

ORDINANCE NO. ____

TOWN OF GREENVALE
DAKOTA COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE GREENVALE ZONING ORDINANCE,
BY AMENDING SECTION 4.04, NONCONFORMING USES AND STRUCTURES,
RELATING TO EXISTING NON-CONFORMING BUSINESS USES OF PROPERTY

THE BOARD OF THE TOWN OF GREENVALE HEREBY ORDAINS:

Section 1. Section 4.04 is hereby amended to add the following:

G. Nonconforming business uses of property. Notwithstanding any other provisions of this section, any business use of property not otherwise allowed under this ordinance or properly issued Town or County land use permit, existing as of **March 31, 2023**, shall be deemed a legal nonconforming use and may be continued under the terms of this section, subject to the following provisions:

1. The use shall be registered prior to the above date, according to the requirements of this Section.
2. Except as expressly allowed by the Township Zoning Ordinance, no use shall be expanded or extended beyond the limits of its registered extent, as measured by:
 - a. The current physical extent of the business occupancy, regardless of parcel size. Such extent shall be identified as a requirement of the registration of said use, according to the measurement policies of the Town, which shall include (1) a written record of the extent and nature of the nonconforming use to the satisfaction of the Town Board; and (2) which shall also include one of the following:
 - i. A line, including dimensions, marked on a copy of the current aerial map from the Dakota County GIS data.
 - ii. A line, including dimensions, marked on an accurate survey of the parcel in question.
 - iii. A map or other similar instrument, suitable for designating the extent of the use as approved by the Town Board.
3. Registration under this Section.
 - a. **Registration Required.** Qualified nonconforming uses shall be registered as of **March 31, 2023**.
 - b. **Application Form Required.** Application for registration shall be on a form approved and issued by the Town.
 - c. **Application for Registration.** Application for registration shall

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require all of the information on the application form, as well as the description of the existing extent and limits of the nonconforming use. An incomplete application shall not be considered for registration. Applications shall be received no less than ten (10) days prior to the next Planning Commission meeting to be placed on that Commission's agenda.

- d. **Planning Commission review.** Applications for registration shall be reviewed by the Greenvale Planning Commission. The Planning Commission shall review the application as a public meeting, and shall provide an opportunity for public **comments**. The meeting shall be public, but shall not be a formally noticed public hearing. The Town shall notify the public of the pending application and meeting date. The applicant or the applicant's representative shall attend the meeting, and present the application to the Commission. The Commission shall make a recommendation to the Town Board as to approval or denial of the registration of the proposed nonconforming use. In the event of a tie vote by the Commission, the application shall proceed to the Town Board with no recommendation.
- e. **Town Board Decision.** The Clerk shall place the application, with the Commission's recommendation, on the next Town Board meeting. The Board shall either approve or deny the application by majority vote. If the Board votes to deny the application, said denial shall be accompanied by written findings of fact supporting the denial. The Town Board may deny the application if the use is a threat to public health, safety, **or welfare**. The Town Board may approve the application with modifications to limit the use or extent of the use, prevent or abate nuisances, or otherwise require modification of the use to protect public health, safety, and general welfare.
- f. **Recording.** If the registration is approved, the Town shall provide the registrant with a recordable instrument documenting the legal nonconforming status of the use. The registrant, at the registrant's sole expense, may record the instrument against the parcel on which the legal nonconformity has been registered. The legal nonconforming status shall run with the property and shall be subject to the rights and limitations of this Section as any other legal nonconforming use.
- g. **Appeal.** If an applicant for registration is denied by the Town Board, or if the nonconforming use is required to be modification as a condition of registration approval, or if a party affected by the Board's decision objects to the decision, said applicant or affected party may appeal the decision. Any appeal shall be accompanied by specific alleged facts, material and/or assertions to be considered by the Township. In such case, the application shall be reheard according to the process described in this Section, except that the Planning Commission's consideration shall be at a public hearing, noticed and conducted according to the standard requirements for such hearings by the Zoning Ordinance. All other aspects of this Section shall apply to any appeal. Subsequent appeals of any Town Board decision under this Section shall be to District Court.

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Section 2. Section 4.04 D. is hereby amended to read as follows:

D. Except as otherwise provided by law, any legal nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, and further including any nonconforming property registered under Section 4.04. G., may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

1. The nonconformity or occupancy is discontinued for a period of more than one year; or
2. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.
3. The requirements of MN Statutes Chapter 462.357 Subd. 1e. relating to Shoreland and Floodplain nonconformities are incorporated herein by reference.

Section 3. The Town Clerk is hereby directed to make the changes required by this Ordinance as part of the Official Greenvale Township Zoning Ordinance No. 2011, and to renumber the tables and chapters accordingly as necessary to provide the intended effect of this Ordinance. The Town Clerk is further directed to make necessary corrections to any internal citations that result from said renumbering process, provided that such changes retain the purpose and intent of the Zoning Ordinance as has been adopted.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and publication. This ordinance may be published by summary publication, per a duly adopted resolution of the Town Board. The ordinance in its entirety and any related map shall be posted on the Township website after publication. Copies of the complete Ordinance and map are available online and at Greenvale Town Hall for examination upon request.

ADOPTED BY the Greenvale Township Board this ____ day of _____, 2022.

Charles Anderson, Chair

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ATTEST:

Jane Dilley, Town Clerk

AYES:

NAYS: