

## Chapter 129 - ZONING

*Footnotes:*

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**Editor's note—** Ch. 129 contains the zoning regulations of the city which were formerly included as Ch. 19 of the 1996 Code and not included in the publication of this Code. At the request of the city the zoning regulations, as amended, are set out herein as Ch. 129. Provisions of this chapter have been renumbered by the editor as necessary.

### ARTICLE I. - DEFINITIONS

*Footnotes:*

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**Editor's note—** Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. I, §§ 129-1, 129-2, and enacted a new Art. I as set out herein. The former Art. I pertained to definitions and derived from Ord. No. 1224, 2-26-96; Ord. No. 1770, § 1, 5-12-2008.

#### Sec. 129-1. - 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. 1778, § 1(19-1-1), 9-8-2008)

#### Sec. 129-2. - 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, noncommercial greenhouse, pool house, and similar uses.

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

**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.

*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 official.* The head of the building inspections department of the City of Mountain Brook.

*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.

*Catering.* Preparation of food for off-site consumption.

*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 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 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.

*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.

*Clinic, medical and dental.* A category of medical and dental care focused on the delivery of routine or ambulatory care, and the treatment of acute or chronic illness or injury requiring immediate care (those not warranting an emergency room visit). Often characterized by, but not limited to, one or more of the following: acceptance of patients on a walk-in basis with no appointment required, extended hours of operation on weekdays and/or weekends, and/or a pool of rotating medical or dental practitioners rather than the primary office of one or more permanent practitioners.

*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 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 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 dwelling units, each of which is designed exclusively for occupancy by one family. The dwelling units must be located side-by-side, and one may not be located on top of the other.

*Dwelling.* A building containing one 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 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.

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

*Dwelling, single-family.* A building containing one dwelling unit to be used and occupied by only one 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 or more rooms forming a single residential unit.

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

*Effective date.* The date that this article is formally approved by the city council of the City of Mountain Brook, Alabama, and thus becomes law.

*Excavation.* Any manmade 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.

*Facade.* Any building front on a public street.

*Family.* One 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 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 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.

*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 nonprofit 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 or more streets at their intersection.

*Lot, double frontage.* A lot abutting upon two 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.

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

*Office, business.* Office uses that provide employment and space for the administrative affairs of businesses, but that do not generally involve frequent or intensive interactions by clients or general consumers on a daily basis, and where the delivery of the product or service does not necessarily need to occur on the premises.

*Office, professional.* Offices uses such as accountants, architects, attorneys, dentists, engineers, insurance agents, physicians, realtors, surgeons or persons conducting similar occupations or professions whose occupation or profession often requires professional licenses or certification.

*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 or more streets at the intersection of such streets.

*Parcel, double frontage.* A parcel, other than a corner parcel, which abuts two 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 phase or in a series of prescheduled 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.

*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 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. 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 this chapter of this Code.

*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.

*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

percent 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.

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

*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:

- (1) More than six feet above the finished ground level for more than 50 percent of the total building perimeter; or
- (2) More than 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 21 feet in width if such thoroughfare became a public thoroughfare, by dedication, or otherwise, on or before January 23, 1950, or more than 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 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 feet in height.

*Townhouse.* See "Dwelling, townhouse."

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

*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 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 (primary).* 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; opposite the rear yard. 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 feet shall constitute a part of the front yard.

*Yard, front (secondary).* 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; opposite the interior side yard. 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 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 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 percent of the distance between such side exterior building wall and the side boundary line of such parcel or two 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, 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 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 whose responsibilities shall include interpreting, and overseeing the enforcement and administration of, the provisions of this chapter.

(Ord. No. 1778, § 1(19-1-2), 9-8-2008; Ord. No. 1794, § 5, 4-27-2009; Ord. No. 1869, § 3, 4-9-2012; Ord. No. 1955, § 1, 7-12-2016; Ord. No. 2008, § 1, 1-22-2018; Ord. No. 2021, § 2, 7-23-2018)

Secs. 129-3—129-10. - Reserved.

## ARTICLE II. - PURPOSE AND ESTABLISHMENT OF FUNCTION

Sec. 129-11. - Compliance with chapter.

Except as otherwise provided, no structure or land shall be hereafter used, erected or altered except in compliance with the provisions of this chapter which relate to the district in which such structure or land is located.

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

Sec. 129-12. - Purpose and interpretation of chapter.

In both their interpretation and their application, the provisions of this chapter shall be considered minimum requirements which have been adopted for the promotion of the public health, safety, morals, convenience and general welfare of the city. If other ordinances or regulations of the city, heretofore or hereafter adopted, impose different requirements or restrictions with respect to the matters treated by this chapter than those specified in this chapter, the provisions of this chapter shall be controlling unless such other ordinances or regulations provide for stricter requirements or restrictions with respect to such matters in which case such other ordinances or regulations shall be controlling and compliance therewith shall be mandatory.

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

Sec. 129-13. - Severability.

This chapter and the various articles, sections, subsections, sentences, clauses contained herein are severable. Should any provision or part of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or any part of this chapter which is not specifically declared to be invalid or unconstitutional.

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

Sec. 129-14. - Repeal of existing ordinances and regulations.

Former chapter 19 of the City Code is hereby repealed and the provisions of this chapter are hereby substituted in lieu thereof.

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

**Editor's note**— Ch. 129 contains the zoning regulations of the city which were formerly included as Ch. 19 of the 1996 Code and not included in the publication of this Code. At the request of the city the zoning regulations, as amended, are set out herein as Ch. 129. Provisions of this chapter have been renumbered by the editor as necessary.

Sec. 129-15. - Effect upon outstanding building permits.

Nothing contained herein shall require any change in the plans, construction, size or designed use of any structure, or part thereof, for which there is a valid, outstanding building permit in effect on the effective date. All buildings and other structures, and all parts thereof and additions thereto, for which a building permit is issued on or after the effective date must comply with the provisions of this chapter.

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

Sec. 129-16. - Effective date.

The city, having acting in full accordance with Article 4 of Chapter 52, of Title 11 of the Code of Alabama, 1975, as amended, and acting as empowered thereby, does hereby declare this chapter to be in full effect and force immediately after this chapter has been adopted by the city council and posted as required by law.

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

Sec. 129-17. - The zoning map.

The zoning map shall be considered a part of this chapter, and it shall carry the same force and effect as if it were fully described herein. The zoning map shall be kept in the city hall of the city.

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

Sec. 129-18. - Establishment of districts.

- (a) *Enumeration of districts.* For the purposes of this chapter, the city is hereby divided into the following zoning districts, the location and boundaries of which shall be as shown and depicted on the zoning map:

Residence A District

Residence B District

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

Mixed Use District

Recreational District

Recreational 2 District

Planned Unit Development District

Village Overlay Standards

Vine Street Transitional District

- (b) *Interpretation of district boundaries.* Unless otherwise specified or shown on the zoning map or enumerated in this chapter, 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; Ord. No. 1778, § 2(19-2-8), 9-8-2008)

Secs. 129-19—129-30. - Reserved.

### ARTICLE III. - RESIDENCE A DISTRICT

*Footnotes:*

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**Editor's note—** Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed Art. III, §§ 129-31—129-35, and enacted a new Art. III as set out herein. The former Art. III pertained to Residence A District and derived from 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. 129-31. - Permitted uses.

The uses permitted in a residence A district shall be as follows:

- (a) Single-family dwellings;
- (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 on the premises;

- (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 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 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. 1778, § 2(19-3-1), 9-8-2008; Ord. No. 1972, § 1, 2-27-2017)

#### Sec. 129-32. - Conditions on certain permitted uses.

The uses referred to in subsections 129-31(d)—(o) shall not be subject to the area and dimensional requirements noted in subsection 129-34(b) and (c), and shall not be subject to the provisions in section 129-314 (accessory structures and buildings) and section 129-319 (fences and walls) of this chapter, but 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 offstreet 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);
- (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. 1778, § 2(19-3-2), 9-8-2008; Ord. No. 1840, § 1, 2-14-2011; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-33. - Additions to, or modification of, improvements subject to conditions.

After one or more of the uses (including improvements to be used in connection therewith) referred to in subsections 129-31(d)—(o) 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 \$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 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 zoning officer for determination as to whether such replacement improvement is subject to planning commission 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 zoning officer for determination as to whether such replacement improvement is subject to planning commission 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. 1778, § 2(19-3-3), 9-8-2008; Ord. No. 1840, § 2, 2-14-2011; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-34. - Area and dimensional requirements applicable to permitted uses in section 129-31(a)—(c).

