boundary.

FUTURE LAND USES

Like Elko New Market’s 2030 Comprehensive Plan, the 2040 Land Use Plan anticipates two stages of community development. The first stage guides land uses within the existing City boundaries and neighboring New Market Township lands which lie within the City’s proposed 2040 Metropolitan Urban Service Area (MUSA) boundary.

The second stage identifies areas where urban services are expected to be provided at some future point beyond the 2040 planning period. This Plan, entitled the Ultimate Land Use Plan, includes portions of New Market and Cedar Lake Townships in Scott County and Webster Township in Rice County.

The 2040 Land Use Plan and the Ultimate Land Use Plan are described in greater detail below:



2040 Land Use Plan. The 2040 Land Use Plan incorporates lands which presently lie within the existing City limits and those unincorporated bordering areas of New Market Township which lie within the City’s proposed 2040 MUSA boundary. As described previously in this Plan, the MUSA boundary identifies a geographic area where growth is staged to occur (and utilities are planned to be provided) within a certain time period.

The 2040 MUSA boundary is proposed to mimic the existing 2030 MUSA boundary with one exception. East of the Interstate 35/County Road 2 interchange (north and south of County Road 2), a total of 140 acres is proposed to be added to the MUSA. In 2015, the City of Elko New Market and Metropolitan Council approved a Comprehensive Plan Amendment to expand the 2030 MUSA boundary to include approximately 125 acres of land located east of Interstate 35 and south of County Road 2. Such MUSA boundary change was made in response to received development interest in the property from a large industrial user. In response to such development interest, the City prepared and approved an Alternative Urban Areawide Review (AUAR) which evaluated the environmental impacts which could result from such development. The AUAR study area included 265 acres of land, including the referenced 125-acre industrial development site. As part of the 2040 Comprehensive Plan Update, the City of Elko New Market wishes to include the balance of the AUAR study area (140 acres) in the 2040 MUSA.

The City of Elko New Market considers the MUSA boundary change described above to be consistent with the Metropolitan Council’s “economic competitiveness” policy of promoting regional economic prosperity. In this regard, the Interstate 35 corridor is considered a prime location for businesses to succeed and specifically those industries which export products or services beyond the Twin Cities Metropolitan Area and bring revenue and jobs to the region.

To be noted is that lands located outside the City of Elko New Market’s municipal boundaries, but within the 2040 MUSA, are presently reserved for urban development by the Scott County Land Use Plan and implemented through County Zoning and Subdivision Ordinance requirements. Specifically, such areas are guided “Urban Expansion” or “Urban Transition” which designates maximum residential densities of 1 unit per 40 acres.

Like the City’s 2030 Plan, it is the intention of this 2040 Comprehensive Plan Update to preserve the areas currently outside the City boundaries in accordance with the Scott County Land Use Plan until such time that public utilities are made available and/or areas are annexed into the City. Upon annexation, the City’s Land Use Plan and land use ordinances (zoning and subdivision) shall take precedence over the County Plan and ordinances.

Ultimate Land Use Plan (Post 2040). The Metropolitan Council’s *Thrive MSP 2040* development guide stipulates that “Rural Center” communities such as Elko New Market must identify areas that will accommodate post 2040 growth forecasts and implement strategies to preserve these areas for future growth. This directive mimics a similar policy provided in the Metropolitan Council’s 2030 Regional Development Framework.



As part of the City of Elko New Market’s 2030 Comprehensive Plan, an effort was made to implement this strategy by establishing a boundary line which delineates areas that would be ultimately served by public sanitary sewer and water services (public utilities). Many factors were considered in determining where physical constraints would make it very difficult or cost prohibitive to extend public utilities. These factors included an analysis of the location and configuration of existing parcels, topography and natural geographic boundaries, natural resources, transportation corridors, and other general development constraints. Ultimately, a long-term public utility service area was determined. The boundaries of such long-term public utility service area served as a basis for the City’s 2030 Ultimate Land Use Plan.

Elko New Market’s 2040 Plan Update likewise identifies land areas which lie outside of the 2040 MUSA boundary but within the City’s ultimate urban service area boundary (where urban services are ultimately expected). The boundaries or limits of the 2040 Ultimate Land Use Plan are the same as those applied to the City’s 2030 Ultimate Land Use Plan.

The Ultimate Land Use Plan is intended to provide a vision of the City of Elko New Market’s municipal boundaries at full development. Recognizing that it will likely take more than 60 years to realize the ultimate build-out of the area, the Ultimate Land Use Plan allows the City and surrounding Townships to plan for expensive, long-term infrastructure, calculate the costs of growth and utilize available resources in a cost-effective manner. As stated previously, it is the intention of this Comprehensive Plan to preserve areas currently outside the City municipal boundaries until such time that public utilities are made available or the area is annexed into the City.

The 2040 Land Use Plan boundary and Ultimate Land Use Plan boundary are illustrated on Figure 5.2.4 titled Ultimate Service Area Boundary.

LAND USE CATEGORY DESCRIPTIONS

Land use category descriptions, as referenced on the 2040 Land Use Plan and Ultimate Land Use Plans, are provided below. The descriptions define each land use category’s objective, development location criteria, density, minimum requirements for development and typical uses.

In all cases, public utilities are required for development within any of the land use designations. Further, development proposals which are determined to be premature (based upon the “premature subdivision” criteria provided in the City’s Subdivision Ordinance) shall not be approved.

Consistent with regional directives, future residential land uses within the City of Elko New Market will have a minimum mean net density of 3.0 dwelling units per acre through designation of Low, Medium and High Density Residential land use categories. The “Town Center” land use category also provides opportunities for residential development and contributes to such density determination.



To be noted is that net residential density shall be calculated as follows:

Land area minus resources protected by ordinances (e.g. wetlands and slopes), County and State highway rights-of-way and regional park land. Local streets, local parks and stormwater holding ponds are not subtracted when calculating net density.

Low Density Residential

Objective:

This land use classification is characterized by low residential densities that provide opportunities for a variety of detached single family residential housing options. Traditional single family detached homes at the lowest of the urban densities are typical uses. Lower densities are often required to preserve and protect environmentally sensitive land. At the present time, this land use designation corresponds with the R1 and R2 zoning districts.



Development Location Criteria:

- The characteristics of a proposed development will be based upon consideration of several factors including, but not limited to, topography, geography, existing development and character of the surrounding area, transportation system access, and market conditions.
- Final density and development design will be a function of adopted zoning and subdivision standards and procedures.



Density:

Residential densities with a range of 2.5 to 5 units per net acre.

Minimum Requirements for Development:

- Lot sizes typically are 9,000 – 12,000 square feet, but can be larger or smaller depending on the type of development and the specific property’s characteristics.

- Planned unit development may be utilized to provide for a mixture of housing styles at higher densities provided the objectives of planned unit development, as provided in the City's Zoning Ordinance, are achieved.

Typical Uses:

Single family detached dwellings; other dwelling designs by planned unit development; parks and playgrounds.

Accessory uses that are compatible with low density residential neighborhoods.

Medium Density Residential

Objective:

This land use classification is characterized by medium residential densities that provide opportunities for a variety of attached residential housing options. The land use designation is intended to provide alternative housing options which address the City's life cycle housing needs. Medium density residential developments are often established as transitional uses between



low density residential uses and greater intensity uses such as high density residential and commercial. At the present time, this land use designation corresponds with the R3 zoning district.

Development Location Criteria:

- The location and characteristics of a proposed medium density residential development will be based upon consideration of several factors including, but not limited to, topography, geography, existing development (character of the surrounding area) and market conditions.
- Development of attached homes and multiple family dwellings is appropriate near major parks (open space), along collector roadways, near commercial centers and employment centers.
- The wide range of possible housing styles and design options make medium density residential housing a suitable transition between lower and higher intensity adjacent uses.

Density:

Residential densities with a range between 5 and 10 units per net acre.

Minimum Requirements for Development:

- Lot sizes vary depending upon the number of units contained within the residential structures, as regulated in the City’s Zoning Ordinance. Minimum lot areas per dwelling unit range from 5,000 to 7,500 square feet per unit.
- Specific design and construction standards are typically imposed upon medium density residential developments including standards related to exterior building finishes, garage construction and size, guest parking and open space requirements.

Typical Uses:

Two-family dwellings, three-plexes, four-plexes and townhouses/condominiums which do not exceed eight units per building are considered permitted uses in this land use category. Manufactured home parks may also be allowed by conditional use permit.

High Density ResidentialObjective:

This land use classification is characterized by high density residential developments which provide housing opportunities in multiple family structures (apartments and condominiums). High density residential developments are often established as transitional uses between lower density residential uses and higher intensity uses such as commercial, industrial and/or civic. High density residential developments are typically accessible to thoroughfares and activity centers such as community centers, libraries, shopping areas and employment centers. At the present time, this land use designation corresponds with the City’s R4 zoning district. Additional opportunities for high density mixed use housing are available in the City’s current R5 zoning district which is guided by the City’s Downtown Master Plan.

Development Location Criteria:

- The location and characteristics of a proposed high density residential development will be based upon consideration of several factors including, but not limited to accessibility,

topography, geography, existing development (character of the surrounding area) and market conditions.

- Development of high density, multiple family dwellings is appropriate along collector roadways and near major parks (open space), activity centers and employment centers.
- High density residential housing is considered a suitable transition between lower and higher intensity adjacent uses.

Density:

Residential densities with a range of 10 to 30 units per net acre.

Minimum Requirements for Development:

- While a minimum lot area of 15,000 square feet is required for high density residential uses, lot sizes typically relate to structure setback and green space requirements.
- Specific design and construction standards are typically imposed upon high density residential developments including standards related to exterior building finishes, garage construction and size, guest parking and open space requirements.
- Final density and development design will be a function of adopted zoning and subdivision standards and procedures.

Typical Uses:

Multiple family dwelling structures which contain more than eight dwelling units. Manufactured home parks may also be allowed by conditional use permit.

Mixed use projects which contain ground floor commercial uses and high density residential uses on upper floors may be accommodated by planned unit development in R5 zoning districts as guided by the City's Downtown Master Plan.

Town Center

Objective:

This land use classification is a special designation for traditional Town Centers which retain attributes of a recognized "downtown" and provide a sense of place based on historic nature and building character elements. Such elements include awnings, street lighting, signage, etc.

The Town Center should be the recognized civic, commercial, and cultural gathering place for the community. Retail uses are expected to be relatively specialized and even unique and should



easily mix with service uses and cultural places, rather than serve as the foundation of another shopping node. Pedestrian circulation within, as well as to the area is a distinguishing land use category feature.

New development in the Town Center area can provide for limited residential uses, excluding new single family detached dwellings, which can be integrated with the commercial and service environment. Senior housing may be appropriate uses at selected locations. This land use designation corresponds with the B2 and R5 zoning districts.



Development Location Criteria:

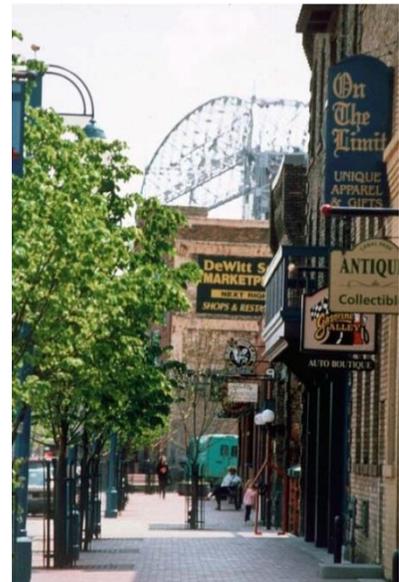
- The Town Center area is located along County Road 2 in the City’s historic downtown area, as identified in the City’s Downtown Master Plan.
- The character of the Town Center should be defined by an approved master plan or planned unit development or through specialized Zoning Ordinance provisions.

Density:

For projects which include residential land uses, a range between 5 to 10 units per net acre.

Minimum Requirements for Development:

- Uses and structural designs shall be found to preserve and enhance the “sense of community” broadly defined in the City’s Downtown Master Plan. This does not require rigid use patterns, but does require a demonstration that the relatively unique character of the Town Center is evident. Great emphasis should be given to building features located at primary intersections or where streets intersect with central open space, as these locations will become future landmarks of the community.
- Traditional commercial development design, such as zero lot line development (buildings with little to no setback) will be encouraged to provide a continuation of the traditional atmosphere of the Town Center land use category.
- Approved planned unit development within this category may provide for off-site parking legally encumbered for a specific use, shared parking facilities, public on-street and off-street parking facilities, and public open space in lieu of private yards for certain uses.



- The Town Center area is bisected by County Road 2 which presents a dilemma for prospective development and redevelopment. Based on functional classification of County Road 2 and traffic volumes, private access to the County Road is highly restricted. Traffic calming and pedestrian access will be an important component of development designs.
- Buildings should be designed to create street-level interest and enhance the pedestrian experience.
- Surface parking lots should be located away from major streets, or behind or to the side of primary buildings.

Typical Uses:

Town Center projects may include residential, commercial, and institutional developments, but by and large will consist of a mix of multi-family residential and commercial uses. The goal for the Town Center land use category is to maintain average land use distributions of 50 percent attached and multi-family homes, 45 percent commercial uses and 5 percent (existing) single family homes.

Mixed use buildings (with commercial uses on a lower level and residential uses above), restaurants (without drive-through facilities), professional offices, personal services, retail, craft, and specialty shops, clinics, banks, bakeries, and accessory and related uses that are clearly incidental to the primary use.

Existing single family detached homes, new single family attached homes and apartment buildings.

Government and/or other public uses/community facilities such as offices, post offices, schools, parks and libraries.

Commercial

Objective:

The commercial land use category is characterized by a wide range of commerce, recreation, and entertainment uses whose trade area is the community, and under certain conditions, the region (e.g. Elko Speedway). Arterial roadway-orientated uses and single stop or destination stores are also included. An important role of the commercial land use category is to provide a



location for goods, services and employment opportunities related to both the continued dependence upon the automobile for high mobility and in the case of the City’s Downtown, a walkable commercial center.

The City of Elko New Market’s proximity to Interstate 35 and an existing interchange, and the existence of historic business districts within the community will require a variety of commercial zoning districts in order to define guided uses and standards within different geographic areas. Uses and design that may be appropriate near the interchange may not be appropriate near the historic business district. At the present time, the City’s Zoning Ordinance contains a number of commercial zoning district designations that may be appropriate based on various locations within the community (B1, B2, B3, B4 & B5).

Development Location Criteria:

- Generally speaking, commercial uses should not be located directly adjacent to low density detached single family residential uses. It is however, recognized that such land use relationships are common in the City’s Downtown area. For new commercial development, a high level of transition to all proximate residential land and development is desirable. Commercial uses should be located near high volume roadways, with access limited to frontage roads or to internal common parking and driving areas.
- The wide variety of commercial uses allowed (as defined by assigned zoning districts) often produces undesirable effect on abutting and nearby uses. Extra care must be exercised in the evaluation of location criteria, transition design, and the effectiveness of buffering uses in this land use category.
- The currently established B1, B2 and B3 zoning districts were established to guide uses closer to the City’s historic downtown areas, and therefore would not be appropriate for commercial developments near the interchange area.
- The currently established B4 and B5 zoning districts were established to guide uses closer to Interstate 35 and existing interchange, and therefore would not be appropriate for commercial development in the historic downtown areas of the community.

Minimum Requirements for Development:

- Specific design and construction standards are imposed upon commercial developments including standards related to building finish materials, off-street parking and green space.
- Appropriate green space, yard (setbacks) and off-street parking must



be satisfied and may vary based on specific commercial zoning district standards.

Typical Uses:

Allowed uses in the City’s various commercial land use categories can vary greatly and are specifically defined via the application of various commercial zoning districts.

While the intensity of development, allowable uses, and performance standards vary from zoning district to zoning district, common commercial uses include: various retail, service, office, entertainment, restaurant, and motor fuel facilities and accessory uses that are clearly incidental to the primary use.

Business / Limited Industrial

Objective:

This land use category is intended to provide for the establishment of high quality business offices, wholesale showrooms, limited light industrial and light manufacturing, and related uses in an environment which provides a high level of amenities, including landscaping, preservation of natural features, architectural controls, pedestrian trails, and other features. Limited outdoor storage may be permitted in locations with appropriate buffers from adjacent residential and commercial uses and roadways.

Business / Limited Industrial, often formed as Planned Unit Developments, can serve small



professional services in a group setting whereas such uses might otherwise be located in retail centers or in scattered freestanding buildings. Retail activities should only be allowed as an accessory use when it is clearly incidental to the primary use. High design standards should be imposed to ensure

compatibility with nearby high density residential housing. Such uses should also provide open space, and opportunities for shared parking when possible. The corresponding zoning designations are presently B6, B7 and PUD.

Development Location Criteria:

- Locate near existing or planned multi-family residential, commercial or industrial use areas

- Generally provide a buffer between lands guided Commercial and Medium Density Residential.
- Business / Limited Industrial uses should provide a high level of transition to nearby residential land uses.
- Access to major collector or local roadways should be provided.

Minimum Requirements for Development:

- High amenity features (site and/or building) which are conducive to “gateway” recognition are strongly encouraged. Areas visible from I-35 or County Road 2 shall enhanced design features.
- Appropriate green space and buffers, as established by the Zoning Ordinance, should be provided.

Typical Uses:

Primary uses are conference centers, professional and administrative offices, wholesale showrooms, automobile repair, open sales lots, indoor commercial recreation, limited light industrial and light manufacturing uses, small assembly and warehousing, limited research and development, and small contractor operations.

Industrial

Objective:

This land use classification is characterized by industrial uses of varied scale and intensity. Primary uses include business offices, manufacturing, assembly, warehousing, and outdoor sales.

Development in planned industrial centers in separate areas of the community allow for the distribution of peak period traffic, efficient access, effective distribution of public utilities, and sound use of land suited for industry.

Certain limited accessory and compatible commercial uses may be allowed depending upon zoning classification. It is not the



purpose of this category however, to duplicate or conflict with the commercial land use category. At the present time, this land use designation corresponds with the I1, I2 and PUD zoning districts.

Development Location Criteria:

- Locate/congregate industrial uses in areas considered “suitable” for such activities.
- Locate industrial development near major transportation corridors. Provide access to arterial roadways via major collector roadways, local roads or service drives.
- Industrial parks should be planned upon lands which are considered appropriate and reasonably adaptable to site development without severe earthwork or the removal of significant tree stands.
- Locate near other intensive land uses (commercial centers and high density multi-residential developments).
- Locate near existing or planned mass transit routes.

Minimum Requirements for Development:

- Specific design and construction standards are imposed upon industrial developments including standards related to building finish materials, off-street parking and green space.
- Appropriate green space and all yard and parking minimum standards met or exceeded. Projects that are part of a planned unit development may indicate future expansion with greater coverage, subject to full compliance with yard and parking standards.

Typical Uses:

Uses vary in scale and intensity by zoning district. Primary uses range from business offices, light industrial uses, heavy industrial uses (manufacturing facilities) all of which are subject to certain performance standards as outlined in the City’s Zoning Ordinance.



Public and Semi-Public*Objective:*

This land use classification is characterized by public and semi-public facilities and institutions which provide necessary services to the City and have their own unique set of land use characteristics. Such uses frequently operate on a nonprofit basis rather than the sale of goods and services.

Development Location Criteria:

Public and semi-public uses are intended to be compatible with adjoining development and are typically located on collector or arterials streets.

Minimum Requirements for Development:

- To provide an example for the private sector, public and semi-public land uses are encouraged to integrate and/or reflect high levels of quality site and building design.
- Where feasible, incorporate sustainable, energy efficient building and low impact development techniques.
- Consistent architectural themes are encouraged as well as the use of consistent building materials or other design elements (to strengthen overall community identity).
- In locations where public and semi-public uses abut residential land uses, buffers and/or transitions shall be provided to mitigate potential compatibility issues. Such efforts may include site design, building orientation, access locations, setbacks, landscaping and screening.

Typical Uses:

Various facilities ancillary to an urban community including governmental facilities and offices, schools, churches, parks and utility sites.

While the need for public and semi-public uses is recognized, it is not practical at this time to identify future sites where such uses may be appropriate. Processing requirements and standards which apply to public and semi-public uses are subject to applicable Zoning Ordinance requirements.

GUIDED LAND USE CALCULATIONS

2040 Land Use Plan. The table below identifies the total gross land area for each land use category depicted upon the 2040 Land Use Plan (Figure 5.2.5). This includes lands within the City’s existing municipal boundaries and the surrounding unincorporated areas within the 2040 MUSA.

Elko New Market - 2040 MUSA	
Gross Land Area by Land Use Plan Category	
Land Use Category	Gross Acres
Public and Semi Public	172.61
Low Density Residential	3336.49
Medium Density Residential	561.33
High Density Residential	83.86
Town Center	61.31
Commercial	524.31
Business / Limited Industrial Park	236.40
Industrial	250.98
Right of Way	380.38
Total Acres	5607.68
Source: City of Elko New Market GIS	



The following table illustrates net residential densities for future development. Specific categories are provided for designated Low Density Residential, Medium Density Residential, High Density Residential and Town Center. As shown, a net residential density of 3.1 units per acre is forecasted.

Elko New Market Net Density of Future Residential Development Within 2040 MUSA							
Residential Land Use	Gross Acres	Gross Und. Acres	Gross Acres Minus Wetlands (2013 NWI)	10% Park Dedication	Net Acres Available for Future Development (Gross Minus Wetlands and Park Dedication)	Net Res. Density / Units Per Acre	Number of Potential Residential Units
Low Density (Single Family)	3336.49	2512.24	2064.84	206.48	1858.36	2.5	4646
Medium Density	561.33	547.84	369.98	37.00	332.98	5	1665
High Density	83.86	79.78	69.29	6.93	62.36	10	624
Town Center	61.31	37.96	37.06	3.71	33.35 (*.5)	5	83
TOTAL					2270.38		7018
	Notes: <ul style="list-style-type: none"> • Calculations are based on gross land area, minus NWI wetlands and 10% park dedication requirement to determine the net acreage available for residential development. • Town Center (mixed use) area calculated as 50% medium density residential Source: City of Elko New Market GIS						

Ultimate Land Use Plan. As previously indicated, the Metropolitan Council’s *Thrive MSP 2040* development guide stipulates that “Rural Center” communities such as Elko New Market must identify areas that will accommodate post 2040 growth forecasts and implement strategies to preserve these areas for future growth. The City’s Ultimate Land Use Plan is illustrated on Figure 5.2.6.

To be noted is that it is not the function of the Ultimate Land Use Plan to guide future uses on a parcel by parcel basis. Rather, the Plan is intended simply to assist the City in determining long-term service needs and earmark general locations for future commercial and/or industrial uses. In this regard, guided land uses within the post-2040 development area mimic uses directed by the Scott and Rice County Land Use Plans. It is anticipated that the 2040 Metropolitan Urban Service Area boundary will expand over time (in response to urban growth). In association with such boundary expansions, newly added properties will be guided for specific urban uses.

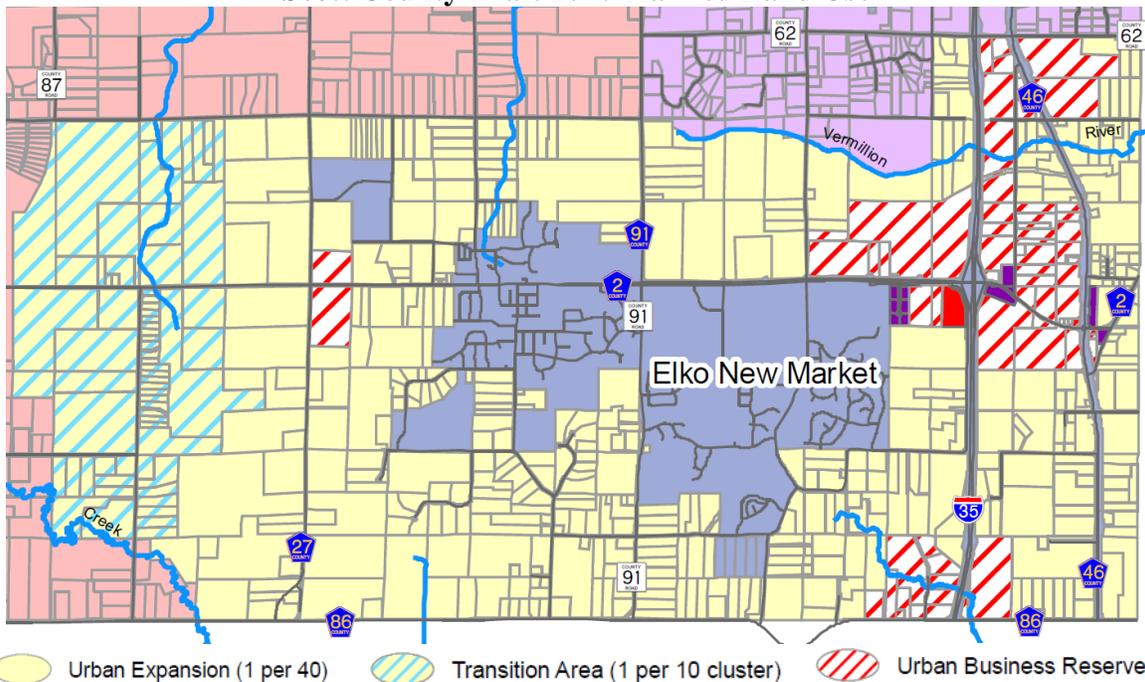


Recognizing the uncertainties associated with long-term (post 2040) land use planning, it is not the purpose of this Plan to assign specific acreage allocations to the generalized land uses depicted on the Ultimate Land Use Plan.

The City of Elko New Market will continue to collaborate with Scott and Rice Counties such that County Plans may take steps to preserve such lands for future urban development (until such time public utilities are available or the area is annexed into the City).

Scott County and the City of Elko New Market have, recognizing the City’s Ultimate Urban Service Area. Scott County has guided areas surrounding the City for preservation from development. There are three basic land use designations depicted within Scott County’s 2040 Comprehensive Plan, Urban Expansion, Transition Area and Urban Business Reserve. Policies for all three land use designations take measures to preserve land for future urban development.

Scott County Draft 2040 Planned Land Use



Source: Scott County Planning Department

Growth Staging Plan. The table below illustrates residential and non-residential growth acreage allocation forecasts in 10-year increments to the year 2040. The provided acreage figures include the developed lot area as well as the necessary infrastructure (roadways). The acreage figures do not include wetlands or floodplains. The table also assumes an overall density of 3.2 units per acre.

