

TOWN OF EUREKA, DAKOTA COUNTY, MINNESOTA

Ordinance No. 2011-01

**AN ORDINANCE AMENDING ORDINANCE 1, CHAPTER 4 (DEFINITIONS)
AND ORDINANCE 3, CHAPTER 4, SECTION 9 (SWIMMING POOLS, HOT
TUBS AND SPAS)**

1. AMENDMENT TO ORDINANCE 1, DEFINITIONS. Amend the existing definition of “Swimming Pool” as follows:

Swimming Pool: A swimming pool is any structure ~~above or below ground~~ intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep over 5,000 gallons of water or is over 2 feet deep at its maximum depth. This includes in-ground, above-ground and on-ground swimming pools; hot tubs; and portable and non-portable spas.

2. AMENDMENT TO ORDINANCE 3, SWIMMING POOL PERFORMANCE STANDARDS. Delete the existing text at Ordinance 3, Chapter 4, Section 9, and in its place insert the following new text:

A. Permits. A building permit shall be required for all in-ground swimming pools, and for all above-ground swimming pools designed to hold more than 5,000 gallons of water. Permit fees for swimming pools shall be based on valuation. The building permit application shall show:

1. Type and size of pool.
2. Site plan.
3. Location of pool.
4. Location of house, garage, fencing and other features on the lot.
5. Location of structures on all adjacent lots.
6. Location of filter unit, pump and wiring (involving type).
7. Location of back-flush and drainage outlet.
8. Grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool.
9. Location of existing overhead or underground wiring, utility easements, trees and similar fixtures.

B. SAFETY FENCE. All swimming pools requiring a permit shall be completely enclosed by approved safety fencing.

1. To be approved, “safety fencing” must be a barrier a minimum of 48 inches in height. Walls of an above-ground swimming pool are considered barriers for the purpose of this ordinance, provided that the walls are at least 48 inches in height. The maximum clearance between grade and the bottom of the barrier shall be 2 inches. The maximum

vertical clearance at the bottom of the barrier may be increased to 4 inches when the grade is a solid surface such as concrete, or where the barrier is mounted on top of the pool structure. Openings in the barrier shall not allow passage of a 4 inch sphere. For fencing composed of vertical and horizontal members, if the tops of the horizontal members are less than 45 inches apart, the spacing between vertical members shall be no greater than 1 $\frac{3}{4}$ inches.

2. Access gates, if used, shall be self-closing and have a self-latching device. Access gates shall open outward, away from the pool. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the pool side of the barrier at least 3 inches below the top of the gate, and the barrier shall have no openings greater than $\frac{1}{2}$ inch within 18 inches of the release mechanism.
3. Self-contained hot tubs or spas equipped with a locking cover do not need a separate safety fence.
4. A wall of a dwelling may serve as part of the barrier. If a wall of a dwelling is used as part of the barrier, one of the following conditions shall be met:
 - a. The pool shall be equipped with a powered safety cover; or
 - b. Doors with direct access to the pool shall be equipped with an alarm which produces an audible warning when the door and/or screen are opened. The alarm must be capable of being heard throughout the house during normal household activities, and shall automatically reset. The alarm system may have a means of temporarily disabling the alarm, provided that the deactivation lasts no longer than 30 seconds and the switch, touch pad or other device that disables the alarm is located at least 54 inches above the threshold of the door; or
 - c. Doors with direct access to the pool area must have a lockable device located at least 54 inches above the threshold of the door; or
 - d. Upon request, the Town Board may approve an alternative safety measure that it finds to be as effective or more effective than the measures specified in (a), (b) or (c).
5. Where the structure of an above-ground pool is used as a barrier, or the barrier is mounted on top of a pool structure, and the pool is accessed by means of a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access; or the ladder or steps shall

be surrounded by a barrier that complies with the requirements of this ordinance.

6. Barriers shall be located to prevent any permanent structures, equipment, or similar objects from being used to climb the barriers.

C. PERFORMANCE STANDARDS.

1. A swimming pool shall not be located within ten (10) feet of any side or rear lot lines nor within ten (10) feet of any principal building or accessory structure. For the purposes of determining setbacks for pools, attached and detached decks shall not be considered part of a principal building or accessory structure.
2. The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least twenty (20) feet from any adjacent or nearby residential structure, and not closer than ten (10) feet to any lot line.
3. All wiring, lighting, installation of heating unit, grading, installation of pipes and all other installations and construction shall require inspection in accordance with respective Minnesota State codes.
4. Pools shall not be located beneath overhead utility lines, nor over underground utility lines of any type.
5. Pools shall not be located within any private or public utility, walkway, drainage or other easement.
6. In the case of in-ground pools, due precautions shall be taken during the construction period to avoid damage, hazards or inconvenience to adjacent or nearby property, and to assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringement onto adjacent property.
7. To the extent feasible, back-flush water or water from pool drainage shall be on the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land. Owners shall check for any best practices published by the Minnesota Pollution Control Agency before draining.
8. Lighting for the pool shall be directed into or onto the pool, and not onto adjacent property.
9. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type.

10. The required safety fencing shall be completely installed within three (3) weeks following installation of the pool and prior to the pool being filled, unless the pool installation cannot be completed without first filling the pool, due to the way the pool is designed, in which case the fence must be completed within seven (7) days of filling the pool.
11. Any proposed deviation from these standards shall require a variance in accordance with normal zoning procedures.

D. **APPLICATION.** The requirements of this Section apply to pools installed after the effective date of this Ordinance.

3. SEVERABILITY. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part held to be invalid.

4. EFFECTIVE DATE. The Ordinance shall take effect and be in force from and after its passage and publication.

Dated: March 14, 2011

Brian Budenski, Chair of Town Board

Nanett Sandstrom, Town Clerk

Summary of Ordinance No. 2011-01 was approved by the Town Board on March 14, 2011 and published in Thisweek Farmington/Lakeville Newspaper on March 18, 2011.