

ORDINANCE NO. 1976

AN ORDINANCE AMENDING SECTION 129-555 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Section 129-555 (Parking for Village Overlay District) of the City Code is hereby amended to as follows:

Section 1.

“Village Overlay District

Sec. 129-555. - Parking, vehicle and pedestrian access standards.

The parking and vehicle access standards of the applicable base zoning district are specifically modified or amended by village overlay standards according to this section.

(a) *Parking quantity.* For all new construction subject to the village overlay standards, onsite parking shall be provided pursuant to the following table:

Building Uses	Required Parking Spaces*
Retail Uses (Unless Exempt):	Five per 1,000
Service Uses	Five per 1,000 or as follows, whichever is greater:
<i>Beauty Shops</i>	Two spaces per service chair
<i>Fitness Studios (including but not limited to Yoga, Pilates, Barre, and Personal Fitness), Gyms, Dance Studios</i>	One space per employee <u>One per 150</u>
<i>Daycare Centers</i>	One space per seven children
<i>Nail Salons</i>	Two spaces per service chair or employee, whichever is greater
<i>Self Service Laundry</i>	One space per three machines
<i>Tanning Services</i>	One space per bed/Tanning services area
Office Uses:	Four per 1,000
Residential Uses:	The number of parking spaces provided for residential uses shall be provided per the base zoning district regulations.

* Per 1,000 square feet of floor area exclusive of basements or areas used exclusively for storage, mechanical equipment, common interior areas.”

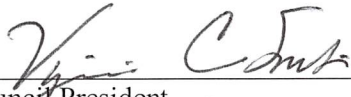
2. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

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.

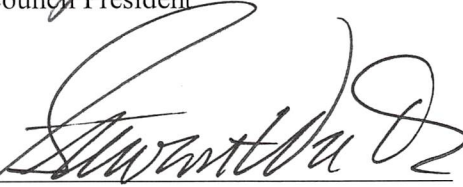
4. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This 27th day of March, 2017.



Council President

APPROVED: This 27th day of March, 2017.



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 March 27, 2017, as same appears in the minutes of record of said meeting, and published by posting copies thereof on March 28, 2017, 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

1974-1976

City Council Meeting
March 27, 2017

Proposed Zoning Amendments

The ZOR (Zoning Ordinance Review) committee and the Planning Commission have recently reviewed several proposed zoning amendments regarding the zoning code of the City of Mountain Brook, specifically pertaining to Articles XVI (Planned Unit Development District), XXIII (Home Occupations), XXXI Fitness Studios, and has forwarded the recommendations herein to the city council.

The exact language of all proposed changes is attached—new language is written and underlined in red ink.

All amendments are discussed at length below:

1. Amend the Planned Unit Development (PUD) section of the code to allow additional gateway sites along Hwy 280 to be eligible for a PUD application

The PUD ordinance currently limits properties eligible for application to properties with a minimum of 4 acres within a designated village, and properties with a minimum of 12 acres outside a designated village. There are some unique properties at the intersections along Hwy 280 that don't fit this criteria but may lend themselves to being rezoned to PUD rather than some other non-residential zoning district, thereby allowing the City more control over development at these gateways through the custom zoning of a PUD. This ordinance is intended to capture those intersection as eligible for PUD re-zoning.

A section is also added which would allow PUD applications in these Hwy 280 gateways to utilize the provision in the Village Overlay Standards which allows the council to review and approve alternate/reduced parking, based on recognized industry sources, such as the most recent edition of the Urban Land Institute Shared Parking Model or other similar and equivalent study or data, and upon evidence that such model is applicable to a proposed PUD application.

“ARTICLE XVI. - PLANNED UNIT DEVELOPMENT DISTRICT

Sec. 129-261. - Purpose and applicability.

- (a) *General Purposes.* The Planned Unit Development ("PUD") District is designed to permit flexible development of projects which are comprehensively planned as a single development with a functional master development plan which fully considers the entire site as an integrated project and gives broad consideration to impacts and relationships to surrounding areas. The PUD District permits flexibility in locating buildings, mixtures of building types and land uses, and open spaces. In permitting such flexibility, the city council should consider policies or goals in the city master plan and any village master plan approved by the planning commission, and other broad public benefits demonstrated in a master development plan. The planning commission or city council may attach conditions to a master development plan proposed for a PUD to safeguard the public health, safety, morals and general welfare.

