

ORDINANCE NO. 5 - 1943

AN ORDINANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, THE LOCATION AND USE OF BUILDINGS AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES; TO CREATE DISTRICTS FOR SAID PURPOSES AND TO ESTABLISH THE BOUNDARIES THEREOF; TO PROMOTE THE PUBLIC HEALTH, SAFETY, CONVENIENCE, COMFORT, PROSPERITY OR GENERAL WELFARE BY LESSENING CONGESTION IN THE STREETS, SECURING SAFETY FROM FIRE, PANIC AND OTHER DANGERS; TO PROVIDE ADEQUATE LIGHT AND AIR; TO PREVENT THE OVERCROWDING OF LAND; TO AVOID UNDUE CONGESTION OF POPULATION; TO FACILITATE THE ADEQUATE PROVISION FOR TRANSPORTATION, WATER, SEWAGE, SCHOOLS, PARKS AND OTHER PUBLIC REQUIREMENTS; AND TO PROVIDE FOR ENFORCEMENT AND THE IMPOSITION OF PENALTIES.

BE IT ORDAINED by the Council of the Village of Centerville, in the County of Montgomery and State of Ohio:

ARTICLE I - TITLE AND DEFINITIONS.

Section 11. Title. This Ordinance shall be known and may be cited as the "Zoning Ordinance" of the Village of Centerville, Montgomery County, Ohio.

Section 12. Definitions. The words used in this Ordinance shall have the meaning commonly attributed to them. Doubts as to their precise meaning shall be determined by the Planning Commission.

The term "used" shall be deemed to include the words "arranged, designed, or intended to be used."

The term "occupied" shall be deemed to include the words "arranged, designed, or intended to be occupied."

The word "building" shall be deemed to include the word "structure".

LOT. - A lot is a parcel of land occupied by one main building or use, with its accessories, and including the open spaces accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open-space requirements for one main building or use shall be included or counted in the calculation of the open-space accessory to any other main building or use.

FRONT YARD. - A front yard is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

REAR YARD. - A rear yard is an open space on the same lot with a main building, unoccupied, except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

SIDE YARD. - A side yard is an open unoccupied space on the same lot with a main building situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If there be no front yard, the front boundary of the side yard shall be the street line, and if there be no rear yard the rear boundary of the side yard shall be the rear line of the lot.

ALLEY. - An Alley is a street not exceeding twenty (20) feet in width.

BUILDING AREA. - The building area is the maximum horizontal projected area of a building and its accessory buildings, excluding chimneys, open steps, balconies, buttresses, terraces, cornices and other minor ornamental features projecting from the walls of the building and not otherwise supported by the ground.

ARTICLE II - DISTRICTS.

Section 21. Districts. For the purpose of this Ordinance, the Village of Centerville is hereby divided into the following classes of districts;

Residence District      Business District

Section 22. Map. The boundaries of such districts are hereby established as shown on the map entitled and certified by the Village Clerk as "Building Zone Map of the Village of Centerville," adopted June 14, 1943, which accompanies and is hereby made a part of this Ordinance.

The Business District shall be made to include an area defined as follows: On Main Street from the North line of Weller Avenue north to the south line of lot twenty-eight (28) Robbins Plat. On Franklin Street from the west line of Maple Avenue west to a point one thousand, two hundred (1200) feet west of the west line of Main Street.

The remainder of the incorporated area of the Village shall be considered residence district.

ARTICLE III - BULK AND ARRANGEMENT OF BUILDINGS.

Section 31. Heights and Areas. The height of a building or structure shall be measured from the average natural ground level within ten feet of the building up to the average level of the highest main roof thereon. No story shall be deemed a first story if its floor level is more than nine feet above the ground.

In residence districts and business districts, no building or structure shall have a height exceeding three stories or sixty (60) feet, nor shall it have a combined gross area on all floors in residence districts greater than three quarters of the area of the lot, or in business districts greater than one and one-half times the area of the lot; excluding basement, porches and uninhabited attics.

The provisions of this Section with respect to height shall not apply to church spires, belfries, cupolas or chimneys.

Section 32. No lot shall be occupied for residential purposes unless it has a frontage of unobstructed easement of access at least sixty (60) feet wide on or to one or more public streets at least forty (40) feet wide and there shall not be more than a single, detached dwelling for one family or housekeeping unit for such frontage or easement. The area of lot for such dwelling shall be not less than seven thousand, two hundred (7,200) square feet, provided that one single family dwelling may be erected on any lot now separately owned or on any numbered lot in a recorded subdivision now on record in the Office of the County Recorder. In present platted areas no area shall be subdivided into less than fifty (50) foot frontage. No lot to be used for business shall be less than twenty-five (25) feet.

