

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING AGENDA**

**PRE-COUNCIL ROOM (A-106) CITY HALL  
56 CHURCH STREET  
MOUNTAIN BROOK, AL 35213  
MAY 12, 2014 – 5:30 P.M.**

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1. Mobile vendors/food trucks – Mike Morrison and Billy Angell
2. Noise/construction ordinance amendment – Whit Colvin.
3. Motor vehicle policy – Steven Boone. (This item is ready to be added to the formal agenda.)
4. Software purchase request to enhance connectivity for mobile computers used in public safety vehicles – Chief Ezekiel.
5. Stephens' annexation petition (5000 Spring Rock Road) – Steven Boone. (This item is ready to be added to the formal agenda.)
6. Set date for the fiscal 2015 Council budget work session.

DATE: May 12, 2014

TO: Mayor, City Council  
City Manager  
City Attorney

FROM: Dana Hazen, City Planner

RE: Synopsis of Mobile Vending in Municipalities

### **Mobile Vendors/Food Trucks**

Food trucks have gained in popularity so much so that the industry generated 650 million dollars in the U.S. in 2012, and is expected to climb to 2.7 billion by 2017.

#### **What is amplifying the food truck industry?**

1. "Buy local" promotion
2. Food as "entertainment;" festive atmosphere and vibrant pedestrian experience
3. Diversity of new and different foods not offered in a community

#### **Potential advantages related to street vending:**

1. Can be a valuable economic activity that attracts business to commercial areas (many food truck operators have a "following" of patrons that track their daily locations and follow them at meal-time).
2. Offers opportunities to provide food choices where zoning may exclude restaurants (such as Office Park); bringing a market during limited hours. Cuts down on lunch-break automobile trips from these areas.
3. Energizes areas where they locate; creates a festive atmosphere and promotes a vibrant walking experience, thereby playing a unique role in economic vitality and the urban streetscape environment;
4. Offers time-saving dining for workers and shoppers, freeing up more time for retail shopping.
5. Often serves as a successful incubator for start-up businesses that may evolve into B&M businesses.

#### **Potential concerns related to street vending:**

1. Maintenance
2. Appearance
3. Noise
4. Signage
5. Parking
6. Trash
7. Hours of operation
8. ADA compliance
9. Competition for established B&M businesses

While there is a universally perceived conflict between mobile vendors and bricks & mortar businesses, studies show that well-managed street vending enlivens the streetscape and compliments and supports existing retailers.

The trick is to devise a mobile vending program that protects shops and restaurants, avoids sidewalk congestion, noise and trash; reduces the potential liability of adjacent businesses, and improves the overall vitality of the commercial streetscape.

To this end City staff assembled an ad hoc committee to study the mobile vending issue; and a stakeholder meeting was held with local mobile vendors and MB Chamber representatives from each village. Mobile vending ordinances of neighboring Birmingham-area municipalities have also been studied.

Nationally, American Planning Association Planning Advisory Service articles indicate that some cities provide specific zones where vending can occur. Others regulate location through separation distances from other vendors and B&M merchants. Still others determine specific locations that are given to specific vendors on a permit basis. And some retain the right to decide which specific types of products will be sold.

Logical locations for street vending generally include public sidewalks, public spaces near government buildings that offer public services, and near active city parks. Location/distance restrictions can help alleviate fears and concerns of business and restaurant owners who oppose street vending.

### **Privilege vs. "Right"**

There is an important distinction between the concepts of the "right" to use public space versus the "privilege" of being able to use public space for vending. Any City ordinance that governs street vending should communicate clearly that the issuance of a permit to vend on public property is a privilege granted to mobile vendors. And with that privilege come certain stipulations and rules that must be followed in order to maintain that privilege.

### **Fees**

Some cities charge annual permit fees in conjunction with the issuance and renewal of business licenses. Others charge a flat fee for all vendors. Some cities apply the mobile vending fees exclusively to downtown improvements, such as beautification or wifi. In this way, rent-paying businesses receive some benefit from mobile enterprises otherwise "profiting at their expense."

### **Enforcement**

Making sure that mobile vendors are licensed, working in approved areas and contributing to the tax base are challenges. A participating city must strive to keep mobile vendors well informed of the requirements and also the consequences of failure to conform. This goes hand-in-hand with the idea that it is a privilege to use public space to make living.

Many cities rely on the Police Department to enforce mobile vending regulations, since other departments have limited authority to issue citations, and are not “on the clock” on weekends or during evening hours. Since most Police Departments have more pressing issues to attend to than mobile vending violations, some cities enforce the mobile vending violations on a complaint basis.

As far as the consequences for infraction, punishment can range from imposed fees to revocation of the vending license.

### **What are Neighboring Municipalities Doing?**

The City of Birmingham has adopted an 18-page mobile vending ordinance (attached) that has been met with negative local acclaim due to its complexity and heavy-handed oversight. It is very detailed and laborious; however, Birmingham, physically and geographically, has many more opportunities and potential locations for mobile vending (and related conflicts) than its Over-the-Mountain neighbors, so it follows that its ordinance would be lengthy and complex.

The City of Homewood has not adopted a mobile vending ordinance. It allows mobile vendors on a public street without location restrictions and with the issuance of a simple peddler’s license. Mobile vending on private property is allowed with property owner’s permission and only in zoning districts that allow commercial activities.

The City of Vestavia is in the process of drafting a mobile vending ordinance to allow mobile vending only on private property, in a commercial district, with property owner permission.

### **City Parks**

The City of Mountain Brook’s Ad Hoc Committee (studying mobile vendors) suggested the possibility of utilizing Overton Park and Cahaba River Park for designated food truck zones on specifically designated days/times of the week. There are approximately 20 parking spaces at Overton Park, and 26 parking spaces proposed in the new Cahaba River Park, so perhaps 1-2 mobile vendors could utilize the space while leaving parking spaces for automobiles as well.

### **Objectives:**

Ultimately, the permitting process and regulatory framework for street vending should balance the needs and opportunities of the community to create a successful program by providing:

- An active and attractive street life that complements other forms of private business activity;
- Positive experiences for those who use the street, both residents and visitors;
- A way for vendors to generate a stable income.

Street vending regulations should:

- Ensure the health and safety of consumers and the general public;
- Not unduly infringe on fixed-business locations vendors’ ability to compete;

- Not impose unnecessary public costs – congestion, visual blight or debris;
- Not impose unnecessary cost and burdens on street vendors.

The attached draft Mobile Vending ordinance sets out to achieve these objectives, and is suggested as a way to begin the “conversation” about the potential for food trucks in the City of Mountain Brook.

## **Draft**

### **Mobile Vending Ordinance City of Mountain Brook May 12, 2014**

#### **Types of Wares permitted for sale:**

Food and beverage

#### **Right-of-Way Sales**

A valid City business license must be secured; a copy of which is to be retained in the mobile vehicle, along with a copy of the County Health Department certificate.

A mobile vehicle is permitted one moveable freestanding sign not to exceed 2 feet x 3 feet.

Umbrellas and awnings attached to the mobile vehicle are allowed. Tents are prohibited.

Movable chairs, tables and umbrella are permitted, but must comply with ADA requirements allowing passage on sidewalks.

Refuse containers shall be provided by the vendor on or within 15 feet of the mobile vehicle; and it shall be the responsibility of the mobile vendor to clear the area of debris after vending.

City trash/recycling receptacles may not be used for mobile vending operations or for related customer-generated refuse.

Hours of operation shall be limited between 6:00 a.m. and 10:00 p.m. (including set-up and take-down of mobile vending operation).

Noise is limited to 70 decibels.

Mobile food vending in the right-of-way shall only occur from the side of a mobile vehicle that is parked abutting and parallel to the curb, and shall comply with all City parking and traffic regulations.

Any power required for the mobile vehicle shall be self-contained. The mobile vehicle shall not draw its power from the public right-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.

#### **Distance Requirements for Mobile Vending in Right-of-Way**

Minimum 50' separation required from the front door/entrance to existing restaurants and any related outdoor dining areas (measured to the closest dining table). This rule only applies when the restaurant is open for business.

10' separation required from intersections, crosswalks, fire stations, police stations, and fire hydrants and other mobile vendors.

## **Private Property Sales**

The property on which mobile vending is proposed must be zoned Local Business, Mixed-Use, Commercial Shopping, Office Park or Professional.

Vendor must provide to the City written expressed consent from the owner to use the business property on which mobile vending is proposed; and must retain a copy in the mobile vehicle, along with the City business license and Health Department certificate.

Refuse containers shall be provided by the vendor on or within 15 feet of the mobile vehicle; and it shall be the responsibility of the mobile vendor to clear the area of debris after vending; refuse shall not be placed in any private container without expressed written consent of the property owner.

City trash/recycling receptacles may not be used for mobile vending operations or for related customer-generated refuse.

Vending shall not obstruct the use of any street intersection or pedestrian crosswalk, shall not impede the ingress or egress of any driveway, and shall not obstruct pedestrian space.

Mobile vehicles shall not be left unattended or stored at any time when vending is not taking place or during restricted hours of operation.

Hours of operation shall be limited between 6:00 a.m. and 10:00 p.m. (including set-up and take-down of mobile vending operation).

Noise limited to 70 decibels.

A mobile vehicle is permitted one moveable freestanding sign not to exceed 2 feet x 3 feet which must be contained on the private property. At no time shall any signage be placed within the public right-of-way.

Any power required for the mobile vehicle shall be self-contained. The mobile vehicle shall not draw its power from the public right-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.

# City of Birmingham

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Recommended By: Councilor Johnathan Austin  
Chairman, Public Safety Committee

Submitted by: Thomas Bentley, III  
Acting City Attorney

## ORDINANCE NO. 13-174

AN ORDINANCE AMENDING TITLE 12, CHAPTER 14 OF THE GENERAL CITY CODE, 1980 TO ADD A NEW CHAPTER TO ESTABLISH REGULATIONS FOR MOBILE FOOD VEHICLES AND PUSHCARTS IN THE CITY OF BIRMINGHAM, ALABAMA.

**Whereas**, Alabama municipalities are authorized to regulate the use of public streets, sidewalks and rights-of-way for public health, safety, welfare and convenience; and

**Whereas**, no person, firm, association, or corporation is authorized or permitted to use the streets, avenues, alleys, or public rights-of-way of any municipality for the operation of any private enterprise, without first obtaining the consent of the proper authorities of such municipality (Ala. Const. Art. XII, § 220; Ala. Code, 1975, § 11-49-1 (a)); and

**Whereas**, mobile food vehicles and pushcart vendors are using public parking spaces, loading zones and other parts of public rights-of-way without the approval of the City Council; and

**Whereas**, mobile food vehicles, pushcarts or “food vehicles or food trucks”, are a national trend and provide the useful service of convenient and varied dining options in business areas and in areas that lack businesses providing nutritional dietary options; and

**Whereas**, the Council of the City of Birmingham finds it in the interest of the public health, safety, welfare and convenience to authorize the operation of mobile food vehicles and pushcart vendors within the City of Birmingham, subject to regulations to protect the safe and convenient use of public rights-of-way.

**SECTION 1** NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Birmingham, Alabama, that Title 12, “Licensing and Regulation” Chapter 14 “Peddlers and Solicitors, is hereby amended to add a new article as follows:

## **1 Purpose**

The general purpose of this ordinance is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Birmingham by establishing reasonable guidelines and regulations for mobile food vehicles and pushcarts to encourage the safe and convenient use of the city's public rights-of-way.

## **2 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Applicant" means any person or business that applies for a permit or renews a permit under the provisions of this Article.

"Birmingham City Council", "Council", "City Council". The words "Council" or "City Council" shall mean the Council of the City of Birmingham.

"BPD" means the Birmingham Police Department.