Elko New Market Planned Land Use within 2040 MUSA (Budgeted)				
	2015-2019	2020-2029	2030-2039	Combined Total
Households (2014) (Metropolitan Council Forecasts)	601 (20.03% of total)	1,030 (34.32% of total)	1,370 (45.65% of total)	3,001
Low Density Residential Acres	372.23	637.79	848.34	1858.36
Medium Density Residential Acres	66.70	114.28	152.01	332.98
High Density Residential Acres	12.49	21.40	28.47	62.36
Town Center Acres	6.68	11.45	15.22	33.5
Commercial or Industrial Acres	130.35	223.35	297.09	650.79
Public and Semi-Public Acres	65.38	112.03	149.02	326.43
TOTAL	653.83	1120.30	1490.14	3265.27
Notes:				
<ul style="list-style-type: none"> • Net residential acreages calculated based on gross land area, minus NWI wetlands and park dedication requirements to determine the net acreage available for development. • Includes undeveloped land within existing city limit boundary and 2040 MUSA boundary. • No manufactured housing presently exists within the City of Elko New Market. 				
Sources: City of Elko New Market GIS				

HOUSING

Existing Housing. Information regarding the City’s existing housing characteristics are contained in the Inventory section of this Plan, and also reiterated below.

Housing Type. In developing the City’s 2040 Land Use Plan it is anticipated that the City’s residential land uses will evolve as the demographics of the region and the City of Elko New Market change.

According to the Metropolitan Council’s 2015 estimate and as illustrated in the table below, single family detached land uses are the predominate housing type in the City).

Elko New Market Existing Housing Types 2015		
	Quantity	Percent
Single Family Detached	1,239	83.0%
Duplex, Triplex, and Quadplex	6	0.5%
Townhome (single family attached)	140	9.5%
Multi-family (5 units or more)	98	7.0%
Total	1,483	100%
Source: Metropolitan Council		



Tenure. As shown in the table below, the vast majority of housing units in the City (98 percent) are owner occupied.

Elko New Market Household Tenure 2010		
	Number	Percent of Total
Owners	1,145	98%
Renters	27	2%
Total	1,172	100%
Source: U.S. Census Bureau		

Age. Most of Elko New Market’s current housing stock was constructed during the 2000s (approximately 70 percent). The City has issued building permits for a total of 156 housing units since 2010. Such decrease in recent building permit issuance likely relates to a combination of economic conditions and a limited availability of single family residential lots in the City.

Elko New Market Age of Housing Stock		
Year Built	No. of Units	% of Total
2010 to 2016	156	10%
2000 to 2009	1,087	70%
1990 to 1999	113	8%
1980 to 1989	49	3%
1970 to 1979	34	2%
1960 to 1969	45	3%
1950 to 1959	33	2%
1940 to 1949	15	1%
1939 or earlier	15	1%
Total	1,547	100%
Source: U.S. Census Bureau and City of Elko New Market		

Housing Values. The median housing value of a single-family home in the City of Elko New Market rose slightly between 2001 and 2010, from an average value of \$276,258 to \$287,100. The median home value in 2016 dropped to \$268,200 according to the US Census Bureau. Home sales in Elko New Market are higher on average than Scott County. Housing values within the City are depicted on Figure 5.2.7



Elko New Market Median Housing Value		
Location	Median Value 2010	Median Value 2016
Elko New Market	\$287,100	\$268,200
Scott County	\$274,300	\$258,400
Source: US Census Bureau, ACS		

Future Housing Options. The City of Elko New Market recognizes the need to promote a greater variety of housing choices in the City to serve the life cycle needs of current and future residents. A primary goal of the 2040 Land Use Plan is to continue to maintain single family neighborhoods as the focus of the community while providing opportunities for alternative housing types. In an effort to provide appropriate life cycle options, the 2040 Land Use Plan provides opportunities for medium and high density residential uses as transitions between higher intensity commercial uses and lower intensity single family neighborhoods.

Affordability. The City of Elko New Market recognizes its responsibility to provide opportunities for its share of the region’s need for low and moderate-income housing. Affordable housing provides housing options for a diverse population and the furthers one of the City’s economic development goals by providing housing opportunities to support an employment base for future commercial and industrial development.

The Metropolitan Council defines the terms “affordable housing” and “low income” as follows:

Affordable Housing. *Housing is “affordable” for low and moderate-income households when they pay no more than 30 percent of gross household income on housing.*

Low Income. *A household is considered “low income” if it makes 80% or less of the median income of the seven-county region.*

The Metropolitan Council’s Thrive MSP 2040 Plan (Housing Element) assigns a low and moderate-income housing need for the City the City of Elko New Market for the decade of 2021 through 2030. Specifically, a need for 326 new affordable units within such time period has been established. Of these new units, 195 need to be affordable to households earning at or below 30 percent of the area median income, 121 need to be affordable to households earning 31 to 50 percent of the area medium income and 10 need to be affordable to households earning 51 to 80 percent of the area median income. These “needs” are summarized in the table below:



Elko New Market Affordable Housing Need Allocation 2021-2030	
Percent of Area Medium Income	Housing Units
At or Below 30% AMI	195
31% to 50% AMI	121
51% to 80% AMI	10
Total Units Needed	326
AMI = Area Median Income Source: Metropolitan Council	

With the preceding Metropolitan Council directives in mind, it is considered worthwhile to understand the number of affordable housing units which presently exist in the City. For 2016, the Metropolitan Council has determined that homes with a purchase price of \$238,500 or less are considered “affordable” in the seven-county metropolitan area. According to the Scott County Assessor’s Office, 1,428 owner-occupied housing units existed in the City on January 1, 2016. Of these, 538 units had a value of \$238,500 or less. As a result, 38 percent of the City’s existing owner-occupied housing stock at that time was considered “affordable.” As mentioned, housing values within the City are depicted on Figure 5.2.7.

Livable Communities Program. The 1995 Livable Communities Act (LCA) was enacted to provide incentives for addressing various issues facing the seven-county Metropolitan Area and is administered by the Metropolitan Council. Metropolitan Area municipalities which elect to participate in the Livable Communities Program are eligible to compete for funding for community development activities. The former Cities of Elko and New Market began participation in the Livable Communities Act in 2002 and has continued to participate since the merger of the two cities in 2007 (as the City of Elko New Market).

Through the Livable Communities Program, the Metropolitan Council has the ability to make grant and loan awards to communities from the following accounts:

- Livable Communities Demonstration Account (LCDA)
- Local Housing Incentives Account (LHIA)
- Tax Base Revitalization Account (TBRA)
- Transit Oriented Development (TOD)

Of the four accounts, two provide funding for affordable housing goals of cities. The Local Housing Incentives Account (LHIA) provides funding to produce and preserve affordable housing choices while the Tax Base Revitalization Account (TBRA) provides funding cleans up brownfield sites for redevelopment, including affordable housing projects.



To compete for Livable Communities grants, communities must participate in the Local Housing Incentives program established by the Metropolitan Livable Communities Act (LCA) as well as negotiate with the Metropolitan Council to establish a set of goals for affordable and lifecycle housing.

As development occurs, the City will continue to work toward the achievement of the affordable and lifestyle housing goals of the Livable Communities Act.

In regard to the achievement of affordable housing goals, it is important to recognize that there is an ample supply of developable land available within with City 2040 MUSA which is guided high density residential use (minimum of 8 units per acre). Thus, affordable housing goals are considered attainable in the long-term.

In this regard, the City of Elko New Market has adopted the following affordable and lifecycle unit housing goals for 2011-2020:

Housing Goals. The following housing goals have been developed to meet the needs of the growing population through the year 2040:

1. Variety of Housing Options - Allow for the potential development of a variety of dwelling unit types (e.g. single and multi-family), styles, and choices to meet the changing life cycle needs for a wide spectrum of people with a variety of income levels.
2. Residential Character - Maintain and enhance the strong character of residential neighborhoods that are safe, healthful, and esthetically pleasing through well designed subdivisions for new housing.
3. Removing Barriers to Housing Options - Take a more proactive stance on developing provisions to allow for housing to meet the needs of a variety of people.
4. Maintenance - Encourage upkeep and proper maintenance of residential properties in the City and consider future efforts to survey housing conditions in various neighborhoods to evaluate if deterioration exists and additional action is required.
5. Residential Character - Promote new housing which will fit within the character of the existing community.
6. Residential Revitalization - Encourage/provide incentives for the development/revitalization of existing homes in the “original townsite” areas of the City.
7. Environmental Resource Protection - Impose various environmental protection requirements upon new residential subdivisions as provided in the City’s Zoning and Subdivision Ordinances.

Housing Goal Implementation. The City assumes that all proposed affordable rental housing developments will require some degree of City involvement. City actions will include as many of the following as needed:

- Consider any changes that may be needed in local requirements to make rental housing as affordable as possible. This may include higher densities, garage/parking requirements, or other requirements as appropriate.
- Actively seek private, nonprofit, and public developers interested in providing affordable rental housing, and work with them as needed to select sites and secure needed funding. Churches and local employers should also be given the opportunity to provide assistance.
- Make use of local authority to assist affordable housing, including tax increment financing, tax abatement and tax-exempt bonds.
- Actively support developer applications for various grant programs or tax incentives that assist in the development of affordable housing projects, such as the Low Income Housing Tax Credit Program, Minnesota Housing Finance Agency programs, and others.
- Monitor progress towards meeting the affordable rental housing goal. Since affordable rental housing should not be concentrated in large developments, the City will need to closely review proposals to avoid this issue.

There are a variety of housing assistance, housing development, and housing rehabilitation/redevelopment programs which may be available to the City to implement its housing goals. The City is not capable of estimating the specific number of housing units within its goals which may be developed or assisted by the various programs with any degree of accuracy at this time. The following is a list of programs which may be utilized by or with the involvement and assistance of the Scott County Community Development Agency (CDA) to advance affordable and life-cycle housing in Elko New Market:

- Affordable Mortgage Products
- Homebuyer Counseling / Education
- Homeowner Counseling / Education
- CDA Rental Housing Program (55+, Workforce, Deep Subsidy Rentals)
- Rental Assistance / Housing Choice Vouchers
- Tax Exempt Bonding

The City also has an adopted Business Assistance Policy which includes various public assistance tools including, TIF, tax abatement and deferral or assessment of city fees. The City will continue to evaluate its current policies and official controls (Zoning and Subdivision Ordinances) to eliminate unnecessary restrictions to barriers which may impede the ability of

reaching affordable housing goals. The City will also consider establishing or modifying provisions which may enhance flexibility in meeting affordable housing goals.

EMPLOYMENT

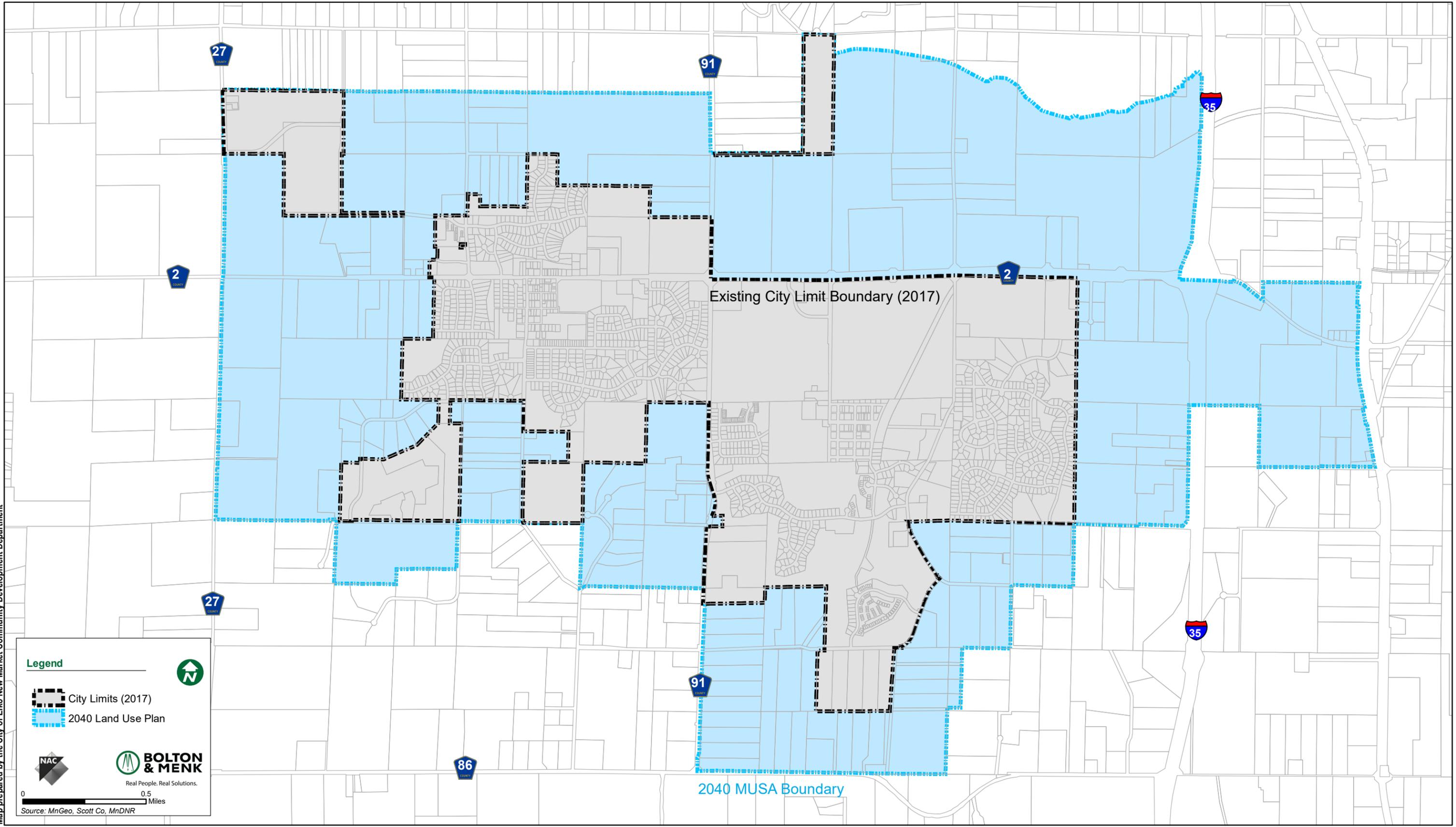
The City has a goal of increasing employment opportunities within the City. An evaluation of employment opportunities has been completed and is shown in the table below. The analysis assumes six jobs per acre for commercially guided areas and four jobs per acre for industrial guided areas, while the area guided for business/limited industrial park has been calculated at five jobs per acre. Currently reported for the City are 386 jobs and 69 commercial/industrial acres for an average of 5.6 jobs per acre in 2016. Approximately 650 acres has been guided for commercial and industrial uses.

The Metropolitan Council’s employment forecasts for the City of Elko New Market are shown in the table below. The Metropolitan Council has not provided an estimated number of acres for the below projections.

Elko New Market Employment Growth Forecasts - 2000 to 2040					
	2010	2020	2030	2040	% Change 2010 – 2040
Elko New Market	317	1,630	1,780	1,940	512%
Source: Metropolitan Council					

Elko New Market Net Density of Future Commercial/Industrial Development - Within 2040 MUSA							
Land Use	Gross Acres	Gross Und. Acres	Gross Und. Acres Minus Wetlands (2013 NWI)	10% Park Dedication	Net Acres Available for Future Dev (Gross Minus Wetlands and Park Dedication)	# of Jobs Per Acre	Number of Potential Jobs
Town Center	61.31	37.96	37.06	3.71	33.35	6	90
Commercial	524.31	460.78	350.02	35.00	315.02	6	1890
Business / Limited Industrial	236.40	226.03	182.86	18.29	164.57	5	823
Industrial	250.98	250.98	190.22	19.02	171.20	4	685
TOTAL							3,488
	Notes: <ul style="list-style-type: none"> • Calculations are based on gross land area, minus NWI wetlands and 10% park dedication requirements to determine the net acreage available for commercial/industrial development. • Town Center (mixed use) calculated as 45% commercial Source: City of Elko New Market GIS						





Map prepared by the City of Elko New Market Community Development Department

Legend

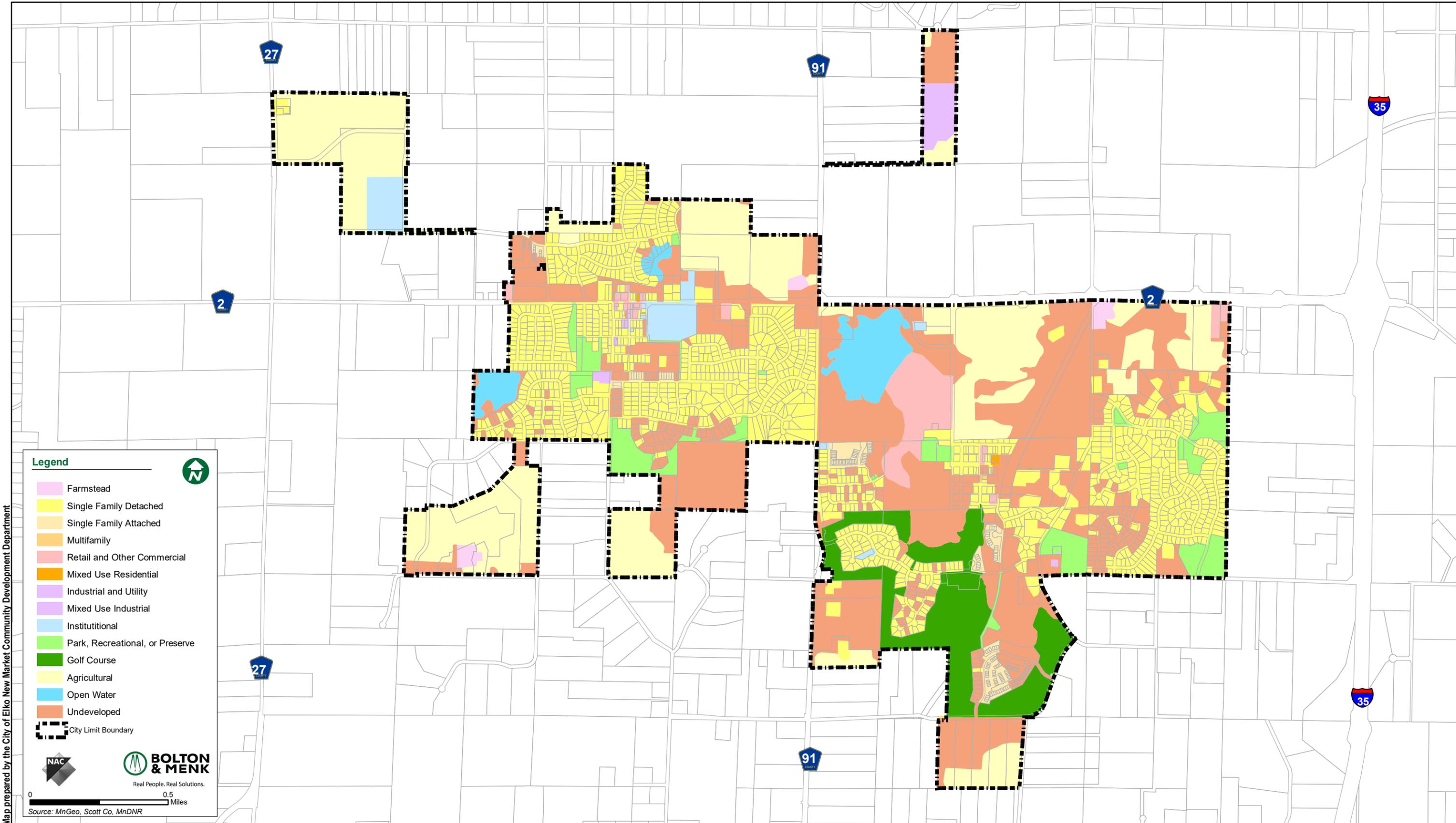
- City Limits (2017)
- 2040 Land Use Plan

NAC

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0 0.5 Miles
 Source: MnGeo, Scott Co, MnDNR

2040 MUSA Boundary

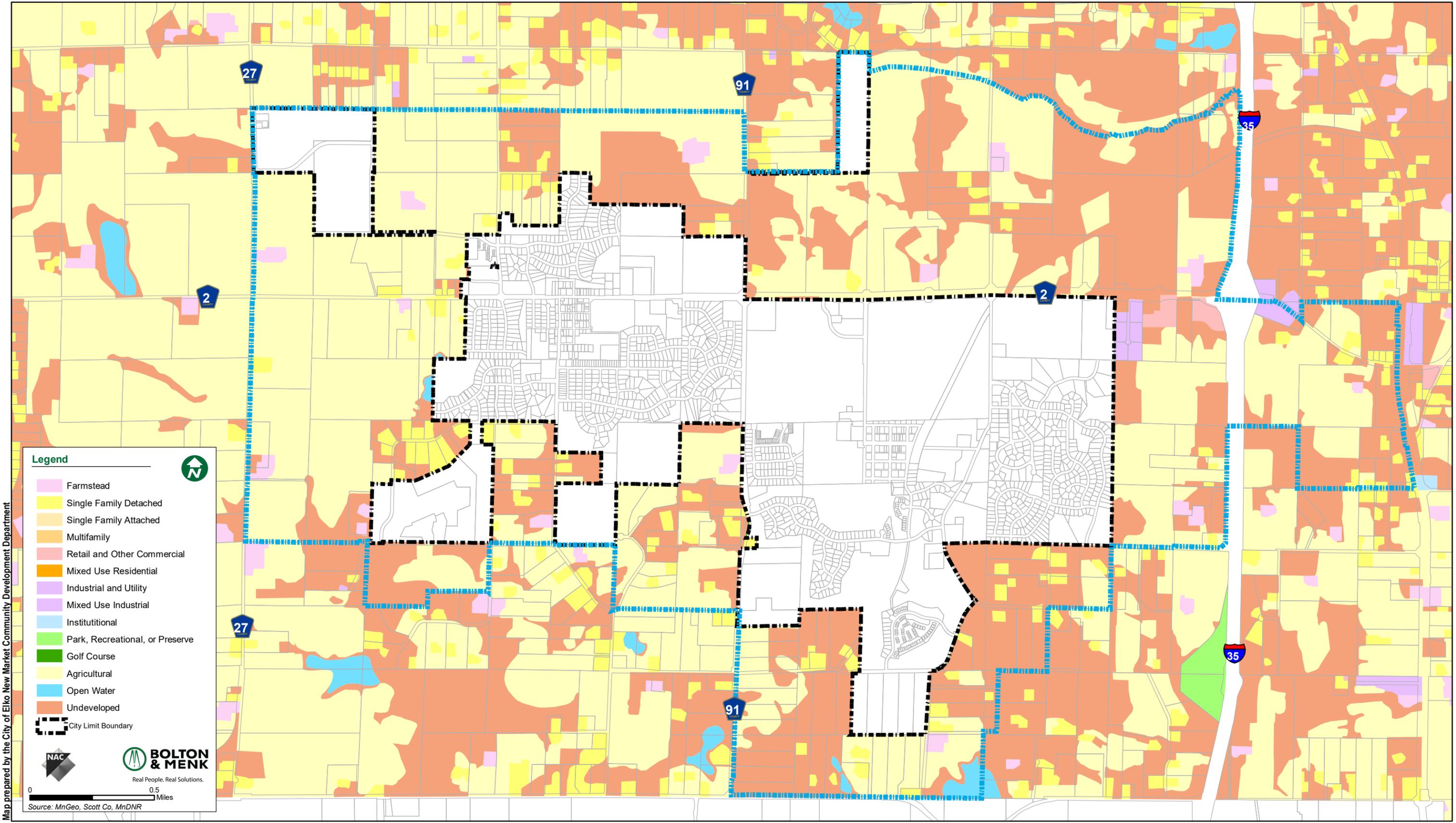


Map prepared by the City of Elko New Market Community Development Department

NAC

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0 0.5 Miles
 Source: MnGeo, Scott Co, MnDNR



Legend

- Farmstead
- Single Family Detached
- Single Family Attached
- Multifamily
- Retail and Other Commercial
- Mixed Use Residential
- Industrial and Utility
- Mixed Use Industrial
- Institutional
- Park, Recreational, or Preserve
- Golf Course
- Agricultural
- Open Water
- Undeveloped
- City Limit Boundary

N

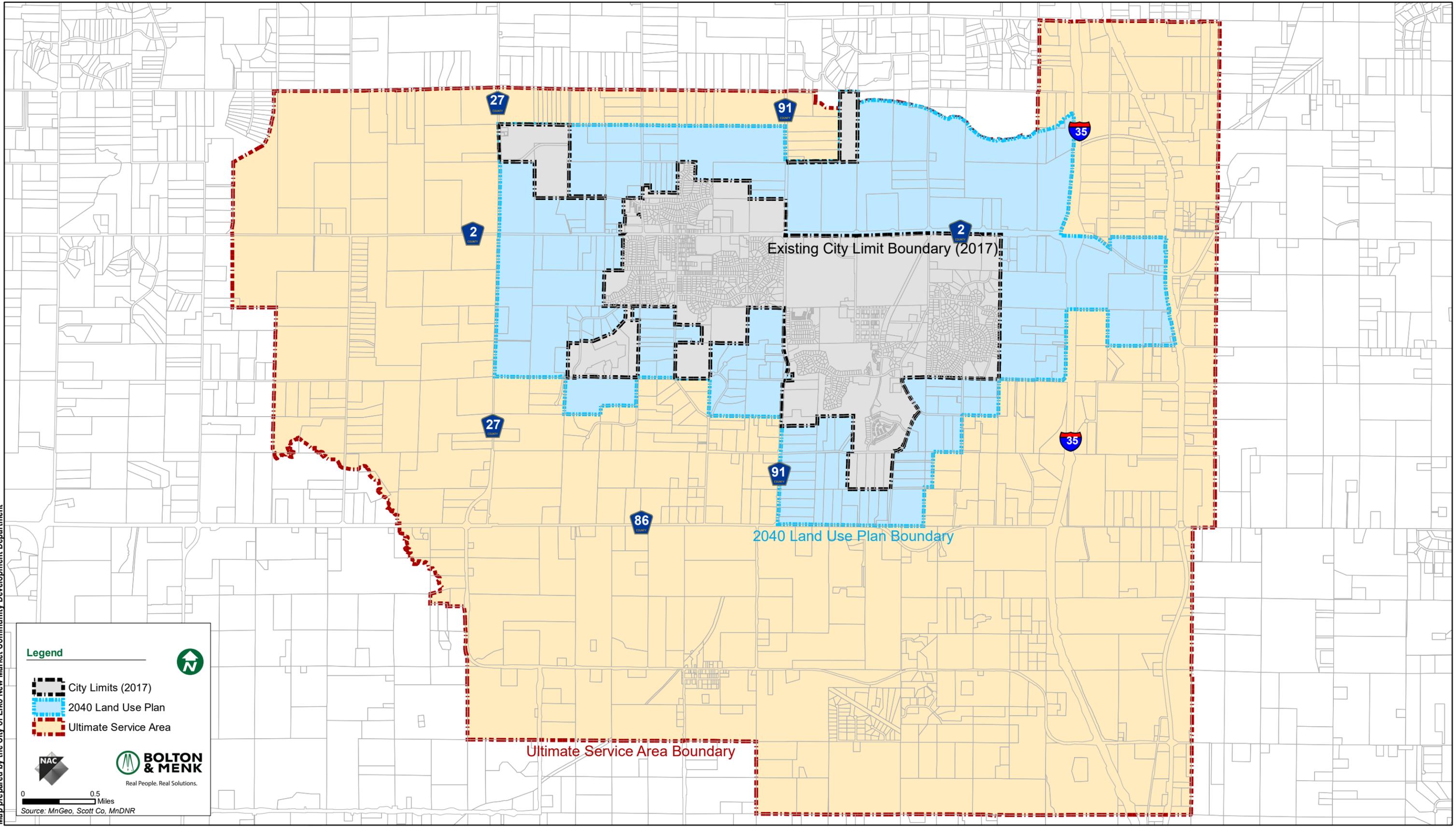
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Map prepared by the City of Elko New Market Community Development Department