- (b) *Specific purposes.* Each master development plan for a proposed PUD District shall advance the following specific planning purposes:
- (1) The plan should take into consideration policy statements identified in association with use of the PUD District as a future land use policy in an officially approved village master plan; and
 - (2) The plan shall encourage more efficient development and use of land which results in one or more of the following benefits to the general public that could not be gained under standard zoning districts, such as:
 - a. Reduced negative aesthetic and environmental impacts from buildings and site development facilities, including better management of or reduction in the environmental impacts of development on the surrounding community;
 - b. A better relationship between buildings, streetscapes, and public or common open spaces, resulting in an integrated community character that considers extensions and transitions to adjacent areas, as well as relationships to the particular characteristics of the site;
 - c. Less burden of traffic on streets, roads, and highways, including better pedestrian accommodations and connections; or
 - d. Exemplary design of buildings and civic spaces which reinforces and complements the existing character of surrounding areas.
- (c) *General applicability.* The PUD District is generally applicable for master development plans that involve arrangements of two or more types of building types, lot types, or uses which could otherwise not be developed under a single zoning district, or where developments that may be allowed under a single zoning district represent exemplary design with public benefits that could not be achieved under the zoning district standards. In each case a master development plan shall be used to create a better arrangement of the buildings, lots, or uses than would otherwise be allowed under the base zoning district standards. However, each element of the site shall be based on a zoning district most closely associated with the building types and uses, and the master development plan shall demonstrate and identify where deviations from the standards of that district are necessary to achieve the goals of the master development plan and provide broader public benefits.
- (d) *Minimum acreage.* The minimum contiguous acreage for a master development plan and application of the PUD zoning district shall be:
- (1) Four acres for areas covered by an approved village master plan of the city and specifically identified for use of the PUD District as a future land use policy; or
 - (2) Twelve acres for areas not covered by an approved village master plan or a plan including areas not identified for use of the PUD as a future land use policy in such plan; or
 - (3) Two acres for areas designated as Highway 280 Gateways.
- (e) **Highway 280 Gateways.** Properties eligible for a master development plan and application of PUD zoning district shall be:
- (1) Property located, in whole or in part, in a primary or secondary gateway as designated on the Highway 280 Gateway Maps;
 - (2) Property for which the current use, as of the effective date of this amendment is non-residential;

The boundaries officially approved for the Highway 280 Gateways, as specified above, are adopted herein by reference, and shall become a part of official zoning map of Mountain Brook as defined in section 129-17 of the zoning ordinance.

The Gateway Maps for Highway 280 are attached hereto, and are included within, and made a part of these Planned Unit Development Standards.

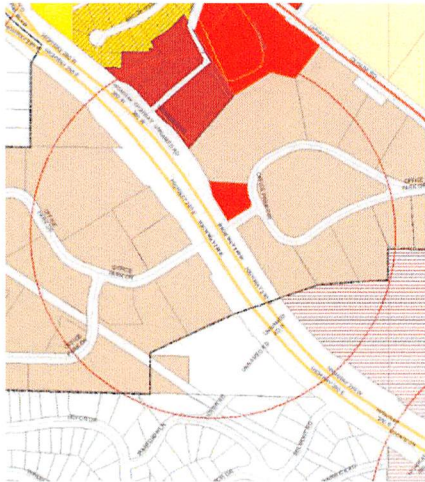
Sec. 129-264. - Area and dimensional requirements.

(a) *Spacing and setbacks of buildings and structures.* The spacing, height and setback of buildings and structures, and the required parking and parking design requirements associated therewith, shall generally meet the standards of the applicable base zoning district(s) included in the master site plan. Modification from these requirements may be made through the proposed master development plan. The planning commission may recommend and the city council may approve arrangements that better meet the purposes of this district, the city master plan, or any applicable village master plan. **Required parking for master development plans for property located in the Highway 280 Gateways may utilize the provisions under section 129-555 (b)(3).**

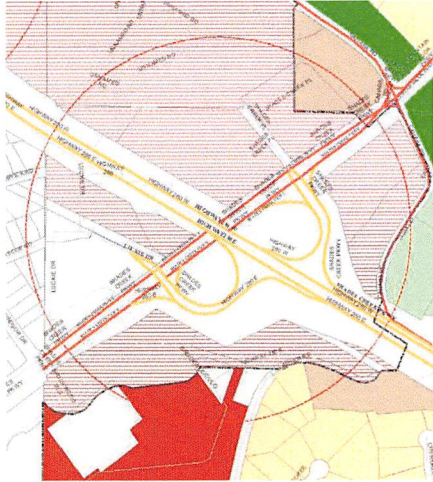
Sec. 129-267 Highway 280 Gateway Maps.