Section 33. Front Yard. No buildings or other structure or any part thereof shall be erected nearer to the street line than thirty (30) feet; provided, however, that if on any street dwelling houses have been erected on at least twenty-five (25) per cent of the lots situated between two adjacent streets, then the average distance back from the street line of the houses already built in such square shall be the set-back line for such square instead of the thirty (30) feet herein established.

Section 34. Side Yard. For every building erected there shall be a side yard on each side, each side yard being not less than seven (7) feet. Where two or more houses are erected on the same lot or parcel of land, there shall be at least fourteen (14) feet in width between each side lot line and the nearest house on such lot or parcel. The provisions of this section may be modified by the Planning Commission where the location of existing buildings or adjacent lots render such modification advisable for the carrying out of the purpose of this plan.

Section 35. Rear Yard. Each house shall be provided with a back yard of the same width as the lot, and of a depth from the house to the rear lot line of at least twenty-five (25) per cent of the depth of the lot; provided, however, that the depth of such back yard need not exceed forty (40) feet. Detached garages for not exceeding two automobiles and other out-buildings may be erected in such back yard, but shall not be closer to the street line than ninety (90) feet.

Garages for more than two automobiles may be erected, provided that the yard space available is suitable, and provided further that in cases where lots shown on duly recorded plats have a depth of seventy (70) feet or less, the distance from the house to the rear of the lot line shall be at least fifteen (15%) per cent of the length of the lot and garages may be constructed on such lots within forty-five (45) feet of the front thereof, provided that ample space be left open for the entrance and use of fire apparatus.

Section 36. No building shall be erected on a corner lot nearer than ten (10) feet to the side street line and any detached garage or other out-building shall be erected as far from such side street line as possible, and in no case nearer to such side street line than ten (10) feet.

Section 37. No dwelling shall be erected or altered for the use of two families on any lot or parcel of land containing less than seven thousand, two hundred (7,200) square feet; and no three or four family multiple dwelling shall be erected or altered on any lot or parcel of land containing less than three thousand five hundred (3,500) square feet per family. No tents, shacks, trailers or garages shall be occupied as living quarters on said premises prior to the completion of a permanent dwelling. Any lot or parcel of land having two houses constructed thereon prior to the passage of this Ordinance cannot be made into two, or more, family units unless lots have an area of three thousand, five hundred (3,500) square feet for each family.

Section 38. No accessory building hereinafter permitted by this Ordinance shall be constructed nearer to the street line than is permitted for its principal building nor nearer to any side lot line than the distance established for its principal building, nor less than seven (7) feet from any rear lot line.

#### ARTICLE IV - USES OF BUILDINGS AND PREMISES

Section 41. Uses. Except otherwise provided in this ordinance, no building or premises shall hereafter be used and no building or part thereof shall be erected, raised, moved, reconstructed, extended, enlarged or structurally altered except in conformity with the regulations specified in this ordinance for the district in which it is located.

Section 42. Permitted Uses in Residence Districts:

- (a) A dwelling for one family or housekeeping unit.
- (b) Public or private schools, churches, parish houses and other places of worship, public libraries, municipal buildings, parks, playgrounds, reservoirs and recreational grounds or structures operated by membership organizations for the benefit of their members and not for gain.
- (c) Public Service Structures, including telephone exchanges, providing there is no storage of stock or equipment in connection therewith.
- (d) Any philanthropic or eleemosynary use, other than a camp, hospital, sanitarium, correctional institution or institution for the insane.

