

ORDINANCE NO. 1869

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) feet in height.

(c) *Estate and Residence-A Districts.* For lots in the Estate and Residence-A zoning districts containing a minimum width at the front property line of one hundred (100) feet, 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. Any such fence or wall shall be subject to the following:

(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) *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 in any actual or required front yard.”

Section 2. Amendatory provision. Sec. 129-296. - Buffers and privacy fences and walls is hereby amended to read as follows:

“Sec. 129-296. - Buffers and privacy fences and walls.

In cases in which a buffer, a green belt or a privacy fence is required between adjoining parcels, the following shall constitute the minimum requirements therefore, unless otherwise specified in individual cases:

(1) *Buffers and green belts.* For a buffer or green belt, a planted strip of land at least 15 feet in width, composed of living deciduous or evergreen trees spaced not more than ten feet apart, and at least one row of dense evergreen shrubs spaced not more than five feet apart, all of which shall be maintained in perpetuity by the property owner who is required to establish such buffer or green belt, or his heirs, successors or assigns.

(2) *Privacy fences and walls.* For a privacy fence or wall, a solid wooden fence or brick wall (meaning a fence or wall with no openings or gaps in it, except for a gate which must be closed at all times except when it is in use) six feet in height and, with respect to fences, with all supporting members being on the side of the fence which faces the parcel, the owner of which is required to provide the fence. The fence or wall must be at least five feet inside, and parallel to, the property line of the parcel which is to be screened from view. The area between the privacy fence or wall and the property line shall be grassed, landscaped or otherwise maintained as a buffer or green belt, and both said grassed or landscaped area and the fence or wall shall be perpetually maintained in a neat and orderly condition by the owner of the parcel which is to be screened from view. Nothing contained in this subsection shall permit the construction of a fence or wall more than four feet in height in the required front setback of a parcel or more than eight feet in height between the required front setback line and the existing front building line, **or in any required side or rear setback**, unless a fence or wall higher than herein specified is specifically permitted by another provision of the City Code.”

Section 3. Amendatory provision. Sec. 129-2. - Definitions is hereby amended to read as follows:

“Sec. 129-2 - Definitions

Accessory building. A building that is located on the same lot or parcel as the principal use and which is clearly incidental to the principal use. Such uses shall include, but not be limited to, the following: detached private garage, noncommercial greenhouse, pool house, and similar uses.

Accessory structure. A structure which is located on the same lot as the principal use and which is clearly incidental to the principal use. Such uses shall include, but not be limited to the following: swimming pool, hot tub and related uses, private playground equipment, fences and walls, tennis courts, **basketball courts, batting cages and similar uses (does not include freestanding or wall mounted basketball hoops in/above driveways or on patios).**”

Section 4. Amendatory provision. Sec. 129-314. - Accessory structures and accessory buildings on residential lots is hereby amended to read as follows:

“Sec. 129-314. - Accessory structures and accessory buildings on residential lots.

(a) *Size.* Accessory buildings may not contain more than the greater of 800 square feet of floor area or **twenty** (20) percent of the floor area of the principal building on the lot. The height of an accessory building may not exceed the height of the principal building on the lot.

(b) *Relationship to parcel and dwelling.* No accessory structure or accessory building in a residential district may be erected in any actual or required front yard. An ~~accessory structure or~~ accessory

building may not be located closer than ten (10) feet to any other structure on the same parcel and may not occupy more than **fifteen** (15) percent of any actual or required rear or side yard. An accessory structure or accessory building must be located at least five (5) feet from the dwelling on the parcel on which the accessory structure or building is located. Notwithstanding the foregoing, fences or walls can be erected up to the property line, and may be erected directly adjacent to the principal structure.

(c) *Setback requirements.* All ~~accessory structures,~~ and accessory buildings which do not exceed 400 square feet and **fifteen** (15) feet in height, must be at least ten (10) feet from all lot lines, **except that such buildings may be allowed to conform to the required side setbacks for principal buildings on non-conforming Residence-B and Residence-C lots, as specified in Sections 129-53 and 129-63 of this chapter.** Accessory buildings exceeding 400 square feet or **fifteen** (15) feet in height shall be subject to the regular setbacks specified in the regulations for each zoning district. Notwithstanding any other provision contained in this chapter, no accessory structure or accessory building may be located in a front yard or nearer than **sixty** (60) feet to the front street line of the parcel on which the accessory structure or accessory building is located.

(d) *Corner parcels.* On any corner parcel on which the rear line of the parcel adjoins another parcel which is in a residential district, no part of any accessory structure or accessory building may be nearer the street line of the side street than the minimum front yard setback applicable to the adjoining parcel.”

Section 5. Amendatory provision. Article XIX, Sec. 129 is hereby amended to incorporate Sec. 129-318 – Private Recreational Facilities in Residential Districts as follows:

“Sec. 129-318. – Private Recreational Facilities in Residential Districts.

(a) *Private Swimming Pools in Residential Districts:*

- (1) Only permanent swimming pools shall be permitted.**
- (2) Swimming pools shall be located to the rear of the principal dwelling, and shall conform to Section 129-314 (d) for corner lots.**
- (3) Swimming pools, whether below grade or wholly or partially above grade level (and related mechanical appurtenances) shall not be located closer than ten (10) feet to any property line.**
- (4) All related fencing shall meet the requirements of Section 129-315.**

(b) *Other Private Recreational Facilities in Residential Districts:*

- (1) Tennis courts, basketball courts, batting cages and other recreational facilities shall be located to the rear of the principal dwelling or use, and shall conform to Section 129-314 (d) for corner lots (does not apply to freestanding or wall mounted basketball hoops in/above driveways or on patios).**
- (2) All related fencing shall meet the requirements of Section 129-315.”**

Section 6. Amendatory provision. Article XIX, Sec. 129 is hereby amended to incorporate Sec. 129-319 - Exterior Lighting of Private Recreational Uses in Residential Districts as follows:

“Sec. 129-319 - Exterior Lighting of Private Recreational Uses in Residential Districts:

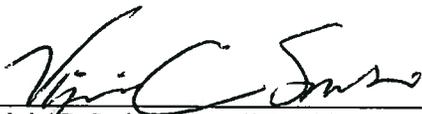
All exterior lighting fixtures for recreational facilities shall be constructed to direct the beam below the horizontal plane of the fixture and shall reflect away from any abutting property. Said fixtures may not extend higher than fourteen (14) feet.”

Section 7. 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 8. 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 9. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This 9th day of April, 2012.



Virginia C. Smith, Council President

APPROVED: This 9th day of April, 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 April 9, 2012, as same appears in the minutes of record of said meeting, and published by posting copies thereof on April 10, 2012, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 3928 Montclair Road, Suite 148
Gilchrist Pharmacy, 2850 Cahaba Road
Piggly Wiggly Food Store 4, 93 Euclid Avenue
Joe Muggs Newsstand/Yogurt Mountain, 2037 Cahaba Road
The Invitation Place, 3150 Overton Road



Steven Boone, City Clerk