

**TOWN OF EUREKA
DAKOTA COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 2023-02

ORDINANCE AMENDING CHAPTERS 240 AND 198 OF THE EUREKA TOWN CODE

The Town Board of the Town of Eureka, Dakota County, Minnesota hereby ordains:

SECTION 1 - That the Eureka Town Code, Revised, adopted November 9, 2022, Chapters 240 and 198, are hereby amended as follows:

Chapter 240, Zoning

ARTICLE II: Zoning Districts

§ 240-7. Agricultural District.

C. Conditional Uses and Structures

(8) Single-family dwelling on a substandard grandfathered lot of record, provided that the requirements of Article III are met.

ARTICLE III: Residential Buildable Lots

§ 240-8. Purpose.

This article defines housing density, lot size requirements, and recognition of pre-April 12, 1982, lot of record grandfathering protection. The Town Board of Eureka is providing flexibility in a limited way to reposition existing rights to better serve property owners, encourage preservation of open agricultural land, and encourage nondevelopment of substandard size parcels.

§ 240-9. Definitions and interpretation.

A. The following words and terms, whenever they occur in this article, are defined as follows:

BUILDABLE LOT - Land that meets the criteria of the legal description of a lot, meets the requirements of §§ 240-9, 240-10, 240-11 and 240-12 of this article, and satisfies any water-related restrictions that may be required as certified by a Wetland Determination performed by the Dakota County Soil and Water Conservation District. In addition, at such time as a building permit may be sought, the owner must possess a housing right and provision for frontage on a public road as specified in this ordinance.

BUILDING PERMIT - Approval by the Eureka Township Building Inspector to construct a specific building in Eureka Township. If the permit application is for a single-family dwelling, applicant must possess a housing right on the intended lot.

CAP OF FOUR DENSITY LIMIT - A restriction on the total number of houses and housing rights that may exist in a quarter-quarter section. Verified grandfathered rights are not limited by this restriction.

CLUSTER – Previous term for the act of re-locating a housing right to another quarter-quarter section within an owner’s contiguous property. Superseded and expanded in this chapter by the broader term Transfer.

DWELLING UNIT - A residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses, or tourist homes.

EARTH-SHELTERED HOMES - A single-family residential structure partially below ground, which is water-proofed to sufficiently provide a low-humidity interior environment, is not designed for the future installation of an upper floor and is designed to meet or exceed all State Building Code Standards for fire safety, window area and other requirements.

GRANDFATHERED LOT - A term of convenient reference in this ordinance representing a pre-April 12, 1982, Lot of Record. Any lot which is one unit of a plat heretofore duly approved, one unit of an Auditor’s Subdivision or a Registered Land Survey, or is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance, and which was filed in the Office of the Dakota County Recorder on or before April 12, 1982. Also to be considered as a grandfathered lot shall be a parcel delineated on a certificate of survey prepared by a Minnesota-licensed land surveyor, and which was filed in the Dakota County Surveyor’s Office on or before April 12, 1982. (Ord. 2010-1, 6-15-2010) A lot that has been verified as having grandfather status shall not lose its grandfather status due to a boundary change by higher authority, such as widening of a public road right-of-way or a court order. To protect possible grandfathering of a lot that has not yet been verified as qualifying for grandfather protection, if it has its boundary changed by outside higher authority, the owner may provide evidence of boundary matching to the date of the imposed change rather than the current date of the owner’s application. A grandfathered lot that after creation and recording was subsequently consolidated by Dakota County’s initiative with an abutting lot for the purpose of real estate sale or county tax consolidation, shall be deemed a buildable lot for single-family residential purposes provided it meets all of the following requirements: [Resolution 54, 4-9-2007, Resolution 59, 8-13-2007, Ord. 2010-6, 12-13-2010]

1. The lot(s) involved in the consolidation shall be re-created to conform to the exact boundaries and dimensions as they existed when the lot of record was originally created. [Resolution 54, 4-9-2007] However, any such recreated lots that are substandard are then subject to the provisions of § 240-10.
2. The re-creation of the lots shall be completed through an approved lot split that shall be approved by the Eureka Township Board and filed in the Office of the Dakota County Recorder prior to application for any building permit. [Resolution 54, 4-9-2007, Ord. 2010-6, 12-13-2010]
3. Any use or structure currently existing on the recreated lots shall conform to all building setback and driveway requirements of this article. [Resolution 54, 4-9-2007]

HOUSING RIGHT - The pre-requisite eligibility to apply for a building permit to build or place a single-family residential dwelling on a qualifying lot as described and under the conditions of this article. There are four types of housing rights:

GRANDFATHERED RIGHT - A housing right recognized as existing on a verified grandfathered lot. Building a house on a grandfathered lot is not subject to the cap of four density limit of its quarter-quarter section. Once a house is constructed, the right becomes permanent and is no longer subject to boundary change effects. If a house is not in place,

the right may be transferred to another lot in Eureka Township under provisions of this chapter.

