

JULIUS J.
VOLKER
Zoning
Ordinances



Town of Lancaster

Adopted July 29, 1929

TOWN BOARD

Supervisor

JOHN L. STAEBER

Town Clerk

GUY E. BRADLEY

Justices

RAYMOND HEIM

JOHN C. CARLSON

JOHN V. THILL

HAROLD B. DAVIS

Town Superintendent

CHARLES KABEL

BOARD OF APPEALS

JOHN W. ROSENBACH

President

FRED W. HANDY

Clerk

JACOB WEIL

HOWARD L. MEYER

GUY E. WHEELER, SR.

NOTICE

Notice is hereby given that at a special meeting of the Town Board and Board of Highway Superintendents of the Town of Lancaster duly called and held on the 29th day of July 1929, at the Town Hall in said Town the said Town Board and Board of Highway Superintendents duly adopted and enacted the following ordinances of said Town.

Dated, July 31, 1929.

GUY E. BRADLEY,
Town Clerk.

ZONING ORDINANCES FOR THE
TOWN OF LANCASTER

Pursuant to the authority conferred by Article 17-C of the Town Laws, and for each and every of the purposes specified therein the Town Board of the Town of Lancaster has ordained and does hereby enact the following ordinance regulating and restricting the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes:

ARTICLE I. SECTION 1. SHORT TITLE.—This ordinance shall be known as the ZONING ORDINANCE OF THE TOWN OF LANCASTER.

ARTICLE II. SECTION 2. DEFINITIONS.—The words and terms as used in this ordinance are defined as follows:

(a). The "street line" is the dividing line between the street and the lot.

(b). A "lot" or "plot" is a parcel of land occupied by one building and accessory buildings customary and incidental to it including such open spaces as are required by this ordinance, and such open spaces as are arranged and designed to be used in

connection with such building.

(c). "Buildings" includes any structures having walls and covered by a roof or roofs.

(d). "Structure" includes anything constructed or erected the use of which requires temporary or permanent location on support of the soil and which is attached to anything on the soil.

(e). A "family" is any number of individuals living and cooking together on the premises as a single house-keeping unit.

(f). A "dwelling" is a building arranged, intended or designed to be occupied by not more than two families living independently of each other and doing their own cooking upon the premises.

(g). A "single family dwelling" is a dwelling either detached or semi-detached, arranged, intended or designed to be occupied by a single family.

(h). A "single family dwelling" shall consist of a basement containing not less than four hundred (400) square feet and not less than three rooms and a bathroom.

A "two-family dwelling" is a detached dwelling arranged, intended or designed to be occupied by two families, one of which has its principal living rooms on the first floor and the other of which has its principal living rooms on the second floor.

(j). A "two-family dwelling" shall have a basement containing not less than seven hundred (700) square feet and not less than four living rooms and a bathroom, for each family.

(k). A "double house" is two single-family dwellings with a fire-proof party wall between, and each of which conform to requirements, for a single family dwelling.

(l). "Apartment house" means a tenement house as the same is defined in the Tenement House Law.

(m). "Lodging house" or "rooming house" includes any building or portion thereof not an apartment house or hotel used by families or single individuals as a place of shelter or lodging but not maintaining a general

dining room but does not include a building where less than five persons are received or lodged.

(n). "Boarding house" includes any building or portion thereof wherein meals are supplied to families or individual other than the family of the owner providing that more than five persons are so supplied.

(o). "Use" means the purposes for which a building, structure or premises or any part thereof is or are occupied, or if unoccupied the purpose for which they may be occupied hereunder.

(p). A "non-conforming use" is one that does not comply with the regulations of the use district in which it is situated.

(q). An "accessory" use or building is a use or building customarily incident to and located on the same lot with another use or building.

(r). "Business" includes the purchase or sale or other transactions involving the handling or disposition of any article, substance or commodity including animals; it also includes offices and recreational and amusement enterprises conducted for profit.

(s). "Industry" includes storage, repair, manufacture and preparation or treatment of any article, substance or commodity and includes the operation of public garages and public stables.

