

ARTICLE 1. TITLE, PURPOSE & INTENT

NOTES ON REVISIONS

Purpose: We have made no changes to the current purpose statement. All input has indicated that the current statement is highly valued by the community so we have maintained it.

Transition Rules: Some of the following transition rules were modified to reflect modern zoning practice:

- ⇒ Sec. 1.5.B: Most codes allow permitted uses that become special uses to continue as special uses, and therefore any change is subject to the special use permit process. In the current Code, special uses require a certificate of occupancy as soon as the switch from permitted to special occurs and for those who do not secure the certificate, the use or structure becomes nonconforming. We have revised this to eliminate reapplication for a certificate of occupancy as it seems onerous and penalizes property owners who have complied with the previous Code, especially since such uses would already have a valid certificate of occupancy.
- ⇒ Sec. 1.5.C: We have simplified that language for previously granted variations, special use permits or planned development approvals. Legally, those that have been granted are valid even with new Code provisions. (We have only said variations and special uses because planned developments are a type of special use.)
- ⇒ Sec. 1.5.E: We have removed the provision that pending variation applications are subject to the old Code, as opposed to the new Code. This was the only application that was distinguished this way. This creates conflicts in that old variation applications may be irrelevant based on new zoning provisions and would potentially increase nonconformities.

Severability – Sec. 1.6.C: Marking court decrees on the Zoning Map is not recommended. While the decrees should be kept on file with the Zoning Administrator, they should be maintained separately. The Zoning Map should only include the zoning districts in the Code. It is also important to remember any changes to the Zoning Map must also go through the map amendment (rezoning) procedures.

ARTICLE 1. TITLE, PURPOSE & INTENT

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1.1 TITLE

This document shall be known, and may be referred to, as the “Hinsdale Zoning Code,” and referred to within this document as the “Zoning Code” or “Code.”

1.2 AUTHORITY

This Code is adopted pursuant to the authority granted to the Village by the Illinois Municipal Code for the purposes described in this Article.

1.3 PURPOSE

This Code is adopted for the following purposes:

A. Overall Purpose

The overall purpose of this Code is to maintain Hinsdale as one of the nation's finest residential suburbs by preserving and enhancing its historic character as a community comprised principally of well-maintained single-family residential neighborhoods and small, thriving business areas oriented to serve the day-to-day needs of local residents.

B. Land Use Patterns

The purposes of this Code related to land use patterns are to:

1. Implement and foster the goals and policies of the Village's adopted plans.
2. Establish a rational pattern of land uses and encourage the most appropriate use of individual parcels of land in the Village.
3. Encourage compatibility between different land uses.
4. Encourage and promote detached single-family homes as the principal land use in the Village.
5. Limit the bulk and density of new and existing structures to preserve the existing scale of development in the Village.
6. Provide for the gradual elimination of nonconforming uses that adversely affect the character and value of permitted development.
7. Protect the scale and character of the existing residential, business, commercial, and office development areas of the Village from the encroachment of incompatible uses.

8. Encourage and enhance the preservation of natural resources, aesthetic amenities, and natural features.
9. Secure adequate natural light, clean air, privacy, a safe environment and convenience of access to property.
10. Promote and protect the public health, safety and the general welfare of the Village.

C. Public infrastructure

The purposes of this Code related to public infrastructure are to:

1. Facilitate the most efficient use of existing and planned public facilities and utilities.
2. Protect existing public facilities and utilities from being overloaded due to excess development.
3. Protect and enhance a pattern of interconnected streets and highways that is unified, integrated, safe, effective and efficient.
4. Protect residential streets from degradation by non-residential traffic.
5. Reduce congestion and promote safety on streets and highways by limiting traffic generation through the control of land use intensity.
6. Avoid or lessen the hazards of flooding and stormwater accumulation and run-off.
7. Establish and regulate setback lines along streets and highways, property lines and stormwater runoff channels or basins.