(1) Primary Gateways – 1000 foot radius from intersection of Highway 280.

(a) Office Park Gateway

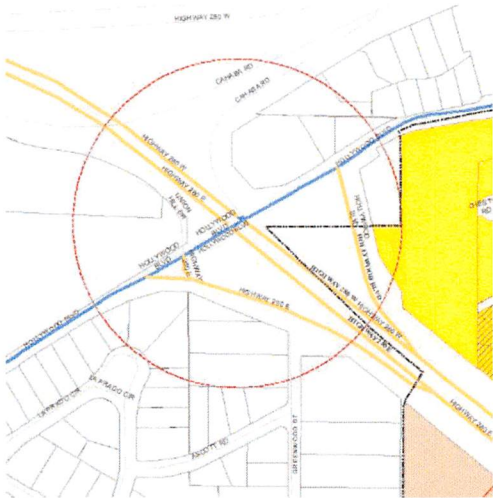


(b) Shades Creek Parkway/Mountain Brook Parkway Gateway

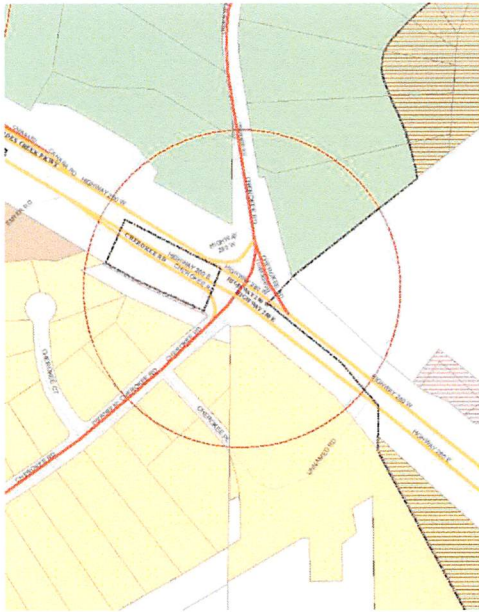


(2) Secondary Gateways – 500 foot radius from intersection of Highway 280.

