

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

ORDINANCE NO. 2023-01

ORDINANCE AMENDING CHAPTER 216 OF THE EUREKA TOWN CODE

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

That the Eureka Town Code, Revised, adopted November 9, 2022, Chapter 216, is hereby amended in its entirety and replaced with the following language:

§ 216-1. Title.

This chapter shall be known and may be cited as the “Subdivision Ordinance for the Town of Eureka, Dakota County, Minnesota” and its provisions shall apply to all lands to be subdivided within the Township limits as they exist on the date the Town adopts this chapter, or within the limits as they may be extended in the future. Hereafter, this chapter shall be referred to as the “Subdivision Ordinance”.

§ 216-2. Purpose.

Any person platting, replatting or dividing property for the purposes of transfer of title or separate description shall do so under the provisions of this chapter. This chapter sets forth the minimum requirements deemed necessary to insure and protect the health, safety and welfare of the public. More specifically, the provisions of this chapter are designed to:

- A. Assure that, to the maximum extent possible, all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence.
- B. Assure that effective protection is given to the natural resources of the community, especially groundwater and surface waters.
- C. Encourage well-planned subdivisions through the establishment of adequate design and road design standards.
- D. Discourage inferior developments that might adversely affect the local tax base.
- E. Create neighborhoods which will be of lasting credit to the community.
- F. Facilitate adequate provisions for roads, road connectivity, transportation and other public facilities.
- G. Secure the rights of the public with respect to public lands and waters.

- H. Improve land records by the establishment of standards for surveys and plats.
- I. Safeguard the interests of the public, the homeowner, the subdivider and units of local government.
- J. Provide a common ground for understanding between developers and local units of government.
- K. Assure the availability of utilities adjacent to planned development.
- L. Prevent, where possible, excessive governmental and maintenance costs.

§ 216-3. Legal authority and administration.

This chapter is enacted pursuant to Minnesota Statute 462.358. Through this chapter the Town will exercise all the authority granted by that statute and incorporates it by reference. This chapter shall be administered by the Town Board in cooperation with the Planning Commission.

§ 216-4. Decisions.

All actions of the Town Board and Planning Commission in carrying out their respective duties pertaining to this chapter shall require the vote of a majority of the members of the entire Board and Commission.

§ 216-5. Official submission date.

For the purpose of meeting the statutory timelines, the date on which the applicant has submitted a complete application containing all information requirements of this chapter, has properly executed all required application forms and a fee responsibility agreement, and any additional requests of the Zoning Administrator, in addition to all appropriate fees having been paid, shall constitute the official submission date of the subdivision application on which the statutory period required for formal approval, conditional approval, or disapproval shall commence to run.

§ 216-6. Definitions.

The definitions in this chapter are for this chapter only.

ALLEY

A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT

The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner and has executed an application form and professional fee responsibility agreement with the Town. Consent shall be required from all legal owners of the premises.

BLOCK

Any combination of land ownership bounded by streets, roads or highways or a combination thereof or by a combination of streets, roads or highways and public parks, cemeteries, railroad rights-of-way, stream, lakes or similar manmade or natural physical barriers.

COVENANTS

Protective or restrictive covenants are contracts made between private parties and constitute an agreement between these parties as to the manner in which land may be used, with a view to protecting and reserving the physical, social and economic integrity of any given area.

CUL-DE-SAC (COURT)

A street with a single means of ingress and egress and having a turnaround. Design of turnaround may vary. Cul-de-sacs shall be classified and designed according to anticipated daily traffic levels.

DEVELOPER

The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

DEVELOPMENT AGREEMENT

Agreement between the Town Board and developer through which the Town Board may agree to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation, in exchange for agreement to construct any and all improvements to existing Town standards, or a higher standard in some cases, abide by all conditions of the Town Board, perform all required tasks within the established time frame, warranty all improvements, and provide security in an amount acceptable to the Town to ensure performance of the agreement and all warranties. Said agreement shall be recorded immediately after the recording of the final plat.

EASEMENT

A grant by the property owner of the use of a designated portion of land by the public, individuals, groups or corporations for specific purposes.

ESCROW

A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

FINAL PLAT

All required maps, information and documents as set forth in the subdivision regulations and as required by the Town Board.

LETTER OF CREDIT

A letter issued by a bank on behalf of the Developer for the benefit of Eureka Township to serve as a guarantee for payments and/or for improvements specified in a Development Agreement.

LOT

A parcel of land capable of legal description.

LOT LINE ADJUSTMENT

The relocation of a common ownership boundary between two or more lots.

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 that has been recorded in the Office of the County Recorder/Registrar of Titles for Dakota County, Minnesota prior to the effective date of this chapter.

LOT SPLIT

The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the interest does not necessitate the creation of streets, roads, or alleys, for residential, commercial, industrial, or the use of any combination thereof, and not in conflict with any provision or portion of Chapter 240, Zoning, or the regulations contained in this chapter, excluding:

1. separations where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and have either direct access to a public road or in the alternative have an access easement from each lot to a public road at least 33 feet in width; and
2. excluding any transaction described in Minnesota Statute 462.358, subdivision 4b(b) or other limitations on the Town's authority made in subsequent amendments; and
3. separations resulting from court orders.

LOT SPLIT, EXEMPT

The following Lot Splits shall be exempt from the provisions of this Ordinance, and the Zoning Administrator is authorized to execute any necessary documents required by the County Auditor or Recorder to record such exempt Lot Splits:

1. Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and have either (1) direct access to a public road; (2) in the alternative have an access easement from each lot to a public road at least 33 feet in width; or
2. Creating cemetery lots; or
3. Resulting from court orders, of the adjust of a lot line by the relocation of a common boundary.