(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 .....15 feet

(c) *Building limitations.* .....

- (1) Maximum building area .....25 percent  
of the total area of the parcel

Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.

- (2) Maximum building height .....35 feet
- (3) Maximum number of stories .....2

(Ord. No. 1778, § 2(19-3-4), 9-8-2008; Ord. No. 1840, § 3, 2-14-2011; Ord. No. 1970, § 1, 1-10-2017)

## Sec. 129-35. - Additional requirements and provisions.

(a) *Preexisting lots and parcels.*

- (1) Any lot in a Residence A District which does not meet the minimum requirements of section 129-34(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 129-34(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. 1778, § 2(19-3-5), 9-8-2008)

## Secs. 129-36—129-50. - Reserved.

## ARTICLE IV. - RESIDENCE B DISTRICT

## Footnotes:

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**Editor's note**— Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. IV, §§ 129-51, 129-52, and enacted a new Art. IV as set out herein. The former Art. IV pertained to Residence B District and derived from Ord. No. 1224, 2-26-96.

## Sec. 129-51. - Permitted uses.

The uses permitted in Residence B Districts shall be any use permitted in Residence A Districts. The uses permitted under subsections 129-31 (d)—(o) shall be subject to the conditions and requirements contained in sections 129-32 and 129-33.

The conditions and requirements contained in subsections 129-52 and 129-53 shall apply to all such uses in a Residence B

District.

(Ord. No. 1778, § 2(19-4-1), 9-8-2008; Ord. No. 1794, § 1, 4-27-2009; Ord. No. 1840, § 4, 2-14-2011; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-52. - Area and dimensional requirements.

(a) *Minimum dimensions of parcel*. ....

- (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 (primary) yard setback .....35 feet
- (2) Minimum rear yard setback .....35 feet
- (3) Minimum side yard setback .....12½ feet
- (4) Minimum front (secondary) yard setback on corner lots where primary frontage is opposite a dedicated alley .....17½ feet

(c) *Building limitations*. ....

- (1) Maximum building area .....35 percent of the total area of the parcel

Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.

- (2) Maximum building height .....35 feet
- (3) Maximum number of stories .....2

(Ord. No. 1778, § 2(19-4-2), 9-8-2008; Ord. No. 1794, § 1, 4-27-2009; Ord. No. 1970, § 1, 1-10-2017)

Sec. 129-53. - Special provisions for nonconforming Residence B lots.

Any lot zoned Residence B created on or before January 23, 1950, in accordance with the then applicable law, which does not conform to the area and dimensional requirements for the Residence B District as a result of insufficient land to allow for the required lot width may utilize the following area and dimensional requirements in lieu of those set forth above:

(a) *Lot dimensions and size*. ....

- (1) Area of parcel .....No minimum
- (2) Width of parcel at all points between the street line and the front setback line .....Less than 70 feet
- (3) Number of feet of the parcel which abuts a street .....Less than

70 feet

(b) *Minimum yards and building setbacks.* .....

- (1) Minimum front (primary) yard setback .....35 feet
- (2) Minimum rear yard setback .....30 feet
- (3) Minimum side yard setback: .....

	<b>Portion of building below 22' in height</b>	<b>Portions of building 22' or greater in height</b>
Lots between 60'—70' wide at the front setback line	9 feet	13 feet
Lots less than 60' wide at the front setback line	8 feet	12 feet

(4) Minimum front (secondary) yard setback on corner lots where primary frontage is opposite a dedicated alley:

	<b>Portion of building below 22' in height</b>	<b>Portions of building 22' or greater in height</b>
Lots between 60'—70' wide at the front setback line	14 feet	18 feet
Lots less than 60' wide at the front setback line	13 feet	17 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. 1794, § 1, 4-27-2009; Ord. No. 1840, §§ 5, 6, 2-14-2011)

Secs. 129-54—129-60. - Reserved.

## ARTICLE V. - RESIDENCE C DISTRICT

### *Footnotes:*

--- (5) ---

**Editor's note—** Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. V, §§ 129-61, 129-62, and enacted a new Art. V as set out herein. The former Art. V pertained to Residence C District and derived from Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97.

### Sec. 129-61. - Permitted uses.

The uses permitted in Residence C District shall be any use permitted in a Residence A District. The uses permitted under subsections 129-31 (d)—(o) shall be subject to the conditions and requirements contained in sections 129-32 and 129-33. The conditions and requirements contained in subsections 129-62 and 129-63 shall apply to all such uses in a Residence C District.

(Ord. No. 1778, § 2(19-5-1), 9-8-2008; Ord. No. 1794, § 2, 4-27-2009; Ord. No. 1840, § 7, 2-14-2011; Ord. No. 1972, § 1, 2-27-2017)

### Sec. 129-62. - Area and dimensional requirements.

#### (a) *Minimum dimensions of parcel.*

- (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
- (3) Minimum number of feet of the parcel which must abut a street .....70 feet

#### (b) *Minimum yards and building setbacks. ....*

- (1) Minimum front (primary) yard setback .....35 feet
- (2) Minimum rear yard setback .....35 feet
- (3) Minimum side yard setback .....10 feet
- (4) Minimum front (secondary) yard setback on corner lots where primary frontage is opposite dedicated alley .....15 feet

#### (c) *Building limitations. ....*

- (1) Maximum building area .....35 percent of the total area of the parcel

Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.

- (2) Maximum building height .....35 feet
- (3) Maximum number of stories .....2

(Ord. No. 1778, § 2(19-5-2), 9-8-2008; Ord. No. 1794, § 2, 4-27-2009; Ord. No. 1970, § 1, 1-10-2017)

Sec. 129-63. - Special provisions for nonconforming Residence C lots.

Any lot zoned Residence C created on or before January 23, 1950, in accordance with the then applicable law, which does not conform to the area and dimensional requirements for the Residence C District as a result of insufficient land to allow for the required lot width may utilize the following area and dimensional requirements in lieu of those set forth above:

(a) *Lot dimensions and size.*

- (1) Area of parcel .....No minimum
- (2) Width of parcel at all points between the street line and the front setback line .....Less than 70 feet
- (3) Number of feet of the parcel which abuts a street .....Less than 70 feet

(b) *Minimum yards and building setbacks. ....*

- (1) Minimum front (primary) yard setback .....35 feet
- (2) Minimum rear yard setback .....30 feet
- (3) Minimum side yard setback: .....

	<b>Portion of building below 22' in height</b>	<b>Portions of building 22' or greater in height</b>
Lots between 60'—70' wide at the front setback line	9 feet	13 feet
Lots less than 60' wide at the front setback line	8 feet	12 feet

- (4) Minimum front (secondary) yard setback on corner lots where primary frontage is opposite a dedicated alley:

	<b>Portion of building below 22' in height</b>	<b>Portions of building 22' or greater in height</b>
Lots between 60'—70' wide at the front setback line	14 feet	18 feet
Lots less than 60' wide at the front setback line	13 feet	17 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. 1794, § 2, 4-27-2009; Ord. No. 1840, §§ 8, 9, 2-14-2011)

Secs. 129-64—129-70. - Reserved.

## ARTICLE VI. - ESTATE RESIDENCE DISTRICT

*Footnotes:*

--- (6) ---

**Editor's note**— Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. VI, §§ 129-71—129-74, and enacted a new Art. VI as set out herein. The former Art. VI pertained to Estate Residence District and derived from Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97.

Sec. 129-71. - 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 subsections 129-31(d)—(o) shall be subject to the conditions and requirements contained in sections 129-32 and 129-33. 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 80 feet to any property line; and (iv) No stable may be closer than 100 feet to any dwelling located on an adjacent parcel.

(Ord. No. 1778, § 2(19-6-1), 9-8-2008; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-72. - Area and dimensional requirements.

(a) *Minimum dimensions of parcel.*

- (1) Minimum area of parcel .....Two 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 .....Three

(Ord. No. 1778, § 2(19-6-2), 9-8-2008)

Sec. 129-73. - Estate Residence District subdivision development plan.

Any plan for the subdivision of a parcel which contains at least ten 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 percent of the total area of the lot and provided further that such portion or the lot shall not be included in computing the 100-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 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. 1778, § 2(19-6-3), 9-8-2008)

Sec. 129-74. - 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 129-73 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 129-73 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. 1778, § 2(19-6-4), 9-8-2008)

Secs. 129-75—129-90. - Reserved.