NATIVE RIGHT - A housing right created by Agricultural Zoning as a permitted use prescribing one housing right per quarter-quarter section of the Public Land Survey. A native right is fully controlled by its owner (excluding any property owned by railroad and easements of record) and if no house is present, it is eligible to be transferred to another property eligible to receive it under provisions of this chapter. Where more than one house existed in a quarter-quarter section as of May 1, 2022, the house with the earliest date of construction shall be deemed to possess the native right of that quarter-quarter section. If a quarter-quarter section has had its native right transferred away prior to May 1, 2022, the lot with the oldest house shall be deemed to have a permanent grandfathered right unless it is known that it received a transferred right.

SHARED RIGHT - The interim status of a native right in an undeveloped quarter-quarter section with two or more properties under different owners. A shared right is not eligible to be transferred out of the quarter-quarter section because it is not yet fully controlled by one owner. The first owner to claim the shared right, apply for a building permit and start construction within the time limits specified in this chapter has permanent use of the native right. The right is no longer a shared right.

TRANSFERRED RIGHT - A fully controlled housing right that has been moved to another property or legally conveyed to another property owner's property. The transfer of a native right or a grandfathered right converts it to a transferred right. Transferred rights are also eligible to be transferred.

HOUSING RIGHT TRANSFER - The two-step process of moving a housing right from a sending property to a receiving property within Eureka Township. The receiving property may have the same owner or a different owner. Upon Town Board approval, the first step removes the right from the sending parcel and converts the right to a transfer right subject to completion of the second step. The second step, which must occur within the time limits specified in this ordinance, places the transfer right on the receiving parcel. The time allowance is to provide reasonable opportunity to complete other possible steps such as transaction closing(s) or a land subdivision or lot split that may be needed before the second step can be fulfilled.

INTERSECTION - Two roads that meet at a 90-degree angle whose use would interfere with each other.

LANDLOCKED LOT - A parcel that does not include frontage on a public road. It may have a housing right, but a building permit will not be approved unless the application includes permanent provision for public road access as prescribed in § 240-12.

LEGAL DESCRIPTION OF A LOT - The metes and bounds public land survey language describing the boundaries of a lot, parcel, or property. For convenience in referencing the language of a legal description, Dakota County normally assigns a Property ID to each parcel. During the lot split or land division process, a plat or survey document may use a temporary designation for each new parcel description. The temporary designation can be used on Town documents until the Dakota County PIN codes are received, at which time the Town shall update its records for consistency.

LOT - A term of convenience referring to the phrase "Lot of Record" in this chapter.

LOT OF RECORD - Any lot which is one unit of a duly approved plat, one unit of an Auditor's Subdivision or a Registered Land Survey, or is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance. See also Grandfathered Lot.

LOT AREA - The area of a lot in a horizontal plane bounded by the lot lines.

LOT, CORNER - A lot situated at the junction of and abutting two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

LOT DEPTH - The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE - The property line bounding a lot, except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying these ordinances.

LOT LINE, FRONT - That boundary of a lot which abuts an existing or dedicated public or private street, and in the case of a corner lot it shall be the shortest dimension on a public or private street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the Town Board. [Resolution 59, 8-13-2007]

LOT LINE, REAR - That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the lot line shall be a line ten feet in length within a lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE - Any boundary of a lot which is not a front lot line or a rear lot line.

LOT SLIVER - A portion of a straddle lot whose presence in a quarter-quarter section is insufficient for a dwelling to meet the required setback plus five feet. Because no portion of a dwelling may exist in the sliver portion of a lot, the sliver portion of the lot does not count toward the cap of four density limit. A sliver may also be a lot or portion of a lot whose dimension or shape will not meet current lot standards for a single-family dwelling.

LOT SPLIT - Division of an existing parcel of land into two or more parcels, or a boundary change between two or more adjacent parcels, or a combination split of two or more properties resulting in new parcels with different shared boundaries. (See also Chapter 216, Subdivision of land) All surveys for lot splits must include a plat or survey of the new parcels and the required legal descriptions to record the split. A split or land division of a parcel abutting a public road cannot create a new parcel that is landlocked without public road access as set out in § 240-12 and § 198-2.1. Results of lot splits are not lots of record unless and until it has been filed with the Office of the Dakota County Recorder.

LOT, SUBSTANDARD - A lot of record which does not meet the minimum lot area, structure setbacks, or other dimensional standards of current ordinances.

LOT, THROUGH - A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying an ordinance.

LOT WIDTH - The maximum horizontal distance between the side lot lines of a lot measured at the dwelling location.

