

ORDINANCE NO. 1875

AN ORDINANCE AMENDING ARTICLE XIX, CHAPTER 129
OF THE MOUNTAIN BROOK CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Article XIX, Chapter 129 (Zoning) is hereby amended as follows:

Section 1. Amendatory provision. Sec. 129-315. - Fences and walls in residential districts is hereby amended to read as follows:

Sec. 129-315. - Fences and walls in residential districts.

(a) *Front Yards.* Except as further provided in this section and as provided in Section 129-335 of this chapter, no fence or wall located in the front setback of any parcel in any residential district may exceed four (4) feet in height. No fence or wall located between the required front setback line and the existing front building line of any parcel in any residential district may exceed eight (8) feet in height.

(b) *Side and Rear Yards.* All fences or walls within required side or rear setbacks shall not exceed eight (8) ft in height.

(c) *Estate ~~and Residence-A~~ District.* For ~~lots in the Estate lots and Residence-A zoning~~ District, fences and walls located in the front setback may exceed four (4) feet in height, up to a maximum of eight (8) feet in height as follows:

(1) *Fences and walls.* Any portion of the fence or wall that exceeds four (4) feet in height must be at least fifty (50) percent open.

(2) *Columns.* Columns may be eight (8) feet in height notwithstanding (1) above, but shall be included for the purposes of determining the percentage of open portions of any such fence or wall. Columns may be no more than three (3) feet in width.

(3) *Entry Gates.* Entry gates and supporting columns are permitted under the same requirements as (1) and (2) above.

(d) *Residence-A District.* For Residence-A lots containing a minimum width at the front property line of one hundred (100) feet:

(1) *Columns.* Columns may be eight (8) feet in height and may be no more than three (3) feet in width.

(2) *Entry Gates.* Entry gates and supporting columns are permitted under the same requirements as (c) (1) and (2) above.

(e) *Fence Design and Materials*

(1) The finished side of a fence or wall shall always face the exterior (concrete block, unfinished concrete or modular concrete block must not be left unfinished, but must be finished with stucco, brick or other similar material). Support members, when located on one side of wooden privacy fences, shall be on the interior side.

1875

(2) Chain-link fencing shall not be permitted forward of any front building line, or within the required front setback, whichever is greater.

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance.”

Section 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.

Section 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.

Section 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: The 9th day of July, 2012.


Virginia C. Smith, Council President

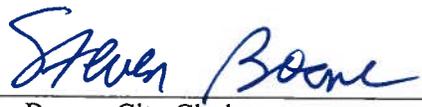
APPROVED: The 9th day of July, 2012.


Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on July 9, 2012, as same appears in the minutes of record of said meeting, and published by posting copies thereof on July _____, 2012, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 3928 Montclair Road
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road
Piggly Wiggly Foodstore No. 4, 93 Euclid Avenue
Joe Muggs Newsstand/Yogurt Mountain, 2037 Cahaba Road


Steven Boone, City Clerk



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
City Planner
3928 Montclair Road
Mountain Brook, Alabama 35213
Telephone: 205/802-3821
Fax: 205.879.6913
hazend@mtnbrook.org
www.mtnbrook.org

DATE: July 3, 2012
TO: Mayor, City Council, City Manager and City Attorney
FROM: Dana Hazen, City Planner
RE: Zoning Amendment regarding Height of Fences/Walls in Front Setback

On April 9, 2012, the council adopted Ordinance 1869 which amended the zoning code with respect to fences, walls, columns, and entry gates in front setbacks on residential lots zoned Estate and Residence-A.

One section of the ordinance amended the height limit to allow 8-foot high fences/walls in the front setback, as long as the upper four feet was 50% open. This was to be allowed on lots zoned Estate and on Residence-A lots that were at least 100 feet wide.

Upon further study it has been determined that there are far more Residence-A lots in the City (that are at least 100 feet wide) than was originally anticipated by ZOR and the Planning Commission. Upon your next visit to City Hall please take note of the wall map outside the City Planner's office, which denotes Res-A lots that are at least 200 feet wide. This map indicates that a great majority of the Res-A lots are between 100-200 feet wide, and so allowing the 8-foot high fences on so many lots throughout the City would be detrimental to the City's character.

