

# Town of Elmer City Ordinance No. 375

*An Ordinance of the Town of Elmer City, Washington, defining public nuisances and declaring certain conditions, places, and things to be a public nuisance and prohibiting the same, providing for the abatement thereof and providing penalties and repealing Ordinances No. 181 and all Ordinances in conflict therewith.*

**WHEREAS**, the City Council for the Town of Elmer City approved Ordinance No. 181, adopted July 2, 1987; and

**WHEREAS**, the City Council for the Town of Elmer City has determined that it is in the best interests of the public's health, safety, and welfare to define and prohibit nuisances, and provide for an abatement procedure and penalties for violations;

**NOW THEREFORE**, be it ordained by the City Council for the Town of Elmer City, Washington, as follows:

**Section 1 – Purpose and Authority:** Certain conditions exist within the Town of Elmer City (known as the "Town") which constitute a public nuisance, and the Town is authorized pursuant to RCW 35.27.410 to adopt an ordinance declaring such to be public nuisances and providing for the abatement thereof and penalties therefor.

**Section 2 – Definitions:** The words and phrases used in this Ordinance, unless the context indicates otherwise, shall have the following meanings:

"Abate" means to repair, replace, remove, destroy, or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Enforcement Officer, in their judgment, determines is necessary in the interest of the general health, safety and welfare of the Town.

"Building Materials" means and includes but is not limited to, lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

"Enforcement Officer" means the Mayor or their designated representative, or a uniformed officer of the Colville Confederated Tribes or Okanogan County as designated by the Mayor.

"Junk" means and includes but is not limited to, all old appliances or parts thereof, all old iron, or other metal, and non-running automobiles or parts thereof.

"Litter" means and includes but is not limited to, all other waste and discarded materials.

"Premises" means any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved, including adjacent sidewalks, and parking strips.

"Property" means any object of value that a person may lawfully acquire and hold.

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“Public Nuisance” means a thing, act, omission to act, occupation, or use of property which:

1. Unreasonably annoys, injures, or endangers the safety, health, comfort, or responses of the public.
2. Offends public decency and is offensive to the senses.
3. Unlawfully interferes with, obstructs, or renders dangerous passage any stream, canal, or basin or any park, public space, square, street, alley, or sidewalk.
4. In any way renders other people insecure in life and use of property.
5. Obstructs the free use of property so it interferes with the comfortable enjoyment of life and property.

“Refuse” means and includes but is not limited to, all trash, dirt, garbage, discarded food, animal waste, vegetable matter, cans, and ashes.

“Responsible Person” means any agent, lessee, owner, or person occupying or having charge or control of any premises.

“Weed” means and includes but is not limited to, undesired and uncultivated plants growing in profuse or unsightly manner, and also includes grasses.

**Section 3 – Condition Constituting a Public Nuisances:** Each of the following conditions unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Enforcement Officer determines any of these conditions exist upon any premises, the Enforcement Officer may require or provide for the abatement thereof pursuant to this Ordinance. Acts or conditions which include, but are not limited to, the following are hereby declared to be a nuisance, to wit.

1. All decayed or unwholesome food offered for sale to the public.
2. All diseased animals running at large.
3. The carcass of any animal, fish, fowl, or unsound meat, or any offensive liquid.
4. Any accumulation of manure or rubbish.
5. All pools or ponds of stagnant water.
6. Allowing water or other wet materials to collect and stand in open containers of any kind, causing impure water, vegetables, decayed substance or other

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mater or materials, which may cause or tend to cause or create an offensive smell or atmosphere or promote the breeding of mosquitoes.