PLAT - A map or chart of a lot subdivision or community showing boundary lines, improvements on the land and easements prepared for recording or recorded at the Office of the Dakota County Recorder.

SERVIENT ESTATE - A parcel which has a permanent driveway easement imposed upon it in favor of another parcel so that parcel can satisfy roadway access or road frontage requirements.

SHARED DRIVEWAY - A private driveway used by two to four property owners to provide access to dwellings or buildings on their respective properties for which construction, maintenance and cost sharing is set forth in a legal agreement among the parties and approved by Eureka Township. See § 198-2.1 for applicable standards.

SINGLE-FAMILY DWELLING - A freestanding (detached) permanent structure, designed for habitation by human beings, designed for one family.

STRADDLE LOT - A lot that has a presence in two or more quarter-quarter sections.

SUBDIVIDE - The division by plat or deed of a piece of property into two or more lots, plots, sites, tracts, parcels, or other land divisions. See also Lot Split and Chapter 216.

- B. Conflict and interaction with ordinances. Whenever there is a conflict between minimum standards or dimensions specified herein and those contained in other official ordinances, resolutions, codes or ordinances of the Town, the most restrictive standards shall apply.

§ 240-10. Density and standards for buildability.

- A. Residential use of land in any zone in the Township is limited to one single-family dwelling per quarter-quarter section as a permitted use except as provided in this article. The total number of housing rights in the Township may not be increased, whether by lot splits or platting, unless and until the Twin Cities Metropolitan Council may approve any such increase or zoning change in Eureka Township's Comprehensive Plan. Grandfathered housing rights legally proven under the terms of this Article are not subject to this restriction.
- B. Standards applicable to all lots upon which a dwelling unit is intended to be constructed:
- 1) The quarter-quarter section in which the lot is located is not over the cap of four density limit created pursuant to § 240-10B (2) of this article or a prior Town ordinance governing clustering or housing right transfers. A grandfathered lot still possessing its grandfathered right is not subject to this density restriction.
 - 2) A home can be built on the lot that complies with all dimensional and setback requirements contained in § 240-11 of this article, unless the lot meets the criteria of § 240-10A of this article.
 - 3) The lot will support a sewage treatment system consistent with these ordinances and state, local, and federal requirements for the same.
 - 4) The lot is a separately conveyed parcel meeting the legal description of a lot.
 - 5) Applicant shall provide evidence that a wetland determination has been made by the Dakota County Soil and Water Conservation District as part of an application for a subdivision (lot

split), to transfer in a housing right, or an application for a building permit.

- 6) A lot that has a housing right under provisions of this chapter has that right independent of the presence of buildings on that lot that are not single-family dwellings that may exist as a permitted use or authorized by a conditional use permit, an interim use permit or a verified nonconforming use.
 - 7) That the lot can meet all setbacks for a drilled well pursuant to Minnesota Department of Health Rules and Regulations.
 - 8) Any other information required by the Zoning Administrator.
- C. Housing Right Eligibility Permit required. No single-family dwelling unit shall be erected without a housing right eligibility permit being issued by the Zoning Administrator or other authorized official. No housing right eligibility permit shall be issued by the Zoning Administrator or other authorized official except in conformity with the provisions of this ordinance.
- D. Housing Right Eligibility Permit application. All applications for a housing right eligibility permit to erect a single-family dwelling unit within the Township shall be accompanied by the appropriate fee as determined by the Town Board and shall be on forms furnished by the Zoning Administrator and shall include the following where applicable:
- 1) Name, address and contact information of the applicant.
 - 2) Legal evidence of ownership by the applicant to the property upon which the single-family dwelling unit is to be constructed or a completed Intent to Acquire Property Agreement pending Town Board approval of the proposed zoning use.
 - 3) Evidence that the property meets all zoning requirements to be a buildable lot, except driveway access construction at this time, and not exceed the density cap of four per quarter-quarter section to be eligible to receive a housing right transfer if needed. If driveway access needs to be constructed, a driveway permit must be obtained from the appropriate road authority for connection to the public road. Provision for this will need to be made a part of the site plan required to get building permit approval and be approved and recorded with Dakota County prior to Eureka building permit approval.
 - 4) Legal description of the property by lot, block and record subdivision or by metes and bounds and the address of the proposed property upon which the single-family dwelling unit is to be constructed. This shall also include the Dakota County Property Identification number (PID) and, if assigned, its street address.
 - 5) Affidavit from the applicant that applicant currently possesses a housing right pursuant to the terms of this Article for the lot intended to be built upon or a housing right transfer agreement. If not currently possessed, a completed Intent to Acquire a Housing Right Agreement pending Town Board approval of the proposed zoning use may be provided. The affidavit or housing right transfer agreement shall be in a form approved by the Township and signed in the presence of a notary public. The affidavit or housing right transfer agreement, along with the housing right eligibility permit, will then be filed with the real estate records of the Dakota County Recorder by the Township and at the cost of the applicant. If the housing right claimed by the applicant is based on the property to be built upon being a grandfathered lot, before the Township issues the housing right eligibility permit, the applicant shall provide a title opinion by a licensed attorney that the property meets all of the legal requirements to be considered a grandfathered lot. Once recorded, the parcel for which the housing right

eligibility is established shall continue to have that eligibility consistent with the terms of this Chapter. If requested by the Township, applicant shall provide the underlying documents that form the basis for the title opinion.