"Business licenses" are the licenses required of any business to operate within the City pursuant to the City license code.

"City Center" includes the territory and boundaries as generally described in the amended Urban Renewal and Urban Redevelopment Plan for Downtown Birmingham as established by the Birmingham City Council in Resolution No. 2166-9 also known as the "Master Plan".

"Commissary" means a permitted food establishment to which a mobile food establishment, pushcart or transportation vehicle returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Food zone" is an area approved by the Birmingham City Council for the specific operation of mobile food vehicles and/or pushcarts within the public rights-of-way.

"General Area" means any location within the public rights-of-way of the City of Birmingham not within the Premier Area.

"Health Department" shall mean a county health department. Such terms shall be construed to include the Jefferson County Health Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city ordinances.

“Hours of Operation” are the designated time frame mobile food vehicles are authorized to operate within the city rights-of-way.

“Mobile food vehicle” means, except for pushcarts but including ice cream trucks and lunch wagons, a unit mounted on or pulled by a self-propelled vehicle where food including prepackaged foods, for individual portion service is prepared, or dispensed; is self-contained with its own drinking water tank and waste water tank; is designed to be readily movable; and is moved daily to return to its commissary.

“Operator” is the entity that is legally responsible for the operation of the mobile food vehicle such as the permittee, the permittee’s agent, or other person; and possesses a valid permit to operate a mobile food vehicle.

“Pedestrian” is a person who is walking or otherwise traveling in the public rights-of-way.

“PEP” means the Department of Planning, Engineering and Permits.

“Permit” means a written authorization to operate a mobile food vehicle or pushcart within the public rights-of-way of the City of Birmingham.

“Permittee” a person who has been granted a permit by the Birmingham City Council to operate one or more mobile food vehicles upon the streets of the city.

“Person” means any natural person, firm, partnership, association, or corporation. Whenever the word “person” is used in any section in this Article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

“Premier Area” includes that section of the City Center beginning at the corner of 8th Avenue North and 18<sup>th</sup> Street North; proceeding southerly on 18<sup>th</sup> Street North, converting to 18<sup>th</sup> Street South to the corner of 10<sup>th</sup> Avenue South; then easterly on 10<sup>th</sup> Avenue South to the corner of 22<sup>nd</sup> Street South; then Northerly on 22<sup>nd</sup> Street South, converting to 22<sup>nd</sup> Street North to the corner of 8<sup>th</sup> Avenue North; then westerly on 8<sup>th</sup> Avenue North to the point of beginning.

“Pushcart” means a non-self propelled mobile food unit that is lightweight enough, designed, and intended to be moved by one person. A pushcart shall be used to prepare and serve only:

- i. potentially non hazardous foods such as popcorn, lemonade, hot dogs or flavored ice;  
or
- ii. foods pre-wrapped at the commissary and maintained at the required temperatures per the County Health Department regulations.

“Restaurant” a brick and mortar establishment where meals are generally served and eaten on premises or prepares and serves food and/or drink to customers for consumption on the premises in return for money, either paid before the meal, after the meal, or with a running tab. A restaurant does not include a food service that is delivery only.

“Rotation Cycle” A rotation cycle requires a mobile food vehicle to rotate in sequential order to different food zones within the Premier Area of the City Center. Participants shall begin with the last position created and is measured based on the time it takes to revolve to first food zone created. Applicants operating within the Premier Area shall rotate one food zone in numeric order each day.

\*Example:

**MONDAY**

Zone	Location	Vendor
1	Corner of 8 <sup>th</sup> Avenue North and 18 <sup>th</sup> Street North	Chicken Mobile Food Vehicle
2	Corner of 7 <sup>th</sup> Avenue South and 20 <sup>th</sup> Street South	Taco Mobile Food Vehicle
3	Corner of 4 <sup>th</sup> Avenue South and 16 <sup>th</sup> Street South	Burger Mobile Food Vehicle
4	Corner of 9 <sup>th</sup> Avenue South and 21 <sup>st</sup> Street South	<b>Fish Mobile Food Vehicle</b>

**TUESDAY**

Zone	Location	Vendor
1	Corner of 8 <sup>th</sup> Avenue North and 18 <sup>th</sup> Street North	Taco Mobile Food Vehicle
2	Corner of 7 <sup>th</sup> Avenue South and 20 <sup>th</sup> Street South	Burger Mobile Food Vehicle
3	Corner of 4 <sup>th</sup> Avenue South and 16 <sup>th</sup> Street South	<b>Fish Mobile Food Vehicle</b>
4	Corner of 9 <sup>th</sup> Avenue South and 21 <sup>st</sup> Street South	Chicken Mobile Food Vehicle

*\*Locations above are shown for demonstrative purposes only.*

“Vending” is the business of selling or causing to be sold any of the following items: food products, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a mobile food vehicle and/or pushcart.

### **3 Mobile Food Vendors Committee**

- 1) There shall be established by this ordinance a Mobile Food Vendors Committee consisting of representatives from each of the following: Traffic Engineering Department, Planning Engineering and Permits Department, Police Department, Mayor’s Office of Economic Development, REV, Inc. and a member of the Greater Birmingham Street Food Coalition. The Mobile Food Vendors Committee shall review and recommend all applications based on the guidelines established by this ordinance. The Mobile Food Vendors Committee shall meet as required. A special meeting may be called by any of the committee members.

### **4 Permit Required for Food Zone Operation**

- 1) All mobile food vehicles and pushcarts must obtain a permit to operate within the City’s rights-of-way. Mobile food vehicles that are granted a permit to operate within the Premier Area of the City Center shall be subject to a rotation cycle, as defined by this ordinance. Pushcarts are not subject to a rotation cycle.
- 2) Any mobile food vehicle and/or pushcart that shall operate solely on private property shall not be required to apply for a permit. They shall, however, be required to obtain a business license and decal from the Revenue Department.

### **5 Approval Process**

- 1) Any person or company desiring a permit to operate a mobile food vehicle or pushcart within the public rights-of-way of the Birmingham city limits must first submit an online application to the Traffic Engineering Department along with a \$150.00 (One Hundred Fifty Dollar) application fee for Mobile Food Vehicles or \$40.00 (Forty Dollar) application fee for Pushcarts. Application fees are non-refundable. Each application shall be date and time stamped to be processed in the order it is received. All applications shall then be submitted to and reviewed by the Mobile Food Vendors Committee. The application fee shall be applied to the cost of an approved permit.
- 2) The Mobile Food Vendors Committee shall review each application for the suitability of the proposed location(s) for which the permit is sought. The Mobile Food Vendors Committee shall then submit a recommendation to the Public Safety Committee within

twenty eight (28) days from the date of the application for review and recommendation to the City Council.

- 3) The Public Safety Committee shall set a date and time for its review of the application and shall afford the applicant and interested parties reasonable and timely notice thereof. The applicant and such interested parties, in the course of the committee's review, shall be given the opportunity to offer testimony and evidence in support of their respective positions and may have counsel present to so represent them. At the conclusion of the Public Safety Committee review, the Public Safety Committee shall vote to recommend its approval or disapproval of the application to the City Council. The Public Safety Committee shall thereupon advise the applicant and other interested parties appearing before it of the committee's decision and shall further inform the applicant and such interested parties of the date of the council meeting at which the application will be on the Council agenda.

## **6 Creation of Food Zone**

- 1) Food zones are created at the request of the applicant. A food zone must be approved and established by the City Council in order for the applicant to operate within the City of Birmingham's rights-of-way.
- 3) Applicants may request up to three (3) food zones per application, listed in order of preference. Only one food zone shall be approved per application. The application will proceed with the first location approved by the Mobile Food Vendors Committee. If none of the requested locations are approved, a new application shall be required.
- 4) Food zones within the Premier Area of the City Center shall be numbered in the order it was approved by the City Council.
- 5) Once a new food zone is approved and established, the applicant shall be allowed to 1) operate at a fixed location within the general rights-of-way; or 2) enter the rotation cycle within the Premier Area of the City Center, beginning with the location for which they were newly approved. Applicants shall be granted one food zone per truck within the Premier Area.
- 6) Each permit issued under this ordinance shall be displayed at all times on the rear of the mobile food vehicle and conspicuously on the pushcart.
- 7) If an existing mobile food zone is no longer in compliance with the requirements set forth in this ordinance due to changing conditions, the Mobile Food Vendors Committee shall make a recommendation to the Public Safety Committee on the feasibility to issue a new permit when the existing permit expires.

- 8) The Birmingham City Council reserves the right to limit the number of designated food zones within the City Center, to address the health, safety, comfort, convenience, prosperity and general welfare of the citizens of Birmingham.

## **7 Application for Permit**

- 1) Permit applications shall be processed in the order received. Each online application submitted shall be date and time stamped. Each application shall require the following:
  - a) Payment of application fee. Such fee shall apply to cost of the permit for approved applications. The balance of the permit fee shall be due after Council approval.
  - b) A valid copy of all required licenses/permits of a Health Department, as applicable, for each mobile food vehicle and/or pushcart.
  - c) The applicant's full name, signature, address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses.
  - d) The address of its commissary.
  - e) A photograph of the applicant, e.g. driver's license, passport or similar.
  - f) Each applicant must attest that they are in compliance with the Hammon-Beason Alabama Taxpayer and Citizen Protection Act
- 2) Applicants applying to vend on private property must supply the following:
  - a) A valid copy of executed Lease(s) or Letter(s) of consent from property owner(s) for each private site.
  - b) Written approval from the City's Zoning Division of P.E.P. for each private site.
  - c) A Site Plan including: photos of site and a detailed layout noting truck orientation and service plan is required for each private site.
- 3) Applicants may request three up to (3) food zones per application, listed in order of preference. The application will proceed with the first location approved by the Mobile Food Vendors Committee. If none of the requested locations are approved, a new application shall be required. Only one food zone shall be approved per application.
- 4) An accurate description of the mobile food vehicle and/or pushcart, including the following data for mobile food vehicles: The make, model and type of body; the number

of cylinders; the vehicle identification number or any other identifying number as may be required by the Mobile Food Vendors Committee.

- 5) The operator shall provide the manufacturer's specs on decibels range generated by his particular generator. The decibel levels for any generator(s) used shall not exceed "80dBA".
- 6) A statement that the applicant has not been convicted of any crime that involves any local, state or federal law or regulation during the operation of a similar business.
- 7) A statement that the applicant has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years.
- 8) Applicant shall notify the Traffic Engineering Department within fifteen (15) days after any changes to application information.
- 9) A signed statement that the applicant shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.
- 10) Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred Thousand Dollars (\$300,000.00) per accident or occurrence. The policy shall further provide that it shall not be cancelled except upon thirty (30) days written notice served upon the City of Birmingham, Office of the City Clerk – 3<sup>rd</sup> Floor, 710 North 20<sup>th</sup> Street, Birmingham, AL 35203. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City Clerk. Proof of insurance must be shown on each mobile food vehicle and pushcart in operation.

## **8 Fees.**

- 1) Upon approval of an application for a General Area permit of the City's rights-of-way, the annual fee shall be \$300.00 for a mobile food vehicle and \$80.00 for pushcart.
- 2) Upon approval of an application to operate within both the Premier Area of the City Center and the General Area of the rights-of-way the annual permit fee shall be \$500.00 for a mobile food vehicle and \$100.00 for pushcart.

