ORDINANCE NO. 1807

AN ORDINANCE AMENDING SECTIONS 109-31, 109-32, 109-195, 109-227, AND 18-20 OF THE CITY CODE ALL INVOLVING THE ADOPTION OF VARIOUS INTERNATIONAL CODE COUNCIL CODES RELATING TO INSPECTION ACTIVITIES OF THE CITY OF MOUNTAIN BROOK AND ENFORCEMENT OF BUILDING PROVISIONS AS PROVIDED IN SAID CODES

WHEREAS, it is the desire of the City Council of the City of Mountain Brook, Alabama, to adopt, in all respects, the various International Code Council ("ICC") codes relating to building, residential, gas, mechanical, plumbing, and fire; and

WHEREAS, the adoption of these Codes is pursuant to §11-45-8 Code of Alabama (1975); and

WHEREAS, the adoption of these Codes is done to facilitate proper inspection activities by the City of Mountain Brook, Alabama, relating to construction of buildings within the corporate limits of said city and relating to public safety, health and general welfare;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook the following:

Section 1. Section 109-31 of the City Code is hereby repealed and replaced with the following:

"**Sec. 109-31. Building Codes—Adoption by reference.**

(a) The International Building Code - 2009 Edition and International Residential Code - 2009 Edition, both published by International Code Council (ICC) and available for purchase at 900 Montclair Road, Birmingham, Alabama, are hereby adopted by reference as though they were copied herein fully, subject to the amendments of the following sections, as the Building Code of the city."

(b) **Section 101.4.4 Property Maintenance** (of the 2009 International Building Code) is hereby deleted.

Section 2. Section 109-32 of the City Code is hereby repealed and replaced with the following:

"**Sec. 109-32. Same—Amendments.**

The Building Code adopted by section 109-31 is amended as follows:

(a) Section R108.2 of the International Residential Code is hereby repealed and replaced with the following:

"**R108.2 Schedule of permit fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Sections 4-5.3 (building, fire safety systems, and fire life safety plan review), 5-19 (electrical), and 8-12 (gas and mechanical) shall be paid at the time of filing application, in accordance with

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such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office."

(b) Section R110.1 of the International Residential Code is hereby repealed and replaced with the following:

"**R110.1 Use and occupancy.** No residential building or structure shall be used or occupied, and no change in the existing occupancy classification of a residential building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official and the city manager. No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a commercial building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official, the fire official, and the city manager. A certificate of occupancy shall not be issued until after the city manager shall have determined that the building conforms to all provisions and regulations of the city with respect thereto, including its use under the zoning ordinances of the city. A certificate of occupancy (whether a temporary certificate of the regular certificate) issued without the signature of the building official, fire official (in the case of commercial buildings), and the city manager shall not be deemed to be a certificate of occupancy issued under this code or under the city's zoning ordinance."

(c) Section R112 (Board of Appeals) of the International Residential Code is hereby repealed and replaced with the following:

"Section R112 Board of Appeals.

Appeals regarding the application of the adopted building and fire codes may be presented to the city manager for consideration. The city manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the city manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under this code."

(d) Section R113.4 of the International Residential Code is hereby repealed and replaced with the following:

"**R113.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the city that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the city code and by §13A-10-4 of the Code of Alabama."

Section 3. Section 109-195 of the City Code is repealed and replaced with the following:

"**Sec. 109-195. Gas and Mechanical Codes—Adoption by reference.**

The International Fuel Gas Code - 2009 Edition and International Mechanical Code - 2009 Edition, both published by International Code Council ("ICC") and available for purchase at 900 Montclair Road, Birmingham, Alabama, are hereby adopted by reference as though they were copied herein fully, subject to the amendments of the following sections, as the Gas and Mechanical Code of the city."

Section 4. Section 109-227 of the City Code is repealed and replaced with the following:

"**Sec. 109-227. Plumbing Code—Adoption by reference.**

The International Plumbing Code - 2009 Edition published by International Code Council ("ICC") and available for purchase at 900 Montclair Road, Birmingham, Alabama, is hereby adopted by reference as though it were copied herein fully, subject to the amendments of the following sections, as the Plumbing Code of the city."