METES AND BOUNDS DESCRIPTION

A description of real property which is not described by reference to a lot or block shown on a map but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

MONUMENT

Concrete and /or metal markers utilized to establish survey points and lot boundaries.

OPEN SPACE

An area of land preserved from building development and reserved for the use of general public or a homeowner's association for the purpose of active and passive recreation and certain necessary community facilities.

OUTLOT

A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit may be issued.

OWNER

An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable, or legal ownership interest in the land sought to be subdivided.

PARKS

Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot lots, playgrounds, neighborhood parks, play fields and special purpose areas.

PERSON

Except when otherwise indicated by the context, the word person shall include the plural, or a company, firm, corporation or partnership.

PLANNING COMMISSION

The Planning Commission shall be the Planning Commission of the Town, appointed by the Town Board and established under Minn. Stat. 462.354, Subd. 1.

PRELIMINARY PLAT

All required maps, information and documents as set forth in Chapter 216, Subdivision of Land, and as required by the Town Board.

REGISTERED LAND SURVEYOR

A land surveyor properly licensed and registered in the State.

REVIEWING AGENCIES

Reviewing agencies may include, but are not limited to, the Town engineer, the Town Planner, the Town Attorney, school board, utility companies, park board, county surveyor, and Minnesota Department of Natural Resources and any other government agency.

SKETCH PLAN

A map showing property boundaries with a proposed street layout and desirable lot layouts and any other information required in this chapter.

STREETS AND ALLEYS

1. Right-of-way (ROW): The entire area lying between the boundaries establishing the dedicated width.
2. Roadway: That portion of a street or alley surfaced for vehicular travel.

3. Highways: Routes carrying large volumes of relatively fast-moving traffic and are designated as either county, county state aid, federal or state highways.
4. Major Streets: Arterials carrying large volumes of local traffic between widely separated areas of the community.
5. Collector Streets: Streets, which carry traffic from local streets to major streets and highways, including the principal entrance streets of a residential subdivision and streets used for circulation within such developments.
6. Local Streets: Streets, which are used principally for access to abutting properties, especially residential properties.
7. Service Access Streets: Traffic ways which are adjacent and parallel to highways or major streets and provide access to abutting properties.
8. Alleys: Minor trafficways not intended for general traffic circulation, affording a secondary means of access to abutting properties.

SUBDIVIDE

The act or process of creating a subdivision.

SUBDIVIDER

Any person who:

1. having an interest in land causes it directly or indirectly, to be divided into a subdivision, or, who
2. directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who
3. engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who
4. is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

SUBDIVISION, PLATTED

The separation of an area, parcel, or tract of land into two or more parcels, tracts, or lots, which necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or the use of any combination thereof, and not in conflict with any provision or portion of Chapter 240, Zoning, or the regulations contained in this chapter.

SURVEYOR

A land surveyor registered under Minnesota State laws.

TOWN

The Town of Eureka.

VARIANCE

Any departure from the requirements of these regulations that is granted by the appropriate governmental agency under the provisions set forth in § 240-33, Variances.

ZONING ADMINISTRATOR

The person designated by the Town of Eureka and who is hereby established as the Administrative Officer of this chapter.

§ 216-7. Lot split/combination abbreviated review process.

The lot split/combination procedure under this section is an abbreviated review process however; all standards and requirements contained in this Code shall apply to the proposed lot split/combination.

Even when a Lot split is exempt from Township approval under Minn. Stat. § 462.352 in addition to the other exclusions contained in the Lot Split definition, the owner must still specify to the Town Clerk a final location assignment of any existing CUP, NCU, IUP, or housing right as the split does not multiple those rights.

- A. Application. The provisions of this section shall apply only to those subdivisions/combinations where the intent is to:
- 1) Adjust a lot line; or
 - 2) Divide an existing lot of record (platted or metes and bounds) into new lots that will not require the creation of a new road right-of-way; or
 - 3) Combine lots of record (platted or metes and bounds) that will not require the creation of a new road right-of-way.
- B. Filing and review of application. Whenever any lot split/combination of land is proposed under this section, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure on such proposed lot split/combination shall be granted, the subdividing/combining owner or his/her authorized agent, shall file an application and secure approval of the proposed lot split/combination. The lot split/combination application shall be considered to be officially filed when the Zoning Administrator has received the application and has determined that the application is complete, and all application fees have been paid.

Lot split/combination of land abutting upon any existing or proposed trunk highway, county road or highway or county state-aid highway shall be subject to review of the Minnesota Department of Transportation and/or the Dakota County Highway Department. Written notice and a copy of the proposed lot split/combination shall be filed with the Minnesota Department of Transportation and/or Dakota County Highway Department for review and comment 30 days prior to formal action to approve the application. Final action on a lot split/combination shall not be taken until the minimum 30-day review period has elapsed.

C. Qualification. The following may be considered a lot split/combination. In the event circumstances warrant platting of the proposed lot split/combination, the Zoning Administrator may require the proposed lot split/combination to be processed as a platted subdivision in accordance with this chapter. The Town Board may authorize approval of the lot split/combination upon finding:

- 1) The property to be subdivided is a lot of record in the office of the Dakota County Recorder; and
- 2) All newly created lots must meet the minimum standards of the Zoning District in which they are located; and
- 3) The lot split/combination will not cause any structure on the land to be in violation of Chapter 240, Zoning; and
- 4) The lot split/combination lots will not require the creation of a new road right-of-way; and
- 5) Any drainage, utility, trail, right-of-way or access easements required by the Township must be granted.
- 6) The lot split/combination application specifies the final location of any existing nonconforming use permit, conditional use permit, business-related permit or registration, or housing right.

