

ORDINANCE NO. 155

AN ORDINANCE OF THE BOROUGH OF SOUTHMONT, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA, REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THEIR CONSTRUCTION, ALTERATION, EXTENSIONS, REPAIR AND MAINTENANCE AND 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 RESIDENCE AND OTHER PURPOSES; MAINTAINING BUILDING LINES, AND SET BACK LINES UPON ANY AND ALL PUBLIC STREETS; PROVIDING FOR A BOARD OF ADJUSTMENT, ADMINISTRATION, AMENDMENT AND THE IMPOSITION OF FINES AND PENALTIES FOR VIOLATIONS.

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Whereas, the Zoning Commission of the Borough of Southmont, by a preliminary report, and after public hearing by a final report, recommended to the Borough Council that a zoning ordinance be enacted; and

Whereas, the Borough Council, after public hearing and due consideration, concur in said recommendations; now therefore,

Be It Enacted and Ordained by the Council of the Borough of Southmont, County of Cambria and Commonwealth of Pennsylvania, and it is hereby enacted and ordained by authority of the same that from and after the effective date of this ordinance the following regulations and restrictions as to the use of land and structures erected thereon shall apply.

Short Title

This ordinance shall be known and may be cited as the "Southmont Borough Zoning Ordinance of 1951."

Article I
Districts

Section 1. General Classification. In order to designate, regulate and restrict buildings, the use of buildings and land, the entire borough is hereby designated as a:
Residential District.

Article II
Residence District

In the residence district, the following regulations shall apply:

Section 1. Permitted uses: A building may be erected, altered or used, and land may be used for any of the following purposes and for no other:

- a. One family dwellings.
- b. Two family dwellings.
- c. Multiple family dwellings--apartment houses, educational, religious, or philanthropic structures, including dormitories of an educational institution, only when authorized by the Board of Adjustment.
- d. Municipal recreational uses.

- e. Museum.
- f. Park (not including an amusement park operated for profit).
- g. Play ground.
- h. A professional office of studio for the personal use of a doctor, physician, surgeon, oculist, dentist, artist, teacher, architect, musician, lawyer, real estate and/or insurance broker, magistrate, dressmaker, milliner, and other similar handicrafts; provided, however, that the office, studio or occupational room shall be located in the residence of the practitioner, and provided further that no goods shall be publicly displayed nor business solicited other than by the display of a sign not exceeding two square feet in size and no space shall be rented out or devoted to the use of any other person than the owner or tenant of said premises and not more than one assistant shall therein be employed; and provided further that the essential character of the building as a residence shall at all times be maintained.
- i. Private garage.
- j. Board and lodging in the residence districts. The use regulations shall not be held to prevent the renting of rooms or lodgings, or the serving of meals, for compensation to not more than four (4) persons; provided, however, that activity is carried on in a dwelling.
- k. Accessory uses incident to any of the principal uses above listed and not involving the conduct of a business and not detrimental to a residential neighborhood.

Section 2. Height restrictions: No building shall be erected in the residence district exceeding three (3) stories in height or thirty-five (35) feet in height, whichever is the lesser.

Section 3. Fences and Enclosure Walls. In the residence district no solid fence or enclosure wall may be erected. An open fence may be erected to a reasonable height not in excess of five (5) feet; provided the ratio of the solid portion of the fence to the open portion shall not exceed one to one and provided, however, a portion of the rear of a lot may be enclosed with a solid fence not exceeding five (5) feet in height providing the type, design, and length of same is approved by the Board of Adjustment.

Section 4. Obstructions on any corner lot: No wall, fence, or other structure shall be erected or altered and no tree, shrub or other growth shall be maintained which may cause danger to traffic on a street by obstructing the view.

Section 5. Off-street Parking Facilities:

(a) All one-family dwellings must provide off-street parking space for not less than one automobiles.

(b) All two-family dwellings must provide off-street parking space for not less than two automobiles.

(c) Multiple dwellings or apartment houses must provide off-street parking space for not less than one automobile for every single dwelling unit within such dwellings or apartment houses. All parking spaces for multiple dwellings or apartment houses shall be located in the rear of said dwellings or apartment houses.

