

ORDINANCE NO. 1778

AN ORDINANCE AMENDING THE ZONING CODE (CHAPTER 19)

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

Section 1. Sections 19-1-1, Applicability and 19-1-2, Definitions of the City Code shall be amended to read as illustrated in Exhibit A attached hereto.

Section 2. Sections 19-2-8, Establishment of Districts, Article II, 19-3-1 and 19-3-4 Residence A District, Article III, 19-4-2, Residence B District, Article IV, 19-5-2, Residence C District, Article V, 19-7-1 and 19-7-3 Residence D District, Article VII, 19-8-1 and 19-8-3 Residence E District, Article VIII, 19-9-1 and 19-9-2 Clustered Residential District, Article IX of the City Code shall be amended to read as illustrated in Exhibit B attached hereto.

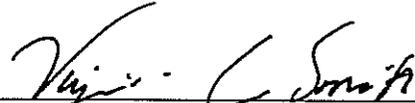
Section 3. Sections 19-19-14, Accessory Structures and Accessory Buildings on Residential Lots and 19-19-5, Fences and Walls in Residential Districts of the City Code shall be amended to read as illustrated in Exhibit C attached hereto.

Section 4. 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the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.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 5. 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 6. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This 8th day of September, 2008.


Virginia C. Smith
Council President

APPROVED: This 8th day of September, 2008.

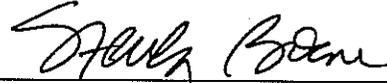

Lawrence T. Oden, Mayor

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 September 8, 2008, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September 9, 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 .
Piggly Wiggly Foodstore 4, 93 Euclid Avenue

Joe Muggs Newsstand, 2037 Cahaba Road
The Invitation Place, 3150 Overton Road



Steven Boone, City Clerk

EXHIBIT A

ARTICLE I. DEFINITIONS

Sec. 19-1-1. Applicability.

For the purposes of this chapter, certain words and terms are defined as herein indicated and shall apply to all parts of this chapter. Unless specifically defined therein, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this chapter its most reasonable application. All words used in the present tense shall include the future tense, all words in the singular shall include the plural, all words in the plural shall include the singular; all masculine pronouns shall include the feminine and the neuter genders and all feminine pronouns shall include the masculine and the neuter genders; unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory.
(Ord. No. 1224, 2-26-96)

Sec. 19-1-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

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, non-commercial 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 and similar uses.

Acre: A measure of lands containing 43,560 square feet of area.

Addition: A structure which increases the footprint and/or square footage of the original structure at some time after the completion of or after a Certificate of Occupancy has been issued for the original structure.

Alley. A public way which is narrower than a street, affords only a secondary means of access to contiguous property and is not intended for general travel.

Alteration: Any remodeling; any addition to the height, width or depth of a building or structure; any change in the location of any of the exterior walls of a building or structure; or any change in the interior accommodations of a building or structure.

Attic: Accessible space located between the top of a ceiling and the underside of a roof.

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Automobile service station. A business having pumps and storage tanks at which fuels, oils and other products customarily used in connection with motor vehicles are sold at retail and where minor repairs, servicing and inspections of motor vehicles may be conducted incidentally to the sale of such fuels, oils and products. Body work on, or painting of, motor vehicles may not be done at an automobile service station.

Basement: That portion of a building that is partly or completely below grade (see Story Above Grade).

Berm: A landscaped mound of earth typically used to shield, screen, and buffer views and to separate land uses.

Board of zoning adjustment. The board of zoning adjustment of the City of Mountain Brook.

Buffer: A landscaped strip of land established for the purpose of separating potentially incompatible land uses and promoting visual harmony, reducing noise, diverting emissions, reducing the effects of adjacent lighting and enhancing the environment. A buffer may consist of existing or planted trees, shrubs, or vegetation, fences, walls or berms.

Building: A roofed structure built for the shelter, housing, or enclosure of persons or property.

Building Area: That portion of a lot or parcel which is occupied by the main building, including porches, carports, accessory buildings, and other structures.

Building Height: The vertical distance measured from the grade at the center of the front exterior wall of the building to the highest point of the structure, except for chimneys and antennas.

Building, principal. A building in which is conducted the primary use for which the parcel on which such building is located was intended. In any residential district a dwelling shall be deemed to be the principal building.

Centerline (of a street). With respect to a street with a dedicated right of way, a line running parallel with the street right-of-way which is half the distance between the two (2) sides of the right-of-way. With respect to an undedicated street, the centerline is a line running parallel with, and half the distance between, the edges of the pavement on said street.

Certificate of occupancy. A final certification issued by the building official with respect to a building, or a part thereof, which has been completed or otherwise made ready for occupancy or use in accordance with the ordinances and regulations of the city. Such certification indicates conformity with the provisions of this chapter as well as with

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other applicable codes and ordinances and shall be the approval required for the occupancy or other intended use of such building or part thereof. No occupancy or use of such building, or part thereof, may begin until the certificate of occupancy has been issued.

Building Official: The head of the Building Inspections Department of the City of Mountain Brook.

City. The City of Mountain Brook.

City Code. The City Code of the City of Mountain Brook, Alabama.

City Council. The City Council of the City of Mountain Brook.

City Manager. The City Manager of the City of Mountain Brook.

City Planner: The Zoning Officer of the City of Mountain Brook.

Condominium. A form of legal ownership, not a land use. It is allowed in any district and under the same restrictions as the land uses that it comprises. It is characterized by private ownership of individual units and undivided common ownership and maintenance of designated exterior and interior spaces by a condominium association of unit owners.

Daycare. Care and supervision of not more than six (6) infants in a dwelling, provided that the use of a dwelling for such services shall be subject to the approval of the planning commission. As used herein, "infant" shall mean a child prior to the time when he walks independently.

Daycare center. A facility which exclusively provides care and supervision and/or instruction to children under sixteen (16) years of age during a portion of the day, but which may not be used as a place for children to spend the night or to live on a temporary or long-term basis.

Density. Relates to the number of dwelling units permitted within a specified area.

Duplex. A building with two (2) dwelling units, each of which is designed exclusively for occupancy by one (1) family. The dwelling units must be located side-by-side, and one (1) may not be located on top of the other.

Dwelling. A building containing one (1) or more dwelling units. For a part of a building to constitute a separate dwelling unit it must be separated from the remainder of the building by one (1) or more party walls. The word "dwelling" shall not include boarding houses, rooming houses, tents, hotels, mobile homes or other structures designed or used primarily for transients.

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Dwelling, multi-family. A building containing three (3) or more dwelling units, the majority of which are not owner-occupied.

Dwelling, single-family. A building containing one (1) dwelling unit to be used and occupied by only one (1) family.

Dwelling, two-family or duplex. See "Duplex."

Dwelling unit. Any building or any part of a building used or designed as a separate residence for a family, including an apartment or one (1) or more rooms forming a single residential unit.

Dwelling, Townhouse. A single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from the foundation to the roof and with open space on at least two (2) sides

Effective date. The date that this Ordinance is formally approved by the City Council of the City of Mountain Brook, Alabama, and thus becomes law.