D. Lot line adjustment.

- 1) Lot line adjustment defined;
 - a) A lot line adjustment provides for the alteration of property lines, where no additional lots are created, and agreement exists among the parties involved.
 - b) A lot line adjustment can be used to correct survey or description problems on existing properties.
 - c) A lot line adjustment can be used to meet lot size, setback, or other State or Township land use requirements.
 - d) A lot line adjustment can be used to lessen or eliminate a nonconformity.
 - e) Lot Line adjustments shall be submitted to the Planning Commission for review and the Town Board for approval.
 - f) Lot line adjustments shall be allowed only when accompanied by an executed conveyance among the parties involved unless this requirement is waived by the Town Board.

- g) The proposed adjustment shall not create any new nonconformity, nor shall it increase an existing nonconformity.
- h) Adequate land for treatment and disposal of sewage, when it exists, shall not be diminished by the adjustment.

2) Content and data requirements for lot line adjustments:

- a) The requested lot line adjustment shall be made on a lot line adjustment application provided by the Town Board to which is attached a certificate of survey meeting all the requirements of this section, prepared by a registered land surveyor. Exceptions, stipulated in writing, may be granted with the approval of the Town Board.
- b) The lot line adjustment application must specify the final location of any nonconforming use permit, conditional use permit, business-related permit or registration, or housing right.
- c) The lot line adjustment shall conform to all design standards as stipulated in the Town Code. Any proposed deviation from said standards requires the processing of a variance request.

3) All lot line adjustments must be recorded with the County and a receipt of the recording must be provided to the Town Clerk.

E. Lot line adjustment, lot split/combination Fees. See Chapter 126, Fees.

§ 216-8. Platted subdivision process.

A. Preliminary Plat (Platted Subdivision).

- 1) The application shall:
 - a) be filed with the Zoning Administrator at least four weeks prior to the next regularly scheduled meeting of the Planning Commission; and
 - b) be made on forms available at the Town offices, submission of an executed fee responsibility form, and accompanied by a fee, as established by the Town Board. The Town Treasurer shall deposit any money received as fees hereunder to the credit of the general fund of the Town of Eureka. No money shall be refunded to the applicant. The fee is not intended to cover specialized engineering, legal, planning, or site analysis reviews. Fees for additional technical services such as these will become the responsibility of the subdivider; and

- c) an up-to-date certified abstract of title or registered property report showing title in the applicant's name, or an option to buy said property by said applicant as shown on the Preliminary Plat; and
 - d) the application shall include the items specified in § 216-11 of this chapter which constitutes a checklist of items to be submitted for subdivision review; and
 - e) be accompanied by a minimum of ten copies of the preliminary plat and one reduced copy of the plat no larger than 11" x 17".
 - f) conforms to the Comprehensive Plan and ordinances of the Township, as approved by the Town Board.
- 2) The Zoning Administrator shall submit five copies of the Preliminary Plat to the Planning Commission, and may, at his or her discretion, submit one copy to the Town Engineer, one copy to the Town Planner, and one copy to the Town Attorney, if applicable. The remaining copies shall be placed in the Town's files.
 - 3) The Zoning Administrator may instruct the appropriate staff to prepare technical reports and provide general assistance in preparing a recommendation on the action to the Town Board. This may include the Town Planner, the Town Engineer, Town Building Official, or the Town Attorney, or others as deemed needed.
 - 4) Upon receipt of the completed application as outlined above, the Planning Commission shall set a public hearing for public review of the Preliminary Plat. The hearing shall be held within 45 days of the Official Submission Date of the application. The applicant and/or his representative shall appear at the public hearing before the Planning Commission in order to answer questions concerning the proposal.

Notice of the public hearing may consist of a legal property description, shall contain a description of the request, and shall be advertised in the official newspaper(s) at least ten days before the day of the hearing. Property owners within 350 feet of the proposed subdivision shall also be notified through the mail of the hearing. Failure of any property owner to receive said notice shall not invalidate the public hearing.

- 5) Following the public hearing, the Planning Commission shall submit to the Town Board the Plat with its own recommendations, including any conditions it recommends be placed upon the Plat prior to approval. The Town Board may approve, approve with conditions, or disapprove said Plat by a majority vote of its members regardless of the recommendations made by the Planning Commission.

If the Planning Commission has not acted upon the preliminary plat within 30 days following the close of the public hearing on such and in compliance with this chapter, the Town Board may act on the preliminary plat without the Planning Commission's recommendation, and may approve, approve with conditions, or

disapprove said plat by a majority vote of its members after the required public hearing.

