

ZONING ORDINANCE OF THE VILLAGE OF OAKS, MISSOURI

A CORRECTED COPY OF ORDINANCE NO. 5 INCLUDING CHANGES AUTHORIZED BY AMENDMENTS CONTAINED IN ORDINANCES 41A, 109, 2007-3 and 2012-12.

Dated December 10, 2012

AN ORDINANCE TO REGULATE AND RESTRICT IN THE INCORPORATED AREA OF THE VILLAGE OF OAKS THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR RESIDENCE ONLY; TO REGULATE AND LIMIT THE HEIGHTS OF BUILDINGS HEREINAFTER ERECTED OR ALTERED; TO REGULATE AND DETERMINE THE SIZE OF AREA OF YARDS, COURTS AND OTHER OPEN SPACES; TO REGULATE AND LIMIT THE DENSITY OF POPULATION; TO ESTABLISH A SINGLE RESIDENTIAL DISTRICT WITH THE SAME BOUNDARIES AS THE INCORPORATED VILLAGE; TO PROVIDE FOR ITS INTERPRETATION AND THAT OF OTHER LAWS OR COVENANTS. ETC., RELATING TO THE SAME OR SIMILAR SUBJECTS; TO PROVIDE FOR AMENDMENTS TO THIS ORDINANCE; TO PROVIDE FOR ITS ENFORCEMENT IN PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; TO PROVIDE FOR A BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; TO PROVIDE FOR PERMITS; TO PROVIDE THAT IF ANY CLAUSE, SENTENCE, SECTION, PARAGRAPH OR PART OF THIS ORDINANCE SHALL BE HELD INVALID; SUCH INVALIDITY SHALL NOT INVALIDATE THE REMAINDER; TO PROVIDE FOR THE REPEAL OF ALL OTHER ORDINANCES OR PARTS OF SUCH ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF OAKS AS FOLLOWS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the "Zoning Ordinance" of the Village of Oaks.

Section 2. RESIDENTIAL DISTRICT. For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration, repair, relocation, or maintenance of buildings or structures and use of land and lots, the incorporated territory of the Village of Oaks, Missouri, is hereby established and declared to be one residential district.

Section 3. DISTRICT BOUNDARIES. The boundaries of the district are hereby established and are hereby designated as the existing boundaries of said Village, and are hereby made as much a part of this Ordinance as if the same were set forth in full herein. It shall be the duty of the Trustees to keep on file in its office an authentic copy of all maps, and all changes, amendments or additions thereto.

Section 4. BOARD OF ADJUSTMENT. A Board of Adjustment is hereby established in accordance with the provisions of the Zoning Act and shall have supervisory and appellate powers as made and provided by law. The word "Board" when used in this Ordinance shall be construed to mean the "Board of Adjustment", and the word "Trustees" when used in this Ordinance shall be construed to mean the "Board of Trustees".

The Board shall be appointed by the Trustees and shall consist of five (5) freeholders, four of whom shall not currently be Trustees. The Board shall select its own Chairman. The membership of the first board appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter, members shall be appointed for terms of five years each. Members shall be removable by the Trustees for cause upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board shall adopt procedures consistent with the provisions of this Ordinance and the Zoning Act.

Section 5. DEFINITIONS. For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" or the word "must" is mandatory and not directory; the word "lot" includes the word "plot"; the term "used for" includes the meaning "designed for" or "intended for."

1. **ACCESSORY BUILDING OR USE:** A subordinate building or a portion of the main building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property.
2. **ALLEY:** A public way which affords only a secondary means of access to abutting property.
3. **BASEMENT:** A story below the first story as hereinafter defined.
4. **CURB LEVEL:** The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.
5. **GARAGE, PRIVATE:** An accessory building for storage only of motor vehicles.
6. **HEIGHT OF BUILDINGS:** The vertical distance measured from the highest of the following three levels:
 - a. From the street curb levels;
 - b. From the established or mean street grade in case the curb has not been constructed;
 - c. From the average finished ground level adjoining the building, if it sets back from the street line, to the level of the highest point of the roof beams of flat roofs or roofs inclining not more than one inch to the foot, and to the mean height level of the top of the main plate and highest ridge for other roofs.
7. **HEIGHT OF YARD OR COURT:** The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.
8. **LOT:** A parcel of land occupied or to be occupied by one building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or place.