D. Justifiable Expectations and Taxable Value

The purposes of this Code related to justifiable expectations and taxable value are to:

1. Protect and respect the justifiable reliance of existing residents, businesspeople and taxpayers on the continuation of existing, established land use patterns.
2. Protect and enhance the taxable value of land and buildings.

E. Administration

The purposes of this Code related to administration are to:

1. Define the powers and duties of administrative officers and bodies necessary to administer this Code.
2. Establish procedures for the efficient and effective use of the provisions of this Code.
3. Establish standards for the review of applications filed pursuant to this Code.
4. Prescribe penalties for the violation of the provisions of this Code.

1.4 APPLICABILITY

A. Territorial Application

This Code shall apply to all land, structures and uses within the corporate limits of the Village.

B. General Application

All structures, all uses of land or structures, all structural alterations or relocations of existing structures, and all enlargements and extensions of, additions to, changes in, and relocations of existing uses occurring hereafter shall be subject to the regulations of this Code applicable to the zoning district in which such land, structure or use is located. Existing structures and uses that do not comply with the regulations of this Code shall be subject to the provisions of Article 18 (Nonconformities).

C. General Prohibition

No structure, no use of any structure or land, and no lot of record or zoning lot, now or after the date of adoption of this Code, shall be established, enlarged, extended, altered, moved, divided or maintained in any manner, except as authorized by the provisions of this Code and in compliance with the regulations of this Code. Any activity that would cause any existing structure not to comply with this Code or that would create a parcel of land that could not be developed in compliance with this Code shall be prohibited.

D. Private Agreements

This Code is not intended to abrogate, annul or otherwise interfere with any platted building line, easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this Code are more restrictive or impose higher standards or requirements, the regulations of this Code shall govern.

E. Other Laws and Regulations

In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements for the promotion of the public health, safety, comfort and general welfare, as set forth in the provisions establishing the intent and purpose of this Code in general and its various Articles in particular. When the provisions of this Code impose greater restrictions than those of any statute, ordinance or regulation, the provisions of this Code shall control. When the provisions of any statute, ordinance or regulation impose greater restrictions than this Code, the provisions of such statute, ordinance or regulation shall control.

F. Provisions Not A Consent, License or Permit

The provisions of this Code shall not be interpreted to be or grant a consent, license or permit to use any property, or to establish, locate, construct or maintain any structure or use, or to carry on any trade, industry, occupation or activity.

1.5 TRANSITION RULES

In determining the applicability of this Code, with respect to the previously applicable zoning regulations, the following rules shall apply:

A. Unlawful Uses and Structures

This Code shall not be interpreted to validate or make lawful any unlawful use or structure existing upon the effective date of this Code. Any such unlawful use or structure shall remain unlawful to the extent that said use or structure is in conflict with the provisions of this Code.

B. Existing Uses

If property is used in a manner that was classified as a permitted use prior to the effective date of this Code, and that use is classified as a special use by this Code, that use shall be deemed a lawful special use. However, any subsequent addition, enlargement or expansion of that use shall be required to conform to the procedural and substantive requirements for special uses pursuant to this Code.

C. Previously Granted Variations and Special Uses

All special uses and variations granted prior to the effective date of this Code shall remain in full force and effect. The recipient of the special use or variation may proceed to develop the property in accordance with the plans approved by the Village Board or Zoning Board of Appeals and any applicable conditions. However, if the recipient has failed to act on the special use or variation before the approval expires, including any periods of extension granted, the provisions of this Code shall govern.

D. Building Permits Issued Prior To Effective Date

1. All work, structures and uses authorized by building permits issued prior to the effective date of this Code, or any amendment to it, and for which a certificate of occupancy had been issued prior to such effective date, shall not be affected by this Code, or any amendment to it.
2. Nothing in this Code, or any amendment to it, shall be deemed to require any change in the plans, construction or designated use of any structure if either:
 - a. A building permit for the structure was lawfully and properly issued prior to the effective date of this Code, or any amendment to it, and the permit did not expire prior to the effective date of this Code, and construction is commenced prior to the expiration of the permit; or
 - b. A building permit application was on file with the Village Building Department and complete in all material respects prior to the effective date of this Code.
3. Upon completion pursuant to Paragraph 2, above, such structure may be occupied by, and a certificate of occupancy shall be issued for, the use designated on the permit, subject thereafter, to the extent applicable, to the provisions of Article 18 (Nonconformities) relating to nonconformities.