Excavation. Any man-made cavity or depression in the earth's surface including all sides, walls, or faces formed by earth removal and producing unsupported earth conditions by reasons of the excavation.

Façade. Any building front on a public street.

Family. One (1) or more persons related by blood, marriage, or adoption, or by some other legal custodial relationship, living and cooking together as a single housekeeping unit in a single dwelling unit; or two (2) unrelated individuals living and cooking together as a single housekeeping unit in a single dwelling unit.

Fence. A structure serving as an enclosure, barrier or boundary, usually made of boards, rails, posts or wire.

Fence, privacy. See "Privacy fence."

Floor area. The gross horizontal areas, expressed in square feet, of all floors in a building, as measured from the exterior faces of the exterior walls of a building, but excluding basement areas used exclusively for storage or mechanical equipment.

Floor area, rentable. See "Rentable floor area."

Frontage. See "Street frontage."

Garage. An accessory building designed or used for the storage of one (1) or more motor vehicles owned or leased and used by the occupants residing in the building or buildings to which such building (garage) is accessory.

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Garage, repair. A building in which there is conducted a business involving the maintenance, repair or refinishing of motor vehicles, including minor maintenance and major repairs, such as mechanical overhauling, transmission repair, paint and body work.

Grade. The level of the finished ground surface adjacent to all exterior walls of a building.

Gross Floor Area. The sum of the areas of all floors within the outside edge of the outside walls of a building.

Home occupation. An activity conducted as a business, which is clearly incidental and subordinate to, and compatible with, the use of a premises as a dwelling, which is carried on wholly within a main or accessory building by a member or members of a family residing in such dwelling and which will not adversely affect the residential character of adjacent or nearby residential property.

Impervious Surface. A surface that does not absorb water. Buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt are impervious surfaces.

Institutional use. The occupancy and use of a structure or parcel by an entity created for non-profit purposes, or for public use or services, including, but not limited to, churches, schools, hospitals and charities.

Livable area. The portion of a dwelling which is heated and ventilated and otherwise maintained in a manner so as to be habitable.

Lot. A parcel of land designated as a separate piece of land (lot) by a map or plat recorded in the office of the Judge of Probate of Jefferson County, Alabama.

Lot line. Any boundary line of a lot or other parcel.

Lot, Corner. A lot abutting upon two (2) or more streets at their intersection.

Lot, Double Frontage. A lot abutting upon two (2) or more streets, but not at their intersection.

Net area. The total gross land area of a proposed development site less the areas used for rights-of-way for public or private streets, the areas used for lakes and ponds, whether natural or manmade, and floodplain areas.

Nonconforming building or structure. Any building or structure which does not meet the applicable limitations on, or requirements for, size, dimensions, location or the use to which such building or structure is being put. For the purposes of this chapter, such buildings or structures shall be considered nonconforming and will be treated accordingly.

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Nonconforming Uses. The continued use of lots, parcels, tracts, structures, or buildings, which, as a result of the adoption or amendment to this Ordinance, no longer conform to applicable zoning provisions.

Office. A building, or a portion of a building, in which professional, clerical, administrative and similar activities are conducted without any sales.

Open space. The portion of a parcel which is not covered by a building (except recreational structures), right-of-way, easement, driveway, or parking lot and is accessible and available to all occupants of the building or buildings located on such parcel. Such space is intended to provide light and air, and is designed either for environmental, scenic or recreational purposes.

Overlay Zone. A district applied over existing zoning districts and containing provisions that are applicable in addition to those contained in the underlying zoning district.

Parcel. A piece of land, including, but not limited to, a lot.

Parcel, corner. A parcel which abuts two (2) or more streets at the intersection of such streets.

Parcel, double frontage. A parcel, other than a corner parcel, which abuts two (2) streets.

Permitted uses. Uses of land, buildings or other structures which are permitted in a particular zoning district.

Places of Worship (including churches, synagogues, mosques, etc.). A building used by a recognized and legally established religious sect for purposes of worship and related uses and activities.

Planned unit development. A development on a parcel under unified control designed and planned to be developed in one (1) phase or in a series of pre-scheduled development phases in accordance with an approved final development plan which must comply with the requirements of Article XV of this chapter.

Planning commission. The planning commission of the City of Mountain Brook.
Premises. A lot or other parcel of land and all buildings and other structures located thereon.

Principal use. The only or primary purpose for which a parcel is used.

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Privacy fence. A fence which is specifically intended to hide or screen a property, or a portion thereof, or some object or objects thereon, from view from one (1) or more adjacent parcels or streets.

Private Drive. A service road or access drive serving as access to a planned, estate, cluster or other multi-unit development. The maintenance of these types of drives shall not be the responsibility of the City of Mountain Brook. The term "private drive" shall not include a driveway servicing any other types of single-family dwellings.

Rentable floor area. The gross horizontal areas, expressed in square feet, of all floors in a nonresidential building, as measured from the exterior faces of the exterior walls of such building, but excluding areas used exclusively for storage or mechanical equipment.

Repair garage. See "garage, repair."

Residential. The term "residential" shall refer to any parcel or building used, or intended to be used, exclusively for a dwelling or purposes related to a dwelling.

Residential district. Any zoning district established by, or referred to in, this chapter, or in any subsequent amendment to this chapter, in which the sole or primary use is for residential purposes; provided, that a mixed use district shall not be considered a residential district. Such districts are differentiated in a manner so as to facilitate and promote the compatibility and consistency of development and uses within a district, and to facilitate and promote reasonable compatibility and orderly, rational, efficient and effective transitions between districts.

Retaining Wall. Any wall erected to hold back or support a bank of earth or to resist the lateral pressure of internal loads.

Screen. To visually shield or obscure a property or land use from view by all parties except those occupying the property on which said screening is conducted. Screening may be accomplished by means of an opaque fence, wall, berm, or densely planted vegetation (see Buffer and Berm).

Section, subsection. Unless clearly indicated to the contrary in the context, a reference to a section or a subsection shall refer to the designated section or subsection in chapter 19 of the city code of the City of Mountain Brook.

Setback. The distance between a building or other structure and the property lines of a parcel upon which such building or structure is located as are required in this chapter for the various zoning districts.

Sign. A lettered, numbered, symbolic, pictorial or illuminated visual display that is designed to identify, announce, direct or inform.

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Site. The portion of a parcel covered by a building.

Site plan or development plan. A plan, prepared to scale, showing the dimensions and boundaries of a parcel and the location of all buildings, structures and principal site development features proposed for, or already located on, such parcel. A preliminary site plan or development plan is a plan which gives a broad, conceptual depiction of how a property is proposed to be developed and how the development will relate to the surrounding area. A final site plan or development plan is a more detailed plan which shows specifically how such parcel will be developed and relate to the surrounding area.

Story. The portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story above grade. Any story having its finished floor surface entirely above grade. A basement shall be considered as a story above grade when having:

- A. More than six (6) feet above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- B. More than twelve (12) feet above the finished ground level at any point.

