

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
JULY 11, 2016**

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The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:00 p.m. on Monday, the 11th day of July, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack  
Lawrence T. Oden, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston and City Clerk Steven Boone.

**1. AGENDA**

1. Smoke-Free Ordinance—Dr, Kevin Alexander, All In Mountain Brook, and Dr. Dale Wisely of the Mountain Brook School System (Appendix 1)

The consensus of the elected officials was that: 1) the existing ordinance should be amended to include e-cigarettes, 2) extending [location] restrictions should be considered further, 3) the proposed ordinance requires some [legal] modifications (assigned to the City Attorney), and 4) the matter will be considered again on July 25, 2016 in time for school officials to educate parents prior to the start of school.

2. Cell phone free zone around schools ordinance—Dale Wisely of the Mountain Brook School system. (Appendix 2)

The consensus of the elected officials was that : 1) while enforceability is questionable, there may be some benefits to adopting such an ordinance from a community awareness perspective, 2) it will be beneficial to the school system for this ordinance be adopted prior to the start of school, and 3) the City Attorney shall edit the draft ordinance for further consideration by the City Council at its July 25, 2016 meeting.

3. Review of the matters to be considered at the formal [7 p.m.] meeting.

The Cahaba Road conditional use for a tutoring service will be removed from the formal agenda pending further study and analysis by the City Planner, and the Special Event ordinance will not be voted on to allow more time to consider the Decorator Show House's concerns (they need eight weekdays over a two week period and three weekends for their annual event which is often held in the City).

4. Executive session

There being no further business to come before the City Council, it was moved by Council President Smith that the City Council convene in executive session to discuss a matter involving a real estate transaction. The motion was seconded by Council President Pro Tempore Pritchard. The City Attorney certified that the subject of the executive session is allowed pursuant to the Open Meetings Act. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack

Nays: None

Council President Smith declared that the motion carried by a vote of 5—0 and then asked that the members of the audience be excused. She also announced that the City Council shall reconvene upon conclusion of the executive session at approximately 7 p.m. in the Council Chamber.

## 2. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on July 11, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said meeting.



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

**Ordinance NO. \_\_\_\_\_  
Model Ordinance Prohibiting Smoking in  
All Workplaces and Public Places**

WHEREAS, the Council of the City of \_\_\_\_\_ finds that numerous studies have shown that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) even occasional exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.

WHEREAS, the Council finds that studies have shown that residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholstery, and then be re-emitted (off-gassed) back into the air and recombine to form harmful compounds. Tobacco residue is noticeably present in dust throughout places where smoking has occurred. Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.

WHEREAS, the Council finds that unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

WHEREAS, the Council finds that the Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year; \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.

WHEREAS, the Council finds that numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety.

WHEREAS, the Council finds that there is no legal or constitutional "right to smoke." Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.

WHEREAS, the Council finds that smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses.

NOW, THEREFORE, the Council of the City of \_\_\_\_\_ finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment, and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

**Section 1. Definitions**

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- A. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "Cigar Bar" means a licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories and in which the sale of the other products is merely incidental.
- D. "Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the

product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

- E. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- F. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- G. "Enclosed Area" means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- H. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- I. "Hookah" means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.
- J. "Place of Employment" means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- K. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on (City or County) grounds.
- L. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an

annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

- M. "Public Event" means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.
- N. "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gambling facilities, health care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
- O. "Recreational Area" means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fargrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.
- P. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- Q. "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- R. "Shopping Mall" means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.
- S. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.
- T. "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

**Section 2. Application of Article to [City-Owned or County-Owned] Facilities and Property**

All enclosed areas, including buildings and vehicles owned, leased, or operated by the \_\_\_\_\_ (City or County) of \_\_\_\_\_, as well as all outdoor property adjacent to such buildings and under the control of the \_\_\_\_\_ (City or County), shall be subject to the provisions of this Section.

**Section 3. Prohibition of Smoking in Enclosed Public Places**

Smoking shall be prohibited in all enclosed public places within the \_\_\_\_\_ (City or County) of \_\_\_\_\_, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, and museums.
- B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gambling facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Parking structures.
- N. Polling places.

- O. Public transportation vehicles, including buses and taxicabs, under the authority of the \_\_\_\_\_ (City or County), and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- P. Restaurants.
- Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- R. Retail stores.
- S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the \_\_\_\_\_ (City or County) or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the \_\_\_\_\_ (City or County).
- T. Service lines.
- U. Shopping malls.
- V. Sports arenas, including enclosed places in outdoor arenas.
- W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.
- X. Private clubs.

**Section 4. Prohibition of Smoking in Enclosed Places of Employment**

A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

**Section 4. Prohibition of Smoking in Enclosed Residential Facilities**

Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes.
- B. All hotel and motel guest rooms.

**Section 5. Prohibition of Smoking in Outdoor Public Places**

Smoking shall be prohibited in the following outdoor places:

- A. In all outdoor stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- B. In, and within 20 feet of, all outdoor playgrounds
- C. In, and within 20 feet of, all outdoor public events.
- D. In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the \_\_\_\_\_ (City or County).
- E. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 20 feet of the point of service.
- F. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

**Section 6. Prohibition of Smoking in Outdoor Places of Employment**

- A. Smoking shall be prohibited in all outdoor places of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, temporary offices such as trailers, restroom facilities, and vehicles.

**Section 7. Where Smoking Not Regulated**

Notwithstanding any other provision of this Article to the contrary, smoking shall not be prohibited in:

- A. Private residences, unless used as a childcare, adult day care, or health care facility.
- B. Cigar bar as defined in Section 1(c). Cigar bars must satisfy all of the following:
  1. Generates 80 (eighty) percent or more of its quarterly gross revenue from the sale of cigars;
  2. Has a humidor on the premises and;
  3. Does not allow individuals under the age of 19 to enter the premises.

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**Section 8. Declaration of Establishment or Outdoor Area as Nonsmoking**

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1012(A) is posted.

**Section 9. Posting of Signs and Removal of Ashtrays**

The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this Article shall:

- A. Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
- C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

**Section 10. Nonretaliation; Nonwaiver of Rights**

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Section or reports or attempts to prosecute a violation of this Section. Notwithstanding Section 12, violation of this provision shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer of any other party.

**Sec. 11. Enforcement**

- A. This Section shall be enforced by the \_\_\_\_\_ (City Manager or County Administrator) or an authorized designee.

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B. Notice of the provisions of this Section shall be given to all applicants for a business license in the \_\_\_\_\_ (City or County) of \_\_\_\_\_.

C. Any citizen who desires to register a complaint under this Section may initiate enforcement with the \_\_\_\_\_ (Department of Health or City Manager or County Administrator).

D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Section.

E. An owner, manager, operator, or employee of an area regulated by this Section shall direct a person who is smoking in violation of this Section to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

F. Notwithstanding any other provision of this Section, an employee or private citizen may bring legal action to enforce this Section.

G. In addition to the remedies provided by the provisions of this Section, the \_\_\_\_\_ (City Manager or County Administrator) or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

**Section 12. Violations and Penalties**

A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).

B. Except as otherwise provided in Section 1013(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

C. In addition to the fines established by this Section, violation of this Section by a person who owns, manages, operates, or otherwise controls a public place or

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place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

D. Violation of this Section is hereby declared to be a public nuisance, which may be abated by the \_\_\_\_\_ (City Manager or County Administrator) by restraining order, preliminary and permanent injunction, or other means provided for by law, and the \_\_\_\_\_ (City or County) may take action to recover the costs of the nuisance abatement.

E. Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

**Section 13. Public Education**

The \_\_\_\_\_ (City or County) shall engage in a continuing program to explain and clarify the purposes and requirements of this Section to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

**Section 14. Governmental Agency Cooperation**

The \_\_\_\_\_ (City Manager or County Administrator) shall annually request other governmental and educational agencies having facilities within the \_\_\_\_\_ (City or County) to establish local operating procedures in cooperation and compliance with this Section. This includes urging all Federal, State, \_\_\_\_\_ (County or City), and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

**Section 15. Other Applicable Laws**

This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Sec. 16. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

**Sec. 17. Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

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**Sec. 18. Effective Date**

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.

<sup>1</sup>U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

<sup>2</sup>Singer, B. C.; Hodgson, A. T.; Hazzard, W. W. "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)." *Proceedings: Indoor Air 2002*, 2002.

<sup>3</sup>Matt, G. E.; Quintana, P. J. E.; Howell, M. F.; Bernert, J. T.; Song, S.; Nowland, N.; Juarez, T.; Floro, J.; Gelman, C.; Garcia, M.; Larson, S. "Households contaminated by environmental tobacco smoke: sources of infant exposures." *Tobacco Control* 13(2): 29-32, March 2004.

<sup>4</sup>Selman, M.; Gundel, L. A.; Pankow, J. F.; Jacob III, P.; Singer, B. C.; Destalitta, H. "Formation of carcinogenic indoors by surface-mediated reactions of nicotine with nitrous acid, leading to potential thirdhand smoke hazards." *Proceedings of the National Academy of Sciences of the United States of America* (PNAS) 107(15): 6576-6581, February 8, 2010.

<sup>5</sup>"[n.a.] "Summary of results: laboratory analysis of electronic cigarettes conducted by FDA." *Food and Drug Administration* (FDA), July 22, 2009. <http://www.fda.gov/news-events/public-health-focus/cem173146.htm> Accessed on: October 22, 2009.

<sup>6</sup>Irwin, F. C.; Buonanno, G.; Stabile, L.; Vign, P. "Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes." *Environmental Pollution* 184: 523-529, January 2014.

<sup>7</sup>Behan, D. F.; Enkase, M. F.; Liu, Y. "Economic Effects of Environmental Tobacco Smoke." *Society of Actuaries*, March 31, 2005.

<sup>8</sup>Gilbert, S. A. & Smith, L. "The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States." *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbanos, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health." *CPA Atlantic*, September 2001.