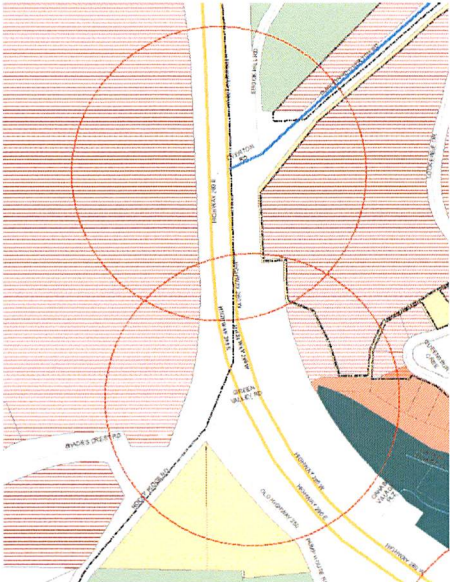
(a) Hollywood Boulevard Gateway



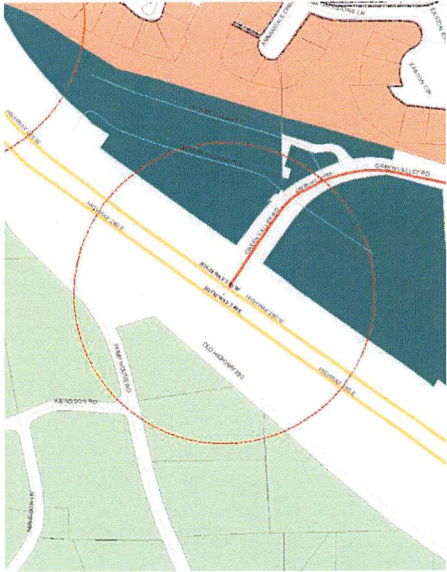
(b) Cherokee Road Gateway



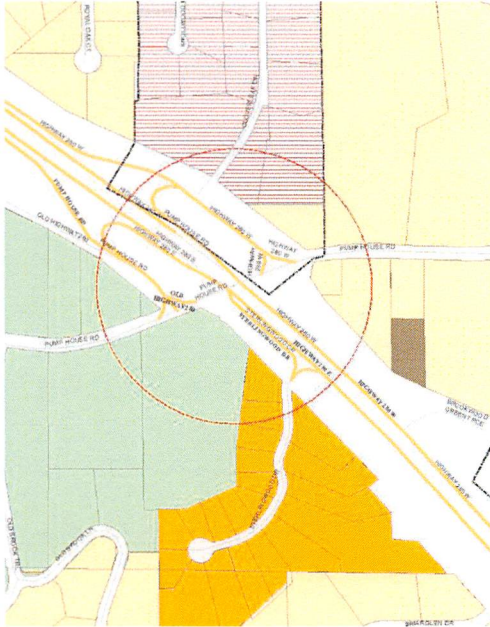
(c) Overton Road / Rocky Ridge Road Gateway



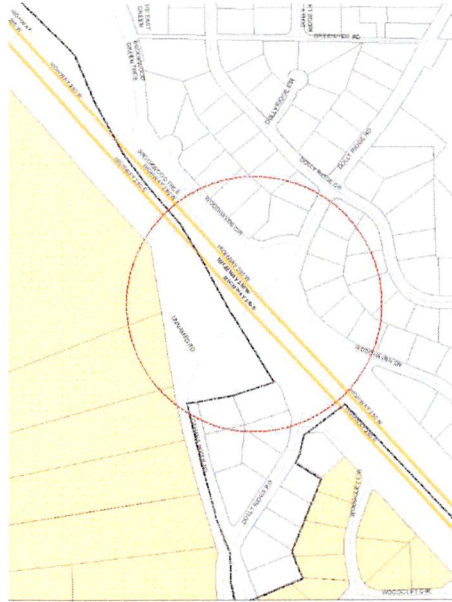
(d) Green Valley Road Gateway



(e) Pump House Road Gateway



(f) Cahaba River Road Gateway



Secs. 129-268—129-280. - Reserved.”

2. Amend the Home Occupation ordinance to eliminate a list of specific uses and base the approval process on performance standards.

Since the economic downturn of 2008 the number of home occupation applications processed in the city has grown tremendously, and with the ease of internet-based businesses, the types of home occupations continue to evolve. The current home occupation ordinance is somewhat antiquated (especially as to its list of permitted uses) and is in need of updating.

The main changes are:

- remove the list of permitted uses (due to the ever-changing need to amend it) and let the approval process be governed by performance standards instead;
- allow home occupations in detached accessory buildings; where they are currently prohibited; and
- limit the number of non-family members associated with a home occupation to one (where there is no limit in the current ordinance).

"ARTICLE XXIII. - HOME OCCUPATIONS

Sec. 129-391. - Purpose.

The city believes that the need to It is the city's intent to protect the integrity of its residential areas. is of paramount concern. It is the purpose of this section to permit single-family dwellings, including residences (dwellings located in townhouses, and accessory structures used in connection with such single-family dwellings and townhouses dwellings), to be used for certain limited business purposes which are incidental to, and compatible with, the residential use of property in a manner which will protect residential areas from the adverse impact of activities associated with the conduct of businesses and to provide peace, quiet and domestic tranquility within all residential neighborhoods within the city and to protect the residents of the city from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial activities being conducted in residential areas, provided that the operators of such businesses comply with all applicable laws and ordinances, including, without limitation, the city's business license code.

Sec. 129-392. - Uses permitted as home occupations. Applications.

Applications for home occupations may be approved by the Zoning Official providing that all of the following regulations and requirements are satisfied. Should the Zoning Official determine that the proposed application does not satisfy the intent or requirements of this Article, then the application may be appealed to the Planning Commission for review at the next regularly scheduled meeting.