ARTICLE III

General Prohibition and Non-Conforming Uses

Section 1. Hereafter, in the Borough of Southmont, no land shall be used or occupied, and no building or structure shall be used, occupied, erected, or altered for any purposes other than those purposes set forth in Article II hereof, provided, however, that the lawful use of a building or premise

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existing on the effective date of this ordinance may be continued. Whenever a non-conforming use of a building has been discontinued or changed to a conforming use, such use shall not thereafter be changed back to a non-conforming use. Any non-conforming uses in existence on the effective date of this ordinance may be replaced if involuntarily damaged or destroyed.

ARTICLE IV

Regulations of Open Spaces or Vacant Lot Areas
Between Buildings and Property Lines, Establishment of
Minimum Width of Side Yards:

- Section 1. Hereafter it shall be unlawful for any person or persons, firm or corporation to erect a building within the limits of the Borough of Southmont without leaving such open space or vacant space between side of building and side lines of property as hereinafter set forth.
- Section 2. A portion of the premises on which any building is to be erected shall be left unobstructed a minimum width of five (5) feet on both sides and rear of said building, except by shrubbery, fences, and steps.
- Section 3. Hereafter it shall be unlawful to establish any subdivision lines of lots nearer than five (5) feet to any existing building or buildings. No space applied or necessary under this ordinance to satisfy the yard requirement in relation to any building, whether now or subsequently built, shall be counted as a part of the required open space in relation to any other building.
- Section 4. Hereafter it shall be unlawful to make any extensions or additions to the side of any existing building or buildings erected or hereafter erected, extending closer to side lines and rear lines of premises on which said building is erected than a distance of five (5) feet therefrom.
- Section 5. The building line or setback from the front of all lots one hundred and fifty (150) feet or more in depth shall be forty (40) feet and all lots less than one hundred and fifty (150) feet in depth shall be thirty (30) feet. The building line or setback on the side streets on all corner lots shall be twenty (20) feet.
- Streets running parallel or in the direction of the side of the lots as laid out on the Southmont Plan of Lots by R.W. Otto shall be and hereafter are designated as cross or side streets.

ARTICLE V

Administration, Applications and Permits

- Section 1. Administrative Officer: The duty of administering and enforcing the provisions of this ordinance is hereby conferred upon such person as the Borough Council designates who shall be known as the Administrative Officer; and for this purpose he shall have such powers as are conferred upon him by this ordinance and as reasonably may be implied.
- Section 2. Building Permits.
- (a) No excavation for a foundation, nor the erection, construction or structural alteration of any structure; nor the occupancy of streets or alleys with building materials or temporary structures for construction purposes, shall be undertaken until a building permit therefore shall have been issued by the administrative officer.
- (b) No vacant land shall be occupied or used except for

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a use necessary to the permitted uses set forth in Article II hereof.

(c) a record of all building permits shall be kept on file in the office of the administrative officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

(d) A fee of two (\$2.00) Dollars shall be charged at the time of granting the application for a building permit which fee shall be deposited with the Borough Treasurer.

(e) All applications for building permits, prior to presentation to the Administrative Officer, must be approved by a plan or specification in duplicate showing at least the boundary lines of premises and location and size of building proposed to be erected, or existing buildings with additions or extensions proposed, all of which shall be drawn accurately to scale. All building permits shall expire unless work is commenced within one (1) year from the date of their issuance and thereafter continuously prosecuted.

Article VI
Board of Adjustment

Section 1. Creation. Membership:

(a) A Board of Adjustment is hereby established, the word "Board" when used in this ordinance shall be construed to mean the Board of Adjustment.

(b) The Board shall consist of three members to be appointed by the Borough Council. One member shall be designated to serve until Jan. 1, 1952; one until Jan. 1, 1953; and one until Jan. 1, 1954. Their successors shall be appointed on the expiration of their respective terms, to serve three years. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term.

Section 2. Meetings: The meetings of the Board shall be held at least once a month if any business is pending and at such other time as the Board may determine or upon call of the Chairman. All meetings shall be open to the public. The Board shall adopt its own rules of procedure and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a public record.

Section 3. Appeals: Appeals from the decision of the Administrative Officer may be made to the Board of Adjustment by any person aggrieved or by any officer, department or bureau of the Borough affected by any decision of the Administrative Officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within a reasonable time, not to exceed sixty (60) days.

