

**AN ORDINANCE TO AMEND CHAPTER 19, ARTICLE XII
LOCAL BUSINESS DISTRICT OF THE ZONING ORDINANCES
OF THE CITY OF MOUNTAIN BROOK, ALABAMA**

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

1. **Amendatory Provision.** Chapter 19, Article XII is amended as follows:

ARTICLE XII. Local Business District

Sec. 19-12-1. Purpose and applicability.

The Local Business District provisions are intended to protect, enhance, and extend the identifiable character of the Villages of Mountain Brook: Crestline Village, English Village, Mountain Brook Village, and Overton Village, and the Local Business District designation is intended to be applied only to areas within the Villages, as indicated on the Village Master Plan maps, and to other commercial areas that are designed to emulate the village approach to development in terms of scale and design.

Sec. 19-12-1. Permitted uses.

The uses permitted in the Local Business Districts shall be as follows:

- (a) *Uses permitted by right.* The following uses are permitted by right, unless specifically limited by any provisions of any applicable overlay ordinance.
 - (1) *Retail Use Category.* The retail use category is for buildings and sites that provide for the display and on-site exchange of merchandise for general consumers. The Retail Use category includes the following uses:
 - a. Antique stores;
 - b. Appliances and electronic goods and equipment;
 - c. Arts and crafts stores;
 - d. Bakeries;
 - e. Bookstores;
 - f. Bridal shops;
 - g. Cafeterias;
 - h. Clothing stores;
 - i. Computer stores;
 - j. Dairy stores;
 - k. Delicatessens;
 - l. Drug stores;
 - m. Florist shops;
 - n. Furniture stores;
 - o. Garden shops;
 - p. Gift shops;
 - g. Grocery stores;
 - r. Hardware stores;
 - s. Ice cream parlors;

- t. Jewelry stores;
- u. Liquor stores;
- v. Meat, vegetable and fruit markets;
- w. Pet shops;
- x. Rental and sale of video tapes and related items;
- y. Restaurants, unless otherwise specified as a conditional use in sub-section (b) below;
- z. Retail ice sales establishments;
- aa. Shoe stores;
- bb. Small dry goods stores;
- cc. Sporting goods stores.

(2) *Service Use Category.* The Service Use Category consists of businesses that offer customers 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 where no laundering or cleaning is done on the premises;
- g. Electronic and electrical repair shops;
- h. Fitness centers;
- i. Gymnasiums;
- j. Neuromuscular therapists;
- k. Personal fitness trainers;
- l. Photography studios;
- m. Physical therapists;
- n. Self-service laundries;
- o. Shipping and wrapping of packages and sale of related items;
- p. Shoe repair shops;
- q. Tanning salons;
- r. Theaters for the performing arts;
- s. Travel agents.

(3) *Office Use Category.* The Office Use category consists of businesses that provide employment and space for the administrative affairs of businesses. The projects and services of the business 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;
- c. Professional offices.

(4) *Civic Use Category.* The Civic Use category consists of uses serving a broad and general public interest by providing administrative service functions that are community oriented. The Civic Use category includes the following uses:

- a. Municipal government buildings, including, but not limited to, fire stations, police stations, libraries and city hall;

- b. Schools, public and private;
- c. Municipal parking facilities.

(b) *Conditional Uses.* Conditional Uses are uses which may be acceptable within the Local Business District, based on specific circumstances and mitigating site design provisions that would eliminate the potential for these uses to otherwise have negative impacts on adjacent property, other uses in the district, or the district as a whole. Therefore, they require special review to better determine if the circumstances and design provisions for the proposed use when applied to a specific site are sufficient to mitigate any potential negative impacts. The following uses may be permitted in a Local Business District, but only with the prior written approval of the City Council:

