

ORDINANCE 2021-08

AN ORDINANCE TO UPDATE THE PROPERTY RESTRICTIONS FOR CONSTRUCTION AND LANDSCAPE STANDARDS/ THIS ORDINANCE INCORPORATES AND AMENDS ORDINANCES 2009-09, 2019-09 AND 2021-04.

WHEREAS, the Incorporated Village of Hills and Dales, Stark County, Ohio is a Charter Government under the laws of the State of Ohio and, under its Charter, the Mayor and Council are responsible for preserving, protecting, and perpetuating the physical character, scenic resources, and historic nature of the Village of Hills and Dales (the Village); and

WHEREAS, the Village Council may adopt ordinances necessary for the care of the streets and public places; the public health and welfare; the prevention and elimination of public nuisances; and the erection, alteration, or repair of buildings and other structures; and

WHEREAS, the Village Council considers it necessary to set forth property restrictions to preserve and maintain as closely as possible the original plan for the Village, including plans for large trees and homes with distinctive architecture in a park-like setting with flowing manicured lawns and landscaping rather than a series of individual yards in which one yard is distinguished from another by plantings, fences or other structure; and

WHEREAS, keeping the Village looking as it was originally designed requires restrictions that protect the original intent and design, preserving aesthetic harmony and maintaining quality construction while protecting property values;

THEREFORE BE IT ORDAINED, that homeowners in the Village must obtain written approval from the Village's Architectural Review Board before beginning any new construction, including additions and major remodeling; that homeowners must comply with the Ohio Building Code and obtain proper permits through the Stark County Building Department when building new structures or additions (including decks or porches), when undertaking major alterations or structural repairs (including roof replacement), or when installing generators, replacing furnaces or air conditioning systems; and that homeowners must obtain permits through the Stark County Health Department before installing or making major changes to plumbing systems.

BE IT FURTHER ORDAINED, that homeowners in the Village must obtain written approval from the Village's Architectural Review Board before beginning any excavation, landscaping, or tree removal; alterations to exterior lighting or driveways; changes to the exterior design, color, or materials of any structures; or any other work that in any way alters or changes the exterior appearance of their property.

BE IT FURTHER ORDAINED, that this ordinance repeals and replaces Ordinance 2012-09 and any other ordinance in conflict with it and sets forth the restrictions and conditions of homeownership that apply to properties in the Village and the procedures that will be followed in enforcing these restrictions and conditions.

ARTICLE I. ARCHITECTURAL REVIEW BOARD OF VILLAGE COUNCIL

- A. Village Council shall establish an Architectural Review Board (the "Board" or "ARB") consisting of three members: one member of Council, one Village resident that is not a member of Council, and one resident who may, but is not required to be, a member of Council.
- B. The purpose of the Board shall be to review plans and applications for project approval and new construction. The Board shall have the authority to interpret and apply property standards and restrictions as set forth in this ordinance. The actions of the Board shall be conclusive and binding on all interested parties.
- C. The Board will act responsibly in exercising its best judgment to assure that all improvements and construction conform to Architectural guidelines and contribute to the high standards of quality materials, colors, setting, scale, landscape design and construction. During the review process, efforts will be made to contact adjacent homeowners for input regarding new projects. **The Board shall have the power to deny projects that it believes are not in keeping with the original design intent for the Village.** The Board will issue a written decision on approval or declination of the proposal within twenty eight (28) days of submission.
- D. When the Board deems it necessary, an Architect may be used to review construction and landscape plans.
- E. The Architectural Review Board shall report its activities to Village Council at each scheduled Village Council meeting. The Council shall have the enforcement authority to halt construction or demolition that is in progress that has not been approved. A project may also be halted for failure to adhere to the details of the original plans as approved. The Council shall have the authority to abate and remove any unapproved building or landscape project that it deems in conflict with this ordinance. This ordinance will be enforced against any present or future land owner in the Village by any proper legal proceedings for the benefit of all landowners.
- F. Expenses incurred by work stoppage, abatement or required legal action shall be charged to the property owner against whom the action is taken, which may include a tax lien on the owner's real estate. Expenses include but are not limited to Court costs, filing fees and attorney's fees incurred by the Village.
- G. Failure of the Council or Board to enforce any of these restrictions shall not be construed as a waiver of or consent to successive violations. Nor shall the Council or Board be liable for such refusal or neglect.
- H. The Board's review of plans is limited to aesthetics, building setbacks, landscaping, exterior lighting and choices of exterior colors and materials. Plan approval by the Board does not extend to structural, mechanical, electrical or plumbing issues. These issues are solely the responsibility of the homeowner, architect and builder.