## ARTICLE VII. - RESIDENCE D DISTRICT

### *Footnotes:*

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**Editor's note—** Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. VII, §§ 129-91—129-96, and enacted a new Art. VII as set out herein. The former Art. VII pertained to Residence D District and derived from Ord. No. 1224, 2-26-96; Ord. No. 1455, 1-22-01.

Sec. 129-91. - Permitted uses.

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

- (a) Duplexes;
- (b) Apartment houses;
- (c) Townhouses;
- (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 on the premises.

(Ord. No. 1778, § 2(19-7-1), 9-8-2008; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-92. - Area and dimensional requirements for townhouses.

- (a) *Requirements for development.*
  - (1) Minimum total site area ....One 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  
  
Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.
    - (2) Maximum number of stories ....Three
    - (3) Maximum building height ....45 feet
    - (4) Maximum allowable density ....One  
dwelling unit per  
6,000 square feet of land  
contained in the parcel
    - (5) Maximum number of dwelling units per townhouse building ....Seven

  - (e) *Building separation* .....

    - (1) Minimum distance between townhouse buildings ....20 feet

(Ord. No. 1778, § 2(19-7-2), 9-8-2008; Ord. No. 1970, § 1, 1-10-2017)

Sec. 129-93. - 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 one story ....12½ feet

For buildings containing more than one story, but less than three feet .....15 feet

For buildings containing three stories .....20 feet

(d) *Building limitations.* .....

- (1) Maximum building area .....37½ percent  
of the total area of the parcel

Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.

- (2) Maximum number of stories .....Three  
(3) Maximum building height .....45 feet  
(4) Maximum allowable density .....One dwelling unit per 6,000 square feet of land contained in the parcel.

(Ord. No. 1778, § 2(19-7-3), 9-8-2008; Ord. No. 1970, § 1, 1-10-2017)

Sec. 129-94. - Minimum yards and building setbacks and minimum public street and private road frontage requirements for duplexes and townhouses on property which is adjacent to nonresidential 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 129-92 shall apply to townhouses constructed on any such parcel and all other requirements of section 129-93 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 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 5 feet.

- (3) Minimum rear yard setback .....10 feet

Provided, that, notwithstanding the ten-foot minimum rear yard setback, there must be a distance of at least 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 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 one to three stories .....5 feet

Provided, that, notwithstanding the five-foot minimum side yard setback, there must be a distance of at least 20 feet between the sides of all buildings.

(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. 1778, § 2(19-7-4), 9-8-2008)

Sec. 129-95. - Offstreet 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 .....Two
- (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. 1778, § 2(19-7-5), 9-8-2008)

Sec. 129-96. - 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 feet, but not more than eight 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 feet, but not more than eight feet, in height.

(b) *Sidewalks.* Sidewalks of not less than five 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 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 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. 1778, § 2(19-7-6), 9-8-2008)

Secs. 129-97—129-110. - Reserved.

## ARTICLE VIII. - RESIDENCE E DISTRICT

### *Footnotes:*

--- (8) ---

***Editor's note—*** *Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. VIII, §§ 129-111—129-115, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to Residence E District and derived from Ord. No. 1224, 2-26-96.*

Sec. 129-111. - 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 on the premises.

(Ord. No. 1778, 2(19-8-1), 9-8-2008; Ord. No. 1972, § 1, 2-27-2017)

Sec. 129-112. - Area and dimensional requirements for townhouses only.

(a) *Requirements for development.*

- (1) Minimum total site area ....One 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

Impervious surfaces are limited to 5 percent more than the allowed maximum building area, as specified in subsection 113-228(e) of chapter 113.

- (2) Maximum number of stories ....Three

- (3) Maximum building height ....45 feet

- (4) Maximum allowable density, per 9,680 square feet of land contained in the parcel ....One dwelling unit

- (5) Maximum number of dwelling units per townhouse building ....Seven

(e) *Building separation.* .....

- (1) Minimum distance separating townhouse buildings ....20 feet

(Ord. No. 1778, 2(19-8-2), 9-8-2008; Ord. No. 1970, § 1, 1-10-2017)

Sec. 129-113. - Area and dimensional requirements for all other uses permitted in a Residence E District.

(a) *Requirements for development.*

- (1) Minimum total site area ....One 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 one story .....20 feet
  - For buildings containing more than one story .....25 feet

- (d) *Building limitations.* .....

  - (1) Maximum building area .....25 percent  
of the total area of the parcel
  - (2) Maximum number of stories .....Three
  - (3) Maximum building height .....45 feet
  - (4) Maximum allowable density, per 9,680 square feet of land contained in the parcel .....One  
dwelling unit

(Ord. No. 1778, 2(19-8-3), 9-8-2008)

#### Sec. 129-114. - Offstreet 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 .....Two
  - (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. 1778, 2(19-8-4), 9-8-2008)

#### Sec. 129-115. - 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 feet, but not more than eight 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 feet, but not more than eight feet, in height.

- (b) *Sidewalks.* Sidewalks of not less than five 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 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 500 feet of hose.
- (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. 1778, 2(19-8-5), 9-8-2008)

Secs. 129-116—129-130. - Reserved.

## ARTICLE IX. - CLUSTERED RESIDENTIAL DISTRICT

### *Footnotes:*

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**Editor's note—** Ord. No. 1778, § 2, adopted Sept. 8, 2008, repealed the former Art. IX, §§ 129-131—129-134, and enacted a new Art. IX as set out herein. The former Art. IX pertained to Clustered Residential District and derived from Ord. No. 1224, 2-26-96.

Sec. 129-131. - 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 on the premises;
- (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. 1778, 2(19-9-1), 9-8-2008; Ord. No. 1972, § 1, 2-27-2017)

#### Sec. 129-132. - Area and dimensional requirements.

- (a) *Requirements for development.*
  - (1) Minimum total site area, for any new development .....Six acres
  - (2) A parcel containing fewer than six 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 .....Two
  - (4) Maximum allowable density, per 15,000 square feet of net area of the parcel .....One 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. 1778, 2(19-9-2), 9-8-2008)

#### Sec. 129-133. - Offstreet 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 offstreet 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.

(Ord. No. 1778, 2(19-9-3), 9-8-2008)

Sec. 129-134. - 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 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. 1778, 2(19-9-4), 9-8-2008)

Secs. 129-135—129-149. - Reserved.

## ARTICLE X. - PROFESSIONAL DISTRICT

Sec. 129-150. - Intent and purpose.

The professional district is intended to provide appropriate-scaled buildings for professional offices, business offices and service uses. The district may be applied to sites which can establish an effective transition to adjacent residential neighborhoods.

( [Ord. No. 2044](#), § 1, 4-23-2019; [Ord. No. 2054](#), § 1, 9-9-2019)

Sec. 129-151. - Permitted uses.

(a) The uses permitted in professional districts shall be as follows:

- (1) Professional offices;
- (2) Business offices;
- (3) Interior design/decorating studios;
- (4) Personal fitness (limited to one-on-one personal trainers);
- (5) Photography studios;
- (6) Travel agents;
- (7) Professional consulting services;
- (8) Accessory structures customarily incidental to the uses permitted by this [section 129-151](#).

(b) *Conditions on permitted uses.* All uses in the professional district shall be conditional uses and shall only be permitted with prior written approval of the city council. Conditional uses are uses which may be acceptable within the professional 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 or other uses in the vicinity. 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.

Proposed conditional uses will be reviewed as to the following:

- (1) Whether the use would disparately impact public parking in the area;
- (2) Whether vehicular or pedestrian circulation would be adversely impacted by the use;
- (3) Whether the use would adversely impact surrounding existing uses;
- (4) Whether the hours of operation or peak traffic times would adversely impact the surrounding properties and public streets;
- (5) Whether sufficient landscape buffers exist or are proposed along any adjoining residential properties;
- (6) Whether existing or proposed exterior lighting is sufficiently designed so as not to spill onto adjoining properties.

- (c) The city council may require the party applying for the approval of such conditional use to furnish to the city council all of the following information and documents and such additional information and documents which the city council consider necessary or helpful in deciding whether to approve such requested conditional use:
- (1) A survey of the property;
  - (2) A topographical survey of the property;
  - (3) 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;
  - (4) Plans for all proposed improvements;
  - (5) The type of construction materials to be used in the proposed improvements;
  - (6) A traffic study with respect to the traffic expected to be generated by the use;
  - (7) Information concerning outdoor lighting;
  - (8) The hours of operation of the activities proposed to be conducted on the property;
  - (9) Information concerning the visibility of the proposed improvements from adjacent property, buildings and public streets;
  - (10) Information concerning the proposed screening of the proposed improvements by fences, walls, berms, shrubs, trees or other means;
  - (11) 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
  - (12) Information concerning vehicles, equipment and materials which may be stored on the property or within the improvements.