<sup>9</sup>Griff, S. K., "There is No Constitutional Right to Smoke: 2006," *Tobacco Control Legal Consortium*, 2d edition, 2008.

<sup>10</sup>Griff, S. K.; Zellers, L., "Workplace Smoking: Options for Employers and Legal Risks for Employers." *Tobacco Control Legal Consortium*, 2008.

<sup>11</sup>"The high price of cigarette smoking." *Business & Health* 25(8), Supplement A: 6-8, August 1997.

**Analysis:  
City of Mountain Brook Smoke-Free Air Ordinance  
Enacted in 2005**

**Background**

In 2005, Mountain Brook took a stand against exposure to secondhand smoke by providing protections in some public areas and places of employment. Since then, multiple studies, including the 2010 Report from the U.S. Surgeon General, have concluded that there is no safe level of exposure to secondhand smoke and that the only effective way to protect the population from the harmful effects of exposure to secondhand smoke is to implement 100% smokefree environments. In addition, new tobacco products such as smokeless tobacco and e-cigarettes have flooded the market and are serving as gateways to nicotine and other drug addictions.

- What are the major gaps in the current smokefree ordinance?
- It does not include a clear list of establishments where smoking is prohibited.
  - Include multiple exemptions such as:
    - o Allowing smoking in designated rooms in hotels.
    - o Smoking is allowed in any establishment licensed to sell alcoholic beverages for consumption by patrons on the premises, for which, in the usual course of business alcoholic beverage sales constitute more than 40% of the total revenues, provided, however, that said exception shall only apply after 4:00 p.m. on any business day.
    - o Smoking is allowed in retail tobacco stores.
    - o Smoking is allowed at private functions in public places and in private clubs.
  - It allows for any business establishment to designate smoking areas.
  - The ordinance does not prohibit the use of e-cigarettes in public places and workplaces.

**What is the rationale for strengthening smokefree protections in Mountain Brook?**

- To promote positive and healthy lifestyles.
- To support community demand.
- To adopt national smokefree standards.
- To align with the cities of Birmingham, Vestavia Hills, Homewood, and 25 other municipalities in Alabama that have adopted strong smokefree ordinances.
- To address the increasing exposure of children and families to e-cigarettes.
- To lead other cities by example.
- To support a statewide smokefree law.
- To reduce the demand for tobacco products.
- To reduce tobacco use among youth and drive tobacco cessation.

**What does a comprehensive smokefree policy include?**

A comprehensive smokefree policy is one that prohibits smoking in all workplaces including all hospitality venues and indoor public places. The following are the highlights of a model policy:

- "Smoking" is defined as inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.
- Smoking is prohibited in all enclosed places of employment.
- Smoking is prohibited in all enclosed public places such as: all hotel rooms, restaurants, bars, health care facilities, retail stores, public transit facilities, sports arenas, museums, service lines, common-use areas of multi-unit residential buildings, day care centers, galleries, libraries, private clubs, convention facilities and educational facilities, both public and private.
- The policy does not allow a business to designate separate indoor smoking areas.
- It also limits smoking outdoors, such as within a certain distance of entrances and exits to buildings (recommended 15-25 feet). Many jurisdictions have also restricted smoking in restaurant patios, outdoor arenas and stadiums, parks and playgrounds.
- The policy requires the owner, operator, manager, or other person in control of a place of employment or public place to clearly and conspicuously post "No Smoking" signs.
- Smoking is not regulated in private residences, except when used as a childcare, adult day care, or health care facility.

**ORDINANCE NO. 1093**  
**AN ORDINANCE TO PROHIBIT SMOKING IN ENCLOSED AREAS WITHIN GOVERNMENT BUILDINGS, LICENSED BUSINESSES AND NONPROFIT ORGANIZATIONS IN THE CITY OF MOUNTAIN BROOK, ALABAMA**

WHEREAS, the City Council of the City of Mountain Brook, Alabama has found that numerous studies show that tobacco smoke may be a major contributor to indoor air pollution and that breathing secondhand smoke may be a cause of disease, including lung cancer, in nonsmokers, and

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing secondhand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasms.

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

1. As used in this ordinance, the following words and phrases shall have the following meanings:
  - (1) GOVERNMENT BUILDING: Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.
  - (2) LICENSED BUSINESS: An organization or entity required to obtain a license from the City of Mountain Brook in order to engage in business or conduct business in the City.
  - (3) NONPROFIT ORGANIZATION: An organization or entity which is recognized by the United States Internal Revenue Service as a tax exempt, non-profit organization under Section 501(c)(3) of the Internal Revenue Code of 1966, as amended.
  - (4) RETAIL TOBACCO STORE: A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
  - (5) PRIVATE CLUB: A premise operated by an organization which is not available to and not commonly used by the general public and entry and privileges therein are established by regulations of that organization.
  - (6) PRIVATE FUNCTION: The rental of a ballroom, restaurant, private club, or other facility for the sole purpose of entertaining, private parties, events or other social functions.
  - (7) SMOKING: The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.
2. Except as otherwise provided in this subsection, no person shall smoke in an enclosed area within a government building, licensed business or nonprofit organization. This prohibition does not apply to any of the following:
  - (1) Permanently designated smoking rooms in any hotel or motel that pays hotel or motel taxes.
  - (2) Any establishment licensed by the City of Mountain Brook to sell alcoholic beverages for consumption by patrons on the premises, for which, in the usual course of business,

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alcoholic beverage sales constitute more than forty per cent (40%) of total revenues; provided, however, that said exemption shall only apply after 4:00 pm on any business day.

- (3) Retail tobacco stores;
- (4) Private functions;
- (5) Private clubs.

3. Notwithstanding any of the foregoing, nothing shall preclude any business establishment from designating an area in said establishment for smoking if said area is clearly identified, fully separated and apart from all nonsmoking areas, enclosed, and designed so as to ensure that all other areas of said business remain completely free of the byproducts of smoking.
4. An organization or entity subject to an exemption to this ordinance may choose to become subject to the provisions of this ordinance. Upon applying for a license from the city, an entity subject to an exemption to this ordinance shall indicate whether or not they choose to be subject to the ordinance.
5. The owner, operator, manager, or other person in charge of a government building, licensed business or nonprofit organization shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, near all entrances where smoking is prohibited by this ordinance. In any establishment where smoking is allowed under this Ordinance, signs indicating that smoking is permitted and the particular circumstances in which it is permitted shall be clearly and conspicuously posted near each entrance used by the public.
6. The person in charge of a government building, licensed business or nonprofit organization shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in that place. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the litiged cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the litiged cigarette, cigar, pipe or other tobacco product.
7. A person who smokes in an area where smoking is prohibited by the provisions of this ordinance shall be guilty of an ordinance violation, punishable by a fine of at least twenty-five dollars (\$25.00), but not to exceed one hundred dollars (\$100.00).
8. The owner, operator, manager, or other person in charge of a government building, licensed business or nonprofit organization who fails to comply with the provisions of this Article shall be guilty of an ordinance violation, punishable by:
  - (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
  - (2) A fine not exceeding two hundred dollars (\$200) for a second violation within a one (1) year period;
  - (3) A fine not exceeding five hundred dollars (\$500) for a third or subsequent violations within a one (1) year period.
9. Each day on which a violation of this Ordinance occurs shall be a separate and distinct violation.

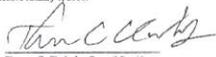
10. Jurisdiction for violations of this ordinance shall be with the municipal court. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.

11. 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.

12. 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.

13. Effective Date. This ordinance shall become effective January 1, 2006.

ADOPTED: This 22 day of Nov., 2005.

  
Thomas C. Clark, Jr., Council President

ADOPTED: This 22 day of Nov., 2005.

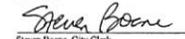
  
Lawrence T. Oden, Mayor

**CERTIFICATION**

I, Steven Boone, City Clerk of the City 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 meeting held on November 22, 2005, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 29, 2005, at the following public places, which copies remained posted for five (5) days as provided by law:

City Hall, 56 Church Street  
Glicks Pharmacy, 2150 Cahaba Road  
The Invitation Place, 3150 Overton Road

Joe Maggo Newsstand, 2837 Cahaba Road  
Piggly Wiggly Food Store 4, 93 Euclid Avenue

  
Steven Boone, City Clerk

**ORDINANCE NO. 2585**

**AN ORDINANCE TO RESTRICT THE LOCATION OF CERTAIN BUSINESSES WITHIN FIVE HUNDRED FEET OF ANY SCHOOL, CHURCH, OR RELIGIOUS INSTITUTION OR FACILITY LOCATED WITHIN THE CITY OF HOMEWOOD, ALABAMA.**

WHEREAS, the City of Homewood, Alabama (the "City") has previously adopted Ordinance No. 2582 restricting smoking within the City.

WHEREAS, the City desires to further regulate and restrict the location of business defined as vape shops or tobacco shops in Ordinance No. 2582 previously adopted by the City Council.

WHEREAS, the City has determined that, based on public health and safety concerns, the location of vape shops and tobacco shops as defined by Ordinance No. 2582 shall be restricted pursuant to this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Homewood as a regular meeting, duly assembled, a quorum being present, as follows:

Section 1. That no vape shop or tobacco shop, as defined by Ordinance No. 2582, previously adopted by the City Council on the 9th day of November, 2015, shall be permitted or located within five hundred (500) feet of any school, church, or religious institution or facility. For the purposes of this section, the distance between the school, church, or religious institution or facility shall be measured from the closest point of the property on which such school, church, or religious institution or facility is located to the nearest point of the property on which the vape shop or tobacco shop is located.

Section 2. All other Ordinances or parts of Ordinances heretofore adopted by the City Council of the City of Homewood, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 3. That if any part, provision, or section of this ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect.

Section 4. This Ordinance shall become immediately effective upon its adoption by the City Council and approval by the Mayor as is otherwise becoming law.

ADOPTED this 7th day of December, 2012.