Street. A public thoroughfare which affords the principal means of access to abutting property and the right of way of which, whether dedicated or undedicated, is more than twenty-one (21) feet in width if such thoroughfare became a public thoroughfare, by dedication, or otherwise, on or before January 23, 1950, or more than thirty-nine (39) feet in width if such thoroughfare became a public thoroughfare, by dedication, or otherwise, after January 23, 1950.

Street frontage. The extent of the distance that a parcel and a street are contiguous.

Street line. The dividing line between a parcel and the right of way line of a contiguous street. Setback requirements for front yards and for side yards which are adjacent to a street shall be measured from the street line.

Structure. Any object constructed or erected, the use of which requires it to be located on the ground or to be attached to an object located on the ground, including buildings, signs, and fences and walls more than four (4) feet in height, but excluding patios, utility poles, overhead utility wires, retaining walls required in connection with the construction of a building and walls and fences not more than four (4) feet in height.

Townhouse. (see "Dwelling, Townhouse")

Use. The purpose for which land or a building or other structure may be utilized.

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Utilities. Equipment or fixtures usually connected to, or constituting a part of, a structure and which are designed to provide services such as electricity, gas, water, sewage disposal, telephone and cable service.

Variance. A modification of the strict application of the terms and provisions of this chapter, which will not be contrary to the public interest or welfare, in situations in which, because of special conditions or circumstances, a literal enforcement of the provisions of this chapter would result in an unnecessary hardship to the owner of a parcel.

Yard. The open spaces between a building and the boundary lines of the parcel upon which the building is located, which space shall be unoccupied and unobstructed by any structure or other object from the ground upward. In measuring a yard for determining widths and depths of same, the distance between the boundary line of the parcel and the finished exterior wall of the building shall be used; provided, that if an eave or other part of the roof of the building extends more than two (2) feet beyond the exterior building wall in question the point at which such eave or other part of the roof is furthest from the exterior wall shall be used as the measuring point instead of the exterior wall.

Yard, front. The portion of the yard (extending across the entire width of a parcel) between the front exterior wall of the main building (or the front line of any covered porch) and the front boundary line of such parcel. Any part of the yard lying beneath an eave which extends beyond the front exterior wall of such building or the front line of a covered porch for a distance of not more than two (2) feet shall constitute a part of the front yard.

Yard, rear. The portion of the yard extending across the entire width of a parcel between the rear exterior wall of the main building on such parcel (including any covered porch) and the rear boundary line of such parcel. Any part of the yard lying beneath an eave which extends beyond the rear exterior wall of such building or porch for a distance of not more than two (2) feet shall constitute a part of the rear yard.

Yard, side. The portion of the yard extending along a side boundary line of a parcel from the rear of the front yard to the front of the rear yard between the side exterior wall of the main building on such parcel (including any covered porch) and the side boundary line of such parcel. Any part of the yard lying beneath an eave which extends beyond a side exterior wall of such building or porch for a distance of not more than the lesser of fifteen (15) percent of the distance between such side exterior building wall and the side boundary line of such parcel or two (2) feet shall constitute a part of the side yard.

Zoning district. A classification established by this chapter for the purpose of classifying, controlling, guiding and regulating the development and use of land within such district and within the city as a whole. The zoning districts are differentiated to aid and promote the compatibility and consistency of development and uses within a district,

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and to aid and promote reasonable compatibility and orderly and effective transitions between zoning districts.

Zoning map. A map of the city, which may consist of one (1) or more sheets and which shall have indicated thereon the various zoning districts of the city, as such zoning districts may be revised from time to time.

Zoning officer. An appointed official of the City of Mountain Brook whose responsibilities shall include interpreting, and overseeing the enforcement and administration of, the provisions of this chapter.

(Ord. No. 1224, 2-26-96)

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§ 19-2-8

MOUNTAIN BROOK CITY CODE

§19-3-1

Residence C District

Estate Residential District

Residence D District

Residence E District

Residence F District

Residence G District

Clustered Residential District

Professional District

Office Park District

Local Business District

Community Shopping District

Recreational District

Planned Unit Development District

Mixed Use District

Village Overlay Standards

(b) Interpretation of district boundaries. Unless otherwise specified or shown on the zoning map or enumerated in this Ordinance, the boundaries of the districts are lot lines, the centerlines of streets and alleys, or the extension of same, physical boundaries such as watercourses (natural or artificial) and the corporate limit lines of the city.
(Ord. No. 1224, 2-26-96)

ARTICLE III. RESIDENCE A DISTRICT

Sec. 19-3-1. Permitted uses.

The uses permitted in a Residence A District shall be as follows:

(a) Single-family dwellings;

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- (b) Accessory structures; accessory buildings customarily incidental to residential occupancy; provided, that no accessory building may be used as a dwelling, or occupied by any person, either on a long-term or temporary basis; further provided, that such prohibition shall not apply to any accessory building which was designed for human habitation and was in existence or in the process of construction on June 28, 1993;
- (c) Gardens and greenhouses customarily incidental to residential occupancy; provided, that the products grown there may not be sold;
- (d) Church buildings which are used primarily as places of public worship, but with such related uses which are customarily conducted in churches generally or are limited to churches of a specific religion or denomination, such as meetings of secular groups, the sale of books and gift items related to religious matters, the sale of prepared food for a meal which is related to a church service or function and the sale of unprepared kosher food;
- (e) Public libraries;
- (f) Art museums;
- (g) Public schools and private schools offering general educational courses; any such private school may conduct on the premises of the school a day care center, provided that all children who attend any such day care center must be under four (4) years of age;
- (h) Playgrounds;
- (i) Parks;
- (j) Golf courses not operated for profit;
- (k) Tennis courts not operated for profit;
- (l) Swimming pools not operated for profit;
- (m) Philanthropic institutions;
- (n) Cultural or civic clubs, except a club the chief activity of which is a service customarily carried on as a business.
- (o) Municipal government buildings and facilities, including, but not limited to, fire stations, police stations and city hall.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97; Ord. No. 1272, 9-8-97; Ord. No. 1409, 6-12-00)

Sec. 19-3-2. Conditions on certain permitted uses.