ARTICLE II. USE OF LAND

- A. Only single family, owner occupied dwellings are permitted.
- B. To protect and preserve the character of the Village, a minimum home size is required.
 - 1. On lots of less than one acre, the living area shall be not less than 2400 square feet. The living area does not include the garage, basement, attic, breezeways, patios or any enclosed area that is not heated for year-around use.
 - 2. On lots of one acre or more, the living area shall be not less than 3000 square feet. The living area does not include the garage, basement, attic, breezeways, patios or any enclosed area that is not heated for year-around use.
 - 3. In addition to enforcing the above space requirements, the Board has and retains the right to reject any house plan which the Board, in its sole and absolute discretion, determines to be inappropriate for the lot, placement on the lot or the character of the Village.
- C. Maintaining existing lot sizes is considered essential to protecting the unique character of the Village. Therefore, no lot may be subdivided into smaller lots, even if the smaller lots meet setback requirements.
- D. No lot owner shall assign, lease or rent any lot in the Village to any person, firm or corporation for any purpose whatsoever.
- E. The only permissible zoning within the Village is single family residential. Any and all uses that are inconsistent with single family residential are strictly prohibited. Specifically prohibited is the conduct of any retail, service, or professional business from the residence which would result in frequent visitor, employee or vehicular activity.
- F. Keeping, raising, breeding or harboring of any farm livestock or other animals not normally considered as pets is prohibited.

ARTICLE III. LOT RESTRICTIONS

- A. Easements of six feet on either side of each property line and any rights of way on property lines are reserved for utility companies and the maintenance of their poles, wires, gas and water pipe lines, sewers, storm drains and other utilities. Utility companies and the Village have the right to enter or permit others to enter upon these easements for the purpose for which they are reserved.
- B. Setback Requirements. No part of any building shall be erected or maintained on any lot which is in violation of any front, side or rear setback lines as these are established in the following documents:
 - All matters set forth in the plat of Hills and Dales Allotment as recorded in Plat Book 15, Page 10 of the Stark County Plat Records.

- Restrictions as set forth in an instrument dated September 22, 1923 and received for record on October 11, 1923 in Volume 813, Page 9 of the Stark County Records.
 - All matters set forth on the Plat of Hills and Dales Allotment #2 recorded in Plat Book 24, Page 24 of the Stark County Plat Records.
 - Restrictions as set forth in an instrument dated April 17, 1941 and recorded April 26, 1941 in Volume 1325, Page 1 of the Stark County Records. Said Restrictions were assigned to Hills and Dales Owners Association in Volume 9, Page 249 of the Stark County Records.
 - Modification of Restrictions dated November 12, 1957 and recorded November 13, 1957 in Volume 2524, Page 348 of Stark County Records.
 - Change of Restrictions of Hills and Dales Allotment dated July 8, 1965 and recorded July 9, 1965 in Volume 3108, Page 217 of the Stark County Records. Said changes of Restrictions were re-recorded in Volume 3108, Page 217 of the Stark County Records.
 - Further subject to all Covenants, Conditions, Restrictions, Reservations and Encumbrances of record and further subject to applicable zoning and all legal highways.
- C. The location, material and dimensions of all driveways must be approved in writing. In addition, plans to relocate, extend or add driveways, must be approved in writing. Review of such plans will take into consideration drainage and curb appeal as well as the plans' contribution to or distraction from the aesthetic appearance of the property and Village. Any driveway that no longer serves its original purpose as the primary access drive to a dwelling shall be removed in its entirety and the area reseeded.
- D. Requests for variances may be reviewed and approved or denied at the sole discretion of the Board.