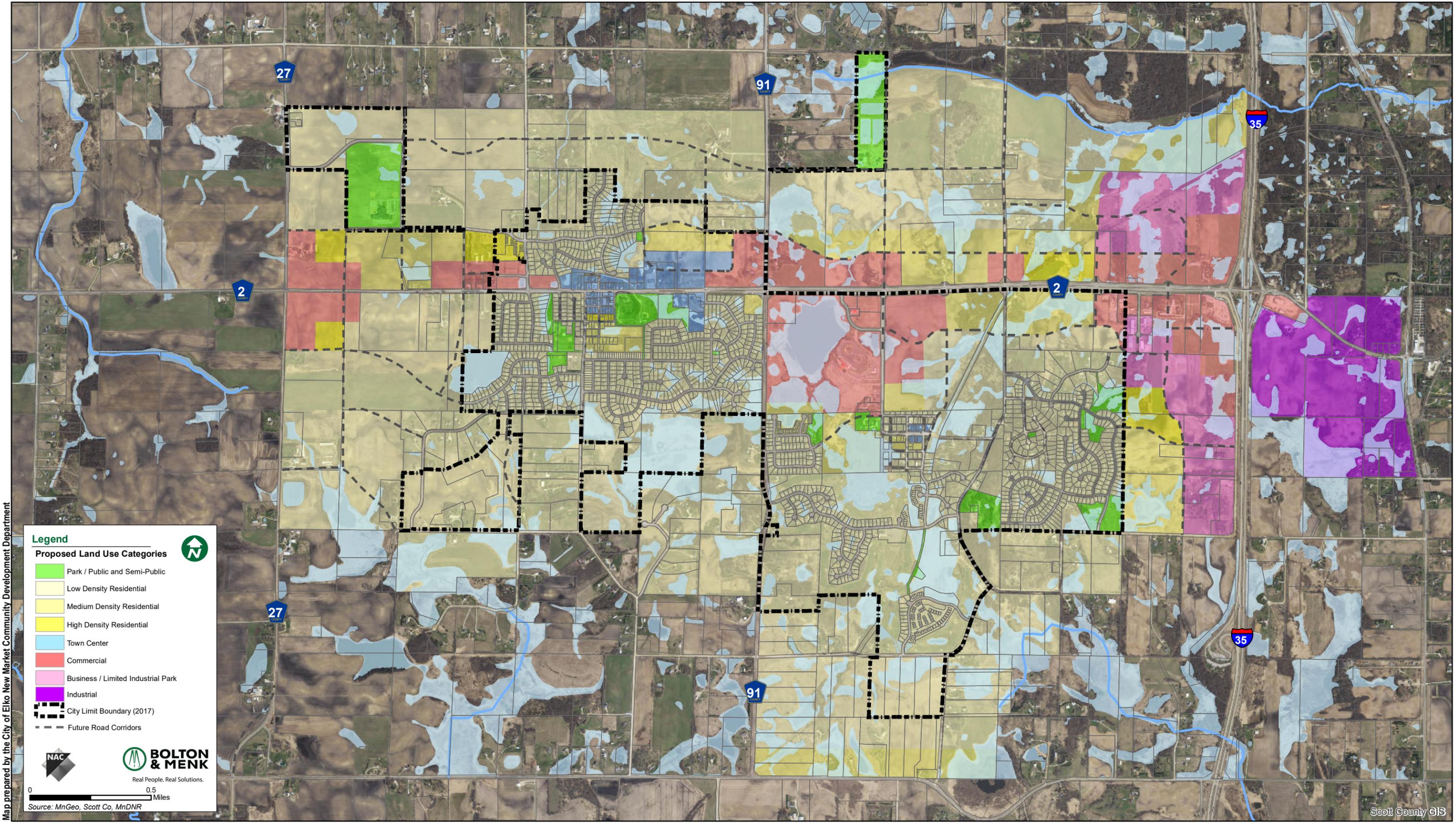
Legend

- City Limits (2017)
- 2040 Land Use Plan
- Ultimate Service Area

NAC

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 Source: MnGeo, Scott Co, MnDNR



Legend

Proposed Land Use Categories

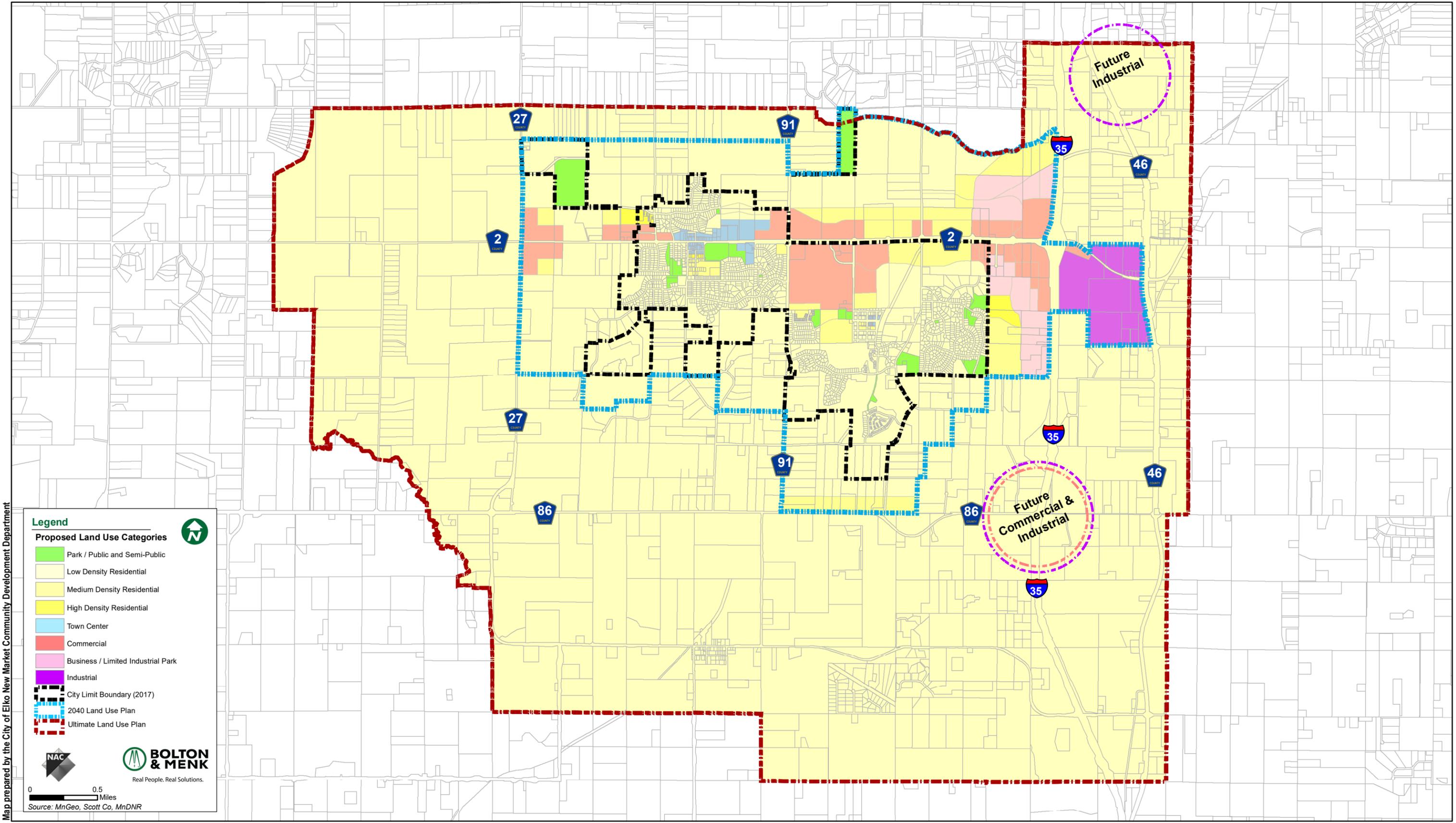
- Park / Public and Semi-Public
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Town Center
- Commercial
- Business / Limited Industrial Park
- Industrial
- City Limit Boundary (2017)
- Future Road Corridors

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0 0.5 Miles

Source: MnGeo, Scott Co, MnDNR

Map prepared by the City of Elko New Market Community Development Department



Legend

Proposed Land Use Categories

- Park / Public and Semi-Public
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Town Center
- Commercial
- Business / Limited Industrial Park
- Industrial

City Limit Boundary (2017)

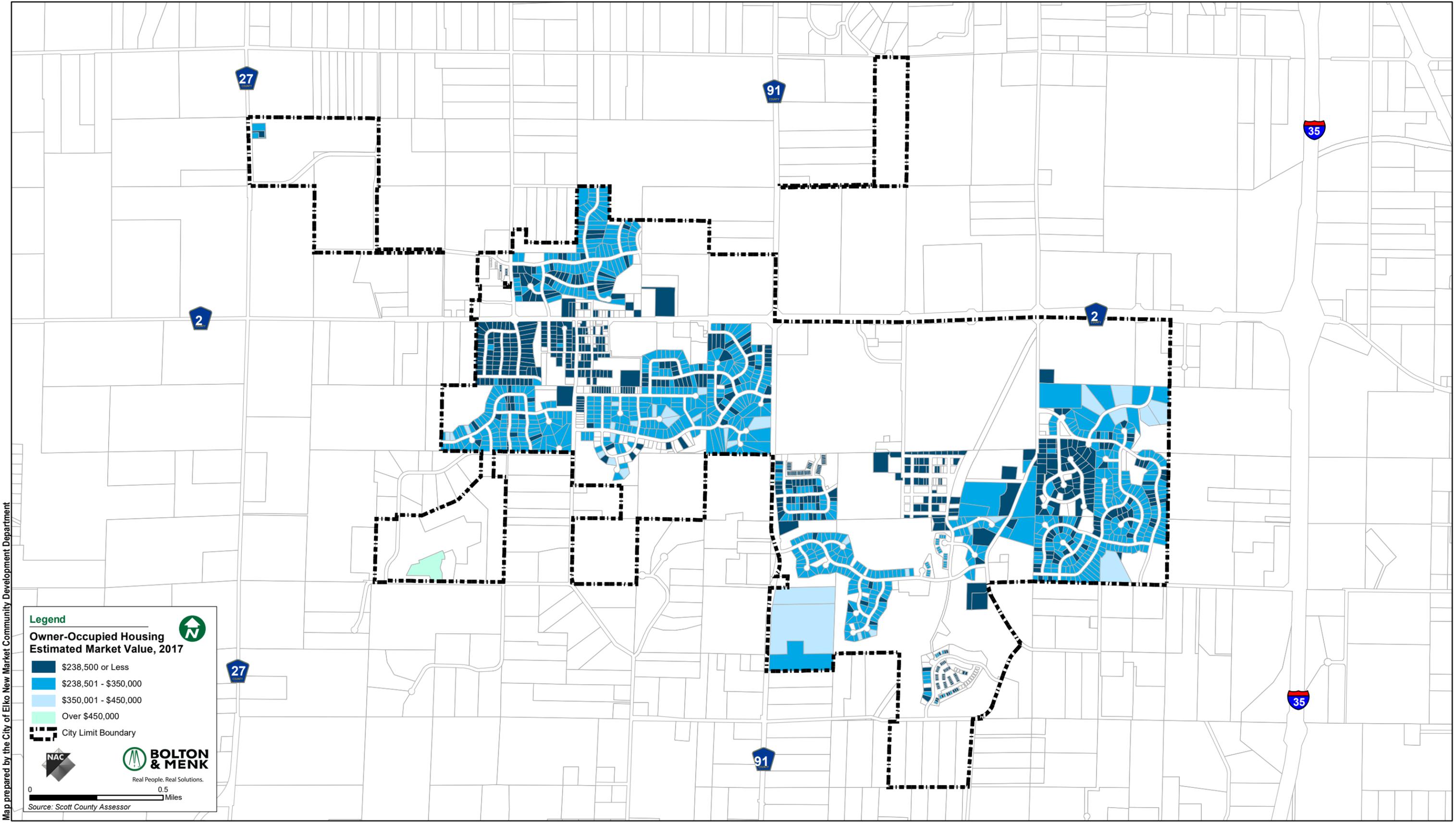
2040 Land Use Plan

Ultimate Land Use Plan

Real People. Real Solutions.

0 0.5 Miles
 Source: MnGeo, Scott Co, MnDNR

Map prepared by the City of Elko New Market Community Development Department



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INTRODUCTION

Overview

The City of Elko New Market is a free-standing community in a rural setting with growing suburban-style development. Its location within the regional transportation network is depicted on **Figure T-1**. With its close access to I-35, Elko New Market has strong potential for future growth. Scott County arterial roadways provide the backbone of Elko New Market’s roadway system, and the City is developing a growing system of collector roadways to support development and complement County roads.

The primary purpose of this Transportation chapter is to provide guidance to City staff and elected officials regarding the implementation of effective, integrated transportation facilities and programs through the 2040 planning timeframe. This chapter is consistent with regional requirements for transportation as captured in the Metropolitan Council’s 2040 *Local Planning Handbook*.

This chapter is organized into the following sections:

- Existing Roadway Conditions
- Transportation Questions from Residents
- Summary of Relevant Transportation Studies
- Roadway System Plan
- Transit
- Biking and Walking
- Aviation
- Freight

Transportation Goals

The City of Elko New Market adopts the following goals to guide the continued development of a transportation system to best serve its residents and businesses:

- Overall transportation system attributes – Plan/provide a system that is:
 - Safe
 - Economically feasible
 - Functional
 - Convenient
 - Multi-modal (vehicles [cars and trucks], pedestrians, bicyclists, and pedestrians accommodated)
 - Aesthetically appropriate to context

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- Safe pedestrian crossings – Scott County arterial roadways are the primary roadways within the community; therefore, coordinate with the County to provide crossings of these and other higher volume roadways which are safe and comfortable for pedestrians.
- Comprehensive trail network – Trails represent a quality-of-life type of amenity which is important to many current and future residents; therefore, provide off-street trails in a comprehensive and coordinated manner.
- Importance of CSAH 2 and I-35 Travel – Many Elko New Market residents work in the Twin Cities metro area and use CSAH 2 to access I-35 for their work commutes; therefore, ensure that CSAH 2 and the I-35/CSAH 2 interchange operate safely and with minimal delay.
- Regional coordination – County roadways are key arterials within and surrounding the City’s roadway network, and I-35 is critical for access to the metro area for jobs and other purposes; therefore, coordinate effectively Scott County, Dakota County, and MnDOT regarding regional improvements beneficial to City as well as regional users. This includes promoting a new I-35 interchange at CSAH 86.
- Collector/local street system – There is substantial potential for future development in and outside current City limits; therefore, develop a collector and local street network which is convenient for residents and limits the need to use existing arterials for local travel. This network should be well planned, accommodating anticipated growth patterns as well as terrain and environmental factors, and should be financed in a equitable manner with appropriate funding levels provided by development driving the roadway need.

More focused strategies to meet these goals are presented through the remainder of this chapter.

EXISTING ROADWAY CONDITIONS

Existing Traffic Volumes and Crash Data

The most basic characteristic of a given roadway is the volume of traffic that it carries. Existing traffic volumes on roadways in the Elko New Market area are presented on **Figure T-2**. This is the most current MnDOT data. The most recent crash data focusing on intersections is also summarized on **Figure T-2**. It can be seen that the largest number of crashes was at the CSAH 2/CSAH 91 intersection. This is not surprising, since this is the highest volume intersection in the City. A roundabout is in the City’s Capital Improvement Program for this location in 2020, which will improve safety conditions.

Jurisdictional Classification

Roadways are classified on the basis of which level of government owns and has jurisdiction over them. For the Elko New Market area, roadways are under the jurisdiction of MnDOT



(Interstate 35), Scott County, or the City itself. **Figure T-3** depicts the existing roadway jurisdictional classification system in the Elko New Market area.

Functional Classification

The functional classification system is a roadway network that distributes traffic from neighborhood streets to collector roadways, then to minor arterials, and ultimately the Metropolitan Highway System. Roads are placed into categories based on the degree to which they provide **access** to adjacent land uses and lower level roadways versus providing higher-speed **mobility** for “through” traffic. Functional classification is a cornerstone of transportation planning. Within this approach, roads are located and designed to perform their designated function.

The current roadway map for Elko New Market reflecting functional classifications consistent with Metropolitan Council definitions is presented on **Figure T-4**. The roadway system presently consists of six functional roadway classifications:

- Principal arterial
- “A” minor arterial
- Other arterial
- Major collector
- Minor collector
- Local street

The Metropolitan Council has defined four sub-categories of “A” minor arterials: reliever, expander, connector, and augments. These sub-categories have to do primarily with Metropolitan Council’s allocation of federal funding roadway improvements, but do not translate into specific design characteristics or requirements. While “A” minor arterials are eligible for federal funding, “other arterials” are not.

For arterial roadways, the Metropolitan Council has designation authority. Local agencies may request that their roadways become arterials (or are downgraded from arterial to collector), but such designations or re-designations must be approved by the Metropolitan Council. The agency which has jurisdiction over a given roadway (e.g. Scott County or the City of Elko New Market) has the authority to designate collector status.

Principal Arterials

Principal arterials are the highest roadway classification and make up the Metropolitan Highway System. The primary function of these roadways is to provide **mobility** for regional trips, and they do not provide a land access function. They are intended to interconnect regional business concentrations in the metropolitan area, including the central business districts of Minneapolis and St. Paul. These roads also connect the Twin Cities with important locations outside the

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metropolitan area. Principal arterials are generally constructed as limited access freeways, but may also be multiple-lane divided highways.

There are no principal arterials within current Elko New Market city limits. The closest principal arterial, and one which is critical to Elko New Market residents regarding travel to the Twin Cities metro area and other regional destinations is Interstate 35 (I-35). This freeway is approximately one-half mile east of the easterly city limit and is within the city's planned 2040 growth area.

"A" Minor Arterials

These roads connect important locations within the City of Elko New Market with access points of the metropolitan highway system and with important locations outside the City. These arterials are also intended to carry short to medium trips that would otherwise use principal arterials. While "A" minor arterial roadways provide more access than principal arterials, their primary function is still to provide mobility rather than access to lower level roadways or adjacent land uses.

Within the larger Elko New Market area there are four "A" minor arterials:

County State Aid (CSAH) 2 (Main Street/260th Street) – An east-west route providing connectivity across southern Scott County between Scott County CSAH 11 on the west and Dakota CSAH 9 at the Dakota County border on the east. CSAH 2 provides the only interchange access to I-35 in Scott County and is heavily traveled in the a.m. and p.m. peak hours. It is Main Street through the primary downtown portion of Elko New Market (old New Market).

CSAH 86 (280th Street West) – An east/west route just south of the Elko New Market limit along the Scott County and Rice/Le Sueur County borders providing connectivity between the interregional corridors of Trunk Highway (TH) 169 west of the City of New Prague and TH 52 in Dakota County.

CSAH 27 (Texas Avenue) – A north-south corridor beginning at CSAH 86 and terminating at CSAH 16 in Savage. Since the 2030 Transportation Plan, CSAH 27 has been realigned to link with Rice County CSAH 3 at CSAH 86.

CSAH 46 (Pillsbury Avenue, north of CSAH 2) – A north-south corridor generally paralleling I-35 to the east. The route of old Hwy 65 which I-35 replaced in the 1960s. South of CSAH 2, CSAH 46 is classified by the Metropolitan Council as "other arterial" (see below).

Other Arterials

Like "A" minor arterials, these roadways also serve more of a mobility function than access function. However, they may not have as much regional importance as "A" minor arterials and are not eligible for federal roadway improvement funding. This classification used to be termed "B" minor arterials. The Metropolitan Council now refers to them as "other arterials."

There are two “other arterial” roadways in the Elko New Market area:

CSAH 91 (Nachez Avenue) – From CSAH 86 (280th Street) north through the Elko New Market area to CSAH 21 (Eagle Creek Avenue/185th Street) in Credit River Township west of Lakeville. Traffic volumes are significantly heavier on this roadway south of CSAH 2 than north of CSAH 2, partly due to residential development in Elko New Market over the last 10-20 years. The roadway also carries a significant amount of traffic from southerly part of Scott and northerly parts of Rice and Le Sueur counties to and from Interstate 35.

CSAH 46 (Pillsbury Avenue, south of CSAH 2) – Please see description under “A” minor arterial heading, above.

Major and Minor Collectors

Collector roadways provide a **balance** of the mobility and land-use access functions discussed above. They generally serve trips that are entirely within the City and connect neighborhoods and smaller commercial areas to the arterial network. Minor collectors generally are shorter in length, with lower volumes and lower speeds than major collectors.

There are no existing major collectors in the Elko New Market area. There is one minor collector:

France Avenue – From CSAH 2 to the main Elko Speedway access approximately 2,000 feet to the south. Elko Speedway is a major traffic generator within the City.

Local Streets

Local street a primarily for **access** to adjacent land uses. Mobility is significantly hampered by traffic entering and leaving driveways, parked cars, and pedestrians and bicyclists. They connect land uses to the collector/arterial system. They’re often designed to discourage through traffic by use cul-de-sacs, offsets in alignment, or looped layouts to promote the quality of life desired by residents; however, connections to adjacent neighborhoods must also be considered to avoid creating undue inconvenience to residents and unnecessary local traffic on mobility-oriented roads.

Please note that the recommended future functional classification network is discussed under the Future Roadways and Functional Classification heading of the Roadway System Plan section, below (see also **Figure T-5**). There are various existing roadways (e.g. 255th Street East) which are too short currently to be collector roadways, but as these roadways are extended to meet development needs, the City intends to classify them as collectors. When coordinating with developers on roadway design standards, access standards, and similar design parameters, it is the future functional classification of the given roadway as identified on **Figure T-5** that will apply.

Number of Travel Lanes

All roadways in Elko New Market are two lane except for the following:

- CSAH 2 (A minor arterial) – four-lane divided from CSAH 91 to west of I-35
- France Avenue (collector) – four-lane undivided between CSAH 2 and the main access to Elko Speedway approximately 2,000 feet to the south

Please see **Figure T-4**.

TRANSPORTATION QUESTIONS FROM RESIDENTS

The most frequently-asked transportation-related questions or requests from local stakeholders involve the speed of traffic through town, as well as roadway signage and pavement markings. Information is provided under the following headings to address these factors.

Speed Limits in Town

Residents sometimes ask for speed limits to be reduced to slow down traffic. [Minn. Statute 169.14](#) establishes statutory speed limits on most roadways. This is true regardless of what agency has jurisdiction over the roadway (i.e. city, county, state). Any speed zones that can be set by the City under the statute are established at the time a street is opened.

More information can be found by visiting the Minnesota Department of Transportation’s speed limits page, <http://www.dot.state.mn.us/speed/>

Stop Signs

Stop signs sometimes are requested in response to a specific incident or condition involving vehicles and/or pedestrians. Or, in some instances they are requested as part of a broader desire to reduce travel speeds through town.

The use of stop signs is guided by MnDOT’s *Manual of Uniform Traffic Control Devices* (MUTCD). The MUTCD defines a list of conditions under which the installation of stop should be considered pending traffic engineering analysis which supports such an action. In the absence of these conditions, stop signs are not recommended. The MUTCD identifies that research suggests that at most low traffic volume locations, increasing the level of intersection control (e.g. through stop signs) will not improve safety (Section 2B.6). It also specifically recommends that stop signs should not be used for speed control.

A general “rule-of-thumb” of traffic engineering is that if control measures such as stop signs are overused, they tend to be disregarded by motorists, and safety or other potential problem conditions can be made worse. The installation of any stop signs on CSAH 2, CSAH 91, or CSAH 27 would be under the authority of Scott County. On City roadways, the City Engineering

department needs to consider any request for stop signs within the context of MUTCD guidance as well as traffic engineering analysis which meets industry standards. This analysis would consider factors such as traffic/pedestrian volumes, crash history, vehicle turning movements, adjacent land uses, and intersection geometry and sight distances.

Pedestrian Crosswalks

Pavement markings such as crosswalks are also often requested by residents with the intention of making it safer to cross a street in a specific location. The nationwide incidence rate of crashes involving pedestrians is extremely low; however, the fears, often expressed by parents, are genuine. The City should respond to these requests with the intention of improving safety rather than assuaging fears. This can be challenging in the face of emotional pleas to take action; however making unwarranted improvements may actually decrease safety – ***no sign or pavement marking, no matter how noticeable, can actually make a motorist stop.*** Measures that reduce pedestrian vigilance can therefore be detrimental to the intended purpose.

Crosswalks are covered in the MUTCD referenced above. However, its guidance for crosswalks is relatively generalized and leaves significant discretion to traffic engineering analysis and judgement. There has been extensive research into the question of whether crosswalks improve pedestrian safety conditions. The results for unsignalized intersections indicate that crosswalks on higher speed arterial roadways actually increase the frequency of pedestrian crashes. Even for lower speed and volume roadways, the research results are inconclusive as to whether crosswalks enhance pedestrian safety conditions.¹

One strategy that can be effective in improving pedestrian safety and feelings of security is to pay attention to how development may influence the need or desire for pedestrians to cross in a particular location. The location of walks, streets and intersections relative to neighborhoods and park, institutional, or retail uses can often be managed to promote crossings of streets away from busy, higher speed zones, or areas with less sight distance between cars and pedestrians. Mid-block crossings should be avoided, and promoting crossing of the less-busy legs of intersections (providing pedestrian guidance is the actual purpose of crosswalk markings) should be favored if a street crossing is necessary.

The implementation of any new crosswalks on CSAH 2, CSAH 91, or CSAH 27 would be under the authority of Scott County. Regarding requests for new crosswalks on City streets, they should be referred to the City Engineering Department for review using MUTCD guidance and analysis by a licensed traffic engineer.

¹ *Traffic Safety Fundamentals Handbook* (Section C-39), MnDOT, 2015.

SUMMARY OF RELEVANT TRANSPORTATION STUDIES

A summary of transportation studies most relevant to roadways in the Elko New Market area is provided below.

Highway 2 and 91 Gateway and Access Study/Grant Award

The City of Elko New Market commissioned a study focusing on the CSAH 2/CSAH 91 intersection. The study, completed by Bolton & Menk in May of 2013, evaluated benefits and costs associated with constructing a roundabout at this location.