  
President of City Council

APPROVED:

*John R. Cole*  
Mayor

ATTEST:

*John R. Cole*  
City Clerk

This notice posted: November 16, 2015

At the following locations: Mayor's Office (City Hall), Homewood Public Library, Homewood Senior Center (Oak Grove Road) and Lee Community Center (Rensdale)

And at [www.henrycountysc.gov](http://www.henrycountysc.gov)

**ORDINANCE NUMBER 2411**

**AN ORDINANCE TO REPEAL ORDINANCE 229, ADOPTED JUNE 6, 2005, AND ADOPT IN FULL ORDINANCE NUMBER 2411 TITLED THE "CITY OF VESTAVIA HILLS SMOKE-FREE ORDINANCE OF 2011"**

WHEREAS, the Council of the City of Vestavia Hills finds that numerous studies have shown that (1) exposure to secondhand smoke, a known carcinogen, causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) even occasional exposure of adults to secondhand smoke has adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws improve health and do not have an adverse economic impact on, and may positively impact, the hospitality industry.<sup>1</sup>

WHEREAS, the Council finds that studies have shown that during periods of active smoking, peak and average outdoor tobacco smoke levels measured in outdoor cafes and restaurants and bar patios near smokers rival indoor tobacco smoke concentrations.<sup>2</sup> Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smoke-free outdoor area.<sup>3</sup>

WHEREAS, the Council finds that studies have shown that residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This sticky, highly toxic particulate matter, including nicotine, can linger in spaces long after smoking has ceased and cling to walls and ceilings and be absorbed into carpets, draperies, and other upholstery, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. Tobacco residue is noticeably present in dust throughout places where smoking has occurred.<sup>4</sup>

This process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.<sup>5</sup>

WHEREAS, the Council finds that unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. The Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent."<sup>6</sup> "E-cigarettes" produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

WHEREAS, the Council finds that the Society of Actuaries has determined that secondhand smoke costs the U.S. economy approximately \$10 billion a year; \$3 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.<sup>7</sup>

WHEREAS, the Council finds that there is no legal or constitutional "right to smoke" and that business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke and instead have a common-law duty to provide their workers with a workplace that is not unreasonably dangerous.<sup>8</sup>

WHEREAS, the Council finds that smoking is a potential cause of fires and cigarettes and cigar burns and ash stains on merchandise and fixtures cause economic damage to businesses.<sup>9</sup>

NOW, THEREFORE, the Council of the City of Vestavia Hills finds that secondhand smoke is a form of air pollution, a danger to health, and a material public nuisance, and deems it appropriate to enact the following ordinance to (1) protect the public health and welfare by prohibiting smoking in public places and places of employment, (2) guarantee the right of consumers to breathe smoke-free air, and (3) recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Section 1. BE IT HEREBY ORDAINED by the Council of the City of Vestavia Hills that Ordinance 2209, as amended is hereby repealed and the following Ordinance Number 2411 is hereby adopted to read in full as follows:

**Section 2. Smoking In Public Places And Places Of Employment**

(a) Definitions. In this Section, the following definitions shall apply:

- (1) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to taverns, nightclubs, cocktail lounges, and cabarets.
- (2) "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- (3) "E-cigarette" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substance, and the use of inhalation which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an "e-cigarette," "e-cigar," "e-pipe," or under any other product name or descriptor.
- (4) "Employee" means a person who works for an employer, whether in consideration for direct or indirect monetary wages or profit, or as a volunteer.
- (5) "Employer" means a person, association, trust, or a business, including a municipal corporation, with one or more employees.
- (6) "Enclosed Area" means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- (7) "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical,

physiological, or psychological conditions, including but not limited to: hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

- (8) "Place of Employment" means an area under the control of a public or private employer, including, but not limited to: work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- (9) "Private Club" means an organization, whether incorporated or not, which is the owner, lessor, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities, requires applications to be completed for membership, and maintains membership records that show the date of application, admission, name and address for each member, and serial number of the membership card issued. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
- (10) "Public Place" means an area to which the public is permitted. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
- (11) "Restaurant" means an eating establishment, including but not limited to: coffee shops, cafeterias, sandwich stands, and private and public school cafeterias,

which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

- (12) "Service Line" means an indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to: ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
  - (13) "Shopping Mall" means an enclosed public walkway or mall area that serves to connect retail or professional establishments.
  - (14) "Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or other tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an "e-cigarette" which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Section.
  - (15) "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.
- (6) **Prohibition of Smoking In Enclosed Public Places.** Smoking shall be prohibited in all enclosed public places within the City of Vestavia Hills, including but not limited to, the following places:
- (1) Aquariums, galleries, libraries, and museums;
  - (2) Banks;
  - (3) Bar and lounges;
  - (4) Bingo facilities;
  - (5) Child care and adult day care facilities;
  - (6) Convention facilities;
  - (7) Educational facilities, both public and private;
  - (8) Elevators;

- (9) Gaming facilities, including bingo facilities;
  - (10) Health care facilities;
  - (11) Hotels and motels;
  - (12) Laundromats;
  - (13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
  - (14) Pulling places;
  - (15) Private clubs;
  - (16) Professional offices;
  - (17) Public transportation vehicles, including buses and trolleys, under the authority of the City of Vestavia Hills, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
  - (18) Restaurants and retail food production and marketing establishments;
  - (19) Restrooms, lobbies, reception areas, waiting rooms, hallways, and other common-use areas;
  - (20) Retail service establishments;
  - (21) Retail stores;
  - (22) Rooms, chambers, places of meeting or public assembly, and other enclosed areas and vehicles owned, leased, or operated by the City of Vestavia Hills, including areas under the control of an agency, board, commission, or committee of the City, to the extent the place is subject to the jurisdiction of the City;
  - (23) Service lines;
  - (24) Shopping malls;
  - (25) Sports arenas, including enclosed places in outdoor arenas; and
  - (26) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.
- (c) **Prohibition Of Smoking In Enclosed Places Of Employment.**
- (1) Smoking shall be prohibited in all enclosed areas of places of employment within the City of Vestavia Hills, including, but not limited to: common work areas,

- auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, clubs, restaurants, vehicles. This prohibition also applies to rooms, chambers, places of meeting or public assembly, and other enclosed areas and vehicles owned, leased, or operated by the City of Vestavia Hills, including areas under the control of an agency, board, commission, or committee of the City, to the extent the place is subject to the jurisdiction of the City.
- (7) This prohibition on smoking shall be communicated to all existing employees by the effective date of this Section and to all prospective employees upon their application for employment.
- (d) **Prohibition Of Smoking In Enclosed Residential Facilities.** Smoking shall be prohibited in the following enclosed residential facilities:
- (1) All private and semi-private rooms in nursing homes and
  - (2) All hotel and motel rooms that are rented to guests.
- (e) **Prohibition Of Smoking In Outdoor Public Places.** Smoking shall be prohibited in the following outdoor places:
- (1) Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;
  - (2) In, and within 20 feet of, outdoor seating or serving areas of restaurants and bars;
  - (3) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events;
  - (4) In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City of Vestavia Hills; and
  - (5) In all outdoor service lines;

- (f) **Exceptions.** Notwithstanding any other provision of this Section to the contrary, smoking shall not be prohibited in private residences, unless used as a child care, adult day care, or health care facility.
- (g) **Declaration Of Establishment Or Outdoor Area As Non-smoking.** Notwithstanding any other provision of this Section, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a non-smoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 2(b) is posted.
- (h) **Posting Of Signs And Removal Of Ashtrays.** The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Section shall:
- (1) Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
  - (2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
  - (3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Section at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
  - (4) Remove all ashtrays from any area where smoking is prohibited by this Section, except for ashtrays displayed for sale and not for use on the premises.
- (i) **Nonretaliation; Nonwaiver Of Rights.**
- (1) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Section or reports or attempts to prosecute a violation of this Section. Notwithstanding Section 2(b), violation of this provision

- shall be a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500) for each violation.
- (2) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.
- (j) **Enforcement.**
- (1) This Section shall be enforced by the county health officer or his or her duly authorized representative, any duly sworn police officer employed by the City of Vestavia Hills, or as otherwise allowed by law.
  - (2) Notice of the provisions of this Section shall be given to all applicants for a business license in the City of Vestavia Hills.
  - (3) Any resident who desires to register a complaint under this Section may initiate enforcement with an entity responsible for enforcement, such as the Jefferson County Department of Health or Police Department.
  - (4) The County Health Department, the Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Section.
  - (5) Any owner, manager, operator, or employee of an area regulated by this Section shall direct a person who is smoking in violation of this Section to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse services and immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.
  - (6) Notwithstanding any other provision of this Section, an employee or private citizen may bring legal action to enforce this Section.
  - (7) In addition to the remedies provided by the provisions of this Section, the City of Vestavia Hills, the county health officer, or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Section may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

- (k) **Violations and Penalties.**
- (1) A person who knowingly or intentionally smokes in an area where smoking is prohibited by the provisions of this Section commits an offense, punishable by a fine of fifty dollars (\$50) per offense. A charge of violation shall be treated in the same manner as a traffic violation.
  - (2) Except as otherwise provided in Section 1 (1), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Section shall be guilty of an offense, punishable by:
    - a. A fine of one hundred dollars (\$100) for a first violation. A charge of violation shall be treated in the same manner as a traffic violation.
    - b. A fine of two hundred dollars (\$200) for a second violation within one (1) year. A charge of violation shall be treated in the same manner as a traffic violation.
    - c. A fine of five hundred dollars (\$500) for each additional violation within one (1) year. A charge of violation shall be treated in the same manner as a traffic violation.
  - (3) In addition to the fines established by this Section, violation of this Section by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
  - (4) Violation of this Section is hereby declared to be a public nuisance, which may be abated by the City of Vestavia Hills, the county health officer, or a designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the entity or person seeking abatement may take action to recover the costs of the nuisance abatement.
  - (5) Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.
- (l) **Other Applicable Laws.** This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

APPENDIX 1

- (m) **Liberal Construction.** This Section shall be liberally construed so as to further its purposes.
- Section 3. Public Education.** The City of Vestavia Hills shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to residents affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Ordinance.
- Section 4. Governmental Agency Cooperation.** The City of Vestavia Hills shall annually request other governmental and educational agencies having facilities within Jefferson and Shelby Counties to establish local operating procedures in cooperation and compliance with this Ordinance. This includes urging all Federal, State, County, and School District agencies to update their existing smoking regulations to be consistent with the current health findings regarding secondhand smoke.
- Section 5. Severability.** If any word, provision, clause, sentence, paragraph, or subsection of this Ordinance or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction then the remaining provisions of this Ordinance shall be in full force and effect.
- Section 6. Effective Date.** This Ordinance shall be effective 30 days after approval by the Council of the City of Vestavia Hills and Mayor, and publication should be made as required by law, showing the effective date.