ARTICLE IV. LANDSCAPE STANDARDS

- A. A Request for Approval Form and drawings must be submitted to the Board for all landscape changes. It is necessary to include existing and proposed tree locations, planting areas, and lighting plans. The Board will provide its response in writing within twenty eight (28) days.
- B. FENCING:
- 1) Fencing around the lot perimeter, security fencing, fenced areas or privacy fences are not permitted. However, privacy walls that are incorporated into the architectural design of the structure may be approved. Fences of a decorative or ornamental nature may also be approved if the proposed fence meets the following conditions:
 - a) The fence shall not be along parcel or lot lines or located within the required front yard setback as specified in Article III, Section B.

- b) The fence shall not be installed to contain domestic pets.
 - c) The fence shall not exceed three (3) feet in height.
 - d) The fence shall be of a character as to permit a clear and unobstructed view.
 - e) The finished surface or decorative side of the fence shall face toward adjacent properties and/or the street.
 - f) The fence shall be constructed of ornamental iron, aluminum, stone or masonry material. Chain link or other wire material is not permitted.
 - g) The fence shall be constructed and maintained in a good aesthetic condition and in such a manner so as not to adversely affect the value of other Village properties.
- 2) Any fence existing on the effective date of this ordinance and not in conformance with this section may be maintained but alterations, modifications, additions, relocations or changes to the fence shall require the prior approval of both the Architectural Review Board and Village Council.
 - 3) The installation of privacy walls or decorative, ornamental or architecturally appropriate fences shall require the prior approval of both the Architectural Review Board and Village Council.
- C. Standard USPS mailboxes and newspaper receptacles should be installed in a location that is out of view from the street. Such boxes should be maintained by the homeowner.
 - D. Street address lawn signs must be located near the street to quickly identify the property's address. The address sign should be placed within an area that is four feet from the edge of the street and twenty feet from the edge of the drive. Address signs are not to be attached to trees.
 - E. Roadside trees must be maintained by the homeowner. Removal and replacement shall be subject to approval by the Board. Any tree taken down from the front yard must be removed in its entirety including the stump. The area must be reseeded or a new planting provided.
 - F. Transformers, utility boxes, A/C units, generators and similar equipment should be screened with evergreen shrubs.
 - G. All retaining walls must be constructed of materials harmonious with the house and designed to reflect the architectural character of the house.
 - H. Yard ornaments such as figurines, bird baths, and crystal balls are not permitted in any portion of the property's front yard or, for corner lots, in the front or road-facing side yard.. Fountains that are an integral part of the planned landscape may be approved. Temporary seasonal decorations are permitted.
 - I. No vegetable garden may be planted or grown between any street line and the building line.
 - J. Plantings, hedges, trees or structures that are designed to wall off one yard from the next are prohibited.
 - K. Site lighting which interferes with the comfort, privacy or general welfare of adjacent lot owners is prohibited. Exterior lighting plans must have written approval from the Board.

- L. Landscape plans for corner lots may not include plantings within 10 feet of the street corner that would make it unsafe for drivers to advance into the intersection.
- M. Basketball poles and backboards, whether freestanding or attached to the house or garage, must have the prior written approval of the ARB. Basketball poles and backboards which exist at the date of this ordinance must be maintained or removed. Trampolines, skateboard areas, tennis courts and excessive playground equipment are not permitted on private lots.
- N. No dog runs may be erected that are visible from the street.