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The uses referred to in items (4) through (15) of section 19-3-1 shall be subject to the following conditions: no permit shall be issued for any of such uses, structures or other improvements to be constructed in connection therewith (in this subsection such structures and improvements shall be individually referred to as "improvement" and collectively referred to as "improvements") except with the prior written approval of the planning commission and subject to such reasonable conditions as the planning commission may require to preserve and protect the established character of the area surrounding the property proposed to be used for such purpose (the property proposed to be used for such purpose shall be referred to in this subsection as "property"), and otherwise to promote the purposes of this chapter. Such conditions shall include, without limitation, the establishment of such off-street parking areas as may be required by the planning commission and the determination by the planning commission that the streets abutting the property are of sufficient width and arrangement to allow adequate, safe and unimpeded traffic flow to and from the property and the areas adjacent to the property. In determining whether any such use or improvement is proper, the planning commission may require the party applying for the approval of such use or improvement to furnish to the planning commission any or all of the following information and documents and such additional information and documents which the planning commission may consider necessary or helpful in deciding whether a proposed use or improvement is subject to its approval and, if it is, whether to approve such requested use or improvement:

- (a) A survey of the property;
- (b) A topographical survey of the property;
- (c) A site plan for the property, showing the location, size, height and elevation of all existing and proposed improvements, the location, number and size of parking spaces and such other information about the existing and proposed improvements and the development plan for the property which the planning commission considers reasonably necessary for its consideration of the request for approval;
- (d) Plans for all proposed improvements;
- (e) A map or drawing showing the proximity of the property, and any improvements on the property or to be located on the property, to buildings and other improvements located on property adjacent to or near the property;
- (f) The type of construction materials to be used in the proposed improvements;
- (g) A traffic study with respect to the traffic expected to be generated by the use;
- (h) Information concerning outdoor lighting (including freestanding lighting fixtures and lighting fixtures to be attached to the improvements);

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- (i) Information concerning fuel storage tanks (the type, size, location, proposed contents and other relevant facts concerning the fuel storage tanks shall be subject to the approval of the city's fire marshal);
- (j) The hours of operation of the activities proposed to be conducted on the property;
- (k) Information concerning the visibility of the proposed improvements from adjacent property, buildings and public streets;
- (l) Information concerning the proposed screening of the proposed improvements by fences, walls, berms, shrubs, trees or other means;
- (m) Whether any trees or other vegetation which would serve to screen the proposed improvements and the use thereof from adjacent property will be removed from the property; and
- (n) Information concerning vehicles, equipment and materials which may be stored on the property or within the improvements.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97)

Sec. 19-3-3. Additions to, or modification of, improvements subject to conditions.

After one (1) or more of the uses (including improvements to be used in connection therewith) referred to in items (4) through (14) of section 19-3-1 have been approved by the planning commission, the following additions to, or modifications of, such uses and improvements which are made subsequent to such approval by the planning commission, shall or shall not require the prior written approval of the planning commission, as stated hereafter:

- (a) Any additional improvement which is to be built on property for which a use has previously been approved by the planning commission, shall be subject to the prior written approval of the planning commission, except that minor improvements ancillary to the use of improvements previously approved by the planning commission shall not require the approval of the planning commission. As used in this section, "minor" shall mean an improvement, the total cost of which, including labor, materials and all other costs, does not exceed twenty-five thousand dollars (\$25,000.00).
- (b) A new improvement whether of the same type or a different type, which is to replace an improvement which was previously approved by the planning commission, and is to be razed, shall be subject to the prior written approval of the planning commission. A minor improvement which replaces an existing minor improvement shall not be subject to the approval of the planning commission.
- (c) An improvement which is to be constructed to replace an improvement destroyed by accidental fire, other casualty or an act of God shall not be subject to the approval of

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the planning commission (even if a portion of the improvement was razed because of damage to the improvement caused by such fire, casualty or act of God) so long as there is no change in the size, appearance or location of the original improvement or the purpose for which the improvement is to be used. Plans for any such replacement improvement shall be submitted to the planning commission so that the planning commission may determine whether such replacement improvement is subject to its approval.

(d) If an improvement previously approved by the planning commission is to be repaired or renovated because of normal wear and tear, obsolescence or damage caused by casualty, such repair or renovation shall not be subject to the approval of the planning commission so long as there is no change in the size, appearance or location of the improvement or the purpose for which the improvement is to be used. Plans for any such repair or renovation shall be submitted to the planning commission so that the planning commission may determine whether the repair or renovation of the improvement is subject to its approval.

(e) The proposed use of additional land for a use previously approved by the planning commission, and any improvements located on such additional land, shall be subject to the approval of the planning commission, even if such improvements are minor improvements.

(Ord. No. 1224, 2-26-96)

Sec. 19-3-4. Area and dimensional requirements.

(a) Minimum dimensions of parcel.

(1) Minimum area of parcel . . . 30,000 square feet

(2) Minimum width of parcel at all points between the street line and the front setback line . . . 100 feet

(3) Minimum number of feet of the parcel which must abut a street . . . 100 feet

(b) Minimum yards and building setbacks.

(1) Minimum front yard setback . . . 40 feet

(2) Minimum rear yard setback . . . 40 feet

(3) Minimum side yard setback:

If the principal building contains no more than 1 story. . . 15 feet

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If the principal building contains more than 1 story ... 20 feet

(c) *Building limitations.*

- (1) Maximum building area: 25 percent of the total area of the parcel
- (2) Maximum building height . . . 35 feet
- (3) Maximum number of stories . . . 2

(Ord. No. 1224, 2-26-96)

Sec. 19-3-5. Additional requirements and provisions.

(a) Pre-existing lots and parcels.

- (1) Any lot in a Residence A District which does not meet the minimum requirements of section 19-3-4(a)(1), but which was created, prior to February 26, 1996, in accordance with the applicable minimum area requirements for a lot in a Residence A District in effect on the date of final approval of the plat by which such lot was created, shall be considered to be in compliance with the minimum area requirements for a lot in a Residence A District.
- (2) Any parcel, other than a lot, in a Residence A District which does not meet the minimum requirements of Section 19-3-4(a)(1), but which, prior to February 26, 1996, existed as a discrete parcel and was in compliance with the applicable minimum area requirements in effect for a parcel in a Residence A District when such parcel achieved its present area and configuration, shall be considered to be in compliance with the minimum area requirements for a parcel in a Residence A District.

(Ord. No. 1224, 2-26-96)

ARTICLE IV. RESIDENCE B DISTRICT

Sec. 19-4-1. Permitted uses.

The uses permitted in Residence B Districts shall be any use permitted in Residence A Districts. The uses permitted under items (4) through (15) of section 19-3-1 shall be subject to the conditions and requirements contained in sections 19-3-2 and 19-3-3. The conditions and requirements contained in this subsection shall apply to all such uses in a Residence B District.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97)

Sec. 19-4-2. Area and dimensional requirements.

- (a) *Minimum dimensions of parcel.*

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- (1) Minimum area of parcel . . . 10,000 square feet
- (2) Minimum width of parcel at all points between the street line and the front setback line . . . 75 feet
- (3) Minimum number of feet of the parcel which must abut a street . . . 75 feet
- (b) *Minimum yards and building setbacks.*
 - (1) Minimum front yard setback . . . 35 feet
 - (2) Minimum rear yard setback . . . 35 feet
 - (3) Minimum side yard setback . . . 12 1/2 feet
- (c) *Building limitations.*
 - (1) Maximum building area: 35 percent of the total area of the parcel
 - (2) Maximum building height . . . 35 feet
 - (3) Maximum number of stories . . . 2
(Ord. No. 1224, 2-26-96)

ARTICLE V. RESIDENCE C DISTRICT

Sec. 19-5-1. Permitted uses.

The uses permitted in Residence C Districts shall be any use permitted in a Residence A District. The uses permitted under items (4) through (15) of section 19-3-1 shall be subject to the conditions and requirements contained in sections 19-3-2 and 19-3-3. The conditions and requirements contained in this subsection shall apply to all such uses in a Residence C District.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97)

Sec. 19-5-2. Area and dimensional requirements.