DONE, ORDERED, ADOPTED and APPROVED this 25<sup>th</sup> day of June, 2012.

Mary Lou Rice  
Mayor  
Council President

ATTESTED BY:

*Rebecca Leavings*  
Rebecca Leavings  
City Clerk

APPROVED BY:

*Alberto C. Zaragoza, Jr.*  
Alberto C. Zaragoza, Jr.  
Mayor

**CERTIFICATION:**

I, Rebecca Leavings, as Acting City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2411 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 25<sup>th</sup> day of June, 2012, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the \_\_\_\_ day of \_\_\_\_\_, 2012.

*Rebecca Leavings*  
Rebecca Leavings  
City Clerk

**END NOTES:**

1. U.S Department of Health and Human Services. "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General." *U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health*, 2006.
2. Klepeis, N.; Ott, W.R.; Switzer, P. "Real-time measurement of outdoor tobacco smoke particles," *Journal of the Air and Waste Management Association*, 57: 522-534, 2007.
3. Hall, J.C.; Benner, J.T.; Hall, D.B.; St. Helen, G.; Kaden, L.H.; Nasher, L.P.; "Assessment of exposure to secondhand smoke at outdoor bars and family restaurants in Athens, Georgia, using salivary cotinine," *Journal of Occupational and Environmental Hygiene* 6(11): 698-704, November 2009.
4. Singer, B.C.; Hodgson, A.T.; Nazareff, W.W. "Effect of sorption on exposure to organic gases from environmental tobacco smoke (ETS)," *Proceedings, Indoor Air 2002*, 2002.
5. Matt, G.E.; Quintana, P.J.E.; Howel, M.F.; Bernert, J.T.; Song, S.; Noviansi, N.; Juarez T.; Flores, J.; Gehrmann, C.; Garcia, M.; Larson, S. "Households contaminated by environmental tobacco smoke: sources of infant exposure," *Tobacco Control* 13(1): 29-37, March 2004.
6. Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," Food and Drug Administration (FDA), July 22, 2009, <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> ; accessed on October 22, 2009
7. Behan, D.F.; Eriksen, M.P.; Liu, Y. "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 2005.
8. Craft, S.K. "There is No Constitutional Right to Smoke: 2008," *Tobacco Control Legal Consortium*, 2d edition, 2008.
9. "The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997

**OTHER SOURCES**

- A. The Alabama Clean Indoor Air Act as Title 22-15A-2 Code of Alabama, 1975.
- B. Vestavia Hills Ordinance Number 2009 "An Ordinance to Prohibit Smoking in Public Places, Providing Penalties for the Violation Thereof," adopted on June 6, 2005.

All In Mountain Brook

4 N.W. 22nd Avenue  
Mountain Brook, Alabama 35227  
8007503000 or 205  
4400000000

BOARD OF DIRECTORS

- Jack Young, Chairman
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- Karla Voss
- Don Wilson, Ph.D.



To enhance and protect the lives of Mountain Brook Youth

July 5, 2016

Mountain Brook City Council  
56 Church Street  
PO Box 130009  
Mountain Brook, AL 35213

Dear Members of the City Council:

We write to express our support for revisions of the city's ordinance which would further restrict smoking in public places in Mountain Brook, along with updating the ordinance to apply to the use of e-cigarettes and related products in public places.

As you know, All In Mountain Brook is a community nonprofit whose purpose is to enhance and protect the lives of Mountain Brook youth. Accordingly, it is consistent with our purpose that we support further restrictions on smoking in public places in Mountain Brook and the addition of language restricting use of e-cigarettes and related products.

We have learned that the use of tobacco products and e-cigarettes and vaping devices is a significant problem among our community's youth. Perhaps surprisingly, in recent years, anonymous surveys conducted at Mountain Brook High School have revealed that our teenagers are more likely to indicate that they smoke cigarettes than the level shown in national averages for the survey. For example, in 2014-2015, 97.5% of MBHS seniors said they had smoked cigarettes in the 30 days prior to the survey, while only 19.6% of seniors nationwide said they had.

Furthermore, the same survey results indicate that our teenagers are aware of the great risk associated with smoking. This finding argues for the need for measures beyond simply educating these students about the dangers of smoking. They are aware of the danger. Additional interventions, such as additional community-wide restrictions on public smoking, are needed.

In addition, the data regarding the harmful effects of children's exposure to secondhand smoke are compelling. Secondhand smoke is especially

harmful to young children. Secondhand smoke is responsible for between 150,000 and 300,000 lower respiratory tract infections in infants and children under 18 months of age, resulting in between 7,500 and 15,000 hospitalizations each year. It also causes 430 sudden infant death syndrome (SIDS) deaths in the U.S. annually.

Also troubling is our local data regarding the use of "vaping" and e-cigarettes among our youth. During the 2014-2015 school year, survey results indicated that 12% of Mountain Brook 9<sup>th</sup> graders, 19% of 10<sup>th</sup> graders, 25% of 11<sup>th</sup> graders, and 32% of seniors said they had used an e-cigarette in the 30 days prior to the survey's administration.

While our students are aware of the risk of regular cigarette-smoking, they are less clear about the dangers of e-cigarettes. 57% indicated on the survey that e-cigarettes pose "no risk" or "slight risk."

To reduce the number of young people who begin to smoke or use other tobacco products, the American Academy of Pediatrics recommends a number of policy measures, including prohibition of smoking and other tobacco products that produce toxic emission in all workplaces, including bars, restaurants, and in places where children live, learn and play, including sidewalks, recreational and sports facilities, and entertainment venues.

For these reasons, we express our support for revisions of the city's ordinance which would further restrict smoking in public places in Mountain Brook, along with updating the ordinance to apply to the use of e-cigarettes and related products in public places.

Thank you for your service and for your unwavering support of All In Mountain Brook's efforts.

Sincerely,

BOARD OF DIRECTORS  
ALL IN MOUNTAIN BROOK

# Pride Survey

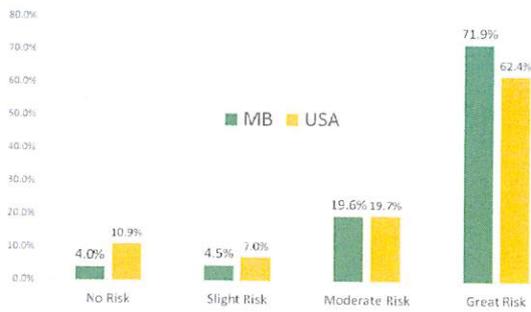
Anonymous survey administered grades 9-12

It surveys a wide range of student-reported behaviors and attitudes regarding substance use and school climate.

# Pride Survey

Smoking-related data from 2014-2015

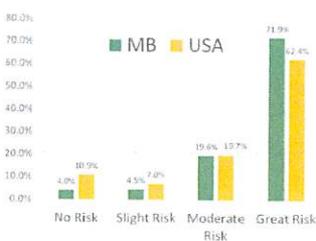
Perceived risk of 1-2 packs cigarettes/day (Grades 9-12)



During the past 30 days did you smoke part of all of a cigarette?

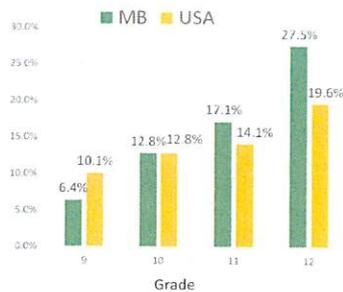


Perceived risk of 1-2 packs cigarettes/day (Grades 9-12)



Comment:  
These data indicate that our teenagers are aware of the great risks associated with smoking. Accordingly, as with adult smokers, we are in need of measures beyond just educating and informing about risks.

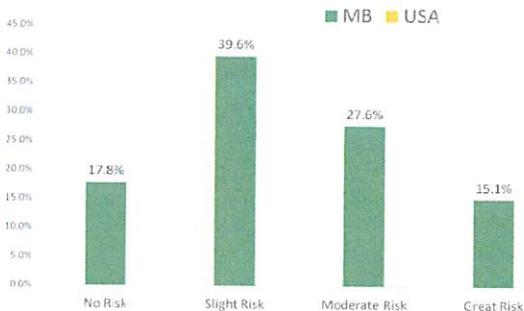
During the past 30 days did you smoke part of all of a cigarette?



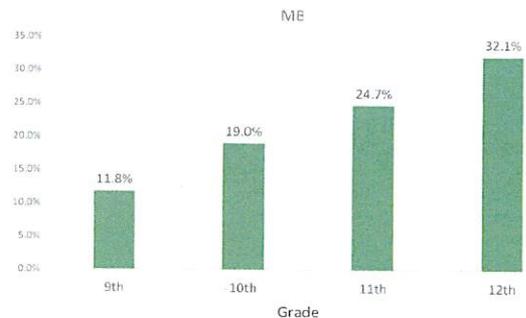
Comment:  
These data indicate that MB teenagers are more likely to say they smoke cigarettes than national averages for high school students. This has been consistently true in the last several years of surveying.