7. All privy vaults and garbage cans which are not fly tight.
8. Pollution of any public well or cistern, stream, canal, or body of water by sewage, industrial waste, or other substances.
9. All noxious weeds and other rank growths upon public, or private property, including but not limited to poison oak or ivy, deadly nightshade, or any toxic weed or uncultivated plant (whether growing or otherwise), weed, tall grasses, uncultivated shrubs or growth, or any weed designated to be a noxious weed by Okanogan County.
10. Burning or disposing of refuse, sawdust, or other material in any manner that causes or permits ashes, sawdust, soot, or cinder to be cast upon other premises or to causing or permitting the smoke, ashes, gases, or noxious fumes rising from such burning to become annoying or to cause injury or endanger the health, comfort, or repose of the public.
11. Any offensive trade or business as defined by state statute, CCT Law and Order Code, or other Town Ordinances.
12. Any slaughterhouse, market, cellar, store, wholesale or retail establishment, or other building or structure which is not kept clean and free from filthy, putrid, or offensive substances or deposits which may endanger or cause disease.
13. All limbs of trees, hedges, billboards, fences, or other obstructions which prevent any person from having a clear view of traffic approaching an intersection and cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
14. All limbs of trees which are less than eight (8) feet above the surface of any public sidewalk, or less than twelve (12) feet above the surface of any street.
15. The existence of any dead, diseased, infested or dying tree, shrub, or foliage that may constate a danger to the street or sidewalk, or portions thereof.
16. The existence of any tree, shrub, or foliage which is apt to destroy, impair, interfere with, or restrict streets, sidewalks, water and sewer lines, utilities, or other public improvements.
17. The existence of any vines or climbing plants on or over any fire hydrant, standpipe, sprinkler system or any other appliances or facility that provides for fire protection services.

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18. The existence or placement of any stone, brick, lumber, dirt, or other material, parked vehicle, or other obstruction over or near any fire hydrant, standpipe, sprinkler system, or any other appliance or facility that provides for fire protection services.
19. Leaving standing any buildings, walls, or other structures which have been damaged by fire, decay, or other circumstances so as to endanger the safety of the public.
20. Any unsightly or dangerous building, billboard, or other structure which is abandoned, partially destroyed, or condemned, and all unoccupied buildings not securely closed against entry by those having no interest in said property.
21. Any obstruction or excavation affecting the ordinary use by the public of streets, alleys, sidewalks, or public ground except under such conditions as provided by ordinance.
22. All hanging signs, awnings and other similar structures over the streets or sidewalks, or so situated as to endanger public safety, not constructed, and maintained as provided by ordinance.
23. Use of any property abutting a public street, alley, or sidewalk, or any use of public ground which causes large crowds of people to gather and obstruct traffic or the free use of said street, alley, or sidewalk.
24. All explosives, flammable liquids and other dangerous substances stored in any manner or in any amount other than what is provided by law or ordinance.
25. The existence of any accumulation of materials or objects in a location or in a manner which endangers property or safety or constitutes a fire hazard.
26. Leaving open any ditch or excavation upon public, or private property, accessible to the public, which is dangerous unless there is adequate signage.
27. Exploding, discharging, or causing to be exploded or discharged any firecracker, fireworks, or any other explosive device.
28. All loud noises which disturbs the peace and quiet of the residents.
29. Dumping, throwing, placing, or leaving any filth, paper, cans, glass, rubbish, trash, garbage, or vegetation trimming of any kind in or upon any street, alley, sidewalk, ditch, or private property of another.
30. All exterior storage, or the permitting or allowing of such storage, of any partially dismantled, wrecked, junked, discarded or other non-operating

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motor vehicle, unless the same is stored so as not to be visible from any public place or from any surrounding property, or incidental to a lawful business.

31. Permitting to remain outside any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or other container, which has an airtight door or lid, snap lock, or other automating locking device, which may not be released from the inside, without first removing said lid, snap lock, or other locking device.
32. Permitting any unused well, cistern or storage tank to remain without first demolishing, filling, or removing it.
33. The existence of any drainage onto or over any sidewalk, alley, street, or public right of way.
34. All conditions or things which present an unreasonable danger or injury to persons or property.
35. All other acts, omission of acts, occupation or use of property which are deemed by the Enforcement Officer to be a menace to the health and safety of the inhabitants of the Town or to any considerable number thereof.