- 6) Site plan survey including house and driveway position, location, size and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywells.
 - 7) Additional information as may be required by the Zoning Administrator, Building Official or other authorized official.
- E. Approval or denial of Housing Right Eligibility Permit. Upon approval or denial, the Zoning Administrator shall attest to same by his/her signature on the housing right eligibility permit. If the housing right eligibility permit is approved, one copy shall be returned to the applicant and one copy shall be retained by the Zoning Administrator. If the housing right eligibility permit is denied, the Zoning Administrator shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the housing right eligibility permit.
- F. Upon approval of a Housing Right Eligibility Permit, applicant may proceed to request a Building Permit as described in Article IV, § 240-22.

§ 240-11. Substandard lots and housing right transfers.

A. The Town Board may approve a conditional use permit for grandfathered lot which fails to meet one or more of the current standards in § 240-11 of this article but is at least 20,000 square feet (0.47 acres) in size. A single-family dwelling may be constructed, as a conditional use, upon a substandard grandfathered lot following application and proof to the Town Board's satisfaction that:

- 1) The lot proposed for building is a grandfathered lot;
- 2) The lot has not had its grandfathered housing right transferred to another lot;
- 3) There is no existing dwelling unit(s) on the parcel to be built upon;
- 4) The proposed construction meets all other criteria for a conditional use permit as stated in § 240-31A of this article;
- 5) Construction on the lot will comply with the other standards of this section;
- 6) Applicant must provide proof that the lot has been held in separate ownership since April 12, 1982; and
- 7) Substandard grandfathered lots, to be buildable under other provisions of this ordinance and abutting other substandard lots under the same ownership following April 12, 1982, must be combined to form lot(s) that are not substandard to the extent possible. Only the resulting parcels then would retain a grandfathered right. Grandfathered rights in excess of the one retained on each combined lot may be transferred prior to the formation of the combined lot(s).

B. Housing Right Transfers

- 1) Property owners may transfer fully controlled housing rights from one parcel to another under the conditions provided for in this chapter.

- 2) The quarter-quarter section which contains a receiving parcel is limited to a cap of four housing rights, counting houses in place plus undeveloped building-eligible lots of record possessing a housing right. Sliver lot land does not count toward this cap of four density restriction.
- 3) Each dwelling unit and lot proposed for construction pursuant to a housing right transfer agreement must meet the requirements as set forth in § 240-11, Setbacks and lot dimensions. Any substandard grandfathered lot whose housing right has been transferred out is not eligible to receive a transfer in.
- 4) The landowner(s) shall execute a housing right transfer agreement approved by the Township, which shall be recorded by the landowner(s) with the Dakota County Recorder within the time limits specified in § 240-15A, Recording of approved transfer.
 - a) The housing right transfer agreement shall identify with Parcel ID the lot of record or the sending parcel and quarter-quarter section source from which a housing right has been transferred and shall state that any housing right on that source no longer exists.
 - b) The agreement shall identify by Parcel ID and legal description the parcel to which the housing right has been transferred.
 - c) The housing right transfer agreement must be executed and recorded by the landowner(s) as specified in § 240-15 before the Township will consider any application for a building permit.

§ 240-12. Setbacks and lot dimensions.

- A. Each dwelling unit shall be located on a separately conveyed parcel which shall equal or exceed two acres and will meet all other requirements of this ordinance.
- B. The parcel on which a dwelling unit is located shall have at least 33 feet of frontage along a public road. Landlocked lots may meet access requirements as specified in § 240-13 and in § 198-3, Defining public right-of-way.
- C. Lot width shall be at least 250 feet at the dwelling location.
- D. Except for retaining walls, fences and gates, all structures shall be set back as follows for permitted and conditional uses.
 - 1) Side yard setbacks for structures: 30 feet
 - 2) Rear yard setbacks for structures: 30 feet
 - 3) Structure Setback from:
 - (a) Township road: 100 feet from center line
 - (b) County road: 110 feet from center line.
- E. All dwellings shall be separated by at least 250 feet from the nearest agricultural building; however, this restriction shall not apply where the dwelling and the agricultural building are in common ownership.

