

ARTICLE 18. NONCONFORMITIES

CURRENT CODE	REORGANIZED CODE PROVISIONS
§10-101	<p>18.1 PURPOSE</p> <p>This Article regulates and limits the continued existence of uses, structures, including signs, and lots established prior to the effective date of this Code, <u>or any amendment thereto</u>, that do not conform to the regulations of this Code applicable in the zoning districts in which such uses, structures and lots are located.</p> <p>The zoning districts established by this Code are designed to guide the future use of land within the Village by encouraging the development or maintenance of desirable residential, business, and office areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such districts are established and thus the gradual elimination of such nonconformities is generally desirable.</p>
§10-101	<p>18.2 GENERAL PROVISIONS</p> <p>A. General Scope and Scheme of Regulation</p> <p>Separate restrictions are established for nonconforming uses of land and nonconforming uses of structures designed for a permitted use, nonconforming uses of structures not designed for a permitted use, nonconforming structures, including nonconforming signs, (herein sometimes referred to as "pre-code structures"), and nonconforming lots of record. The degree of restriction made applicable to each category of nonconformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with nonconformities of that type. Pursuant to Section 11-503 of this Code, provision is made for relief from some of the restrictions of this Article X when practical difficulties exist.</p> <p>B. Exception for Repairs Pursuant to Public Order</p> <p>Nothing in this Article shall be deemed to prevent the restoration of a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Article prohibiting the repair or restoration of partially damaged or destroyed structures or signs.</p> <p>C. Nonconforming Accessory Uses and Structures</p> <p>No use, structure or sign that is accessory to a principal nonconforming use or structure shall continue after such principle use or structure shall have been terminated, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.</p>

Item 18.2.A: The stricken language is contradictory to nonconformity regulation. It is also necessary to state that the scope of regulation applies to uses, structures and lots.

§10-102
§10-103

18.3 NONCONFORMING USES

~~Nonconforming uses of land and nonconforming uses in structures designed for a permitted use.~~

A. Authority to Continue

~~A nonconforming use is the use of land and structures that, as of the effective date of this Code, are used for purposes that are not permitted in the zoning district in which they are located. Uses that were specifically authorized as a special use shall not be considered nonconforming uses even if the use is no longer permitted within that zoning district. Except as provided in Subsection I of this Section, Any lawfully existing nonconforming use located in a structure not designed or intended for any use permitted in the district in which it is located may be continued so long as it remains otherwise lawful, subject to the regulations of this Article contained in Subsections B through H of this Section and in Subsections D and E of Section 10-101 of this Code.~~

~~For purposes of this Section, any structure that is used in connection with a nonconforming use of land and that has an assessed value of less than five-thousand dollars (\$5,000.00) on the effective date of this Code or any amendment thereto creating such nonconformity shall be considered to be a structure accessory to a nonconforming use of land.~~

~~(From §10-103) Authority to continue. Except as provided in Subsection I of this Section, any lawfully existing nonconforming use not involving the use of a structure, or involving only a structure that is accessory to a nonconforming use of land, or located in a structure designed for a use permitted in the district in which it is located may be continued so long as it remains otherwise lawful, subject to the regulations contained in Subsections B through H of this Section and in Subsections D and E of Section 10-101 of this Code.~~

B. Ordinary Repair and Maintenance

~~Normal maintenance and incidental repair or replacement, and the installation or relocation of non-bearing or curtain walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is accessory to containing a nonconforming use of land or that is designed for a permitted use but devoted in whole or in part to a nonconforming use. This section shall not be deemed to authorize any violation of this Article.~~

~~(From §10-103) Normal maintenance and incidental repair or replacement, and the installation or relocation of non-bearing or curtain walls, non-bearing partitions, fixtures, wiring, or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located; provided, however, that this Subsection shall not be deemed to authorize any violation of Subsections C through I of this Section.~~

