

ORDINANCE NO. 2127

**AN ORDINANCE AMENDING SECTION
109-31 OF THE CITY CODE**

WHEREAS, the City Council of the City of Mountain Brook, Alabama (the "City Council") heretofore has adopted various building codes promulgated by the International Code Council (the "ICC") and the National Fire Protection Association relating to buildings, residences, and other structures (collectively, the "Building Codes") in the City of Mountain Brook ("City"); and

WHEREAS, the City Council desires that the City adopt the 2021 versions of the Building Codes (the "Updated Building Codes") that are enumerated and specified herein for use and application for buildings and structures within its corporate limits; and

WHEREAS, the adoption of the Updated Building Codes by reference is authorized by ALA. CODE §11-45-8 (1975); and

WHEREAS, the adoption of the Updated Building Codes will facilitate the performance of inspection activities by the City and promote the public safety, health and general welfare of its residents and owners, occupants and users of buildings and structures in the City.

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

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 Section 109-31 of the City Code is hereby repealed and replaced with the following: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) Except as provided herein, the International Building Code - 2021 Edition ("ICC Building Code"), 2021 International Fire Code (IFC), International Residential Code - 2021 Edition (the "IRC") and -2021 Edition ("the ISPSC") International Swimming Pool and Spa Code, as published by the ICC and available for purchase at 900 Montclair Road, Birmingham, Alabama, are hereby adopted as the building code of the city by reference as though they were copied herein.
- (b) With respect to the ICC Building Code and the IRC, the city modifies the forms proposed by the ICC as follows:
 - (i) *Section [A]101.4. of ICC Building Code - Referenced codes:* The following codes that are referenced in this Section of the ICC Building Code are not adopted: (a) the International Property Maintenance Code referenced in Section 101.4.4; and (b) the International Existing Building Code referenced in Section 101.4.7.

- (ii) *Section [A] 109.2 of ICC Building Code & Section R108.2 of IRC - Schedule of Permit Fees:* These Sections are not adopted in the form proposed by the ICC, and are replaced in their entirety with the following:

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 Section 14-1 shall be paid at the time of filing application, in accordance with 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.

- (iii) *Sections [A] 111.1 of ICC Building Code & R110.1 of IRC - Use and Occupancy.* These Sections are not adopted in the form proposed by the ICC, and are replaced in their entirety with the following:

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 or 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.

- (iv) *Sections [A] 113 of ICC Building Code & R112 of the IRC - Board of Appeals.* These Sections are not adopted in the form proposed by the ICC, and are replaced in their entirety with the following:

Appeals regarding the application of the adopted building 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 these codes.

- (v) *Sections [A]114.4 of ICC Building Code & R113.4 of IRC- Violation Penalties.* These Sections are not adopted in the form proposed by the ICC, and are replaced in their entirety with the following:

R113.4 Violation Penalties. Any person who violates a provision of these codes 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 these codes, 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.

- (vi) *Chapter 11 of IRC- Energy Efficiency.* This Chapter is adopted except as follows:

(a) notwithstanding any provisions contained in Chapter 11 or elsewhere in the IRC, the Energy Efficiency requirements in the IRC shall not be applicable to the repair, renovation, alteration or reconstruction of existing buildings and structures; and (b) the minimum standards for insulation to be used in connection with the repair, renovation, alteration or reconstruction of existing buildings and structures shall not be less than R-30 for ceiling spaces, R-13 for walls and R-19 for floors.

- (vii) *Section P2904 of the IRC- Dwelling Unit Fire Sprinkler Systems.* This Section is adopted, but the following provision is added as P2904.8.9:

P2904.8.9 Residential Sprinkler Exemption. Notwithstanding any provision in this Section P2904 or elsewhere in the IRC, any homeowner, upon application to the City's building official, may request an exemption to the sprinkler system requirements of P2904.1 for a dwelling and such exemption shall be granted upon satisfaction of each of the following:

- a. The applicant must either confer with the City Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems;
- b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system;

Exceptions:

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i. No exemption shall be granted for any dwelling constructed less than 7 feet from the property line, where emergency apparatus vehicular access is by way of a driveway with an elevation change of greater than 10%, or where the dwelling structure is located 250 feet or more from the public right of way, unless otherwise granted by the Fire Marshall after review and approval of other alternatives provided in the IFC and a determination that such alternatives are sufficient to meet the objectives of the IFC, and

ii. No exemption shall be granted for 2-family or more dwelling units.

- (viii) Section 506.2.1 of the 2021 IRC is adopted but is amended by adding the following language to such section:

Fill depths between 24-60" shall be permitted where fill consists of #57 compacted gravel stone backfill, where under a concrete slab floor for over exaction situations and where #4 rebar on 16" center tied in both directions or other approved reinforcement material, as specified by an engineer's report, is utilized.

- (ix) Section 302.5.1 of the 2021 IRC is adopted but is amended as follows:

Section 302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8" thickness solid or honeycomb core steel doors not less than 1 3/8" or 20 minute fire rated automatic closing device or self-closing doors.

- (x) Section R312.1.1 of the 2021 IRC is adopted but is amended as follows:

Section R312.1.1 Where required. Guards shall be provided for those portions of open sided walking surfaces including floors, stairs, ramps and landings that are located more than 30 inches measured vertically to the floor or grade below. Insect screening shall not be considered as a guard."

Section 2. 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 3. 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. The amendments to the enumerated Building Codes adopted hereinabove shall prevail over any conflicting provision of the Building Codes adopted previously by the Council. 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 in the adopted Building Codes 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 5. This ordinance shall be effective immediately after adoption and publication as provided by law.

ADOPTED: This 25th day of July, 2022.



Council President

ADOPTED: This 25th day of July, 2022.



Mayor

CERTIFICATION

I, Heather Richards, 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 meeting held on this 25th day of July, 2022, as same appears in the minutes of record of said meeting, and published by posting copies thereof on July 26, 2022, 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

Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road



City Clerk