

ORDINANCE NO. 32

AN ORDINANCE OF THE TOWNSHIP OF EUREKA, MINNESOTA AMENDING THE EUREKA TOWNSHIP ZONING ORDINANCE SECTION 6 ENTITLED "ADMINISTRATION" BY ADDING SECTION 6.8 REGARDING NONCONFORMING USE PERMITS.

The Township Board of Supervisors of the Township of Eureka does ordain:

Section 1. Section 6 of the Eureka Township Zoning Ordinance is hereby amended by adding Section 6.8 to read as follows:

Section 6.8 Nonconforming Use Permits

A. Purpose: The Board recognizes that there are a number of commercial and industrial businesses existing within the Township which are neither permitted uses nor uses allowed by conditional use permit under the Township's zoning ordinances. In recognition of the value these businesses provide to the Township, the Board seeks to implement a means to allow such businesses to presently remain in the Township, while providing a reasonable means for the Township to regulate their activity to promote the health, safety and welfare of the Township. The Board seeks to compile a list of the businesses which are unpermitted uses under the zoning ordinance, which businesses are illegal and nonconforming. Any business in existence as of the effective date of this Section and which is nonconforming under the zoning ordinance must comply with this Section in order to remain at its present location within the Township. Any existing business which does not comply with this Section, as required herein, shall not be entitled to any grandfather rights or any other benefits arising out of its present use.

B. Procedure

1. No person, corporation or other entity shall operate any business or commercial operation in any district unless specifically permitted therein or unless a required non conforming conditional use permit has been granted by the Town Board.

2. Every person, corporation or entity which has a structure or use under this Section existing as a nonconforming use upon the effective date of this Section shall obtain a Nonconforming Use Permit in compliance with this Section within 180 days from the effective date of this Section. Any structure or use existing 180 days after the effective date of this Section shall be deemed an illegal use and a violation of the Zoning Ordinance.

3. The person applying for a Nonconforming Use Permit (the "Applicant") shall file and submit to the Town Clerk a completed application on a form provided by the Township, together with a fee of \$100.00.

4. The application shall be referred to the Planning Commission. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Township at least ten (10) days prior to the day of the hearing.
 5. The Planning Commission shall hold a public hearing on the application.
 6. The Applicant or his/her representative shall appear before the Planning Commission in order to answer questions concerning the nonconforming use.
 7. The report of the Planning Commission shall be placed on the agenda of the Town Board at its next regular meeting following referral from the Planning Commission.
 8. If the Town Board grants the Nonconforming Use Permit, the Town Board may impose conditions it considers necessary to protect the public health, safety and welfare. In all cases in which a Nonconforming Use Permit is granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions imposed by the Town Board are being and will be complied with.
 9. If the Town Board denies the Nonconforming Use Permit, it shall include in its recommendation or determination findings as to the manner in which the use does not comply with the standards required by this Section.
 10. A Nonconforming Use Permit shall be issued for a particular use and not for a particular person.
 11. A periodic review of the use may be made as a condition of approval of a Nonconforming Use Permit. Unless otherwise stipulated, the term shall be the life of the use.
 12. Failure to comply with any condition set forth in a Nonconforming Use Permit, or any other violation of Township ordinances, shall constitute sufficient cause for the termination of the Nonconforming Use Permit by the Township Board following a public hearing.
- C. Standards The Planning Commission shall recommend a Nonconforming Use Permit and the Town Board shall issue such Nonconforming Use Permit only if it finds that such use or structure at the current location:
1. Will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the Township.

2. Has outdoor lighting sources that are not visible from adjacent properties and do not project a glare onto the adjacent properties. The outdoor lighting shall be shielded to reflect light down onto the ground and not out onto the streets or neighboring properties.
3. Does not have an outdoor audio system or public address system. Outdoor audio may be used for required fire and safety purposes only. Any noise emitted at the location shall not be audible to neighboring property owners.
4. Has hours of operation between 7:00 a.m. and 9:00 p.m., or as otherwise approved by the Town Board. All deliveries and loading shall be done during these hours of operation.
5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures and refuse disposal.
6. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
7. Will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding streets.
8. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
9. Has adequate off-street parking to accommodate the use.
10. Has all storage contained indoors or properly screened from public view, through natural means or fencing. The Applicant may request the construction of an accessory structure as part of the screening device. Provided, that under no circumstances shall the accessory structure expand the nonconforming use in any fashion whatsoever. Provided further, that the accessory structure may not (a) exceed 1,320 square feet or more than 20 percent of the footprint of the primary structure unless otherwise approved by the Town Board; (b) may not be constructed at a higher elevation than the primary structure, unless otherwise approved by the Town Board; (c) may not be used for residential purposes; and (d) must exhibit finished materials similar and compatible to those utilized on the primary structure and match the primary structure in color. A building permit must be obtained prior to the construction of any accessory structure and the accessory structure may only be constructed with the issuance of the initial non-conforming use permit issued under this Ordinance. The Applicant shall be responsible for all inspection costs incurred by the Town in connection with Applicant's construction of the accessory structure.

11. Will not involve a structural alteration, enlargement, or intensification of the nonconforming use existing upon the effective date of this Ordinance.

D. Discontinuation of Use: If the nonconforming use or occupancy existing on the effective date of this Section is subsequently discontinued for a period of more than one year, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. Any nonconforming use destroyed by fire or other peril to the extent of greater than 50 percent of its market value, can be rebuilt, but only to its pre-existing size.

Section 2. Eureka Township Zoning Ordinance Section 3, entitled “Rules,” Section 4, entitled “Definitions,” and Section 12.2 entitled “Penalty” are hereby adopted in their entirety by reference as though repeated verbatim.

Section 3. This ordinance shall take effect upon its adoption and publication according to law.

By: Bev Topp
Chairman, Eureka Township
Board of Supervisors

By: Oliver Leine
Clerk, Eureka Township
Board of Supervisors

Date Ordinance Adopted: September 9, 2002

Date Ordinance Published in the Legal Newspaper: September 26, 2002

Date of Planning Commission Hearing: August 5, 2002