### **Section 4 – Animals:** The following acts are declared to be unlawful:

1. For any person to cruelly beat, torture, misuse, deprive of food or water, or otherwise misuse an animal.
2. Keeping or harboring any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or the making of other noises annoys or disturbs any number of persons.
3. Having the care or custody of any animal known to possess vicious or dangerous tendencies, or to allow the same to escape or run at large, endangering the safety of any person or other animals.
4. Importing, driving, turning out, or allowing to run at large upon any highway, or unenclosed lands, or upon lands bordering enclosed lands kept by any person for pasture, or keeping or allowing to be watered at any public drinking fountain or watering place any animal having any contagious or infectious disease.
5. Riding, leading, or possessing livestock upon any park, or any private property, except that of any owner of property where consent has been given the owner of said animal.

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**Section 5 – Parks, Playground and Public Ways:** No person, group, firm, or corporation shall:

1. Use, place, or erect any placard, notice, sign, or device of any kind for advertising or erect a structure of any kind in any park, without written permission from the Mayor or their designated representative.
2. Cut, injure, deface, remove, or disturb any tree, shrub, plant, fence, bench, building or any other structure or apparatus in any park or public place, or injure, misuse, or remove any device placed to protect such tree, shrub, plant, fence, bench, building or any other structure apparatus, without written permission from the Mayor or their designated representative.
3. Let an animal enter upon any portion of lawn or ground within any park or public place when notified by a sign placed in such park or public place that such entry is prohibited.
4. Throw away or deposit any refuse or litter, garbage, yard trimmings, weeds or other waste materials in any park or public place, except in designated receptacles.
5. Make or kindle any fire in any park or public place except at places designated for such purposes.
6. Camp, spend the night or remain in any park or public place after the posted closing time.
7. Allow or permit any animal, including dogs to run at large in any park or public place.
8. Use or discharge any firearm, air gun, BB gun, slingshot or any bow and arrow, or throw rocks, stones, or sticks in any park or public place.
9. Molest, catch, injure, or strike with a stick or weapon any animal or bird in any park or public place.
10. Solicit for the sale of any goods, service or merchandise in any park or public place, without the written permission from the Mayor or their designated representative.
11. Operate or use any loudspeaker or mechanical means of amplifying sound in any park or public place without the written permission from the Mayor or their designated representative.
12. Ride or drive any bicycle or motor vehicle over or through any park or public place except along and upon public roads, streets, or other designated area therein.

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13. Throw or let loose onto the streets, sidewalks, or alley any balls, toys, or practice or play golf in any park or public place.
14. Prevent, delay, or interfere with the employees of the Town in planning, pruning, spraying, or removing of trees, plants or shrubs in any park or public place.

### **Section 6 – Work Obstructing Public Places:**

1. Any person, firm, corporation, and/or utility desiring to perform work upon any obstruction, or make any installation, or repair any damages to city streets, alleys, rights-of-way, bridges, parking lots, parks, or other public places within the city are required to obtain a permit from the Mayor or their designated representative before proceeding.
2. The Mayor or their designated representative is authorized and directed to require applications for the performance of work, obstructing or making installations on city streets, alleys, right-of-way, bridges, parking lots, parks, or other public places, upon such forms and pursuant to such regulations as approved by resolution by city council.

### **Section 7 – Traffic and Parking:**

1. Title 46 of the RCW, as the same now appears or hereafter may be amended, shall be, and the same hereby is, adopted by this reference as the Traffic Code for the Town.
2. The term “public highway” as used in Title 46 of the RCW, shall include but not be limited to, all public and private parking lots within town limits.
3. Parking space shall mean any space which is duly designated for parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street.

**Section 8 – Exempted Acts:** This Ordinance shall not apply to the Colville Confederated Tribes, the State of Washington, Okanogan County, the Town of Elmer City, or any of their respective offices, employees, or contractors, when engaged in snow removal, street cleaning, repair to any water/sewer line, street, sidewalk, alley, building or structure, fire suppression or any other emergency for the preservation of life and property.