APPENDIX I

Perceived risk of e-cigs (MB Gr. 9-12)



During the past 30 days did you smoke an e-cigarette? (MB)



June 30, 2016

Sam Gaston  
56 Church Street  
PO Box 130009  
Mountain Brook, Alabama 35213

Dear Sam Gaston,

I want to voice my support for the model ordinance prohibiting smoking in all workplaces and public places for numerous reasons. The first and foremost is my 8 year old daughter. Even she knows that "smoking is bad for you", and allowing people to use tobacco products (including e-cigarettes) in public places puts her at unnecessary risk for exposure.

As a pediatric healthcare provider, I have personally taken care of children with symptoms of chronic ear infections and increased asthma attacks, as a direct result of exposure to secondhand smoke. Even when caregivers smoked outside the home, there was enough "smoke residue" to trigger health issues for the children who lived there.

I also hope that ALL electronic smoking devices will be part of the same standards as cigarettes. These devices have no regulatory controls of the age of buyer or even ingredients included. They are marketed as being safer than cigarettes although there is no data to support this claim. We do not want any "loophole" shops in our community.

Sincerely,  
*Julie C. Farmer*  
Julie C. Farmer

14 KENTHROP AVENUE  
MOUNTAIN BROOK, ALABAMA 35213

# reasons why e-cigarettes ARE NOT SAFE

## E-cigarettes are a growing trend to substitute cigarettes

- Are battery operated devices
- Modeled to look and feel like cigarettes
- Use an atomizer to heat liquid from a cartridge until it becomes an aerosol
- Produce aerosol containing nicotine, ultra fine particles and low levels of carcinogenic and otherwise toxic materials
- Burns, body-scarring blisks and explosions have been documented as a result of their use

## E-cigarettes present special dangers to our youth

- They can be purchased without proof of age.
- They are available in flavors including cotton candy, bubble gum, chocolate, strawberry and mint.
- They are appealing to kids and a new route to conventional smoking and nicotine addiction for teenagers.

## Nicotine poisoning is a serious risk

- Pure nicotine is deadly poison
- A fatal dose of nicotine for an adult is between 50 and 60 milligrams; a fatal dose for children is less. E-cigarettes contain 18 mg to 24 mg per unit.
- The number of calls to poison control centers about e-cigarette nicotine-infused liquids have risen sharply in the last few years. As many as 51% of those calls involved accidental poisoning of kids under the age of 5.

## E-cigarettes are not a proven Nicotine Replacement Therapy

- Although e-cigarettes are marketed as a "safer alternative to smoking", they are not approved by the Federal and Drug Administration (FDA)
- Researchers are finding e-cigarette users experience diminished lung function, airway resistance and cellular changes, regardless of whether or not they currently (or ever) smoke cigarettes.

## The health effects of e-cigarette use are not yet known

- There is no proof that the vapor from e-cigarettes is safe to the user, or for those who breathe their secondhand vapor.



Sam Gaston

From: Susan Walley, M.D.  
Sent: Wednesday, July 06, 2016 5:00 PM  
To: gaston@mtbrook.org  
Subject: Electronic cigarettes/vaping devices

Attachments: AAP Electronic Cigarette Policy Statement.pdf



My name is Dr. Susan Walley. I have been working with Charline Whyte at the Jefferson County Department of Health educating Mountain Brook residents on the dangers of tobacco use and tobacco smoke exposure. As a pediatric hospitalist who cares for children on a daily basis with illnesses caused or worsened by secondhand cigarette exposure, I have significant concerns about the health risks of ALL tobacco products (which include electronic cigarettes). In addition to my clinical responsibilities, I am involved nationally in research and advocacy to protect children from the health harms of tobacco and electronic cigarette use and smoke exposure. Unfortunately, there is a lot of false/misleading information about electronic cigarettes as there is virtually no regulation on the production, distribution, marketing and sales of these products.

From a health perspective, the major issues surrounding electronic cigarettes, particularly in regard to youth use and exposure to electronic cigarette vapor are:

- 1) One of the major ingredients in e-cigarette solution is nicotine, which is a known toxin and the addictive "kick" makes cigarettes and other tobacco products addictive. Adolescents are more likely to become addicted to nicotine than even occasional use and most adult smokers started smoking as teenagers. Nicotine has been also been shown to act as a "gateway" drug for other substances such as cocaine.
- 2) The nicotine in electronic cigarettes comes in very concentrated amounts (16 mg/cc) so an accidental ingestion of even 1/2 teaspoon (2.5 cc) can kill a child. One child in the United States has already died from an accidental ingestion of electronic cigarette solution.
- 3) The vapor from electronic cigarettes is NOT "harmless water vapor." Electronic cigarette vapor has been shown to contain the same toxins and carcinogens found in traditional cigarette smoke.
- 4) Currently, electronic cigarettes are not subject to federal regulation so anyone could mix up a batch of electronic cigarette solution and market/sell with words such as "tobacco-free", "healthy" and "safe." This spring, the FDA showed they will regulate electronic cigarettes like they do other tobacco products, however, this will not go into effect for at least 2 years.

Thank you in advance for your efforts and diligence in keeping Mountain Brook an amazing community to live, work and play in. Please do not hesitate to contact me if you have any questions or thoughts. I have attached the American Academy of Pediatrics Policy Statement (link 2, attached) on electronic cigarettes (otherwise known as Electronic Nicotine Delivery System) for additional information.

Susan C. Walley, MD, CTTS, FAAP  
Associate Professor of Pediatrics  
Division of Hospital Medicine  
University of Alabama at Birmingham/Children's of Alabama Quality Improvement Director,  
UAB Pediatric Residency Chair, 100 9th Program 1600 7th Avenue South, Suite 104 McLeod

# PEDIATRICS

OFFICIAL JOURNAL OF THE AMERICAN ACADEMY OF PEDIATRICS

Electronic Nicotine Delivery Systems  
SECTION ON TOBACCO CONTROL  
*Pediatrics* 2015;136:1018, originally published online October 26, 2015;  
DOI: 10.1542/peds.2015-3222

The online version of this article, along with updated information and services, is located on the World Wide Web at:  
[aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222](http://aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222)

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Updated Information & Services	including high resolution figures, can be found at: <a href="http://aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222">aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222</a>
References	This article cites 49 articles, 19 of which can be accessed free at: <a href="http://aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222">aappubs.onlinelibrary.com/doi/10.1542/peds.2015-3222</a>
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creation: a randomized controlled trial (doi:10.1136/bmj.310.7002.1027)

31. Fore MC, Jain CB, Nover JL, et al. Prevalence of tobacco use and dependence among United States general practice pediatric residents. *MD, US Department of Health and Human Services, Public Health Service, 2010, available at: www.dhs.gov/professionals/clinicians-providers/guidelines-for-medication-tobacco-use/clinicians-use/tobacco-use/usa02.pdf*. Accessed July 6, 2015

32. McQuinn K, Rubin C, Northrup-Royce J. High P. Electronic cigarettes for smoking cessation and reduction. *Cochrane Database Syst Rev* 2014; 2013:CD010161

33. American Academy of Pediatrics Section on Tobacco Control. Policy statement: public policy to protect children from tobacco, nicotine, and tobacco smoke. *Pediatrics* 2013;132(5):1008-1017

34. Marquis K, Adams CE, Eng SA, Frenzel C, Sorensen A, Skaates L, Centers for Disease Control and Prevention (CDC). State laws prohibiting sales to minors and indoor use of electronic nicotine delivery systems—United States, November 2014. *MMWR Morbidity and Mortality Weekly Rep* 2014;63(45):1145-1150

35. American Academy of Pediatrics Section on Tobacco Control. Policy statement: clinical practice policy to protect children from tobacco, nicotine, and tobacco smoke. *Pediatrics* 2013;132(5):1008-1017

36. Longshore MC, Kim S, Keller KL, et al. Effects of flow restrictors on limiting access of liquid medications to young children. *J Pediatr* 2013;163(4):1134-1141

37. Chaloupka FJ, Harris A, Fong DT. Tobacco taxes as a tobacco control strategy. *Am J Control* 2012;10:177-180





**AN ORDINANCE TO PROHIBIT THE USE OF WIRELESS TELECOMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE IN SCHOOL ZONES BETWEEN THE HOURS OF 7:30 A.M. AND 8:00 A.M. AND BETWEEN THE HOURS OF 2:30 P.M. AND 3:30 P.M.**

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

1. **Provisions.** It shall be unlawful for the driver of a motor vehicle in a School Zone to operate a wireless telecommunication device between the hours of 7:30 A.M. and 8:00 A.M. and between the hours of 2:30 P.M. and 3:30 P.M. Operating a wireless telecommunication device shall include engaging in a call, writing, sending, or reading text-based communications; accessing, reading, or posting to a social network site or accessing or adding any information to the wireless telecommunication device. The provisions of this Section shall only apply within a school zone upon a public road or highway during posted hours when signs are located in a visible manner in each direction that indicate the use of a hand-held wireless telecommunication device is prohibited while operating a motor vehicle.
2. **"Wireless telecommunication device" defined.** "Wireless telecommunication device" means a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. A "wireless telecommunication device" shall not include any device or component that is permanently affixed to a motor vehicle. It does not include a hands-free wireless telephone, an electronic communication device used hands-free, citizens band radios, citizens band radio hybrids, commercial two-way radio communications devices, two-way radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.
3. **Violations.**
  - (1) Violations of this ordinance shall constitute a moving violation.
  - (2) The first violation of the provisions of this ordinance shall be punishable for a fine of not more than \$XX.
  - (3) Each subsequent violation shall be punishable by a fine of not more than \$XX.
  - (4) If a person is involved in a collision at the time of the violation, then the fine shall be equal to double the amount of the standard fine imposed in this ordinance and the law enforcement officer investigating the collision shall indicate on the written report that the person was using a wireless telecommunication device at the time of the collision.
4. **Exceptions:** The provisions of this ordinance shall not apply to a person who uses a wireless telecommunication device and does any of the following:
  - (1) Reports a traffic collision, medical emergency, or serious road hazard
  - (2) Reports a situation in which the person believes his personal safety is in jeopardy.
  - (3) Reports or averts the perpetration or potential perpetration of a criminal act against the driver or another person.