9. LOT, CORNER: A lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Trustees.
10. LOT, INTERIOR: A lot whose side lines do not abut upon any street.
11. LOT, THROUGH: An interior lot having frontages on two streets.
12. LOT LINES: The lines bounding a lot as defined herein.
13. LOT DEPTH: The mean horizontal distance from the front street line to the rear line.
14. LOT WIDTH: The mean horizontal distance between side lines measured at right angles to the depth.
15. NON-CONFORMING USE, BUILDING OR YARD: A use, building or yard, existing legally at the time of the passage of this Ordinance which does not, by reason of design or use, conform to this Ordinance and the regulations herein provided for.
16. PLACE: An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.
17. REAR LINE: The boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty the Trustees shall determine the rear line.
18. SIDE LINE: Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering an alley or place or a side street line.
19. STORY: That part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four (4) feet above the curb level, established or mean street grade, or average ground level, as mentioned in paragraph 6 of this section.
20. STREET: A public thoroughfare which affords principal means of access to property abutting thereon.
21. STREET LINE: The dividing line between the street and the abutting property.
22. STRUCTURE: Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.
23. STRUCTURAL ALTERATIONS: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
24. YARD: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.
25. YARD, FRONT: A yard across the full width of the lot extending from the front line of the main building to the front street line of the lot.
26. YARD, REAR: A yard between the rear lot line and the rear line of the main building and the side lot lines.
27. YARD, SIDE: A yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to rear yard thereof.
28. ZONING ACT: Chapter 89, Sections 89.010-89.140 Vernon's Annotated Missouri Statutes.

Section 6. REQUIREMENTS MUST BE OBSERVED. Except as hereinafter provided:

1. No buildings or structures shall be erected, constructed, reconstructed or structurally altered, nor shall any building, structure, or land be used for any purpose other than herein permitted.
2. No building or structure shall be erected, constructed, extended, enlarged, reconstructed or structurally altered to exceed the height or area limit herein established, and all buildings and structures must be completed within nine (9) months from the date of issuance of the building permit.
3. No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this Ordinance, nor shall the density of population be increased in any manner, except in conformity with the area regulations established herein.

Section 7. USE REGULATIONS. No building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, reconstructed, or altered, except for one or more of the following uses:

1. Dwellings, one family.
2. Community buildings.
3. Public parks, playgrounds and public recreation buildings.
4. The use of buildings or premises for such public utility services as are authorized or ordered by the Public Service Commission or any permit of the County Court, and excluded from jurisdiction of the Zoning Commission by the Zoning Act.
5. Accessory uses, customarily incident to the above uses and located on the same lot therewith, not involving the public conduct of any business, profession or industry.
6. Limitation of number of group homes. As authorized and defined by Missouri Revised Statutes Chapter 89.020.2, the local zoning authority may establish reasonable standards regarding the density of any residential home for mentally or physically handicapped persons. For the Village of Oaks, based on the population and area of the Village, the maximum density is one (1) home.

Section 7.1 HEIGHT AND AREA REGULATIONS.

1. The height and size of main buildings shall be as follows:
 - (a) Height: No building shall exceed thirty-five (35) feet or two and one-half (2 1/2) stories.

- (b) Size of Building: Square foot floor area, exclusive of porches, garage and service room of any one story residence building erected on any lot shall not be less than 1,050 feet. The square foot floor area, exclusive of porches, garages and service room of any one and one-half (1 1/2) or two (2) story residence building erected on any lot shall not be less than 1,250 square feet.
2. The height, size and other requirements of accessory buildings shall be as follows:
 - (a) Height: No accessory building to neither exceed twenty (20) feet nor be less than ten (10) feet.
 - (b) Size of Building: The square foot area of any accessory building erected on any lots shall not be less than one hundred (100) square feet, nor more than eight hundred (800) square feet.
 - (c) Accessory buildings, including but not limited to pre-constructed or pre-built garden/utility buildings, must be located at least fifteen (15) feet from side and/or rear lot lines.
 - (d) Other Requirements:
 - (1) Foundation: No accessory building shall be erected except such as will be bolted to a foundation consisting of a minimum of four (4) inches of poured reinforced concrete slab with a minimum depth of four (4) inches.
 - (2) Heating, plumbing and electrical systems must each conform to good practice nationally recognized.
3. The minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:
 - (a) Front Yards: Any building hereafter constructed shall provide for a front yard the minimum depth of which shall be thirty (30) feet.
 - (b) Side Yards: There shall be a side yard on each side of a building not less than twenty-five (25) feet in width excepting corner lots; provided, however, that where it can be shown that compliance will cause a hardship, then one side may be permitted a minimum of fifteen (15) feet.
 - (c) Rear Yards: The depth of the rear yard shall not be less than thirty (30) feet.
 - (d) Number of Residences on Lot: Except on such lots or tracts that now have two residence buildings located thereon, there shall not at any time be more than one residence on any tract or lot.
4. No billboard, signboard, or advertising sign shall be permitted without prior approval by the Trustees.