- 6) The Town Board shall take final action within 120 days of the application's Official Submission Date. The subdivision application shall be preliminarily approved or denied by the Town Board. If the Town Board fails to approve or disapprove the preliminary plat in this review period, the application shall be deemed preliminarily approved, provided it meets the requirements of this chapter.
- 7) At any time during this process, either the applicant or the Town may request an extension of the imposed time limits. Both the applicant and the Town must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.
- 8) If the Town Board requires changes to the preliminary plat, and if such changes are determined to be minor in the sole discretion of the Town Board, then such changes may be noted on the Plat and approved as such.
- 9) If the changes to be made are major in the sole discretion of the Town Board, then a new preliminary plat must be prepared and resubmitted, along with the payment of new fees, based upon the procedures and timelines established in this section.
- 10) Standards for Approval of Preliminary Plats: No preliminary plats shall be approved unless the applicant proves by clear and convincing evidence that:
 - a) the application for a preliminary plat is not premature; and
 - b) the uses in the subdivision will be connected to and served by public utilities for the provision of water supply and sewage collection and treatment facilities where such facilities are or can reasonably be made available; and
 - c) the subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable laws and regulations; and
 - d) the proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and
 - e) the subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
- 11) Requirements Governing Approval of Preliminary Plats:
 - a) The Planning Commission may recommend, and the Town Board may require such changes or revisions as deemed necessary for the health, safety, general welfare, and convenience of the Town.

- b) The Town Board may condition its approval of the preliminary plat on the Applicant complying with all reasonable conditions imposed on the preliminary plat by the Town Board.
- 12) If the Preliminary Plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the Final Plat. The Town Board may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the Preliminary Plat or Final Plat as it deems necessary to protect the health, safety, comfort, general welfare, and convenience of the Town.
- 13) If the Preliminary Plat is not approved by the Town Board the reasons for such action shall be recorded in the proceedings of the Town Board and shall be transmitted to the applicant.
- 14) Any resubmission of a plat application, which has been denied by the Town Board, shall be prohibited for one year following denial unless the Town Board votes to allow the resubmission by a super majority of four or more Town Board Supervisors.

B. Final Plat (Platted Subdivision).

- 1) After approval of the Preliminary Plat, the applicant shall prepare and submit a Final Plat to the Town for study and recommendation. This Plat must be submitted within one year from approval of the Preliminary Plat, or as specified in an approved development contract. If the Final Plat is not submitted within this time period and the applicant has not requested and received from the Town an extension of time to file the final plat, the approved Preliminary Plat shall become null and void within one year of its approval date.
- 2) In some development proposals the Town may agree to review the Preliminary and Final Plats simultaneously.
- 3) The procedure for filing the Final Plat is that which is established for submission of the Preliminary Plat under this section, except as specified below. 10 copies of the Final Plat shall be provided to the Town by the applicant, and one reduced copy no larger than 11" x 17".

All Final Plats shall comply with the provisions of Minnesota Statutes and the requirements of this chapter. An applicant shall submit with the Final Plat a current abstract of title or a registered property certificate, along with any unrecorded documents and an opinion of title showing marketable title in the applicant or in the party with whom the applicant has a purchase agreement or an option agreement for the land being platted.

- 4) Review of a Final Plat:
- a) Upon receipt of a Final Plat, the Zoning Administrator shall refer one copy to each to the Town Board Supervisor, appropriate Town staff, the County Surveyor, and to all applicable utility companies, and one copy with Abstract of Title or Registered Property Certificates and Opinion Title to the Town Attorney.
 - b) The Town Board may refer the Final Plat to the Planning Commission for recommendation if they feel the proposed Final Plat is substantially different from the approved Preliminary Plat. The Planning Commission shall submit a report thereon to the Town Board within 30 days.
 - c) The Town Staff receiving a copy of the Final Plat may submit reports through the Zoning Administrator to the Town Board expressing their recommendation on the Final Plat.
 - d) The County Surveyor shall review the Final Plat and notify the subdivider's surveyor or Final Plat preparer of corrections that are to be made to the Final Plat.
 - e) Prior to approval of a Final Plat, the applicant shall have executed an agreement with the Town controlling the installation of all required improvements at the Applicant's expense ("Developer's Agreement"). Said agreement will require all improvements to comply with approved engineering standards and applicable regulations and shall set forth the amount and form of security required by the Town to insure proper installation and warranty of all improvements.
- 5) The Town Board, after receiving the Final Plat and any recommendations from the Planning Commission, shall either approve, approve with attached conditions, or disapprove the Final Plat within 60 days of its Official Submission Date. This action taken by the Town Board is dependent upon the Final Plat's conformance with the Preliminary Plat, as approved by the Town Board.

If the Final Plat is not approved, the reasons for such action shall be recorded in the official proceedings of the Town and shall be transmitted to the applicant.

- 6) At any time during this process, either the applicant or the Town may request an extension of the imposed time limits. Both the applicant and the Town must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.
- 7) The Final Plat, when approved, shall be submitted by the applicant to the Dakota County Recorder for recording. A developer's agreement must be recorded simultaneously with the plat or immediately after the recording of the final plat. The Final Plat must be recorded within 180 days from the date of approval, or it

will become null and void. If recording is not accomplished according to these procedures, the Town may require another review of the proposed subdivision according to these regulations and State law. Prior to recording, the Final Plat must be signed by representatives of the Town and the applicant must post all required security in a Town-approved manner. If a Final Plat is submitted for a portion of the area encompassed in the Preliminary Plat and it is recorded within 180 days from the date of approval, the remaining portion of the preliminary plat will remain valid for two years from the date of approval of preliminary plat. That portion of a preliminary plat for which a final plat is not submitted and recorded or for which a time extension form has not been executed between the applicant and the Town within this two-year period, shall become null and void.