ARTICLE V. DESIGN AND CONSTRUCTION STANDARDS

- A. New home construction, new additions and any modification to the existing structure must have drawings designed by a registered Architect.
- B. Construction must be completed no later than twelve months after its commencement. Landscaping shall be completed no later than six months after completion of construction. Extension of time may be granted by ARB.
- C. A complete landscape plan for the lot must be submitted for approval for all new construction.
- D. Existing land contours and grades shall be preserved when designing and building a new home or adding on to an existing structure. The building should conform to the established grade and shape of each lot. Architects designing new construction and additions should be aware of tile drains and ditches that run through many Village lots. Any obstruction, damage or interference with the tile drainage system of the Village is not permitted. Any damage shall be repaired at the lot owner's expense.
- E. Outbuildings separate from the residence are not allowed unless approved by the Architectural Review Board. Existing outbuildings that were previously approved and are maintained in good repair and appearance are considered to be in compliance.

ARTICLE VI. MAINTENANCE AND APPEARANCE STANDARDS

- A. All lawns should be mowed, trimmed, and kept free of weeds.
- B. Landscapes should be kept to scale and not permitted to be overgrown.
- C. Landscapes must be kept clean and free of weeds, leaves, trash, litter, debris and unsightly materials that are not an integral part of the approved design.
- D. Tree limbs and debris from regular maintenance pruning and storm damage are to be disposed of at the homeowner's expense.
- E. Exterior appearances of homes are to be kept clean, painted, and in good repair.
- F. Above-ground swimming pools are prohibited. In-ground swimming pools are permitted as part of a covered structure that is integrated into the main structure.

- G. Containers for trash and rubbish shall be concealed from view and protected from animals.
- H. Temporary structures of any kind are prohibited.
- I. Signs of any kind, including, but not limited to, ornamental signs, political signs, contractors' signs, for sale signs, auction signs, or any sign indicating a business purpose shall not be erected, posted, pasted or displayed on any lot or structure. Open house or tag sale signs may be displayed only during the event. Signs identifying home security systems are allowed.
- J. Outside storage of motor homes, campers, boats, recreational vehicles, commercial trucks, trailers, machinery, equipment, or non-working vehicles is prohibited. Cars may not be permanently parked on the lawn. A recreational vehicle owned by the homeowner or a guest may be parked in the homeowner's drive for a period not to exceed 7 calendar days, and only twice (not consecutive) in a calendar year.
- K. Hanging laundry outdoors is not permitted.
- L. Existing Septic or Sewage Treatment Systems (STS) must be maintained in accordance with Village Ordinances 2009-09 and 2016-10 requiring Mandatory Maintenance and Inspection of Sewage Treatment Systems and Village's Waste Water Management Program.

ARTICLE VII. CONSTRUCTION CONTRACTOR REGULATIONS

- A. Contractors on projects that require approval and/or permits must register with the Village police (contractor's name, phone and, if applicable, sub-contractors). Police will check the site as needed.
- B. Contractors must provide proof of Builder's Risk Insurance in the event there is damage to Village streets, public property, trees, drainage systems or utilities.
- C. Construction and improvements on any lot must provide erosion and sediment control that prevents run-off soil from polluting streets, storm systems and adjoining properties. Plans for sediment control must accompany the original construction plans.
- D. Hours of work for construction contractors working in the Village are restricted as follows:
 - 1. Monday to Saturday work is restricted to between 8:00 a.m. and 6:00 p.m.
 - 2. Sunday work is prohibited.
- E. Signs that advertise the contractor's business are prohibited.
- F. Construction sites and streets must be kept as clean as is practical of construction debris, litter and safety hazards. Equipment and tools shall be locked and disconnected when not in use.