E. Pending Applications

1. This Code, and any amendment to it, shall apply to all applications pending and not yet finally decided on the effective date of this Code, and any amendment to it, that would apply if such applications were filed on or after such effective date.
2. The application requirements, hearing requirements and procedural requirements of this Code, or any amendment to it, shall not apply to any pending application and each application shall be processed in accordance with the application, hearing and procedural requirements that were in effect on the date the application was filed. The Zoning Administrator shall have the authority to request additional data, information or documentation for pending applications when, in his/her judgment, such additional data, information or documentation is necessary or appropriate to a full and proper consideration and disposition of such pending application.
3. The process for pending applications shall be as follows:
 - a. Within twenty (20) days following the effective date of this Code, or any amendment to it, any Village official, department, board or commission having pending before it any application to which this Code, or any amendment to it, applies shall transmit a copy of the application to the Zoning Administrator.
 - b. Within thirty (30) days following the effective date of this Code, or any amendment to it, the Zoning Administrator shall inform each applicant that the application is subject to and will be processed in accordance with the provisions of this Code, as amended. The applicant may, within thirty (30) days following the mailing of such notice, re-file, without additional fee, the application on the basis of this Code, as amended. If the applicant does not re-file, the application may be denied for noncompliance with the provisions of this Code, as amended.
 - c. Notwithstanding the provisions of Paragraphs a and b, above, it shall be the responsibility of each applicant with an application pending on the effective date of this Code, or any amendment to it, to modify such application in accordance with this Code, as amended. The failure to do so, whether or not the procedures of Paragraphs a and b, above, have been followed, may result in denial of the application for failure to comply with this Code, as amended.
 - d. Any modification or re-filing of an application pending on such effective date in order to comply with the provisions of this Code, as amended, shall be permitted at any time prior to the final decision on such application and shall be permitted without payment of any additional fee.

F. Certain Uses Rendered Nonconforming

If property is used in a manner that was a lawful use before the effective date of this Code, and this Code no longer classifies that use as either a permitted or special use in the zoning district in which it is located, that use shall be deemed a legal nonconforming use and shall be controlled by the provisions of Article 17 (Nonconformities).

G. Certain Structures and Lots Rendered Nonconforming

If a structure or lot existing on the effective date of this Code does not meet all standards set forth in this Code, that structure or lot shall be deemed legally nonconforming and shall be controlled by the provisions of Article 17 (Nonconformities).

1.6 SEVERABILITY

The provisions of this Code shall be severable in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of this Code to be invalid, such judgment shall not affect any other provisions of this Code.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular parcel of land, a particular structure or a particular use, such judgment shall not affect the application of said provisions to any other land, structure, or use.
- C. Whenever the provisions of this Code are declared invalid in their application to any particular parcel of land, the Zoning Map shall continue to show the parcel in the zoning district applicable to it pursuant to this Code unless and until the district is changed by an amendment adopted by the Village Board. The Zoning Administrator shall maintain a file of such decrees. The provisions of any such decree shall be deemed to modify the otherwise applicable provisions of this Code as they apply to said parcel to the extent provided in said decree but said parcel shall otherwise remain subject to the provisions of this Code.

1.7 EFFECTIVE DATE AND PUBLICATION

This Code shall take effect immediately upon, and its effective date shall be this date of _____.

1.8 REPEAL OF PRIOR PROVISIONS

After the effective date of this Code, all provisions of the Village of Hinsdale Zoning Code, as adopted on _____, 1989, as amended from time to time, are expressly repealed in their entirety. This repeal applies only to the provisions of the Zoning Code.