- 8) Fees for final recording by the County shall be paid by the applicant. The applicant immediately upon recording shall furnish the Town Clerk with a reproducible copy of the recorded plat, either chrono flex or its equivalent and two prints and an electronic version of the Plat in a format the Town requests. Failure to furnish such copies shall be grounds for a refusal to issue building permits for the lots within a plat.
- 9) Any resubmission of a plat application which has been denied by the Town Board shall be prohibited for one year following denial unless the Town Board votes to allow the resubmission by a super majority of four or more Town Board Supervisors.

§ 216-9. Platted subdivision design standards.

- A. General. The subdivision design standards contained in this chapter are to assure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. To ensure future developments consistent with the growth objectives and goals of the community, subdivisions shall conform to Chapter 240, Zoning, and other applicable ordinances of the Town.
- B. Street design. The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas. Street connectivity, arrangement, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience and safety, and their intended ultimate function.
 - 1) The applicant must meet all road and drainage requirements and standards adopted by the Township, whether such adoption be by ordinance, resolution or motion.
 - 2) The arrangement of major streets in a subdivision shall provide for the connectivity, continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the Town Board where topographic or other

conditions make connectivity, continuance or conformance to existing streets impracticable.

- 3) The Town may require the applicant to extend the Town's road network to the edges of the applicant's property so as to provide road connections to neighboring properties.
 - 4) Collector streets shall be properly related to major streets and designed to supplement the major street system, but not to serve in lieu thereof.
 - 5) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum number of streets necessary for safe access to adjacent properties. The reasonable and intelligent use of curvilinear and cul-de-sac streets is allowed.
 - 6) Where a subdivision abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the Town Board may require reverse frontage lots with appropriate screen plates on the non-access lot boundaries. Also, it may require the provision of suitable access roads parallel to and on either side of said highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.
 - 7) All streets and alleys shall be permanently dedicated to the public on the approved final plat.
- C. Intersections. All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than two streets intersecting at the same location shall be prohibited. Intersections with centerline offsets of less than 200 feet shall be prohibited.

D. Easements and dedications.

- 1) Easements for public utilities shall be provided along the rear and side lot lines and shall be 10 feet in width with five feet of the easement on each adjacent property being subdivided. At the rear of isolated lots, the easement shall be 15 feet. Where an underground storm sewer, sanitary sewer or water main is to be placed between two lots, the easement area shall be 20 feet in width, with 10 feet of easement on each adjacent property being subdivided.
- 2) Where a water course, drainage way channel or stream traverses a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of such water course, plus an additional 10 feet on each side of the water course for maintenance purposes. If it is deemed advisable by the Town Board, such water course or drainage way may be reestablished to conform with the proposed street pattern, in which case suitable storm drainage facilities shall be installed as directed by the Town Engineer. A

permit from the Department of Natural Resources is required when working in the beds of public waters – both basins and water courses.

- 3) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the Town Board may require the dedication or reservation of areas or sites suitable to the needs created by such development for schools, parks, and other neighborhood purposes.

E. Blocks.

- 1) The length, width and shape of blocks shall be determined with due regard to the following:
 - a) The provision of adequate building sites suitable to the particular needs of the type of use contemplated.
 - b) Zoning requirements as to lot size and dimensions.
 - c) Needs for convenient access, circulation, control and safety of traffic.
 - d) Limitations and opportunities afforded by topography and other natural features.
- 2) Block lengths shall not exceed 800 feet except where required or desirable due to natural features.

F. Lots.

- 1) The size, width, shape and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated and should relate to natural features.
- 2) Reserve strips controlling access to interior or adjacent property shall not be allowed by private ownership.
- 3) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.
- 4) Lot dimensions shall conform to Chapter 240, Zoning.
- 5) Side lot lines shall be as near to right angles or radial to street lines as possible without sacrificing desirable natural features.

- 6) Every lot shall front on a public street to provide access for fire protection, utilities and other necessary services.
- 7) Lots shall not be so excessive in depth that they block desirable access to adjacent property. The Town Board may require dedication of land for future streets in excessively deep lots.
- 8) Lots not served by a public sewer system shall have sufficient room for primary and secondary on-site subsurface sewage treatment system in compliance with all State, County and Township laws.

G. Conservation. Efforts shall be made to conserve natural resources and advantageously utilize all natural features and vegetation on the property to minimize soil erosion. Consideration shall be given to eliminate any form of underground or surface water pollution.

§ 216-10. Platted subdivision improvement requirements.

- A. Subdivider's responsibility. The subdivider is responsible for the cost and installation of the following improvements in the subdivision:
 - 1) Streets graded and paved in accordance with specification provided by the Town unless the Town Board permits a gravel surface, in which case the road shall be constructed with gravel in accordance with specifications provided by the Town.
 - 2) Ponding and storm sewers to provide a system of drainage and treatment pursuant to generally accepted National Urban Run-off Program (NURP) standards, Minnesota Pollution Control Agency standards and Town specifications that will adequately remove water run-off within the subdivision.
 - 3) Street signs and poles in accordance with Town specifications.
 - 4) Street lighting with underground wiring in accordance with Town specifications if required by the Town Board.
 - 5) Plans for final grading and plants of appropriate ground cover on vacant lots may be required of the subdivider.
- B. Monuments. The Town Board shall approve no final plat unless the owner or subdivider shall have placed or installed survey monuments of a permanent character at all points as shown on the final plat as required by the Town Engineer and the County Surveyor. All United States, State, County or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position. If permitted by the County Surveyor, the subdivider may delay placement of permanent monuments until after final grading is complete. If the County Surveyor approves the subdivider's

request for such delay, the subdivider shall place temporary metal monuments at all required points prior to final plat approval by the Town. Permanent monuments shall be placed in all lot corners and shall be ½ inch diameter, 15 inches in length and set in accordance with accepted survey practice.