ARTICLE VIII. COMPLIANCE, ENFORCEMENT AND ABATEMENT

- A. All residents are required to submit a Request for Project Approval Form and the required plans for any building or landscape changes or new construction to the Board for written approval. The Mayor is the contact person.
- B. Additions may require approval by the Stark County Health Department for septic modification.
- C. Written approval from the Board is required before any street tree is removed or any changes are made to buildings, fences, hedges, septic or drainage systems, walls, walks, drives, structures, grading, or landscape. Written approval is not required to address a hazardous condition requiring immediate action. The Board has the right and authority to refuse to approve any plans which are not suitable or desirable, in its opinion, for aesthetic or other reasons.
- D. Violations of these restrictions should be reported to the Mayor of the Village.
- E. If there is any violation of this ordinance or if Village Council declares a nuisance the following steps will be taken:
 - 1. If Council determines that a property is in violation of a section of this ordinance, a letter will be sent from Council to the homeowner detailing the nature of the violation(s), the corrective action required and the time frame for compliance. If the violation is not a matter of imminent danger to public health or safety, Council, at its sole discretion, may allow the homeowner to appear before Council at its next scheduled meeting in order to appeal Council's decision.
 - 2. If the corrective action has not been completed by the compliance date, the Village will file a complaint in the Massillon Municipal Court asking for a court order authorizing the Village and/or its agents to enter the property for the purpose of remediating the nuisance. The complaint will also seek monetary damages to recover the cost of the remediation, attorney fees, court costs and a \$250.00 administrative fee.
 - 3. The homeowner will be billed for the costs awarded by the court. If the homeowner pays within thirty days of billing, the \$250.00 administrative fee will be waived.
 - 4. After thirty days any unpaid balance (including the \$250.00 administrative fee) will be assessed to the property's real estate taxes.

ARTICLE IX. EXCEPTIONS AND TEMPORARY EXCLUSIONS

In an effort to allow homeowners to derive full use and enjoyment of their homes and property, while protecting the rights of neighboring homeowners, the Board may grant a temporary exclusion that will expire with the sale of the home. All temporary

exclusions must be approved in writing by the Architectural Review Board. Any temporary exclusion that no longer serves its approved purpose or function must be abated by either the present home owner or new homeowner.

ARTICLE X. REQUESTING PROJECT APPROVAL PERMIT

A. For new construction, building additions, decks, and substantial remodeling requiring a permit:

1. Submit the Request for Approval Form along with the following to:

Architectural Review
Board Hills and Dales
Village Hall 2200
Dunkeith Drive, NW
Canton, Ohio 44708

- a. Site Plan prepared by a surveyor showing:
 - i. Boundary lines and location of building, driveway and walks as related to natural grade of the lot with reference to north
 - ii. Location of gas, water, electric, cable, and phone lines from connection to termination
 - iii. Specifications and location of waste water disposal system
- b. Complete drawings prepared by a registered architect showing:
 - i. Site plan as described above
 - ii. Foundation plan
 - iii. Floor plans
 - iv. Detail of walls and roof
 - v. Detailed drawings of mechanical work, plumbing, heating and cooling, electrical, phone, and cable networks
 - vi. Plans for sediment and erosion control
- c. Specifications list including the type, quality, color and manufacturer of:
 - i. Masonry material with samples
 - ii. Roofing materials and gutters with samples
 - iii. Paint colors or color scheme with samples
 - iv. Exterior trim moldings with samples or pictures
 - v. Windows with pictures
 - vi. Siding or other facade material with samples.
- d. Landscape design drawings
 - i. Plant selection and placement include name and size
 - ii. Exterior and landscape lighting plans
 - iii. Retaining wall design and material

e. Fee if applicable

2. Submit a residential Plan Review Application with required documents, including the written approval from the Architectural Review Board, to:

The Stark County Building Department
110 Central Plaza, S. — Suite 150
Canton, Ohio
44702 Phone (330)
451-1770

3. Submit an application for a Plumbing and Home Sewage Treatment System permit, including the written approval from the Architectural Review Board, to:

Stark County Health Department
3951 Convenience Cir. NW Canton,
OH 44718
Phone (330) 493-9904