C. Structural Alteration

~~No structure that is accessory to contains a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use shall be structurally altered unless the use shall thereafter conform to the use regulations of the zoning district in which it is located. No alteration shall create a new parking, loading, bulk, yard, or space any new nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. In determining whether a parking or loading nonconformity has been created or increased, the provisions of Paragraphs 9-104B1 and 9-105B1 of this Code shall control.~~

~~(From §10-103) No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be structurally altered unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. In determining whether a parking or loading nonconformity has been created or increased, the provisions of Paragraphs 9-104B1 and 9-105B1 of this Code shall control.~~

D. Enlargement of Structure

~~No structure that is accessory to containing a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located. No enlargement shall create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. In determining whether a parking or loading nonconformity has been created or increased, the provisions of Paragraphs 9-104B1 and 9-105B1 of this Code shall control.~~

~~(From §10-103) No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be enlarged or added to in any manner, including the interior addition of floor area, unless the entire structure and the use thereof shall thereafter conform to all the regulations of the district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. In determining whether a parking or loading nonconformity has been created or increased, the provisions of Paragraphs 9-104B1 and 9-105B1 of this Code shall control.~~

E. Extension Expansion of Use

1. Prohibited Expansions

~~A nonconforming use of land or of a structure that is accessory to a nonconforming use of land or a nonconforming use in a structure designed for a permitted use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activity shall include, without~~

being limited to:

- a. An ~~extension~~ expansion of such use, including its accessory uses, to any structure or land area other than that occupied by such nonconforming use on the effective date of this Code, or any amendment thereto ~~that causes such use to become nonconforming.~~
- b. An ~~extension~~ expansion of such use, including its accessory uses, within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Code, or any amendment thereto ~~that causes such use to become nonconforming.~~
- c. An ~~extension~~ expansion of the hours of operation of such use beyond the normal hours of operation on the effective date of this Code, or any amendment thereto ~~that causes such use to become nonconforming.~~

2. Permitted Expansion

A nonconforming use in a structure not designed or intended for any use permitted in the district in which such structure is located may be ~~extended~~ expanded throughout any part of such structure lawfully existing on the effective date of this Code, or any amendment thereto, ~~it that causes such use to become nonconforming.~~ Such extension shall not be allowed unless off-street parking and loading spaces required for such ~~extension~~ expansion can be and are provided in accordance with this Code. ~~the requirements and restrictions of Sections 9-104 and 9-105 of this Code.~~ No such ~~extension~~ expansion shall be deemed to affect the duty to terminate such use ~~pursuant to Subsection I of this Section.~~

(From §10-103) A nonconforming use in a structure not designed or intended for any use permitted in the district in which such structure is located shall not be extended, expanded, enlarged, or increased in intensity by:

- (a) An extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this Code or any amendment to it that causes such use to become nonconforming; or*
- (b) An extension of the hours of operation of such use beyond the normal hours of operation on the effective date of this Code or any amendment to it that causes such use to become nonconforming.*

F. Moving

1. No structure ~~that is accessory to~~ containing a nonconforming use ~~of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use~~ shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the use, as well as the structure, shall conform to all regulations of the zoning district in which it is located after being so moved.
2. No nonconforming use ~~of land~~ shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall conform to all regulations of the zoning district in which it is located after being so moved.

~~(From §10-103) No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.~~

G. Change in Use

~~A nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or a nonconforming use in a structure designed for a use permitted in the district in which it is located shall not be changed to any use other than a use permitted in the zoning district in which the use or structure is located. When a nonconforming use has been changed to a permitted use, it shall not thereafter be changed back to any non-permitted use not permitted in that zoning district. For purposes of this section, a use shall be deemed to have been so changed when an existing nonconforming use is terminated and a permitted use is commenced and continued for a period of five (5) days. Any change of use in violation of this section shall be deemed to be an abandonment of the lawfully existing nonconforming use.~~

~~(From §10-103) A nonconforming use in a structure not designed or intended for a use permitted in the district in which such structure is located shall not be changed to any use other than a nonconforming use of a more restricted classification or a use permitted in the zoning district in which the structure is located. When a nonconforming use has been changed to a more restricted nonconforming use or to a permitted use, it shall not thereafter be changed back to a less restricted nonconforming use. For purposes of this subsection, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a more restricted nonconforming use or a permitted use shall have commenced and continued for a period of five (5) days. Any change of use in violation of this subsection shall be deemed to be an abandonment of the lawfully existing nonconforming use.~~