- C. Participation of the Town. The Town may elect to install any, all, or none of the required improvements pursuant to a cash escrow agreement or other financial arrangement with the subdivider. The terms of these arrangements shall be specified in the development agreement.
- D. Development agreement. In order to effectuate the provisions of this chapter and before the final plat is signed by the Town, the owner and subdivider shall enter into a development agreement with the Town providing for the installation of the required improvements, providing for all other requirements of Chapter 216, Subdivision of land, and Chapter 240, Zoning, and shall pay all applicable fees and any required cash payment.
 - 1) Subdivider's expense. The agreement shall require the subdivider to furnish and construct such improvements at the subdivider's sole cost and in accordance with plans and specifications prepared at the subdivider's expense by a professional engineer who is registered in the State and who shall certify the plans. Such plans and a listing of the quantities of construction items shall be submitted to the Town Engineer for approval and for estimate of the total cost of the required improvements. Upon approval, such plans shall become of part of the required contract. The tracing of the plans approved by the Town Engineer (or such other form as approved by the Town Engineer), plus two prints, shall be furnished to the Town.
 - 2) Inspection. The agreement shall require that all required improvements shall be inspected by the Town Engineer during construction at the expense of the subdivider. The Agreement shall contain a provision for supervision of details of construction by the Town Engineer and shall grant to the Engineer the authority to correlate the work to be done under such contract by any subcontractor authorized to proceed hereunder with any other work being done or contracted by the Town in the vicinity.
 - 3) Schedule. The agreement shall include the time schedule for completion of work. The schedule shall be reasonable with relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the subdivision.
 - 4) Financial guarantees. The agreement shall require the subdivider to provide a financial guarantee to assure installation of all required improvements. On request of the subdivider, the contract may provide for completion of part or all of the improvement prior to acceptance of the plat. In such event the amount of the guarantee may be reduced by a sum equal to the estimated cost of the improvements that have been completed and accepted by the Town. The financial guarantee required as part of the contract shall be one of the following:

- a) Escrow deposit. The agreement shall require a cash escrow deposit may be made with the Town Treasurer in a sum equal to 125 percent of the of total cost, as estimated by the Engineer, of all the improvements, including but not limited to roads, to be furnished and installed by the subdivider pursuant to the contract. The total cost shall include costs of inspection by the Town Engineer. The Town shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the Town for completion of the work in case of default of the subdivider under such contract and for any damages sustained on account of any breach thereof.
- b) Letter of credit. The agreement shall require that the subdivider shall deposit with the Town from an FDIC member bank and subject to the approval of the Town, an irrevocable letter of credit which shall certify:
 - i. That the creditor does guarantee funds in an amount equal to 125 percent of the total cost, as estimated by the Town Engineer, of completing all required improvements.
 - ii. That the creditor, in case of failure on the part of the subdivider to complete the specified improvements within the required time period or the failure to comply with the Development Agreement, shall upon written notification by the Town, immediately and without further action pay to the Town such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter, plus all legal costs incurred by the Town related to Developer's failure to complete the improvements or comply with the Development Agreement.
 - iii. That this letter of credit shall not be withdrawn, reduced in amount, revised or amended in its terms until approved by the Town Board.
 - iv. All such letters of credit shall be in a form acceptable to the Town Board and shall be issued by an FDIC member bank located in the State of Minnesota, but not more than 100 miles from the Eureka Town Hall unless otherwise agreed to in writing by the Town.
- 5) Payment of Town expenses. The agreement shall require the subdivider to pay all reasonable engineering, planning and attorney's fees and expensed incurred by the Town in the review and processing of subdivider's application, the drafting and enforcement of the development agreement, and the installation and inspection of the subdivision improvements. The subdivider shall also be required to defend, indemnify and hold the Town harmless against all claims made by the subdivider and third parties for damages sustained or costs incurred resulting from the approval or the development of the plat, including the Township's attorney's fees incurred in defending against any such claim.

§ 216-11. Platted subdivision documentation required.

A. Purpose. The documents to be submitted are intended to provide the Town with sufficient information and data to assure compliance with all municipal codes and specifications and ensure that the proposed development meets the design and improvement standards contained in this chapter. The specification of documents to be submitted is based on the type of development and particular stage of development application.

B. Requirements. The documents and information to be submitted are shown below. In specific cases and for documented reasons, the Town may waive the submission of a particular document. The reasons for waiver shall be indicated in the minutes of the approving authority.

1) Plat Information:

Item No.	Information Description	Concept/Sketch Plan	Preliminary Plat	Final Plat
a)	Name, address of owner and/or applicant.	X	X	X
b)	Name, signature, license number, seal and address of land surveyor, engineer, architect, or other person who is involved in preparing the plat.	X	X	X
c)	Name of subdivision – which shall not duplicate the name of any plat previously recorded in Dakota County.	X	X	X
d)	Title block, denoting type of application, county name, and name of Town.	X	X	X
e)	A key map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, or other key geographic referenced within 500 feet of the development property and the date of the survey.	X	X	X
f)	Location of boundary lines in relation to a known section, quarter section, or quarter-quarter section lines comprising a legal description of the property.	X	X	
g)	North arrow and scale (not more than 100 feet per inch).	X	X	X
h)	Proof of Property Title.	X	X	
i)	Title Opinion and Abstract.			X
j)	Proof that taxes are current.		X	X
k)	Signature blocks for Town Board Chair, Town Clerk, Town Attorney and Town Engineer.			X
l)	Certification Blocks:			