~~As an accessory and subordinate use of a building which is used as a single-family dwelling ("dwelling"); or a structure or building which is: (i) Presently in existence; (ii) Either attached or unattached to a dwelling; (iii) Located on the same lot or parcel of land as the dwelling; and (iv) Used in conjunction with the dwelling ("accessory structure"); the following uses which are conducted for the purpose of producing income or revenue ("home occupations") are permitted, subject to the conditions set forth in section 129-393.~~

- ~~(1) Offices occupied by agents and sales representatives and offices used for general business purposes;~~
- ~~(2) Dressmaking, millinery, sewing, tailoring, knitting and crocheting;~~
- ~~(3) Photography studio;~~
- ~~(4) Artist's studio;~~
- ~~(5) Arts and crafts;~~
- ~~(6) Flower arranging;~~
- ~~(7) The tutoring of students for educational courses which are generally taught in elementary and secondary schools, provided that not more than two students may be tutored at any one time;~~

- ~~(8) The educational testing of students, provided that not more than two students may be tested at any one time;~~
- ~~(9) The teaching of music, provided that not more than two students may be instructed at any one time;~~
- ~~(10) The preparation of baked goods, food or other items which do not require the use of equipment not normally found in a residential dwelling;~~
- ~~(11) Watch and clock repair;~~
- ~~(12) Secretarial services, such as typing or word processing;~~
- ~~(13) Consulting services;~~
- ~~(14) Financial planning;~~
- ~~(15) Accounting;~~
- ~~(16) Computer programming;~~
- ~~(17) Data processing;~~
- ~~(18) Direct mail services;~~
- ~~(19) Interior decorating services;~~
- ~~(20) Day-care services in a dwelling for not more than six infants (as used herein, "infant" shall mean any child between birth and the time of his walking independently), provided that the use of a dwelling for such day-care services shall be approved by the planning commission; and~~
- ~~(21) Other uses which are similar to any one or more of the above uses, and which are approved by the planning commission.~~

Sec. 129-393. - Conditions for use of dwelling or accessory structure for a home occupation.

- (a) The principal use of the dwelling must be as a dwelling **residence**, and the home occupation shall be clearly incidental to said residential use of the dwelling. The home occupation shall not change or adversely affect the essential residential character of the dwelling or the accessory structure, or of any part of the neighborhood or area in which it is located. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian or vehicular traffic, or any other conditions which would constitute an objectionable use of residentially zoned property.
- (b) No home occupation will be permitted if it causes noise which is excessive, either in degree or length of time, for a residential neighborhood, or which creates glare, obnoxious odors, fumes or vibrations or produces electrical interference detectable to normal sensory perception outside the dwelling or accessory structure.
- (c) No home occupation may be conducted which involves the use or storage of hazardous, dangerous or flammable substances or materials.

- (d) ~~Either a dwelling or an accessory structure (built prior to November 27, 1990) located on the same parcel as the dwelling may be used for a home occupation, but in no event may both the dwelling and the accessory structure be used for a home occupation.~~ No more than one accessory structure located on any parcel may be used for a home occupation.
- (e) ~~No accessory structure built after November 26, 1990 may be used in connection with a home occupation.~~
- (f) No home occupation conducted in a dwelling may occupy more than 20 percent of the total square footage of the livable area contained in the dwelling regardless of whether such use operates on a permanent, occasional or temporary basis.
- (g) ~~No delivery of goods or other items may be made at a dwelling or an accessory structure, except the delivery of goods sold incidentally in connection with a service which is a permitted home occupation, such as the sale of sheet music by a music teacher to his students. No inventory may be maintained in connection with a home occupation, except inventory which may be required for such incidental sales.~~
- (h) No equipment, goods, materials, or other property used in a home occupation may be stored in the yard of a **residence** dwelling. ~~No equipment, goods, materials or other property used in a home occupation may be stored in any accessory structure unless the accessory structure is the situs of the home occupation. No equipment, goods, materials or other property used in a home occupation may be stored in any dwelling unless the dwelling is the situs of the home occupation.~~
- (i) There shall be no entrance or exit way in a dwelling specifically **exclusively** provided for use in connection with the conduct of the home occupation.
- (j) No home occupation shall be permitted in a dwelling or an accessory structure if such home occupation generates traffic or parking materially in excess of what would be normal for the exclusively residential use of such dwelling.
- (k) ~~No equipment of any type related to a home occupation may be stored on any part of the premises of a dwelling or an accessory structure.~~
- (l) No more than two motor vehicles related to a home occupation ~~may~~ shall be parked on the premises of any dwelling or accessory structure **residence**. Such vehicles may be ~~trucks~~ not exceeding three-quarters ton in load capacity, ~~vans or automobiles,~~ provided that such vehicles must be parked on a portion of the premises which was paved or otherwise designed as a parking area. ~~or driveway prior to the commencement of the home occupation.~~
- (m) No goods, materials, equipment or other property which are related to a home occupation and which would be visible from any public street or land which is adjacent to the premises upon which the home occupation is conducted, may be stored or left in any motor vehicle. No equipment or motor vehicle of any type related to a home occupation may be parked or left on any public street or on any private street which was constructed in lieu of a public street.
- (n) Deliveries from suppliers to any ~~dwelling or accessory structure~~ **residence** in which a home occupation is operated shall not interfere with normal traffic circulation in the