H. Damage or Destruction

- ~~1. Any structure devoted, in whole or in part, to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located that is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of such structure shall not be restored unless such structure, and the use thereof, shall conform to all regulations of the zoning district in which it is located and unless such restoration is accomplished without creating any new parking, loading, bulk, yard, or space nonconformity or increasing the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure existing prior to such damage or destruction. In determining whether a parking or loading nonconformity has been created or increased, the provisions of subsections 9-104B1 and 9-105B1 of this code shall control.~~
2. When any such structure is damaged or destroyed by any means not

within the control of the owner thereof to the extent of fifty percent (50%) or less of the cost of replacement, the repair or restoration of such structure may be made. No repairs or restorations shall be made that would create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any parking, loading, bulk, yard, or space nonconformity of such structure existing prior to such damage or destruction, nor shall any repairs or restoration except in conformity with the applicable zoning district regulations be made unless a certificate of zoning compliance is obtained and restoration is begun within one (1) year after the date of such partial damage or destruction, and is diligently pursued to completion.

3. In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with this section.

(From §10-102) Any structure:

1.—That is accessory to a nonconforming use of land and that is damaged or destroyed by any means to the extent of more than 25 percent of the cost of replacement of such structure new; or

2.—That is designed for a permitted use and devoted in whole or in part to a nonconforming use and that is damaged or destroyed by any means, where such damage or destruction involves damage or destruction of the portion of such structure devoted to the nonconforming use, to the extent of more than 25 percent of the cost of replacement of such portion new, shall not be restored unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located and unless such restoration is accomplished without creating any new parking, loading, bulk, yard, or space nonconformity or increasing the degree of any parking, loading, bulk, yard, or space nonconformity existing prior to such damage or destruction. In determining whether a parking or loading nonconformity has been created or increased, the provisions of Paragraphs 9-104B1 and 9-105B1 of this Code shall control. When any such structure, or the portion thereof devoted to a nonconforming use, is damaged or destroyed by any means not within the control of the owner thereof to the extent of 25 percent or less of the cost of replacement new of the structure, or the portion thereof devoted to a nonconforming use, repair or restoration of such structure may be made; provided, however, that no repairs or restorations shall be made that would create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any parking, loading, bulk, yard, or space nonconformity existing prior to such damage or destruction, nor shall any repairs or restoration except in conformity with the applicable zoning district regulations be made unless a Certificate of Zoning Compliance is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or re-stored except in accordance with Subsections B, C, and D of this Section.

I. Termination of Certain Uses

1. Termination in Accordance with Previous Amortization Schedule

~~Any nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land that was required to be removed by former Section 10-1-6 of the Hinsdale Zoning Ordinance, _____(date)_____, as amended, that has not been removed in accordance with the terms of that section shall be removed immediately and every such use is hereby declared to be unlawful and a public nuisance.~~

2. Termination by Abandonment

~~When a nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or when a nonconforming use of a part or all of a structure that was designed for a use that is permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of three (3) consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.~~

Any period of such discontinuance caused by government action, strikes, material shortages or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this section.

~~1. Termination Of Certain Uses:~~

~~1. Termination In Accordance With Previous Amortization Schedule: Any antenna or antenna support structure that was required to be removed by former section 10-1-6 of the Hinsdale zoning ordinance, as amended, and that remains nonconforming with the provisions of subsections 9-101D6 and D7 of this code that has not been removed in accordance with the terms of that section shall be removed immediately and every such structure is hereby declared to be unlawful and a public nuisance. Any structure subject to said section 10-1-6 that was not fully amortized pursuant thereto shall be terminated and removed at the earliest date required either by that section or by this subsection 1.~~

~~2. Termination By Abandonment: When a nonconforming use of a part or all of a structure that was not designed or intended for any use permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of six (6) consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be reestablished or resumed.~~

~~Any subsequent use or occupancy of such structure shall comply with the use regulations of the district in which such structure is located.~~

~~Any period of such discontinuance caused by government actions, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this paragraph.~~

Current sections 10-102 and 10-103 have been combined into a single nonconforming uses section.