m) For registered land surveyor indicating that all the monuments shown on the plat actually exist, and their location, size, and material are correctly shown;			X
i) Notarized certification by owner, and by any mortgage holder by record, of the adoption of the plat and the dedication of streets, easements, other rights-of-way, and any lands for public use;			X
ii) For the Dakota County Treasurer indicating that all taxes and special assessments against the property have been paid in full prior to recording of the plat;			X
iii) Approval and review blocks to be signed by the Planning Commission Chair, the Town Board Chair, and the Town Clerk;			X
iv) A statement certifying the environmental condition of the site, including the presence of any hazardous substances defined in Minn. Stat. 115.02, subd. 8, or as amended. Such statement may be required to be based upon an environmental assessment of the site by a qualified environmental engineering firm, acceptable to the Town;			X
v) Space for a certificate of review and approval to be signed by the Planning Commission, such as: *This plat of _____ was approved and accepted by the Planning Commission of Eureka Township at a meeting held this _____ day of _____, 20__."			X
vi) Space for a certificate or review and approval to be signed by the Town Board, such as: *This plat of _____ was approved and accepted by the Town Board of the Town of Eureka at a regular meeting held this ___ day of _____, 20__."			X
n) Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, identified by name and ownership, including all contiguous land owned or controlled by subdivider.	X	X	
o) Boundary line survey, including measured distance and angles, which shall close by latitude and departure with an error of closure not exceeding one foot in 5,000 feet.		X	X
p) Acreage of tract to the nearest tenth of an acre.		X	X
q) Existing zoning classification for land in and abutting the subdivision and a schedule of zoning	X	X	

district requirements including lot area, width, depth, yard setbacks, lot coverage regulations, open space and parking requirements, other information as needed.			
r) Monumentation.			X
s) Plat shall be on 22' x 34' sheets or larger.		X	X
t) Date of original and all revisions.		X	
u) Location & dimensions of existing or proposed streets.	X (general)	X	
v) Dimensions, bearings, curve data, length of tangents, radii, arcs, and central angles for all centerlines and rights-of-way, and centerline curves on streets.			X
w) Existing rail lines and/or rail rights-of-way.	X	X	X
x) Existing electric power lines and streetlights.	X	X	
y) Existing gas and oil pipelines.	X	X	
z) Existing parks, public lands, and land to be set aside for public use.	X (general)	X	
aa) Existing buildings and structures, size, location, and setbacks.	X (general)	X	
bb) Easements, existing and proposed.	X (general)	X	X
cc) All proposed lot lines and area of lots (sq. ft.).		X	X
dd) Proposed restrictive covenants if they are to be used for preliminary plat. Restrictive covenants, if any, of all adjoining subdivisions.	X (existing)	X	X
ee) Development stages or staging plans.		X	
ff) List of required regulatory approvals or permits.			X
gg) List of variances required or requested.		X	
hh) Payment of application fees.	X	X	X

2) Environmental Information:

Item No.	Information Description	Concept/Sketch Plan	Preliminary Plat	Final Plat
ii)	All existing wetlands or other environmentally sensitive areas on and within 100 feet of the site.	X (general)	X	X
jj)	Two copies of a complete topographic map with contour intervals not greater than two feet superimposed on at least one print of the preliminary plat that extends at least 100 feet beyond the subject property. United States Geologic Survey datum shall be used for all topographic mapping.		X	
kk)	Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant physical features.	X	X	X

ll) Complete drainage concept including proposed grading and drainage of site and SWPPP, if required by state or local law.		X	X
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3) Improvements and Construction Information:

Item No.	Information Description	Concept/Sketch Plan	Preliminary Plat	Final Plat
mm)	Proposed utility infrastructure plans, including storm water management and on-site subsurface sewage treatment system.		X	X
nn)	Soil erosion and sediment control plan.		X	X
oo)	Proposed street names.		X	X
pp)	Road and paving cross sections and profiles.		X	X
qq)	New block and lot numbers.	X		X
rr)	Lighting plan and details.		X	X
ss)	Landscape plan and details.		X	X
tt)	Site identification signs, traffic control signs, and directional signs.		X	X
uu)	Sight triangles.		X	X
vv)	Vehicular and pedestrian circulation patterns.	X (general)	X	X
ww)	Parking plan showing spaces, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.		X	

§ 216-12. Fees, costs and expenses.

The Town Board shall establish fees by ordinance as necessary for the administration of this chapter. The Town Board may periodically review and revise all or portions of the fee schedule. The acceptance of all subdivision applications and issuance of permits shall not occur until a complete application has been filed and the appropriate fee has been paid. Subdivision applications must be accompanied by a fee and a non-interest-bearing escrow deposit. The escrow deposit is required to cover all costs incurred for staff and consultants; time directly related to processing applications, preparation of studies, and any other cost incurred with processing of subdivision applications.

- A. Responsibility for fees and costs. The owner of the property subject to the subdivision application shall be responsible for all costs incurred by the Town in processing said subdivision application. The property owner shall execute with the application a Cost Reimbursement Agreement agreeing to reimburse the Town for all expenses incurred in processing the application including, but not limited to, staff time, engineers, attorneys and other outside consultants employed by the Town for review and processing the application.
- B. Escrow. When a subdivision application has been submitted, the applicant shall deposit funds in an escrow account with the Town from time to time an amount determined by the Zoning Administrator to be necessary to cover such costs prior to commencement of the review stage of the application. The applicant shall reimburse the escrow account for any

deficits caused if the amount actually expended or billed to the Town by the consultants exceeds the fund balance. The Town shall refund any amount deposited in the escrow account not expended within 30 calendar days after final action on the application. The Town shall not pay interest on such escrow account deposits.

