

**First Reading: February 14, 2023**  
**Second Reading: February 21, 2023**

ORDINANCE NO. 13960

AN ORDINANCE AMENDING CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, ARTICLE VII, NON-CONFORMING USES, TO ADD A NEW SUBSECTION TO SECTION 38-541 TO ESTABLISH LEGAL NON-CONFORMING PROTECTION TO EXISTING TWO-FAMILY DWELLINGS IN THE R-1 RESIDENTIAL ZONE THAT WAS LOST DUE TO A LOSS OF POWER FOR MORE THAN ONE HUNDRED (100) DAYS.

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**WHEREAS**, the Chattanooga-Hamilton County Department of Planning/RPA was asked to explore options or tools that could restore or put back into use existing two-family dwellings that may have lost their grandfather protection without the need to rezone the property; and,

**WHEREAS**, Section 38-541 of the Chattanooga Zoning Regulations states that a lawful use of land at the time of the adoption of a Zoning Ordinance, although such use does not conform to the provisions of the Ordinance, shall be allowed to continue as that use as long as the use is not discontinued or abandoned for more than 100 consecutive days regardless of the intent of the owner or occupant. Every future use of such premises shall be in conformity with the provisions of the Ordinance; and,

**WHEREAS**, the lack of power for more than 100 days, as confirmed by Electric Power Board records is used to determine if a structure has been discontinued or abandoned; and,

**WHEREAS**, historically substantial portions of the City of Chattanooga were zoned R-2 Residential and R-3 Residential. Over time, the City of Chattanooga has rezoned areas from R-2 Residential and R-3 Residential to R-1 Residential through the zoning study process; and many neighborhoods went through this process including Bushtown, Brainerd, East Chattanooga, Avondale, Hill City, North Chattanooga, St. Elmo, Highland Park, and others; and,

**WHEREAS**, recent applications to rezone properties from R-1 Residential Zone to R-2 Residential Zone for purposes of re-establishing an existing two-family dwelling has in some cases had neighborhood opposition. In many cases, the opposition is opposed to re-establishing an R-2 Residential Zone in the neighborhood and not specifically to the use of the property as a two-family dwelling.

**WHEREAS**, the Chattanooga-Hamilton County Regional Planning Agency was asked to explore options or tools that could restore or put back into use existing two-family dwellings that may have lost their grandfather protection without the need to rezone the property; and,

**WHEREAS**, the creation of a tool would allow the property owner to re-establish an existing, vacant and/or abandoned two-family dwelling without going through a rezoning process to upzone the property. Re-establishing two-family dwellings would also add additional infill housing units to the existing housing supply, provide diversity in housing options and prices; and,

**WHEREAS**, this amendment adds a new subdivision to Section 38-541 that would permit existing two-family dwellings that are zoned R-1 to be re-established as a two-family dwelling as long as the structure is in full compliance with all adopted residential safety codes such as: building, fire, and property maintenance codes. This amendment would not allow the construction of new two-family dwellings in the R-1 Residential Zone.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,  
TENNESSEE:

**SECTION 1.** That Chattanooga City Code, Part II, Chapter 38, be amended to **Amend Article VII, NON-CONFORMING USES, Sec. 38-541, Buildings In Use at the Time of Zoning Ordinance Passed to add the following:**

(4) Existing Two-family dwellings that were previously zoned R-2 Residential Zone and were rezoned to R-1 Residential by City Council as of the effective date of this amendment are not subject to the loss of their legal nonconforming use protection due to the absence of electrical power for more than 100 consecutive days. Existing two-family dwellings/structures at the time of rezoning from R-2 Residential Zone to R-1 Residential Zone may be restored in the current R-1 Residential Zone as two-family dwellings without requiring a rezoning of the property. The owner of such structures is required to bring the vacant two-family dwelling into full compliance with all currently adopted residential safety codes such as: building, fire, and property maintenance codes at the time of inspection. Inspections and approval by city staff are required on all vacant two-family dwellings being restored as a two-family dwelling before occupancy is allowed to ensure compliance with current property maintenance, fire, building, and other codes.

This amendment shall not apply to the construction of any new two-family dwellings in the R-1 Residential Zone which are not subject to legal nonconforming use protection by this Resolution.

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: February 21, 2023

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CHAIRPERSON

APPROVED:\_\_\_\_ DISAPPROVED:\_\_\_\_

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MAYOR

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