- 3) There shall be a onetime initial cost of \$250.00 to establish new food zones for mobile food vehicles and \$60.00 for pushcarts. Said cost is to cover any administrative services and alterations needed in preparing the food zones. Some examples include, but are not limited to the removal of parking meters, the pouring of concrete, and the cost of the signage. This onetime fee is separate of any permit fee.
- 4) The annual permit fees set forth in this section shall bill on a calendar year from January 1 to December 31. The fees shall be prorated bi-annually as follows:

From	- To	Food Truck General Area	Food Truck Premier Area	Pushcart General Area	Pushcart Premier Area
January 1 <sup>st</sup>	June 30 <sup>th</sup>	\$300.00	\$500.00	\$80.00	\$100.00
July 1 <sup>st</sup>	December 31 <sup>st</sup>	\$150.00	\$250.00	\$40.00	\$50.00

The \$150.00 application fee for mobile food vehicles and the \$40.00 application fee for pushcarts shall be applied to approved applications. The remaining balance, if any, must be paid after Council approval before the permit will be issued by the Traffic Engineering Department.

A duplicate permit may be issued with the payment of a fee of \$25.00. Contact the Traffic Engineering Department should a permit become lost or destroyed.

A permit can be renewed up to (30) thirty calendar days prior to the expiration date. Any permit applied for after sixteen (16) calendar days of such expiration date shall incur a late fee of \$25.00 in addition to the annual fees stated above. A new application shall be required thirty two (32) calendar days following the expiration date of the existing permit or the permittee shall lose its claim to any particular food zone and/or its place in the rotation cycle of the Premier Area.

## **9 General Rules and Regulations**

- 1) No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle and/or pushcart upon the public rights-of-way within the city without a permit.
- 2) The grant of a permit hereunder shall not be deemed to authorize the operation of a mobile food vehicle and/or pushcart without obtaining a business license, as may be required under the current business license code. A permittee must subsequently obtain a

business license from the Revenue Division of the Finance Department, or be subject to a fine as defined in Section 12.3 for each day permittee is in violation of this section.

- 3) Persons conducting business from a mobile food vehicle or pushcart on private property may conduct such business only in compliance with the following:
  - a) They must provide to the City a lease or the written expressed consent from the owner to use the business property on which they propose to operate.
  - b) They must have a valid city business license unless otherwise exempted by city ordinance.
  - c) They must maintain all refuse, trash and litter from the operation of the business onto the private property and shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.
  - d) The business use must be a use that is otherwise allowed within the zoning district in which the vendor proposes to operate.
- 4) Persons conducting business from a mobile food vehicle on private property shall not be permitted to operate in the following manner:
  - a) Vending may not obstruct the use of any street intersection or pedestrian crosswalk.
  - b) Vending shall not impede the ingress or egress of any driveway.
  - c) Vending shall not obstruct pedestrian space.
  - d) Any power sources must be depicted on the site plan and must meet all applicable electrical code standards.
  - e) Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.
  - f) Amplified sound or sound equipment must comply with the City of Birmingham Noise Ordinance.
  - g) Any and all signage must be contained on the private property. At no time shall any signage be placed within the public rights-of-way.

5) Hours of operation within the public rights-of-way shall be as follows:

City Center Permits

Monday – Friday

6:00 a.m. - 6:00 p.m.

General Permits

Monday - Sunday

6:00 a.m. – 2:00 a.m.

- 6) All locations are subject to the regulations and other requirements established by the Health Department.
- 7) It shall be unlawful to leave any mobile food vehicle and/or pushcart unattended on public rights-of-way, or to remain on public rights-of-way outside of the allowed hours of operation.
- 8) Vendors shall be allotted thirty (30) minutes set-up and thirty (30) minutes breakdown before and after the stated operating hours.
- 9) No mobile food vehicle and/or pushcart shall operate within one hundred fifty (150) feet of the front door of any restaurant in current operation. Distance shall be measured to the nearest public entrance for any indoor food court.
- 10) No mobile food vehicle and/or pushcart vending within the City's rights-of-way shall operate within five hundred (500) feet of any fair, stadium, carnival, circus, festival, special event, civic event, entertainment district or other like sponsored event that is licensed or authorized by the City, unless they are authorized by the sponsor to be participants in such event.
- 11) It shall be unlawful to operate a mobile food vehicle and/or pushcart in or within one hundred fifty (150) feet of any Primary or Secondary School within Birmingham's city limits. Distance shall be measured to the nearest lot line of the school's campus.
- 12) Any applicant that desires to operate concurrent food zones shall pay the general permit fee for each food zone it creates within the rights-of-way.
- 13) Permittee shall be granted a single food zone permit for each vehicle added to the rotation cycle within the Premier Area of the City Center.
- 14) The permit shall be subject to additional limitations on hours and days of operation that the City determines are appropriate to prevent conflict with special events. Examples of special events include, but are not limited to, construction, parades, sponsored marathons

and blocked streets to allow licensed events. The City shall not be required to provide alternate food zones for operation during the actuation of any of the special events.

- 15) No mobile food vehicle and/or pushcart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. A mobile food vehicle and/or pushcart may use battery-operated lights with appropriate protective shields for the purpose of illuminating merchandise, so long as it is not a distraction to passing motorists. The decision of such distractions shall be determined by the BPD.
- 16) No mobile food vehicle and/or pushcart operating within the city shall cause congestion that impedes pedestrian or vehicle traffic or interfere with the city or public's use of any public rights-of-ways. This shall include but is not limited to activity of customer queues, accessory units, or signage that in any way invades or impairs access to adjacent parking, pedestrian or vehicle traffic.
- 17) No mobile food vehicle and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.
- 18) Any power required for the mobile food vehicle and/or pushcart located on a public way shall be self-contained. The mobile food vehicle and pushcart shall not draw its power from the public rights-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.
- 19) Mobile food vehicles and/or pushcarts shall be responsible to provide and maintain their own trash receptacles. Permittee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The permittee of the mobile food vehicle and/or pushcarts shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.
- 20) The proposed mobile food vehicle and/or pushcart vending activity shall comply with all applicable laws including but not limited to the Americans with Disabilities Act.
- 21) Mobile food vending in the rights-of-way shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.
- 22) Pushcarts shall have overhead protection, such as an umbrella, to cover the food area.
- 23) No mobile food vehicle shall have a drive-through service.

- 24) The decibels levels for any generator(s) used shall not exceed "80dBA". The operator shall provide the manufacturer's specs on decibels range generated by his particular generator.
- 25) Any mobile food vehicle and/or pushcart being operated without a valid permit issued by the City Council shall be deemed a public safety hazard and may be ticketed and impounded.
- 26) No mobile food vehicle and/or pushcart shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle and/or pushcart which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
- 27) A mobile food vehicle and/or pushcart operating at any unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement.
- 28) Any new business that opens or moves near an existing mobile food vehicle and/or pushcart food zone shall be deemed to have accepted the proximity of the existing mobile food vehicle and/or pushcart in operation.
- 29) The City Council shall, in the best interest of the City, maintain the authority to regulate uses of the public rights-of-way and reduce the size and/or location of a food zone at a later date.

## **10 Temporary Food Zone Permit**

A temporary food zone permit allows mobile food vehicles and pushcarts the opportunity to serve specific events for one calendar day. This permit is allowed only when the timing and place of said activity does not conflict with the City's desire to protect the safe and convenient use of public rights-of-way. It is the City's intent to control the pedestrian and street congestion as it relates to the operation of mobile food businesses and the proximity to established brick and mortar businesses. This permit is primarily used to either extend the hours of operation of an existing food zone or to grant permission to operate in locations within the rights-of-way that have not been designated as food zones.

The City shall offer a temporary permit twice a year to mobile food vehicles and pushcarts providing them the opportunity to test two different locations for a period of one month. The operator must apply at a minimum of 30 days in advance for this temporary permit.

The temporary food zone vending permit shall be issued under the following conditions:

- 1) The applicant must first possess a current mobile food vendor or pushcart permit.

- 2) An application must be submitted to the city Traffic Engineering Department a minimum of three (3) working days prior to the event.
- 3) A fee of Twenty-Five Dollars (\$25.00) shall be paid by the person applying for the one day permit at the time of the filing of the application. The permit shall be effective for no more than one day during a calendar year. Each day shall require a separate permit.
- 4) A fee of Fifty Dollars (\$50.00) shall be paid by the person applying for a one month temporary permit at the time of the filing of the application.
- 5) The temporary food zone permit shall only be issued for an event abutting a curb space in the rights-of-way. It shall not apply to operation on private property.
- 6) The permittee shall obtain and display the temporary food zone permit at the vending site in a manner established by the Traffic Engineering Department.
- 7) The temporary food zone permit shall be subject to the Rules and Regulations of the primary permit issued.
- 8) The Traffic Engineer Department shall approve or deny the issuance of a temporary food zone permit based on the same criteria used to establish all food zones.
- 9) If the proposed temporary food zone will occur within two hundred (200) feet of a park, the Traffic Engineer shall approve or deny the temporary food zone based on the following considerations:
  - a) Public safety concerns; or
  - b) Access to the entrances and exits of the park; or
  - c) Conflicts with existing businesses and concessionaires, permitted events, or other special activities occurring in the park.

Any applicant that wishes to operate in non-designated locations for 2 or more consecutive days shall either apply for a Special Events business license or must submit an application to the Mobile Food Vendors Committee through the Traffic Engineering Department requesting a new food zone to be created.

The City shall provide to the permittee evidence of its authorization for a temporary food zone. It shall be the responsibility of the permittee to secure any temporary zone that has been authorized by the Traffic Engineering Department. The City shall not be held liable for the failure of the permittee to secure the temporary zone once approval is provided.

## **11 Written Application for Transfer of Permit Required**

- 1) Ownership of a permit issued under this ordinance shall not be reassigned by the permittee. The City Council is hereby authorized to transfer any valid permit from one entity to another. No transfer shall be made to an entity that would not have been eligible to receive the permit originally.
- 2) Any permittee desiring a transfer of a permit shall file an application with the Mobile Food Vendors Committee prior to the date ownership of the business is transferred or conferred to another legal entity.
- 3) No permit shall be transferred except with the consent of the City Council.
- 4) Nothing in this section shall prohibit the City from requiring a new application and permit approval.

## **12 Enforcement**

Ala. Code, 1975, Sec. 22-2-14 states that violations of health department rules and regulations are misdemeanor offenses. The General City Code, 1980, contains the following, which incorporates the state agency rules and regulations regarding food permits:

**“Sec. 6-2-5. Sanitary permit for handlers, producers, etc., of food; required.**

It shall be unlawful for any person to prepare, sell, offer or expose for sale, exchange, give away, deliver, dispose of or have in possession, custody or control, in the city, with intent to sell, offer or expose for sale, exchange, gift or delivery, any meat, prepared food, vegetable, beverage, liquid or other article used or intended for use as food for human beings, without a valid, unsuspended and unrevoked sanitary permit issued by the health officer, pursuant to regulations of the state committee of public health.”

In Ordinance No. 08-106, adopted May 20, 2008, the City adopted Appendix B of ARJA Rule 20, the Supreme Court’s Extended Schedule of Fines. Paragraph C of Rule 20 provides that:

“Any municipality having a municipal court may, by ordinance, adopt, in whole or in part, the Supreme Court’s extended schedule of fines appearing as Appendix B to this rule, and the schedule adopted shall apply in municipal-ordinance violation cases or cases charging the violation of a rule or regulation promulgated by a state agency or department and incorporated in municipal ordinances, not included in the schedule set out in section (A), wherein a defendant elects to plead guilty before a magistrate to a misdemeanor or violation listed in the schedule.”