There are a number of provisions related to nonconforming uses that have been simplified in this section. Rather than citing three types of nonconforming uses – 1) nonconforming use in a structure 2) nonconforming use within an accessory structure or 3) nonconforming use of a structure designed for a permitted use – the provisions have been consolidated into one category – nonconforming use. The existing provisions add a layer of complexity to these regulations that are not necessary and do not provide any specialized regulations.

The provisions that define an accessory structure by dollar amount are suspect and have been stricken. There were specific provisions regarding the destruction of an “accessory structure” at 25% but the provisions should use one set number (the Illinois standard is 50%) that is applied equitably.

Item 18.3.E.2: This contradicts the purpose of gradual elimination. It is also very subjective in determining whether or not a building has been built/designed for a permitted use. No nonconforming use should be allowed to expand.

§10-105
§10-106

18.4 NONCONFORMING STRUCTURES

~~Precode Structures~~

A. Authority to Continue

Any ~~precode~~ nonconforming structure may be maintained, altered, enlarged, rebuilt, restored and repaired so long as it remains otherwise lawful, subject to the restrictions in ~~subsections B through E~~ of this section and ~~subsection 10-101D~~ of this article.

B. Maintenance, Repair, Alteration and Enlargement

Any ~~precode~~ nonconforming structure may be maintained, repaired, altered or enlarged. However, except as specifically allowed by this section hereinafter expressly provided, no such maintenance, repair, alteration, or enlargement shall either create any new ~~parking, loading, yard, bulk or space~~ nonconformity or increase the degree of any existing ~~parking, loading, yard, bulk, or space~~ nonconformity of all or any part of such structure as it existed on the effective date of this Code. The following actions are specifically permitted ~~Notwithstanding the preceding sentence:~~

1. Front and Rear Yard Vertical Extensions

Any portion of a ~~precode~~ nonconforming structure that is nonconforming with respect to a required front or rear setback may be extended vertically within its existing perimeter walls but may not be extended horizontally.

2. Side Yard Vertical Extensions

Any portion of a ~~precode~~ nonconforming structure that is nonconforming with respect to a required side setback may be extended vertically within its existing perimeter walls. However, no such extension shall be allowed within ten (10) feet of any side lot line in the R-1 and R-2 Districts or within six (6) feet of any side lot line in the R-3 and R-4 Districts.

3. Side Yard Horizontal Extensions

Any portion of a ~~precode~~ nonconforming structure that is nonconforming with respect to a required side setback may be extended horizontally

between the required front and rear setback lines at a distance from the side lot line equal to the greater of the minimum existing distance between said side lot line and said nonconforming portion or ten (10) feet in the R-1 and R-2 Districts and six (6) feet in the R-3 and R-4 Districts.

4. Roof Elevation Extensions

Any portion of a ~~precode~~ nonconforming structure that is nonconforming with respect to the permitted maximum elevation may be extended horizontally at an elevation in excess of said permitted maximum elevation. However, the top of the roof of such extension shall not exceed the top of the ~~precode~~ nonconforming structure.

5. Roof Height Extensions

Any portion of ~~precode~~ nonconforming structure located on a conforming lot in a single-family residential district that is nonconforming with respect to the permitted maximum height and that is a ~~precode~~ nonconforming structure solely due to the nonconforming height of the structure may be extended horizontally at a height in excess of said permitted maximum height, but not in excess of the roofline of the existing structure, or horizontally and vertically at a height in excess of the permitted maximum height, but not in excess of the height of the structure as of the date of initial occupancy of the original structure. Such extension shall not be permitted where the height of the structure, as of the date of initial occupancy of the original structure, exceeded the maximum height authorized by law. In either case, such extension shall not extend more than twenty-four (24) inches beyond the exterior face of the exterior walls of said existing structure.