It was not the intention of ZOR and the Planning Commission to have the 8-foot height limit have such far-reaching effects on the city streetscape as would be the case under the new ordinance.

Therefore, the staff, ZOR and Planning Commission have reconsidered the ordinance for fences and walls in the front setback and recommend that it be amended to pertain only to lots zoned Estate. The adopted ordinance for 8-foot high entry columns and gates would remain in effect for lots zoned Estate and those Res-A lots that are at least 100 feet wide.

1875

AFFIDAVIT OF PUBLICATION
 THE BIRMINGHAM NEWS COMPANY
 PUBLISHERS OF
 THE BIRMINGHAM NEWS

NOTICE OF PUBLIC HEARING
 Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, July 9, 2012, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

ORDINANCE NO. AN ORDINANCE AMENDING ARTICLE XIX, CHAPTER 129 OF THE MOUNTAIN BROOK CITY CODE BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Article XIX, Chapter 129 (Zoning) is hereby amended as follows:

Section 1. Amendatory provision. Sec. 129-315. - Fences and walls in residential districts is hereby amended to read as follows:

Sec. 129-315. - Fences and walls in residential districts.

(a) Front Yards. Except as further provided in this section and as provided in Section 129-335 of this chapter, no fence or wall located in the front setback of any parcel in any residential district may exceed four (4) feet in height. No fence or wall located between the required front setback line and the existing front building line of any parcel in any residential district may exceed eight (8) feet in height.

(b) Side and Rear Yards. All fences or walls within required side or rear setbacks shall not exceed eight (8) ft in height.

(c) Estate and Residence-A District. For lots in the Estate lots and Residence-A zoning District, fences and walls located in the front setback may exceed four (4) feet in height, up to a maximum of eight (8) feet in height as follows:

(1) Fences and walls. Any portion of the fence or wall that exceeds four (4) feet in height must be at least fifty (50) percent open.

(2) Columns. Columns may be eight (8) feet in height notwithstanding (1) above, but shall be included for the purposes of determining the percentage of open portions of any such fence or wall. Columns may be no more than three (3) feet in width.

(3) Entry Gates. Entry gates and supporting columns are permitted under the same requirements as (1) and (2) above.

(d) Residence-A District. For Residence-A lots containing a minimum width at the front property line of one hundred (100) feet:

(1) Columns. Columns may be eight (8) feet in height and may be no more than three (3) feet in width.

(2) Entry Gates. Entry gates and supporting columns are permitted under the same requirements as (c) (1) and (2) above.

(e) Fence Design and Materials

(1) The finished side of a fence or wall shall always face the exterior (concrete block, unfinished concrete or modular concrete block must not be left unfinished, but must be finished with stucco, brick or other similar material). Support members, when located on one side of wooden privacy fences, shall be on the interior side.

(2) Chain-link fencing shall not be permitted forward of any front building line, or within the required front setback, whichever is greater.

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance."

Section 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.

Section 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.

Section 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance.

Bham News: June 20, 2012

On this 20th day of June

A.D. Two Thousand, and Twelve, Vickie Webb declares that she is an Accounting Clerk of "The Birmingham News" published in the City of Birmingham, in the County of Jefferson, in the State of Alabama, and that the advertisement, a true copy of which is herewith attached, appeared in "The Birmingham News" on the following dates:

June 20, 2012

Vickie Webb
 Signed- Vickie Webb

State of Alabama
 County of Jefferson
 On 6-20, 2012, Vickie Webb personally appeared before me, who is personally known to me to be the signer of the above document, and she acknowledged that she signed it.

Nancy S. Bridgman
 Nancy S Bridgman, Notary Public

NANCY S BRIDGMAN
 NOTARY PUBLIC
 STATE OF ALABAMA
 MY COMMISSION EXPIRES DEC. 22, 2014