The key findings of the study were as follows:

- A roundabout would have gateway and place-making benefits at this location for those traveling westbound into the downtown (old New Market) area on CSAH 2.
- A roundabout would have operational and safety benefits based on intersection functional area analysis and other well-documented roundabout safety factors.
- A roundabout would be preferable to a conventional signal-controlled intersection in terms of providing access to adjacent land uses and allowing those areas to develop to their highest and best potential.

Following on the results of the study summarized above, the City, with the assistance and support of Scott County, applied for funding under MnDOT's Highway Safety Improvement Program (2016 solicitation) to construct a roundabout at the CSAH 2/CSAH 91 intersection. This funding was awarded, and the City plans to construct the project in 2020.

Elko New Market Alternative Urban Areawide Review (AUAR)

Ryan Companies initiated discussions with the City of Elko New Market regarding a development project called Park I35. This includes a 125 acre parcel of land envisioned for industrial park/distribution center development in the southeast quadrant of the I-35/CSAH 2 interchange. To clear the area for development in terms of environmental review, the City conducted an Alternative Urban Areawide Review (AUAR) consistent with Minnesota Environmental Policy Act requirements. The AUAR process was initiated in 2014 and concluded in 2015. It covered not only the 125 acre Ryan parcel, but an additional 140 acres of adjacent land with potential for similar development.

One of the key issues addressed in the AUAR was traffic, and the proposed development's anticipated impacts on surrounding roadways. The traffic analysis included extensive coordination with Scott County and MnDOT. It concluded that interim-level improvements generally including traffic signals and turn lanes at I-35 ramp intersections with CSAH 2 would adequately accommodate traffic growth in the near term associated with development at the AUAR site up to 1.5 million square feet of light industrial development (or traffic equivalent). The City committed to limiting development at the site to this level until CSAH 2 could be

expanded with replacement of the bridge at I-35. The AUAR analysis identified the ultimate need for CSAH 2 widening at I-35 even without the development; however, the AUAR development would significantly accelerate the need.

I-35/CSAH 2 Interchange Environmental Assessment Worksheet (EAW)

In 2016, an EAW covering the proposed future expansion of the I-35/CSAH 2 interchange was completed, with Scott County as the Responsible Government Unit (RGU). The interchange currently carries one lane of CSAH 2 traffic in each direction over I-35 with narrow shoulders and no non-motorized accommodations. The eastbound to northbound movement from CSAH 2 to I-35 is currently near capacity, and interchange operations are anticipated to fail by 2040 without major improvements.

The purpose of the interchange review was to:

- Identify the appropriate interchange design
- Provide information to guide local land use planning and preserve the necessary rights of way for the interchange footprint

The study process supporting the EAW analyzed the following interchange designs:

- Traditional diamond interchange
- Diverging diamond interchange
- Partial cloverleaf interchange
- Single point urban interchange

A diverging diamond interchange was selected to be evaluated in the EAW. This selection was based on evaluation of the following primary factors:

- Operational/safety benefits
- Cost
- Right-of-way and environmental impacts

From approximately Newton Circle to the west side of the I-35 interchange, CSAH 2 currently has two westbound lanes and one eastbound lane. East of the interchange, CSAH 2 currently has one lane in each direction. With the proposed interchange design as reviewed in the EAW, There would be three westbound lanes and two eastbound lanes west of I-35, and two lanes in each direction east of I-35 extending to approximately ¼ mile east of Dupont Avenue. A sidewalk would be provided on both sides of CSAH 2 through the interchange. It may be noted that since the completion of this EAW, Scott County has determined that a three-lane (one travel lane in each direction plus a center left turn lane) roadway east of the interchange would be appropriate rather than a four-lane roadway.

The interchange project is currently not programmed. However, Scott County plans to advance this project when funding becomes available.

CSAH 2 Development Infrastructure Needs Study

The City of Elko New Market commissioned this study to review roadway and other infrastructure needs to support future development on either side of CSAH 2 between CSAH 91 and I-35, a distance of approximately two miles. The purpose of the study was to perform technical analyses and solicit stakeholder input to help define the City's future infrastructure plans along this stretch of CSAH 2. This will inform the City's funding plans and facilitate discussions with developers. The focus of this summary is on the roadway elements of the study, which also covered utilities.

To comply with Scott County access management guidelines, development along CSAH 2 in the study area will rely on a new collector roadway system parallel to CSAH 2 which will provide frontage/backage access. The study addressed two challenges:

- Under current City access management guidelines, private access is not allowed on major collector streets, and must have a minimum 1/8 mile (660 feet) setback from a collector or higher roadway on minor collectors.
- The current design guidelines for collector roadways as defined in the 2030 Elko New Market Transportation Plan call for relatively high-cost roadways relative to initial demand when development commences.

To address these factors, the study created a new collector classification, "commercial collector." These roadways would be designed to provide more of a mobility/connectivity function than local streets, but would allow flexibility regarding access and design characteristics. The study identified that design standards will be established for commercial collectors which include:

- Narrower widths (relative to current City collector standards) achieved by restricting parking
- Commercial access allowed as guided; access sharing promoted
- Use of turn lanes as volumes dictate, meaning associated rights-of-way must be preserved
- Heavier-duty pavement sections to facilitate truck traffic to support commercial deliveries and services
- Use of a continuous two-way center left turn lane in some cases where projected volumes dictate or the opposite half of the roadway from planned development isn't ready to make improvements. The section would provide an interim, fire-code compliant 20-foot roadway.

The location and access provisions of the envisioned commercial collectors considered as part of this study are identified on **Figure T-6**.

ROADWAY SYSTEM PLAN

Future Roadways and Functional Classification

With anticipated development in the Elko New Market area, the roadway network will need to be expanded accordingly. The City has identified an extended network of collector roadways to support future development and limit the volume of local trips on arterials (most notably CSAH 2) as depicted on **Figure T-5**. This map also depicts the future Metropolitan Council functional classification. It may be noted that not all of the future roadways identified will be constructed by 2040; rather, collectors should be constructed as actual development occurs. However it is necessary to have a long-term vision in place as the system is built incrementally.

Figure T-6 depicts Elko New Market commercial collectors. This designation is not part of the Metropolitan Council classification system, and therefore is not depicted on **Figure T-5**. However, the City has jurisdiction over its roadways regarding design and access standards. The concept of commercial collectors came out of the CSAH 2 Infrastructure Development Needs study summarized earlier in this Transportation Chapter.

Assumed 2040 Roadway Network for Traffic Forecasts

The roadway network assumed for the 2040 forecast analysis includes the existing network, plus anticipated funding-constrained improvement projects. Neither the City of Elko New Market nor Scott County have any programmed new roadway or capacity expansion improvement projects within current city limits or the urban growth area as defined by the MUSA line.

Scott County entered into an agreement with its cities and townships, including Elko New Market, to perform traffic forecasting using the Metropolitan Council regional forecast model for the local agencies to use in their 2040 transportation plans. Following Metropolitan Council guidelines, Scott County assumed one funding-constrained improvement within the City by 2040 – construction of a minor collector CSAH 2 service road on the south side of the highway between France Avenue and approximately Newton Circle. While this improvement is not programmed, the City considers it likely by 2040 and it met County requirements for being included in the 2040 model. In the City’s functional classification system, this is a commercial collector roadway.

It may be noted that other improvement projects have been studied and/or discussed and may be constructed prior to 2040. This includes:

- I-35/CSAH 2 interchange reconstruction project discussed previously. It is anticipated that this project will add one travel lane in each direction on CSAH 2 between approximately Newton Circle and the interchange on the west side. East of the interchange, the County is planning for a three-lane roadway from the interchange to approximately a quarter mile east of Dupont Avenue.

- Continued buildout of the commercial collector network identified on **Figure T-6**
- Other future City collector roadways depicted on **Figure T-5**.

Construction of these and other potential projects would be dictated by development demand and/or funding availability. Construction of these projects would not be anticipated to affect the 2040 volumes on the regional minor arterial network. In addition, using applicable design standards per information elsewhere in this Transportation Plan, they would be able to handle the likely 2040 volumes.

Transportation Analysis Zone Information and 2040 Forecast Results

Traffic forecasts are based on the use of Transportation Analysis Zones (TAZs). Each TAZ has demographic and employment information that translates to vehicular trip origins and destinations. Computer models assign the resulting trips to specific routes (roadways).

With review and concurrence from the local communities, Scott County’s traffic forecasting consultant subdivided the Metropolitan Council’s regional TAZ’s into smaller units to provide more accurate local forecasting. A map of the resulting Elko New Market TAZs is provided on **Figure T-7**. The anticipated future land use patterns discussed in the Land Use chapter of this Comprehensive Plan were assumed for the 2040 TAZ allocations identified in **Table T-1**, below.

Table T-1. Elko New Market TAZ Projections

TAZ	2020			2030			2040		
	HH	Pop	Jobs	HH	Pop	Jobs	HH	Pop	Jobs
2258	500	1,525	408	758	2,150	445	1,100	2,975	485
2259	400	1,220	163	606	1,720	178	880	2,380	194
2260	400	1,220	82	606	1,720	89	880	2,380	97
2261	400	1,220	163	606	1,720	178	880	2,380	194
2262	300	915	407	454	1,290	445	660	1,785	485
2263	0	0	407	0	0	445	0	0	485
TOTAL	2,000	6,100	1,630	3,030	8,600	1,780	4,400	11,900	1,940

The information presented in this table is not directly consistent with what was used in the modeling process. However, these differences should not have a big enough affect to notably affect regional traffic forecasts or the recommendations made in this Transportation Plan.

2040 Traffic Forecasts and Future Roadway Capacity Evaluation

The modeling work done by Scott County, as referenced previously, generated 2040 projections for arterial and important collector roadways. These results are presented as average daily traffic (ADT) on **Figure T-8**. **Forecasts from County not yet available**

Table T-2 provides a method to evaluate roadway capacity for mid- to long-range planning purposes. Typical planning-level roadway capacities are presented for different roadway types. These capacities are presented in terms of ADT, and may be compared against the projected 2040 volumes summarized on **Figure T-8**. To be consistent with Scott County transportation planning, **Table T-2** presents Scott County capacity estimates. These estimates were based on methods and guidance from Transportation Research Board’s *Highway Capacity Manual*.

Table T-2. Roadway Planning-Level Capacities

Roadway Type	Daily Capacities
Gravel Roadway	Up to 500
Minor Collector Street	Up to 1,000
Urban 2-Lane	7,500 – 12,000
Urban 3-Lane or 2-Lane Divided	12,000 – 18,000
Urban 4-Lane Undivided	Up to 20,000
Urban 4-Lane Divided	28,000 to 40,000
4-Lane Freeway	Up to 70,000

Based on the projected 2040 volumes for arterial and key collector roadways relative to the identified capacity estimates, it does not appear that roadway expansions will be required by 2040. While there are not forecasts for all future collector roadways, these roads will be able to handle future volumes as long as they are built according to City standards as summarized in this Transportation Plan.

Please note that this capacity review is for overall roadway segments and does not cover any detailed intersection analyses which may be required over the planning horizon.

Design Speed

The design speed of a roadway is directly related to the roadway’s function in the roadway system. The focus of Minor Arterial roadways is mobility; therefore these roadways should be designed to accommodate higher travel speeds. Likewise, Minor Collector roadways are more focused on accessibility and should be designed to accommodate lower travel speeds. The function of Major Collectors is balanced between mobility and accessibility; therefore these roadways should be designed accordingly. Table T2(a) below presents the recommended design speed for the Elko New Market roadway network:

Table T2(a) – Roadway Design Speed Guidelines

Functional Classification	Design Speed ⁽¹⁾
Minor Collector Street	30 mph
Major Collector Roadway	35 – 40 mph
Minor Arterial Roadway	45 – 55 mph

⁽¹⁾ At the discretion of the City Engineer for City roadways, with approval by the City Council

Recommended Roadway System Improvements and Studies

No major studies concerning local roadways are identified at this point. Improvements will likely be incremental with development, and smaller-scale studies may be required for these segments and connections.

The improvements to the CSAH 2 interchange as described previously (interim and full interchange replacement) are a high priority for the City. The City will continue to actively promote efforts to advance these improvements. The City will also support future efforts to study and advance an I-35 interchange at CSAH 86.

“Mini Roundabouts” are roundabouts having much smaller inscribed diameters than conventional roundabouts, which generally allows them to fit within a standard intersection layout. The idea behind this type of installation is that they are relatively inexpensive and provide the safety benefits of typical roundabouts (on lower volume roadways), yet also provide more operational capacity than a four-way stop sign intersection. They can have significant pedestrian safety benefits by reducing travel speeds through the intersection and by providing a pedestrian refuge on splitter islands if they are designed in this manner. The City will evaluate

mini roundabouts where appropriate as retrofits of existing intersections and/or as the future collector network is built out.

Future Jurisdictional Classification

The City does not foresee that any transfers of roadway jurisdiction will be required over the 2040 planning horizon, other than transfers from township to city with potential annexations.

Access Management

The purpose of access management is to provide adequate access to adjacent land development while also maintaining traffic flow on higher level roadways. Management consists of carefully controlling the spacing and design of public street intersections, as well as the location of private access points (driveways) on the public roadway system based on the roadway functional classification system discussed previously. Arterials, being designed for higher speed, longer-distance trips, generally have restricted access. Conversely, local streets serve low speed, short distance trips and therefore can accommodate much greater access than arterials. Collector roadways fall in between arterials and local streets regarding the amount of access that is permitted.

The government agency that has jurisdiction over a given roadway defines the applicable access management guidelines for that roadway. Since there are no trunk highways in the Elko New Market area, MnDOT access management guidelines do not directly apply. However, Scott County guidelines apply for County roads in the Elko New Market area. Most notably, this includes CSAH 2 and CSAH 91, but also includes CSAH 27 and CSAH 86. Scott County access management guidelines are presented in **Appendix T-1**.

The City of Elko New Market determines guidelines for appropriate access spacing and design for City streets. These guidelines are presented on **Table T-3** and **T-4**, respectively. **Table T-3** addresses City dimension and access guidelines for private access points (driveways), and **Table T-4** provides information on City spacing/access guidelines for roadways.

Table 3. City Driveway Dimension and Access Guidelines ⁽¹⁾

Driveway Dimensions/Access Permitted	Driveway Type	
	Residential ⁽²⁾	Commercial or Industrial ⁽²⁾
Driveway Width	11' – 22' (16' Desired)	16' – 32' (32' desired)
Minimum Distance between Driveways	20'	20'
Minimum Corner Clearance from an intersecting Collector Roadway	60'	80' ⁽³⁾
Direct Access to a Major Collector	Not Permitted ⁽⁴⁾	Not Permitted ⁽⁴⁾
Direct Access to a Minor Collector	Discouraged ⁽⁵⁾	Discouraged ⁽⁵⁾
Direct Access to a Commercial Collector	Permitted with Review ⁽⁶⁾	Permitted with Review ⁽⁶⁾

⁽¹⁾Spacing distances measured from curb to curb.

⁽²⁾Unless shared/common driveway.

⁽³⁾At the discretion of the City Engineer, 80' minimum.

⁽⁴⁾Access to major collectors is limited to public streets only. Steps must be taken to redirect private access to other local streets. New private access to major collectors is not permitted unless deemed necessary by the Elko New Market City Council.

⁽⁵⁾Whenever possible, residential access must be directed to local streets rather than minor collector roadways.

⁽⁶⁾An important function of commercial collectors is to provide controlled access for commercial land uses. Commercial driveways connecting to these roadways must be set back 660' feet from intersecting roadways to allow for turn lanes, vehicle queues, and driver decision-reaction requirements. Commercial properties are encouraged to use common accesses with adjacent properties. Cross traffic between adjacent compatible properties must be accommodated when feasible.

Table 4. City Roadway Spacing Guidelines ⁽¹⁾

Type of Collector Roadway being Accessed	Minimum Spacing from an adjacent Collector/Arterial Roadway	
	Residential ⁽²⁾	Commercial or Industrial ⁽²⁾
Major Collector	660'	660'
Minor Collector	300'	660'
Commercial Collector	N/A	660'

⁽¹⁾Spacing distances measured from centerline to centerline. These guidelines apply to City streets only. Scott County and MnDOT have access authority for roadways under their jurisdiction. Please refer to Scott County's minimum access spacing guidelines in the Transportation element of their current Comprehensive Plan.

⁽²⁾ Based on predominant adjacent land use.

As identified previously, it is the future functional classification map (**Figure T-5**) that applies when coordinating with developers and others regarding access spacing and setbacks. City commercial collectors are identified on **Figure T-6**.

Geometric Design Standards and Right-of-Way Preservation

A system of design guidelines is an effective tool to help provide safe, efficient, and consistent roadway networks within communities. Some situations may require additional analysis due to



unusual or unforeseen conditions, but established baseline standards will minimize design uncertainty in many circumstances. These guidelines also help define right-of-way (ROW) needs for different categories of roadways.

As depicted on **Figure T-9** (sheets 1 and 2), typical sections have been defined for the following categories of City streets:

- Local residential
- Minor collector
- Commercial collector
- Major collector

Figure T-9 shows recommended roadway dimensions, recommended adjacent non-motorized facilities, and overall ROW needs. It may be noted that the collector level roadways have Baseline Design information, as well as Extended/Future Design information. This is based on the fact that new collector level roadways are often initially constructed when the adjacent development is limited and corresponding traffic needs are not extensive. However, as adjacent development advances and increased traffic needs are realized, then the demand on collector roadways increases. Often it does not make sense from an economic and assessment perspective to construct the full design for a collector roadway when the full traffic demand on it will not be realized ten or 15 years or more into the future. However, it is very important that the ROW is preserved for the ultimate design so future costly and socially disruptive property acquisitions do not need to take place. In addition, the initial design should be consistent with the intended ultimate design in terms of alignment, intersection spacing, and other factors.

TRANSIT

The Metropolitan Council has established a series of Transit Market Areas throughout the metropolitan area as a guide for the provision of appropriate transit service. Transit Market Areas are defined by the demographic and urban design factors that are associated with successful transit service. There are five Transit Market Areas with Transit Area I having the most potential for successful transit (high population density, high job density, dense network of local routes, high percentage of transit-dependent residents, and other factors), and Transit Area V having the least potential for successful transit service.

The Metropolitan Council has categorized Elko New Market as being Transit Market Area V. The Metropolitan Councils System Statement for Elko New Market describes Market Area V as follows:

Transit Market Area V has very low population and employment densities and tends to be primarily Rural communities and Agricultural uses. General public dial-a-ride service may be appropriate here, but due to the very low-intensity of land uses, these areas are not well-suited for fixed-route transit service.

There currently is no scheduled transit service in Elko New Market. The closest scheduled service is commuter service provided by Metro Transit to downtown Minneapolis via the Lakeville Kenrick Avenue Park & Ride facility. This facility is approximately nine miles north of the I-35/CSAH 2 interchange. There is no transitway as defined in the Metropolitan Council's 2040 Transportation Policy Plan in or near Elko New Market. The closest identified transitway is the proposed Metro Orange Line (I-35W Bus Rapid Transit). The southernmost Orange Line station is identified in Burnsville, approximately 14 miles north of the I-35/CSAH 2 interchange.

Elko New Market is not in the metro area transit taxing district. It is not anticipated that there will be sufficient demand for commuter transit in Elko New Market to justify extending scheduled transit service along I-35 to Elko New Market through the 2040 planning horizon. However, it is recommended that the City consider a park-and-ride location close to the I-35/CSAH 2 interchange to help foster new van/car pools. This could provide the basis for a transit facility providing commuter service to the core metro area pending future development and associated transit demand within the City.

Dial-a-ride service in Elko New Market is provided by SmartLink, which is under contract with Scott and Carver Counties. Buses operate Monday through Friday from 6 a.m. through 7 p.m. Rides can be provided to/from any location in the seven county Metro area; in some cases a transfer to another transportation provider may be required. Rides are booked in advance through SmartLink customer service agents.

BIKING AND WALKING

Existing and Planned Facilities

Existing and planned facilities are discussed and mapped in the Parks and Recreation Chapter of this Comprehensive Plan. Please refer to **Figure X** in that Chapter. The facilities discussed therein are primarily those not tied to a roadway corridor. The Elko New Market City code provides for construction of pedestrian and biking facilities along roadway corridors with new developments. In general, shared use paths are required when development occurs next to a collector or arterial roadway. Sidewalks are required at a minimum on one side of local and minor collector streets.

Regional Bicycle Transportation Network (RBTN)

There are no RBTN alignments or corridors as designated by the Metropolitan Council in or near the City of Elko New Market. The closest RBTN location is a Tier II alignment approximately five miles to the northeast, on the other side of I-35.

Removal of Non-Motorized Barriers

The largest barriers to non-motorized movements in Elko New Market are CSAH 2 and CSAH 91 (in particular south of CSAH 2). CSAH 2 is an important east-west regional highway with a connection to I-35 approximately two miles east of its intersection with CSAH 91. It currently has an average daily traffic (ADT) count of 6,400 through the old downtown New Market area, and 9,200 east of CSAH 91. East of CSAH 91, it is a four-lane divided facility. CSAH 91 is a north-south arterial roadway with a current ADT of 1,050 north of CSAH 2 and 4,050 south of CSAH 2. CSAH 2 at CSAH 91 is the most prominent intersection within the City. These volumes are expected to increase during the 2040 planning cycle, increasing the impact on non-motorized movements.

While volumes can mean fewer gaps for pedestrians to cross during, and sometimes longer wait times, the real peril of these roadways to pedestrians and bicyclists is speed. Higher speed roadways tend to be wider and are more difficult to judge available crossing time. Motorists on these roadways are less inclined to stop for pedestrians, perhaps because speed on the road is otherwise unfettered and/or pedestrian crossings are rare. It takes longer for an emergency stop on these roads if a pedestrian makes an unexpected entry to the roadway. Perils are even greater where the roadway has four lanes – one approaching car may stop, encouraging a pedestrian to proceed, while the car following in the adjacent lane may not stop for the pedestrian.

One project that should help reduce the non-motorized barrier aspect for both the highways identified above is a roundabout that planned for construction in 2020 using Highway Safety Improvement Program (SHIP) funding that the City was awarded in 2017. Relative to the current thru-stop traffic control conditions (stop signs on the CSAH 91 legs only), the roundabout will improve pedestrian safety conditions by substantially slowing vehicular speeds on CSAH 2 through the intersection. Also, pedestrians wishing to cross from the one side of CSAH 2 to the other at this location must cross six lanes (two turn lanes and four thru lanes) with no pedestrian safety features under current conditions. With the proposed roundabout, a walkway on the west side of the roundabout will be clearly defined with pavement striping and a paved walkway on the westerly splitter island. Pedestrians will have fewer lanes (no turn lanes) and shorter distances to cross than under current conditions.

As the City develops its collector roadway network in the years to come, it plans to evaluate mini-roundabouts at all potentially viable locations. This type of design has vehicular safety benefits and, relative to uncontrolled or thru-stop control only conditions, pedestrian safety benefits as well. This primarily because of reduced travel speeds through the intersection as well as breaking each pedestrian crossing into two separate crossing with the splitter island as a refuge.

The City will continue to work with Scott County to evaluate pedestrian safety features along CSAH 2 and CSAH 91, respectively. This will be particularly important as development advances and pedestrian barrier and safety considerations become more pronounced.

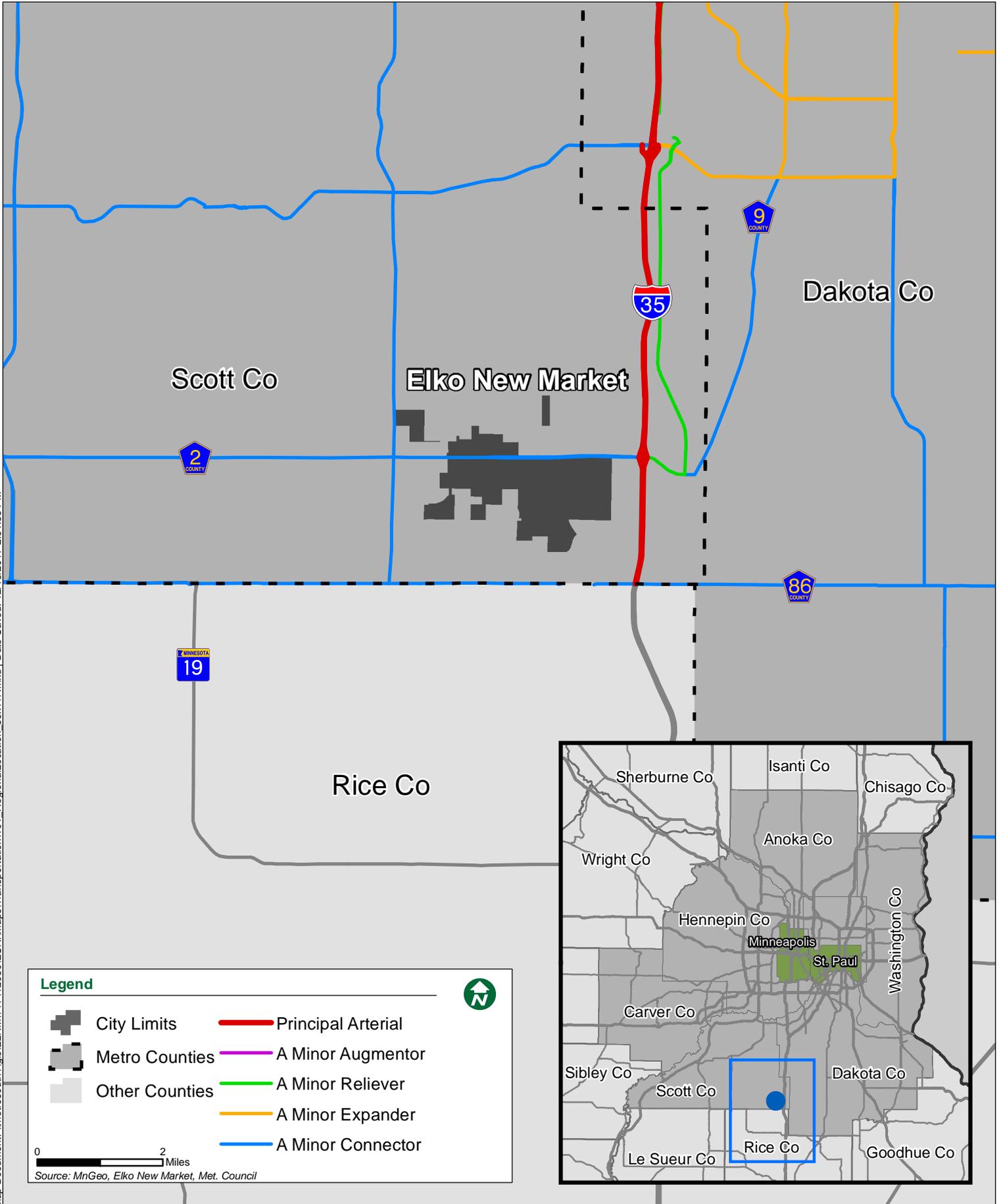
AVIATION

The closest metro airport to Elko New Market is the Lakeville Airlake Airport, located approximately five miles to the northeast. The City is not impacted by an airport. There are no radio beacons or other air navigation aids sited in off-airport locations in or near Elko New Market.

