

**CITY OF CHASKA**  
**ORDINANCE 2024-1042**

**NOW THEREFORE**, be it ordained by the Council of the City of Chaska, in the State of Minnesota, as follows:

**SECTION 1:****AMENDMENT** “15.04.050 Non-Conforming Structures And Uses” of the City of Chaska Zoning Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

15.04.050 Non-Conforming Structures And Uses

The lawful use of any land or buildings existing at the time of the adoption of this Ordinance may be continued, at the size and in the manner of operation existing on such date, even if such use does not conform to the regulations of this Ordinance, except as provided below:

All matters relevant to the use of land or buildings, such as size, manner of operation, etc., which was a non-conforming use under Chaska Ordinance No. 163 or amendments thereof, and which is a non-conforming use hereunder, shall relate back to the time when such land or building became non-conforming.

*A. Non-Conforming Structures.*

1. *Alterations.* A non-conforming building or structure shall not be reconstructed or altered to an extent exceeding 50% of its market value for assessment purposes unless said building or structure is changed to conform with the regulations of this Ordinance.
2. *Enlargement.* A non-conforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structures into conformity with the regulations of this Ordinance.
3. *Restoration.* A non-conforming building or structure which is damaged by fire or other cause to the extent of more than 50% of its market value as estimated by the Building Official and approved by the City Council, shall not be restored except in conformity with the regulations of this Ordinance.
4. *Maintenance.* Normal maintenance of a non-conforming building or structure shall be permitted, including necessary nonstructural repairs and incidental alterations.

*B. Non-Conforming Use of Building or Land.*

1. *Extension.* A non-conforming use of a building may be extended throughout said building provided no structural alterations are made therein except as required by other codes or ordinances.
2. *Relocation.* A non-conforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of passage of this Ordinance.

3. *Abandonment.* A non-conforming use of building or parcel of land which has been discontinued for a period of one year shall not be re-established and any future use shall be in conformity with the regulations of this Ordinance. The aforementioned one (1) year discontinuance shall not apply to two-family dwellings, which dwellings shall be permitted to be discontinued for a period of five (5) years provided the dwelling continues to contain two (2) physically separate living units and is not converted back to a one-family dwelling.
4. *Change.* A non-conforming use of a building or parcel of land may be changed to a similar non-conforming use or to a more restrictive non-conforming use. Once a structure or parcel of land has been placed in a more restrictive non-conforming use, it shall not return to a less restrictive non-conforming use. When any non-conforming use of a building or parcel of land has been changed to a conforming use, it shall not, thereafter, be changed to a non-conforming use.

#### AFTER AMENDMENT

##### 15.04.050 Non-Conforming Structures And Uses

The lawful use of any land or buildings existing at the time of the adoption of this Ordinance may be continued, at the size and in the manner of operation existing on such date, even if such use does not conform to the regulations of this Ordinance, except as provided below:

All matters relevant to the use of land or buildings, such as size, manner of operation, etc., which was a non-conforming use under ~~Chaska Ordinance No. 163~~ this Ordinance or prior to City ordinances or any amendments thereof, and which is a non-conforming use hereunder, shall relate back to the time when such land or building became non-conforming.

##### A. *Non-Conforming Structures.*

1. *Alterations.* A non-conforming building or structure shall not be reconstructed or altered to an extent exceeding 50% of its market value for assessment purposes unless said building or structure is changed to conform with the regulations of this Ordinance.
2. *Enlargement.* A non-conforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structures into conformity with the regulations of this Ordinance.
3. *Restoration.* A non-conforming building or structure which is damaged by fire or other cause to the extent of more than 50% of its market value as estimated by the Building Official ~~and approved by the City Council~~, shall not be restored except in conformity with the regulations of this Ordinance unless the owner applies for a building permit within 180 days of the damage.
4. *Maintenance.* Normal maintenance of a non-conforming building or structure shall be permitted, including necessary ~~nonstructural~~ repairs and incidental alterations, which do not expand the non-conforming building or structure or extend a non-conforming use by structural alteration.

B. *Non-Conforming Use of Building or Land.*

1. *Extension.* A non-conforming use of a building may be extended throughout said building provided no structural alterations are made therein except as required by other codes or ordinances.
2. *Relocation.* A non-conforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of passage of this Ordinance.
3. *Abandonment.* A non-conforming use of building or parcel of land which has been discontinued for a period of one year shall not be re-established and any future use shall be in conformity with the regulations of this Ordinance. The aforementioned one (1) year discontinuance shall not apply to two-family dwellings, which dwellings shall be permitted to be discontinued for a period of five (5) years provided the dwelling continues to contain two (2) physically separate living units and is not converted back to a one-family dwelling.
4. *Change.* A non-conforming use of a building or parcel of land may be reduced or may be changed to a more conforming use when the change brings the entire parcel into better alignment with the requirements of the Code and the guidance of the Comprehensive Plan~~changed to a similar non-conforming use or to a more restrictive non-conforming use.~~ Once a structure or parcel of land has been placed in a more restrictive non-conforming use, it shall not return to a less restrictive non-conforming use. When any non-conforming use of a building or parcel of land has been changed to a conforming use, it shall not, thereafter, be changed to a non-conforming use.