§ 240-13. Driveways/access to public right-of-way.

A. Access to buildable lot. At the time of application for a permit to erect any building in the Township of Eureka, the applicant must:

- 1) Demonstrate that the building has, or will have constructed concurrently, driveway access to a public road across land owned solely by the applicant or across a servient parcel with a permanent easement as shown on the site plan included as part of the building permit application which meets the requirements of Chapter 198, Roads.

§ 240-14. Fees and costs.

- A. Applicant shall arrange and pay for title research when a determination of possible grandfathered lot status is required. A certified copy of Dakota County records proving the status shall be provided to the Township as part of the application. Where a housing right transfer is involved, all undeveloped and unverified parcels in the destination quarter-quarter section shall be verified as to status.
- B. In the case of an application to subdivide and/or plat land, the subdivider will pay, in addition to the fees set forth in Chapter 126, Fees, all costs incurred by the Town Board directly relating to the application for the subdivision. These costs shall include, without limiting the generality of the foregoing, the salaries of the Supervisors and Clerk at special meetings called to review or act on the proposed subdivision, fees paid to the Township Attorney and Engineer to review and process the application for the subdivision and the costs of publishing any notice in the official newspaper which may be required in order to act on the application for the subdivision.
- C. Before the final plat is recorded, the Town Clerk shall certify to the subdivider the amount to which the Township is entitled to be reimbursed under the provisions of this Section. This amount shall be paid to the Town Board before the final plat is endorsed by Township officials and before it is recorded in the Office of the Register of Deeds.

§ 240-15. Recording of approved transfer.

- A. The landowner(s) shall execute a housing right transfer agreement with the Township, which shall be recorded by the landowner(s) within 40 days of its approval by the Town with the Dakota County Recorder. The agreement shall be recorded against all properties required to be identified in the agreement. Written proof of such recording shall be presented by the applicant to the Town Clerk within 70 days after the approval of the transfer agreement by the Township. Applicant(s) may request a 30-day extension from the Zoning Administrator if circumstances warrant.
- B. The housing right transfer agreement shall be executed and recorded by the landowner(s), and written proof of such recording presented to the Town Clerk, before the Town will consider any application for a building permit.
- C. If a housing right transfer agreement involves a receiving parcel that is being newly created by a land subdivision (lot split) of the sending parcel, the transfer is deemed to be initiated from the sending parcel as a first step, then second step of the transfer onto the new parcel based on its reference name and survey language on the land subdivision or plat survey. If the transfer involves a grandfather right, it is converted to a transfer right in the first step so that any reconfiguration of the grandfather lot may occur without destroying the right. The survey language is temporarily acceptable to the Township while the recording steps are carried out within the time frames specified above in § 240-15A, including written proof returned to the Town Clerk that such recordings occurred. The Town will update its records with the proper Property ID when the County has assigned them to the parcels created by the land subdivision.

§ 240-16. Nullification of approval.

Failure to complete any transactions and recordings required after Town Board approval of a housing right transfer and associated Town Board consent of the transfer agreement within the time period specified in § 240-15A above, shall nullify the approval and the housing right shall revert to the original sending parcel and housing right status.

§240-17. Reserved

ARTICLE IV

Building Permits, Building Regulations, and Performance Standards

§ 240-22. Building permits.

A. Permit. [Amended 8-13-2007 by Res. No. 59; 6-14-2010 by Ord. No. 2010-1]

- 1) For the purpose of regulating the location, size, and height of buildings on lots and the density of population in the Township of Eureka, and to provide separate districts for the purpose of carrying out the aforesaid ordinances, building permits shall be required for all buildings, whether temporary or permanent in nature. No person or persons, firm, or corporation shall construct, enlarge, alter, repair, move, demolish, or change the use or type of occupancy of a building or structure; erect, install, enlarge, alter, repair, remove, convert, or replace any gas, mechanical, electrical, plumbing system, or other equipment, the installation of which is regulated by the Minnesota State Building Code; or cause any such work to be done, before first making application for and obtaining all required permits.
- 2) Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Chapter, shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property. Nor shall the issuance of any permit hereunder serve to impose any liability on the Township of Eureka or the Town Board or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this Chapter does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance, or ordinances.
- 3) Every permit issued shall become invalid unless the work authorized by the permit is commenced within 180 days after its issuance, or if the work authorized by the permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official may grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- 4) The issuance of a building permit shall in no way abrogate, restrict or limit the power of the Town Board to regulate the use of the property for which the building permit is issued by appropriate future zoning or ordinances.
- 5) Uninhabitable dwellings.
 - a) If a house is destroyed or removed from a property, the housing right remains with the property and is fully controlled by the property owner.
 - b) The property owner may apply for a permit to replace the house or, if desired, transfer the housing right or convey it to another property owner under the

housing right transfer provision of this ordinance. Dwellings may be rebuilt on nonconforming parcels. Permits to rebuild nonconforming dwellings must be filed within the time period specified by Minn. Stat. § 462.357, Subd. 1e(a)(1) or meet current ordinance requirements. See also Policy for Rebuilds in Case of Destruction.