There are no structures within Elko New Market that exceed 500 feet in height. Any applicant who proposes to construct a structure 200 feet above the ground that could affect navigable airspace level must get appropriate approvals. The Federal Aviation Administration and the Minnesota Department of Transportation must be notified at least 30 days in advance in advance of construction, as required by law per MCAR 8800.1200, Subpart 3 and FAA Form 7460-8. It is unlikely such a structure would be proposed in Elko New Market.

FREIGHT

There are no railways, barge facilities or freight terminals within or near Elko New Market. There are no industrial parks or large commercial centers at this time that would generate significant freight movement. As discussed previously, the City of Elko New Market conducted an Alternative Urban Areawide Review (AUAR) covering a 265 acre area of proposed industrial park/distribution center land use in the southeast quadrant of the I-35/CSAH 2 interchange. One of the primary issues covered was transportation. This development could significantly increase freight movement on City, County, and State roadways. The AUAR process included extensive coordination between the City, Scott County, and MnDOT, and agreement was reached regarding transportation improvements and land use controls that will be required once the area begins to develop.



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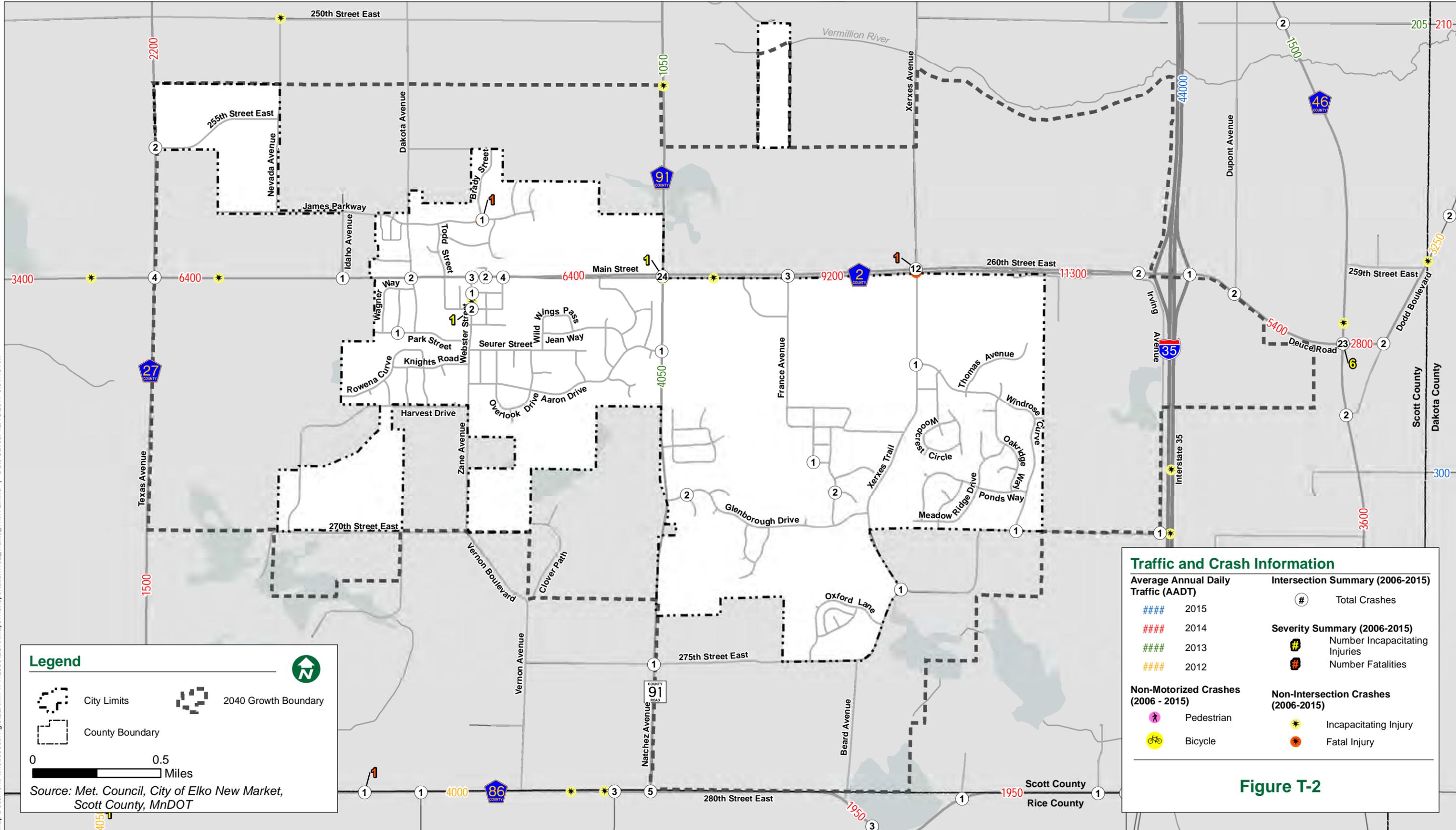
Legend

-  City Limits
-  Metro Counties
-  Other Counties
-  Principal Arterial
-  A Minor Augmentor
-  A Minor Reliever
-  A Minor Expander
-  A Minor Connector



0 2 Miles

Source: MnGeo, Elko New Market, Met. Council



Traffic and Crash Information

Average Annual Daily Traffic (AADT)	Intersection Summary (2006-2015)
#### 2015	# Total Crashes
#### 2014	Severity Summary (2006-2015)
#### 2013	# Number Incapacitating Injuries
#### 2012	# Number Fatalities
Non-Motorized Crashes (2006 - 2015)	Non-Intersection Crashes (2006-2015)
🚶 Pedestrian	🌟 Incapacitating Injury
🚲 Bicycle	🔴 Fatal Injury

Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

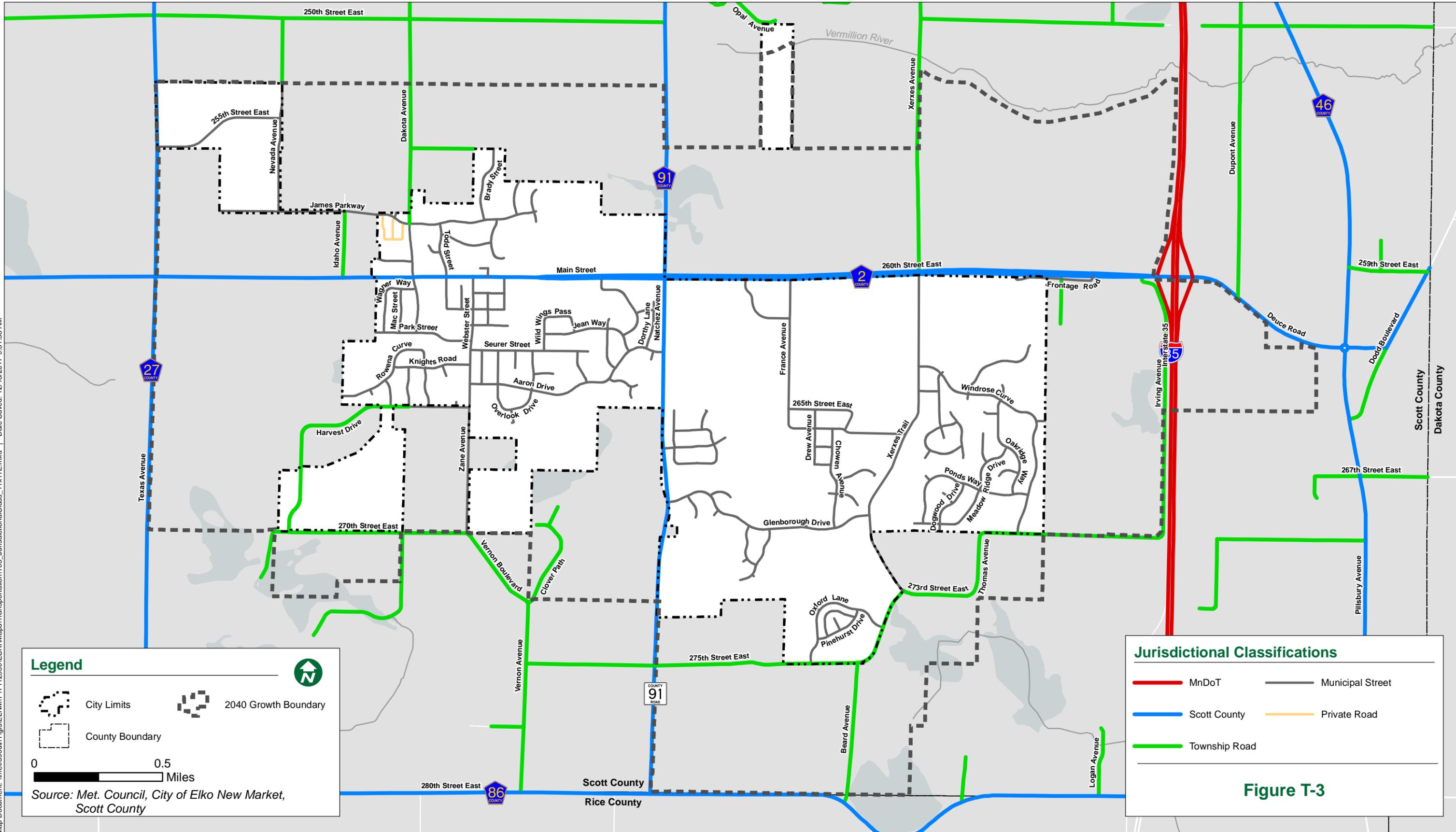
0 0.5 Miles

Source: Met. Council, City of Elko New Market, Scott County, MnDOT

Figure T-2

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Legend

- City Limits
- 2040 Growth Boundary
- County Boundary
-

0 0.5 Miles

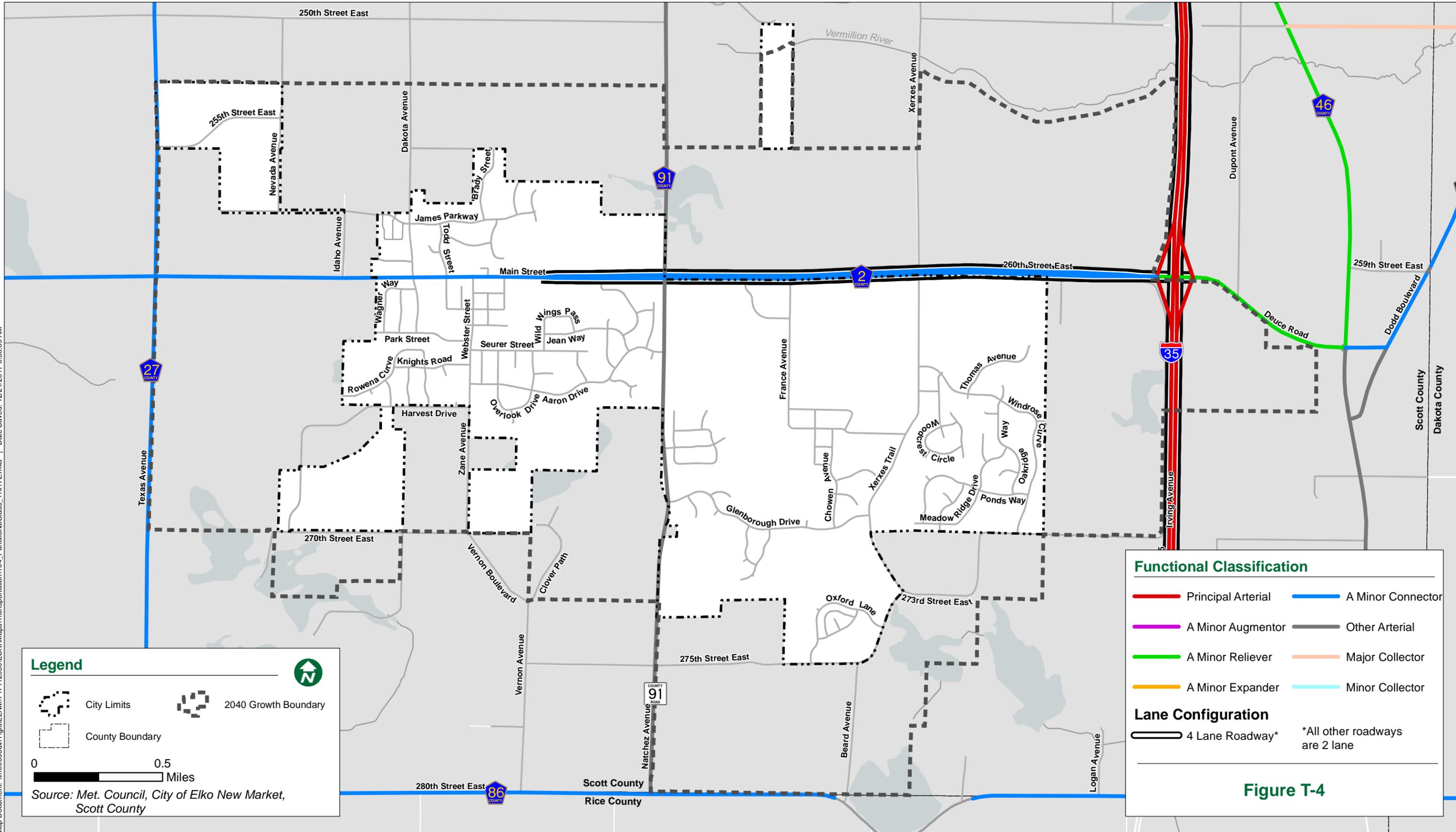
Source: Met. Council, City of Elko New Market, Scott County

Jurisdictional Classifications

- MnDoT
- Scott County
- Township Road
- Municipal Street
- Private Road

Figure T-3

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Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

0 0.5 Miles

Source: Met. Council, City of Elko New Market, Scott County

Functional Classification

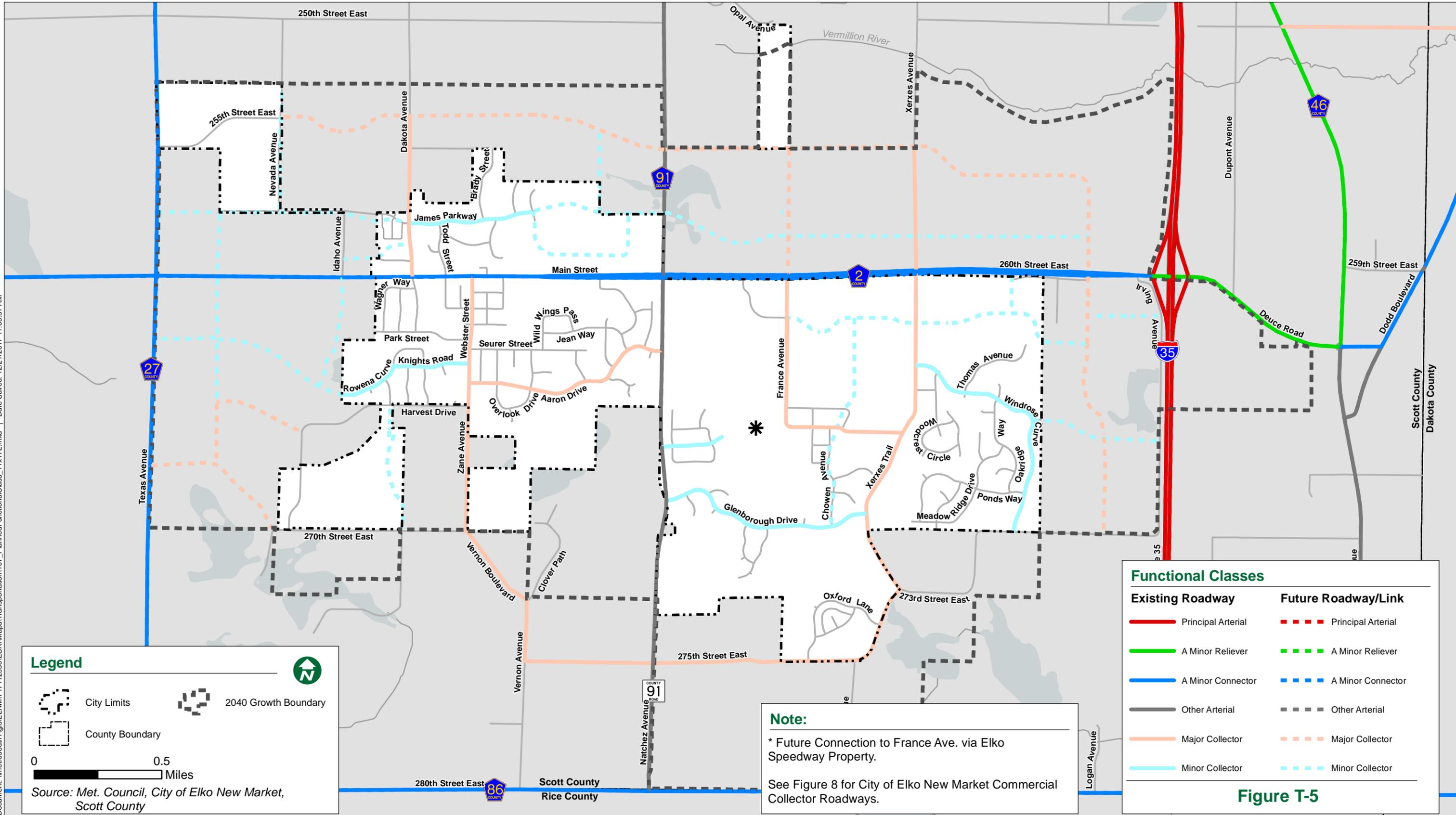
- Principal Arterial
- A Minor Connector
- A Minor Augmentor
- Other Arterial
- A Minor Reliever
- Major Collector
- A Minor Expander
- Minor Collector

Lane Configuration

- 4 Lane Roadway*

*All other roadways are 2 lane

Figure T-4



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Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

0 0.5 Miles

Source: Met. Council, City of Elko New Market, Scott County

Note:

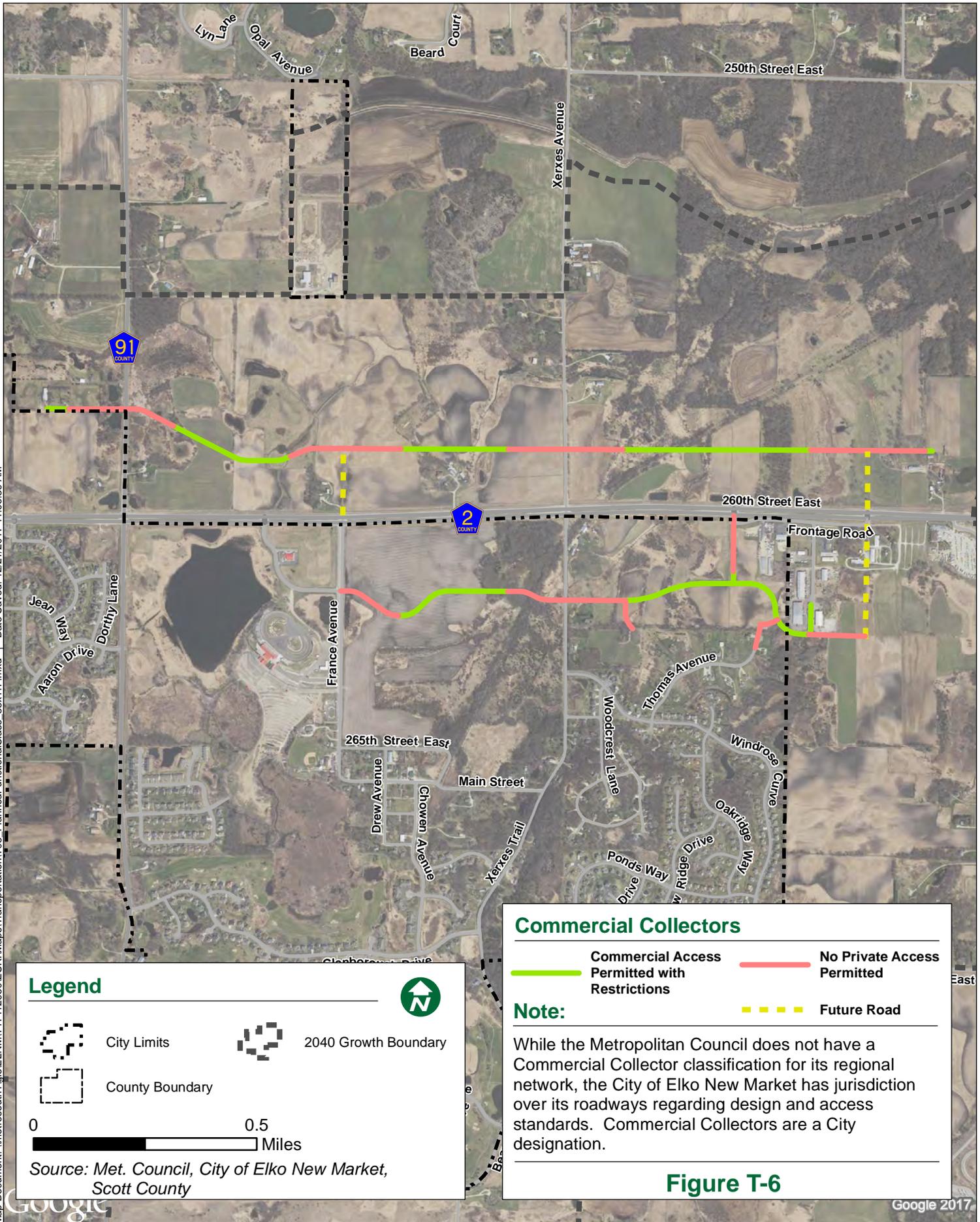
* Future Connection to France Ave. via Elko Speedway Property.

See Figure 8 for City of Elko New Market Commercial Collector Roadways.

Functional Classes

Existing Roadway	Future Roadway/Link
Principal Arterial	Principal Arterial
A Minor Reliever	A Minor Reliever
A Minor Connector	A Minor Connector
Other Arterial	Other Arterial
Major Collector	Major Collector
Minor Collector	Minor Collector

Figure T-5



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Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

0 0.5 Miles

Source: Met. Council, City of Elko New Market, Scott County

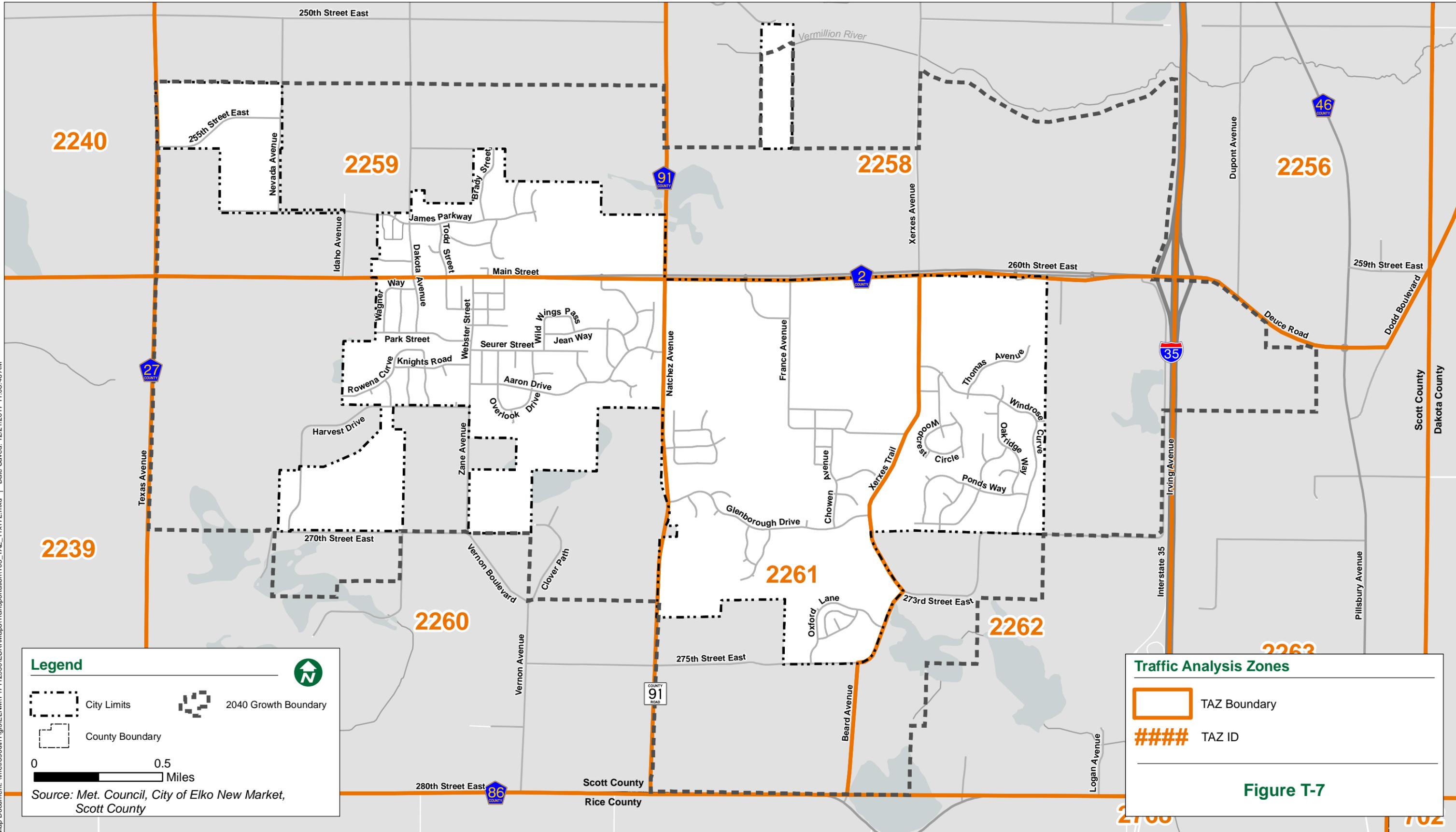
Commercial Collectors

- Commercial Access Permitted with Restrictions
- No Private Access Permitted
- Future Road

Note:

While the Metropolitan Council does not have a Commercial Collector classification for its regional network, the City of Elko New Market has jurisdiction over its roadways regarding design and access standards. Commercial Collectors are a City designation.