**SECTION 2:            AMENDMENT** “15.04.060 Non-Conforming Lots Of Record” of the City of Chaska Zoning Code is hereby *amended* as follows:

BEFORE AMENDMENT

15.04.060 Non-Conforming Lots Of Record

- A. In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance.

Such lot must be in separate ownership and not of continuous frontage with lots in the same ownership. This provision shall apply even though such 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 such lot is located; however, in no case shall building be permitted on a site less than 50 feet in width. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

- B. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, 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 to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

#### AFTER AMENDMENT

##### 15.04.060 Non-Conforming Lots Of Record

- A. In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot which existed of record as of the effective date of the Ordinance or any amendment thereto which imposed area or width restrictions upon lots, provided that all other dimensional requirements except area or width requirements must be met. This provision shall not apply to lots which are held in common ownership with any adjoining lot on which a single family dwelling may be constructed without application of this section, or on which a single family dwelling is already present. Notwithstanding this section, no building shall be permitted on a lot less than 50 feet in width, unless allowed by the underlying zoning. Deviation from yard or setback requirements shall require a variance using the procedures set by the Ordinance.

If, in reliance on this section, a single-family dwelling is built on any lot which is contiguous with lots held in the same ownership, of which none conform to applicable area or width requirements of the Ordinance, such lots shall be considered as one contiguous parcel of land for determining the lots' compliance with minimum lot area requirements of the Ordinance. Such lots shall not be subsequently subdivided or sold in a manner which decreases the combined lots' conformance with lot width or area requirements. The owner of such lots shall, prior to issuance of a building permit for a single-family dwelling, cause them to be combined as a single tax parcel which conforms as much as possible to the Ordinance and such lots shall not be subsequently subdivided or sold in a manner which decreases the combined Lots' conformance with lot width or area requirements. ~~of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance.~~

~~Such lot must be in separate ownership and not of continuous frontage with lots in the same ownership. This provision shall apply even though such 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 such lot is located; however, in no case shall building be permitted on a site less than 50 feet in width. Variance of yard requirements shall be obtained only through action of the Board of Appeals.~~

## B. Non-Conforming Lots in Shoreland

1. A non-conforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
  - a. all structure and septic system setback distance requirements in the applicable zoning district can be met;
  - b. a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or its successor, can be installed or the lot is connected to a public sewer; and
  - c. the impervious surface coverage does not exceed 25 percent of the lot.
2. In a group of two or more contiguous lots of record under a common ownership where one or more of them is nonconforming, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - a. the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
  - b. the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or its successor, and the Ordinance;
  - c. impervious surface coverage must not exceed 25 percent of each lot; and
  - d. development of the lot must be consistent with the City's Comprehensive Plan.
3. A lot subject to paragraph (b) not meeting the requirements of paragraph (b) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
4. Notwithstanding paragraph (b), contiguous nonconforming lots of record in shoreland areas under a common ownership may be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Statutes section 115.55 and Minnesota Rules, chapter 7080 (or their successor statutes or rules), or connected to a public sewer.
5. In evaluating all variances, zoning and building permit applications, or conditional use requests, the City shall require the property owner to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
6. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.


~~6. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, 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 to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.~~

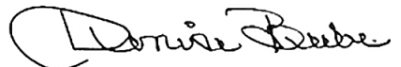
PASSED AND ADOPTED BY THE CITY OF CHASKA COUNCIL FEBRUARY 26, 2024.

|                        | <b>AYE</b>    | <b>NAY</b>    | <b>ABSENT</b> | <b>ABSTAIN</b> |
|------------------------|---------------|---------------|---------------|----------------|
| Councilmember Grau     | <u>  X  </u>  | <u>      </u> | <u>      </u> | <u>      </u>  |
| Councilmember Hatfield | <u>  X  </u>  | <u>      </u> | <u>      </u> | <u>      </u>  |
| Councilmember Huang    | <u>  X  </u>  | <u>      </u> | <u>      </u> | <u>      </u>  |
| Councilmember Hubbard  | <u>      </u> | <u>      </u> | <u>  X  </u>  | <u>      </u>  |
| Mayor Windschitl       | <u>  X  </u>  | <u>      </u> | <u>      </u> | <u>      </u>  |

Presiding Officer

Attest

  
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 Mark Windschitl, Mayor, City of  
 Chaska

  
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 Denise Beebe, Senior Clerk, City of  
 Chaska