- c) If the housing right is to be transferred, any accessory structures to the previous dwelling as defined in this ordinance must be removed prior to applying to make the transfer.

B. Application. Applications for building permits shall be made in writing to the Town Clerk on a form to be furnished by the Town Clerk. Each application for a permit to erect, convert, alter, wreck, move or extend the outside dimensions of any building, or buildings, or any part thereof, shall be accompanied by: [Amended 8-13-2007 by Res. No. 59]

- 1) A plan drawn to scale showing the size of the structure, new or to be remodeled, type of construction, and the estimated cost thereof.
- 2) An approved Housing Right Eligibility Permit as described in § 240-10 is a prerequisite requirement of the proposed structure is to be a single-family dwelling.
- 3) Three copies of a certificate of survey of said lot or tract of land, made by a registered land surveyor and certified thereto may be requested. Said survey shall state thereon the legal description of the land on which the structure is to be or is now located and show lot lines and the size of the lot. A site plan is necessary. The site plan must show the legal description, the location and size of the structure which is to be erected or remodeled; the location of road or street, including its width on which the structure does now or is to front; and show the location and size of the well, drainage and sewer systems. If requested, complete and detailed plans showing floor plans (all floors, including basement), and front, rear and side elevation, drawn to scale, together with plans showing location of the well, drainage and sewer systems, and driveway access to a public road.

C. Public Road Requirement. No application for a permit shall be considered, and no permit shall be granted for the erection of any new building and/or remodeling of existing building where the lot or tract of land on which said building is to be erected or is now located, does not abut on a public road or street which has been approved by the Town Board unless such provision is specifically included in the site plan that is part of the permit application. The actual driveway access may be located on the frontage or may be satisfied as specified in § 198-2.1. [Amended 6-14-2010 by Ord. No. 2010-1]

D. Fees. The fees for building permits shall be as set forth in Chapter 126, Fees. [Amended 8-13-2007 by Res. No. 59]

- 1) All required building permits shall be taken out by the permittee or authorized agent before any part of said construction shall commence. In the event construction shall have been commenced before said permit has been issued, the fees shall be doubled.
- 2) Every permit issued shall become invalid unless all applicable fees are paid within thirty (30) days of approval by the Town Board.

Chapter 198. Roads

§198-2.1 Driveways

A. Definitions.

DRIVEWAY - A road giving access from a Township road, private road or cartway to one or more dwelling units or agricultural buildings located or to be constructed on adjacent lands.

FIELD APPROACH – An access route from a public road to an adjacent field or pasture.

B. Permit Required.

- 1) That all persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway accessing a Township road must apply for and obtain a driveway/culvert permit from the Township prior to commencing construction.
- 2) Every application for an access driveway/culvert permit shall provide such information as the Township may require.
- 3) No driveway/culvert permits shall be issued to persons not in compliance with the terms of this section.
- 4) That all persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway accessing a county/state road must apply for and obtain a driveway/culvert permit from Dakota County and/or State of Minnesota prior to commencing construction.

C. Conditions of Permit.

- 1) Except for access onto County/State highways, no work under this section is to be started until the Town Board or its designee approves the access driveway or field approach permit application and all applicable fees and escrow deposits have been received by the Township. Access driveway or field approach on County/State highways shall conform to ordinances or statutes of the County and/or State as appropriate. A copy of a county or state permit shall be provided to the Town Clerk.
- 2) All work performed by the applicant covered by this ordinance shall comply with all specifications adopted by the Town Board and any additional requirements of the Township Engineer.
- 3) No driveway or field approach shall cross a wetland unless the wetland permit has first been obtained.
- 4) No obstructions shall be constructed or planted in the Township right-of-way. Obstructions include, but are not limited to retaining structures, rip rap, posts, trees, shrubs and other such items. Mailboxes and support posts may be located within the Township right-of-way; however, the Township is not responsible for damage to mailboxes or posts during maintenance or snowplowing of the right-of-way. All mailbox supports must comply with

Federal Highway Administration and Postal Service guidelines. Stone, masonry or other non-breakaway mailbox supports are not allowed within the Township right-of-way.