- (a) Minimum dimensions of parcels.
 - (1) Minimum area of parcel . . . 7,500 square feet
 - (2) Minimum width of parcel at all points between the street line and the front setback line . . . 70 feet

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- (3) Minimum number of feet of the parcel which must abut a street . . . 70 feet
- (b) Minimum yards and building setbacks.
 - (1) Minimum front yard setback . . . 35 feet
 - (2) Minimum rear yard setback . . . 35 feet
 - (3) Minimum side yard setback . . . 10 feet
- (c) Building limitations.
 - (1) Maximum building area: 35 percent of the total area of the parcel
 - (2) Maximum building height . . . 35 feet
 - (3) Maximum number of stories . . . 2

(Ord. No. 1224, 2-26-96)

ARTICLE VI. ESTATE RESIDENCE DISTRICT

Sec. 19-6-1. Permitted uses.

The uses permitted in Estate Residence Districts shall be as follows:

- (a) Any use permitted in a Residence A District. The uses permitted under items (4) through (15) of section 19-3-1 shall be subject to the conditions and requirements contained in sections 19-3-2 and 19-3-3. The conditions and requirements contained in this subsection shall apply to all such uses in an Estate Residence District.
- (b) Stables housing horses may, if incidental to residential occupancy, be permitted as an accessory structure, subject to the following limitations and conditions: (i) A stable may not be located in a side yard or a front yard; (ii) No stable may be used for commercial purposes, including, without limitation, the boarding or breeding of horses owned by a person who is not a resident of the dwelling on the parcel on which the stable is located; (iii) No stable may be closer than eighty (80) feet to any property line; and (iv) No stable may be closer than one hundred (100) feet to any dwelling located on an adjacent parcel.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97)

Sec. 19-6-2. Area and dimensional requirements.

- (a) Minimum dimensions of parcel.

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- (1) Minimum area of parcel . . . 2 acres
- (2) Minimum width of parcel at all points between the street line and the front setback line . . . 200 feet
- (3) Minimum number of feet of the parcel which must abut a street . . . 200 feet
- (b) Minimum yards and building setbacks.
 - (1) Minimum front yard setback . . . 100 feet
 - (2) Minimum rear yard setback . . . 100 feet
 - (3) Minimum side yard setback . . . 40 feet
- (c) Building limitations.
 - (1) Maximum building height . . . 45 feet
 - (2) Maximum number of stories . . . 3

(Ord. No. 1224, 2-26-96)

Sec. 19-6-3. Estate Residence District subdivision development plan.

Any plan for the subdivision of a parcel which contains at least ten (10) acres and is located in an Estate Residence District may provide for private ownership and maintenance of streets, parks, recreational facilities and open spaces included in such subdivision. All such private streets must be built in accordance with the city's standards, specifications and requirements for public streets, but with such exceptions thereto as may be permitted by the planning commission, acting in its discretion, in accordance with the city's regulations. Any such plan shall conform to all applicable regulations of the city, but with such exceptions thereto as shall be permitted by the planning commission, acting in its discretion, in accordance with such regulations. Any such plan shall set forth the location and dimensions of all lots upon which dwelling units are to be constructed and all easements, streets, parks, open spaces, recreational facilities and all other facilities to be constructed on any common area within such subdivision. In computing the number of square feet in a lot located within any such subdivision, there shall be included any portion of the lot which is subject to an easement for a private street, provided that such portion of the lot shall not exceed ten (10) percent of the total area of the lot and provided further that such portion or the lot shall not be included in computing the one-hundred-foot minimum required depth of the front yard of such lot or any setback line applicable to such lot. The plan shall provide for reasonable access over a private street from each lot to a public street. No private street, park, recreational facility or open space located within any such subdivision shall become a public street, park, recreational facility or

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open space to be maintained by the city, unless it is specifically dedicated to the public and, by ordinance, accepted by the city council.

(Ord. No. 1224, 2-26-96)

Sec. 19-6-4. Additional requirements and provisions.

(a) Title to streets and other common areas. Title to all private streets, parks, recreational facilities and other common areas within a subdivision which is subject to section 19-6-3 may be held by a trustee for the benefit of the owners of the lots within such subdivision, by a private corporation, by an association of the residents thereof or as undivided interests held by the owners of the lots within such subdivision. Such trustee, corporation, association or owners (jointly and severally) shall be responsible for the proper care and maintenance of such streets, parks, recreational facilities and other common areas. All streets within any such development shall remain private and shall not become public streets to be maintained by the city.

(b) Preliminary plan for subdivision. Any preliminary plan of a proposed Estate Residence District subdivision which is to be subject to section 19-6-3 and this subsection shall be accompanied by a statement of the manner in which title to any private streets, parks, recreational facilities and other common areas within the subdivision shall be held, and the manner in which the same shall be maintained. Prior to final approval of a subdivision plan for such subdivision, the developer shall submit appropriate legal documents which show the form of ownership of the property within the subdivision and assure adequate management and maintenance of all common areas, including private streets. The private streets and any other improvements located in the common areas shall be constructed and maintained in accordance with the same standards as are required by the city for public improvements of like or similar kind, or, if there are no such standards, such streets and other improvements shall be maintained in a good and serviceable condition, but with such exceptions thereto as shall be permitted by the planning commission, acting in its discretion, in accordance with the provisions of the city's subdivision regulations and other requirements with respect to private streets.

(Ord. No. 1224, 2-26-96)

ARTICLE VII. RESIDENCE D DISTRICT

Sec. 19-7-1. Permitted uses.

The uses permitted in Residence D Districts shall be as follows:

- (a) Duplexes;
- (b) Apartment houses;
- (c) Townhouses;

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- (d) The dwelling units in any of the above permitted uses may be condominium dwelling units;
- (e) Accessory structures; accessory buildings, such as private garages, customarily incidental to residential occupancy; provided, that no accessory building may be used as a dwelling or occupied by any person, either on a long-term or temporary basis;
- (f) Gardens and greenhouses customarily incidental to residential occupancy; provided, that the products grown there may not be sold.
(Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01)

Sec. 19-7-2. Area and dimensional requirements for townhouses.

- (a) Requirements for development.
 - (1) Minimum total site area . . . 1 acre
 - (2) Minimum number of feet of the parcel which must abut a street . . . 100 feet
- (b) Minimum dimensions of the parcel (within the development).
 - (1) Minimum lot width for each dwelling unit . . . 25 feet
- (c) Minimum yards and building setbacks.
 - (1) Minimum front yard setback for each building . . . 35 feet
 - (2) Minimum rear yard setback for each building . . . 25 feet
 - (3) Minimum side yard setback for each building . . . 20 feet
- (d) Building limitations.
 - (1) Maximum building area: 50 percent of the total site area
 - (2) Maximum number of stories . . . 3
 - (3) Maximum building height . . . 45 feet
 - (4) Maximum allowable density: 1 dwelling unit per 6,000 square feet of land contained in the parcel
 - (5) Maximum number of dwelling units per townhouse building . . . 7
- (e) Building separation.