### **Section 9 – Variance:**

1. The City Council may, upon written application filed with the Town Clerk, grant a variance from any provision of this Ordinance for any activity when it finds that such is in the public interest or when it is found that the activity will have substantial public participation and benefit.
2. A variance shall be granted only after approval by the City Council.

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3. Any variance granted shall state the nature of the activity and the date, time, and place for which the variance is granted and shall state any special provisions or limitation applicable to exercise of the variance.
4. Any activity conducted under a variance shall conform strictly to the terms and provision of the variance.

**Section 10 – Enforcement and Notice:** Any Enforcement Officer having knowledge of a public nuisance shall cause the owner or other responsible person to be notified of the existence of a such nuisance on any premises and shall direct the owner or other responsible person to abate the condition within (10) days after service of the notice upon such owner or other responsible person. The notice shall be in the form of a “Notice to Abate Unsafe or Unlawful Condition.”

**Section 11 – Abatement by the Town:** In all cases where the Enforcement Officer has determined to proceed with abatement, the Town shall be authorized ten (10) days after giving notice to abate the condition at the person’s expense as herein provided. Upon the abatement of the condition or any portion thereof by the Town, all expenses of such abatement shall constitute a civil debt owed to the Town jointly and severally by the person who has been given notice to abate as provided herein. The debt shall be collectable in the same manner as any other civil debt owed to the Town.

**Section 12 – Lien:** In the event the Town abates a nuisance pursuant to Section 11 of this Ordinance, the cost to the Town of such abatement shall become a charge against the owner of the property and a lien against the owner’s property. Notice of the lien authorized herein shall be, as nearly as practicable, in substantially the same form, filed within the same time, and enforced and foreclosed in the same manner as is provided by law for liens for labor and materials. The provisions of this section are supplemental and additional to any other powers granted or held by the Town on the same or similar subject or elsewhere in this Ordinance.

**Section 13 – Abatement by Owner and Responsible Person:** If and when an owner or other responsible person shall undertake to abate any condition described in this Ordinance, whether by order of the Enforcement Officer or otherwise, all needful and legal conditions pertinent to the abatement may be imposed by the Enforcement Officer. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this Ordinance shall relieve any owner or responsible person of the obligation to obtain any required permit to do any work incidental to the abatement.

**Section 14 – Successive Liability:** Every successive owner, occupant or caretaker of the property who neglects to abate a continuing nuisance upon or in the use of such property, caused by a former owner, occupant, or caretaker, is liable therefor in the same manner as the one who created it.



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**Section 15– Immediate Danger, Summary Abatement:** Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health and safety of the public or a significant portion thereof, the Enforcement Officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in Sections 11 and 12 of this Ordinance.

**Section 16 – Violation and Penalty:** Violation of the terms of this Ordinance shall constitute a civil infraction with a monetary penalty of not more than Two Hundred Fifty Dollars (\$250.00) for each violation. For the purpose of this Ordinance, each day that a person is found to be in violation constitutes a separate violation.

**Section 17 – Repealed:** Town of Elmer City Ordinance No. 181 is hereby repealed in its entirety and any other Ordinance or parts thereof in conflict with this Ordinance is hereby repealed.

**Section 18 – Severability:** If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

**Section 19 – Short Title:** This Ordinance shall be known as the Town of Elmer City Nuisance Ordinance and may be cited as such.

**Section 20 – Effective Date:** This Ordinance shall take effect after its passage by the City Council, approval by the Mayor and publication as required by law.

**NOW, THEREFORE, BE IT ORDAINED,** by the City Council for the Town of Elmer City, Washington the attached Ordinance is hereby adopted.

Approved this 13<sup>th</sup> day of July, 2023.



TOWN OF ELMER CITY,  
ELMER CITY, WASHINGTON

  
JESSE O. TILLMAN, Mayor

ATTEST:

  
KELLY ROSS, Clerk/Treasurer