Appendix B includes the following offense and fine under “Alabama Department of Public Health”:

22-20- 6/22 -2-14	Operation of food establishment without permit	\$500
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- 1) Any person vending without a duly issued permit and personal identification or found in violation of any of the regulatory provisions of this chapter shall be guilty of an infraction. Any person found guilty of an infraction, of which person has been given notice, shall not be punished by imprisonment but shall be fined.
- 2) *Enforcement.* The provisions of this section or any rules and regulations shall be enforced jointly by the Birmingham Police Department and the Traffic Engineering Department.
- 3) *Fine for Violation.* Any mobile food vehicle and/or pushcart in violation of any provision of this ordinance shall be subject to a fine of up to five hundred (\$500.00) dollars per violation. Each violation shall constitute a separate and distinct offense. Each day shall be considered a separate offense.
- 4) Any permit holder found in violation of any section of this ordinance may be issued a ticket for violation and the mobile food vehicle and/or pushcart may be impounded.

### **13 Denial, Revocation, Suspension of Permit**

An application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

- 1) *Revocation, Suspension, Modification.* A permit may be revoked, suspended, modified, or not renewed by the City Council for failure to comply with the provisions of this ordinance, or of any provision of this Code or other ordinance of the city enacted in the exercise of its police power. A permit may also be revoked whenever in the judgment of the City Council when it deems it necessary for the protection of the public good or for the prevention of disorders: provided, however, that the City Council shall first give reasonable notice to the permittee of a public hearing on the matter of such revocation. The permittee shall have the right to counsel as well as the right to present and cross examine witnesses at such hearing.
- 2) The permittee or any of its principals fails to satisfy any qualification or requirement imposed by this ordinance, or other local, state or federal laws or regulations that pertain to the particular license; or
- 3) The permittee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

- 4) The permittee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or
- 5) The permittee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or
- 6) The permittee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years; or
- 7) The motor food vehicle and/or pushcart on which the business is conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed after a notice and opportunity to cure; or
- 8) The permittee or any of its agents is in default on any payments owed to the city; or
- 9) The application contains material omissions or false, fraudulent, or deceptive statements; or
- 10) The motor food vehicle and/or pushcart is operated in such a manner as constituting a public nuisance per the Birmingham City Code or state statutes; or
- 11) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Ordinance pertaining to public health or safety.
- 12) The permittee or his agents or employees interfere with an inspection of the mobile food vehicle and/or pushcart by a Health Department inspector; or
- 13) The permittee or his agents have repeated violated applicable portions of this Article; or
- 14) There are repeated violations of federal or state food laws or laws regulating mobile food vehicles and/or pushcarts; or
- 15) The County Health Department denies, revokes or suspends the license of the mobile food vehicle and/or pushcart; or
- 16) There is a violation of any section of this Ordinance.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Ordinance or local, state and federal laws and regulations. A County Health Department may impose additional requirements to protect against health hazards related to the operation of a mobile food vehicle and/or pushcart.

## **14 Ice Cream Trucks**

- 1) All ice cream trucks are required to purchase a business license.
- 2) An ice cream truck shall not be required to apply for a permit; unless and except it wishes to operate within a food zone. Ice cream trucks are subject to the regulations of this ordinance only when operating in a food zone. Ice cream trucks that do not operate in a food zone are exempt from the regulation of this ordinance with the exception of Section 14.3.
- 3) Except as herein provided, it shall be unlawful for any ice cream truck, while engaged in the business of selling, to stop or stand or permit or suffer any vehicle to do so upon any street of the city except during the actual sale of its ice cream product. In no event shall an ice cream truck be or remain upon any street or sidewalk longer than is reasonable to conduct a sale; such time not to exceed 30 minutes.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall become effective upon passage, approval and publication or as otherwise provided by law.

**SECTION 3. SEVERABILITY.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

**SECTION 4. PRESERVATION.** Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following: Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

**Driver Motor Vehicle Record (MVR) Policy**

Employees operating a vehicle create risk to any organization. The intent of this policy statement is to reduce the City’s risk and to ensure only safe drivers are allowed to operate vehicles (city-owned or personal) on City business. Evaluating an employee’s or prospective employee’s MVR is an essential component of the driver screening process. The following constitutes the City’s MVR policy.

- All drivers must have a valid Alabama driver’s license of the proper class and appropriate endorsements where necessary.
- Drivers must a) not drive and b) immediately notify their supervisor if their license is suspended or revoked.
- Drivers must report all accidents and moving violations to their supervisor.

Prospective employees shall report all accidents and moving violations over the most recent 2-year period during the course of the interview process. Existing employees transferred into positions that require the operation of a City vehicle shall be required to complete a similar report prior to their transition. All drivers will be required to complete an accident and moving violation report annually.

MVRs will be obtained on applicants for driving positions prior to their employment with the City and for existing employees prior to transitioning into a driving position. MVRs will generally be obtained annually thereafter. The City will determine the acceptability of a driver’s MVR based on the criteria below. Prospective employees must have a MVR that is “clear” or “acceptable” in order to be hired for positions requiring the operation of a motor vehicle. Current [driver] employees must have a MVR that is “clear”, “acceptable”, or “borderline”. The City may restrict the driving privileges of individuals with “borderline” driving records or require drivers to receive additional training or monitoring. Drivers with “poor” records will have their driving privileges suspended with respect to City business which could, in turn, affect their employment depending on the nature of their job responsibilities.

Number of Minor Violations (past 2 years)	Preventable Accidents (past 2 years)			
	0	1	2	3+
0	Clear	Acceptable	Borderline	Poor
1	Acceptable	Acceptable	Borderline	Poor
2	Acceptable	Borderline	Poor	Poor
3+	Poor	Poor	Poor	Poor
<b>ANY MAJOR VIOLATION WITHIN THE PAST 2 YEARS RESULTS IN A POOR DRIVING RECORD.</b>				

All violations and accidents shall be reported and evaluated, not just those occurring on the job.

For purposes of categorizing the violations reported in an employee's MVR, the following examples are non-exhaustive lists of minor and major violations:

#### **Minor Violations**

- Speeding < 20 MPH over the speed limit
- Failure to obey sign
- Failure to yield
- Illegal turn
- Following too closely or tailgating
- Improper lane-changing
- Any moving violation that is not a major violation

#### **Major Violations**

- Leaving the scene of an accident
- Driving under the influence of alcohol or drugs
- Racing or excessive speeding (> 20 MPH over the speed limit)
- Reckless driving
- Felony, homicide or manslaughter involving the use of a motor vehicle
- License suspension or revocation resulting from accidents or moving violations
- Attempting to elude a police officer

Employees are subject to this policy (including discipline, reassignment and/or termination) upon receiving a citation for or being arrested for a violation. Any action taken by the City pursuant to a citation and/or arrest shall be temporary, pending final adjudication of the violation. The City shall make a final decision once the alleged violation is finally adjudicated.

The City shall be the sole and final decision maker as to whether a violation is major or minor.

**Accidents** are generally considered preventable. Accidents that are considered non-preventable include, but are not limited to:

- being rear-ended
- being struck while parked
- an accident in which the driver did everything possible to avoid being hit
- an accident where the traffic accident report reflects that the driver was "not at fault".

The City shall be the sole and final decision maker as to whether an accident was preventable.

#### **Evaluation of a MVR and Possible Corrective Measures**

Prospective employees who have "borderline" or "poor" MVRs shall not be hired for positions that require the operation of a City vehicle and shall not otherwise be allowed to drive a vehicle on City business. Current employees may have their driving responsibilities suspended until their driving record becomes "acceptable." Suspension of driving duties for employees whose

job responsibilities require regular or frequent driving may result in reassignment to another position or termination.

Employees with “borderline” MVRs who may be in danger of losing their driving privileges should their driving behavior not improve may be subject to any of the following corrective measures:

- Driver counseling, highlighting the impact of another violation or accident
- Obtain MVR on a quarterly basis
- Periodic ride-alongs by supervisory personnel to observe driving behavior
- Defensive driver training
- Loss of privileges between work and home for those with an assigned City vehicle

The City reserves the right to revise this policy as deemed appropriate.

**Motor Vehicle Driver's Annual Certification of Violations and Accidents**

I certify that the following is a true and complete list of accidents and traffic violations (other than parking violations) for which I have pled guilty to or have been convicted, forfeited bond or collateral during the past 12 months (24 months for a prospective new hire being considered for a position with driving responsibilities).

Date	Offense/Accident	Location	Type of Vehicle

**Authorization for the City of Mountain Brook to obtain a Motor Vehicle Report**

Pursuant to the City's Driver Motor Vehicle Record (MVR) Policy, I authorize the City of Mountain Brook (or its designated representative) to obtain information regarding my driving record in any state at any time while I am employed by the City.

\_\_\_\_\_  
Employee/Driver Signature

\_\_\_\_\_  
Reviewing Supervisor or Official

\_\_\_\_\_  
Employee/Driver Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Driver License Number, State, and Expiration Date

\_\_\_\_\_  
Date



# CITY OF MOUNTAIN BROOK FIRE DEPARTMENT

102 Tibbett Street, Mountain Brook, Alabama – 35213 Phone: (205) 802-3838, Fax: (205) 879-5919



## INTEROFFICE MEMORANDUM

TO: Sam Gaston, City Manager  
FROM: Robert Ezekiel, Fire Chief *RWE*  
DATE: May 7, 2014  
SUBJECT: Needed Software Purchase for Mobile Data Terminals (MDT'S)

Our emergency responding units have mobile data terminals (MDT's) installed which give us the capability to access mapping information, pre-incident plan information, gives routing information to navigate our city, and gives us the opportunity to stay connected to our Computer-Aided-Dispatch (CAD) system. The CAD connectivity allows each responding unit to report their responding status directly to the CAD system through the MDT without having to go through dispatchers via the radio system. The unit status reports for responding units is the data that is used to compile our statistical response time information which helps justify the fire rating for our City (unit enroute to scene, unit on-scene, unit enroute to hospital, etc). The connectivity for the MDT's is through Verizon "air cards" within each device.

The connectivity rate for our MDT's has been very poor. As you might imagine, trying to reboot a computer and log-on while making an emergency response is not an ideal situation. We have been working with our IT department for several months to track down the problem and configure a solution. We have found a software solution called Net Motion that does satisfy our connectivity issues. The company has allowed us to use the software for a 30-day test period to see if it solves our problems. It has made a remarkable difference (please note the attached email from Steve O'Dell in our IT Department).

It is our request that we purchase the software at a cost of \$9,843.75 (see attached quote). I have contacted the Alabama Board of Examiners of Public Accounts to confirm that the City's 911 funds can be used for the purchase of the software and they have confirmed that it is a viable use of the funds. Per Steve Boone, there are funds available in the 911 account to cover the cost of the software.

We respectfully ask that this request be put before the City Council for consideration and hopefully affirmation.

If you should have further questions, please feel free to inquire.



## NetMotion

1 message

**Steve O'Dell** <odells@mtnbrook.org>

Wed, May 7, 2014 at 8:00 AM

To: Robert Ezekiel <ezekielr@mtnbrook.org>, Steve Boone <boones@mtnbrook.org>, Sam Gaston <gastons@mtnbrook.org>

I am writing this email to let you know of the progress we are making using the NetMotion 30 day trial software. We are about halfway through the 30 trail and it has made a great deal of difference in our MDT (mobile data terminal) up time. Last night we did not have one single issue with an MDT.

It is imperative for the Fire dept. to have the MDT's up 100% of the time (or as close to that as possible). In the past we have not had that, with most of the issues being dropped connections either by the VPN connection to our firewall or because the Verizon Access Manager software we used to run the on board air cards quit working. We have made some changes to the MDT's as to the manager, and loading the NetMotion client on and now our up time is much higher...close to 100%.

We still need to get more info in the next 15 days or so, but from an IT perspective, I recommend that we purchase the NetMotion software.

