

ARTICLE 1. TITLE, PURPOSE & INTENT

CURRENT CODE	REORGANIZED CODE PROVISIONS	
§1-101	1.1	<p>TITLE</p> <p>This document shall be known, and may be referred to, as the “Hinsdale Zoning Code,” <u>and referred to as the “Zoning Code” or “Code.”</u></p>
§1-102	1.2	<p>AUTHORITY</p> <p>This Code is adopted pursuant to the authority granted to the Village by the Illinois Municipal Code for the following purposes described <u>in this Article.</u></p>
§1-102	1.3	<p>PURPOSE</p> <p>This Code is adopted pursuant to the authority granted to the Village by the Illinois Municipal Code for the following purposes:</p> <p>A. Overall Purpose</p> <p>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.</p> <p>B. Land Use Patterns</p> <p>The purposes of this Code related to land use patterns are to:</p> <ol style="list-style-type: none"> 1. Implement and foster the goals and policies of the Village's Official Comprehensive Plan. 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 non-conforming 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, morals 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.

This language from Article 1 has not been changed.

§12-101
§12-201
§12-202
§12-203

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 erected hereafter, all uses of land or structures established hereafter, all structural alterations or relocations of existing structures occurring hereafter, and all enlargements and extensions of, additions to, changes in, and relocations of existing uses occurring hereafter shall be subject to all regulations of this Code applicable to the zoning districts in which such land, structures, or uses are 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) of this Code relating to 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 ~~except~~ in compliance with the regulations of this Code. Without limiting the foregoing, any such activity that would cause any existing structure not to comply with this Code or that would create any 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 than such platted building line, easement, covenant, or other private agreement or legal relationship, 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, ~~morals~~, and general welfare, as set forth in the provisions hereof 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, ~~other~~ ordinance or regulation, the provisions of this Code shall be controlling. When the provisions of any

statute, ~~other~~ ordinance or regulation impose greater restrictions than this Code, the provisions of such statute, ~~other~~ ordinance or regulation shall be controlling.

F. Provisions Not A Consent, License or Permit

The provisions of this Code shall not be interpreted to be or to 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.

~~The provisions of this Code shall be interpreted to be cumulative of, and to impose limitations in addition to, all other codes, laws, and ordinances in existence or which may be passed governing any subject matter of this Code. The several provisions of this Code shall also be interpreted to be cumulative of each other. To the greatest extent possible, the provisions of this Code shall be construed to be consistent with, and not in conflict with, the provisions of such other codes, laws, and ordinances, and with each other, to the end that all such provisions may be given their fullest application.~~

§12-202 (Provisions are Cumulative) in the current Code has been stricken because it is covered by other provisions. It is redundant. If the Village would like to keep the provision in the Code, it should be added here.

§12-204
§12-102
§12-103
§12-104

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 And Structures Newly Requiring Special Use Permit~~

The owners of any permitted use or structure lawfully existing on the effective date of this Code, or any amendment to it, that did not, prior to such effective date, require a special use permit but which, after such effective date, requires a special use permit, may continue such use or maintain such structure by securing ~~therefor~~ a certificate of occupancy pursuant to the standards and procedures of ~~subsection 11-402F~~ of this Code. Unless and until such a permit is so secured, such use shall be subject to the provisions of Article 18 (Nonconformities) of this Code dealing with nonconformities.

C. ~~Existing~~ Previously Granted Variations, Special Uses and Development Plan Approvals

Any variation, special use permit or planned development ~~or~~

~~comprehensive development plan approval lawfully issued prior to the effective date of this Code, or any amendment to it, that could be lawfully issued pursuant to the provisions in effect after such effective date shall be deemed to be and continue valid after such effective date subject to any conditions placed thereon at the time of issuance. provided, however, that any variation, special use permit, or planned development or comprehensive development plan approval lawfully issued prior to April 25, 1989, for which a building permit has not been issued and on which construction has not actually begun on or before December 31, 1998, shall expire and be of no further force and effect after December 31, 1998, unless application is made for an extension of time pursuant to subsection 11-101K of this code prior to December 31, 1998, and such an extension is granted. Any structure or use lawfully authorized by any such variation, special use permit, or planned development or comprehensive development plan approval that could not be so issued after such effective date shall be subject to the provisions of article X of this code dealing with nonconformities.~~

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. Except as provided in Paragraphs 2 and 3, below, of this section, no certificate of occupancy shall be issued following the effective date of this Code or any amendment to it unless the work, structure, or use for which the certificate of occupancy is sought is made to fully comply with the applicable provisions of this Code or any such amendment.
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 such structure was lawfully and properly issued prior to the effective date of this Code or any such amendment to it, such permit had not by its own terms expired prior to such effective date, and construction pursuant to such permit is commenced prior to the expiration of such permit.
 - 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, of this section, such structure may be occupied by, and a certificate of occupancy shall be issued for, the use designated on such permit, subject thereafter, to the extent applicable, to the provisions of Article 18 (Nonconformities) of this Code 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 thereof to

which it would apply if such applications were filed on or after such effective date. ~~that nothing in this Code shall be deemed to require any change in any proposed plat of subdivision that has been granted tentative plat approval by the board of trustees prior to such effective date, and provided further, however, that~~ This Code shall not apply to any zoning variation application that was on file with the Village and complete in all material respects prior to such effective date, which zoning variation application shall be processed in accordance with the standards and requirements that were in effect on the date such application was filed.