All materials and information required to be submitted must be submitted to the zoning officer at least 24 days prior to consideration of any application for such conditional use.

- (d) The city council shall hold a public hearing for the consideration of any such conditional use, after giving at least ten days' notice thereof. For purposes of this section, written notice of public hearings held by the city council shall be sent, by United States mail, to all property owners, any portion of whose property lies within 500 feet of any portion of the parcel included in a request for conditional use consideration. For the purpose of such notice, the owner of a parcel shall be considered to be the person who is shown as the owner of such parcel according to the records of the county tax assessor. If a public hearing is continued or postponed during the meeting of the city council during which such hearing was held or was scheduled to have been held, no notice of such continued or postponed hearing need be given.
- (e) Any use established and permitted by right in the professional district prior to September 9, 2019 shall be permitted to continue in the same location without regard to these provisions, provided that such use is not expanded. However, should such use be expanded, such expansion shall require prior written approval of the city council per subsection (b) of this section.
- (f) A professional office, business office or service use established on or after September 9, 2019 and permitted after

city council review and approval under subsection (b) of this section may be replaced by another professional office, business office or service use if the zoning officer determines that there are non-material changes for the proposed professional use utilizing the criteria for review outlined in subsection (b). In the absence of such a determination, city council review of the replacement use shall be required under subsection (b).

(Ord. No. 1224, 2-26-96; Ord. No. 1427, 8-28-00; Ord. No. 1955, § 1, 7-12-2016; Ord. No. 2044, § 1, 4-23-2019; Ord. No. 2054, § 1, 9-9-2019)

Sec. 129-152. - Area and dimensional requirements.

(a) *Minimum dimensions of parcel*. ....

- (1) Minimum area of parcel .....15,000 square feet
- (2) Minimum width of parcel at all points between the street line and the front setback line .....100 feet

(b) *Building limitations*. ....

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

(c) *Minimum yards and building setbacks*. ....

- (1) Minimum front yard setback .....40 feet
- (2) Minimum rear yard setback .....40 feet
- (3) Minimum side yard setback .....20 feet

(d) *Minimum yards and building setbacks for professional districts which are contiguous to local business districts*.

Notwithstanding the provisions of the foregoing subsection (c), the following provisions shall govern minimum yards and building setbacks for all professional districts any part of which is contiguous to a local business district (as used in this subsection (d) the term "the edge of the adjacent sidewalk" shall mean the edge of an adjacent sidewalk which is nearest to a building or a proposed building):

- (1) Except as provided in the following sentence, the front wall of each building shall be contiguous to: (i) the edge of the right-of-way of the adjacent public street; or (ii) the edge of the adjacent sidewalk; whichever is farther from the center line of such right-of-way. If the front property line of the parcel on which the building is located is not adjacent to the right-of-way of a public street, the front wall of the building may be located at any point between the front property line of such parcel and a point which is 30 feet from such front property line.
- (2) Notwithstanding the provisions of the foregoing subsection (d)(1), the front wall of any building located on a parcel the front property line of which is adjacent to the right-of-way of a public street may be located no farther from the edge of the adjacent public street right-of-way or from the edge of the adjacent sidewalk, whichever is farther from the center line of such right-of-way, than the front wall of any adjacent building, but

in no event shall the front wall of the building be located farther than 20 feet from the edge of the adjacent public street right-of-way or the edge of the adjacent sidewalk, whichever is farther from the center line of such right-of-way.

- (3) Except as provided in the following sentence, the side walls of each building shall be contiguous to the side property lines of the parcel on which the building is located; provided, that if one or both sides of such parcel are contiguous to the right-of-way of a public street or alley, the side wall or walls of the building shall be contiguous to the edge of such right-of-way, or if there is a sidewalk adjacent to one or both sides of the parcel, the wall or walls of the building shall be contiguous to the edge of the adjacent sidewalk, whichever is farther from the center line of such right-of-way. If the front property line of the parcel on which the building is located is not adjacent to the right-of-way of a public street, the side walls of the building may be located at any point between four feet and 20 feet from the side lines of such parcel.
- (4) Notwithstanding the provisions of the foregoing subsection (d)(3), no side wall of a building located on a parcel the front property line of which is adjacent to the right-of-way of a public street shall be required to extend to the side property line of the parcel upon which the building is located if the planning commission approves the use of the side yard between such side wall and the side property line for the parking of motor vehicles.

(Ord. No. 1224, 2-26-96; Ord. No. 1446, 10-23-00)

#### Sec. 129-153. - Additional requirements and provisions.

- (a) *Service yards.* On any parcel on which a professional building is hereafter built, the construction of which is started after the effective date of this chapter, there shall be provided a service yard, the size of which shall be sufficient to serve the needs of the occupants of the building, and which shall be located at the rear of such office building. The service yard shall have access to a street, alley or driveway and shall provide adequate accommodations for the handling of waste and garbage and for the loading and unloading of vehicles. The service yard shall be paved with asphalt or concrete and shall be enclosed with an opaque wall or fence of permanent construction, at least six feet, but no more than eight feet, in height, and designed and constructed 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 feet, but not more than eight feet, in height. No part of the service yard may be used to satisfy the off street parking requirements of this article.
- (b) *Building setbacks.* Any professional office, the construction of which is started after the effective date, shall not be located closer to the front lot line than 35 feet, or the front line of the principal structure on the adjacent property located in a residential district, whichever is greater.

(Ord. No. 1224, 2-26-96; Ord. No. 2044, § 1, 4-23-2019)

#### Sec. 129-154. - Offstreet parking.

- (a) *Generally.* All parking spaces and such attendant driveways and other areas which 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 every 250 square feet of rentable floor area in the building .....One
- (2) Minimum size of each parking space .....Nine feet wide by 18 feet long

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

Sec. 129-155. - 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 14 feet above the ground. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

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

Sec. 129-156. - Alternate process for permitting construction of certain nonconforming structures and improvements.

With respect to professional districts that abut in whole or in part a local business district, building permits and certificates of occupancy may be issued for uses, structures, and improvements that do not conform to the requirements set forth in this article only under the following conditions:

- (1) A development plan containing the information specified in sections 129-233 and 129-234 of the Mountain Brook City Code shall be submitted to the zoning official or building official of the City of Mountain Brook and shall thereafter be processed, reviewed, and acted upon in accordance with the procedures provided in sections 129-233 and 129-235 of this Code.
- (2) In addition to the information described above, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall, in its application to the city, specifically identify all features of the proposed construction or improvement that do not meet otherwise applicable requirements, explain why a modification or deviation from these requirements is necessary and appropriate under the circumstances, and demonstrate how compensating architectural features, design elements, construction practices, or characteristics of the site will operate to mitigate the effect of any modification or deviation from the otherwise applicable requirements and thereby serve the purposes of the zoning ordinance.
- (3) If and to the extent not fully addressed in the development plan, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall submit with its application a specific and comprehensive description of plans, methods, or means for resolving actual or potential problems, issues, or concerns pertaining to pedestrian and vehicular traffic flow and/or safety, drainage, landscaping, buffering, lighting, and impact on adjoining districts or properties.
- (4) No construction or improvement that does not conform to a development plan that has been approved by the

Mountain Brook City Council in the manner prescribed above shall be permitted or authorized.

(Ord. No. 1622, § 1, 1-26-04)

Secs. 129-157—129-170. - Reserved.

## ARTICLE XI. - OFFICE PARK DISTRICT

Sec. 129-171. - Permitted uses.

The uses permitted in office park districts shall be as follows:

- (1) Professional offices;
- (2) Business offices;
- (3) Clinics, medical and dental;
- (4) Public buildings;
- (5) Gymnasiums and fitness centers;
- (6) Daycare centers;
- (7) Restaurants;
- (8) Dressmaking, millinery, sewing, tailoring, alterations, knitting and crocheting; provided, that any person engaged in dressmaking, millinery, sewing, tailoring or alterations may conduct trunk sales at his place of business, subject to the following conditions: (a) as used herein, "trunk sale" shall mean the sale of new clothes, clothing accessories and other consumer goods by means of the purchaser ordering the finished goods from samples and/or catalogs which are available for inspection at the place of business during the trunk sale; (b) no more than four trunk sales may be conducted at the place of business during any calendar year; and (c) no trunk sale may last for more than five days, which days must be consecutive.
- (9) Laboratories for the compounding and sale of prescription drugs;
- (10) Building and office cleaning services whose primary business is the cleaning of buildings and offices located in the same office park district in which the cleaning service is located;
- (11) Not more than ten percent of the rentable floor area in a building or buildings located on a parcel in an office park district may be used for retail establishments; provided, that: (a) all such retail businesses shall be designed and intended for the support of the other uses permitted under this section 129-171 and shall not be designed or intended to attract business or customers from without such office park district and provided, further, that such retail use shall be subject to the prior approval of the planning commission; and
- (12) Accessory structures customarily incidental to the uses permitted in an office park district.