Section 8. NON-CONFORMING USES. A non-conforming use existing lawfully at the time of the passage of this Ordinance may be continued except as hereinafter provided. No non-conforming use of land shall be continued beyond the term ending one year from the time of the adoption of this Ordinance unless such land be wholly or partially occupied by a permanent enclosed building, designed and constructed for a non-conforming use. The lawful use of a building existing at the time of the passage of this Ordinance may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations, except those required by law or ordinance are made therein. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification. If such non-forming building is removed, the future use of such premises shall be in conformity with the provisions of this Ordinance. In the event a non-conforming use of any building is discontinued, the use of the same shall thereafter conform to the provisions of the zoning regulations.

A non-conforming use, if changed to a conforming use or more restricted, non-conforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. The provisions of this Ordinance relating to the non-conforming use of buildings or premises existing at the time of the passage of this Ordinance shall apply to buildings or premises occupied or used at the time of the passage of such amendment. Repairs and alterations may be made to a non-conforming building, provided that no structural alterations or extensions shall be made except those required by law or ordinance; unless the building is changed to a conforming use.

Section 9. COMPLETION AND RESTORATION OF EXISTING BUILDING. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, and plans which are on file with the Trustees at the time of the passage of this Ordinance and the construction of which in either case shall have been diligently prosecuted within one year of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within one year and which entire building shall be completed, according to such plans as filed, within two years from the date of the passage of this Ordinance.

Nothing in this Ordinance shall be taken to prevent the restoration, within twelve (12) months, of a non-conforming building destroyed to the extent of not more than seventy-five (75) per cent of its reasonable value (exclusive of foundations) by fire, explosion or other casualty, or act of God, or the public enemy, provided that when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the twelve months allowed for reconstruction; and nothing in this Ordinance shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction; but any building so damaged more than seventy-five (75) per cent of its value may not be rebuilt, repaired, or used unless it is made to conform to all regulations for buildings provided herein.

The provisions of this Ordinance shall not apply to prevent the extension of any building, existing at the time of the adoption of this Ordinance, to the height to which the walls, foundation and framework of such existing building originally were intended,

designed and constructed to carry; provided, however, that the actual construction of the extensions in height permitted by this paragraph shall have been duly commenced within ten (10) years from the date of the adoption of this Ordinance.

Section 10. INTERPRETATION AND PURPOSE. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals or general welfare.

Section 11. CHANGES AND AMENDMENTS. The Trustees may from time to time on its own motion or on petition, after public notice and hearing as provided by law, and after recommendation of the Zoning Commission, amend, supplement or change the boundaries or regulations herein or subsequently established.

In case a protest be presented duly signed and acknowledged by the owners of ten (10) per cent or more, either of the areas of land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred and eighty-five (185) feet distant from the boundaries of the district to be changed, such amendment shall not be passed except by the favorable vote of three-fourth (3/4) of all members of the Trustees.

Section 12. ENFORCEMENT AND PERMITS. It shall be the duty of the Trustees to enforce the provisions of this Ordinance, and such Trustees are hereby authorized and instructed to take such steps or bring such proceedings in any proper court as are necessary in connection with such enforcement. No building or other structure shall be erected, constructed, altered, improved, reconstructed or enlarged, nor shall it be altered in such a manner as to prolong the life of the building, nor shall the use of any land be changed without first obtaining a permit from the Trustees to be issued in accordance with the terms of this Ordinance.