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- (1) Minimum distance between townhouse buildings . . . 20 feet
(Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01)

Sec. 19-7-3. Area and dimensional requirements for duplexes and apartment houses.

(a) *Requirements for development.*

- (1) Minimum total site area . . . 15,000 square feet
- (2) Minimum number of feet of the parcel which must abut a street . . . 100

(b) *Minimum dimensions of parcels.*

- (1) Minimum width of parcel at all points between the street line and the front setback line . . . 100 feet

(c) *Minimum yards and building setbacks.*

- (1) Minimum front yard setback . . . 35 feet
- (2) Minimum rear yard setback . . . 25 feet
- (3) Minimum side yard setback:
For buildings containing no more than 1 story . . . 12 1/2 feet

For buildings containing more than 1 story, but less than 3 . . . 15 feet

For buildings containing 3 stories . . . 20 feet

(d) *Building limitations.*

- (1) Maximum building area: 37 1/2 percent of the total area of the parcel
- (2) Maximum number of stories . . . 3
- (3) Maximum building height . . . 45 feet
- (4) Maximum allowable density: 1 dwelling unit per 6,000 square feet of land contained in the parcel.

(Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01)

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Sec. 19-7-4. Minimum yards and building setbacks and minimum public street and private road frontage requirements for duplexes and townhouses on property which is adjacent to non-residential property.

Notwithstanding any other provision contained in this article VII, the following minimum building setbacks and minimum public street and/or private road frontage requirements shall apply with respect to the construction of duplexes and townhouses on a parcel in a Residence D District if all of the land within the City of Mountain Brook which is contiguous to such parcel is located in one or more of the following zoning districts: Professional District; Office Park District; Local Business District; Community Shopping District and Recreational District (all other requirements of section 19-7-2 shall apply to townhouses constructed on any such parcel and all other requirements of section 19-7-3 shall apply to duplexes constructed on any such parcel):

- (a) Minimum yards and building setbacks.
 - (1) Minimum setback for a front yard which is contiguous to a public street . . . 35 feet
 - (2) Minimum setback for a front yard which is contiguous to a private road . . . 8 feet; provided, that with respect to not more than ten (10) percent of the lineal distance of a parcel which is contiguous to a private road, the minimum setback for the front yard may be not less than five (5) feet.
 - (3) Minimum rear yard setback . . . 10 feet; provided, that, notwithstanding the 10-foot minimum rear yard setback, there must be a distance of at least thirty-five (35) feet between the rear wall of any building constructed on such parcel, including an accessory structure, and the closest exterior wall of any existing building on the parcel or parcels which are contiguous to the rear line of such parcel; provided, further, that before a building permit for the construction of a duplex or a townhouse which is to have a rear yard setback of less than twenty-five (25) feet is issued, the application for such permit must be submitted to the planning commission for a determination by the planning commission of whether or not a fence or a wall should be constructed, or landscaping installed, adjacent to, or near, the rear property line of such parcel for the purpose of at least partially obstructing the view of improvements to be constructed on such parcel from an adjacent parcel, and if the planning commission determines that such fence or wall should be constructed or such landscaping installed, the applicant or the owner of such parcel shall be obligated to construct such fence or wall or install such landscaping and the owner and subsequent owners of such parcel shall be obligated to maintain the fence, wall or landscaping in good condition.
 - (4) Minimum side yard setback for buildings containing from 1 to 3 stories . . . 5 feet; provided, that, notwithstanding the 5-foot minimum side yard setback, there must be a distance of at least twenty (20) feet between the sides of all buildings.

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- (5) Minimum number of feet of the parcel which must abut a public street and /or a private road, which private road may abut, or be located on, such parcel . . . 100 (Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01)

Sec. 19-7-5. Off street parking areas.

(a) Generally. All parking spaces and such attendant driveways and other areas as 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. All parking spaces, driveways and maneuvering areas shall be paved with asphalt or concrete. All such areas shall have adequate storm drainage facilities.

(b) Parking spaces.

(1) Minimum number of parking spaces required for each dwelling unit . . . 2

(2) Minimum size of each parking space: 10 feet wide by 20 feet long

(c) Parking areas in general.

(1) Minimum setback from any street line . . . 20 feet

(2) Maximum width of driveway or curb cut for access to and from street . . . 25 feet

(Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01)

Sec. 19-7-6. Additional requirements and provisions.

(a) Service yards. Each building erected in a Residence D District shall be provided with a service yard for the storage of garbage, trash and maintenance equipment. Each such yard shall be located so as to be conveniently accessible by a street, alley or driveway to vehicles collecting such refuse and to occupants of the building or buildings served by such yard. Each such yard shall be paved with asphalt or concrete and shall be enclosed by an opaque wall or fence of permanent construction, at least six (6) feet, but not more than eight (8) feet, in height, and designed and constructed so as to conceal the service yard from visibility from outside such wall or fence. The entrance to the service yard shall be screened by a gate constructed of an opaque material, which gate must be at least six (6) feet, but not more than eight (8) feet, in height.

(b) Sidewalks. Sidewalks of not less than five (5) feet in width shall be provided between any parking area and the building or buildings which they serve, and there shall be a curb between all parking areas and any adjacent sidewalk. The sidewalks shall be paved with concrete or brick.

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(c) Exterior lighting. If artificial illumination is provided for a parking area, it shall be arranged so as to shine and reflect away from any adjacent residential areas and away from any streets adjacent to or near the parcel. No lighting fixtures used for any parking area shall be elevated more than fourteen (14) feet above the ground, except for a light which is installed on the ceiling of a porch of a dwelling unit and is designed to illuminate only such porch. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

(d) Fire protection. No portion of any building shall be located further from a fire hydrant than may be reached with five hundred (500) feet of fire hose.

(e) Title to property. All common areas located within a development in a Residence D District, such as streets, parks, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements (including, without limitation, surface and underground drainage detention systems) located within developments in Residence D Districts shall be privately owned, and title thereto may be held by a trustee for the benefit of the residents of such development, by a private corporation, by an association of the residents thereof or as undivided interests owned by the owners of the lots within such development. Such trustee, corporation, association or owners (jointly and severally) shall be responsible for the proper care and maintenance of such streets and other property and improvements, including, without limitation, surface and underground drainage detention systems. All private roads shall remain private and shall not become public streets to be maintained by the city.

(Ord. No. 1455, 1-22-01)

ARTICLE VIII. RESIDENCE E DISTRICT

Sec. 19-8-1. Permitted uses.

The uses permitted in Residence E Districts shall be as follows:

- (a) Duplexes;
- (b) Apartment houses;
- (c) Condominium dwelling units;
- (d) Townhouses;
- (f) Accessory structures; accessory buildings, such as private garages, customarily incidental to residential occupancy; provided, that no accessory structure may be used as a dwelling, or occupied by any person, either on a long-term or temporary basis;
- (g) Gardens and greenhouses customarily incidental to residential occupancy; provided, that the products grown there may not be sold.

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(Ord. No. 1224, 2-26-96)

Sec. 19-8-2. Area and dimensional requirements for townhouses only.