(Ord. No. 1224, 2-26-96; Ord. No. 1247, 1-13-97; Ord. No. 1398, 2-14-00; Ord. No. 1410, 6-12-00; Ord. No. 1447, 10-23-00; Ord. No. 1955, § 1, 7-12-2016)

Sec. 129-172. - Area and dimensional requirements.

- (a) *Minimum dimensions of parcel.* ....
  - (1) Minimum area of parcel .....15,000 square feet
  - (2) Minimum width of parcel at all points between the street line and the front setback line .....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 .....20 feet
- (c) *Building limitations.* ....
  - (1) Maximum building area .....25 percent of the total area of parcel
  - (2) Maximum number of stories .....Five
  - (3) Maximum building height .....60 feet

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

#### Sec. 129-173. - Offstreet parking.

- (a) *Generally.* All parking spaces and such attendant driveways and other areas which 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 every 250 square feet of rentable floor area of the buildings on the parcel .....One
  - (2) Minimum size of each parking space .....Nine feet wide by 18 feet long

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

#### Sec. 129-174. - 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 14 feet above the ground. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

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

#### Sec. 129-175. - Additional requirements and provisions.

- (a) *Limitation on inventory.* No business, profession or other operation in an office park district may maintain inventories for wholesale or retail purposes, except: (1) retail businesses which are permitted under section 129-171(7) may maintain but not wholesale, inventory; and (2) any other business or profession may use not more than one-half of its rentable area for the storage of inventory, provided that none of such inventory may be sold or delivered at the premises of such business or profession. The storage of supplies required for the operation of a duly permitted business or profession may be permitted and shall not be considered inventory.
- (b) *Storage of garbage and waste.* All trash, garbage and other waste shall be kept in sanitary containers in a fully enclosed service yard, which yard must be conveniently accessible by street or driveway to vehicles collecting such material and to occupants of the buildings served by such yard. The service yard shall be paved with asphalt or concrete and shall be enclosed with an opaque wall or fence of permanent construction, at least six feet, but not more than eight feet, in height, and designed and constructed so as to conceal the service yard from visibility. The entrance to the service yard shall be screened by a gate at least six feet, but not more than eight feet, in height. No part of the service yard may be used to satisfy the offstreet parking requirements of this article.

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

Secs. 129-176—129-190. - Reserved.

## ARTICLE XII. - LOCAL BUSINESS DISTRICT

### *Footnotes:*

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**Editor's note—** Ord. No. 1763, § 1, adopted Feb. 25, 2008, repealed the former Art. XII, §§ 129-191—129-196, and enacted a new Art. XII as set out herein. The former Art. XII pertained to Local Business District and derived from Ord. No. 1224, 2-26-96; Ord. No. 1396, 1-10-00; Ord. No. 1445, 10-23-00; Ord. No. 1557, § 1, 11-12-02.

Sec. 129-191. - Purpose and applicability.

The local business district provisions are intended to protect, enhance, and extend the identifiable character of the Villages of Mountain Brook: Crestline Village, English Village, Mountain Brook Village, and Overton Village, and the local business district designation is intended to be applied only to areas within the villages, as indicated on the village master plan maps, and to other commercial areas that are designed to emulate the village approach to development in terms of scale and design.

(Ord. No. 1763, § 1(19-12-0), 2-25-2008)

Sec. 129-192. - Permitted uses.

The uses permitted in the local business districts shall be as follows:

- (a) *Uses permitted by right.* The following uses are permitted by right, unless specifically limited by any provisions of any applicable overlay ordinance.

- (1) *Retail use category.* The retail use category is for buildings and sites that provide for the display and onsite sale of merchandise for general consumers. The retail use category includes the following uses:
  - a. Antique stores;
  - b. Appliances and electronic goods and equipment;
  - c. Arts and crafts stores;
  - d. Bakeries;
  - e. Bookstores;
  - f. Bridal shops;
  - g. Cafeterias;
  - h. Clothing stores;
  - i. Computer stores;
  - j. Delicatessens;
  - k. Drug stores;
  - l. Florist shops;
  - m. Furniture stores;
  - n. Garden shops;
  - o. Gift shops;
  - p. Grocery stores;
  - q. Hardware stores;
  - r. Ice cream parlors;
  - s. Jewelry stores;
  - t. Liquor stores;
  - u. Meat, seafood, vegetable and fruit markets;
  - v. Pet shops;
  - w. Rental and sale of electronic media and related items;
  - x. Restaurants, unless otherwise specified as a conditional use in subsection (b) below;
  - y. Shoe stores;
  - z. Small dry goods stores;
- (2) *Civic use category.* The civic use category consists of uses serving a broad and general public interest by providing administrative service functions that are community oriented. The civic use category includes the following uses:
  - a. Municipal government buildings, including, but not limited to, fire stations, police stations, libraries and city hall;

- b. Schools, public and private;
  - c. Municipal parking facilities.
- (b) *Conditional uses.* 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:
- i. Whether the use would disparately impact public parking in the area;
  - ii. Whether vehicular or pedestrian circulation would be impacted by the use;
  - iii. Whether the use is compatible with surrounding existing uses;
  - iv. Whether the hours of operation or peak traffic times would impact existing uses.

The following conditional uses may be permitted in a local business district, but only with the prior written approval of the city council:

- (1) *Service uses shall be conditional uses in any area covered by a village master plan or the village overlay standards.* The conditional review and approval process shall ensure that, in addition to the other factors of conditional review, sufficient parking exists so that the use will not negatively impact existing established businesses, and that the proposed service use, either in isolation or in conjunction with other service or office uses, will not have a detrimental impact on public parking in the villages. The service use category consists of businesses that offer customers services for the performance and delivery on premises, and may offer some limited products or merchandise associated with the service. The service use category includes the following uses:
- a. Banks;
  - b. Barber shops;
  - c. Beauty shops;
  - d. Dancing academies;
  - e. Daycare centers;
  - f. Dry cleaning establishments;
  - g. Electronic and electrical repair shops;
  - h. Fitness centers;
  - i. Gymnasiums;
  - j. Interior design shops
  - k. Nail Salons
  - l. Neuromuscular therapists;
  - m. Personal fitness trainers;

- n. Photography studios;
- o. Physical therapists;
- p. Self-service laundries;
- q. Shipping and wrapping of packages and sale of related items;
- r. Shoe repair shops;
- s. Tanning salons;
- t. Theaters for the performing arts;
- u. Travel agents.

Any service use established or permitted by right prior to May 15, 2009, shall be permitted to continue in the same location without regard to these provisions, provided that such use is not expanded. A service use so established or permitted may be replaced by another service use with the same or fewer required parking spaces, it being the intent of the council to permit the continued service use of properties where existing service uses are located without the need for specific approval if parking demand is not increased. However, should such service use be replaced with a retail use, then any future reestablishment of a service use in the same location will require prior written approval of city council per subsection (b) of this section.

Any such conditional use shall be approved by the city council if all required parking is provided on site and in the quantities set forth in subsection 129-555(a) of this Code.

- (2) Office uses shall be conditional uses in any area covered by a village master plan or the village overlay standards. The conditional review and approval process shall ensure that, in addition to the other factors of conditional review, sufficient parking exists so that the use will not negatively impact existing established businesses, and that the proposed office use, either in isolation or in conjunction with other service or office uses, will not have a detrimental impact on public parking in the villages. The office use category includes the following uses:
- a. Business offices;
  - b. Professional offices.

Any office use established or permitted by right prior to May 15, 2009, shall be permitted to continue in the same location without regard to these provisions, provided that such use is not expanded. An office use so established or permitted may be replaced by another office use with the same or fewer required parking spaces, it being the intent of the council to permit the continued office use of properties where existing office uses are located without the need for specific approval if parking demand is not increased. However, should such office use be replaced with a retail use, then any future reestablishment of an office use in the same location will require prior written approval of city council per subsection (b) of this section.

Any such conditional use shall be approved by the city council if all parking is provided onsite and in the quantities set forth in subsection 129-555(a) of this Code.