(t). "Private garage" includes a garage building in or about which no business or industry connected directly or indirectly with motor vehicles is conducted.

(u). "Public garage" any other garage building.

(v). "Set-back" means the distance from the street line to the part of the structure nearest the street line measured at right angles to the street line, not including cornices or open piazzas, porches or entrance steps.

ARTICLE III. SECTION 3. USE DISTRICTS.—The Town of Lancaster is hereby divided into three classes of use districts, termed and hereinafter referred to (a) residential use dis-

trict; (b) business use district; (c) industrial use district.

SECTION 4. ZONING MAP.—The location and boundaries of such use districts are established as delineated and shown on the zoning map which is attached to and forms a part of this ordinance, and the map designations are hereby declared to be a part thereof and of this ordinance.

ARTICLE IV. Regulations and Restrictions applying to Residential Use District. SECTION 5. Residential District. Use Restrictions.

No building, structure or lands within the Residential District shall be constructed, erected, built or used for other than one of the following specified uses and purposes:

(a). Single family dwelling, or two family dwelling.

(b). Apartment and tenement houses, hotels and boarding houses.

(c). Public parks, play grounds and recreational buildings.

(d). Hospitals.

(e). Private clubs, excepting clubs, the chief activity of which is service customarily carried on as business.

(f). Churches and community buildings.

(g). Schools, colleges, libraries or public museums.

(h). Public municipal buildings and uses and institutional buildings and uses other than sanitariums, penal or correctional institutions or those for the insane or feeble minded.

(i). Farming, non-commercial greenhouse, nursery, truck gardening.

No lot in the Residential Use District shall be less than 50 feet in width and shall contain not less than 5000 square feet. All buildings or structures shall have a set back from the street line of not less than 20 feet, private garages and other accessory buildings to be not less than 50 feet from the front line of the lot.

EXCEPTION SECTION 7. Restrictions as to size of lot and set back does not apply to such lot as was separately owned at the time of the

passage of this ordinance or such lot as a numbered lot in a subdivision that is on record in the office of the County Recorder at the time of the passage of this ordinance, except as indicated in Section 8.

SECTION 8. Set back of buildings and structures in Residential Use District.

The line or set-back of all buildings and structures hereafter erected, constructed or built within such residential use district shall be not less than the average set-back of all buildings for a distance of three hundred (300) feet on each side of said building. In case a building or structure shall hereafter be constructed, erected, or built on that side of a street on which there are no buildings the line of set-back thereof shall be that of the average line of set back of the buildings (if any) on the opposite side of the street. In case a building or structure shall hereafter be erected or constructed on a street on which there are no buildings the line of set-back shall be not less than thirty (30) feet, except on Broadway, William street, Genesee street, Bowen road, Aurora street, Central avenue, Transit road and Lake avenue where such set-back shall be not less than fifty (50) feet. In case of a building erected or built on a corner lot the line of set-back shall be governed by the set-back line of the street on which the narrow frontage of the lot faces, but so far as possible the building shall also conform to the line of setback of the other street.

SECTION 9. SIDE YARD IN RESIDENTIAL USE DISTRICTS. Every building or structure hereafter erected, constructed or built within the Residential Use District shall have a side yard on each side thereof, which said side yard shall be of the width of not less than the minimum on each side of the building or structure set down in the following schedule:

| Width of Lot | Minimum Width of Each Side Yard |
|------------------|---------------------------------|
| 20 up to 30 feet | 3 feet |

| | |
|--------------------|---------|
| 31 up to 40 feet | 4 feet |
| 41 up to 50 feet | 5 feet |
| 51 up to 60 feet | 8 feet |
| 61 feet and upward | 10 feet |

SECTION 10. REAR YARD IN RESIDENTIAL USE DISTRICT. In the Residential Use Districts every building erected shall have a rear yard.

The least dimension of such rear yard shall be 20 per cent of the depth of the lot but such least dimension need not be more than 40 feet providing such least dimension shall in no case be less than one half of the height of the building.