- (a) Requirements for development.
 - (1) Minimum total site area . . . 1 acre
 - (2) Minimum width of parcel at all points between the street line and front setback line . . . 100 feet
 - (3) Minimum number of feet of parcel which must abut a street . . . 200 feet
- (b) Minimum dimensions of parcel (within the development).
 - (1) Minimum lot width, for each dwelling unit . . . 25 feet
- (c) Minimum yards and building setbacks.
 - (1) Minimum front yard setback, for each building . . . 50 feet
 - (2) Minimum rear yard setback, for each building . . . 40 feet
 - (3) Minimum side yard setback, for each building . . . 25 feet
- (d) Building limitations.
 - (1) Maximum building area: 40 percent of the parcel
 - (2) Maximum number of stories . . . 3
 - (3) Maximum building height . . . 45 feet
 - (4) Maximum allowable density, per 9,680 square feet of land contained in the parcel:
1 dwelling unit
 - (5) Maximum number of dwelling units per townhouse building . . . 7
- (e) Building separation.
 - (1) Minimum distance separating townhouse buildings . . . 20 feet

(Ord. No. 1224, 2-26-96)

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Sec. 19-8-3. Area and dimensional requirements for all other uses permitted in a Residence E District.

- (a) Requirements for development.
 - (1) Minimum total site area . . . 1 acre
- (b) Minimum dimensions of parcel.
 - (1) Minimum width of parcel at all points between the street line and the front setback line . . . 200 feet
 - (2) Minimum number of feet of the parcel which must abut a street . . . 200 feet
- (c) Minimum yards and building setbacks.
 - (1) Minimum front yard setback . . . 50 feet
 - (2) Minimum rear yard setback . . . 40 feet
 - (3) Minimum side yard setback:
 - For buildings containing no more than 1 story. . . 20 feet
 - For buildings containing more than 1 story . . . 25 feet
- (d) Building limitations.
 - (1) Maximum building area: 25 percent of the total area of the parcel
 - (2) Maximum number of stories . . . 3
 - (3) Maximum building height . . . 45 feet
 - (4) Maximum allowable density, per 9,680 square feet of land contained in the parcel:
1 dwelling unit

(Ord. No. 1224, 2-26-96)

Sec. 19-8-4. Off-street parking areas.

- (a) Generally. All parking spaces and such attendant driveways and other areas as 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. All parking spaces, driveways and maneuvering areas shall be paved with asphalt or concrete. All such areas shall have adequate storm drainage facilities.

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(b) *Parking spaces.*

- (1) Minimum number of parking spaces required, for each dwelling unit . . . 2
- (2) Minimum size of each parking space: 10 feet wide by 20 feet long

(c) *Parking areas in general.*

- (1) Minimum setback from any street line . . . 20 feet
- (2) Maximum width of driveway or curb cut for access to and from any street . . . 25 feet

(Ord. No. 1224, 2-26-96)

Sec. 19-8-5. Additional requirements and provisions.

(a) **Service yards.** Each building erected in a Residence E District shall be provided with a service yard for the storage of garbage, trash and maintenance equipment. Each such yard shall be located so as to be conveniently accessible by a street, alley or driveway to vehicles collecting such refuse and to occupants of the building served by such yard. Each such yard shall be paved with asphalt or concrete and shall be enclosed by an opaque wall or fence of permanent construction, at least six (6) feet, but not more than eight (8) feet, in height, and designed and constructed so as to conceal the service yard from visibility from outside such wall or fence. The entrance to the service yard shall be screened by a gate constructed of an opaque material, which gate must be at least six (6) feet, but not more than eight (8) feet, in height.

(b) **Sidewalks.** Sidewalks of not less than five (5) feet in width shall be provided between any parking area and the building or buildings which they serve, and there shall be a curb between all parking areas and any adjacent sidewalk. The sidewalks shall be paved with concrete or brick.

(c) **Exterior lighting.** If artificial illumination is provided for a parking area, it shall be arranged so as to shine and reflect away from any adjacent residential areas and away from any streets adjacent to or near the parcel. No lighting fixtures used for any parking area shall be elevated more than fourteen (14) feet above the ground, except for a light which is installed on the ceiling of a porch of a dwelling unit and is designed to illuminate only such porch. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

(d) **Fire protection.** No portion of any building shall be located farther from a fire hydrant than may be reached with five hundred (500) feet of hose.

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(e) Title to property. All common areas located within a development in a Residential E District, such as streets, parks, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements located within developments in Residence E Districts shall be privately owned, and title thereto may be held by a trustee for the benefit of the residents of such development, by a private corporation, by an association of the residents thereof or as undivided interests owned by the owners of the lots within such development. Such trustee, corporation, association or owners (jointly and severally) shall be responsible for the proper care and maintenance of such streets and other property and improvements. All streets shall remain private and shall not become public streets to be maintained by the city.

(Ord. No. 1224, 2-26-96)

ARTICLE IX. CLUSTERED RESIDENTIAL DISTRICT

Sec. 19-9-1. Permitted uses.

The uses permitted in Clustered Residential Districts shall be as follows:

- (a) Single-family dwellings;
- (b) Accessory structures; accessory buildings, such as private garages, customarily incidental to residential occupancy; provided, that no accessory buildings may be used as a dwelling or a residence or occupied by any person, either on a long-term or temporary basis;
- (c) Gardens and greenhouses customarily incidental to residential occupancy; provided, that the products grown there may not be sold;
- (d) Recreation areas, which may include a golf courses, playgrounds, swimming pools, tennis courts and other similar recreational uses; provided, that no such area or use may be operated for profit, or may be operated in a manner which produces noise, glare, odor, smoke, fumes, or any safety hazard which may be detrimental or annoying to the neighborhood;
- (e) Gate houses.

(Ord. No. 1224, 2-26-96)

Sec. 19-9-2. Area and dimensional requirements.

- (a) Requirements for development.
 - (1) Minimum total site area, for any new development . . . 6 acres

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(2) A parcel containing fewer than six (6) acres may be used for a Clustered Residential District if it is adjacent to an existing clustered residential development located in a Clustered Residential District and if the development of such parcel conforms to, and extends, the original development just as if such parcel had been part of the original development.

(b) Minimum yards and building setbacks.

(1) Minimum setback of a building from any boundary line of the Clustered Residential District . . . 100 feet

(c) Building limitations.

(1) Minimum building width . . . 24 feet

(2) Maximum building height . . . 35 feet

(3) Maximum number of stories . . . 2

(4) Maximum allowable density, per 15,000 square feet of net area of the parcel: 1 dwelling unit

(5) Maximum number of dwelling units in any cluster . . . 12

(6) Maximum number of dwelling units permitted in any building in any cluster: 5, provided that 5 units shall be permitted in only one building in any cluster.

(d) Building separation.

(1) Minimum distance between the nearest buildings in any adjacent clusters . . . 200 feet

(Ord. No. 1224, 2-26-96)

Sec. 19-9-3. Off-street parking areas and streets.