- (3) Commercial uses permitted in the local business district and grouped together on one or more contiguous properties having shared access and shared off-street customer parking;
- (4) Automobile service stations and stores at which gasoline is sold, regardless of whether or not repair services are provided at such stores, including, without limitation, stores at which groceries, and/or related items, such as soft drinks, alcoholic beverages, dairy products, tobacco products and bakery items are sold; but such service stations and stores may be located only on corner lots, or upon a group of adjoining lots which includes a corner lot; and further provided, that all pumps, tools, and accessories must be placed not less than 15 feet from all street right-of-way lines so that motor vehicles can be serviced without obstructing sidewalks. In the local business district, these stations should be limited to no more than eight pumps and no more than two service islands to ensure the smaller-scale pedestrian nature of the district;
- (5) Repair garages, provided that all work is done wholly within a building, and that there is no storage or parking of wrecked cars on the premises;
- (6) Coin-operated amusement devices, which shall be permitted only in restaurants; provided, that there shall be not more than five such devices in any one restaurant, that they are not situated in the dining area of the restaurant, that they are an incidental use, and not a primary use, of the premises and that the area of the space in which they are located does not exceed 20 percent of the total public area of the restaurant;
- (7) Inns, bed and breakfast establishments, hotels or motels. The conditional review and approval shall ensure that sufficient parking exists in addition to parking required by this district so that the business will not negatively impact existing established businesses. Sufficient parking may be provided through sharing, valet programs, or other remote parking that are conditions of the review and approval. Proposed uses shall present a forecasted parking demand during operating hours based on industry standards as part of the conditional review;
- (8) Restaurants that are open for business on any weekday of any given week during the hours of 11:00 a.m. and 1:00 p.m. shall be conditional uses in any area covered by a village master plan following the adoption of the village master plan and the village overlay standards in chapter 19, article 31. The conditional review and approval shall ensure that sufficient parking exists in addition to parking required by this district so that the business will not negatively impact existing established businesses. Sufficient parking may be provided through sharing, valet programs, or other remote parking that are conditions of the review and approval. Proposed uses shall present a forecasted parking demand during operating hours based on industry standards as part of the conditional review. For the purposes of this subsection, "restaurants" shall not include any facility whose primary function between 11:00 a.m. and 1:00 p.m. is other than the sale of food for onsite consumption.
- (9) Veterinary clinics/pet grooming, provided that there be no outdoor runs, and that business be conducted wholly within a building; no overnight boarding. Conditional review and approval shall ensure that sufficient areas for loading and unloading animals be provided, that appropriate measures be employed to minimize noise, odors, waste or other negative impacts incidental to operation of the business, and that the proposed use is compatible with the surrounding commercial and residential uses.
- (10) Clinics, medical and dental, provided that no such use shall exceed 4,000 square feet in gross floor area

nor shall any such use be permitted whatsoever in any area covered by a village master plan or the village overlay standards. Conditional review and approval shall ensure that sufficient parking exists in addition to the parking required by this district so that the business will not negatively impact existing businesses and that the proposed use is compatible with surrounding commercial and residential uses.

(Ord. No. 1763, § 1(19-12-1), 2-25-2008; Ord. No. 1795, § 1, 4-27-2009; Ord. No. 1889, § 1, 5-28-2013; Ord. No. 1955, § 1, 7-12-2016; Ord. No. 1982, § 1, 6-26-2017; Ord. No. 2021, § 1, 7-23-2018)

#### Sec. 129-193. - Area and dimensional requirements.

The following area and dimensional requirements apply in the local business district, except to the extent that they are amended by any applicable overlay ordinance which may provide specific dimensional requirements for lots and buildings on a block-by-block basis within the villages.

##### (a) *Build-to lines and setbacks.*

- (1) *Street-frontage build-to line.* The front and side walls of the principal building shall be constructed to the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way, except where item (2) of this subsection may apply.
- (2) Any newly constructed building shall be located not farther from the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way, than any adjacent building on the same side of the street in the same block, but in no event shall such building be located farther than 20 feet from the edge of the adjacent public street and alley rights-of-way, or to the side or edge of the adjacent sidewalk which is nearest the building, whichever is farther from the center line of such rights-of-way.
- (3) *Side yard setback.* The principal building shall extend to the side property line at the front of the building, except as required by item (1) of this subsection, or by prior written approval of the planning commission in cases where side yard parking extending to the front of the building is deemed necessary by the planning commission.

##### (b) *Height of buildings.*

- (1) Maximum number of stories: Two.
- (2) Maximum building height: 30 feet, except that the maximum height for buildings on parcels located at the intersection of two streets shall be 40 feet.

(Ord. No. 1763, § 1(19-12-2), 2-25-2008)

#### Sec. 129-194. - Offstreet parking and access.

The following offstreet parking and access requirements apply in the local business district, except to the extent that they are amended by any applicable overlay ordinance which may specify parking and access requirements on a block-by-block basis within the villages.

##### (a) *Generally.* No parking spaces shall be located between the front of the building and the right-of way line of the

street, except with the prior written approval of the planning commission.

- (b) *Required parking spaces on the parcel.* For any newly constructed building there shall be provided on the parcel on which the building is located at least one parking space, not less than nine feet in width and 18 feet in length, for every 200 square feet of floor area of the building, except basement area used exclusively for storage or mechanical equipment, subject to the provisions of subsection (c) and of article XXI.
- (c) *Requirements and restrictions.*
  - (1) Ingress to parking spaces shall not be located in front of the building, except with the prior written approval of the planning commission, as provided for in subsection (a);
  - (2) All parking spaces, attendant driveways and other areas which 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, shall be paved with asphalt or concrete and shall have adequate storm drainage facilities;
  - (3) There is no access to the required offstreet parking spaces by means of a paved street or alley, then a driveway entrance to, and exit from, parking spaces, not to exceed 20 feet in width, shall be provided;
  - (4) Sidewalk of not less than five feet in width shall be provided between the parking area and the building;
  - (5) There shall be provided a curb of not less than six inches, and not more than eight inches, in height between the parking area and the adjacent sidewalk;
  - (6) Parking areas which are located adjacent to a public sidewalk shall have a planted buffer which will substantially screen the parking area from the sidewalk. The design of the buffer shall be subject to the prior written approval of the planning commission, which may require such reasonable information about the proposed buffer which it considers necessary, giving due consideration to the need for adequate view for, and of, pedestrians, vehicular traffic and the motorists entering and leaving the parking area. Installation and maintenance of the buffer shall be the responsibility of the owner of the parking area; and
  - (7) Parking areas in side yards and rear yards and areas used for parking for commercial uses grouped together on one or more contiguous parcels of land having shared access and shared offstreet customer parking shall be lighted in accordance with section 129-356.
- (d) *Drive-up or drive-through facilities.* None of the uses permitted in a local business district, either uses permitted by right or conditional uses, may employ or have a drive-through or drive-up window or facility except with the prior written approval of the planning commission.

(Ord. No. 1763, § 1(19-12-3), 2-25-2008)

#### Sec. 129-195. - 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 from any street adjacent to or near the parcel. No lighting fixtures used for any parking area shall be elevated more than 14 feet above the ground. Each lighting fixture shall be designated and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

(Ord. No. 1763, § 1(19-12-4), 2-25-2008)

## Sec. 129-196. - Service yards.

For any newly constructed building there shall be provided on the parcel on which the building is located a service yard, the size of which shall be sufficient to serve the needs of the occupants of such building, and which shall be located at the rear of such building. The service yard shall have access to a street, alley, or driveway and shall provide adequate accommodations for the handling of waste and garbage and for the loading and unloading of vehicles. The service yard shall be paved with asphalt or concrete and shall be enclosed with an opaque wall or fence of permanent construction, at least six feet, but not more than eight 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 the same height as such wall or fence. No part of the required service yard may be used to satisfy the offstreet parking requirements of this article.

(Ord. No. 1763, § 1(19-12-5), 2-25-2008)

## Sec. 129-197. - Alternate process for permitting construction of certain nonconforming structures and improvements.

Building permits and certificates of occupancy may be issued for uses that do not conform to the requirements set forth in this article only under the following conditions. These provisions may not be applied to building permits or certificates of occupancy for parcels zoned local business and covered by the village overlay standards.