Section 5. Section 18-20 shall be repealed and replaced with the following:

"**Sec. 18-20. Adoption.**

The International Fire Code - 2009 Edition published by International Code Council ("ICC") and available for purchase at 900 Montclair Road, Birmingham, Alabama; and the Life Safety Code (NFPA 101) - 2003 Edition, available for purchase from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA or by calling (800) 344-3555, are hereby adopted by reference as though they were copied herein fully, subject to the amendments of the following sections, as the Fire Prevention Code of the City."

Section 6. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 7. 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 8. The amendments to the International Residential Code adopted hereinabove shall prevail over any conflicting provision of the International Residential Code adopted hereinabove by reference. All other ordinances or parts of ordinances heretofore adopted by the City Council of the City

of Mountain Brook, Alabama, which are inconsistent with the provisions of this ordinance, are hereby expressly repealed.

In addition, when a provision refers to the duties of certain named officials, the official of the City of Mountain Brook, Alabama whose duties most closely correspond to those of such named official shall be deemed the official responsible for the enforcement of said provision.

Section 9. The effective date of this ordinance shall be February 1, 2010.

ADOPTED: This 11th day of January, 2010.

Virginia C. Smith, Council President

APPROVED: This 11th day of January, 2010.

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 January 11, 2010, as same appears in the minutes of record of said meeting, and published by posting copies thereof on January 12, 2010, 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
Piggly Wiggly Foodstore No. 4, 93 Euclid Ave.
Joe Muggs Newsstand, 2037 Cahaba Road

Steven Boone

Steven Boone, City Clerk

Memo

Date: January 5, 2010

To: City Manager
City Council

Cc: Fire Chief
Fire Marshall

From: Jerry Weems

RE: *2010 INTERNATIONAL RESIDENTIAL CODE*
SECTION R 313 – AUTOMATIC FIRE SPRINKLER SYSTEMS
SECTION R 313.2 – ONE AND TWO -FAMILY DWELLINGS, AUTOMATIC FIRE SYSTEMS.

Effective January 1, 2011, an automatic residential fire sprinkler system shall be installed in one and two-family dwellings.

Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

This section of the Code was approved in 2008. Voting members consisted of Building Officials, Fire Departments and the National Fire Protection Association. The National Association of Home Builders disagreed with the outcome and requested another vote. The International Code Council agreed. On October 2009, the fire sprinkler issue came up for a vote. Once again it was approved and it was determined that this section was to remain a part of the Code.

RESEARCH: I started my review of the 2010 Code in March 2009. Fire Marshal David Cohen and I discussed this section of the Code. He explained his thought processes on this issue and even presented documentation to support his opinion. However, I told David that I wanted to keep an open mind so that I could gather all the facts before submitting my opinion to the City Council for their consideration for adoption.

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In March 2009, I called the Greater Birmingham Association of Home Builders and was told to call the Montgomery office. The Montgomery office told me they were opposed to this particular section of the Code and we discussed their reasoning. I then asked for supporting documentation but never received any. Then, in June 2009 I called again to request materials - and again never received them.

The City of Mountain Brook has 218 licensed homebuilders. Out of those 218, twenty-eight build new homes in Mountain Brook. The others only do additions and alterations. Of the 28 new homebuilders, only one opposes requiring fire sprinklers.

New homebuilders were interviewed and they made the following comments regarding the issue:

1. Would my plumber be authorized to install the system?
2. Does a separate water service have to be run into the building for the sprinklers?
3. Would plastic pipe be an accepted construction material?
4. Who would be responsible for inspecting the sprinkler systems?

Hearing no negative response from any but one of the new homebuilders, I brought this issue to the City Council. On December 14, 2009 the City held a public hearing. There were four members of the Greater Birmingham Association of Home Builders present at the hearing:

- Mr. Brooks Harris – does not build in Mountain Brook, but does build in Shelby County.
- Mr. Robert Garrison - does not build in Mountain Brook, but does build in Shelby County.
- Mr. Bob McKay only does room additions and alterations in Mountain Brook.
- Mr. Roddy Samples only does room additions and alterations in Mountain Brook.

Based on feedback I've received during this past year from new homebuilders in Mountain Brook, I am wary of the motive of the Greater Birmingham Association of Home Builders, as it appears they have an "agenda" and want to "voice it."

To sum my report up, based on the information furnished by Mountain Brook's Fire Department, I think requiring installation of sprinkler systems in new homes is a good idea.

Jerry Weems, Building Inspections Superintendent