**Steve O'Dell**

City of Mountain Brook IT Dept

Office: 205-802-3820

Cell: 205-913-3176

Fax: 205-874-0610

Email: [odells@mtnbrook.org](mailto:odells@mtnbrook.org)



5/7/2014 10:48 AM

Quote #: Q-48330-1  
 Territory: Southeast  
 Account ID: 00100000004smoU

**Ship To:**  
 Steve ODell  
 Mountain Brook, AL PD  
 56 Church St  
 Mountain Brook, AL  
 (205) 802-3820  
 odells@mtnbrook.org

Dear Steve,

Thank you for your interest in NetMotion Wireless products. Below, please find the detailed quote you requested. This quote is valid until 5/30/2014.

25 with all modules

Product Description	SKU	Quantity	Unit List Price	Mountain Brook, AL PD Price
NetMotion Mobility for Windows with Policy, NAC & Analytics Modules	10NMWPNA	25.00	\$315.00	\$7,875.00
License Subtotal				\$7,875.00
1 Year Mobility Premium Software Maintenance * 24x7 technical support * Major version upgrades * Tech notes and web based support * Cumulative quantity discounts on additional device licenses * Patch and point releases at no additional charge * Guaranteed response times	10NMP25	1.00	25%	\$1,968.75
Maintenance Subtotal				\$1,968.75
Total				\$9,843.75

I will follow up with you to answer any questions. Until then, please do not hesitate to contact me.

Scott Haley  
 Account Executive - Southeast  
 scott.haley@netmotionwireless.com  
 Phone: (206) 691-5641  
 Fax: (206) 691-5501

*Above prices in US dollars. State and local sales tax will apply in certain states. Exempt customers must provide an official sales tax exemption certificate in compliance with state and local laws to avoid sales tax charges. Please note that pricing on this quote is subject to change if you purchase additional licenses, add new software features, or if we change our software prices. Maintenance renewals are based on current software list prices at the time of renewal and must include the total quantity of licenses, servers, and features that you own at the time of renewal. This pricing quote is confidential and may not be redistributed.*

# Memorandum

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**To:** Mayor and members of the City Council  
**From:** Steven Boone  
**Date:** 5/8/2014  
**Re:** Stephens annexation petition (5000 Spring Rock Road)

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The City has received an annexation petition from Charles and Floy Stephens of 5000 Spring Rock Road. I have updated the property tax valuation criteria for the current year. The subject property is valued by the Tax Assessor at \$786,300. The property tax per [city-wide average] student exceeds the updated property tax per student.

This property lies within the police jurisdiction of multiple cities. Should the Council decide to annex the property, it must either 1) set a public hearing with a 90-day notice, or 2) determine the mid-point of the police jurisdictions and annex that portion of the property that lies within the Mountain Brook side of such area. The applicant has submitted a drawing prepared by Weygand Surveyors depicting the imaginary mid-point of the police jurisdictions. Based on the drawing, it appears that the City can annex the entire property at this time if desired.



WELDON SURVEYORS  
 104 OXMORE ROAD, HILSWOOD AL, 35204  
 PH: 541-2066 FAX: 541-207-2020

**Annexation Analysis**  
**5/9/2014**

	<b>Land</b>	<b>Impr</b>	<b>Total</b>
24 00 31 2 000 007.000	\$ 158,400	\$ 627,900	\$ 786,300
Stephens, Floy & Charles H 5000 Spring Rock Road			
Assessment factor			<u>10%</u>
Assessed value		\$ 78,630	
BOE millage rate			<u>0.0447</u>
	City-wide Avg		Actual
BOE ad valorem taxes	\$ 3,515	\$ 3,515	
School-age students residing at properties	<u>0.56</u>		<u>0</u>
		Use City-wide	
Ad valorem tax per school-age child	<u>\$ 6,276</u>	<u>Average</u>	
BOE ad valorem tax/student (Updated May 2014)	<u>\$ 5,669</u>	<u>\$ 5,669</u>	
Enrollment 2013-2014		4,464	
Households		<u>7,998</u>	
Average students per household		<u>0.56</u>	

# Property Detail Report

For Property Located At :  
**5000 SPRING ROCK RD, MOUNTAIN BRK, AL 35223-1628**



For Sale

## Owner Information

Owner Name: **STEPHENS FLOY C & CHARLES H**  
 Mailing Address: **5000 SPRING ROCK RD, MOUNTAIN BRK AL 35223-1628 C020**  
 Vesting Codes: **//**

## Location Information

Legal Description: **COM SW COR OF NW 1/4 SEC 31 TP 17 R 1W TH N 660 FT TH E 590 FT TO POB TH CONT E 80.9 FT TH N 269 FT TH SE 113 FT TH S 450**  
 County: **JEFFERSON, AL** APN: **24-31-2-000-007.000-RR-00**  
 Census Tract / Block: **108.05 / 4** Alternate APN:  
 Township-Range-Sect: **24-00-31** Subdivision:  
 Legal Book/Page: **0-0** Map Reference: **24-31-2 / 24-31-2**  
 Legal Lot: Tract #: **24-31-2 / 24-31-2**  
 Legal Block: School District:  
 Market Area: School District Name:  
 Neighbor Code: Munic/Township: **OUTSIDE MUNIC**

## Owner Transfer Information

Recording/Sale Date: **/** Deed Type:  
 Sale Price: 1st Mtg Document #:  
 Document #:

## Last Market Sale Information

Recording/Sale Date: **/ 01/26/1977** 1st Mtg Amount/Type: **/**  
 Sale Price: 1st Mtg Int. Rate/Type: **/**  
 Sale Type: 1st Mtg Document #: **/**  
 Document #: **1412-592** 2nd Mtg Amount/Type: **/**  
 Deed Type: **DEED (REG)** 2nd Mtg Int. Rate/Type: **/**  
 Transfer Document #: Price Per SqFt:  
 New Construction: Multi/Split Sale:  
 Title Company:  
 Lender:  
 Seller Name:

## Prior Sale Information

Prior Rec/Sale Date: **/** Prior Lender:  
 Prior Sale Price: Prior 1st Mtg Amt/Type: **/**  
 Prior Doc Number: Prior 1st Mtg Rate/Type: **/**  
 Prior Deed Type:

## Property Characteristics

Gross Area: <b>5,788</b>	Parking Type: <b>ATTACHED GARAGE</b>	Construction:
Living Area: <b>5,138</b>	Garage Area: <b>650</b>	Heat Type: <b>FORCED AIR</b>
Tot Adj Area:	Garage Capacity:	Exterior wall: <b>WOOD/BRICK</b>
Above Grade: <b>5,138</b>	Parking Spaces:	Porch Type: <b>OPEN PORCH</b>
Total Rooms: <b>12</b>	Basement Area:	Patio Type:
Bedrooms: <b>5</b>	Finish Bsmnt Area:	Pool: <b>POOL</b>
Bath(F/H): <b>5 / 1</b>	Basement Type:	Air Cond: <b>CENTRAL</b>
Year Built / Eff: <b>1978 /</b>	Roof Type: <b>GABLE</b>	Style:
Fireplace: <b>Y / 3</b>	Foundation: <b>CONT. FOOTING</b>	Quality:
# of Stories: <b>2.00</b>	Roof Material: <b>ASPHALT SHINGLE</b>	Condition:
Other Improvements:		

## Site Information

Zoning: <b>A1</b>	Acres: <b>1.50</b>	County Use: <b>SINGLE FAMILY (111)</b>
Lot Area: <b>65,340</b>	Lot Width/Depth: <b>x</b>	State Use:
Land Use: <b>SFR</b>	Res/Comm Units: <b>/</b>	Water Type:
Site Influence:		Sewer Type:

## Tax Information

Total Value: <b>\$786,300</b>	Assessed Year: <b>2012</b>	Property Tax: <b>\$3,210.27</b>
Land Value: <b>\$158,400</b>	Improved %: <b>80%</b>	Tax Area: <b>0010000</b>
Improvement Value: <b>\$627,900</b>	Tax Year: <b>2012</b>	Tax Exemption: <b>MISC/HOMESTEAD</b>
Total Taxable Value: <b>\$78,630</b>		

**ORDINANCE NO. 1905**

**AN ORDINANCE TO ALTER AND REARRANGE  
THE BOUNDARY LINES OF THE CITY OF MOUNTAIN BROOK, ALABAMA,  
SO AS TO INCLUDE WITHIN THE CORPORATE LIMITS CERTAIN OTHER  
TERRITORY CONTIGUOUS TO SAID CITY**

**WHEREAS**, the City Council of the City of Mountain Brook, Alabama, does hereby determine that the matters set forth in that certain petition of **Charles H. and Floy C. Stephens** (husband and wife), wherein the owner(s) of the property described therein and hereinafter described in this ordinance requested that said property be annexed to the City of Mountain Brook are true, and that it is in the public interest that said property be annexed to the City of Mountain Brook; and

**WHEREAS**, petitioner has agreed to reimburse the City of Mountain Brook for any payments made by the City pursuant to Act No. 604 as amended, of the 1976 Alabama Legislature;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mountain Brook, Alabama, as follows:

Section 1. Alteration of Corporate Limits. That under the provisions of the Code of Alabama (1975) § 11-42-21, the corporate limits of the City of Mountain Brook, Alabama, be, and the same are altered and rearranged so as to include, in addition to the territory already within the corporate limits of said City, the territory described in Exhibit "A" attached hereto and made a part hereof, which territory is contiguous to said City of Mountain Brook, Alabama, and not within the corporate limits of any other municipality.

Section 2. Zoning. The zoning of the property described in Exhibit "A" attached hereto will be temporarily assigned to the zoning district set forth in City of Mountain Brook Ordinance No. 1347.

Section 3. Fire Dues. Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this ordinance, or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner of the territory being annexed paid to the fire district the preceding year.

Section 4. Severability. If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding. If any part, section, or subdivision of this ordinance or documents, map, or petition to which it may refer shall be held unconstitutional or invalid as to any portion of the territory annexed herein, such holding shall not be construed to impair or invalidate the ordinance as to the territory not included in or affected by such holding.

Section 5. Publication. The City Clerk shall file a description of the property hereby annexed and described in Exhibit "A" attached hereto, in the office of the Judge of Probate of the county in which the property is located, and also cause a copy of this ordinance to be published by posting or by such other means as may be authorized by law.

Section 6. Effective Date. This ordinance shall be effective upon its publication or as otherwise may be provided by law.

Section 7. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

**ADOPTED:** This 12th day of May, 2014.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of May, 2014.

\_\_\_\_\_  
Mayor

#### CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on May 12, 2014, as same appears in the minutes of record of said meeting, and published by posting copies thereof on May 13, 2014, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road  
The Invitation Place, 3150 Overton Road

\_\_\_\_\_  
City Clerk

Stewart Title Guaranty Company

COMMITMENT

SCHEDULE A

State of Alabama - Jefferson County  
I certify this instrument filed on:

2004 JUN 14 P.M. 12:57

Recorded and \$ .50 Mtg. Tax  
and \$ 7.00 Deed Tax and Fee Amt.  
Total \$ 7.50

MICHAEL F. BOLIN, Judge of Probate



200408/4139

File Number 228748

1. Effective Date: December 19, 2003 at 7:30 AM
2. Policy or Policies to be issued:
  - (a)  ALTA Owner's Policy - 10/17/92  
Proposed Insured: NONE Amount - 0 -
  - (b)  ALTA Loan Policy - 10/17/92  
Proposed Insured: Atlas Mortgage its successors and assigns,  
as their interest may appear. Amount \$960,000.00
3. Title to the Fee Simple estate or interest in the land described or referred to in this Commitment is at the effective date hereof vested in Floy C. Stephens.
4. The land referred to in the Commitment is described as follows:

Commence at the SW corner of the SW ¼ of NW ¼ of Section 31, Township 17 South, Range 1 West, Jefferson County, Alabama; thence North along the West line of said ¼ - ¼ section a distance of 663.89 feet more or less (measures 662.15 feet) to the Northwest corner of the SW ¼ of SW ¼ of NW ¼ of said section; thence an angle to the right of 89° 59' 37" and run East along the North line of said ¼ - ¼ - ¼ section a distance of 675.92 feet to the Northeast corner of said ¼ - ¼ - ¼ section, said point being the point of beginning; thence an angle to the left of 89° 44' 18" and run North along the West line of NE ¼ of SW ¼ of NW ¼ for 269.45 feet to a point on the most northerly right of way line of Alabama Power Company right of way; thence an angle to the right of 121° 14' 41" and run Southeasterly along said right of way line for 113.05 feet; thence an angle to the right of 58° 45' 19" and run South fort 450.00 feet; thence an angle to the right of 90° 00' and run West for 177.58 feet; thence an angle to the right of 90° 00' and run North for 238.82 feet to a point on said North line of said SW ¼ of SW ¼ of NW ¼; thence an angle to the right of 89° 44' 18" and run East along said North line of said SW ¼ of SW ¼ of NW ¼ for 80.93 feet to the point of beginning.