1. **PLANS.** No permit shall be issued unless there shall first be filed in the office of the Trustees by the applicant thereof information satisfactory to the Trustees which shall include a plan in duplicate, drawn to scale, correctly showing the location and actual dimensions of the lot to be occupied, the dimensions and location on the lot of the building to be erected, constructed, reconstructed, enlarged or altered, with measurements from all lot lines to foundation lines of the building, together with a true statement in writing, signed by the applicant, showing the use for which such building or premises is arranged, intended or designed; and no permit shall be issued by said Trustees unless such plan or information shall show that such building or structure is to conform in all particulars with the provisions of this Ordinance.
2. **RESPONSIBILITY FOR STREET DAMAGE.** During the reconstruction or modification of existing structures or the removal of existing structures and the construction of new structures or buildings as well as the extension of services including sewer, gas, electrical or cable, individuals and contractors are responsible for repairing damage to Village streets occasioned either by intentional cutting into streets when necessary for construction purposes or by damage to streets resulting from heavy trucks and equipment used in the process of demolition, removal and/or construction of buildings and structures. Contractors are responsible for repairing Village streets in accordance with standard procedures used by the Village for street repair and maintenance.
3. **BONDING.** Before the issuance of a building permit by the Village Clerk, the applicant must deposit with the Clerk a bond in the amount of \$1,000 in the case of renovation, improvement, alteration, reconstruction or additions to an existing structure or area (this includes modifications to an existing structure consisting of sewer, gas, electrical, cable or other utilities) or \$5,000 in the case of construction of a new structure and/or removal of an existing structure. The purpose of the bond is to guarantee to the Village that any damage to Village streets will be repaired in a manner satisfactory to the Trustees and that contractors or individuals will be responsible for said repair for a period of one year after the date of the completion of said repair work. Such bond will be held for a period of one year from the date the work is completed and may be in cash or by a surety bonding company authorized to do business in the State of Missouri and approved by the Trustees.
4. **ISSUANCE OF PERMIT.** Payment of a fee to be determined by the Village building permit schedule which is based on the estimated cost of the proposed construction or reconstruction, depositing the required bond with the Village Clerk, and the submission of building plans as specified in this Ordinance are required for the issuance of a building permit. Applicants must give evidence that their plans for sewage disposal are in accord with the regulations of the Clay County Health Department. Such permit is valid for three (3) months from the date of approval by the Trustees. A record of such applications and plans shall be kept in the office of the Trustees and one copy of the plans shall be submitted to the Clay County Assessor's Office for inclusion in their records.
5. **REVOCATION OF PERMIT.** The Trustees shall have power to revoke any permit which has been issued in case of violation of the conditions of such permit.
6. **EXTENSION OF PERMIT.** If the project remains incomplete upon expiration of the building permit, which occurs nine (9) months from the date of issuance of the building permit (per Section 6.2), the owner or agent of the building or premises may petition to the Board of Trustees of the Village of Oaks, to extend the original permit, for a time period to be determined by the Trustees. Such extension is to be provided in writing and upon payment of a fee pro-rata of the original building permit amount.

Section 13. POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and minutes shall be kept of all proceedings and official actions, which minutes shall be filed in the office of the Trustees and shall be a public record.

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau affected by any decision of the administrative officer in administering this Ordinance. Such appeals shall be taken within a period of not more than three (3) months, and in the manner provided by the rules of the Board. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board that by reason of facts stated in the certificate, the stay would, in his opinion, cause imminent peril to life or property.

The Board shall have the powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance;
2. To hear and decide all matters referred to it on which it is required to pass under this Ordinance;
3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, to vary or modify the application of any of the regulations or provisions of this Ordinance relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the Ordinance shall be observed, public safety and welfare secured and substantial justice done.
4. In exercising the above mentioned powers, the Board may reverse or affirm wholly or in part, or may modify the order, requirements, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect a variation of this Ordinance.

Section 14. PENALTIES.

1. The Trustees, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or occupancy of any building, structure or land used in violation of this Ordinance or regulation thereunder, or to prevent any illegal act, conduct, business or use or about such premises. Such regulations shall be enforced by the Trustees who are empowered to cause any building, structure, place or premises to be inspected or examined and order in writing the correction of any conditions found to exist therein or thereat in violation of any provisions of the regulations made under the authority of the Zoning Act.
2. The owner or general agent of buildings or premises where violation of any provision of this Ordinance or any regulation thereunder has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, building contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten (10) dollars and not more than one hundred (100) dollars for each and every day that such violation continues; but if the offense be willful, on conviction thereof the punishment shall be a fine of not less than one hundred (100) dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both fine and imprisonment in the discretion of the court.
3. Any such person who having been served with an order to remove any violation fails to comply with said order within ten (10) days after said service or who shall continue to violate any provisions of the regulations made under authority of the Zoning Act in the respect named in such order shall also be subject of a civil penalty of one hundred (100) dollars.

Section 15. INVALIDITY OF A PART. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 16. REPEAL. All orders or parts of orders in conflict with any of the provisions of this Ordinance are repealed insofar as the same are in conflict with the provisions hereof.

Passed this 13th day of July, 1953.

ATTEST:

(S) Paoli E. C. Massaglia

(S) B. H. Loesche

Paoli E. C. Massaglia, Village Clerk
APPROVED THIS 13th DAY OF July, 1953

B. H. Loesche, Chairman

ATTEST:

(S) Paoli E. C. Massaglia

(S) B. H. Loesche

Paoli E. C. Massaglia, Village Clerk

B. H. Loesche, Chairman

ATTEST;
(S) Paoli E. C. Massaglia

Paoli E. C. Massaglia, Village Clerk