Figure T-6



Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

0 0.5 Miles

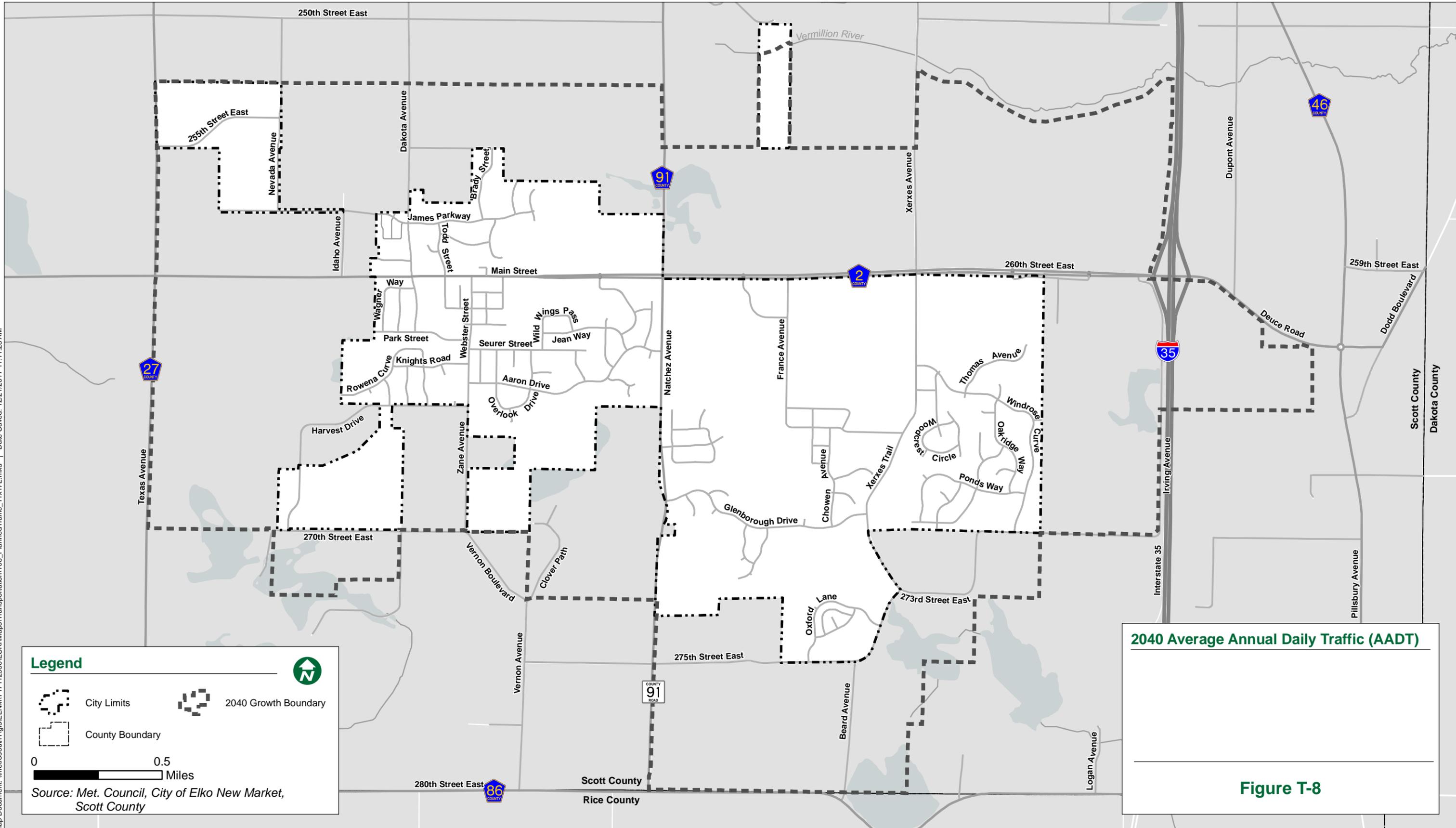
Source: Met. Council, City of Elko New Market, Scott County

Traffic Analysis Zones

- TAZ Boundary
- TAZ ID

Figure T-7

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Legend

- City Limits
- 2040 Growth Boundary
- County Boundary

0 0.5 Miles

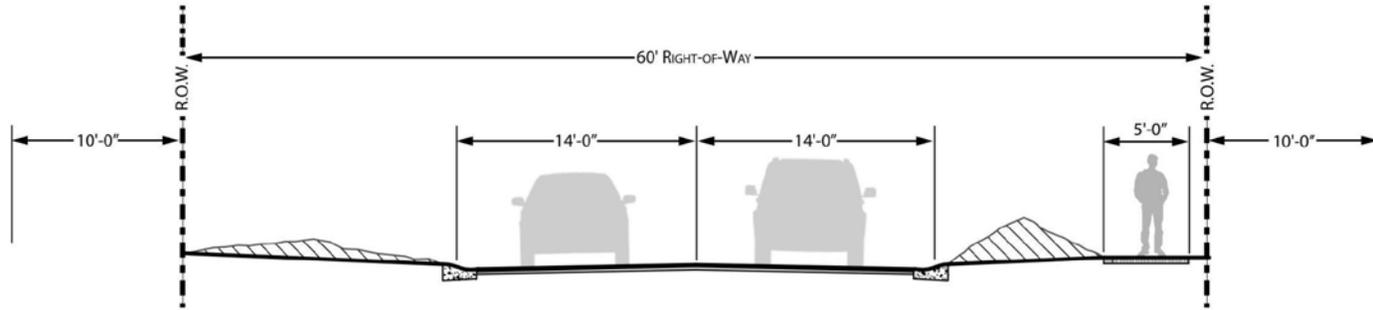
Source: Met. Council, City of Elko New Market, Scott County

2040 Average Annual Daily Traffic (AADT)

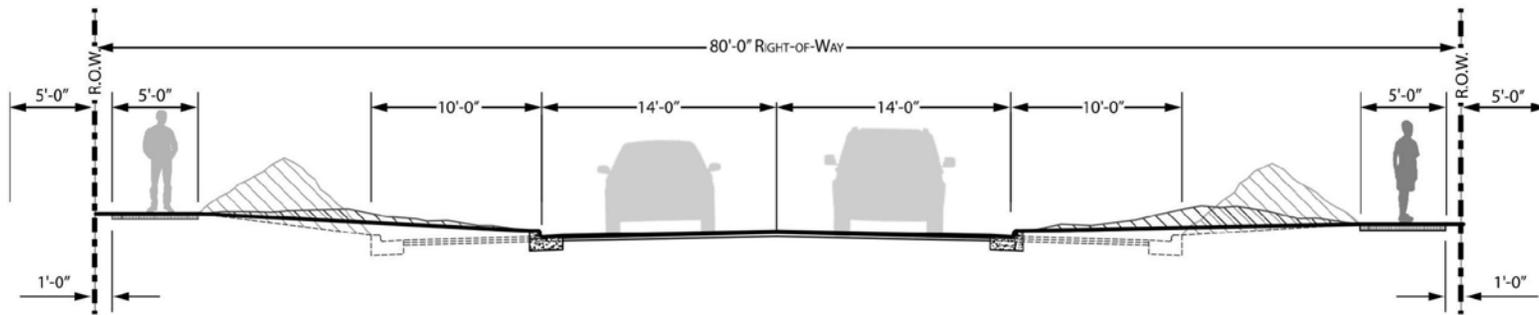
Figure T-8

Map Document: \metrosouth\gis\ELNMT\1712950\ESRI\Map\Transportation\T06_PlannedTraffic_11x17L.mxd | Date Saved: 12/21/2017 11:11:28 AM

LOCAL RESIDENTIAL STREET
 TYPICAL SECTION



MINOR COLLECTOR STREET
 TYPICAL SECTION

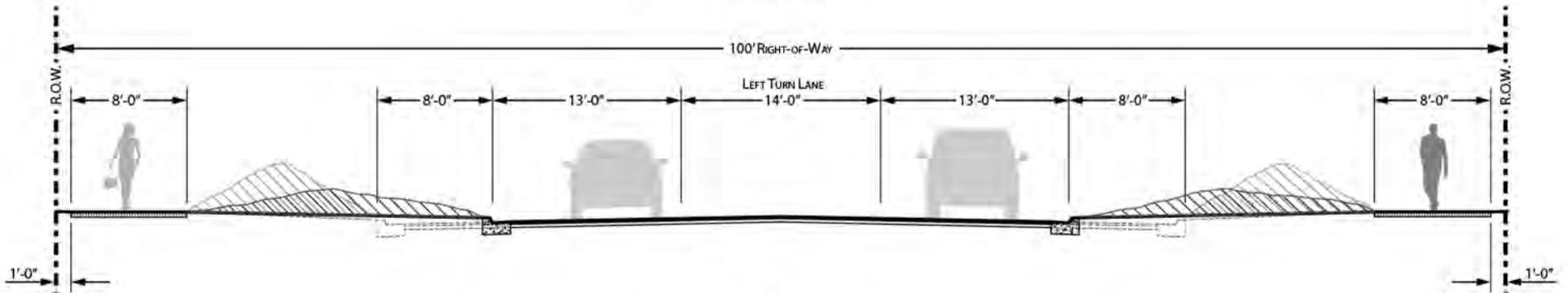


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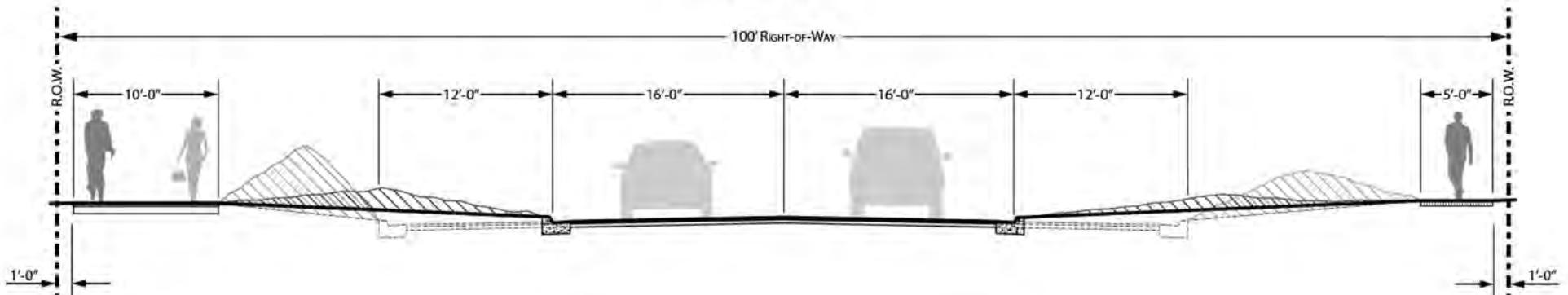
-  Baseline Design
-  Extended/Future Design
-  Snow Storage (8" Snowfall) in width*

*Note: Pedestrian-only sidewalks would be 5'-8' in width.
 Multi-use trail would be 10'.*

COMMERCIAL COLLECTOR
 TYPICAL SECTION



MAJOR COLLECTOR
 TYPICAL SECTION



Legend

-  Baseline Design
-  Extended/Future Design
-  Snow Storage (8" Snowfall) in width*

*Note: Pedestrian-only sidewalks would be 5'-8' in width.
 Multi-use trail would be 10'.*



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: DRAFT AMENDMENT TO SECTION 11-2-2 OF THE CITY CODE / ZONING ORDINANCE, DEFINITION OF RESIDENTIAL CARE FACILITIES
DATE: JANUARY 4, 2018

Background / History

It has come to the attention of staff that the definition for Residential Care Facility contained in the City's Zoning Ordinance is inconsistent with State Statute and is in need of correction. Staff has coordinated with the City Attorney's office to prepare the correct definition for consistency with state law. The current and proposed definitions are contained on the following pages.

Residential Care Facilities are permitted uses in the City's R1, R2, R3, R4, R5 and UR zoning districts, and are listed as a conditional use in the City's Institutional zoning district. State statute requires the facilities be permitted in residentially zoned areas of the City.

Staff Recommendation

Staff recommends that the Planning Commission review the draft ordinance amendment, and order scheduling of a public hearing on the proposed ordinance amendment at the February 1, 2018 Planning Commission meeting.

City Attorney Comments

The City Attorney has drafted the ordinance amendment and has no comments or concerns.

CURRENT ORDINANCE LANGUAGE

11-2-2: DEFINITIONS:

RESIDENTIAL CARE FACILITY: Any program, defined by Minnesota statutes section 245A.02, subdivision 14, and licensed by the state of Minnesota, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner of the department of human services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner of the department of human services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota statutes chapter 254B. Residential programs include home and community based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

SUGGESTED ORDINANCE AMENDMENT LANGUAGE

11-2-2: DEFINITIONS:

RESIDENTIAL CARE FACILITY: Any program, defined by Minnesota statutes section 245A.02, subdivision 14, and licensed by the state of Minnesota, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including ~~a nursing home or hospital that receives public funds, administered by the commissioner of the department of human services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care;~~ a program in an intermediate care facility for four (4) or more persons with ~~mental retardation or a related condition~~ developmental disabilities; ~~a nursing home or hospital that was licensed by the commissioner of the department of human services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition;~~ and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota statutes chapter 254B. Residential ~~programs~~ care facilities include home and community based services for persons with ~~mental retardation or a related condition~~ disabilities or persons age 65 and older that are provided in or outside of a person's own home.

SUGGESTED NEW/CLEAN ORDINANCE LANGUAGE

11-2-2: DEFINITIONS:

RESIDENTIAL CARE FACILITY: Any program, defined by Minnesota statutes section 245A.02, subdivision 14, and licensed by the state of Minnesota, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a program in an intermediate care facility for four (4) or more persons with developmental disabilities; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota statutes chapter 254B. Residential care facilities include home and community based services for persons with disabilities or persons age 65 and older that are provided in or outside of a person's own home.



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: DISCUSSION REGARDING POSSIBLE ZONING ORDINANCE AMENDMENT
REGARDING SMALL WIRELESS FACILITIES
DATE: JANUARY 4, 2018

Background / History

During the 2017 legislative session there were changes to state statute in regards to small wireless facilities. The new legislation allows wireless data providers to locate facilities (poles, antennae, and related equipment) within public rights-of-way. This new law conveys similar rights to wireless data providers that had previously been conveyed to electric companies, gas companies, telecommunications companies, allowing their infrastructure within rights-of-ways.

Cities typically manage utilities within their rights-of-ways through establishment of a right-of-way ordinance. Title 8 Chapter 1 of Elko New Market's City Code contains regulations regarding management of public rights-of-ways within the City.

In response to the new legislation, the City Attorney's office has drafted a proposed amendment to the Title 8 Chapter 1 of the City Code (attached). Amendment to this section of the City Code is outside of the purview of the Planning Commission and will therefore be handled through action of the City Council.

The new state law provides that small wireless facilities and wireless support structures (poles) are a permitted use in the right-of-way, except that a city may require a provider to obtain a conditional use permit to install a new wireless support structure in the right-of-way in a district zoned for single-family residential use. Even with a conditional use permit requirement the wireless support structure would generally be permitted subject to reasonable conditions. The new law prohibits cities from placing maximum height limitations on wireless support structures, but limits the maximum height of wireless support structures to 50' above ground level. The new law does not give guidance on what conditions could be placed on wireless support structures in a right-of-way in a single-family residential zoning district. The following are hypothetical conditions that the City may want to consider:

- Design and color of wireless support structures must match surrounding poles
- Wires for small wireless facilities must be located within wireless support structures or be the same color as the wireless support structure.
- Require monopole design and set maximum diameter of new wireless support structures

- No display of stickers, decals, flags or signs, except warning signs or safety alters on wireless support structures
- Wireless support structures shall not be illuminated and shall not display strobe lights unless such lighting is required to regulate traffic, enhance vehicular or pedestrian safety, or by the Federal Aviation Administration, or other federal or state law or regulation that preempts local regulations
- A new wireless support structure may not be placed within 600 feet of an existing wireless support structure.

The question for the Planning Commission at this time is whether they want to require a conditional use permit for each structure that is proposed within a residential zoning district, keeping in mind that the City has no authority to deny them under state statute. The alternative to requiring a conditional use permit for structures within single-family residential districts would be to include any desired conditions in the proposed right-of-way ordinance amendment. Staff needs direction from the Planning Commission on this matter before proceeding further.

Staff Recommendation

Staff would recommend that a conditional use permit not be required and that any desired conditions for towers be incorporated into the right-of-way ordinance amendment.

City Attorney Comments

The City Attorney has drafted the amendment to the City's right-of-way ordinance, has prepared a memorandum dated December 5, 2017, and has reviewed this memorandum and has no further comments.

Attachments:

Current Zoning Ordinance 11-13 - Towers and Antennas

City Attorney Memorandum dated 12.5.17

Draft amendment to Ordinance 8-1 - Rights-of-Way Management

CURRENT ZONING ORDINANCE LANGUAGE TOWERS AND ANTENNAS

11-13-1: PURPOSE:

The purpose of this chapter is to establish predictable and balanced regulations for the siting and screening of wireless communications equipment, including technology associated with amateur radio services, satellite dishes, personal wireless service, radio or television transmitting antennas, public safety communication, and public utility microwave equipment in the city. These regulations are necessary to:

- A. Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of new towers necessary to serve the community.
- B. Ensure antennas and towers are designed, located, and constructed in accordance with all applicable code requirements to avoid potential damage to adjacent properties from failure of the antenna and tower through structural standards and setback requirements.
- C. Require antennas and tower sites to be secured in order to discourage trespassing and vandalism.
- D. Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to complement existing structures to minimize adverse visual effects of antennas and towers. (Ord. 5, 12-14-2006)

11-13-2: GENERAL STANDARDS:

The following standards shall apply to all personal wireless service, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and shortwave radio transmitting and receiving antennas:

- A. Tower Construction Requirements: All antennas and towers erected, constructed, or located within the city, including all necessary wiring, shall comply with the following requirements:
 - 1. All towers shall comply with applicable federal, state, and local regulations. (Ord. 5, 12-14-2006)
 - 2. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform with the latest structural standards and wind loading requirements of the state building code and the Electronics Industry Association and all other applicable reviewing agencies. (Ord. 5, 12-14-2006; amd. 2011 Code)
 - 3. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna or tower nor any lines, cable, equipment, wires or braces in connection with either shall at any time extend across or over any part of the right of way, public street, highway, sidewalk, or property line.
 - 4. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the national electrical code.

5. All towers shall be constructed to conform with the requirements of the occupational safety and health administration.
 6. All towers shall be reasonably protected against unauthorized climbing.
 7. Antennas and towers may only be erected in accordance with applicable zoning restrictions.
 8. Towers shall be constructed of corrosive resistant metal material.
 9. Persons responsible for all communication towers and their antennas shall maintain a general liability insurance policy that provides coverage from any damage to property or injuries to persons caused by collapse of the tower. Said insurance policy shall provide coverage on an occurrence basis in an amount no less than one million dollars (\$1,000,000.00).
 10. The city may employ the services of an independent technical expert to evaluate the application for new communications towers and antennas, and the applicant shall pay all reasonable costs of such review and independent analysis.
- B. Structural Design And Installation: Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and, as may be necessary, as determined by the building official, shall be verified and approved by a professional engineer.
- C. Signs And Advertising: No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.
- D. Height Restrictions:
1. Height Determination: Except as otherwise provided in this subsection, the height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure at the tower's point of attachment and tower shall meet the height restrictions of this subsection.
 2. Maximum Heights: Except as otherwise provided in this subsection, the maximum heights for towers and antennas are as follows:
 - a. In all districts and areas of the city, the maximum height of towers and antennas shall be no taller than necessary to provide the functions required, as certified by a registered electrical engineer or other qualified professional.
 - b. In all residentially zoned property, the maximum height of any tower, including all antennas and other attachments, shall be thirty five feet (35'); except, that no tower shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet (5').
 - c. In all nonresidential zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot (1') for each one foot (1') the tower is set back from residentially zoned property, up to a maximum height of one hundred eighty feet (180'),

by conditional use permit. The city council may allow towers up to two hundred feet (200') high if the applicant can demonstrate that, based upon the topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off site views of the tower will be minimized.

3. Exceptions: The following are exceptions to the maximum height restrictions for towers:
 - a. Multiuser Towers: Multiuser towers may exceed the height limitations of this subsection by up to twenty feet (20'); provided, that if only the antennas of a single wireless communications provider will be attached to the tower at the time of application, the additional twenty feet (20') will not be used but will remain vacant for use by a second wireless communications provider.
 - b. Amateur Radio Antenna Towers: In accordance with the preemption ruling PRB1 of the federal communications commission, towers supporting amateur radio antennas that comply with all other requirements of this chapter are exempted from the height limitations of this subsection up to a total height of seventy feet (70'); provided, that such height is technically necessary to receive and broadcast amateur radio signals.
 - c. Attached Towers And Devices: Towers and other antenna devices which are attached to a structure and not freestanding may be located on residentially zoned property under the following conditions:
 - (1) The towers and antennas are located upon existing or proposed structures allowed as principal or conditional uses in the underlying zoning district and/or upon public structures; and
 - (2) The towers and antennas are limited to a height of fifteen feet (15') projecting above the structure. The city council may permit antenna heights of up to twenty five feet (25') above the structure if the applicant can demonstrate that, by a combination of antenna design, positioning of the structure and/or by screening erected or already in place on the structure, off site views of the antenna are minimized to accepted levels.
 - d. Public Utility Structures: Public utility structures, including, but not limited to, water towers, antennas, lights and signals, power and telephone poles, and poles supporting emergency warning devices.
- E. Illumination: Towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. Any lighting shall not project onto surrounding residential property.
- F. License Requirement: When applicable, proposals to erect a new antenna shall be accompanied by any required federal, state, or local agency licenses.
- G. Color And Design: Towers shall be painted silver or have a galvanized finish to reduce visual impact and shall be of a monopole design.
- H. Amateur Radio Antenna Towers: Amateur radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the

experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

- I. Abandoned Towers: All abandoned or unused towers shall be removed from the site, unless a time extension is approved by the city. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower, antenna or associated facilities may be removed by the city and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state. (Ord. 5, 12-14-2006)

11-13-3: COLLOCATION/SHARING OF FACILITIES:

- A. No new tower shall be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna. Supporting evidence may consist of any of the following conditions:
 1. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing tower or structure would cause interference with the applicant's proposed system.
 5. The fees, costs, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs are considered reasonable if they conform to contractual terms standard in the industry or do not exceed the cost of new tower development.
 6. The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.
- B. New towers with a minimum height of one hundred twenty five feet (125') shall be designed to accommodate at least two (2) other users. New towers with a minimum height of ninety nine feet (99') shall be designed to accommodate one additional user. Towers shall also be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights.
- C. The holder of a permit for a tower shall allow collocation for additional users as may be accommodated based on the tower design and shall not make access to the tower and tower site for the additional users economically unfeasible. If an additional user(s) demonstrates (through an independent arbitrator or other pertinent means, with the cost to be shared by the holder of the permit and the proposed additional user) that the holder of a tower permit has made access to such tower and tower site economically unfeasible, then the permit shall become null and void. (Ord. 5, 12-14-2006)

11-13-4: ACCESSORY AND SECONDARY USE ANTENNAS:

The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, temporary mobile antennas (TVROs), shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federally licensed amateur radio stations and television receivers:

- A. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of three feet (3') from all lot lines.
- B. Guywires or guywire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of one foot (1') from all lot lines.
- C. Accessory or secondary use antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen feet (15') above the normal height restriction for the affected zoning district, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.
- D. The installation of more than one support structure per property shall require the approval of a conditional use permit. (Ord. 5, 12-14-2006)

11-13-5: PERSONAL WIRELESS SERVICE ANTENNAS:

A. Residential And Urban Reserve District Standards:

- 1. Antennas Located Upon Public Structures Or Existing Towers: Personal wireless service antennas located upon public structures or existing towers shall require the processing of an administrative permit and shall comply with the following standards:
 - a. The applicant shall demonstrate, by providing a coverage/interference analysis and capacity analysis prepared by a professional engineer, that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use, shall have an exterior finish similar to the principal building, and shall be screened from view of neighboring properties and the public right of way by landscaping where appropriate. Proposed fencing shall comply with the residential fence standards¹.
 - c. An administrative permit is issued in compliance with the procedures established by the city council.

2. Antennas Not Located Upon Public Structures Or Existing Towers: Personal wireless service antennas not located upon a public structure or existing tower shall require the processing of a conditional use permit and shall comply with the following standards:
 - a. The applicant shall demonstrate, by providing a coverage/interference analysis and capacity analysis prepared by a professional engineer, that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. The antennas shall be located on an existing structure, if possible, and shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.
 - c. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground mounted pole; provided, that:
 - (1) The pole shall not exceed seventy five feet (75') in height.
 - (2) The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted only from structures on the same parcel if a qualified structural engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.
 - d. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate. Exterior finish of such a building shall be similar to that of the principal structure on the property.
 - e. Unless the antenna is mounted on an existing structure, at the discretion of the city, a security fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure. The fence shall be of design and materials approved by the city council.
 - f. The conditional use permit provisions of section [11-3-2](#) of this title are considered and determined to be satisfied.

B. Business And Institutional District Standards:

1. Antennas Located Upon Public Structures Or Existing Towers: Personal wireless service antennas located upon public structures or existing towers shall comply with the following standards.
 - a. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate. The exterior finish for such building shall comply with the requirements for buildings in the B business districts or INS district, as may be applicable.

- b. An administrative permit is issued in compliance with the procedures established by the city council.
2. Antennas Not Located Upon Public Structures Or Existing Towers: Personal wireless service antennas not located upon public structures or existing towers shall require the processing of a conditional use permit and shall comply with the following standards:
- a. The applicant shall demonstrate, by providing a coverage/interference analysis and capacity analysis prepared by a professional engineer, that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
 - b. The antennas shall be located on an existing structure, if possible, and shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.
 - c. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground mounted monopole; provided, that:
 - (1) The pole shall not exceed seventy five feet (75') in height.
 - (2) The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted from residential structures on the same parcel if a qualified structural engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.
 - d. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate. The exterior finish for such building shall comply with the requirements for buildings in the B business districts.
 - e. Unless the antenna is mounted on an existing structure, at the discretion of the city, a security fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure.
 - f. The conditional use permit provisions of section [11-3-2](#) of this title are considered and determined to be satisfied.

C. Industrial District Standards:

1. Antennas Located Upon Public Structures Or Existing Towers: Personal wireless service antennas located upon public structures or existing towers shall require the processing of an administrative permit and shall comply with the following standards: An administrative permit is issued in compliance with the procedures established by the city council.