C. Certification of unpaid costs and expenses. All unpaid expenses incurred by the Town not covered by the escrow will be charged against said parcel and will be the responsibility of the property owner pursuant to Minn. Stat. Chapter 462 and Minn. Stat. § 366.012 and any other relevant statutes. The property owner shall be invoiced for the Town's costs to where property tax statements are sent by the County. The invoice shall be paid within 30 days of the date of the invoice. Should property owner not reimburse the Town within said time, the Town shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the property owner's property taxes and said certified amounts shall constitute a lien against the property which shall be collected and enforced in the same manner as general property taxes pursuant to Minn. Stat. § 366.012 or any other relevant statutes. This cost recovery shall be in addition to any penalty or legal or equitable remedy the Town may seek or receive for the violation of this chapter and the Town Code.

D. Financial guarantee for a platted subdivision.

1. Upon approval of a platted subdivision as described in this chapter, the Town shall be provided with a financial guarantee in the form, or a letter of credit or cash escrow approved prior to the issuing of building permits, initiation of work on the proposed improvements or development, or the execution of a Developer's Agreement, whichever occurs first. Said security shall guarantee conformance and compliance with the conditions of the application approval and Town Code provisions. The letter of credit or surety must meet the approval of the Town as to form and issuing bank. The issuing bank must be an FDIC insured bank located within 100 miles of the Town. The irrevocable letter of credit shall contain language requiring its automatic renewal prior to December 31 of each calendar year unless the Town specifically approves cancellation of the letter of credit in writing.
2. Specifically, the letter of credit shall contain language that it shall automatically renew for successive one-year terms unless, at least 45 days prior to the next annual renewal date (which shall be December 31 of each calendar year), the financial institution issuing the letter of credit delivers written notice to the party requiring the security that it intends to modify the terms of, or cancel, this letter of credit. Written notice shall be considered effective if delivered to, or sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least 45 days prior to the next annual renewal date addressed to, the party requiring the letter of credit as outlined in Notice section of the Developer's Agreement and is actually received by the Town at least 30 days prior to the renewal date.
3. The security shall be in the amount equal to 125 percent of the Town's estimated cost of labor and materials for the proposed improvements or development.

4. The Town shall hold the security until completion of the proposed improvements or development and a certificate of compliance with the application conditions and Town Code provisions has been issued by the Zoning Administrator.
5. Whenever a performance guarantee is imposed by the Town, the applicant shall be required to enter into a Developer's Agreement with the Town. This agreement is to provide authorization to the Town to utilize the posted security for the enforcement of Town ordinances and conditions of approval to mandate the completion of stipulated work should the applicant fail to meet the terms and conditions of the Developer's Agreement. Said Developer's Agreement shall hold harmless the Town for completion of the work and address other matters as may be determined by the Town Attorney.

§ 216-13. Variances.

The applicant for a subdivision may request a variance under the criteria and procedures in § 240-33 of the Town's zoning ordinance. In addition, the applicant may show that the ordinance as applied to the specific properties at issue create an unusual hardship. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

§ 216-14. Enforcement.

Violation of the provisions of this chapter or deliberate failure to comply with any of its requirements shall constitute a misdemeanor. Each day shall be considered a separate offense.

The owner of the development and any developer, architect, engineer, surveyor, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate misdemeanor.

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violations.

It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of the Ordinance unless said plan, plat or replat shall have first been recorded in the Office of the Recorder of Dakota County.

It shall be unlawful for any person, firm, or corporation owning an addition or subdivision of land within the Town of Eureka to represent that any improvement upon any of the streets, or avenues of said addition or subdivision or any sewer or water system in said addition or subdivision has been constructed according to the plans and specification approved by the Town Board, or has been supervised or inspected by the Town, when such improvement have not been so constructed, supervised or inspected.

§ 216-15. Amendments.

The Planning Commission may, of its own motion or upon petition, cause to be prepared amendments supplementing or changing the regulations herein established. All proposed

amendments, together with the recommendation of the Planning Commission, shall be submitted to the Town Board for adoption in accordance with established procedures.

§ 216-16. Validity and separability.

Whenever any provision of this chapter is more restrictive than provisions of existing laws or ordinances, the provision of this chapter shall govern.

Should any section, clause or provision of this chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof, except that part so declared to be invalid.

§ 216-17. Incorporation of amendments.

The Township Zoning Administrator is hereby authorized and directed to incorporate the amendments made by this chapter into the Eureka Town Code and such updated version shall constitute the official Eureka Town Code.

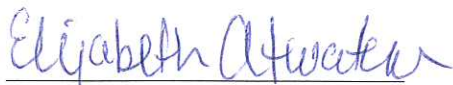
§ 216-18. Effective Date.

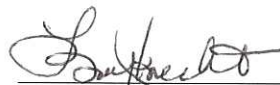
This chapter shall be effective immediately upon its passage and publication according to law.

Adopted by the Board of Supervisors of the Town of Eureka this 14th day of February, 2023.

ATTEST:

EUREKA TOWNSHIP


Elizabeth Atwater, Clerk

 2/28/2023
Lu Barfknecht, Chairperson