- a. Make application at the Health Department and submit the appropriate fee. (To make application you must have your parcel number. House numbering will send a temporary house number range electronically to the health department that will identify the property until a permanent number is issued. You will receive a list of soil scientists and installers.)
- b. Contact a Soil Scientist to have test holes dug and evaluated. The soil scientist will submit the report to the Health Department for the sanitarian to review. The sanitarian will do an on-site lot review within three days of receipt of the soils report.
- c. The Health Department Sanitarian will mail the results of the soil tests and lot review to the applicant. If soils are approved, a design plan must be prepared and submitted by a sewage treatment system designer. (Your septic installer may be able to suggest a designer.)
- d. Contract with a designer to prepare the plan. Once completed, submit the plan to the Health Department. The plan must be signed by the designer, general contractor, licensed installer, and the home owner. A set of house plans must also be submitted. The house plans will be reviewed and returned. A \$15 fee for the permanent house number must be remitted.
- e. Health Department Review will take up to five days. While the plan is being reviewed, the Health Department will electronically obtain a permanent house

number from the house numbering office. The \$15 fee will also be forwarded electronically. (Property must be of legal record to obtain official number.)

- f. The Septic Permit is issued once the above is completed. The permit must be signed by the homeowner (or their agent) at the time it is issued, and the fee must be submitted. The owner will receive a copy of the permanent house number slip.

B. For any changes to building, color scheme, materials, landscape or demolition, other than ordinary repairs:

1. Submit the "Request for Approval Form" along with the following:
 - a. Description and explanation of work to be performed.
 - b. Professionally prepared drawings if applicable.
 - c. Materials specifications, including paint color samples, roofing material and color, exterior facade materials and colors (brick, siding, limestone)
 - d. Landscape design drawings with lighting plans, plant selection and placement, and material selection.
 - e. Any home or part of a home that is to be razed must have written approval of the Board. If new home construction is not planned to commence immediately then the lot must be properly filled, leveled, drive removed, septic system addressed according to Health Department, and planted in grass.

- f. Fee if applicable.

Mail to: Architectural Review Board
Hills and Dales Village
Hall 2200 Dunkeith
Drive, NW Canton,
Ohio 44708

Contact: Village Mayor
Phone (330) 477-3513

C. Fees for Village permits: (Compliance Fees are refunded if the home or addition is built as detailed in the approved plans.)

1. New House Permit Fee plus \$500. Refundable Compliance Fee \$2000.
2. Addition to House Permit Fee plus \$300. Refundable Compliance Fee \$1500.

No fee is required for the following:

1. Landscape redesign
2. Design changes (dormers, trim, shutters)

3. Appearance changes (colors, windows)
4. Exterior painting or roofing (no color or style change)
5. Tree removal and replacement
- 6.

ARTICLE XI. BUYING AND SELLING A HOME

The seller of any property must make the buyer aware of the Village's Property Restrictions Ordinance. Prospective homeowners must be made aware that approval of specific temporary exclusions to the restrictions may expire with the sale and transfer of the property. A copy of this ordinance should be provided to the prospective buyer.

No agreements or contracts, between seller and buyer, shall be made that attempt to nullify or make exception to the purpose and intent of these restrictions. This ordinance shall supersede all such contracts and agreements.

ARTICLE XII. RIGHT TO AMEND OR MODIFY THESE RESTRICTIONS

The Village Council has the right to amend, change, cancel or add to any aforementioned restrictions when it deems advisable. In case of uncertainty as to the meaning of any article, section, phrase or word in this ordinance, the interpretation by the Council shall be final and conclusive upon all interested parties. Any further determination by any appropriate authority or court that any provision in this ordinance is unenforceable shall in no way limit or affect the validity and enforceability of the other provisions or any part thereof.

ARTICLE XIII. ATTACHMENTS AND REFERENCES

1. Ordinance 2009-09 Requiring Mandatory Maintenance and Inspection of Sewage Treatment Systems.
2. Village of Hills and Dales Waste Water Management Program 2009.
3. Ordinance 2011-06 Regarding Diseased, Noxious or Fallen Trees.
4. Request for Project Approval Form for construction, improvements and demolition.

PASSED THIS 8TH DAY OF DECEMBER, 2021.

Mark Samolczyk, Mayor

Mark Loretto, Treasurer