2. Antennas Not Located Upon Public Structures Or Existing Towers: Personal wireless service antennas not located upon public structures or existing towers shall require the processing of an administrative permit and shall comply with the following standards:
 - a. The antennas shall be located upon existing structures if possible.
 - b. If there is no existing structure which meets the height requirements for mounting the antennas, the antennas may be mounted upon a supporting pole or tower not exceeding one hundred sixty five feet (165') in height. Such pole or tower shall be located on a parcel having a dimension equal to the height of the pole or tower measured between the base of the pole or tower located nearest the property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of the pole or tower will occur within a lesser distance under all foreseeable circumstances.
 - c. An administrative permit is issued in compliance with the procedures established by the city council. (Ord. 5, 12-14-2006)

11-13-6: SATELLITE DISHES:

- A. Residential And Urban Reserve District Standards: Single satellite dish TVROs greater than one meter (1 m) in diameter may be allowed as a conditional use within the residential zoning and urban reserve districts of the city and shall comply with the following standards:
 1. All accessory and secondary use provisions of this title are satisfactorily met.
 2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free receive window can be maintained within the limits of the property ownership.
 3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.
 4. The satellite dish antenna is not greater than three meters (3 m) in diameter.
 5. The conditional use permit provisions of section [11-3-2](#) of this title are considered and determined to be satisfied.
- B. Business, Institutional And Industrial District Standards: Commercial, private and public satellite dish transmitting or receiving antennas greater than two meters (2 m) in diameter may be allowed as a conditional use within the B business districts, INS institutional district, and I industrial district(s) of the city and shall comply with the following standards:
 1. All accessory and secondary use provisions of this title are satisfactorily met.
 2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership.

3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window.
4. The conditional use permit provisions of section [11-3-2](#) of this title are considered and determined to be satisfied. (Ord. 5, 12-14-2006)

11-13-7: COMMERCIAL AND PUBLIC RADIO AND TELEVISION TRANSMITTING ANTENNAS; PUBLIC UTILITY MICROWAVE ANTENNAS:

Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

- A. Such antennas shall be considered a conditional use within the industrial zoning districts of the city and shall be subject to the regulations and requirements of section [11-3-2](#) of this title. Where such antennas and/or antenna support structures are not an accessory use to a related principal use such as a television or radio studio, such antennas and/or antenna support structures shall be required to be processed as a planned unit development (PUD) according to the provisions of chapter 28, article C of this title. The city may require conditions relating to aesthetic or other issues, and may require that one or more payments in lieu of property taxes is made by the applicants and/or operators to compensate for the loss of potential property tax revenue to the city.
- B. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
- C. Unless the antenna is mounted on an existing structure, at the discretion of the city, a fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure and other equipment. (Ord. 5, 12-14-2006)

11-13-8: REQUIRED INFORMATION FOR CONDITIONAL USE PERMITS:

In addition to the information required elsewhere in this title for an application for a building permit for towers and their antennas, applications for conditional use permits for such towers shall include the following supplemental information:

- A. A report from a qualified and licensed professional engineer which does the following:
 1. Describes the tower height and design including a cross section and elevation.
 2. Documents the height above grade for all potential mounting positions for collocation antennas and the minimum separation distances between antennas.
 3. Describes the tower's capacity, including the number and type of antennas that it can accommodate.
- B. For all personal wireless service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable

terms and conditions for shared use, so long as there is no negative structural impact upon the tower and there is no disruption to the service provided.

- C. Before the issuance of a building permit, the following supplemental information shall be submitted:
1. Confirmation that the proposed tower complies with the requirements of the federal aviation administration, federal communications commission, and any appropriate state review authority or that the tower is exempt from those regulations.
 2. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the applicable structural and electrical, but not radio frequency, standards. (Ord. 5, 12-14-2006)

11-13-9: INSPECTIONS:

- A. All towers may be inspected at least once each year by the building official to determine compliance with original construction standards. Deviations from original design for which a permit is obtained constitutes a violation of this chapter.
- B. Notice of violations shall be sent by registered mail to the owner of the property, and the owner shall have thirty (30) days from the date the notification is issued to make repairs. The owner shall notify the building official that the repairs have been made, and as soon as possible thereafter, another inspection shall be made and the owner notified of the results. (Ord. 5, 12-14-2006)



CAMPBELL KNUTSON
Professional Association

MEMORANDUM

TO: Elko New Market Planning Commission

FROM: Andrea McDowell Poehler

DATE: December 5, 2017

RE: Small Cell Wireless Communication Facilities

INTRODUCTION

During the recent legislative session, the state adopted new regulations permitting certain wireless data providers to locate facilities (poles, antennae, and related technical support equipment) within the public right of way, subject to specific requirements. These changes were made to require accommodation of “small cell” facilities, rather than the “large cell” facilities that have been prominent in the development of the cellular telecommunications industry.

Much of the regulation of these facilities will be adopted as a part of a Right of Way ordinance within the general City Code – that ordinance is being addressed by the City Council. Certain aspects of these facilities implicate zoning restrictions, particularly where they may be located within residential or historic areas. As such, the City will need to adopt companion zoning amendments, concurrent with the separate adoption of the Right of Way ordinance.

DISCUSSION

The Elko New Market Zoning Ordinance regulates various types of wireless communications facilities in the City, applying to (generally) the use of private lands for these facilities. Recently, the telecommunications industry has been promoting the need to locate certain types of facilities (“small cell”) within public right of way, similar to other utility installations such as electrical or telephone. Most cities resisted the unrestricted use of public right of way for this additional use, for both aesthetic and right of way management reasons.

Concern over the unregulated proliferation of new poles in the right of way was a part of the aesthetic issue. Placement, management, and potential interference with other existing utilities, as well as street lighting, traffic control signage, and other related issues, raised a greater concern. The state legislature eventually passed new legislation that required cities to allow these installations in the public right of way, subject to a few limitations.

Most of those limitations are built into the Right of Way ordinance, mentioned above, as a part of the general City Code. A few, however, relate to zoning ordinance regulation, and as such, separate zoning amendments will need to be considered.

The two aspects of the legislation that most directly impact zoning are as follows:

- (1) The City may require a Conditional Use Permit when such a facility is proposed in right of way that is within a residential zone or an historical district; and
- (2) The City may limit the height of the support structures (poles), but may not establish a maximum height limit of less than 50 feet. Other than the residential and historic areas, the City must consider the “small cell” installation a permitted use in the right of way, subject to certain provisions that allow for lease, permit, and rent requirements.

City staff will bring forward proposed amendments to the zoning ordinance structured to address only those requirements specific to the zoning aspects of the legislation noted above (residential district CUP and height). For all other aspects, the City’s Right of Way ordinance will provide the regulatory requirements. It should be noted that “small-cell” facilities may choose to locate on private property under the current zoning regulations addressing “large cell” facilities.

ACTION

For Information Purposes Only.

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

ORDINANCE NO. ____

**AN ORDINANCE REPEALING TITLE 8, CHAPTER 1
AND REPLACING IT WITH A NEW TITLE 8, CHAPTER 1 TITLE 11, CHAPTER 13
OF THE ELKO NEW MARKET CITY CODE
CONCERNING PUBLIC RIGHTS-OF-WAY MANAGEMENT**

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

SECTION 1. Title 8, Chapter 1 of the Elko New Market City Code is hereby amended to read as follows:

8-1-1: PURPOSE AND SCOPE:

In order to provide for the health, safety, well being, and convenience of its citizens, as well as to ensure the structural integrity of its streets and the use of the rights of way, the city strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances. Accordingly, the city hereby enacts this chapter relating to rights of way permits and management. This chapter imposes regulations on the placement and maintenance of equipment currently within the city rights of way or to be placed therein at a future time. This chapter is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights of way will bear the financial responsibility for their impacts and for city costs incurred in administering this chapter.

8-1-2: STATUTE AUTHORITY; INTERPRETATION:

This chapter is created to manage and regulate the public use of the city rights of way along city roads and infrastructure pursuant to the authority granted to the city under state and federal statutory, administrative and common law. The city hereby elects to manage the rights of way under its jurisdiction. All rights of way users, including the city, are subject to the provisions in this chapter. The city is exempt from the obligation of paying for permits or other fees imposed by this chapter. This chapter shall be interpreted consistent with 1997 session laws, chapter 123, substantially codified in Minnesota statutes sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "act"), 2017 session laws, chapter 94 amending the act, Minnesota statutes chapter 216D and the other laws governing applicable rights of the city and users of the rights of way. This chapter shall also be interpreted consistent with Minnesota rules 7819.0050 _ 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota rules, that interpretation most consistent with the act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to

protect the health, safety, and welfare of the public. "Manage the right of way" means the authority of the city to do any or all of the following¹:

- A. Require registration;
- B. Require construction performance bonds and insurance coverage;
- C. Establish installation and construction standards;
- D. Establish and define location and relocation requirements for equipment and facilities;
- E. Establish coordination and timing requirements;
- F. Require rights of way users to submit, henceforth required by the city, project data reasonably necessary to allow the city to develop a right of way mapping system including GIS system information;
- G. Require rights of way users to submit, upon request of the city, existing data on the location of the user's facilities occupying the public rights of way within the city. The data may be submitted in the form maintained by the user in a reasonable time after receipt of the request based on the amount of data requested;
- H. Establish rights of way permitting requirements for access, excavating/grading, utility services, landscaping, collocation, and obstruction;
- I. Establish removal requirements for abandoned equipment or facilities, if required, in conjunction with other rights of way repair, excavation or construction; and
- J. Impose reasonable penalties for unreasonable delays in construction.

8-1-3: DEFINITIONS:

The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

ADMINISTRATOR: The city administrator or his designee.

APPLICANT: Any person requesting permission to excavate or obstruct a right of way.

CITY: The city of Elko New Market, Minnesota. For purposes of section [8-1-26](#) of this chapter, "city" means its elected officials, officers, employees, agents or any commission, committee or subdivision acting pursuant to lawfully delegated authority.

CITY COST: The actual costs incurred by the city for managing rights of way including, but not limited to, costs associated with registering of applicants; issuing, processing, and verifying right of way permit or small wireless facility permit applications; revoking right of way permits or

small wireless facility permits; inspecting job sites; creating and updating mapping systems; determining the adequacy of right of way restoration; restoring work inadequately performed; maintaining, supporting, protecting, or moving user equipment during right of way work; budget analyses; recordkeeping; legal assistance; systems analyses; and performing all of the other tasks required by this chapter, including other costs the city may incur in managing the provisions of this chapter except as expressly prohibited by law. City costs do not include payment by telecommunications right of way user for the use of the right of way, unreasonable fees of a third party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right of way or for the city, the fees and costs of litigation relating to interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 8-1-28 of this chapter.

CITY INSPECTOR: Any person authorized by the city to carry out inspections related to the provisions of this chapter.

COLLOCATION: To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

DEGRADATION: The accelerated depreciation of the right of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct such right of way earlier than would be required if the excavation did not occur.

EMERGENCY: A condition that:

- A. Poses a clear and immediate danger to life or health, or of a significant loss of property; or
- B. Requires immediate repair or replacement in order to restore service to a customer.

EQUIPMENT: Any tangible thing located in any right of way, but shall not include boulevard plantings or gardens planted or maintained in the right of way between a person's property and the street curb.

EXCAVATE: To dig into or in any way remove or physically disturb or penetrate any part of a right of way, except horticultural practices of penetrating the boulevard area to a depth of less than twelve inches (12").

EXCAVATION PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right of way. An "excavation permit" allows the holder to excavate that part of the right of way described in such permit.

EXCAVATION PERMIT FEE: Money paid to the city by an applicant to cover the costs as provided in section [8-1-8](#) of this chapter.

IN: Over, above, in, within, on, or under a right of way when used in conjunction with right of way.

JOINT TRENCH: The placement of two (2) or more conductors and/or conduits owned and operated by separate utilities in the same excavation to minimize occupied space; reduce costs, disruption, and construction time; and simplify mapping and future location of the facilities.

LOCAL REPRESENTATIVE: The person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

OBSTRUCT: To place any tangible object in a right of way so as to hinder free and open passage over that or any part of the right of way.

OBSTRUCTION PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open passage over the specified portion of a right of way by placing equipment described therein on the right of way for the duration specified therein.

OBSTRUCTION PERMIT FEE: Money paid to the city by a registrant to cover the costs as provided in section [8-1-8](#) of this chapter.

PERFORMANCE AND RESTORATION BOND: A performance bond or letter of credit posted to ensure the availability of sufficient funds to assure that all obligations pursuant to this chapter, including, but not limited to, right of way excavation and obstruction work, is timely and properly completed.

PERMITTEE: Any person to whom a permit to excavate or obstruct a right of way or collocate a small wireless facility or erect or install a wireless support structure in a right of way has been granted by the city under this chapter.

PERSON: Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment located in any right of way.

PROBATION: The status of a person that has not complied with the conditions of this chapter.

REGISTRANT: Any person who: a) has or seeks to have its equipment located in any right of way; or b) in any way occupies or uses, or seeks to occupy or use, the right of way or any equipment located in the right of way and, accordingly, is required to register with the city.

REGISTRATION FEE: An amount of money paid to the city by a registrant to cover the costs of registration.

RESTORATION FEE: An amount of money paid to the city by a permittee to cover the cost of restoration.

RESTORE OR RESTORATION: The process by which an excavated or obstructed right of way and surrounding area including, but not limited to, pavement and foundation, is returned to the same condition that existed before the commencement of excavation.

RIGHT OF WAY: The area on, below, or above any real property in which the city has an interest including, but not limited to, any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of the city, including other dedicated rights of way for travel purposes and easements for drainage, utilities, trails, or other purposes.

RIGHT OF WAY PERMIT: Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

SERVICE LATERAL: An underground facility that is used to transmit, distribute, or furnish gas, electricity, communication, or water from a common source to an end use customer. A service lateral is also an underground facility that is used in the removal of wastewater, stormwater, or groundwater from a customer's premises.

SERVICE OR UTILITY SERVICE: A. Those services provided by a public utility as defined in Minnesota statutes section 216B.02, subdivisions 4 and 6, as they may be amended from time to time;

B. Services of a telecommunications right of way user; including transporting of voice or data information;

C. Service of a cable communications systems defined in Minnesota statutes chapter 238, as it may be amended from time to time;

D. Natural gas or electric energy or telecommunications services provided by the city;

E. Service provided by a cooperative electric association organized under Minnesota statutes chapter 308A, as it may be amended from time to time;

F. Water and sewer, including service laterals, steam, cooling or heating services; and

G. Privately owned utility services, including drain tiles.

SMALL UTILITIES: The buried facilities required to provide electricity, gas, telephone, cable TV and other telecommunications facilities to users in a subdivision or along a street. This definition is based on how these facilities are typically referred to in the industry.

SMALL WIRELESS FACILITY: (1) A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in

volume or could fit within such an enclosure; and (ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment; and (2) a micro wireless facility.

SMALL WIRELESS FACILITY PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may collocate a small wireless facility or erect a wireless support structure in a right of way. A "small wireless facility permit" allows the holder to collocate a small wireless facility or install a wireless support structure at that part of the right of way described in such permit.

SMALL WIRELESS FACILITY PERMIT FEE: Money paid to the city by an applicant to cover the city costs as provided in section [8-1-8](#) of this chapter.

SUPPLEMENTARY APPLICATION: An application made to excavate or obstruct more of the right of way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATIONS RIGHT OF WAY USER: A person or entity owning or controlling a facility in the right of way, or seeking to own or control the same, that is used or is intended to be used for providing wireless service, or transporting telecommunications or other voice or data information. For purposes of this chapter, a cable communications system defined and regulated under Minnesota statutes chapter 238, and telecommunications activities relating to providing natural gas or electric energy services, a public utility as defined in Minnesota statutes section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota statutes chapters 453 and 453A, or a cooperative electric association organized under Minnesota statutes chapter 308A, are not included in this definition for purposes of this chapter except to the extent such entity is offering wireless service. This definition shall be consistent with Minnesota statutes section 237.162, subdivision 4.

UNUSABLE EQUIPMENT: Equipment located in the right of way which has remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or a potential purchaser or user of the equipment.

UTILITY POLE: A pole that is used in whole or in part to facilitate telecommunications or electric service.

WIRELESS FACILITY: Equipment at a fixed location that enables the provision of wireless services between the user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support

structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

WIRELESS SERVICE: Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

WIRELESS SUPPORT STRUCTURE: A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

WIRELINE BACKHAUL FACILITY: A facility used to transport communications data by wire from a wireless facility to a communications network.

8-1-4: ADMINISTRATIVE OFFICIAL:

The city may designate a principal city official responsible for the administration of the rights of way, rights of way permits, and the ordinances related thereto. The city may delegate any or all of the duties hereunder.

8-1-5: REGISTRATION REQUIREMENTS:

A. Registration Required:

1. Each person who occupies or uses, or seeks to occupy or use, the right of way or any equipment located in the right of way, including by lease, sublease or assignment, or who has, or seeks to have, equipment located in any right of way must register with the city. Registration will consist of providing application information to and as required by the city and paying a registration fee. Permit applicants may register at the time of permit application or once annually. A separate permit is required for each project. Users placing no permanent facilities in the right of way are exempt from registration but not from permit requirements.
2. No person may construct, install, repair, remove, collocate, relocate, or perform any other work on or use any equipment or any part thereof located in any right of way without first being registered with the city.

B. Registration Information:

1. Information Required: The information provided to the city at the time of registration shall include, but not be limited to:
 - a. The registrant's name, gopher one-call registration certificate number, addresses and e-mail address if applicable, and telephone and facsimile numbers.

- b. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
 - c. A copy of the registrant's certificate of authority from the Minnesota public utilities commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the registrant is lawfully required to have such certificate, authorization or approval from said commission.
 - d. Such other information as the city may reasonably require.
2. Changes To Information: The registrant shall keep all of the information listed above current at all times by providing changes to the city within fifteen (15) days following the date of which the registrant has knowledge of any change.

8-1-6: PERMITS REQUIRED; EXEMPTIONS:

A. Required Permits: Except as otherwise provided by city ordinance, no person may obstruct or excavate or collocate or install or place a wireless support structure in any right of way without first having obtained the appropriate right of way permit from the city to do so. The following permits may be required:

1. Excavation Permit: An excavation permit is required to allow the holder to excavate that part of the right of way described in such permit and/or to hinder free and open passage over the specified portion of the right of way by placing equipment described therein, to the extent and for the duration specified therein.
2. Obstruction Permit: An obstruction permit is required to allow the holder to hinder free and open passage over the specified portion of the right of way for activities not associated with an excavation permit by placing materials, equipment, vehicles, or other obstructions described therein on the right of way for the duration specified therein. This permit will be issued at the administrator's discretion and will be denied if a reasonable alternative to the obstruction is available.
3. Small Wireless Facility Permit: A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right of way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

B. Exemptions From Permits:

1. Plantings Within Right Of Way: Nothing herein shall be construed to prevent persons from planting or maintaining boulevard grasses, flowers, and/or other garden plants, but not woody shrubs or trees, in the area of the right of way between their property and the

street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right of way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, these plantings are subject to disturbance or damage by city operations or permitted users. Required restoration in these cases will consist only of boulevard grade turf grasses. Persons planting or maintaining vegetation in the right of way will not be compensated for damaged plantings or vegetation. Excavations for plantings deeper than twelve inches (12") are subject to the permit requirements of subsection A of this section.

2. Irrigation And Pet Containment Facilities: Nothing herein shall be construed to prevent owners of a residential or commercially zoned parcel from placing irrigation lines or pet containment wires in easements in favor of the city and located on their own property within twelve inches (12") of the surface, provided all other applicable regulations are met. The city and other permitted users will not be responsible for the location, protection, repair or replacement of facilities if city work is performed in the easement. No irrigation or pet containment facilities are allowed in any city owned right of way unless a permit is obtained under this chapter.

8-1-7: APPLICATION FOR PERMIT:

Application for a permit is made to the city. Right of way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- A. Registration with the city pursuant to this chapter.
- B. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed equipment.
- C. Payment of all monies due the city for:
 1. Permit fees and costs due;
 2. Prior obstructions or excavations;
 3. Any loss, damage, or expense suffered by the city as a result of the applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the city; and
 4. Franchise fees, if applicable.

8-1-8: PERMIT FEES:

- A. Fees Established:

1. Excavation Permit: The excavation permit fee shall be established by the city in an amount sufficient to recover the following costs. Fees shall be listed on the schedule of fees updated and adopted annually by the city council.
 - a. The city cost to administer the permit, inspect the work, and enforce provisions of this chapter and permit for each project.
 - b. The degradation of the right of way that will result from the excavation.
 - c. Restoration, if done or caused to be done by the city.
 - d. Creating and updating city maps.
2. Obstruction Permit: The obstruction permit fee shall be established by the city and shall be in an amount sufficient to recover the city's administration costs. This fee may be waived for local residents for activities at their residence at the discretion of the administrator.
3. Small Wireless Facility Permit Fee: The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
 - a. city costs;
 - b. city engineering, make-ready, and construction costs associated with collocation of small wireless facilities and installation and placement of wireless support structures.

B. Payment Of Fees: No excavation permit, ~~or~~ obstruction permit, or small wireless facility permit shall be issued without payment of all fees required prior to the issuance of such a permit unless the applicant shall agree (in a manner, amount, and substance acceptable to the city) to pay such fees within thirty (30) days of billing thereafter. Permit fees that were paid for a permit which was revoked for a breach are not refundable. Any refunded permit fees shall be less all city costs up to and including the date of refund.

C. Use Of Fees: All obstruction, ~~and~~ excavation, and small wireless permit fees shall be used solely for city management, construction, maintenance and restoration costs of the right of way.

8-1-9: BOND AND INSURANCE REQUIREMENTS:

A. Bond Requirements:

1. Performance And Restoration Bond: The performance and restoration bond required in this subsection A1 and in subsection A2 of this section and subsections [8-1-18C2b](#) and [8-1-24A2c](#) of this chapter shall be in an amount determined in the city's sole discretion,

sufficient to serve as security for the full and complete performance of the obligations under this chapter, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this chapter or any other applicable laws, regulations or standards. A minimum bond amount of ten thousand dollars (\$10,000.00) shall be required for all projects unless waived by the administrator. Alternative forms of security such as cash escrow or an irrevocable letter of credit may also be accepted at the discretion of the administrator. During periods of construction, repair or restoration of rights of way or equipment in rights of way, the performance and restoration bond shall be in an amount sufficient to cover one hundred percent (100%) of the estimated cost of such work, as documented by the person proposing to perform such work, or in such lesser amounts as may be determined by the city, taking into account the amount of equipment in the right of way, the location and method of installation of the equipment, the conflict or interference of such equipment with the equipment of other persons, and the purposes and policies of this chapter. Sixty (60) days after completion of the work, the performance and restoration bond may be reduced in the sole determination of the city.

2. Additional Bond: When an excavation permit is required for purposes of installing additional equipment, and a performance and restoration bond which is in existence is insufficient with respect to the additional equipment, in the sole determination of the city, the permit applicant may be required by the city to post an additional performance and restoration bond in accordance with subsection A of this section.

B. Insurance Requirements: Before any permit shall be issued allowing work in the right of way, the applicant or registrant shall provide a certificate of insurance or self-insurance:

1. Verifying that an insurance policy has been issued to the applicant/registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the administrator;
2. Verifying that the applicant/registrant is insured against claims for bodily injury, including death, as well as claims for property damage arising out of the: a) use and occupancy of the right of way by the registrant, its officers, agents, employees and permittees; and b) placement and use of facilities in the right of way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from contracts, independent contractors, products and completed operations, explosions, damage of underground facilities and collapse of property;
3. Naming the city, its officers, employees and agents, as an additional insured as to whom the coverage required herein is in force and applicable and for whom defense will be provided as to all such coverage;
4. Requiring that the administrator be notified thirty (30) days in advance of cancellation of the policy, nonrenewal or material adverse modification of a coverage term;

5. Indicating commercial general liability coverage, business automobile liability coverage, workers' compensation and umbrella coverage established by the administrator in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

8-1-10: ISSUANCE OF PERMIT; CONDITIONS:

- A. Issuance: If the city determines that the applicant has satisfied the requirements of this chapter, the city may issue a permit.
- B. Conditions: The city may impose any reasonable conditions upon the issuance of a permit and the performance of the applicant thereunder in order to protect the public health, safety and welfare, to ensure the structural integrity of the right of way, to protect the property and safety of other users of the right of way, to minimize the disruption and inconvenience to the traveling public, and to otherwise efficiently manage the use of the right of way.
- C. Small Wireless Facility Conditions: In addition to subsection B, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right of way, shall be subject to the following conditions:
 - (1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
 - (2) No new wireless support structure installed within the right-of-way shall exceed 50 feet above ground level in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the health, safety and welfare or to protect the right-of-way in its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet above ground level in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
 - (3) No wireless facility may extend more than 10 feet above its wireless support structure.
 - (4) Where an applicant proposes to install a new wireless support structure in the right of way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right of way.
 - (5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
 - (6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

D. Small Wireless Facility Agreement: A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right of way, after applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

1. \$150 per year for rent to collocate on the city structure;
2. \$25 per year for maintenance associated with the collocation;
3. A monthly fee for electrical service as follows:
 - a. \$73 per radio node less than or equal to 100 maximum watts;
 - b. \$182 per radio node over 100 maximum watts; or
 - c. The actual costs of electricity, if the actual costs exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

E. Action on Small Wireless Facility Permit Applications:

1. Deadline for Action: The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:
 - a. are located within a two mile radius;
 - b. consist of substantially similar equipment; and
 - c. are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

3. Tolling of Deadline. The 90 day deadline for action on a small wireless facility permit application may be tolled if:
 - a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven (7) day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
 - b. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt of the application. Upon submission of additional documents or information, the city shall have ten (10) days to notify the applicant in writing of any still missing information.
 - c. The city and a small wireless facility applicant agree in writing to toll the review period.

8-1-11: DENIAL OF PERMIT:

The city may, in accordance with Minnesota statutes section 237.163, subdivision 4, deny any application for a permit as provided in this section.

- A. Mandatory Denial: Except in the case of an emergency, no right of way permit will be granted:
 1. To any person required by section [8-1-5](#) of this chapter to be registered who has not done so;
 2. To any person who failed to use commercially reasonable efforts to anticipate and plan for the project;
 3. For any project which requires the excavation of any portion of a right of way which was constructed or reconstructed within the preceding five (5) years;
 4. To any person who has failed within the past three (3) years to comply or is presently not in full compliance with the requirements of this chapter;
 5. To any person as to whom there exists grounds for the revocation of a permit under section [8-1-27](#) of this chapter; and

6. If, in the sole discretion of the city, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The city, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right of way, and by considerations relating to the public health, safety and welfare.
- B. Permissive Denial: The city may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right of way, or when necessary to protect the right of way and its users. The city may consider one or more of the following factors:
1. The extent of which right of way space where the permit is sought is available;
 2. The competing demands for the particular space in the right of way;
 3. The availability of other locations in the right of way or in other rights of way for the equipment of the permit applicant;
 4. The applicability of ordinance or other regulations of the right of way that affect location of equipment in the right of way;
 5. The degree of compliance of the applicant with the terms and conditions of its franchise, if any, this chapter, and other applicable ordinances and regulations;
 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right of way;
 7. The condition and age of the right of way, and whether and when it is scheduled for total or partial reconstruction; and
 8. The balancing of the costs of disruption to the public and damage to the right of way against the benefits to that part of the public served by the expansion into additional parts of the right of way.
- C. Discretionary Issuance: Notwithstanding the provisions of subsection A2 of this section, the city may issue a permit in any case where the permit is necessary: 1) to prevent substantial economic hardship to a customer of the permit applicant; or 2) to allow such customer to materially improve its utility service; or 3) to allow a new economic development project; and where the permit applicant did not have knowledge of the hardship, the plans for improvement of service or the development project when said applicant was required to submit its list of next year projects.
- D. Permits For Additional Next Year Projects: Notwithstanding the provisions of subsection A2 of this section, the city may issue a permit to a registrant who demonstrates that it used commercially reasonable efforts to anticipate and plan for the project, such permit to be

subject to all other conditions and requirements of law, including such conditions as may be imposed under subsection [8-1-10B](#) of this chapter.