TitleSouth

Commitment No. 228748

This commitment is invalid unless the Insuring Provisions and Schedules A and B are attached.

Schedule A consists of 1 page(s)

cm  
P. J. of  
different Cities

TO THE CITY CLERK OF THE CITY OF MOUNTAIN BROOK, A MUNICIPAL CORPORATION IN THE STATE OF ALABAMA:

The undersigned (is the owner) (are the owners) of the property described in Exhibit A attached hereto ("Property"), which is contiguous to the corporate limits of the City of Mountain Brook, a municipal corporation in the State of Alabama ("City"). No part of the Property is within the corporate limits of any other municipality. (I) (We) hereby file this petition with the City Clerk of the City and request that the Property be annexed to the City, pursuant to Act No. 32, S. 26, 1964 First Special Session (Acts 1964 First Special Session, p. 54) of the State of Alabama. A map of the Property, which shows its relationship to the corporate limits of the City, is attached hereto as Exhibit B.

In witness whereof, the undersigned (has) (have) signed this petition on the 1 day of May, ~~2013~~ 2014.

Jaydyna Golden  
Witness

Charles H. Stephens  
(signature)

Charles H. Stephens  
(print or type name on this line)

Jaydyna Golden  
Witness

Floy C. Stephens  
(signature)

Floy C. Stephens  
(print or type name on this line)

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned Charles H. Stephens hereby certify that I am the owner of (one of the parcels of) (the) land described in the foregoing petition, and I further certify that said petition contains the signatures of all the owners of the property described in said petition.

Charles H. Stephens

Charles H. Stephens  
(print or type name on this line)

Sworn to and subscribed before me on this 1<sup>st</sup> day of May, ~~199~~ 2014

Tiffany Linder Selby  
Notary Public

AFFIX SEAL

My commission expires \_\_\_\_\_.

TIFFANY LINDER SELBY  
Notary Public  
State of Alabama  
MY COMMISSION EXPIRES: FEB 27, 2016

Document Prepared By:  
Todd H. Barksdale, P. C.  
1707 29th Court South  
Birmingham, Alabama 35209

Send Tax Notice To:  
Floy Stephens  
5000 Spring Rock  
Birmingham, AL 35223

**GENERAL WARRANTY DEED**

STATE OF ALABAMA        }  
COUNTY OF Jefferson    } KNOW ALL MEN BY THESE PRESENTS

*\$ 500.00  
value*

THAT IN CONSIDERATION OF Five Hundred and NO/00 Dollars (\$500.00) to the undersigned grantor (whether one or more), in hand paid by the grantee herein, the receipt of where is acknowledged, I or we, Charles H. Stephens and Floy Stephens, husband and wife

(herein referred to as Grantor(s)), grant, sell, bargain and convey unto  
Floy Stephens

(herein referred to as Grantee(s)), situated in Jefferson County, Alabama to wit:  
See attached Exhibit "A"

Subject to easements, set back lines, restrictions, covenants, mineral and mining rights and current taxes due.

~~NO~~ NONE of the above consideration above paid from the proceeds of purchase money mortgage closed herewith.

TO HAVE AND HOLD the afore granted premises in fee simple to the said GRANTEE(S) and his/her/theirs heirs, successors and assigns forever.

And I or we do for myself or ourselves and for my or our heirs, executors and administrators covenant with said Grantees, their heirs and assigns, that I am, or we are, lawfully seized in fee simple of said premises; that they are free from all encumbrances, unless otherwise noted above; that I, or we, have good right to sell and convey the same as aforesaid; that I, or we, and my, or our heirs, executors and administrators shall warrant and defend that same to the said GRANTEE(S), their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, the said GRANTOR(S) have hereunto set their hand and seal, this 27th day of May, 2004.

GRANTOR(S)

*Charles H. Stephens* (SEAL)  
Charles H. Stephens  
*Floy Stephens* (SEAL)  
Floy Stephens

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned notary public in for and said State, hereby verify Charles H. Stephens and Floy Stephens that whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, he/she/they acknowledge before me on this day that, being informed of the contents of the document, he/she/they executed the same voluntarily on the same bears date.

Given under my hand and seal this 27th day of May, 2004.

*[Signature]*  
\_\_\_\_\_  
Notary Public  
My commission expires: 02/20/05

State of Alabama - Jefferson County  
I certify this instrument filed on:

2004 JUN 14 P.M. 12:57  
Recorded and \$ Mitg. Tax

and \$ .50 Deed Tax and Fee Amt.  
\$ 7.00 Total \$ 7.50  
MICHAEL F. BOLIN, Judge of Probate



Stewart Title Guaranty Company

COMMITMENT

SCHEDULE A

File Number 228748

1. Effective Date: December 19, 2003 at 7:30 AM
2. Policy or Policies to be issued:
  - (a)  ALTA Owner's Policy - 10/17/92  
Proposed Insured: NONE Amount - 0 -
  - (b)  ALTA Loan Policy - 10/17/92  
Proposed Insured: Atlas Mortgage its successors and assigns,  
as their interest may appear. Amount \$960,000.00
3. Title to the Fee Simple estate or interest in the land described or referred to in this Commitment is at the effective date hereof vested in Floy C. Stephens.
4. The land referred to in the Commitment is described as follows:

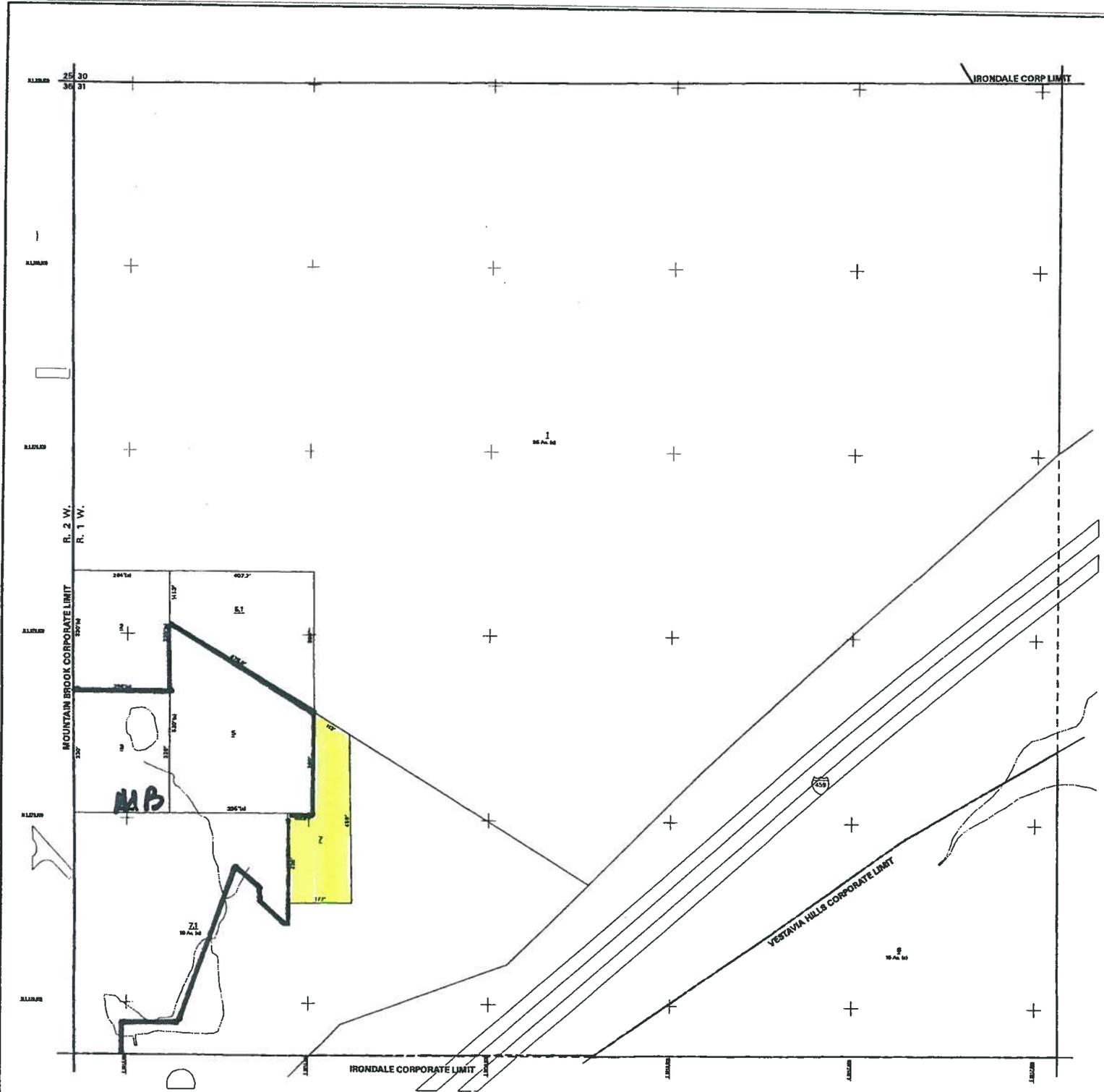
Commence at the SW corner of the SW ¼ of NW ¼ of Section 31, Township 17 South, Range 1 West, Jefferson County, Alabama; thence North along the West line of said ¼ - ¼ section a distance of 663.89 feet more or less (measures 662.15 feet) to the Northwest corner of the SW ¼ of SW ¼ of NW ¼ of said section; thence an angle to the right of 89° 59' 37" and run East along the North line of said ¼ - ¼ - ¼ section a distance of 675.92 feet to the Northeast corner of said ¼ - ¼ - ¼ section, said point being the point of beginning; thence an angle to the left of 89° 44' 18" and run North along the West line of NE ¼ of SW ¼ of NW ¼ for 269.45 feet to a point on the most northerly right of way line of Alabama Power Company right of way; thence an angle to the right of 121° 14' 41" and run Southeasterly along said right of way line for 113.05 feet; thence an angle to the right of 58° 45' 19" and run South fort 450.00 feet; thence an angle to the right of 90° 00' and run West for 177.58 feet; thence an angle to the right of 90° 00' and run North for 238.82 feet to a point on said North line of said SW ¼ of SW ¼ of NW ¼; thence an angle to the right of 89° 44' 18" and run East along said North line of said SW ¼ of SW ¼ of NW ¼ for 80.93 feet to the point of beginning.

TitleSouth

Commitment No. 228748

This commitment is invalid unless the Insuring Provisions and Schedules A and B are attached.

