

## Amendment to Article XVIII, Section 129-295 Temporary Uses – Open Houses, Home Tours and Special Events.

### *Summary*

The proposed amendment is designed to provide a regulatory framework for open houses, home tours and other similar charitable and special events in the residential districts of the City. The frequency of these types of events has increased over the past few years, and the attendance of such has increased as well, causing parking problems, fire lane hazards and neighborhood contention. The proposed ordinance will help streamline the process and mitigate potential negative impacts to surrounding properties.

See attached draft ordinance (new language in red).

**CITY OF MOUNTAIN BROOK  
NOTICE OF PROPOSED AMENDMENT TO ZONING  
ORDINANCE AND OF PUBLIC HEARING THEREUPON**

Notice is hereby given that at a regular meeting of the Planning Commission of the City of Mountain Brook, Alabama, to be held on April 4, 2016, at 5:30 p.m. in Council Chambers at Mountain Brook City Hall, 56 Church Street, Mountain Brook, Alabama, said Planning Commission will hold a public hearing to consider a proposed amendment to Chapter 129 of the Code of the City of Mountain Brook, as it pertains to Section 129-295 Temporary Uses, as follows:

**“Section 129-295 Temporary Uses.**

- (a) Yard sales. A resident of the city may conduct sales commonly known as yard sales, garage sales or estate sales (hereinafter collectively referred to as "yard sales") at the resident's dwelling, or at the dwelling of another resident of the city, under the conditions specified herein below. All such sales shall be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupations).
- (1) Not more than one yard sale shall be held at any dwelling during any calendar year.
  - (2) No person may participate in, including having his property sold at, more than one yard sale in the city during any calendar year, regardless of whether such additional sale is held at his dwelling or at the dwelling of another person.
  - (3) An agent may be hired to assist in the conduct of, or to conduct, such sale if all property for sale is displayed or located within the dwelling or within an accessory structure of the dwelling or in a portion of the dwelling's yard which is not visible from any street which is adjacent to the parcel on which the dwelling is located.
  - (4) Yard sales shall be limited to two days in duration, which days must be consecutive; however, a yard sale may last for up to four consecutive days if all property for sale is displayed or located within the dwelling or within an accessory structure of the dwelling or in a portion of the dwelling's yard which is not visible from any street which is adjacent to the parcel on which the dwelling is located.
  - (5) A permit shall be required for each yard sale, regardless of the number of people who participate in a sale, for which a fee to help defray the cost of issuing the permit will be charged in accordance with article XXVII of this chapter. Although only one permit will be required for each sale, each person who participates in the yard sale must be named as an applicant for the permit. Application for such permit must be filed with the city clerk prior to the first day of the proposed yard sale.
  - (6) One sign, not to exceed six square feet in area, may be posted in the yard of the dwelling in which the yard sale is conducted. The sign may be in the yard for a period not to exceed four consecutive days, including the day or days of the sale itself, and must be removed within 24 hours after the conclusion of the sale.
- (b) Trunk sales. Trunk sales, defined for the purposes of this chapter to mean the sale of new clothes, clothing accessories and other consumer goods by means of the purchaser ordering such items or goods from samples and/or catalogs available for inspection at a dwelling during the trunk sale, may be conducted at the dwelling of a resident of the city under the conditions specified herein below, and all such sales shall also be subject to the same

monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupations).

- (1) In addition to the monitoring and enforcement procedures made applicable in this section, the conditions for use of dwelling for a home occupation set forth in article XXIII of this chapter (home occupations) shall also be applicable to the use of dwellings for trunk sales.
  - (2) No more than four trunk sales shall be conducted at anyone dwelling during anyone calendar year.
  - (3) Not more than two people who are not residents of the dwelling at which a trunk sale is conducted may conduct or assist with a trunk sale; provided, that: (1) Any such people must be employees, agents or representatives of the company which produces the goods to be sold at the trunk sale; and (2) An adult resident of the dwelling at which the trunk sale is being held is present at the trunk sale when it is held.
  - (4) There shall be no goods in the dwelling that are available for sale.
  - (5) Trunk sales shall be limited to a maximum of five days in duration, which days must be consecutive.
  - (6) However, a single permit may be issued for all trunk sales to be held at a dwelling during any calendar year, provided that either the dates of all such sales are included in the application for the permit; or written notice of the place, date and time of each sale, along with a copy of the permit previously issued for that calendar year, are delivered to the zoning officer at least seven days before each such sale is to be held.
  - (7) The permit fee must be paid for each permit applied for, but only the application for the first permit must be accompanied by an application for a business license; provided, that thereafter the business license is kept in effect. The drawings, plans or other requirements of article XXIII of this chapter made applicable to trunk sales by this section need be filed only with the application for the first permit unless a different portion of the dwelling is to be used for a subsequent trunk sale.
- (c) **Open Houses, Home Tours and Special Events.** Open houses, home tours and other special events ("Special Events") wherein a residential premise or part thereof is made open to the public for a fee, donation or other remuneration or otherwise for commercial or charitable purposes may be conducted in the residential districts of the city under the conditions specified herein below. Such uses shall also be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupation).
- (1) No more than one (1) such Special Event(s) shall be conducted at any one residential premises during anyone calendar year.
  - (2) Such Special Event shall be limited to a maximum of five (5) days in duration which days must be within a fourteen day period beginning with the first day of the event.
  - (3) No goods shall be sold at the Special Event other than furniture, furnishings or other items used to furnish the home or premises.

- (4) A permit shall be required for each Special Event for which a fee to help defray the cost of issuing the permit will be charged in accordance with article XXVII of this chapter. Application for such permit, in the form and with all information requested by the city, must be submitted to the city clerk at least thirty (30) days prior to the date upon which the Special Event is scheduled to begin.
- (5) If, after review of the application, the City Manager determines that the parking or the public rights of way are insufficient to anticipated traffic volume for the Special Event, the City manager may require the use of remote parking areas and shuttle buses or valet services, the engagement of law enforcement officers by the applicant to assist with vehicular traffic or other measures designed to reduce the impact on surrounding properties and the public rights of way in the area.
- (6) For the purposes of this section, an open house or home tour conducted for the sale purpose of marketing or sale of the residential premises themselves and for which a fee, donation or other remuneration is not collected shall be permitted and shall not be subject to the conditions in this subsection.

(d) Temporary structures and related items. Any structures or items associated with construction taking place on a parcel, or with other activities of a temporary nature, including, but not limited to, portable toilets, shall be placed so as to be in conformity with the minimum setback requirements applicable to the principal building on such parcel.

(e) Signs re: sale or rental of property. A sign advertising the sale or rental of a parcel may be placed in the front yard of any parcel; provided, that such sign may not exceed six square feet in area.”

At the aforesaid time and place, all persons who desire shall have an opportunity to be heard in opposition to or in favor of adoption of the proposed amendment.

**For questions concerning these proposed zoning amendments, please contact:**

Dana Hazen, AICP, MPA  
Director of Planning, Building & Sustainability  
205/802-3821  
hazend@mtnbrook.org

**CERTIFICATION**

I, Tammy Graham, Administrative Assistant for the City of Mountain Brook, Alabama, do hereby certify that I have caused notice of the proposed amendment to the zoning ordinance and of public meeting thereupon set forth above to be published and provided in the manner specified by Article XXV, Sec. 129-431, of the Mountain Brook City Code. I further certify that I have posted said notice in four conspicuous places within the City of Mountain Brook, in the manner and within the time permitted by law, said places being:

Mountain Brook City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road  
The Clock Tower, 99 Church Street  
Overton Park, 3020 Overton Road

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Tammy Graham, Administrative Assistant