For the purposes of this section, any vertical or horizontal extension of a ~~precode~~ nonconforming structure in violation of the above shall be construed to increase the degree of an existing nonconformity.

6. Certain Garages Accessory to Certain ~~Precode~~ Nonconforming Detached Dwellings

In compliance with maximum floor area and building coverage regulations, ~~and that no demolition, damage or destruction to a structure was caused by any means within the control of the owner the limitations set in subsection C1 of this section,~~ a detached garage accessory to, and on the same zoning lot as, a ~~precode~~ nonconforming single-family detached dwelling may be demolished and replaced with a new detached garage if, and only if, all of the following conditions and standards are met:

- a. The dwelling was constructed prior to 1950.
- b. The dwelling does not have an attached garage.
- c. The replacement garage does not exceed a total floor area of four-hundred forty (440) square feet.

~~For the purposes of this subsection B, any vertical or horizontal extension of a~~

~~precode structure in violation of subsection B5 of this section shall be construed to increase the degree of an existing nonconformity. For purposes of this subsection B, the provisions of subsection D of this section shall, where applicable, be applied in determining the existence and extent of any side yard nonconformity.~~

C. Damage or Destruction

Any ~~precode~~ nonconforming structure that is demolished, damaged or destroyed by any means, whether or not within the control of the owner, may be rebuilt, restored or repaired. However, the following shall apply to the rebuilding, restoration or repair of a nonconforming structure:

1. Voluntary Damage

In no event shall any demolition, damage or destruction to such a structure caused by any means within the control of the owner be rebuilt, restored or repaired except in conformity with all of the applicable district regulations, other than minimum lot area and lot dimension regulations.

2. Involuntary Damage

In no event shall any damage or destruction to such a structure caused by any means not within the control of the owner be rebuilt, restored, or repaired so as to create any new ~~parking, loading, yard, bulk, or space~~ nonconformity or to increase the degree of any ~~parking, loading, yard, bulk, or space~~ nonconformity existing prior to such damage or destruction. For the purposes of this section, any vertical or horizontal extension of a structure in violation of the applicable bulk and setback ~~yard, bulk, or space~~ regulations ~~applicable in the district in which such structure is located~~ shall be construed to increase the degree of an existing nonconformity, except for the following:

- a. Any portion of a ~~precode~~ nonconforming structure that was, prior to such damage or destruction, nonconforming with respect to a required front or rear setback may be extended vertically within its existing perimeter walls but may not be extended horizontally.
- b. Any portion of a ~~precode~~ nonconforming structure that was, prior to such damage or destruction, nonconforming with respect to a required side setback may be extended vertically within its existing perimeter walls. However, no such extension shall be allowed within ten (10) feet of any side lot line in the R-1 and R-2 Districts or within six (6) feet of any side lot line in the R-3 and R-4 Districts.
- c. Any portion of a ~~precode~~ nonconforming structure that was, prior to such damage or destruction, nonconforming with respect to a required side setback may be extended horizontally between the required front and rear setback lines at a distance from the side lot line equal to at least the minimum existing distance between said side lot line and the nonconforming portion as it existed prior to such damage or destruction, or ten (10) feet in the R-1 and R-2 Districts or six (6) feet in the R-3 and R-4 Districts.

~~For purposes of this subsection C, the provisions of subsection D of this section shall, where applicable, be applied in determining the minimum yards required and the existence and extent of any side yard nonconformity.~~

~~D. *Special Yard Regulations*: Whenever any precode nonconforming structure is located on a lot that does not comply with the lot area or lot width regulations of the district in which it is located, such structure may be maintained, altered, enlarged, rebuilt, restored and repaired subject to the side yard regulations for such district as stated in subsection 10-105A of this article rather than the side yard regulations otherwise applicable in such district.~~

D. Moving

No ~~precode~~ nonconforming structure shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

E. Nonconforming Signs

1. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement of non-bearing sign elements and electrical wiring and fixtures may be performed on any sign. Any repair or replacement shall, whenever possible, eliminate or reduce any nonconformity in the element being repaired or replaced and, further, this section shall not be deemed to authorize any violation of this Article.