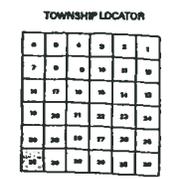
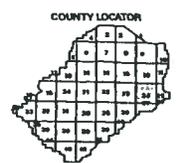
Schedule A consists of 1 page(s)



OWNERSHIP MAP  
 COUNTY OF  
**JEFFERSON**  
 PREPARED UNDER THE DIRECTION  
 OF THE  
**STATE OF ALABAMA**  
**DEPARTMENT OF REVENUE**  
**PROPERTY TAX DIVISION**

PREPARED BY  
**JEFFERSON COUNTY TAX ASSESSOR OFFICE**  
 MAPPING DIVISION  
 CHARLES CRIM, TAX ASSESSOR  
 KAREN S. TUCKER, ASSISTANT TAX ASSESSOR  
 RESEPTA DIVISION

Jefferson County Commission  
 Cary White - President  
 Mary M. Bucholtz  
 Bettye Fine Collins  
 Jeff Conway  
 Chris McNear



- LEGEND**
- STATE LINE --- AREA (FROM DEED) 16.3 AL
  - COUNTY LINE --- AREA (CALCULATED) 16.3 AL 04
  - CITY LIMIT LINE --- (DIMENSION FROM DEED) 16.3
  - TOWNSHIP LINE --- (DIMENSION (ROADS)) 0714
  - SECTION LINE --- U.S. HIGHWAY
  - PROPERTY LINE --- STATE HIGHWAY
  - ROAD R/W --- COUNTY HIGHWAY
  - ROAD TRAVEL --- COUNTY HIGHWAY
  - POSS --- COUNTY HIGHWAY
  - PRIVATE ROAD OR TRAIL --- COUNTY HIGHWAY
  - RAIL ROAD R/W --- COUNTY HIGHWAY
  - WATER --- RAILROAD LOT NUMBER 20
  - LAND HOOD --- MAP BLOCK NUMBER (WHERE APPLICABLE) 2
  - ORIGINAL SUB. LOT LINE --- MAP BLOCK LIMIT (WHERE APPLICABLE)
  - MADE'S TRANSMISSION --- MAP BLOCK TICK (WHERE APPLICABLE) 003
  - CONFLICT --- SUBDIVISION BLOCK NUMBER (WHERE APPLICABLE) 002 | 003
  - CHURCH & SCHOOLS, CEMETERY & PORTS, BY NAME --- SECTION CORNERS
  - GOV'T LAND, ETC. --- STATE PLANE COORDINATES

SECTION NW 1/4 31  
 TWP. 17 SOUTH, RANGE 1 WEST

Q1-24-31-2  
 MAP NUMBER

MAPS TO BE USED FOR TAX PURPOSES ONLY - NOT TO BE USED FOR CONVEYANCE

EXHIBIT B

QUESTIONNAIRE WITH RESPECT TO ANNEXATION OF PROPERTY

1. Print name(s) of property owners.  
Charles H Stephens  
Floy C Stephens
2. Insert in the attached Schedule 1 the legal description of the property owned by the undersigned for which an annexation petition has been filed ("Property").
3. Provide the following information about the Property:
  - a. Address 5000 Spring Rock Road Mountain Brack, AL 35223
  - b. Size of Property:  
1.63 acres, or  
 \_\_\_\_\_ square feet
  - c. Number of residents: 2
  - d. Number of white residents: 2
  - e. Number of non-white residents: 0
  - f. Number of residents of voting age (18 years of age and older): 2
  - g. Number of registered voters: 2
  - h. Number of registered white voters: 2
  - i. Number of registered non-white voters: 0
  - j. Number of residents whose primary language is not English: 0
4. Provide the following information with respect to each person residing on the Property who is under twenty-two years of age. If more than one such person resides on the Property, use Schedule 2, and an additional sheet, if necessary, to provide information for such additional person or persons.

- a. name: Charles H Stephens / Floy C Stephens
- b. age: 77 Charles Stephens / 74 Floy Stephens
- c. grade in school, during the current school term: N/A
- d. school presently attended: N/A
- e. race of person: White
5. What is the present use of the Property? Single family dwelling
6. What is the anticipated use of the Property? Single family dwelling
7. Is the property under contract with the City of Mountain Brook for fire protection services? Yes (X) .No ( )
8. Attach a copy of the deed by which the Property was conveyed to the present owner or owners.

In witness whereof, the undersigned (has) (have) executed this questionnaire on the 1 day of May, 2014.

Jay Lynn Golden  
Witness

Jay Lynn Golden  
Witness

Charles H. Stephens  
(signature of owner)

Floy C. Stephens  
(signature of owner)

Description of Property

Deed Attached

Schedule 1

Document Prepared By:  
Todd H. Barksdale, P. C.  
1707 29th Court South  
Birmingham, Alabama 35209

Send Tax Notice To:  
Floy Stephens  
5000 Spring Rock  
Birmingham, AL 35223

**GENERAL WARRANTY DEED**

STATE OF ALABAMA }  
COUNTY OF Jefferson } KNOW ALL MEN BY THESE PRESENTS

*\$ 500.00  
value*

THAT IN CONSIDERATION OF Five Hundred and NO/00 Dollars (\$500.00) to the undersigned grantor (whether one or more), in hand paid by the grantee herein, the receipt of where is acknowledged, I or we, **Charles H. Stephens and Floy Stephens, husband and wife**

(herein referred to as Grantor(s)), grant, sell, bargain and convey unto  
**Floy Stephens**

(herein referred to as Grantee(s)), situated in Jefferson County, Alabama to wit:  
**See attached Exhibit "A"**

Subject to easements, set back lines, restrictions, covenants, mineral and mining rights and current taxes due.

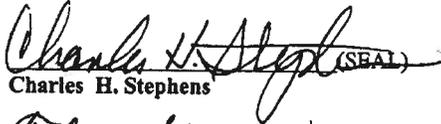
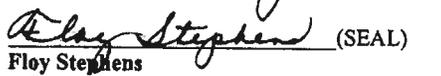
**\$NONE** of the above consideration above paid from the proceeds of purchase money mortgage closed herewith.

TO HAVE AND HOLD the afore granted premises in fee simple to the said GRANTEE(S) and his/her/theirs heirs, successors and assigns forever.

And I or we do for myself or ourselves and for my or our heirs, executors and administrators covenant with said Grantees, their heirs and assigns, that I am, or we are, lawfully seized in fee simple of said premises; that they are free from all encumbrances, unless otherwise noted above; that I, or we, have good right to sell and convey the same as aforesaid; that I, or we, and my, or our heirs, executors and administrators shall warrant and defend that same to the said GRANTEE(S), their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, the said GRANTOR(S) have hereunto set their hand and seal, this 27th day of May, 2004.

GRANTOR(S)

 (SEAL)  
Charles H. Stephens  
 (SEAL)  
Floy Stephens

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned notary public in for and said State, hereby verify **Charles H. Stephens and Floy Stephens** that whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, he/she/they acknowledge before me on this day that, being informed of the contents of the document, he/she/they executed the same voluntarily on the same bears date.

Given under my hand and seal this 27th day of May, 2004.

  
Notary Public  
My commission expires: 02/20/05

State of Alabama - Jefferson County  
I certify this instrument filed on:

2004 JUN 14 P.M. 12:57

Recorded and \$

Mtg. Tax

and \$

.50

Deed Tax and Fee Amt.

\$

7.00

Total \$

7.50

MICHAEL F. BOLIN, Judge of Probate



200408/4139

Stewart Title Guaranty Company

COMMITMENT

SCHEDULE A

File Number 228748

1. Effective Date: December 19, 2003 at 7:30 AM
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Proposed Insured: NONE  
Amount - 0 -
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Proposed Insured: Atlas Mortgage its successors and assigns,  
as their interest may appear.  
Amount \$960,000.00
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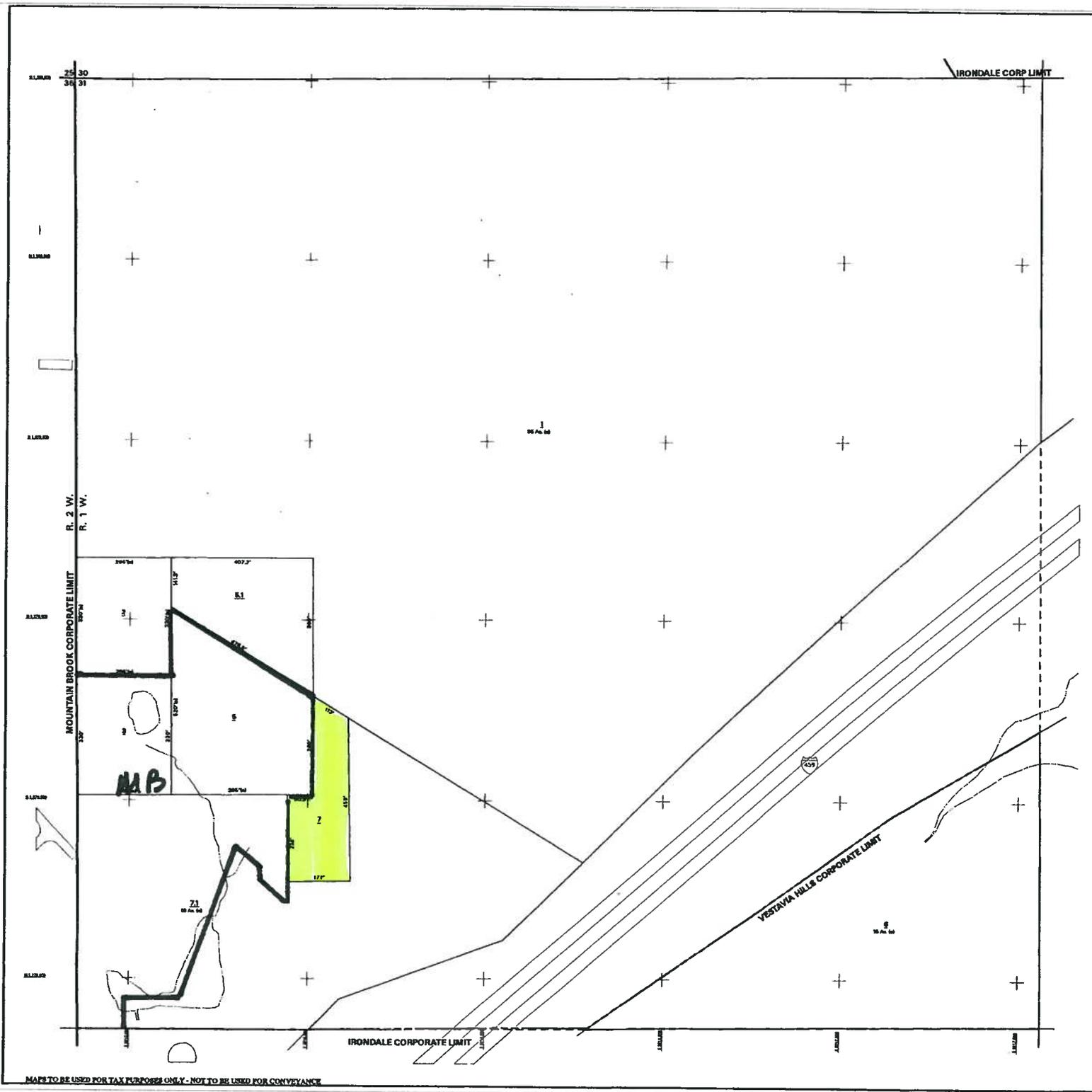
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TitleSouth

Commitment No. 228748

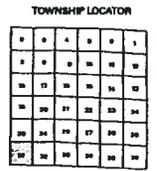
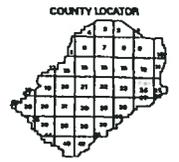
This commitment is invalid unless the Insuring Provisions and Schedules A and B are attached.