- (1) A development plan containing the information specified in sections 129-233 and 129-234 of this Code shall be submitted to the zoning official or building official of the city and shall thereafter be processed, reviewed, and acted upon in accordance with the procedures provided in sections 129-233 and 129-235 of this Code. Prior to issuance of a building permit for a nonconforming structure that is submitted for approval under the provisions of this section, public notice of the application shall be given and public hearings held thereupon by the planning commission and city council to the extent and in the manner that is required in order to rezone the property that is the subject of the application. The information that is required to be submitted in connection with the application shall be made available for public inspection in advance of any hearing to be held thereupon, and the availability of such information for public inspection shall be described in any notice of public hearing issued with respect to the application.
- (2) In addition to the information described above, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall, in its application to the city, specifically identify all features of the proposed construction or improvement that do not meet otherwise applicable requirements, explain why a modification or deviation from these requirements is necessary and appropriate under the circumstances, and demonstrate how compensating architectural features, design elements, construction practices, or characteristics of the site will operate to mitigate the effect of the modification or deviation from the otherwise applicable requirements and thereby serve the purposes of the zoning ordinance.
- (3) If and to the extent not fully addressed in the development plan, the person, firm, or entity seeking authority to construct a nonconforming building, structure, or other improvement shall submit with its application a specific and comprehensive description of plans, methods, or means for resolving actual or potential

problems, issues, or concerns pertaining to traffic flow and/or safety, drainage, landscaping, buffering, and lighting.

- (4) The planning commission may recommend, and the city council may approve construction of a nonconforming building, structure or other improvement, only to the extent that it furthers specified public interests in the city master plan. The plans for any construction using this process shall establish that the proposed construction achieves these specified public interests as well as or better than can be achieved through construction strictly meeting the provisions for this district.
- (5) No construction or improvement that does not conform to a development plan that has been approved by the city council in the manner prescribed above shall be permitted or authorized.

(Ord. No. 1763, § 1(19-12-6), 2-25-2008)

Secs. 129-198—129-210. - Reserved.

#### ARTICLE XIII. - COMMUNITY SHOPPING DISTRICT

Sec. 129-211. - Permitted uses.

- (a) Any use listed as being "permitted by right" in the local business district;
- (b) Restaurants (including lunchtime operation);
- (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.

(Ord. No. 1224, 2-26-96; Ord. No. 2008, § 1, 1-22-18; Ord. No. 2014, § 1, 4-9-2018)

Sec. 129-212. - Area and dimensional requirements.

- (a) *Building setbacks.* All buildings shall be located a minimum distance of:
  - (1) 100 feet from any public street; and,
  - (2) 150 feet from any adjacent residential district.
- (b) *Height of buildings.*
  - (1) Maximum number of stories, plus a mechanical penthouse ....Three
  - (2) Maximum building height ....60 feet

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

Sec. 129-213. - Offstreet parking.

- (a) *Generally.* All parking spaces and such attendant driveways and other areas which may be necessary for the maneuvering of motor vehicles shall be arranged so as to provide convenient access to and from paved street or alley. All parking 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 every 180 square feet of floor area of the building .....One
  - (2) Minimum size of each parking space .....Nine feet wide by 18 feet long
- (c) *Parking areas in general.* ....
  - (1) Minimum setback from any street line .....50 feet
  - (2) Maximum width of driveway or curb cut for access to and from any street (unless the laws or regulations of the State of Alabama or the United States of America require a greater width) .....25 feet
  - (3) Maximum width of driveway or curb cut for access to and from any alley .....25 feet
  - (4) Parking areas adjacent to an alley shall be designed so that parked vehicles will not protrude into the alley, and such areas shall be separated from the alley by a curb at least six inches, and not more than eight inches, in height. .....
  - (5) Offstreet parking areas with more than one entrance or exit shall be arranged and constructed so as to make it impractical for motorists to attempt to use the driveways, access lanes and maneuvering areas of the parking area for drive-through or thoroughfare purposes. ....
  - (6) Parking areas shall be used only for the parking of vehicles. No sales, displays, storage, repair work or any other use of parking areas shall be permitted. ....
  - (7) A screening wall, privacy fence or planted buffer, as described in article XVIII of this chapter, shall be provided along any parking areas which are situated so that the headlights of motor vehicles within the parking area will cast their light onto any existing residence, into any street or onto a residence which may thereafter be constructed in any adjacent residential district. Such shielding shall be at least 80 percent opaque when viewed horizontally between two feet and five feet above the average ground level of the adjacent residential district or districts. ....

The requirement for shielding shall be waived within 40 feet of any entrance or exit for access between the parking area and any street or alley so as to permit an adequate view of pedestrians and vehicular traffic by motorists using such entrance or exit.

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

#### Sec. 129-214. - Additional requirements and provisions.

- (a) *Sign limitations.* No roof signs shall be permitted in a Community Shopping District.
- (b) *Deliveries.* All loading and delivery entrances shall open onto a service yard.
- (c) *Service yards.* Each building in a Community Shopping District shall be provided with a service yard located the rear of the building. Each such service yard shall be of adequate size to accommodate the handling of waste and

garbage, the storage of maintenance equipment and the loading or unloading of vehicles. The service yard shall be paved with an eight-inch density grade base on a compact sub grade with three inches of asphalt or four inches of concrete, shall be provided with access to a public street and shall be enclosed by an opaque wall or fence of permanent construction, which must be at least six feet, but not more than eight feet, in height, and designed and constructed so as to conceal the service yard from visibility from outside the 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 feet, but not more than eight feet, in height. No part of the service yard may be used to satisfy the offstreet parking requirements of this article.

- (d) *Sidewalks.* Concrete sidewalks, not less than eight feet in width, shall be provided between parking areas and buildings. There shall be a curb of not less than six inches, and not more than eight inches, in height between all parking areas and any adjacent sidewalk.
- (e) *Landscaping requirements.* A landscaped area at least 50 feet wide shall extend around the entire perimeter of any shopping center development. In addition, planted areas shall be used to define driveways and divisions within the paved parking areas, and landscaped areas shall be established contiguous to all buildings in a shopping center development. All landscaped areas shall be established and maintained so that they do not interfere with the view of motorists or pedestrians and so that they do not constitute a safety hazard.
- (f) *Additional restrictions on support equipment and facilities.* No air conditioning unit, condensers, cooling tower or other apparatus, machinery or equipment used as part of, or in conjunction with, a central air conditioning or heating system, or for any other purpose, shall be located within 200 feet of any area zoned for residential use. All such units and equipment shall also be concealed or adequately screened from view, regardless of their location, as required by the general provisions of this chapter.
- (g) *Exterior lighting.* No lighting fixture on the exterior of any building, including lighting for parking areas, sidewalks, walkways, general illumination or any other purpose, shall be elevated more than 45 feet above the ground. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture. All such fixtures shall be arranged so as to shine and reflect away from any adjacent residential areas and from any streets adjacent to or near the parcel.

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

Secs. 129-215—129-230. - Reserved.

## ARTICLE XIV. - MIXED USE DISTRICT

### *Footnotes:*

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**Editor's note—** Ord. No. 1767, § 1, adopted Feb. 25, 2008, repealed the former Art. XIV, §§ 129-231—129-236, and enacted a new Art. XIV as set out herein. The former Art. XIV pertained to the Mixed Use District and derived from Ord. No. 1224, 2-26-96; Ord. No. 1631, § 1, 5-104.

Sec. 129-231. - Purpose and applicability.

(a) The Mixed Use District is designed to provide building sites and buildings that enhance the pedestrian atmosphere of the village by specifying how buildings can accommodate a mixture of general use types in a single structure, how they must address the public streetscape, and additional design elements of buildings that are required in order to preserve the existing character of the area. This district is intended for use only in specified areas of the villages where the benefits that can result from multiple uses in a single structure have been identified in the broader context of a village master plan or to other commercial areas whose design would emulate the village approach to development in terms of scale and design under the city master plan.

In determining whether the zoning classification of a parcel of land should be changed to a Mixed Use District, the city council may take into consideration such factors as it deems appropriate with respect to such parcel of land and the land adjacent to or near such parcel of land, which factors shall include, but are not limited to:

- (1) The city master plan, a village master plan where applicable, or any special area plan and any applicable overlay standards for the area, and the recommendation of the planning commission regarding these plans and standards;
  - (2) The design guidelines of the village master plans and any recommendation of the design review committee regarding these guidelines;
  - (3) The then present use of the land and the improvements located thereon, the condition of such improvements;
  - (4) The then present use of the adjacent and nearby land and the improvements located thereon and the condition of such improvements;
  - (5) The proposed use of the parcel of land, whether new improvements will be constructed, whether existing improvements will be renovated, razed or left in their then present condition;
  - (6) The compatibility of the use of the land and its improvements with the use of the adjacent and nearby land and the improvements thereon;
  - (7) The compatibility of the proposed use of the land and its improvements with the use of such adjacent and nearby land and improvements; and
  - (8) The benefits or detriments to the parcel of land, the adjacent and nearby land and the city which would result from the development of the land in accordance with the proposed development plan, unless approved as a base zoning district of a Planned Unit Development District pursuant to article XVI of this chapter.
- (b) Property that was not zoned as a Mixed-Use District as of January 1, 2007 shall not be zoned or rezoned as a Mixed-Use District; provided, however, that the Mixed Use District may be utilized as a base zoning district of a Planned Unit Development District which is located within any village boundary line or shown on the building and development regulating plans included in article XXXI of this chapter.