2. Within twenty (20) days following the effective date of this Code, or any amendment to it, any Village official, department, board or commission then having pending before it any application to which this Code, or any amendment to it, applies pursuant to Paragraph 1, above, of this section shall transmit a copy of such application to the Village Manager Zoning Administrator.
3. Within thirty (30) days following the effective date of this Code, or any amendment to it, the Village Manager Zoning Administrator shall inform each applicant named on each application referred to him/her, pursuant to Paragraph 2, above, of this section that said application is subject to the provisions of this Code, as amended, and will be processed in accordance therewith. The applicant may within thirty (30) days following the mailing of such notice, re-file, without additional fee, its application on the basis of this Code, as amended. If the applicant does not so re-file, the application may be denied for noncompliance with the provisions of this Code, as amended.
4. Notwithstanding the provisions of Paragraphs 2 and 3, above, of this Section, it shall be the responsibility of each applicant having an application pending on the effective date of this Code, or any amendment to it, to modify such application in accordance with the terms and provisions of this Code, as amended, and the failure to do so, whether or not the procedures of said subsections have been followed, may result in denial of such application for failure to comply with this Code, as amended. 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 disposition of such application and shall be permitted without payment of any additional fee.
5. Upon the re-filing of any pending application as provided herein, or upon notification from the applicant that it will not re-file or modify its application, or upon the expiration of sixty (60) days following the effective date of this Code or any amendment to it, whichever occurs first, such pending application shall be processed in accordance with the terms of this Code, as amended. ~~provided, However, the application requirements, hearing requirements and procedural requirements set forth in Article XI, Part 3, and Subsections 11-601D, 11-602D, 11-603D, 11-604E and 11-605D~~ of this Code shall not apply to any such pending application and each such application shall be processed in accordance with the application, hearing, and procedural requirements that were in effect on the date such application was filed. Notwithstanding any other

provision of this section Code, the Village Manager 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.

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 18 (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 18 (Nonconformities).

Item 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. Here, 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. Has this been Village practice? It seems onerous and penalizes property owners who have complied with the previous Code, especially since such uses would already have a certificate of occupancy. It may be better to revise this procedure as follows:

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.

Items 1.5.F and 1.5.G are standard code language to inform users about the potential creation of nonconformities.

§12-106

1.6 SEVERABILITY

A. Intent as to severability. The several 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 ~~provided for in Section 2-103 of this Code~~ shall continue to show such parcel in the zoning district applicable to it pursuant to this Code unless and until such district is changed by an amendment adopted by the Village Board pursuant to the provisions ~~Section 11-604~~ of this Code, provided, however, that the parcel ~~in question~~ shall be marked with a ~~star or other~~ distinctive marking to direct attention to the court decree affecting said parcel. The ~~Village Manager~~ Zoning Administrator shall maintain a file of any 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.

Marking court decrees on the Zoning Map is not advisable. While the decrees should be kept on file with the Zoning Administrator, they should be maintained on a separate map. The Zoning Map should only refer to the zoning districts in the Code. It is also important to remember any changes to the Zoning Map must also go through the amendment (rezoning) procedure.

§12-107

1.7 EFFECTIVE DATE AND PUBLICATION

This Code shall take effect immediately upon, and its effective date shall be the date of, its passage by a vote of two-thirds (2/3) of the corporate authorities then holding office and its approval by the Village President, the corporate authorities hereby finding that the immediate implementation of this Code is a matter of urgency. ~~provided, however, that the following provisions of this Code shall not take effect until one year following said Effective Date: Subsections 9-101D4(e) and (f), and Section 9-107 insofar as it requires buffering and screening of structures and uses existing on said Effective Date.~~ The ~~Village Manager~~ Zoning Administrator is hereby authorized and directed to publish this Code in pamphlet form and to publish an appropriate notice of its adoption and availability in a newspaper of general circulation in the Village.

§12-105

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. The Hinsdale Zoning Code, as adopted by ordinance dated February 5, 1923, and as amended from time to time thereafter prior to the adoption of Ordinance No. 89-20 providing for the comprehensive revision of said Ordinance by the adoption of this Code, and related provisions of the Village Code set forth in said Ordinance 89-20 shall be, and they are hereby, repealed in their entirety. Except as expressly provided in this Code, such repeals shall not affect or impair any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if such repeal had not been effected.

**CURRENT
CODE**

REORGANIZED CODE PROVISIONS

Language in this section was simplified. No substantive change. If other ordinances are brought into the Zoning Code, such as the historic preservation ordinance, language will need to be expanded to repeal those ordinances as well.