Schedule A consists of 1 page(s)



MAPS TO BE USED FOR TAX PURPOSES ONLY - NOT TO BE USED FOR CONVEYANCE

**OWNERSHIP MAP**  
 COUNTY OF  
**JEFFERSON**  
 PREPARED UNDER THE DIRECTION  
 OF THE  
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**DEPARTMENT OF REVENUE**  
**PROPERTY TAX DIVISION**  
 PREPARED BY  
**JEFFERSON COUNTY TAX ASSESSOR OFFICE**  
 MAPPING DIVISION  
**CHARLES CHINA, TAX ASSESSOR**  
**KAREN Y. TUCKER, ASSISTANT TAX ASSESSOR**  
 REVENUE DIVISION



SUB-SHEET INDEX

20-A	20-B	20-C
20-D	20-E	20-F

- LEGEND**
- STATE LINE
  - COUNTY LINE
  - CITY LIMIT LINE
  - TOWNSHIP LINE
  - SECTION LINE
  - PROPERTY LINE
  - ROAD R/W
  - ROAD TRAVEL PATH
  - PRIVATE ROAD OR TRAIL
  - RAIL ROAD R/W
  - WATER
  - LAND HOOD
  - ORIGINAL B.M.
  - LOT LINE
  - MAJOR TRANSECTIONS
  - CONFLICT
  - CHURCH, SCHOOLS, CEMETERY, AIRPORTS, BY NAME
  - 80' FT. LINES, ETC.
  - AREA (FROM BEER)
  - AREA (CALCULATED)
  - DIMENSION (FROM BEER)
  - DIMENSION (SCALES)
  - INTERSTATE HIGHWAY
  - U.S. HIGHWAY
  - STATE HIGHWAY
  - COUNTY HIGHWAY
  - COUNTY HIGHWAY BY NUMBERING
  - ROAD OR STREET BY NAME
  - PRINCE NUMBER
  - SUBDIVISION LOT NUMBER
  - MAP BLOCK NUMBER (WHERE APPLICABLE)
  - MAP BLOCK LIMIT (WHERE APPLICABLE)
  - MAP BLOCK TICK (WHERE APPLICABLE)
  - SUBDIVISION BLOCK NUMBER (WHERE APPLICABLE)
  - SECTION CORNERS
  - STATE PLANE COORDINATES
  - 16.5 AL.
  - 18.5 AL. 88
  - 8776
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  - 099
  - 100

SECTION NW 1/4 31  
 TWP. 17 SOUTH, RANGE 1 WEST

01-24-31-2  
 MAP NUMBER

**Annexation Criteria (No. 2) Update**  
**City of Mountain Brook, Alabama**

	<u>5/1/2014</u>	
Ad Valorem Tax Revenue (est. 44.7 Mills)	\$25,414,712	2013-2014 School Year
Enrollment	4,483	2013-2014 School Year
Ad Valorem Tax : Student	<u>\$5,669.13</u>	
Students	4,483	2013-2014 School Year
Households	<u>7,998</u>	
Students : Household	<u>0.56</u>	
Or 1 student for every 1.78 households		
Ad Valorem Tax : Student	\$5,669.13	
Students : Household	<u>0.56</u>	
School Tax Required to Meet Criteria	\$3,177.63	
BOE Millage Rate	<u>44.7</u>	
Assessed Property Value	\$71,088	
10% Assessment Factor	<u>10.00%</u>	
Required FMV of Home to Meet Criteria	<u>\$710,880</u>	

# Memo

**To:** Sam Gaston, City Manager  
**From:** Steven Boone  
**CC:** Mayor and members of the City Council  
**Date:** 3/21/2012  
**Re:** Annexation criteria

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## **Summary of proposed revisions to the City's annexation criteria**

I am proposing the following modifications to the City's annexation criteria to formalize practices that have evolved since the criteria were first adopted back in the mid-1990s:

1. Expressly state that criteria 2 (ad valorem tax/property valuation) shall be updated to a) reflect city-wide property valuation, school system enrollment, and population changes and b) provide an illustration of the application of this criteria.
2. Formalize the development covenants and provide an example thereof to be used when considering the annexation of undeveloped property.
3. Change the square footage requirement for new construction from 3,500 to 4,500 square feet.

**RESOLUTION NO. 2012-042**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the following are hereby adopted as the criteria which the City Council shall use in connection with the consideration of annexation petitions filed with the City of Mountain Brook subsequent to March 26, 2012:

1. Municipal revenue derived from the property proposed to be annexed must exceed the projected cost of providing municipal services to such property.
2. The ad valorem taxes per school-age child residing in the property (as more fully defined hereinbelow) to be received by the Mountain Brook Board of Education from the property proposed to be annexed must equal or exceed the city-wide average ad valorem tax revenue per student enrolled in the Mountain Brook School system as determined by the greater of a) the actual number of school-age children residing at the property proposed to be annexed regardless of where the annexation applicant(s) intend to send their children to school if annexed or b) the city-wide average number of students per residences as of the date of annexation. An illustration of the application of this criterion is illustrated in Exhibit A attached hereto. For purposes of determining the property taxes to be derived from the subject property, the City Council shall consider only the actual property value as determined by the Jefferson County Tax Assessor as of the date of the annexation petition.
3. The annexation must not result in any Mountain Brook school having more students in any classroom than the maximum number permitted by the Alabama State Board of Education, or otherwise cause overcrowding in any Mountain Brook school, or require capital expenditures by the Mountain Brook Board of Education.
4. The location and configuration of the property proposed to be annexed must result in efficient corporate limits of the City and be conducive to providing municipal services in an efficient manner.
5. With respect to the annexation of undeveloped residential property, the property owner must execute and record restrictive covenants that shall attach to the real estate in substantially the form as attached hereto as Exhibit B (subject to modifications determined appropriate by the City Council on a case-by-case basis).

**BE IT FURTHER RESOLVED**, that the City Council may, from time to time, approve the annexation of property to the City which does not satisfy one or more of the foregoing criteria; provided, that, in the opinion of the City Council, the annexation of such property may permit the City to annex additional property economically beneficial to the City.

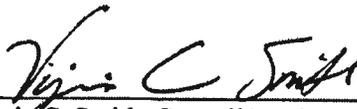
**BE IT FURTHER RESOLVED** by the City Council that the above criteria may be revised by the City Council, from time to time, based on changes in economic conditions and other factors affecting the Mountain Brook school system and municipal revenue.

**BE IT FURTHER RESOLVED** by the City Council that the adult residents of each dwelling in the area proposed to be annexed must complete, sign and deliver a questionnaire to the City Manager within thirty days of the day upon which the annexation petition is filed with the City, the form and content of which questionnaire may be revised by the City Council, from time to time.

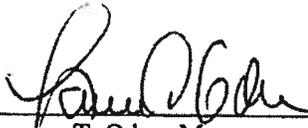
**ANNEXATION CRITERIA**

**2012-042**

ADOPTED: This 26<sup>th</sup> day of March, 2012.

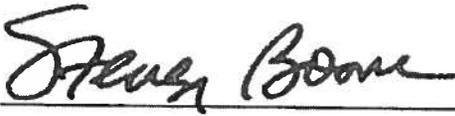
  
\_\_\_\_\_  
Virginia C. Smith, Council President

APPROVED: This 26<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
Lawrence T. Oden, Mayor

#### CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on March 27, 2012, as same appears in the minutes of record of said meeting.

  
\_\_\_\_\_  
Steven Boone, City Clerk

**EXHIBIT A**

	<b>2012</b>
Ad Valorem Tax Revenue (44.7 Mills)	<u>\$25,033,548</u>
Enrollment	<u>4,502</u>
 Ad Valorem Tax : Student	 <u><u>\$5,560.54</u></u>
 Students	 4,502
Households	<u>7,998</u>
 Students : Household	 <u><u>0.56</u></u>
 Or 1 student for every 1.78 households	
 Ad Valorem Tax : Student	 \$5,560.54
Students : Household	<u>0.56</u>
 School Tax Required to Meet Criteria	 \$3,129.98
BOE Millage Rate	<u>44.7</u>
 Assessed Property Value	 \$70,022
10% Assessment Factor	<u>10.00%</u>
 Required Fair Value of Property to Meet Criteria (Assuming Citywide Average School-Age Children) <sup>1</sup>	   <u><u>\$700,220</u></u>

<sup>1</sup> The required property valuation increases proportionately with the actual number of school-age children living at a property (e.g.,  $\$5,560.54 / 0.0447 / .10 = \$1,243,969$  required fair value of property to meet criteria with one (1) school-age child residing at a property).

**EXHIBIT B**

**STATE OF ALABAMA )**

**JEFFERSON COUNTY )**

**DECLARATION OF PROTECTIVE COVENANTS**

**KNOW ALL MEN BY THESE PRESENTS, that:**

**WHEREAS,** \_\_\_\_\_ is/are the owner/owners of the following described real property, located in Jefferson County, Alabama, with an address of \_\_\_\_\_, more particularly described on Exhibit "A" and illustrated in the accompanying map entitled Exhibit "B," which are attached hereto and made a part hereof; and

**WHEREAS,** the undersigned desires to subject said Property with the conditions, limitations, and restrictions hereinafter set forth.

The undersigned does hereby expressly engraft the following restrictive and protective covenants, conditions, covenants, and limitations on the real property hereinafter described in Exhibit A attached hereto:

**I. EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS.**

- A. The Property shall be used for single-family residential purposes only and for no other use or purpose.
- B. Any residence constructed on the Property shall contain a minimum of 4,500 square feet of heated and cooled area.
- C. The exterior of the residence constructed on the Property must be of brick or better material, and such residence shall have a pitched roof.
- D. The residence constructed must contain a minimum of a two (2) car garage or parking area within a basement.
- E. The Property shall not be further subdivided.

**II. GENERAL PROVISIONS.**

- A. The Owner of the Property shall use his or her best efforts to prevent the development or occurrence of any unclean, unsightly, or unkempt conditions of buildings or grounds on such Property which shall tend to decrease the beauty of the specific area or the neighborhood as a whole.

- B. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain from the building line forward, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain upon any part of the Property.
- C. No vegetables or other crops may be grown on the front yard of any house on the Property.
- D. No trash, garbage, or other refuse shall be dumped, stored, or accumulated on the Property. Trash, garbage, or other waste shall not be kept on the Property except in sanitary containers or garbage compactor units.
- E. No structure of temporary character such as a trailer, mobile home, manufactured home, double-wide manufactured home, tent, or shack shall be used as a residence either temporarily or permanently.

**III. GENERAL PROVISIONS.**

- A. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement and in the event any one or more of said covenants or restrictions shall, for any reason, be held invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect in all matters and respects.
- B. The covenants and restrictions herein shall enure to the benefit of the land described above and shall run with the land. If any person shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the undersigned or the City of Mountain Brook, Alabama: (a) to prosecute proceedings at law for the recovery of damages against the person or persons so violating or attempting to violate any such covenant or restriction, or (b) to maintain an action in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation; provided, however, that the remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law.
- C. The restrictions, covenants and provisions contained herein shall remain in full force and effect for a period of twenty-five (25) years from the date hereof, after which time said restrictive covenants and provisions shall be automatically extended for successive periods of ten (10) years.

**IN WITNESS WHEREOF,** \_\_\_\_\_, who is duly authorized, executes this Declaration of Protective Covenants on this \_\_\_\_\_ day \_\_\_\_\_, 2\_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_

\_\_\_\_\_  
Signature of Property Owner

**STATE OF ALABAMA )**

**JEFFERSON COUNTY )**

I, the undersigned authority in and for said county and state hereby certify that

\_\_\_\_\_  
whose name is/names are signed to the foregoing Declaration of Protective Covenants and who is/are known to me, acknowledged before me on this day that, being informed of the contents, has full authority and has executed the same voluntarily.

Given under my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_