- area in which such ~~dwelling or accessory structure~~ residence is located. Such deliveries may be made only on Mondays through Saturdays, and only during the day between the hours of 8:00 a.m. and 6:00 p.m.
- (o) The person who is primarily responsible for the conduct of a home occupation must be a full-time resident of the dwelling in which the home occupation is conducted; or, if the home occupation is operated in an accessory structure, said person must be a full-time resident of the dwelling located on the land on which accessory structure is located.
 - (p) In addition to the person who is primarily responsible for the conduct of a home occupation, the following may be engaged in such home occupation:
 - (1) Any other person who is a full-time resident of the dwelling; and
 - (2) No more than one person who is not a full-time resident of the dwelling; and
 - (3) Subject to the conditions set forth in this subsection, a person ~~or persons~~ who ~~are~~ is not a full-time residents of the dwelling:
 - a. The name of ~~each~~ such nonresident employee is submitted to the zoning officer with the application for the permit for the home occupation or submitted subsequently if such person ~~or persons~~ is hired after the application is filed (as used in this subsection, "employee" shall include any person who assists or takes part in the operation of a home occupation, regardless of whether such person does so as an employee, a partner, a shareholder or in any other capacity, and regardless of whether or not the person is compensated for his services);
 - b. The aggregate number of hours worked, ~~at the dwelling or accessory structure,~~ residence by any such person ~~or persons~~ as an employee of the home occupation may not exceed 40 hours during any calendar week; and,
 - c. ~~Not more than one such person may serve as an employee at such dwelling or accessory structure at any one time.~~
 - (q) No sign or other item advertising, giving notice of, or in any way relating to, a home occupation may be placed in the yard of a ~~dwelling or accessory structure~~ residence, on the outside of a dwelling or accessory structure, or within a dwelling or accessory structure so as to be visible from outside such dwelling or accessory structure.
 - (r) There shall be no visible evidence from the outside of any dwelling or accessory structure in which a home occupation is operated of the conduct or presence of such home occupation.
 - (s) Any accessory structure in which a home occupation is conducted must be completely enclosed.
 - (t) No outside lighting, in addition to that which is normally used for residential purposes at a dwelling or accessory structure, may be used in connection with a home occupation.
 - (u) The home occupation may not be operated prior to 8:00 a.m. or after 6:00 p.m., ~~nor may it be operated on Sundays or generally recognized holidays.~~

Sec. 129-394. - Home occupations in dwellings in the Districts Residence D ~~Districts~~, Residence E ~~Districts~~, and Clustered Residential ~~Districts~~, Legacy Res F, Mixed Use, Residential Infill, Residence F and Residence G.

- (a) ~~Uses permitted as home occupations in Residence D, Residence E and Clustered Residential Districts. Dwellings in Residence D, Residence E and Clustered Residential Districts may be used only for the following limited business purposes:~~
- ~~(1) Offices of agents and sales representatives and offices used for general business purposes;~~
 - ~~(2) Interior decorating services; or~~
 - ~~(3) Dressmaking, millinery, sewing, tailoring, knitting and crocheting.~~
- (a) ~~Additional conditions applicable to home occupations in dwellings in Residence D, Residence E and Clustered Residential Districts.~~ Home occupations operated in dwellings and permitted accessory structures in the districts noted in this section Residence D, Residence E and Clustered Residential Districts, in addition to the other provisions of this article, shall be subject to the following additional conditions:
- (1) No customer, client or business invitee may come to or enter the dwelling.
 - (2) No accessory structure may be used for any such business purpose; and
 - (3) Only a person who is a full-time resident of the dwelling may be employed or otherwise participate in a home occupation at such dwelling.