- (1) Commercial uses grouped together on one (1) or more contiguous parcels of land having shared access and shared off-street customer parking;
- (2) Automobile service stations and stores at which gasoline is sold, regardless of whether or not repair services are provided at such stores, including, without limitation, stores at which groceries, and/or related items, such as soft drinks, alcoholic beverages, dairy products, tobacco products and bakery items are sold; but such service stations and stores may be located only on corner lots, or upon a group of adjoining lots which includes a corner lot; and further provided, that all pumps, tools, and accessories must be placed not less than fifteen (15) feet from all street right-of-way lines so that motor vehicles can be serviced without obstructing sidewalks. In the Local Business District, these stations should be limited to no more than 8 pumps and no more than 2 service islands to ensure the smaller-scale pedestrian nature of the district;
- (3) Repair garages, provided that all work is done wholly within a building, and that there is no storage or parking of wrecked cars on the premises; and
- (4) Coin-operated amusement devices, which shall be permitted only in restaurants; provided, that there shall be not more than five (5) such devices in any one (1) restaurant, that they are not situated in the dining area of the restaurant, that they are an incidental use, and not a primary use, of the premises and that the area of the space in which they are located does not exceed twenty (20) percent of the total public area of the restaurant.
- (5) Inns, bed and breakfast establishments, hotels or motels. The conditional review and approval shall ensure that sufficient parking exists in addition to parking required by this district so that the business will not negatively impact existing established businesses. Sufficient parking may be provided through sharing, valet programs, or other remote parking that are conditions of the review and approval. Proposed uses shall present a forecasted parking demand during operating hours based on industry standards as part of the conditional review.
- (6) Restaurants that are open for business on any weekday of any given week during the hours of 11:00 a.m. and 1:00 p.m. shall be conditional uses in any area covered by a Village Master Plan following the adoption of the Village Master Plan and the Village Overlay Standards in Chapter 19, Article 31. The conditional review and approval shall ensure that sufficient parking exists in addition to parking required by this district so that the business will not negatively impact existing established businesses. Sufficient parking may be provided through sharing, valet programs, or other remote parking that are conditions of the review and approval. Proposed uses shall present a forecasted parking demand during operating hours based on industry standards as part of the conditional review. For the purposes of this subsection, "Restaurants" shall not include any facility whose primary function between 11:00 a.m. and 1:00 p.m. is other than the sale of food for on-site consumption.

Sec. 19-12-2. Area and dimensional requirements.

The following area and dimensional requirements apply in the Local Business District, except to the extent that they are amended by any applicable overlay ordinance which may provide specific dimensional requirements for lots and buildings on a block-by-block basis within the Villages.

(a) *Build-to lines and setbacks.*

- (1) *Street-frontage build-to line.* The front and side walls of the principal building shall be constructed to the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way, except where item (2) of this subsection may apply.
- (2) Any newly constructed building shall be located not farther from the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way, than any adjacent building on the same side of the street in the same block, but in no event shall such building be located farther than twenty (20) feet from the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way.
- (3) *Side yard setback.* The principal building shall extend to the side property line at the front of the building, except as required by item (1) of this subsection, or by prior written approval of the Planning Commission in cases where side yard parking extending to the front of the building is deemed necessary by the planning commission.

(b) *Height of buildings.*

- (1) Maximum number of stories: Two (2).
- (2) Maximum building height: Thirty (30) feet, except that the maximum height for buildings on parcels located at the intersection of two (2) streets shall be forty (40) feet.

Sec. 19-12-3. Off-street parking and access.

The following off-street parking and access requirements apply in the Local Business District, except to the extent that they are amended by any applicable overlay ordinance which may specify parking and access requirements on a block-by-block basis within the Villages.

- (a) *Generally.* No parking spaces shall be located between the front of the building and the right-of way line of the street, except with the prior written approval of the Planning Commission.
- (b) *Required parking spaces on the parcel.* For any newly constructed building there shall be provided on the parcel on which the building is located at least one (1) parking space, not less than nine (9) feet in width and eighteen (18) feet in length, for every two hundred (200) square feet of floor area of the building, except basement area used exclusively for storage or mechanical equipment, subject to the provisions of subsection (c) and of Article XXI.

