

**GREENVALE TOWNSHIP  
DAKOTA COUNTY, MINNESOTA**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE ESTABLISH A PROCEDURE FOR REGISTERING RESIDENTIAL  
NONCONFORMITIES AND IMPLEMENTING A SAFE HARBOR**

**WHEREAS**, Greenvale Township (tic “Township”) administers zoning within the township of Greenvale in Dakota County, Minnesota, pursuant to the Township’s zoning ordinance (“Ordinance”); and

**WHEREAS**, the Ordinance allows the construction of a residential structure on a nonconforming “Lot of Record”, which is defined in the Ordinance, that specifics conditions for a lot; and

**WHEREAS**, the Ordinance limits how many dwellings can be erected on a single lot; and

**WHEREAS**, the Ordinance regulates how buildings are configured on properties; and

**WHEREAS**, the Ordinances establishes a duration for which certain structures can be used as dwellings; and

**WHEREAS**, the Ordinance explains what constitutes a single-family dwellings; and,

**WHEREAS**, the Ordinance regulates what building materials can be used; and,

**WHEREAS**, the Ordinance and state law allow for nonconforming uses and structures existing on the date of the adoption of the Ordinance to continue, subject to conditions; and,

**WHEREAS**, numerous residential structure and properties exist throughout the Township, many of which have existed for decades, that do not conform to the requirements of the Ordinance; and,

**WHEREAS**, the Township has not previously undertaken enforcement action to these residential nonconformities and has provided tacit approval of the nonconformities; and

**WHEREAS**, the principles of estoppel, equity, fairness, and waiver complicate and constrain any effort to exercise enforcement against established structure; and

**WHEREAS**, the Township intends to adopt this ordinance to inventory existing structures within the Township, provide a safe harbor for such established structures, and establish a cut-off date to prevent further unregulated construction of additional non-conforming structures;

**NOW, THEREFORE, THE GREENVALE TOWNSHIP BOARD MAKES THE FOLLOWING FINDINGS:**

1. Sensible enforcement of the Township's Ordinance is necessary to protect residents and property owners within Greenvale Township.

2. The Township has a fiduciary duty to its citizens to make wise use of the Township's limited financial and administrative resources.
3. The Township has determined there are structures and properties in the Township that do not conform to the current ordinances.
4. The Township has not previously undertaken enforcement actions against nonconforming structures.
5. Estoppel and waiver are likely to hamper the Township's ability to successfully carry out enforcement against existing nonconformities.
6. The Township must balance enforcement with the vested rights of property owners
7. The Township must balance the significant costs of numerous enforcement actions with other options to safeguard the public.
8. A regulation process and a safe harbor date could provide a mechanism to inventory nonconformities, prevent new nonconformities, and establish a clear date after which enforcement action is appropriate.
9. Registration would not prevent the elimination of nonconformities that threaten public health, safety or welfare, or that are inherently incompatible with permitted land uses.

**NOW, THEREFORE,** the Greenvale Township Board hereby ordains:

**Section 1. RESIDENTIAL NONCONFORMITIES.** Any residential nonconformity existing as of (the date of adoption of this ordinance) is deemed a legal nonconformity and may be continued, subject to the following conditions:

- a. The residential nonconformity must be register in accordance with this ordinance.
- b. The residential nonconformity shall not be expanded or enlarged, except in compliance with the provisions of this Ordinance.
- c. A nonconforming residential use or structure may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
  - i. If a nonconforming residential use is discontinued for a period of one year, further use of the structure or property must conform to this Ordinance.
  - ii. If a nonconforming residential use is replaced by another use, the new use shall conform to this Ordinance.
  - iii. If a nonconforming residential structure is destroyed by fire or any other peril, by more than 50% , the nonconforming residential structure may continue if a building permit is applied for within 180 days of when the damage occurs. The Town may impose reasonable conditions to mitigate newly-created impacts on adjacent properties.

- iv. Normal maintenance of a residential nonconformity is permitted, including necessary non-structural repairs and incidental alternations which do not extend or intensify the nonconforming use.

**Section 2. REGISTRATION SUBMISSION.** Any residential nonconformity existing as of July 18, 2024, that does not conform to the provisions of the Greenvale Township Zoning Ordinance, shall be deemed a legal nonconforming use and may be continued if the use is registered with the Township no later than April 30, 2025.

- a. All registration of residential legal nonconformities shall be submitted in the registration form prescribed by the Township. The form shall be submitted to the Zoning Administrator.
- b. The registration form shall be received by the Township no later than April 30, 2025.
- c. Any residential nonconformity that fails to be registered with the Township by April 30, 2026, shall be deemed an illegal nonconformity and may be subject to enforcement by the Township.

**Section 3. REGISTRATION REVIEW.** Upon receipt of the registration submission, the Zoning Administrator shall refer the registration to the Planning Commission. The Planning Commission will review the registration application at its next available meeting. The registrant, or registrant's agent, must attend that meeting to explain the nonconformity and answer questions regarding the nonconforming use. After review of the registration, the Planning Commission shall make a recommendation to the Town Board.

**Section 4. REGISTRATION DECISION.** After receipt of the Planning Commission's recommendation, the Township Board shall either approve or deny the registration. Any denial shall be accompanied with written findings of facts to support the denial. The Township Board may deny the registration if the nonconforming use is a threat to public health or safety.

**Section 5. CONDITIONS.** The Township Board may require reasonable conditions to mitigate the effects of the nonconformity. Such conditions might include:

- a. Subdivision of a parcel, where feasible, when multiple dwellings are located on a single parcel.
- b. Residential development rights transfer as described in 5.04 F Transfer of Development Rights shall be required where necessary to ensure compliance with density maximums.
- c. A written agreement for wells, wastewater systems, driveways, or other improvements shared between multiple nonconforming structures as deemed necessary by the Town Board.
- d. A variance for lot or performance standards.
- e. Improvements to a structure or property when necessary to safeguard health or safety.

**Section 6. RECORD REGISTRATION.** After approval of registration, the Township shall prepare and record an instrument documenting the legal nonconformity status of the use that shall

be recorded against the property on which the legal nonconformity is located. The registrant, at the registrant's expense, shall pay any costs associated with preparation and recording of the document. The legal nonconformity status shall run with the property and remain in full force and effect for the benefit of subsequent others unless discontinued for a period of one year or more.

**Section 7. EFFECTIVE DATE.** This ordinance shall be effective immediately upon its adoption and publication.

**Section 8. VALIDITY.** Every section, provision, or part of this interim ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this interim ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

DRAFT

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2024.

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Town Chair

ATTEST:

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Town Clerk

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