2. Alteration, Enlargement and Moving

No nonconforming sign shall be changed or altered in any manner that would increase the degree of its nonconformity, be enlarged or expanded, be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming. A change in sign message which does not otherwise violate the provisions of this Code shall not be deemed to be prohibited by this section.

3. Change of Sign

A nonconforming sign that has been changed to eliminate its nonconformity or any element of its nonconformity shall not thereafter be changed to restore such nonconformity or nonconforming element.

4. Damage or Destruction

Any nonconforming sign, or any nonconforming element of a sign capable of change or discontinuance separate from other elements of the sign, damaged or destroyed by any means to the extent of thirty-five percent (35%) or more of its replacement cost new shall not be restored but shall be removed or brought into conformity with the provisions of this Code.

5. Termination of Sign

- a. Any nonconforming sign the use of which is discontinued for a period of sixty (60) consecutive days, regardless of any intent to resume or not to abandon such use, shall be deemed to be abandoned and shall not thereafter be reestablished or resumed. Every such sign shall be immediately removed or brought into conformity with the provisions of this Code. Any period of discontinuation caused by government actions, strikes, material shortages or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this section.
- b. Any nonconforming sign advertising, identifying or pertaining to a business on the premises on which it is located shall be terminated upon any change in the ownership or control of such business. ~~Any such existing pylon sign having a replacement value of at least forty thousand dollars (\$40,000.00) and a height of at least thirty five (35) feet need not be immediately terminated, but may remain until but not beyond June 1, 2000, so long as such existing pylon sign is maintained in compliance with the provisions of subsection 9-106E of this code.~~

6. Signs Associated With Certain Special Use Permits

Where a legal nonconforming business is operating in a residential district pursuant to a special use permit lawfully issued prior to the effective date of this Code, any lawfully existing nonconforming sign that is located on the premises of, and accessory to, such business may be maintained, repaired, replaced, changed, altered or structurally altered in a manner otherwise inconsistent with ~~subsections B, C and E~~ of this section, as long as any such maintenance, repair, replacement, change, alteration or structural alteration:

- a. Does not increase the degree of nonconformity of the sign with area, ~~yard~~, setback or height regulations
- b. Complies with the regulations contained in Section ___ ~~subsection 9-106J of this code.~~

~~A. Authority To Continue: Except as provided in subsections F and G of this section, any lawfully existing nonconforming sign may be continued so long as it otherwise remains lawful, subject to the regulations contained in subsections B through E of this section and in subsection 10-101D of this article.~~

~~F. Termination Of Certain Signs:~~

~~1. Immediate Termination: The following nonconforming signs or sign features shall be terminated within thirty (30) days after the effective date of this code by removal of the sign or by alteration of the sign to eliminate the specified feature:~~

- ~~(a) Attention getting devices.~~
- ~~(b) Moving or animated signs, except public service signs when expressly permitted by section 9-106 of this code.~~
- ~~(c) Portable signs.~~
- ~~(d) Temporary signs, except as expressly permitted by section 9-106 of this~~

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	<p>code.</p> <p>(e) Any sign that advertises, identifies, or pertains to a business no longer conducted, or a product no longer sold, on the premises where such sign is located.</p> <p>(f) Any sign on a tree or utility pole, whether on public or private property, except governmental signs authorized in section 9-106 of this code.</p> <p>(g) Any sign on public property, except governmental signs authorized in section 9-106 of this code.</p> <p>(h) Any sign that violates any provision or requirement of subsections 9-106E1 through E3 or E5 through E11 of this code.</p> <p>(i) Any sign constructed or erected without a valid permit.</p>
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The current provisions both allow and do not allow the full reconstruction of nonconforming structures. The introductory paragraph allows the reconstruction – whether or not the damage was in the owner’s control. This is followed by provisions that state voluntary damage (owner’s fault) revokes the right to rebuild the nonconforming structure. Most codes do not allow reconstruction after 50% or more of the structure is destroyed, even if it is not in the owner’s control. The leniency of the current provisions contradict the purpose of gradual elimination and severely limits the Village’s ability to implement development policy.