- (4) Operates a wireless telecommunication device while the motor vehicle is lawfully parked.
- (5) Uses a wireless telecommunication device in an official capacity as an operator of an authorized emergency vehicle.
5. **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.
6. **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.
7. **Effective Date.** This ordinance shall become effective immediately upon adoption, publication as provided by law, and the installation of appropriate traffic signage indicating that such turns are prohibited.

APPENDIX 2

Handheld Device Usage Statistics

School	Period	Minutes Observed	Using Device	Usage Per minute	Estimated Sample	Device Use Rate	Conflicts	Distractions
Mountain Brook High School	Morning	35	16	0.46	600	2.0%	0	5
	Afternoon	53	33	0.62	600	5.5%	0	2
Mountain Brook Junior High School	Morning	44	16	0.41	815	2.2%	0	3
	Afternoon	49	19	0.37	630	2.9%	1	3
Brookwood Forest Elementary School	Morning	30	9	0.30	450	2.0%	0	3
	Afternoon	53	21	0.40	225	7.6%	1	1
Cherokee Bend Elementary School	Morning	32	4	0.13	120	3.3%	0	1
	Afternoon	50	12	0.24	120	10.0%	0	3
Crestline Elementary School	Morning	35	19	0.54	900	2.1%	1	3
	Afternoon	30	50	1.67	675	7.4%	1	12
Mountain Brook Elementary School	Morning	28	9	0.32	120	7.5%	0	5
	Afternoon	54	4	0.07	120	3.3%	0	0

"Conflicts" were noted whenever a driver using a handheld device either took an action which may have resulted in a crash or caused other drivers to take action which may have resulted in a crash

"Distractions" was noted when the driver was visibly texting or looking down at a handheld device

The chart below shows the national trend on handheld device usage from 2005 to 2014. The cells above with RED entries denotes where the observation was above national average.

Figure 1  
Driver Use of Electronic Devices, 2005-2014



Source: NHTSA "Traffic Safety Facts Research Note", September 2014

7:30-8:00 AM  
2:30-3:30 PM

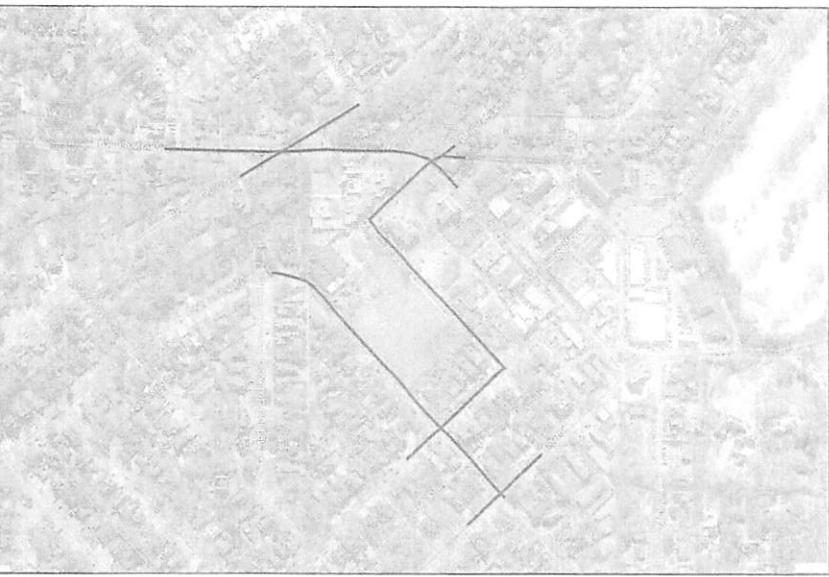
PROPOSED SCHOOL ZONE  
MOUNTAIN BROOK HIGH SCHOOL



PROPOSED SCHOOL ZONE  
CHEROKEE BEND ELEMENTARY SCHOOL 7:30-8:00 AM  
2:30-3:30 PM



PROPOSED SCHOOL ZONE  
MOUNTAIN BROOK JUNIOR HIGH SCHOOL 7:30-8:00 AM  
2:30-3:30 PM



PROPOSED SCHOOL ZONE  
CRESTLINE ELEMENTARY SCHOOL 7:30-8:00 AM  
2:30-3:30 PM

PROPOSED SCHOOL ZONE  
BROOKWOOD FOREST ELEM. SCHOOL 7:30-8:00 AM  
2:30-3:30 PM



PROPOSED SCHOOL ZONE  
MOUNTAIN BROOK ELEM. SCHOOL

7:30-8:00 AM  
2:30-3:30 PM



PROPOSED SCHOOL ZONE  
HIGHLANDS SCHOOL

7:30-8:00 AM  
2:30-3:30 PM



APPENDIX 2

SIGN ASSEMBLIES FOR THE  
BEGINNING OF SCHOOL ZONES

WITH NO SPEED LIMIT CHANGE      WITH SPEED LIMIT CHANGE/  
NO ACTIVE DEVICES      AND ACTIVE DEVICES



SIGN ASSEMBLY FOR THE  
END OF SCHOOL ZONES



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**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA  
JULY 11, 2016**

---

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at 7:00 p.m. on Monday, the 11th day of July, 2016. The Council President called the meeting to order and the roll was called with the following results:

**Present:** Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack  
Lawrence T. Oden, Mayor

**Absent:** None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston and City Clerk Steven Boone.

The City Council President stated that a quorum was present and that the meeting was open for the transaction of business

**1. EMPLOYEE RECOGNITION**

City Manager Sam Gaston recognized Finance Director Steven Boone for his twenty years of service with the City.

**2. CONSENT AGENDA**

Council President Smith then announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

Approval of the minutes of the June 27, 2016 regular meeting of the City Council.

<b>2016-087</b>	Authorize the [budgeted] payment from the General Fund of \$300,000 into the City of Mountain Brook Section 115 (retiree medical insurance) Trust for investment in accordance with the City's investment policy	Exhibit 1, Appendix 1
<b>2016-088</b>	Approve the conditional [service] use application submitted by Tony Mauro for Grade Power Learning (tutoring provider) at 81 Church Street (Crestline Corners) Crestline Village [local business district]	Exhibit 2, Appendix 2
<b>2016-089</b>	Authorize the extension of the cable franchise agreement between the City and Marcus Cable of Alabama, L.P. (dba\Charter Communications) under the same terms and conditions until July 21, 2018	Exhibit 3

Thereupon, the foregoing minutes and resolutions were introduced by Council President Smith and their immediate adoption was moved by Council President Pro Tempore Pritchard. The minutes and resolutions were then considered by the City Council. Council member Shelton seconded the motion to adopt the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice Womack

Nays: None

Council President Smith thereupon declared that said Council minutes and resolutions (Nos. 2016-087 through 2016-089) are adopted by a vote of 5—0 and as evidence thereof she signed the same.

**3. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING SEC. 129-295 OF THE CITY CODE REGARDING OPEN HOUSES, HOME TOURS, AND SPECIAL EVENTS IN RESIDENTIAL ZONING DISTRICTS (EXHIBIT 4, APPENDIX 3)**

The ordinance was introduced in writing by Council President Smith who then invited questions and comments from the audience. There being no comments or discussion and no motion, Council President Smith announced that the matter will be reconsidered at a later date.

**4. PUBLIC HEARING TO CONSIDER AN ORDINANCE (NO. 1955) AMENDING ARTICLES I, X, XI, XII OF THE CITY CODE REGARDING OFFICE USES AND MEDICAL CLINICS (EXHIBIT 5, APPENDIX 4)**

The ordinance was introduced in writing by Council President Smith who then invited questions and comments from the audience.

There being no comments or discussion, Council President Smith called for a motion. Council President Pro Tempore Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Carl and was carried, as follows:

Ayes: Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack

Nays: None

The Council President Smith declared the motion carried by a vote of 5—0.

After said ordinance had been considered in full by the Council, Council President Pro Tempore Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council member Shelton. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith, Council President  
William S. Pritchard, III, Council President Pro Tempore  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack

Nays: None

The Council President Smith declared that the said ordinance (No. 1955) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

**5. ANNOUNCEMENTS REGARDING THE NEXT REGULAR MEETING OF THE CITY COUNCIL**

Council President Smith announced that the next meeting of the Mountain Brook City Council will be held on Monday, July 25, 2016 at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City’s web site ([www.mtnbrook.org](http://www.mtnbrook.org)) for more information.

**6. ADJOURNMENT**

There being no further business to come before the City Council, Council President Smith adjourned the meeting.

**7. CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on July 11, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

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

**EXHIBIT 1**

**RESOLUTION NO. 2016-087**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the payment from the General Fund of \$300,000 into the City of Mountain Brook Section 115 (retiree medical insurance) Trust for investment in accordance with the City’s investment policy.

**APPENDIX 1**

**EXHIBIT 2**

**RESOLUTION NO. 2016-088**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the conditional service use application submitted by Tony Mauro to allow Grade Power Learning at 81 Church Street (Crestline Corners).