Reasonable access shall be provided from all lots in a clustered residential development to a public street. All streets, driveways, parking areas and related improvements within a clustered residential development shall be privately owned and shall not become public streets or improvements to be maintained by the city. Convenient off-street parking shall be provided for all dwelling units. All parking spaces and such attendant driveways and other areas as 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, parking spaces, driveways and maneuvering areas shall be paved with asphalt or concrete. All sidewalks shall be paved with concrete. All driveways, parking areas, sidewalks and steps shall be properly maintained and adequately lighted.

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(Ord. No. 1224, 2-26-96)

Sec. 19-9-4. Additional requirements and provisions.

- (a) Utilities. All utility lines within a clustered residential development shall be placed underground.
- (b) Fire protection. No portion of any building shall be located farther from a fire hydrant than may be reached with five hundred (500) feet of hose.
- (c) Separate ownership of dwellings. Each dwelling unit within a clustered residential development shall be situated upon a separate lot.
- (d) Title to property. All common areas located within a development in a Clustered Residential District, such as streets, parks, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements located within developments in Clustered Residential Districts shall be privately owned, and title thereto may be held by a trustee for the benefit of the residents of such development, by a private corporation, by an association of the residents thereof or as undivided interests owned by the owners of the lots within such development. Such trustee, corporation, association or owners (jointly and severally) shall be responsible for the proper care and maintenance of such streets and other property and improvements. All streets shall remain private and shall not become public streets to be maintained by the city.
- (e) Liability to maintain property. The private streets and any other improvements located in the common areas shall be constructed and maintained in accordance with the same standards as are required by the city for public improvements of like or similar kind, or if there are no such standards, such private streets and other improvements shall be maintained in a good and serviceable condition.
- (f) Documentation of maintenance of streets. Prior to final approval of a subdivision for a clustered residential development, the developer shall submit to the city clerk appropriate legal documents which provide for adequate maintenance of private streets, parks, recreational facilities, planted areas and other improvements located in the common areas within the development.
- (g) Development plans and standards in general. All plans and specifications relating to a development in a Clustered Residential District shall conform to all applicable regulations of the city, including, without limitation, subdivision regulations, subject only to such exceptions as shall be permitted by the planning commission, in accordance with the provisions of the city's subdivision regulations.

(Ord. No. 1224, 2-26-96)

ARTICLE XIX. GENERAL AREA AND DIMENSIONAL REQUIREMENTS

EXHIBIT B

Sec. 19-19-1. Minimum street abutment required for erection of dwellings.

No dwelling shall be erected on any parcel which does not abut at least one (1) street for at least the minimum number of feet set forth in the use regulations for each respective residential district established by this chapter.

(Ord. No. 1224, 2-26-96)

Sec. 19-19-2. Minimum parcel size requirements and determination.

(a) Reduction of size of, or other change in, parcel. No parcel may be reduced in area, changed in shape or otherwise modified so that its area is less than the minimum area required in this chapter for a parcel in the zoning district in which such parcel is located, or so that the yards or other open spaces are less than the minimum required in this chapter for a parcel in the zoning district in which such parcel is located, or so that such parcel otherwise does not comply with the requirements of this chapter. Notwithstanding the foregoing, one (1) or more lots and a part of an additional, contiguous lot ("divided lot") may be resurveyed into one (1) lot if all of such property is owned by the same party or parties ("owner") and the owner does not own the remainder of the divided lot ("remainder"). When the owner files his application for approval of the resurvey he must provide the city clerk with satisfactory proof that the owner of the remainder ("remainder owner") has been given notice of the proposed resurvey and an opportunity to include the remainder and a contiguous lot or lots owned by the remainder owner in the resurvey, at the expense of the remainder owner. The remainder owner may, at his expense, become a party to the resurvey and include the remainder and such contiguous lot or lots in the resurvey as one (1) resurveyed lot. If the remainder owner does not include the remainder and a contiguous lot or lots owned by him in the resurvey, the remainder shall not be considered a lot for the purposes of this chapter unless it complies with all of the requirements of this chapter with respect to the zoning district in which it is located, including, without limitation, the minimum area requirement and the minimum street frontage requirement. If the remainder does qualify as a lot, as provided hereinbefore, any improvements built on it must comply with the requirements of this chapter with respect to the zoning district in which it is located, including, without limitation, the building setback requirements and the maximum building area requirement. If the remainder is located in a Residence A District, it shall not be considered a preexisting lot for the purposes of section 19-3-5.1(a) of the City Code.

(b) Determination of size of parcel. With regard to all districts, only land which is located within the corporate limits of the city may be taken into account in determining whether a parcel satisfies the minimum required area of the parcel.

(Ord. No. 1224, 2-26-96; Ord. No. 1246, 1-13-97)

Sec. 19-19-3. Street corner visibility in residential and recreational districts.

(a) It shall be unlawful to erect, install, or maintain a sign, hedge, planting, wall, post, or other fixture or structure (1) at or near the intersection of two (2) or more public streets, roads, or thoroughfares, (2) at or near the intersection of a public street, road, or

EXHIBIT B

thoroughfare and a private roadway or driveway, or (3) elsewhere in a public road right-of-way such that the sign, hedge, planting, wall, post, or other fixture or structure obstructs, interferes with, impairs, or denies the driver of a vehicle approaching the intersection or entering the roadway a clear view of all other vehicular traffic approaching the driveway or approaching the intersection or roadway from other intersecting streets, roads, or thoroughfares.

(b) A sign, hedge, planting, wall, post, or other fixture or structure shall presumptively be deemed to violate the foregoing prohibition if, from a vantage point three and one-half (3.5) feet above the road or driveway surface at the "stop bar" or point of entry to the intersection or roadway, a clear view of traffic approaching the driveway or approaching the intersection or roadway from other intersecting streets cannot be achieved for a minimum distance (in units of feet) equal to the posted, advisory, or statutory speed limit (in units of miles per hour) multiplied by ten (10).

(c) Prior to initiating any civil or criminal action to enforce the terms of this section, the city shall endeavor to secure voluntary compliance with the requirements hereof; provided, however, that this provision shall be deemed precatory and directory in nature and effect, and shall not be a precondition or bar to such enforcement action or to invocation of any remedy otherwise available to the city.

(Ord. No. 1224, 2-26-96; Ord. No. 1618, § 1, 1-12-04)

EXHIBIT C

Sec. 19-19-4. Accessory structures and accessory buildings on residential lots.

- (a) *Size.* Accessory buildings may not contain more than the greater of eight hundred (800) square feet of floor area or twenty percent (20%) 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 four hundred (400) square feet and fifteen (15) feet in height, must be at least ten (10) feet from all lot lines. Accessory buildings exceeding four hundred (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.

Sec. 19-19-5. Fences and walls in residential districts. Except as provided in section 19-20-5 of this chapter, no fence or wall located in the front yard of any parcel in any residential district may exceed four (4) feet in height.

(Ord. No. 1224, 2-26-96)

Sec. 19-19-6. Stories. With regard to residential districts, dwellings may include, in addition to the maximum number of stories permitted by the specific regulations for each residential zoning district, the following additional space, which may be occupied;

- (a) Basements which do not constitute a story above grade; and
- (b) Additional floor area which is wholly within any pitched roof structure.