(c) *Requirements and restrictions.*

- (1) Ingress to parking spaces shall not be located in front of the building, except with the prior written approval of the Planning Commission, as provided for in subsection (a);
 - (2) All parking spaces, attendant driveways and other areas which may be necessary for the maneuvering of motor vehicles shall be arranged so as to provide convenient access to and from a paved street or alley, shall be paved with asphalt or concrete and shall have adequate storm drainage facilities;
 - (3) There is no access to the required off-street parking spaces by means of a paved street or alley, then a driveway entrance to, and exit from, parking spaces, not to exceed twenty (20) feet in width, shall be provided;
 - (4) Sidewalk of not less than five (5) feet in width shall be provided between the parking area and the building;
 - (5) There shall be provided a curb of not less than six (6) inches, and not more than eight (8) inches, in height between the parking area and the adjacent sidewalk;
 - (6) Parking areas which are located adjacent to a public sidewalk shall have a planted buffer which will substantially screen the parking area from the sidewalk. The design of the buffer shall be subject to the prior written approval of the Planning Commission, which may require such reasonable information about the proposed buffer which it considers necessary, giving due consideration to the need for adequate view for, and of, pedestrians, vehicular traffic and the motorists entering and leaving the parking area. Installation and maintenance of the buffer shall be the responsibility of the owner of the parking area; and
 - (7) Parking areas in side yards and rear yards and areas used for parking for commercial uses grouped together on one (1) or more contiguous parcels of land having shared access and shared off-street customer parking shall be lighted in accordance with section 19-21-6.
- (d) *Drive-up or drive-through facilities.* None of the uses permitted in a Local Business District, either uses permitted by right or conditional uses, may employ or have a drive-through or drive-up window or facility except with the prior written approval of the Planning Commission.

[Leave section 19-12-4 as currently written]

[Leave section 19-12-5 as currently written]

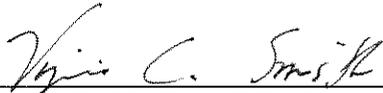
Sec. 19-12-6. Alternate process for permitting construction of certain nonconforming structures and improvements.

Building permits and certificates of occupancy may be issued for uses that do not conform to the requirements set forth in this article only under the following conditions. These provisions may not be applied to building permits or certificates of occupancy for parcels zoned Local Business and covered by the Village Overlay Standards.

- (1) A development plan containing the information specified in sections 19-14-3 and 19-14-4 of the Code shall be submitted to the zoning official or building official of the city and shall thereafter be processed, reviewed, and acted upon in accordance with the procedures provided in sections 19-14-3 and 19-14-5 of the code. Prior to issuance of a building permit for a nonconforming structure that is submitted for approval under the provisions of this section, public notice of the application shall be given and public hearings held thereupon by the Planning Commission and City Council to the extent and in the manner that is required in order to rezone the property that is the subject of the application. The information that is required to be submitted in connection with the application shall be made available for public inspection in advance of any hearing to be held thereupon, and the availability of such information for public inspection shall be described in any notice of public hearing issued with respect to the application.
 - (2) In addition to the information described above, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall, in its application to the city, specifically identify all features of the proposed construction or improvement that do not meet otherwise applicable requirements, explain why a modification or deviation from these requirements is necessary and appropriate under the circumstances, and demonstrate how compensating architectural features, design elements, construction practices, or characteristics of the site will operate to mitigate the effect of the modification or deviation from the otherwise applicable requirements and thereby serve the purposes of the zoning ordinance.
 - (3) If and to the extent not fully addressed in the development plan, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall submit with its application a specific and comprehensive description of plans, methods, or means for resolving actual or potential problems, issues, or concerns pertaining to traffic flow and/or safety, drainage, landscaping, buffering, and lighting.
 - (4) The Planning Commission may recommend, and the City Council may approve construction of a nonconforming building, structure or other improvement, only to the extent that it furthers specified public interests in the city Master Plan. The plans for any construction using this process shall establish that the proposed construction achieves these specified public interests as well as or better than can be achieved through construction strictly meeting the provisions for this district.
 - (5) No construction or improvement that does not conform to a development plan that has been approved by the City Council in the manner prescribed above shall be permitted or authorized.
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 five (5) days after adoption and publication as provided by law.

ADOPTED: This 25th day of February, 2008.



Virginia C. Smith, Council President

APPROVED: This 25th day of February, 2008.



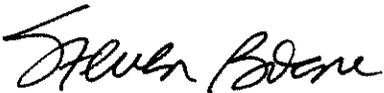
Lawrence T. Oden, Mayor

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 February 25, 2008, as same appears in the minutes of record of said meeting, and published by posting copies thereof on February 26, 2008, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road

Joe Muggs Newsstand, 2037 Cahaba Road
Piggly Wiggly Food Store 4, 93 Euclid Avenue



Steven Boone, City Clerk