

ORDINANCE NO. 2011-19, THIRD SERIES

AN ORDINANCE OF THE CITY OF HASTINGS, MINNESOTA AMENDING
HASTINGS CITY CODE CHAPTER 155.06 – NONCONFORMING LOTS, USES OF
LAND, STRUCTURES, USES OF STRUCTURES AND PREMISES,
CHARACTERISTICS OF USE ORDINANCE:

BE IT ORDAINED by the City Council of the City of Hastings as follows:

Chapter 155.06 of the Hastings City Code – Zoning Ordinance – Definitions is hereby amended as follows: (Additions to the ordinance are underlined and section numbers may be renumbered):

(A) *Intent.* Within the districts established by this chapter or amendments that may later be adopted there exist: lots, structures, uses of land and structures, and characteristics of use that were lawful before this chapter was passed or amended, which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, not to be used as grounds for adding other structures or uses prohibited elsewhere with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature that would be prohibited generally in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun before the effective date of adoption or amendment of this chapter and upon which actual construction was lawfully begun before the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently and continues to completion within 1 year.

(B) *Nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter notwithstanding limitations imposed by other provisions of this chapter. The lots must be in separate ownership, and not of

continuous frontage with lots in the same ownership. This provision shall apply though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustments. If 2 or more lots or combinations of lots and portions of lots with continuous frontage in single ownership under 1 tax parcel are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold in a way that diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter. Any lots so divided to lesser requirements than those of this chapter shall not be built upon.

(C) *Nonconforming uses of land.* Where at that time of passage of this chapter lawful use of land exists that would not be permitted by the regulations imposed by this chapter the use may be continued while it remains otherwise lawful, provided:

(1) No nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

(2) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment of this chapter;

(3) If any nonconforming use of land ceases for any reason for a period more than 30 days, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located; and

(4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter because of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, the structure may be continued while it remains otherwise lawful, subject to the following provisions.

(1) No nonconforming structure may be enlarged or altered so as to increase its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should the nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, and no building permit has been applied for within 180 days of when the property is

damaged, it shall not be reconstructed except in conformity with the provisions of this chapter. In this case, the City may impose reasonable conditions upon a building permit to mitigate any newly created impact on adjacent properties. Nothing in this subsection shall allow a nonconforming use to be continued or expanded if another provision of this chapter prohibits continuation or expansion of the nonconformity.

(3) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) *Nonconforming uses of structures or of structures and premises in combination.* If lawful use involving individual structures or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, which would not be allowed in the district that it is located under the terms of this chapter, the use may be continued while it remains otherwise lawful, subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter, but no use shall be extended to occupy any land outside any building.

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another non conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or structures and premises in combination, is discontinued or abandoned for 6 consecutive months (unless government action impedes access to the premises), the structure, or structures and premises in combination shall not thereafter be used except in conforming with the regulations of the district in which it is located.

(6) Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land except that in the case of destruction, application for a building permit to replace the damaged structure within 180 days of when the property is damaged shall prevent elimination of the nonconforming status of the land. In the case where a building permit is not applied for

within 180 of when the property is damaged, the City may impose reasonable conditions upon a building permit to mitigate any newly created impact on adjacent properties. Nothing in this subsection shall allow a nonconforming use to be continued or expanded if another provision of this chapter prohibits continuation or expansion of the nonconformity. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the replacement cost at the time of destruction.

(F) *Repairs and maintenance.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, provided that the cubic content existing when it becomes nonconforming shall not be increased. If a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful because of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(Prior Code, § 10.06) Penalty, see § 10.99

All other sections shall remain unchanged.

ADOPTED by the Hastings City Council on this 15th day of August, 2011.



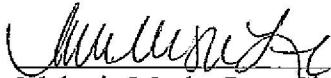
Paul J. Hicks, Mayor

ATTEST:



Melanie Mesko Lee, City Clerk

I HEREBY CERTIFY that the above is a true and correct copy of an ordinance presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the ____ day of _____, 2011, as disclosed by the records of the City of Hastings on file and of record in the office.



Melanie Mesko Lee, City Clerk

(SEAL)

This instrument drafted by:
City of Hastings (KSB)
101 4th St. East
Hastings, MN 55033