- 5) Applicant shall allow such persons as the Town Board shall designate to enter onto their property for inspection purposes prior to the issuance of the permit, during the progress of the work, and after the permitted work has been completed.
- 6) Unless a written extension of time has been granted by the Town Board or its designee, if work is not completed within one year of the date of issuance of the permit, any driveway or field approach permit which has been granted under this ordinance is null and void and applicant must reapply for a permit and pay the required fee should they wish to continue with work covered under this ordinance.
- 7) If required by the Town Board or its designee, the applicant shall provide and install the necessary pipe and aprons for the driveway or field approach pursuant to the Township's specifications.
- 8) Applicant must locate the driveway or field approach at least 10 feet from the property line or as necessary to provide adequate drainage onto the parcel the driveway serves.
- 9) Applicant must locate the driveway or field approach at least 300 feet from the intersection of any two or more public roads.
- 10) Applicant shall furnish and place all soils and other materials needed in the construction or reconstruction of the driveway and/or field approach embankment.
- 11) Unless otherwise agreed to by the Town Board or its designee, the applicant will surface with gravel the portion of the driveway or field approach within the road right-of-way.
- 12) The applicant may surface that portion of the driveway within the road right-of-way using materials other than gravel provided the applicant has obtained the approval of the Town Board or its designee prior to the start of the work.
- 13) Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant to the Minnesota Manual of Uniform Traffic Control Devices.
- 14) Dirt or debris from driveway/access construction activities are NOT ALLOWED on Township roads and shall be removed within 24 hours of placement or within three hours' notice to do so by the Town Board or its designee, whichever is earlier. If an applicant fails to comply with this section, the Town Board may remove the dirt or debris itself and charge the cost of clean up against the deposited escrow money. Costs incurred by the Township to clean up the street in excess of the deposited escrow money may be assessed to the offending property owner pursuant to Minnesota Statutes §§ 429.101, 366.012 and any other relevant statutes.
- 15) Unless otherwise directed by the Town Board or its designee, the roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.

- 16) Applicant must place stakes in exact location of the proposed driveway prior to review by Town Board or its designee, and again prior to culvert delivery.
- 17) Applicant shall construct only one driveway or field approach per parcel of land without the express written permission of the Town Board.
- 18) Applicant shall be responsible for cleaning and maintenance of any culvert installed under this ordinance. Should applicant fail to comply with this requirement, the Township may assess the cost of any maintenance to the applicant pursuant to Minnesota Statutes §§ 429.101, 366.012 and any other relevant statutes.
- 19) If any excavation is to take place, "Gopher State One Call" is to be notified at (800) 252-1166 prior to start of construction.
- 20) After construction is completed, the driveway shall remain clean and free of debris at all times. Any debris deposited on the driveway or roadway shall be removed immediately.

D. Inspection of the work, escrow amount and fees

- 1) Prior to construction of the driveway and installation of the culvert, the applicant shall meet with the Town Board or its designee at the site to inspect the site, to determine the location of the driveway or field approach, and to determine the scope of the work to be performed. Every new driveway or field approach shall also be required to have an inspection after the work is completed.
- 2) Applicant shall establish with the Township an escrow fund for any costs incurred by the Township relating to the construction of the driveway or installation of the culvert including, but not limited to, repairing damage to any roadways as a result of the construction of the driveway and the installation of the culvert, turf establishment and removing an unacceptable driveway. The escrow amount shall be collected even if there is an existing driveway on the property. The amount of the initial escrow shall be established by a resolution of the Town Board. If additional escrow is required or bills incurred beyond the escrow amount, applicant shall be billed directly for such costs and applicant agrees to furnish additional monies as requested by the Township. Any amounts not utilized from this escrow fund shall be returned to the applicant, without interest, when all improvements have been completed, all financial obligations to the Township have been satisfied, and the Town Board has approved the final inspection.
- 3) Applicant shall provide to the Township a nonrefundable permit application fee (in addition to the escrow deposit) to cover the Township's inspection costs. The Town Board shall establish the amount of the permit application fee. In addition, the Town Board shall have the authority to revise or re-determine (including rate increases) fees whenever the Town Board deems necessary. However, an additional fee as determined by the Town Board shall be required if the applicant installs the driveway or field approach prior to obtaining a permit or scheduling an inspection by the Township. This additional nonrefundable permit application fee is to cover the Township's additional inspection and administrative costs.
- 4) After construction is completed, the applicant shall notify the Township that the work has been completed and is ready for final inspection and approval by the Town Board or its designee.

- 5) No changes or alterations in the approved construction may be made at any time without the written consent of the Town Board or its designee.
- 6) If at the time of final inspection, the driveway and related grading and turf establishment is found to be acceptable, any remaining escrow deposit shall be refunded, without interest, at the next Township Board meeting.

E. Indemnification.

- 1) The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to release Eureka Township, its officers and agents, from any and all liability and claims concerning the herein above-described permit request, construction of the subject work, and the finished driveway or field approach.
- 2) The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to hold harmless, indemnify and defend Eureka Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, the construction of the subject driveway or field approach, and the finished driveway or field approach, and further shall be deemed to have consented to the assessment of clean-up costs as set forth in this ordinance.
- 3) The Township shall have no responsibility to repair a driveway or field approach that encroaches upon a public right-of-way that is damaged during the course of Township maintenance of the roadway.

F. Violation.

- 1) A violation of this ordinance shall be grounds for the immediate revocation of the access driveway or field approach permit.
- 2) In the event of a violation of this ordinance, the Town Board may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the Township determine to correct or abate such violations, the applicant or property owner shall be invoiced for the Township's costs not covered by the escrow deposit which shall be paid within 30 days of the date of the invoice, should the applicant or property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minnesota Statutes §§ 429.101, 366.012 or any other relevant statute.
- 3) Further, each day of violation of this ordinance shall be deemed a misdemeanor for which the Township may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

G. Driveway Property Rights

- 1) The owner of a buildable lot may be the sole owner of the driveway that is 33 feet wide and provides access to a public road as required by these ordinances.

- 2) The owner of a buildable lot may satisfy the requirement that the lot have 33 feet of frontage on a public road by obtaining a permanent easement on an adjacent parcel (the servient parcel) that provides the buildable lot with permanent access to the Public Road by way of a 33-foot driveway easement. The easement will be in a form acceptable to the Township and will be recorded against both properties in the Dakota County Property Records. The terms of the easement will ensure that it will not be voluntarily revoked or involuntarily revoked while the building erected on the lot in reliance on the easement for satisfaction of ordinance requirements remains. If the building is destroyed or removed, the easement must remain in place to protect the owner's right to rebuild at the owner's discretion.

H. Driveway Sharing

Owners of two up to four lots may agree to share and maintain a driveway or any portion thereof to access an existing public road. One or more of the owners may enter into a permanent easement agreement with the owner of the land that satisfies the terms of G(2) above. The agreement must specify terms for maintenance and cost sharing. The agreement must be approved by the Township. Legal evidence of such a sharing agreement shall be recorded with Dakota County referencing the affected lots. The shared portion of the driveway shall meet or exceed the following specifications:

- 1) The driveway shall be designed to at minimum support access by emergency vehicles providing medical, fire, or police services.
- 2) There shall exist or be provided either by land ownership or by permanent easement a road right-of-way at least 33 feet in width.
- 3) The driveway shall include a passing apron at the intersection with the public road at least 18 feet in width and no less than 24 feet long.
- 4) The driving surface of the shared portion of the road shall be at least 12 feet in width.

§198-3. Defining public right-of-way.

A. Road Specifications. In any division of land in the Township of Eureka in which it is necessary to construct a road to provide access for more than four properties to an existing public road, such road shall meet the following specifications:

- 1) There shall be provided a road right-of-way at least 66 feet in width.
- 2) The driving surface of the road as constructed shall be at least 24 feet in width.
- 3) A seven-ton gravel base which shall require four inches of Class V gravel and six inches of Class III gravel. The requirements for sand and gravel may be reduced in thickness in the event that sub-soil conditions are well-drained. Any reduction in thickness must be in accordance with inspection and the recommendations of the Township Engineer or Town Board. In the event that sub-soil conditions are poor (e.g., peat, muck, etc.), all substandard sub-soil must be removed, and clean compacted fill used to bring the road up to grade before the gravel bases are applied.

B. Public dedication. No road shall be dedicated to the public and accepted by the Township unless it meets the specifications in §198-3A, Road specifications, above, and in addition has applied to it a two-

inch blacktop mat (M.H.D. 2341 - "hot mix") and four-foot-wide gravel shoulders. Acceptance by the Township shall be in the form of a resolution adopted by the Town Board.

C. Traffic Control. The traffic generated by any use shall be channelized and controlled in a manner that will avoid:


- 1) Congestion on the public streets;
- 2) Traffic hazards; and
- 3) Excessive traffic through residential areas, particularly truck traffic.

SECTION 2. SEPARABILITY. It is hereby declared to be the intention that the several provisions of these Chapters are separable in accordance with the following: If any court of competent jurisdiction shall adjudge any provision of these Chapters not specifically included in said judgement.

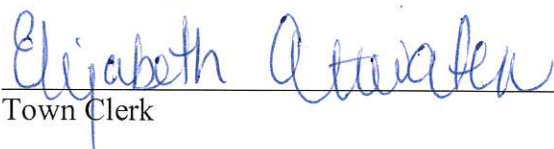
SECTION 3. ADOPTION AND ENACTMENT. This Ordinance shall become effective upon its passage and publication.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon its passage and the first day of publication.

Dated: March 7, 2023



Town Board Chair



Town Clerk