- (e) A cemetery, air field, camp, hospital, sanitarium, correctional institution or institution for the insane if approved by the Planning Commission.
- (f) Accessory uses or structures customarily incident to any such uses permitted above, provided that such accessory uses shall not include any activity commonly conducted for gain except as hereinafter provided.
- (g) Specifically permitted accessory uses include the following:
  1. Agricultural operations of five (5) acres, or more, orchards, nurseries, truck gardens and green houses.
  2. Home occupations, such as dress making, millinery, hair dressing, manicuring, laundering, preserving and home cooking, conducted only by resident occupants in the residence building.
  3. The office of a doctor, dentist, musician, teacher, lawyer, architect, artist or member of some other recognized profession in his place of abode.
  4. Small announcement or professional signs not over two (2) feet square in area and "for sale" or "for rent" signs not over six (6) feet square in area and relating to the immediate property. No commercial display visible from the street shall be permitted, nor shall any other advertising sign or bill-board be permitted.
  5. A private garage used for the storage of motor vehicles owned or rented by the owner or lessee of such property and his household guests and employees is permitted on the same lot with or within the building to which it is accessory. Space for one motor vehicle may be rented to a person not residing on the same lot.
  6. No accessory building shall be occupied for residence purposes, except that a part of a garage may be occupied by an employee or employees of the Owner or Tenant of the Premises.

**Section 43. Permitted Uses in Business Districts.**

- (a) Any use permitted in Residence District.
- (b) Any retail or personal service business, including such manufacturing only as may be incidental to the preparation or handling of articles to be sold primarily on the premises or to the performing of services primarily for local residents.
- (c) Banks, theaters, offices, restaurants and similar services to the local community.
- (d) Garages, and filling stations, provided that no repair work is performed out of doors and provided that all exterior filling or lubricating devices are located at least twenty-five (25) feet from any street, highway or right-of-way, and provided that no storage of fuel or oil is permitted within twenty-five (25) feet of any property line.
- (e) Any garage or assembly of garages on one lot, having a capacity for more than five cars, shall be subjected to all restrictions herein prescribed for a public garage. No garage in any Residence District shall conduct a repair shop where motor power is employed in driving machinery. No public garage in any Business District shall have any part of its machine shop on the first floor within twenty-five (25) feet of any entrance or exit for vehicles. No commercial work on motor vehicles shall be done out of doors, except that emergency repairs may be made in a public street in the case of a breakdown. There shall be no opening (except chimney openings,) through the walls or roof of that portion of any building used as a public garage, which is within fifteen (15) feet of any party lot line, except for wire glass windows in fixed metal sashes and frames and for emergency fire doors.
- (f) There shall be no door or driveway for vehicles in connection with any public garage within two hundred (200) feet, measured along the same block frontage of any entrance or exit to the grounds of any church, school, playground, hospital, public library or institution for dependents or for children, or within fifty (50) feet of any Residence District, nor shall any filling station or gasoline pump be located within such distances.
- (g) No junk yard or dry cleaning establishment is permitted in any business district.

**Section 44.** No building or premises shall hereafter be erected, altered or used in any district for any of the following purposes: Bill boards or advertising signs, refuse dumps, veterinary hospitals, scrap iron or junk storage, coal yards, reduction plants, sewerage disposal plants, explosive storage, "auto grave yards," wholesale produce, glue or soap, stock yards, or any other purpose which may cause noxious odors, danger of explosion, undue fire hazards or such noise as to be a public nuisance. No premises shall be used for a stone quarry except by special permit issued by the Planning Commission on satisfactory guarantee that such quarry will be properly refilled to suitable elevation for building permits within a reasonable time.

**Section 45.** Overnight parking of house trailers shall be prohibited on any street or land in the Village, except in an approved camp, except that no more than one house trailer of a non-paying guest of a resident of the Village may park on the property of said resident for not exceeding one hundred sixty-eight (168) hours in four months, provided a police permit has been secured and the location of the trailer complies with the

set-back requirements of the Zoning Ordinance and is not less than ten (10) feet from any building or other trailer. The term "House Trailer" shall be construed to refer to any structure used or designed to be used for living or sleeping purposes, mounted on wheels and propelled by its own power or by a power driven vehicle to which it is attached.

#### ARTICLE V - GENERAL PROVISIONS

##### Section 51. Interpretation and Purpose.

- (a) Nothing in this Ordinance shall prevent the erection of a dwelling for one family upon any lot separately owned at the time of the passage of this Ordinance, but if the area of these lots be less than sufficient to provide the yards required in the schedule hereinbefore established, the location of such dwelling upon such lot shall be subject to the approval of the Planning Commission.