Forty per cent of the area of such yard may be occupied by one accessory building not more than 24 feet in height, but on a corner lot, the rear line of which is identical with the side line of an interior lot no such accessory building if detached from the main building, shall be erected within 20 feet of any street line or within 10 feet of the rear lot line.

SECTION 11. VISION CLEARANCE IN RESIDENTIAL USE DISTRICTS. CORNER LOTS.—On a corner lot in a residence district no fence wall or structure more than three and one-half feet in height above the plane of the established grades of the streets shall be erected on that portion of said corner lot that is included within the street lines of intersecting streets and a straight line connecting said street lines at points which are 12½ feet distant from their point of intersection, measured along said street lines, and no planting, foliage or other material obstruction shall be placed or maintained within said portion that in the judgment of the Town Clerk or his authorized agent will materially shut off the view of a vehicle approaching the street intersection. Structures of reasonable size such as landscape appurtenances, small columns and low platforms shall not be deemed prohibited obstructions for the purpose of this section.

SECTION 12. ACCESSORY USES

—A store, trade or business shall not be permitted as an accessory use except that the office of a physician, surgeon, dentist or musician may be located in the dwelling or apartment used by such physician, surgeon, dentist or musician as his private residence, and except that any person carrying on a customary home occupation, may do so in a dwelling or apartment used by him as his private residence provided no persons other than members of own household are employed in such occupation and no window display or sign board is used to advertise such occupation.

SECTION 13. SIGN, SIGN BOARDS OR BILLBOARDS.—In the Residential Use Districts no sign board or advertising sign shall be maintained on the premises of a size greater than four square feet; as an advertisement of the occupation carried on on the premises.

SECTION 14. GASOLINE FILLING STATIONS.—Gasoline filling stations will not be permitted in the Residential Use District except as determined by the Board of Appeals, providing that when such permit is issued there shall be on file with said Board of Appeals the consents, duly signed and acknowledged, of the owners of 65 per cent of the land within such area as said Board shall deem to be immediately affected by the proposed filling station. Curb pumps will not be permitted in the Residential, Business or Industrial Use Districts.

ARTICLE V. REGULATIONS AND RESTRICTIONS APPLYING TO BUSINESS USE DISTRICTS. SECTION 15. RESTRICTIONS UPON USE IN BUSINESS USE DISTRICT.—Any use permitted within a residential use district shall also be permitted in a business use district.

The line of set-back of all buildings and structures hereafter erected, constructed or built within such business use district shall be not less than the average set-back of all buildings for a distance of three hundred feet on

each side of said building, or structure. In case a building or structure shall hereafter be constructed, erected or built on that side of a street on which there are no buildings, the line of set-back thereof shall be that of the average line of set-back of the buildings, (if any) on the opposite side of the street. In case a building or structure shall hereafter be erected or constructed on a street on which there are no buildings the line of set-back shall be not less than ten (10) feet. In case of a building erected or built on a corner lot the line of set-back shall be governed by the set-back line of the street on which the narrow frontage of the lot faces, but so far as possible the building shall also conform to the line of set-back of the other street.

Business, as herein defined, shall be permitted in a Business Use District except that no building, structure or premises shall be erected, constructed or used within a business use district for any of the following purposes:

Stables for the housing of animals for sale or service; storage or baling of scrap paper, rags or junk; coal or lumber yard; car barns; amusement parks carried on as a business any kind of manufacturing other than the manufacturing of products sold at retail on the premises to the ultimate consumer.

ARTICLE VI. REGULATIONS AND RESTRICTION APPLYING TO INDUSTRIAL USE DISTRICTS. SECTION 16. RESTRICTION UPON USE WITHIN INDUSTRIAL USE DISTRICT.—Any use permitted in the residential use district, and in the business use district, shall also be permitted in the industrial use district; in addition thereto, any industry, and any factory or other industrial plant, is permitted within the industrial use district, except that nothing contained herein shall be construed as permitting the erection or operation of buildings or structures, or the use of land, for any purpose which shall constitute a nuisance, or to prevent the ap-

plication to any particular use of any other existing ordinance or other regulation affecting the same.

