

ORDINANCE NO. 1795

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that the following Section of the City Code of the City of Mountain Brook is hereby amended to read as follows:

Section 1. Section 129-192 of the City Code shall be amended as follows:

“Sec. 129-192. 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. Delicatessens;
- k. Drug stores;
- l. Florist shops;
- m. Furniture stores;
- n. Garden shops;
- o. Gift shops;
- p. Grocery stores;
- q. Hardware stores;
- r. Ice cream parlors;
- s. Jewelry stores;
- t. Liquor stores;
- u. Meat, seafood, vegetable and fruit markets;
- v. Pet shops;
- w. Rental and sale of electronic media and related items;
- x. Restaurants, unless otherwise specified as a conditional use in sub-section (b) below;
- y. Shoe stores;
- z. Small dry goods stores;
- aa. Sporting goods stores.

(2) *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. In addition to review of factors set forth in the following sections, any proposed conditional use will be reviewed as to the following:

- i. Whether the use would disparately impact public parking in the area;
- ii. Whether vehicular or pedestrian circulation would be impacted by the use;
- iii. Whether the use is compatible with surrounding existing uses;
- iv. Whether the hours of operation or peak traffic times would impact existing uses.

The following conditional uses may be permitted in a Local Business District, but only with the prior written approval of the City Council:

- (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 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;
- g. Electronic and electrical repair shops;
- h. Fitness centers;
- i. Gymnasiums;
- j. Nail Salons
- k. Neuromuscular therapists;
- l. Personal fitness trainers;
- m. Photography studios;
- n. Physical therapists;
- o. Self-service laundries;

- p. Shipping and wrapping of packages and sale of related items;
- q. Shoe repair shops;
- r. Tanning salons;
- s. Theaters for the performing arts;
- t. Travel agents.

Any service 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. A service use so established or permitted may be replaced by another service use with the same or fewer required parking spaces, it being the intent of the Council to permit the continued service use of properties where existing service uses are located without the need for specific approval if parking demand is not increased. However, should such service use be replaced with a retail use, then any future reestablishment of a service use in the same location will require prior written approval of City Council per Section 129-192 (b).

Any such conditional use shall be approved by the City Council if all required parking is provided on site and in the quantities set forth in Section 129-555(a) of the City Code.

- (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;
- c. 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 Section 129-192 (b).

Any such conditional use shall be approved by the City Council if all parking is provided on-site and in the quantities set forth in Section 129-555(a) of the City Code.

- (3) Commercial uses grouped together on one (1) or more contiguous parcels of land having shared access and shared off-street customer parking;


- (4) 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;
- (5) 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;
- (6) 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;
- (7) 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;
- (8) 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.

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.

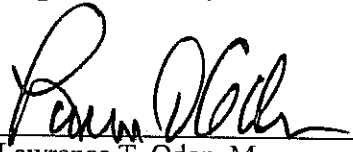
Section 3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

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

ADOPTED: The 27th day of April, 2009.


Virginia C. Smith, Council President


APPROVED: The 27th day of April, 2009.


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, at its regular meeting on April 27, 2009, as same appears in the minutes of the record of said meeting and published by posting copies thereof on April 28, 2009, 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