**APPENDIX 2**

**EXHIBIT 3**

**RESOLUTION NO. 2016-089**

**CHARTER FRANCHISE EXTENSION UNTIL JULY 18, 2018**

**WHEREAS**, the City Council of the City of Mountain Brook adopted Ordinance No. 1302 on March 23, 1998, granting to Marcus Cable of Alabama, L.P., a Delaware limited partnership (d/b/a Charter Communications, hereinafter “Charter”) the right to construct and operate a cable television system within the City of Mountain Brook, Alabama (the “Charter Franchise”); and

**WHEREAS**, specific understandings between the City of Mountain Brook ("City") and Charter concerning the Charter Franchise were reflected in an Agreement dated March 18, 1998 (the "Charter Franchise Agreement");

**WHEREAS**, since 1998 Charter has continually provided CATV service in the City pursuant to the Charter Franchise and the Charter Franchise Agreement;

**WHEREAS**, Charter is implementing a corporate merger and reorganization that consolidates certain CATV holdings and operations;

**WHEREAS**, Charter's reorganization is not expected to negatively impact the provision of CATV services currently offered in the City by Charter and any of its affiliates; and

**WHEREAS**, the City and Charter desire to extend the terms and conditions of the Charter Franchise Agreement while the terms and conditions of a new franchise agreement are negotiated.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Mountain Brook that Charter Communications is hereby authorized to continue operating said cable system in the City under the same terms and conditions as specified in Charter Franchise and the Charter Franchise Agreement until July 18, 2018.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook that the City Attorney is hereby authorized and instructed to negotiate with appropriate Charter representatives the terms and conditions of a new franchise agreement that will supersede and replace the existing Charter Franchise Agreement effective in July 2018.

**BE IT FURTHER RESOLVED** that the Mayor or the City Manager is hereby authorized to execute an agreement in a form that is acceptable to the City Attorney that may be necessary or appropriate to memorialize the short term extension of the Charter Franchise that is hereby approved.

---

**EXHIBIT 4**

**ORDINANCE NO.**

**DRAFT**

**AN ORDINANCE AMENDING SECTION 129-295 OF THE CITY CODE  
REGARDING OPEN HOUSES, HOME TOURS AND SPECIAL EVENTS  
IN RESIDENTIAL ZONING DISTRICTS**

---

**BE IT ORDAINED** by the City Council of the City of the City of Mountain Brook, Alabama, that Section 129-295 of the City Code is hereby amended to include subsection (c) as follows:

1. **"(c) Open Houses, Home Tours and Special Events.** Open houses, home tours and other special events ("Special Events") advertised for ticket sales to the general public wherein a residence 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 shall be conducted at any one residential premises during any one calendar year.
  - (2) Such Special Event shall be limited to a maximum of six (6) days in duration which days must be within a sixteen (16) day period beginning with the first day of the event.
  - (3) Goods sold at the Special Event shall be limited to inside the premises or the rear yard, and may not be visible from any public street.

- (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 Manager 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 handle 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 sole 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.
2. **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.
  3. **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.
  4. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

APPENDIX 3

EXHIBIT 5

ORDINANCE NO. 1955

AN ORDINANCE AMENDING ARTICLES I, X, XI AND XII OF THE CITY CODE REGARDING OFFICE USES AND MEDICAL CLINICS

BE IT ORDAINED by the City Council of the City of the City of Mountain Brook, Alabama, that Articles I, X, XI and XII of the City Code are hereby amended to as follows:

Section 1.

“Article I. - Definitions  
Section 129-2. Definitions

Clinic, medical and dental. A category of medical and dental care focused on the delivery of routine or ambulatory care, and the treatment of acute or chronic illness or injury requiring immediate care (those not warranting an emergency room visit). Often characterized by, but not limited to, one or more of the following: acceptance of patients on a walk-in basis with no appointment required, extended hours of operation on weekdays and/or weekends, and/or a pool of rotating medical or dental practitioners rather than the primary office of one or more permanent practitioners.

~~Office.~~ A building, or a portion of a building, in which professional clerical, administrative and similar activities are conducted, without any sales.

Office, business. Office uses that provide employment and space for the administrative affairs of businesses, but that do not generally involve frequent or intensive interactions by clients or general consumers on a daily basis, and where the delivery of the product or service does not necessarily need to occur on the premises.

Office, professional. Offices uses such as accountants, architects, attorneys, dentists, engineers, insurance agents, physicians, realtors, surgeons or persons conducting similar occupations or professions whose occupation or profession often requires professional licenses or certification.

**Article X. – Professional District**  
**Sec. 129-151. - Permitted uses.**

The uses permitted in Professional Districts shall be as follows:

- (1) Professional offices; ~~occupied by accountants, architects, attorneys, dentists, engineers, insurance agents, physicians, realtors, surgeons or persons conducting similar occupations or professions;~~
- (2) Private schools for the teaching of dancing, music or other educational courses; and
- (3) The design and assembly of frames for paintings, pictures, photographs, posters, lithographs, shadow boxes and similar items; and
- (4) Accessory structures customarily incidental to the uses permitted by this section 129-151.

**Article XI. – Office Park District**  
**Sec. 129-171. - Permitted uses.**

The uses permitted in Office Park Districts shall be as follows:

- (1) Professional offices;
- (2) Business offices;
- (3) Clinics, medical and dental;
- (4) Public buildings;
- (5) Gymnasiums and fitness centers;
- (6) Daycare centers;
- (7) Restaurants;
- (8) Dressmaking, millinery, sewing, tailoring, alterations, knitting and crocheting; provided, that any person engaged in dressmaking, millinery, sewing, tailoring or alterations may conduct trunk sales at his place of business, subject to the following conditions: (a) as used herein, "trunk sale" shall mean the sale of new clothes, clothing accessories and other consumer goods by means of the purchaser ordering the finished goods from samples and/or catalogs which are available for inspection at the place of business during the trunk sale; (b) no more than four trunk sales may be conducted at the place of business during any calendar year; and (c) no trunk sale may last for more than five days, which days must be consecutive.
- (9) Laboratories for the compounding and sale of prescription drugs;
- (10) Building and office cleaning services whose primary business is the cleaning of buildings and offices located in the same Office Park District in which the cleaning service is located;
- (11) Not more than ten percent of the rentable floor area in a building or buildings located on a parcel in an Office Park District may be used for retail establishments; provided, that: (a) all such retail businesses shall be designed and intended for the support of the other uses permitted under this section 129-171 and shall not be designed or intended to attract business or customers from without such Office Park District and provided, further, that such retail use shall be subject to the prior approval of the planning commission; and
- (12) Accessory structures customarily incidental to the uses permitted in an Office Park District.

**Article XII. – Local Business****Section 129-192 Permitted Uses****(b) Conditional Uses.**

- (1) **Service uses** shall be conditional uses in any area covered by a village master plan or the village overlay standards. The conditional review and approval process shall ensure that, in addition to the other factors of conditional review, sufficient parking exists so that the use will not negatively impact existing established businesses, and that the proposed service use, either in isolation or in conjunction with other service or office uses, will not have a detrimental impact on public parking in the villages. The service use category consists of businesses that offer customer services for the performance and delivery on premises, and may offer some limited products or merchandise associated with the service. The service use category includes the following uses:
- a. Banks;
  - b. Barber shops;
  - c. Beauty shops;
  - d. Dancing academies;
  - e. Daycare centers;
  - f. Dry cleaning establishments;
  - g. Electronic and electrical repair shops;
  - h. Fitness centers;
  - i. Gymnasiums;
  - j. Interior Design Shops
  - k. Nail Salons
  - l. Neuromuscular therapists;
  - m. Personal fitness trainers;
  - n. Photography studios;
  - o. Physical therapists;
  - p. Self-service laundries;
  - q. Shipping and wrapping of packages and sale of related items;
  - r. Shoe repair shops;
  - s. Tanning salons;
  - t. Theaters for the performing arts;
  - u. Travel agents.
- (2) **Office uses** shall be conditional uses in any area covered by a village master plan or the village overlay standards. The conditional review and approval process shall ensure that, in addition to the other factors of conditional review, sufficient parking exists so that the use will not negatively impact existing established businesses, and that the proposed office use, either in isolation or in conjunction with other service or office uses, will not have a detrimental impact on public parking in the villages. ~~The office use category consists of businesses that provide employment and space for the administrative affairs of businesses, but that do not generally involve frequent or intensive interactions by clients or general consumers on a daily basis, and where the delivery of the product or service does not necessarily need to occur on the premises.~~ The office use category includes the following uses:
- a. Business offices;
  - b. ~~Interior design shops~~ *(added to Service Uses above)*

b. Professional offices.

Any office use established or permitted by right prior to May 15, 2009, shall be permitted to continue in the same location without regard to these provisions, provided that such use is not expanded. An office use so established or permitted may be replaced by another office use with the same or fewer required parking spaces, it being the intent of the council to permit the continued office use of properties where existing office uses are located without the need for specific approval if parking demand is not increased. However, should such office use be replaced with a retail use, then any future reestablishment of an office use in the same location will require prior written approval of city council per subsection (b) of this section.”

5. **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.
6. **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.
7. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

**APPENDIX 4**

Statement of Changes in Fiduciary Net Position  
Other Post-Employment Benefits Trust Fund  
Year Ended September 30

	Actual 2015	Budget 2016	Projected 2016	Budget 2017
<b>ADDITIONS</b>				
Contributions				
215-3408-4810 Employer	\$ 658,063	\$ 701,000	\$ 635,000	\$ 654,000
215-3407-4231 Plan members	128,682	152,000	125,830	132,000
215-3407-4400 Investment earnings	31,151	18,000	22,439	20,000
<b>TOTAL ADDITIONS</b>	<b>817,896</b>	<b>871,000</b>	<b>783,269</b>	<b>806,000</b>
<b>DEDUCTIONS</b>				
Benefits				
215-1115-6130	475,010	553,000	454,000	481,000
215-1100-6*** Administrative expense	13,990	0	0	5,000
<b>TOTAL DEDUCTIONS</b>	<b>489,000</b>	<b>553,000</b>	<b>454,000</b>	<b>486,000</b>
<b>NET INCREASE</b>	<b>328,896</b>	<b>318,000</b>	<b>329,269</b>	<b>320,000</b>
Net position held in trust for other post-employment benefits, beginning of year	1,571,336	1,900,232	1,900,232	2,229,501
<b>NET POSITION HELD IN TRUST FOR OTHER POST-EMPLOYMENT BENEFITS, END OF YEAR</b>	<b>\$ 1,900,232</b>	<b>\$ 2,218,232</b>	<b>\$ 2,229,501</b>	<b>\$ 2,549,501</b>