ARTICLE VII. NON-CONFORMING EXISTING USES. SECTION 17 CONTINUANCE OF NON-CONFORMING USES. Any non-conforming use now existing may be continued, but only to the extent, and upon the premises, and in the building or structure, where such non-conforming use now exists. Nothing herein contained shall be construed to prevent an increase in the products so produced or business so conducted, provided that no additional structure or extension of any existing structure is erected.

Structural changes within an existing building may be made, but in no case shall exceed in cost fifty (50) per cent of its present assessed valuation.

SECTION 17-A NO EXCAVATION shall be made on any premises for the purpose of removing therefrom sand, gravel, rock or other mineral deposits, within fifty feet of a street or road line. An excavation for any of such purposes of a depth greater than twenty-five feet shall set back from the street line one additional foot for each foot in depth in excess of twenty-five feet. A guard rail or suitable barrier shall be erected on any such excavation of a depth of more than three feet.

SECTION 18. CHANGES IN EXISTING NON-CONFORMING USES.—No changes shall be made in any existing non-conforming use except such change shall be to a use permitted within the district wherein the same is located.

SECTION 19. APPLICATION TO BUILDINGS ON STRUCTURES NOW UNDER CONSTRUCTION.—Buildings or structures now under construction for a designated non-conforming use may be completed according to present filed plans thereof within a period of one year after the

ordinance takes effect and the designated use made thereof.

SECTION 20. RECONSTRUCTION.—Any non-conforming building or structure which has been completely destroyed, or partially destroyed to the extent at least of fifty (50) per cent of its sound value, by means other than intent or design, may be rebuilt or repaired within one year thereafter and the non-conforming use thereof may be continued therein.

ARTICLE VIII. BULK AND HEIGHT OF A BUILDING OR STRUCTURE. SECTION 21. MEASUREMENT OF HEIGHT.—The height of a building or structure shall be measured from the natural ground line within 10 feet of the building or structure up to the average level of the highest roof thereof.

ARTICLE IX. BOARD OF APPEALS. SECTION 22. ESTABLISHMENT AND POWERS.—A Board of Appeals is hereby established to consist of five members, each to be appointed for three years, with all the powers and duties given and prescribed by Section 349-u of the Town Law.

SECTION 23. TEMPORARY AND CONDITIONAL PERMITS.—The Board of Appeals at its discretion may grant special permits for non-conforming uses; within any district where in its opinion such district is sufficiently undeveloped to justify such non-conforming use; such special permits shall be of limited duration, and shall provide for the change to a conforming use at the expiration of such periods; extension of the time for the discontinuance of the non-conforming use may be subsequently granted at the discretion of the Board of Appeals.

ARTICLE X. PERMITS FOR CONSTRUCTION AND OCCUPATION. SECTION 24. FILING OF PLANS.—Application for building permits shall be made to the Town

Clerk, or other official charged with the duties of Town Clerk, and shall be accompanied by a lot or plot plan drawn to scale showing actual dimensions of the lot or plot, the exact size and location of the building to be erected, and the intended use thereof.

SECTION 25. PERMITS FOR CONSTRUCTION.—No excavations for a building, and no erection of any building, shall be commenced without a permit therefor previously obtained from the Town Clerk or other official authorized to issue such permits.

SECTION 26. PERMITS FOR OCCUPANCY.—No building hereafter erected or altered shall be used or occupied in whole or in part, for any purpose whatever, until a permit shall have been issued by the Town Clerk, or other authorized official, certifying that the building and the intended use thereof as therein specified comply in all respects with the provisions of this ordinance, and until such permit for occupancy shall have been so issued such building shall not be occupied or used for any purpose whatever. The application for such permit shall clearly state the intended use of such building and no other or further use is permitted than shall be set forth in the permit issued upon such application.

SECTION 27.—The fee for the issuance of a permit for construction shall be one dollar (\$1.00). The fee for the issuance of a permit for occupancy shall be fifty cents (\$.50).

ARTICLE XI. AMENDMENT OF ORDINANCE. SECTION 28.—The regulations, restrictions and boundaries herein provided may be from time to time amended, supplemented, changed, modified or repealed after such public hearings and official notice as are provided by statute.