Section 4. Powers and Duties:

(a) In addition to having all of the general powers vested in such boards by statute, the Board shall hear and decide appeals de nova and review an appeal any order, requirement, decision or determination made by the Administrative Officer relating to the enforcement or application of the provisions of this ordinance. It shall also hear and decide all matters referred to it, or upon which it is required to pass under the provisions of the ordinance.

(b) The Board shall fix a reasonable time for the hearing of the appeal; give public notice thereof, as well as due notice at least six days prior to the hearing by mail

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to the parties in interest, at the address filed with the appeal, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent, or by attorney. The Board shall require the payment in advance of a filing fee of five (\$5.00) Dollars and a further payment of the estimated cost of giving notice of the hearing of such application as hereinbefore required.

(c) Where by reason of topographical conditions, or because of other exceptional circumstances, the strict application of any provisions of this ordinance would result in exceptional practical difficulty or undue hardship upon the owner of any specific property, the Board in passing upon appeals, shall have the power to vary or modify such application or to interpret the meaning of this ordinance so as to relieve such difficulty or hardship; provided, that such variance, modifications or interpretation shall remain in harmony with the general purpose and intent of this ordinance to the end that the health, safety and general welfare of the community shall be conserved and substantial justice done.

In the exercise of these powers the Board may, among other variances, modifications and interpretations, authorize a permit to be issued for:

1. Multiple family dwellings, apartments, educational or philanthropic structures, including dormitories of an educational institution; providing in addition to all other restrictions and regulations pertaining to dwellings, such additional set-backs from property lines and street lines as may seem to the Board to be reasonable and providing also that such dwellings and buildings be constructed of fire resistant materials.

2. Changes, alterations, reasonable additions or enlargements, and replacement of non-conforming uses and structures.

ARTICLE VII

General Provisions, Enforcement and Penalties

Section 1. Validity. Should any section or provision of this ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or of any other part thereof.

Section 2. Interpretation. Purpose and conflict. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morale and general welfare of the Borough and its citizens. It is not intended by this ordinance to interfere with or abrogate or annul any rules or regulations previously adopted under other ordinances, and not in conflict with any of the provisions of this ordinance nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties, provided, however that where this ordinance imposes a greater restriction upon the use of building or premises or requires larger open spaces than are imposed by such other ordinance, rules, regulations or by easements, covenants, building restrictions or agreements, the provisions of this ordinance shall control.

Section 3. Enforcement. The provisions of this ordinance shall be enforced by the Administrative Officer.

Section 4. Remedies. In case any building or structure is erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or any hedge, tree, shrub, or other growth is maintained,

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in violation of this ordinance or any regulation made pursuant hereto, in addition to other remedies provided by law and equity, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent such unlawful erection, conversion, maintenance, or use to restrain, correct or abate such violation, to prevent any illegal act, conduct, business, or use in or about such premises.

Section 5. Penalties. For any and every violation of the provisions of this ordinance the owner, general agent or contractor of a building or premises where such violation has been committed, or shall exist, and the lessee or tenant of an entire building or entire premises where such violation has been committed, or shall exist, and the general agents, architect, building contractor or any other person who knowingly 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 liable, on conviction thereof to a fine or penalty not exceeding twenty-five (\$25.00) Dollars for each and every offense. Whenever such person shall have been notified by the Burgess, or by service or summons in a prosecution, or in any other way, that he is committing such violation of this ordinance, each day that he shall continue such violation after such notification shall constitute a separate offense, punishable by a like fine or penalty. Such fines or penalties shall be collected by law as like fines or penalties are now collected.

Section 6. Amendments: This ordinance, or any of its provisions may be amended, supplemented or repealed in the same manner as such an ordinance is originally adopted.

Section 7. This ordinance shall become effective from and after one (1) day after its publication and recording as provided by law.

Ordained and enacted this 3rd day of August, A.D. 1951.

G. Martin Fox
President of Council

(Seal of the Borough of Southmont)

Attest:

Betty M. Sabo
Acting Secretary

Approved this 3rd day of August, 1951.

Lyman R. Angus
Burgess

Solicitor