2016-087

**Note:**

Effective October 1, 2006, GASB 45 required local governments to account for their other post-employment benefit plans (OPEB) similar to its method of accounting for its defined benefit pension plans. The City's OPEB plan includes retiree medical insurance. On July 27, 2009, the City Council authorized the creation of an Internal Revenue Code Section 115 trust (Resolution No. 09-101) and began depositing funds into the trust to offset its obligation for retiree medical benefits. Following is a summary of the City's deposits into the Sec. 115 trust since its creation, and trust balances, actuarial accrued liability (AAL) and unfunded actuarial accrued liability (UAAL) as of September 30 :

	September 30					
	Trust Deposit	Net Premiums	Total Expense	Trust Balance	AAL	UAAL
2017 Budgeted	\$ 300,000	\$ 354,000	\$ 654,000	\$ 2,549,501	\$ (3,463,260)	\$ (913,759)
2016 Projected	300,000	335,000	635,000	2,229,501	(3,686,855)	(1,457,354)
2015	300,000	358,063	658,063	1,900,232	(3,865,805)	(1,965,573)
2014	300,000	359,756	659,756	1,571,336	(3,992,253)	(2,420,917)
2013	320,000	350,923	670,923	1,260,448	(3,560,421)	(2,299,973)
2012	300,000	354,828	654,828	925,335	(3,155,271)	(2,229,936)
2011	200,000	364,016	564,016	613,573	(3,249,729)	(2,636,156)
2010	200,000	322,671	522,671	403,024	(3,473,472)	(3,070,448)
2009	180,000	35,118	215,118	196,320	(2,859,543)	(2,663,223)
	<u>\$ 2,400,000</u>	<u>\$ 2,834,375</u>	<u>\$ 5,234,375</u>			

**APPENDIX 1**



CITY OF MOUNTAIN BROOK  
 Dana O. Hazen, AICP  
 Director of Planning, Building & Sustainability  
 56 Church Street  
 Mountain Brook, Alabama 35213  
 Telephone: 205/402-3821  
 Fax: 205/679-6913  
 hazen@mtbrook.org  
 www.mtnbrook.org

2016-088

DATE: July 7, 2016  
 TO: Mayor, City Council & City Manager  
 FROM: Dana Hazen, City Planner  
 RE: Conditional Use – Grade Power Learning, 81 Church Street (Crestline Corners)

The proposed conditional use is a tutoring service to be located in the interior corner "niche" of Crestline Corners, next to Church Street Coffee and Books (previous tenant was a BBQ restaurant). The proposed operational characteristics are as follows:

Hours of operation:  
 M-Th: noon – 8pm  
 Sat: 9am – 12 noon

Schedule of tutoring sessions:  
 M-Th: 3:30 – 8pm  
 Sat: 9am – noon

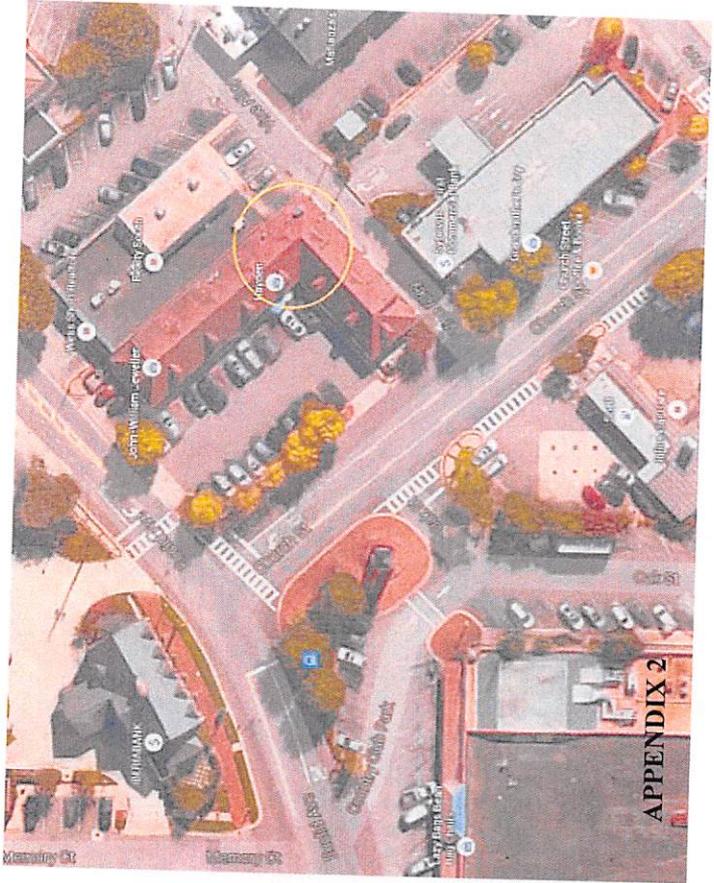
Number of employees at peak hour: 6

Number of students present at peak hour: 18

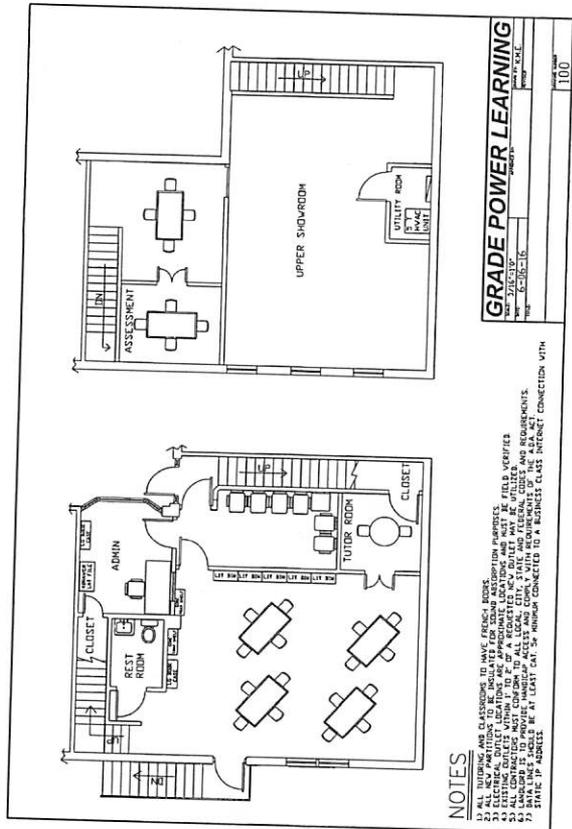
Employees are to park off-site.

Students age range: 5-19 years  
 Children under 12 years are to be dropped off between 3:30 – 6:30pm. Those 13-18 years are to arrive between 5:30 – 7:00pm

The on-site parking is to-code/conforming. Given the existing tenant mix, the parking lot is heavily used (especially in the mornings). If employees utilize all-day street parking in the vicinity, and the majority of students are dropped off by parents, then the on-site parking may not be too heavily impacted by the proposed use. It is anticipated that weekday tutoring session times will not conflict with peak hour on-site parking demand, however Saturday morning sessions are likely to compete for on-site parking. Also, drop-off and pick up of students may prove problematic given the limited maneuverability and ingress/egress of the on-site parking lot.



APPENDIX 2



**NOTES**  
 1) ALL TUTORING AREAS CLASSROOMS TO HAVE FRENCH BORDERS.  
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 100) ALL TUTORING AREAS CLASSROOMS TO HAVE FRENCH BORDERS.

*Below is a copy of request to use the Mountain Brook Presbyterian Church's parking lot for shuttle service*

## **Decorators' ShowHouse 2016**

**Date/time specific request to use parking lot for guests waiting for shuttle to the house.**

**We will be open:**

**Opening Day: 4/9**

**Closing Day: 4/24**

**1 hour before and after the below hours for our volunteer docents**

**3 Sundays from 2 to 5**

**3 Saturdays from 10 to 5**

**2 Tuesdays, Wednesdays, Thursdays, and Fridays from 10 to 3**

**Closed Mondays**

**Preview Party (invitation only): Thursday 4/7 6:30 to 9:00**

**Closing Party (invitation only): Sunday 4/24 5:00 to 8:00**

**Benefactors Evenings (invitation only): 2 dinners from 5:30 to 9 on April 11<sup>th</sup> and 12<sup>th</sup>**

**We would like to have a small tent in the furthest place on the parking lot or a place of your choice for our parking lot personnel**

**A restroom available for our parking lot personnel (2 men)**

**All proceeds benefit the Alabama Symphony Orchestra and its music education programs.**

**We hope you will approve our request. If you have any questions please contact:**

**Nancy Morrow: 870-8784**

**Cheree Carlton: 919-0559**

### **Additional: Totals and information for City of Mountain Brook regarding Resolution No. 2016-071**

**Please Note: Each year is different therefore there may be a change of plus or minus 2 days/events**

**Total days open to public:**

**6 weekend days**

**8 week days (closed on Mondays)**

**14**

**Total private parties or tours**

**1 to 3 benefactor's evenings**

**2 opening/closing evening parties (opening party is often on Friday eve.)**

**0 to 3 private daytime tours (Mondays only – 2 hours each)**

**3 to 8**



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Dana O. Hazen, AICP  
Director of Planning, Building & Sustainability  
56 Church Street  
Mountain Brook, Alabama 35213  
Telephone: 205/802-3821  
Fax: 205.879.6913  
hazend@mtnbrook.org  
www.mtnbrook.org

DATE: July 7, 2016, 2016  
TO: Mayor, City Council & City Manager  
FROM: Dana Hazen, City Planner  
RE: Zoning Amendment – Medical Clinics/Professional Offices

The intent of the proposed zoning amendment is to clean up existing zoning code language regarding office uses in the Local Business, Office Park and Professional Districts, and to distinguish professional and business offices from “medical clinics” (walk-in clinics). Definitions for professional and business offices have been refined, and a new definition for “medical clinic” has been added. Also, language has been added to the Office Park District to allow medical clinics in that zoning district alone.

APPENDIX 4