Signs are a structure and should be regulated as such. They have been moved into this section and consolidated with nonconforming structures. The percentage used for sign damage should be the same for all structures. (Again 50% is recommended.) Provisions requiring termination of certain signs within 30 days of Code adoption have been eliminated because they have expired.

§10-105
Article 12
Definitions
Residential
Footnotes

18.5 NONCONFORMING LOTS OF RECORD

A. Creation of a Nonconforming Lot of Record

A nonconforming lot of record is a lot of record that:

1. Was created by a plat or deed recorded at a time when the creation of a lot of such size, shape, depth and width at such location would not have been prohibited by any ordinance or other regulation.
2. Is located in a residential district and meets the minimum lot area and lot dimension for a nonconforming lot ~~standards of subsection 10-105A of this code~~, or is located in a district other than a residential district. ~~and~~
3. Was vacant on June 18, 1988, or became vacant thereafter by reason of demolition or destruction of a ~~precode~~ nonconforming structure that is not authorized to be rebuilt or replaced. ~~pursuant to subsection 10-104C of this code~~
4. Was created pursuant to Paragraph D below ~~subsection 3-110G2 of this code~~.

Except as authorized by Paragraph D below ~~pursuant to subsection 3-110H2 of this code~~, a legal nonconforming lot of record cannot be created by the sale or transfer of property that results in the creation of a nonconforming lot of record or that increases the degree of nonconformity of any existing nonconforming lot of record.

B. Authority to Use for Single-Family Detached Dwellings in Residential

Districts

In any residential district, notwithstanding the regulations imposed by any other provisions of this Code, a single-family detached dwelling and any permitted accessory structure ~~that complies with the regulations of this subsection~~ may be erected, maintained, altered, enlarged, rebuilt, restored and repaired on a legal nonconforming lot of record. Construction of such dwelling and any accessory structure, shall comply with all the regulations applicable to such dwellings and accessory structures in the zoning district in which the lot in question is located. ~~except that the following requirements shall apply in place of requirements otherwise applicable~~

C. Authority to Use for Permitted Uses in Non-Residential Districts

A legal nonconforming lot of record located in any district other than a residential district may be developed for any use permitted or specially permitted in the district in which it is located if, and only if, the development of such lot meets all requirements of the district in which it is located, including floor area ratio, coverage and ~~yard and~~ setback requirements, with the exception of lot area, width, and depth requirements.

D. Exception for Through Lots

A through lot that meets the following standards may be subdivided, but only into two (2) lots of substantially equal area. Each of the resulting lots shall be deemed to be a legal nonconforming lot of record subject to the requirements of this section ~~10-105 of this code regarding nonconforming lots.~~

1. Is a lot of record.
2. Was platted prior to October 4, 1995.
3. Was created by a plat or deed recorded at a time when the creation of a lot of such size, shape, depth and width at such location would not have been prohibited by any ordinance or other regulation.
4. Is the only through lot that is a lot of record within the block in which it is located.
5. Is capable of being subdivided into two (2) lots, each containing not less than eighty-seven and one-half percent (87.5%) of the required lot area for the zoning district in which it is located, and each having a lot width and depth no less than those required for nonconforming lots within that district.
6. Is capable of being subdivided without creating any new, or increasing any existing, nonconformity with respect to any building located on such through lot.
7. Is not capable of being subdivided in conformance with all of the requirements of this Code.

The nonconforming lots of record standards are very confusing, primarily because they contain so many

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bulk regulations. This is not typical and such specificity in crafting regulations for nonconforming lots seems to merit the creation of a district or districts where lots of those minimum dimensions would conforming. By creating such districts, the nonconforming lots of record standards can be simplified to address the few remaining nonconforming lots. A sample of simpler nonconforming lot of record provisions is included in the Technical Review Report.