

ORDINANCE NO. 2008

AN ORDINANCE AMENDING ARTICLE XII OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Articles I and XIII of the City Code is hereby amended to as follows:

**Section 1.**

**ARTICLE I. - DEFINITIONS**

**Sec. 129-2. - Definitions.**

Shopping Center. An attached row of stores managed as a coherent retail entity, which is comprised of a group of no less than three of the following types of uses: retail shops and service establishments (as identified in Section 129-192 of the Mountain Brook Municipal Code, Retail Use Category and Service Use Category), restaurants (including lunchtime operations), or offices (professional or business offices as defined by the Mountain Brook Municipal Code), of which no more than 35% of the shopping center square footage is comprised of service and/or office uses; that fronts on a principal traffic arterial (as defined by the Mountain Brook Subdivision Regulations Road Classifications Map) and which provides private off-street parking and employs a system of interconnected walkways that enable customers to walk from unit to unit.

**ARTICLE XIII. - COMMUNITY SHOPPING DISTRICT**

**Sec. 129-211. - Permitted uses.**

- (a) ~~Any use listed as being "permitted by right" in Local Business Districts;~~ Any use listed in the Local Business District Sections 129-192 (a) (1) (Retail Use Category), (b) (1) (Service Use Category), (b) (2) (Office Use Category) and (8) (Restaurants open for lunch);
- (b) ~~Business offices;~~
- (c) General merchandise stores, including full-line department stores;
- (d) Hospitals;
- (e) Hotels and motels;
- (f) Shopping centers; and
- (g) Accessory structures customarily incidental to the uses permitted by this section.

**Section 2. Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

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

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

**ADOPTED:** This 22nd day of January, 2018.

  
Council President

**APPROVED:** This 22nd day of January, 2018.



\_\_\_\_\_  
Mayor

**CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on January 22, 2018, as same appears in the minutes of record of said meeting, and published by posting copies thereof on January 23, 2018, 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

## **Amendments to Article I (Definitions) and to Article XIII (Community Shopping District)**

### ***Background for General Business Uses***

In 2009 the city council adopted ORD 1795, which distinguished service and office uses from retail uses as not being “permitted by right” in the Local Business District, but established that service and office uses would require city council approval of a conditional use.

Conditional uses of this nature are reviewed based primarily for their effect on public parking and on established businesses. Most of the city’s local business districts are comprised of street-front properties with little or no on-site parking. The zoning code indicates the following for conditional uses in the Local Business District:

Conditional uses are uses which may be acceptable within the Local Business District, based on specific circumstances and mitigating site design provisions that would eliminate the potential for these uses to otherwise have negative impacts on adjacent property, other uses in the district, or the district as a whole. Therefore, they require special review to better determine if the circumstances and design provisions for the proposed use when applied to a specific site are sufficient to mitigate any potential negative impacts. In addition to review of factors set forth in the following sections, any proposed conditional use will be reviewed as to the following:

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

### ***Community Shopping District***

At the time of the Local Business amendment in 2009, when uses “permitted by right” were refined and re-classified into sub-categories that now require conditional use approval, the permitted uses in the Community Shopping District were not, likewise, taken into consideration.

As a result (and likely an oversight), office and service uses that were once allowed by right in the Community Shopping District (as a matter of reference to the Local Business District) such as professional offices (Schaeffer Eye Center) or service uses (Image South), are no longer permitted uses in the Community Shopping District as they have been removed from the uses “permitted by right” category in the Local Business District.

The Community Shopping District is limited to those retail/general commercial uses “permitted by right” in the Local Business District, as well as business offices, hotels, hospitals, shopping centers and department stores.

### ***Shopping Centers***

There are only two sites in the City that are currently zoned Community Shopping District;

1. **Mountain Brook Plaza** (Schaeffer/Tazikis/Verizon shopping center, Hampton Inn and Wendy's)
2. Mountain Brook portion of the **Brookwood Mall** (Macy's department store and a few independent stores within the Macy's end of the mall)

Both of these sites contain shopping centers that are located on principal traffic arterials, and both sites contain private parking accommodations that do not spill over onto local business district streets or effect adjoining local business properties. *Therefore, the need for city council oversight of offices, services and lunchtime restaurant operations in these two Community Shopping business configurations may not be warranted. As such, the definition of "shopping center" has been defined as follows:*

The proposed ordinance defines a "shopping center" as allowing retail, food uses, business offices, professional offices and services by right in the Community Shopping District *when the site contains a shopping center as defined in the proposed amendment.*

### ***Village Overlay***

Brookwood Mall is not located in a designated village and is, therefore, not governed by the village overlay standards. While Mountain Brook Plaza is located in Mountain Brook Village, it is specifically governed by its base zoning district (which is Community Shopping).

### ***Language Recommended by the Planning Commission on Jan 2, 2017:***

#### **ARTICLE I. - DEFINITIONS**

##### **Sec. 129-2. - Definitions.**

*Shopping Center.* An attached row of stores managed as a coherent retail entity, which is comprised of a group of no less than three of the following types of uses: retail shops and service establishments (as identified in Section 129-192 of the Mountain Brook Municipal Code, Retail Use Category and Service Use Category), restaurants (including lunchtime operations), or offices (professional or business offices as defined by the Mountain Brook Municipal Code), of which no more than 35% of the shopping center square footage is comprised of service and/or office uses; that fronts on a principal traffic arterial (as defined by the Mountain Brook Subdivision Regulations Road Classifications Map) and which provides private off-street parking and employs a system of interconnected walkways that enable customers to walk from unit to unit.

#### **ARTICLE XIII. - COMMUNITY SHOPPING DISTRICT**

##### **Sec. 129-211. - Permitted uses.**

(a) ~~Any use listed as being "permitted by right" in Local Business Districts;~~ Any use listed in the Local Business District Sections 129-192 (a) (1) (Retail Use Category), (b) (1) (Service Use Category), (b) (2) (Office Use Category) and (8) (Restaurants open for lunch);

~~(b) Business offices;~~

(c) General merchandise stores, including full-line department stores;

(d) Hospitals;

(e) Hotels and motels;

(f) Shopping centers; and

(g) Accessory structures customarily incidental to the uses permitted by this section.