SECTION 29. APPLICATION OF AMENDMENT.—If any area is transferred from one district to another district of more restricted use, any non-conforming use then existing within said area may be continued.

—11—

SECTION 30. PETITION FOR AMENDMENT AND ACTION THEREON.—Whenever the owners of fifty (50) per cent or more in frontage in any district, or a specified part thereof, shall present their signed petition to the Town Board requesting any amendment, supplement, alteration or change in, or the repeal of, the regulations prescribed for such district, or specified part thereof, it shall be the duty of the Board after public notice and hearing upon such petition to decide by a majority vote upon such request within ninety (90) days after its filing with the Clerk; provided, however, that if a petition in writing against such proposed amendment, or repeal, signed by owners of twenty (20) per cent or more of the district or the specified part thereof, is filed with the Town Clerk before action by the Board upon such petition, said amendment or repeal shall require a two-thirds vote of the Board to effect its adoption.

ARTICLE XII. INTERPRETATION AND APPLICATION OF ORDINANCE. SECTION 31. RULES OF INTERPRETATION.—The provisions of this ordinance shall be interpreted as providing minimum requirements adopted for the purpose of promoting the health, safety, morals and general welfare of this community.

SECTION 32. APPLICATION.—It is not intended by this ordinance to repeat (except as herein stated) abrogate or impair existing conditions previously made, or permits previously issued, relating to the use of buildings or premises, or to impair or interfere with any easements, covenants or agreements existing between parties; but wherever this ordinance imposes a greater restriction upon the use of buildings or premises than are required by existing provisions of law ordinance regulations or permits, or by such easements, covenants or agreements, the provisions of this ordinance shall control.

—12—

SECTION 33. CONFLICT WITH OTHER ORDINANCES. Wherever the regulation made by this ordinance requires a greater width or size of yards or courts or requires a lower height of building or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than required in any other ordinance or regulation, the provision of the regulations made by this ordinance shall govern. Wherever the provisions of any other ordinance or regulation require a greater width or size of yards or courts, or require a lower height of building or a less number of stories, or require a greater percentage of the lot to be left unoccupied; or impose other higher standards than are required by regulations made by this ordinance, the provisions of such other ordinance or regulations shall govern.

ARTICLE XIII. ENFORCEMENT AND PENALTIES. SECTION 34. DUTY OF ENFORCEMENT.—It shall be the duty of the Town Clerk to enforce the regulations and restrictions provided by this ordinance.

SECTION 35. PENALTIES.—All violations of this ordinance, or of any regulation or provision thereof, shall be punished by a fine not exceeding fifty dollars (\$50.00) or imprisonment for not exceeding thirty (30) days or both. Each and every day that a violation of this ordinance is permitted to exist shall constitute a separate offense.

ARTICLE XIV. VALIDITY OF ORDINANCE. SECTION 36. PARTIAL INVALIDITY.—If any article, section, subdivision, paragraph or provision of this ordinance be adjudged to be invalid, such adjudication shall apply only to such portion thereof so expressly adjudged invalid, and the remainder of this ordinance shall be deemed to be in all respects valid and effective.

ARTICLE XV. APPLICATION.

—13—

SECTION 37.—All rules, regulations and ordinances of this Town inconsistent herewith are hereby repealed as of the date this ordinance shall go into effect.

ARTICLE XVI. WHEN ORDINANCE TAKES EFFECT. SECTION 38.—This ordinance shall take effect immediately after the same shall have been published and posted as provided by Section 2 of Chapter 714 of the laws of 1926 and immediately upon personal service thereof as therein provided.

CONTENTS

| | Page |
|-----------------------|--------------|
| RESIDENTIAL USE | 4-7 |
| BUSINESS USE | 7-8 |
| INDUSTRIAL USE | 8-10 |
| PERMIT | 10 |
| PENALTIES | 13 |
| MAPS | REAR OF BOOK |

MAP OF THE
TOWN OF LANCASTER

ERIE COUNTY N.Y.

GEO. C. DIEHL C. E. INC.

TOWN ZONING MAP