Sec. 129-395. - Permitting procedures—Home occupations.

- (a) *Permit required.* Prior to the use of a dwelling or an accessory structure for a home occupation, and occupant of the dwelling who will be engaged in the home occupation, or his representative, must obtain from the zoning officer a permit for the operation of the home occupation.
- (b) *Application requirements.* To obtain the permit, such occupant or his representative must complete and submit to the zoning officer an application which must contain the following information:
- (1) The name of the primary occupant of the dwelling;
 - (2) The street address of the dwelling, whether the home occupation will be conducted in the dwelling or in an accessory structure;
 - (3) The type of home occupation which will be conducted;
 - (4) The number of employees who will be employed or take part in the home occupation and whether any of the employees are not, or will not be, residents of the dwelling;
 - (5) The names and resident addresses of all employees;
 - (6) The type of equipment, if any, which will be used in the home occupation;

- (7) The ~~days and~~ hours during which the home occupation will be conducted;
- (8) A description of any motor vehicles which will be used in connection with the home occupation; and,
- (9) Such additional information as the zoning officer, or the planning commission with respect to home occupations subject to [section 129-392\(21\)](#), may, from time to time, consider necessary for the administration and enforcement of this section; and
- (10) An application fee in accordance with article XXVII of this chapter.
- (11) If the home occupation is to be conducted in a townhouse or an accessory structure thereto, the application for a permit must be accompanied by a statement from the homeowner's association for the townhouse, if any, that the association has no objection to, or restriction against, the intended business use of the dwelling or accessory structure.

3. Regarding increasing the minimum parking requirement for fitness uses and dance studios.

The current code requires council approval of a conditional use for the establishment of fitness studios and dance studios in the Local Business District. The conditional use review process targets the impact of the proposed use on street parking.

Fitness and dance studios have proved to negatively impact street parking within the commercial areas governed by the village maps, and the city council has likewise limited the operating hours of said uses to morning and late afternoon-evening in order to balance the parking demand in the villages with the peak hours of other uses such as retailers and restaurants.

The conditional use method for fitness uses has become difficult to enforce, with fitness businesses tending to increase class size or class times/schedules to those other than permitted by a particular conditional use. Therefore, an alternate method of governing fitness uses is proposed herein; that the minimum on-site parking requirement be increased from 1/200 square feet to 1/150 square feet within the commercial areas designated in village maps. This will serve to limit fitness uses in the villages to only those properties with conforming on-site parking at the proposed ratio. The result: properties which are permitted to host retail and service uses as a continuation of legal a nonconforming parking status will be ineligible to host fitness studios and dance studios.

“Village Overlay District

Sec. 129-555. - Parking, vehicle and pedestrian access standards.

The parking and vehicle access standards of the applicable base zoning district are specifically modified or amended by village overlay standards according to this section.

(a) *Parking quantity.* For all new construction subject to the village overlay standards, onsite parking shall be provided pursuant to the following table:

Building Uses	Required Parking Spaces*
Retail Uses (Unless Exempt):	Five per 1,000
Service Uses	Five per 1,000 or as follows, whichever is greater:
Beauty Shops	Two spaces per service chair
<u>Fitness Studios (including but not limited to Yoga, Pilates, Barre, and Personal Fitness), Gyms, Dance Studios</u>	One space per employee <u>One per 150</u>
Daycare Centers	One space per seven children
Nail Salons	Two spaces per service chair or employee, whichever is greater
Self Service Laundry	One space per three machines
Tanning Services	One space per bed/Tanning services area
Office Uses:	Four per 1,000
Residential Uses:	The number of parking spaces provided for residential uses shall be provided per the base zoning district regulations.

* Per 1,000 square feet of floor area exclusive of basements or areas used exclusively for storage, mechanical equipment, common interior areas.