##### Section 52. Non-conforming Uses.

- (a) Any use of property existing at the time of the passage of this Ordinance that does not conform to the regulations prescribed in the preceding sections shall be deemed a "non-conforming" use and may be continued. Except when permitted by the Planning Commission a non-conforming use shall not be extended nor any building arranged, designed or devoted to a non-conforming use at the time of passage of this Ordinance, be reconstructed or structurally altered, unless the said building is changed to a conforming use. A non-conforming use if changed to a conforming use may not thereafter be changed back to any non-conforming use. A non-conforming use discontinued for a period of more than one year shall not thereafter be permitted, unless prior to the expiration of one year from the date of such discontinuance the owner files written notice with the Planning Commission of his intention to resume such use at a future date. If such notice is not given, such property may thereafter be used only for a conforming use.
- (b) Nothing in this Ordinance shall prevent the restoration within one year of a building destroyed by fire, explosion, act of God, or act of the public enemy, or prevent the continuance of the use of such building or part thereof, provided that such damage is less than fifty (50%) per cent of its reproduction value.

##### Section 53. Enforcement.

- (a) This Ordinance shall be enforced by the Village Mayor, who shall perform such duties in addition to his present duties without additional compensation.
- (b) No building or structure shall be erected, added to, or structurally altered in the Village of Centerville until a permit therefor has been issued by the Village Mayor or by the Planning Commission wherever it is provided in this Ordinance that the approval of the Planning Commission is required.
- (c) No such permit shall be issued until there have been filed with the Secretary of the Planning Commission two copies of a map or plan showing the actual dimensions of the lot being built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.
- (d) Nothing herein contained shall require any change in the plans, construction, or intended use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and the ground story framework of which, including the second tier of beams shall have been completed within six months, and which entire building shall be completed, according to such plans as filed, within two years from the effective date of this Ordinance.
- (e) Any person desiring a Building Permit shall at the time of filing an application therefor, pay to the Village Mayor a fee, calculated as follows:
- For an estimated cost of less than Fifty (\$50.00) Dollars no fee.
- For an estimated cost of Fifty (\$50.00) Dollars to and including One Thousand (\$1,000.00) Dollars, Two (\$2.00) Dollars. For an estimated cost of each additional One Thousand (\$1,000.00) Dollars, or fraction thereof, One (\$1.00) Dollar.
- (f) When a lot is formed from a part of a lot then already improved, the separation shall be effected in such manner as not to violate any of the provisions of this Ordinance, whether related to the then existing improvements or to the proposed new improvements.
- (g) The Village Council may from time to time, after public notice and hearing, amend, supplement or change these regulations of districts as provided by statute.

Section 54. Violations and Penalties. The Owner or Owners of any building or premises where anything in violation of this Ordinance shall be committed, and any Architect, Builder or Contractor who assists in the commission of any such violation and any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith, or any requirements thereof, or who shall build in violation of any statement or plans submitted and approved thereunder, shall for every and each violation or noncompliance be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars or by imprisonment for not exceeding thirty (30) days or by both such fine and imprisonment, and each day during which such violation and noncompliance shall continue shall constitute a separate offense.

Section 55. Miscellaneous.

- (a) On the approval of the Planning Commission, a temporary permit for not to exceed six months during the spring, summer and fall, may be issued to any resident for a temporary sectional or portable covered roadside stand, or booth or shed for the retail sale of farm produce, milk, honey, cider, pastry, preserves or other foods or drinks or products of home manufacture, at least half of which have been grown, made or produced upon the premises and the remainder of which have been produced in the Village of Centerville.
- (b) On the approval of the Planning Commission, as hereinbefore provided temporary permits for not to exceed five years may be granted in any residence district for a camp, airfield, filling station, provided:
  - 1. There are filed with such application the consent in writing, duly acknowledged, of the owners of record of sixty (60%) per cent of the area of land within two thousand five hundred (2,500) feet of the boundaries of such property in all directions.
  - 2. At least ten days notice of such pending application is mailed by the Village Clerk to all persons recorded on the last preceding assessment roll as owning property within two thousand, five hundred (2,500) feet of the property in question.
  - 3. Provided no structure in such camp or air field is within two hundred fifty (250) feet of any property line or if a filling station, within fifty (50) feet of any street line and not less than one hundred (100) feet from any side lot line.
- (c) In case of a cemetery, in addition to such other provisions as the Planning Commission may prescribe, it shall be stipulated in the permit that no interment shall take place within one hundred (100) feet of any street or property line, and that such one hundred (100) foot strip shall be suitably landscaped and planted so as to screen such cemetery from view so far as practicable.

Section 56. Validity. The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

Section 57. This Ordinance shall take effect from and after the earliest period allowed by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 1943.

Approved:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Prepared and recommended by The Village Planning Commission: Emory W. Bradstreet  
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