E. Procedural Requirements: The denial of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right of way user in writing within three (3) business days of the decision to deny a permit. If an application is denied, the right of way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

8-1-12: DISPLAY OF PERMIT:

Permits issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the city inspector and authorized city personnel.

8-1-13: EXTENSION OF PERMIT; SUPPLEMENTARY NOTIFICATION:

- A. No person may excavate or obstruct the right of way beyond the date or dates specified in the permit unless such person: 1) makes a supplementary application for another right of way permit before the expiration of the initial permit; and 2) a new permit or permit extension is granted.
- B. If the obstruction or excavation of the right of way begins later or ends sooner than the date given on the permit, the permittee shall notify the city of the accurate information as soon as this information is known.

8-1-14: SUPPLEMENTARY APPLICATIONS:

- A. Limitation On Area: A right of way permit is valid only for the area of the right of way specified in the permit. No permittee may perform any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:
 - 1. Make application for permit extension and pay any additional fees necessitated thereby; and
 - 2. Be granted a new permit or permit extension; or
 - 3. Verbally request the administrator make a determination that the change is minor and authorize the additional area by note on the application and city copy of the permit.
- B. Limitation On Dates: A right of way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein,

continue working after the end date. If a permittee does not finish the work by the permit end date, it must, before working after the end date of the permit:

1. Make application for a new permit for the additional time it needs;
2. Pay the new permit fee or permit extension fee;
3. Pay the delay penalty required under subsection [8-1-18D](#) of this chapter; or
4. Verbally request the administrator make a determination that the change is minor and authorize the additional time by note on the application and city copy of the permit.

8-1-15: INSPECTIONS:

- A. Notice Of Completion: When the work under any permit hereunder is completed, the permittee shall notify the city.
- B. Site Inspection: The permittee shall make the work site available to the city inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.
- C. Authority Of City Inspector: At the time of inspection, the city inspector may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public. The city inspector may issue an order to the registrant for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to section [8-1-27](#) of this chapter.

8-1-16: WORK WITHOUT PERMIT:

A. Emergency Situations:

1. Each registrant shall immediately notify the city or the city's designee of any event regarding its equipment which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary in order to respond to the emergency. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.
2. In the event that the city becomes aware of an emergency regarding a registrant's equipment, the city may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take

whatever action it deems necessary in order to respond to the emergency, the cost of which shall be borne by the registrant whose equipment occasioned the emergency.

- B. Nonemergency Situations: Except in the case of an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right of way, is in breach of this chapter.

8-1-17: RIGHT TO OCCUPY RIGHTS OF WAY; PAYMENT OF FEES:

- A. Any person required to register under section [8-1-5](#) of this chapter who occupies, uses, or places its equipment in the right of way is hereby granted a right to do so if and only so long as said person: 1) timely pays all fees as provided herein; and 2) complies with all other requirements of law.
- B. The grant of right in subsection A of this section is expressly conditioned on, and is subject to, the police powers of the city, continuing compliance with all provisions of law now or hereinafter enacted, including this chapter, as it may be from time to time amended, and further, is specifically subject to the obligation to obtain any and all additional required authorizations, whether from the city or other body or authority.

8-1-18: INSTALLATION AND RESTORATION REQUIREMENTS:

- A. General Requirements: The excavation, backfilling, patching and restoration, and all other work performed in the right of way, shall be done in conformance with Minnesota rules 7819.1100 and 7819.5000 and shall conform to MnDOT standard specifications and other applicable local requirements, insofar as they are not inconsistent with Minnesota statutes sections 237.162 and 237.163, as may be amended from time to time.

B. Installation Requirements:

1. Installation of service laterals shall be performed in accordance with Minnesota rules chapter 7560 and this chapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in subsection [8-1-20H](#) of this chapter.
2. The city will generally require small utilities to be installed within five feet (5') of concrete roadway features such as curbs and sidewalks or within five feet (5') of the right of way line where no such features exist. The city will generally require any trees or shrubs permitted in the right of way to be at least five feet (5') from curbs, walks, or roadways.

C. Restoration Of Rights Of Way:

1. Timing: The work to be done under the permit, and the restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances constituting force

majeure or when work was prohibited as unseasonal or unreasonable under subsection [8-1-25B](#) of this chapter, all in the sole determination of the city. In addition to repairing its own work, the permittee must restore the general area of the work and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for twenty four (24) months thereafter.

2. Repairs And Restoration; Costs: In its application for an excavation permit, the permittee may choose to have the city restore the right of way. In any event, the city may determine to perform the right of way restoration and shall require the permittee to pay a restoration fee to provide for reimbursement of all costs associated with such restoration. In the event the permittee elects not to perform restoration, the city may, in lieu of performing the restoration itself, impose a fee to fully compensate for the resultant degradation as well as for any and all additional city costs associated therewith. Such fee for degradation shall compensate the city for costs associated with a decrease in the useful life of the right of way caused by excavation and shall include a restoration fee component. Payment of such fee does not relieve a permittee from any restoration obligation.
 - a. City Restoration: If the city restores the right of way, the permittee shall pay the costs thereof within thirty (30) days of billing. If, during the twenty four (24) months following such restoration, the right of way settles due to the permittee's excavation or restoration, the permittee shall pay to the city, within thirty (30) days of billing, the cost of repairing said right of way.
 - b. Permittee Restoration: If the permittee chooses at the time of application for an excavation permit to restore the right of way itself, such permittee shall post an additional performance and restoration bond in an amount determined by the city to be sufficient to cover the cost of restoring the right of way to its preexcavation condition. If, twenty four (24) months after completion of the restoration of the right of way, the city determines that the right of way has been properly restored, the surety on the performance and restoration bond posted pursuant to this subsection C2b shall be released.
3. Repair And Restoration Standards: The permittee shall perform the work according to the standards and with the materials specified by the city. The city shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case by case basis. The city, in exercising this authority, shall be guided, but not limited, by the following standards and considerations:
 - a. The number, size, depth and duration of the excavations, disruptions or damage to the right of way;
 - b. The traffic volume carried by the right of way;
 - c. The character of the neighborhood surrounding the right of way;

- d. The preexcavation condition of the right of way;
 - e. The remaining life expectancy of the right of way affected by the excavation;
 - f. Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right of way that would otherwise result from the excavation, disturbance or damage to the right of way; and
 - g. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right of way that would otherwise take place.
4. Guarantees: By choosing to restore the right of way itself, the permittee guarantees its work and shall maintain it for twenty four (24) months following its completion. During this twenty four (24) month period, it shall, upon notification from the city, correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under subsection [8-1-25B](#) of this chapter, all in the sole determination of the city.
5. Failure To Restore: If the permittee fails to restore the right of way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all repairs required by the city, the city, at its option, may perform or cause to be performed such work. In that event, the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right of way. If the permittee fails to pay as required, the city may exercise its rights under the performance and restoration bond.
- D. Delay Penalty: The city may establish and impose a charge or penalty for unreasonable delays in excavations, obstructions, or restoration.

8-1-19: JOINT INSTALLATIONS AND CITY PROJECTS:

- A. Joint Installations: It is in the city's interest that utilities be located in a joint trench whenever possible. Applicants may be required to place their facilities in the same excavation at the same time; however, a separate permit application will be required for each facility. A shared or joint application will not be accepted. Each permit will reference other operators using the same excavation. No work may proceed until all applications are submitted and approved. Registrants who apply for permits for the same excavation will not be charged a permit fee.
- B. City Projects: Registrants whose planned activities are necessary because of a city project will not be charged a permit fee; however, a permit is still required.

8-1-20: MAPPING DATA:

- A. Information Required: Each registrant and permittee shall provide project data necessary to allow the city to develop a right of way mapping system in accordance with Minnesota rules 7819.4000 and 7819.4100.
- B. Permit Required; Application: The city requires a permit for excavation in or obstruction of its public right of way. A person wishing to undertake a project within the public right of way shall submit a right of way permit application, which will require the filing of mapping information pursuant to subsection C of this section.
- C. Mapping Information: The city requires as part of its permit the filing of the following information for placement of utilities:
 - 1. Location and elevation of the applicant's mains, cables, conduits, switches, and related equipment and facilities, with the location based on one of the following methods:
 - a. The preferred method is X, Y, and Z coordinates in NAD 83 1996 adjustment (also known as HARN adjustment), horizontal datum and NGVD 88 vertical datum. This information is to be supplied in an electronic format in an ASCII comma-delimited file including: point number, northing, easting, elevation and description. The alignment position shall be collected at minimum intervals of two hundred feet (200') or as required by changes in direction of the utility being located to define the horizontal alignment. Elevation "as built" depth locations shall be collected at a minimum of ten (10) per mile. The horizontal and vertical accuracy requirements for all collected positions shall be within 0.5 foot of their reported position as evidenced by the certification of a licensed land surveyor or engineer registered in the state of Minnesota.
 - b. Offsets from property lines, distances from the centerline of the public right of way, and curb lines as determined by the city.
 - c. Any other system agreed upon by the right of way user and the city.
 - 2. The type and size of the utility facility.
 - 3. A description of aboveground appurtenances.
 - 4. Any facilities to be abandoned, if applicable, in conformance with Minnesota statutes section 216D.04, subdivision 3, as it may be amended from time to time.
- D. Changes And Corrections: The application must provide that the applicant agrees to submit "as built" data, reflecting any changes and variations from the information provided under subsection C of this section within sixty (60) days of completion.

- E. **Additional Construction Information:** In addition, the right of way user shall submit a completion certificate to the city at the time the project is completed.
- F. **Manner Of Conveying Permit Data:** A right of way user is not required to provide or convey mapping information or data in a format or manner that is different from what is currently used and maintained by that operator. A permit application fee may include the cost to convert the data furnished by the right of way user to a format currently in use by the city. These data conversion costs, unlike other costs that make up permit fees, may be included in the permit fee after the permit application process.
- G. **Data On Existing Facilities:** A right of way user shall promptly provide existing data on its existing facilities within the public right of way in the form maintained by the user if requested by the city.
- H. **Service Laterals:** All permits issued for the installation or repair of service laterals, other than minor repairs, as defined in Minnesota rules 7560.0150, subparagraph 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence satisfactory to the city of the installed service lateral locations. Compliance with this subsection and with applicable gopher state one-call law and Minnesota rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for: 1) payments to contractors working on a public improvement project; and 2) city approval of performance under development agreements, or other subdivision or site plan approval under Minnesota statutes chapter 462. The city shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.
- I. **Trade Secret Information:** At the request of any registrant, any information requested by the city which qualifies as a trade secret under Minnesota statutes section 13.37(b) shall be treated as trade secret information as detailed therein.

8-1-21: LOCATION OF EQUIPMENT:

- A. **Undergrounding:** Unless otherwise permitted by an existing franchise or other agreement, or unless existing aboveground equipment is repaired or replaced, or unless infeasible such as in the provision of electric service at certain voltages, new construction, the installation of new equipment, and the replacement of old equipment shall be done underground or contained within buildings or other structures and in conformity with applicable codes unless otherwise agreed to by the city in writing, and such agreement is reflected in applicable permits.
- B. **Corridors:**

1. The city may assign specific corridors within the right of way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the city expects will someday be located within the right of way. Excavation, obstruction, or other permits issued by the city involving the installation or replacement of equipment may designate the proper corridor for the equipment at issue, and such equipment must be located accordingly.
2. Any registrant whose equipment is located prior to the effective date hereof in the right of way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where its equipment is located, move that equipment to its assigned position within the right of way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

C. Nuisance Equipment: One year after the effective date hereof, any nonpermitted equipment found in a right of way shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the equipment and restoring the right of way to a usable condition.

D. Limitation Of Space: To protect health, safety and welfare, the city shall have the power to prohibit or limit the placement of new or additional equipment within the right of way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use the right of way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular service, the condition of the right of way, the time of year with respect to essential utility, the protection of existing equipment in the right of way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

E. Relocation Of Equipment:

1. The person must promptly and at his own expense, with due regard for seasonal working conditions, permanently remove and relocate his equipment and facilities in the right of way whenever the city requests such removal and relocation, and shall restore the right of way to the same condition it was in prior to said removal or relocation. The city may make such requests in order to prevent interference by the company's equipment or facilities with:
 - a. A present or future city use of the right of way;
 - b. A public improvement undertaken by the city;
 - c. An economic development project in which the city has an interest or investment;

- d. When the public health, safety and welfare require it; or
 - e. When necessary to prevent interference with the safety and convenience of ordinary travel over the right of way.
2. Notwithstanding the foregoing, a person shall not be required to remove or relocate his equipment from any right of way which has been vacated in favor of a nongovernmental entity unless and until the reasonable costs thereof are first paid by such nongovernmental entity to the person therefor.

8-1-22: DAMAGE TO OTHER EQUIPMENT:

- A. When the city performs work in the right of way and finds it necessary to maintain, support, or move a registrant's equipment in order to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing.
- B. Each registrant shall be responsible for the cost of repairing any permitted equipment in the right of way which it or its equipment damages. Each registrant shall be responsible for the cost of repairing any damage to the equipment of another registrant caused during the city's response to an emergency occasioned by that registrant's equipment.

8-1-23: VACATION OF RIGHT OF WAY:

- A. Reservation Of Right: If the city vacates a right of way which contains the equipment of a registrant, and if the vacation does not require the relocation of registrant or permittee equipment, the city shall reserve, to and for itself and all registrants having equipment in the vacated right of way, the right to install, maintain and operate any equipment in the vacated right of way and to enter upon such right of way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.
- B. Relocation Of Equipment: If the vacation requires the relocation of registrant or permittee equipment and: 1) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or 2) if the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee; or 3) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

8-1-24: ABANDONED AND UNUSABLE EQUIPMENT:

- A. Discontinued Operations: A registrant who has determined to discontinue its operations with respect to any equipment in any right of way, or segment or portion thereof, in the city must either:

1. Provide information satisfactory to the city that the registrant's obligations for its equipment in the right of way under this chapter have been lawfully assumed by another registrant; or
 2. Submit to the city a proposal and instruments for transferring ownership of its equipment to the city. If a registrant proceeds under this clause, the city may, at its option:
 - a. Purchase the equipment; or
 - b. Require the registrant, at its own expense, to remove it; or
 - c. Require the registrant to post an additional bond or an increased bond amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment.
- B. Abandoned Equipment: Equipment of a registrant which fails to comply with subsection A of this section and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to:
1. Abating the nuisance;
 2. Taking possession of the equipment and restoring it to a usable condition;
 3. Requiring removal of the equipment by the registrant or by the registrant's surety; or
 4. Exercising its rights pursuant to the performance and restoration bond.
- C. Removal Required: Any registrant who has unusable equipment in any right of way shall remove it from that right of way during the next scheduled excavation, unless this requirement is waived by the city.

8-1-25: OTHER OBLIGATIONS:

- A. Compliance With Other Laws: Obtaining a right of way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other appropriate jurisdiction or other applicable rule, law or regulation. The permittee shall comply with other local codes and with road load restrictions. A permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, Minnesota statutes sections 216D.01 through 216D.09 ("Gopher One-Call Excavation Notice System") and Minnesota rules chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right of way pursuant to its permit, regardless of who performs the work.

- B. Prohibited Work: Except in the case of an emergency, and with the approval of the city, no right of way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.
- C. Interference With Right Of Way: A permittee shall not so obstruct a right of way that there is interference with the natural free and clear passage of water through the gutters or other waterways. Private vehicles may not be parked within or adjacent to a permit area. The loading or unloading of trucks adjacent to a permit area is prohibited unless specifically authorized by the permit.
- D. Traffic Control: Traffic control shall conform to the "Minnesota Manual On Uniform Traffic Control Devices" (MMUTCD) and its field manual and any written directions of the city engineer.
- E. Trenchless Excavation: As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota statutes chapter 216D and Minnesota rules chapter 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

8-1-26: INDEMNIFICATION AND LIABILITY:

- A. Limitation Of Liability: By reason of the acceptance of a registration or the grant of a right of way permit, the city does not assume any liability:
 - 1. For injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the city; or
 - 2. For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.
- B. Indemnification: By registering with the city, a registrant agrees, or by accepting a permit under this chapter, a permittee is required to defend, indemnify, and hold the city whole and harmless, from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment, or out of any activity undertaken in or near a right of way, whether or not any act or omission complained of is authorized, allowed, or prohibited by a right of way permit. It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the city for any claim nor for any award arising out of the presence, installation, maintenance or operation of its equipment, or any activity undertaken in or near a right of way, whether or not the act or omission complained of is authorized, allowed or prohibited by a right of way permit. The foregoing does not indemnify the city for its own negligence except for claims arising out of or alleging the city's negligence where such negligence arises out of or is primarily related to the presence, installation, construction, operation, maintenance or repair of said equipment by the registrant or on the registrant's behalf, including, but not limited to, the issuance of permits

and inspection of plans or work. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the city; and the registrant, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

- C. Future Uses: In placing any equipment or allowing it to be placed in the right of way, the city is not liable for any damages caused thereby to any registrant's equipment which is already in place. No registrant is entitled to rely on the provisions of this chapter, and no special duty is created as to any registrant. This chapter is enacted to protect the general health, welfare and safety of the public at large.

8-1-27: REVOCATION OF PERMITS:

- A. Substantial Breach: Registrants hold permits issued pursuant to this chapter as a privilege and not as a right. The city reserves its right, as provided herein and in accordance with Minnesota statutes section 237.163, subdivision 4, to revoke any right of way permit, without fee refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any condition of the permit. A substantial breach by the permittee shall include, but shall not be limited to, the following:

1. The violation of any material provision of the right of way permit;
2. An evasion or attempt to evade any material provision of the right of way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
3. Any material misrepresentation of fact in the application for a right of way permit;
4. The failure to maintain the required bonds and/or insurance;
5. The failure to complete the work in a timely manner; or
6. The failure to correct a condition indicated on an order issued pursuant to subsection [8-1-15C](#) of this chapter.

- B. Written Notice Of Breach: If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the city, at the city's discretion, to place additional or revised conditions on the permit.

- C. Response To Notice Of Breach: Within twenty four (24) hours of receiving notification of the breach, the permittee shall contact the city with a plan, acceptable to the city inspector, for its correction. The permittee's failure to so contact the city inspector, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the permit. Further, the permittee's

failure to so contact the city inspector, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall automatically place the permittee on probation for one full year.

- D. Cause For Probation: From time to time, the city may establish a list of conditions of the permit which, if breached, will automatically place the permittee on probation, such as, but not limited to, working out of the allotted time period or working on a right of way outside of the permit.
- E. Automatic Revocation: If a permittee, while on probation, commits a breach as outlined above, the permittee's permit will automatically be revoked, and the permittee will not be allowed further permits for one full year, except for emergency repairs.
- F. Revocation of a small wireless facility permit shall be made in writing within three (3) business days of the decision to revoke the permit and shall document the basis for the revocation.
- G. Reimbursement Of City Costs: If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney fees, incurred in connection with such revocation.

GH. Work With No Permit: Upon written notice of a breach for work in the right of way without first obtaining a permit, the violator must subsequently obtain a permit, pay the normal fee for said permit, pay all the other fees required by city ordinance, including, but not limited to, criminal fines and penalties, deposit with the city the fees necessary to correct any damage to the right of way and comply with all of the requirements of this chapter. Registrants will be placed on indefinite probation after the first violation. Fees and penalties for all subsequent violations will be doubled for registrants on probation.

8-1-28: APPEALS:

A person that: a) has been denied registration; b) has been denied a right of way permit; c) has had its right of way permit revoked; d) believes that the fees imposed are invalid; or e) disputes a determination of the administrator may have the denial, revocation, fee imposition, or determination reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, fee imposition, or decision will be in writing and supported by written findings establishing the reasonableness of the decision.

8-1-29: FRANCHISE MAY BE REQUIRED; SUPREMACY ESTABLISHED:

The city may, in addition to the requirements of this chapter, require any person which has or seeks to have equipment located in any right of way to obtain a franchise to the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provisions of this chapter, whether granted prior or subsequent to enactment of this chapter, shall control and supersede the conflicting terms of this chapter; provided, however,

that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification or any other security in favor of the city may be cumulative in the sole determination of the city or unless otherwise negotiated by the city and the franchise grantee. All other terms of this chapter shall be fully applicable to all persons whether franchised or not.

8-1-30: RESERVATION OF REGULATORY AND POLICE POWERS:

- A. The city, by the granting of a right of way permit or by registering a person under this chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights which it has now or may be hereafter vested in the city under the constitution and statutes of the state of Minnesota to regulate the use of the right of way by the permittee; and the permittee, by its acceptance of a right of way permit or of registration under this chapter, agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers.
- B. Any conflict between the provisions of a registration or of a ~~right of way~~ permit and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

8-1-31: SEVERABILITY:

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final nonappealable order that any permit, right or registration issued under this chapter or any portion of this chapter is illegal or unenforceable, any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days' written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the city council to issue such revocable permit and the power to revoke it. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

8-1-32: NONEXCLUSIVE REMEDIES:

The remedies provided in this chapter and other city ordinances are not exclusive or in lieu of

other rights and remedies that the city may have at law or in equity. The city is hereby authorized to seek legal and equitable relief for actual or threatened injury to the public rights of way, including damages to the rights of way, whether or not caused by a violation of any of the provisions of this chapter or other provisions of city ordinances.

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

ADOPTED this __ day of _____, 2017 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



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: CITY COUNCIL, PLANNING COMMISSION, EDA & CHAMBER OF COMMERCE
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
SUBJECT: COMMUNITY DEVELOPMENT UPDATES
DATE: JANUARY 2, 2018

Background / History

The purpose of this memo is to provide the updates regarding on-going miscellaneous projects and activities being worked on by Community Development staff. Below is a summary of projects that are currently being worked on, inquiries received, and miscellaneous information:

Boulder Heights – Residential subdivision containing 53 lots. The developer began grading the site and also began the installation of municipal utilities during the late fall and early winter of 2018. Shortly before Christmas the developer ceased work for the winter. Utility and grading work will resume in the spring as weather permits.

Christmas Pines – The development received preliminary plat approval in June. The City issued a Notice of Decision on the wetland boundary and type application on 5.18.17. The application for wetland replacement was approved by the City Council on 10.26.17. Staff met with the developer to review outstanding issues and draft development contract on 8.30.17, and an email outlining all outstanding items was sent to the developer on 9.11.17. The City is waiting for revised plan submittals and information from developer. Further movement on the project is in the developer's court.

New Market Bank Addition / Elko New Market Commerce Center – The building permit application was issued and a groundbreaking ceremony was held on Thursday, 10.5.17. Construction is underway and expected to take approximately six months. Curbing is installed and the first layer of bituminous is on the parking lot. Framing is underway at this time. A permit has been received for finishing the interior space for the New Market Bank (east end of the building). Separate permits are needed to finish the interiors of each tenant space.

Boulder Pointe 6th Addition – An amendment / restatement of the original PUD / townhome development was approved by the City on 8.24.17. The amendment allows more flexibility for the developers in terms of housing styles, and reduces the required setbacks between the units. Thirteen additional units can be constructed in the townhome development; one spec home is now under construction. The owner of several lots has recently completed grading work required under the originally approved subdivision grading plan.

Community Development Updates

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Warren Barsness – An application for wetland boundary and type concurrence, and wetland replacement plan was submitted, but were withdrawn on 8.10.17. A previous grading permit that allowed the property owners to bring in up to 20,000 yards of fill expired on 10.4.17. Other than administration of the grading permit, staff has had no contact regarding development of the site since August of 2017.

Dakota Acres / Syndicated Properties –The City Council sold 13 platted townhome lots and a 2.1 acre outlot to Syndicated Properties on 10.23.17. Syndicated purchased the property with the intention of constructing approximately 41 rental townhomes. City officials that were previously appointed to the Dakota Acres Board of Directors have since resigned and a new board of directors was established on 11/27/17. The buyer has submitted a concept plan for review and comment by City staff.

Dakota Acres / City Owned Property - The City continues to own a 3.1 acre parcel to the west of the property purchased by Syndicated Properties. There are currently two parties expressing mild interest in the remaining property. One interested party is pursuing an investor and operator for an assisted living facility. The current asking price for the property, based on an appraisal, is \$285,000.

Adelmann Property – City staff has been working with the Adelmann family to develop a preferred concept development plan for their properties currently located in New Market Township along Co Rd 2, and west of I-35. The consultant has prepared some concept development plans and requested specific land use categories for their property that they presented to the Planning Commission over the past three months. This project is a result of a Scott County CDA grant provided to the City. A second grant has also been awarded to the City which allows completion of an AUAR, wetland inventory and tree inventory on the properties.

Pete’s Hill Park – Staff has been regularly communicating with the property owner for this potential residential development project containing 44 single family lots and located immediately south of Pete’s Hill Park. The wetland boundary and type concurrence applications have been submitted to and approved by the Township. The most recent concept development plan was submitted to the City on 11.22.17. Staff provided a revised development fee estimate to the property owner on 8.10.17. The property owner continues to look for a developer to develop the property. Topography, wetlands and trees add to the challenge of developing the property. The project requires annexation of property from New Market Township.

Grocery Store Leads – There are no current grocery store or C-store leads/inquiries. Staff received several inquiries in the spring of 2017; activity regarding these leads has ceased, at least for the time being. Staff recently provided market information to the mayor for conveyance to HyVee.

Coffee Shop – A building permit has been issued for a tenant finish permit in the Joe Friedges strip mall on Church Street. The permit was for a remodel to finish the former Helen’s Café space as a coffee shop. Staff understands that the coffee shop is expected to open in January.

Farmer’s Insurance – A Farmer’s Insurance office opened at 541 Main Street.

Gift Shop – A new gift shop has opened in the space formerly occupied by the Crowned Cottage, located at 531 Main Street.

Building Permits – The City issued eleven residential building permits in 2017.

Park I-35 –A proposal for the Park I-35 site has been submitted for the Amazon Headquarters, in conjunction with Scott County. The State of Minnesota submitted multiple sites in the Twin Cities and there were 238 sites submitted across the country. Amazon’s “short list” of sites is expected in early 2018. There have been no active inquiries/leads for the industrial park since the spring of 2017, other than the Amazon Headquarters. Ryan Companies recently indicated that they may be receiving an RFP for the property for a large distribution center.