(Ord. No. 1767, § 1(19-14-1), 2-25-2008)

Sec. 129-232. - Permitted uses and building type.

(a) *Permitted uses.* The uses permitted in the Mixed Use District shall be as follows:

- (1) The first story may contain any use permitted in the Local Business District, but the uses shall be further

specified and limited by a proposed development plan to ensure the long-term compatibility of initial uses and any future uses on the first story, with upper story residential uses.

(2) Any permitted upper stories shall contain residential uses.

(b) The building types permitted in the Mixed-Use District shall be as specified in the associated village overlay standards, and according to the building and development regulating plan of the village master plan, or a similar plan for to other commercial areas whose design would emulate the village approach to development.

(Ord. No. 1767, § 1(19-14-2), 2-25-2008)

#### Sec. 129-233. - Area and dimensional requirements.

The maximum allowable density for residential uses in the Mixed-Use District shall be 12 units per net acre per floor. All other lot and building standards shall be as specified in the village overlay standards.

(Ord. No. 1767, § 1(19-14-3), 2-25-2008)

#### Sec. 129-234. - Development plan.

(a) *Preliminary development plan.* A preliminary development plan, containing the following information about the proposed development of a parcel, and the following additional items and information, shall be filed with each application for the change of the zoning classification of a parcel to a Mixed Use District. The following requirements are in addition to, and not in lieu of, any other requirements of the city with respect to an application for the rezoning of a parcel.

(1) *Information on preliminary development plan.*

- a. Size, boundary lines, dimensions and street frontage of the parcel;
- b. The part of the parcel which is to be devoted to each use;
- c. Parking areas and facilities, including specific information about the size, location, and design of parking area facilities, the number of parking spaces proposed, and means of addressing any special parking concerns or problems that may be presented by the proposed development;
- d. Means of access to and from the parcel;
- e. The location and size of any common open space which may be used by some or all of the occupants of the development;
- f. Location and dimensions of service yards;
- g. Location, height, other dimensions and floor area of the buildings;
- h. Sidewalks;
- i. Landscaping;
- j. Exterior lighting;
- k. Storm drainage and storm water detention facilities;
- l. Fire hydrants;
- m. Outside appearance of buildings;

- n. Signs;
- o. Materials of which buildings are to be constructed;
- p. The distance between each building, whether existing or to be constructed, which is to be a part of the development and the front, rear and side boundary lines of the parcel; and the distances between each of such buildings, whether existing or to be constructed;
- q. The percentage of the building(s) which will be improved with residential uses, whether then existing or to be constructed pursuant to the development plan, and the percentage of the building(s) to be improved with commercial uses, whether then existing or to be constructed pursuant to the development plan;
- r. The height of each building;
- s. The number of floors in each building;
- t. The number of square feet included within the parcel;
- u. The number, location and size of all parking spaces and the locations thereof relative to the driveways, streets and alleys which provide access to and from the parcel; and
- v. The materials with which the parking, driveway and sidewalk areas, will be covered.

The above information shall be shown on a site plan, except that, where necessary for a clear explanation of such information, the site plan may be accompanied by supplemental material.

(2) *Additional items and information.*

- a. A survey of the parcel, prepared by a surveyor licensed as a surveyor by the State of Alabama, showing the location, size and legal description of the parcel and the public streets and alleys which abut the parcel or are located upon the parcel, which survey must have been prepared, or certified to the city by the surveyor as being current and accurate;
- b. The density of land use of the parcel, with tabulations by acreage and the percentage of the parcel to be occupied by each proposed use;
- c. A copy of any covenants or restrictions to which the parcel is subject;
- d. A copy of any proposed covenants or restrictions which will be imposed upon the parcel or any improvements thereon;
- e. A development schedule indicating the approximate commencement and completion dates of the development, and any phases thereof if the development is to be developed in phases; and
- f. A computerized or physical three-dimensional scale model of the proposed site and building showing the scale, massing, and relationship of the building to the site and topography, to public streetscapes, to open spaces, and to adjacent properties from all relevant perspectives and showing all relevant dimensions. The applicant may submit the model in electronic format if the most recent version of Sketch-up is used, otherwise, the application shall provide perspectives from all relevant angles and at least one for each side of the building. Where applications include multiple similar buildings, one scale model for each similar building type may be submitted, provided all occurrences of the building type have a similar relationship to the site and topography, public streetscapes, open spaces, and adjacent sites as depicted in the model.

Seventeen copies of the preliminary development plan and any materials supplemental thereto shall be delivered to the zoning officer at least 24 days before the date of the hearing at which the planning commission will consider the rezoning application. Revised plans for cases which are heard by the planning commission and then carried-over to the next regular meeting of the planning commission, whether at the request of the planning commission or the applicant, must be submitted at least 17 days before the date of the hearing at which the planning commission will hear the revised case.

- (b) In addition to such other matters which are considered by the city council with respect to any other rezoning application, the city council may consider the development plan and any supplemental materials in making its decision to approve or deny an application for the rezoning of a parcel to the Mixed Use District. The city council may consider the appropriateness of the proposed development plan in relation to the physical characteristics of the parcel and to the physical characteristics and uses of properties adjacent to or near the subject parcel, and the city council may require such additions, deletions and changes to the development plan and such agreements and covenants with respect to the proposed development, as the city council deems appropriate. The city council may:
  - (1) Approve the development plan, which approval would be evidenced by the signature of the president of the city council;
  - (2) Disapprove the development plan;
  - (3) Make suggestions for revisions to the development plan and, with the approval of the applicant, continue its consideration of the development plan to a future meeting of the city council; or
  - (4) Approve the development plan subject to the applicant making certain specified minor revisions to it, which revisions would be subject to the approval of the zoning officer, and if such revisions are approved by the zoning officer the approval of the development plan would be final upon it being signed by the president of the city council.
- (c) An application for rezoning to the Mixed Use District may be denied by the city council based upon any one or more of the items of information included in the development plan or any supplemental materials.
- (d) An approved preliminary development plan shall be effective for up to 365 days from the date of the city council approval, after which time it shall be considered lapsed if substantial progress has not been made. The city council may grant one extension up to an additional 365 days, if prior to the lapse the applicant presents reasonable justifications for not achieving substantial progress. A lapsed preliminary development plan shall be resubmitted or a new preliminary development plan shall be required prior to any building permit is issued. The city council shall consider any lapsed preliminary development plan or a new preliminary development plan according to all other provisions of this article, and shall consider the plan based upon the current circumstances at the time of the new submittal.

(Ord. No. 1767, § 1(19-14-4), 2-25-2008; Ord. No. 1770, 2(19-4-4), 5-12-2008)

#### Sec. 129-235. - Additional requirements and provisions.

- (a) *Refuse and garbage service yards.* Each residential building erected in a Mixed Use District shall be provided with a separate service yard for the storage of garbage and trash. Each commercial building erected in a Mixed Use District shall be provided with a separate service yard; provided, that a service yard may serve more than one

commercial building if such arrangement is part of the development plan approved by the city council. Each service yard shall be located so as to be conveniently accessible, by a street or an alley or a driveway connected to a street, to vehicles collecting such refuse and to occupants of the building or buildings served by such yard. Each service yard shall be paved with asphalt or concrete and shall be enclosed with an opaque wall or fence of permanent construction, at least six feet in height, and designed and constructed so as to conceal such storage area from visibility from outside such wall or fence. Each entrance to the service yard shall be screened with a gate constructed of an opaque material, which gate must be at least six feet, but not more than eight feet, in height.

- (b) *Parking spaces for residential dwelling units.* There must be at least two paved or enclosed parking spaces reserved for the exclusive use of each residential dwelling unit in a Mixed Use District.
- (c) *Offstreet parking areas.* 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, concrete, cobblestone, brick or brick pavers. All such areas shall have adequate storm drainage facilities and shall comply with other applicable city ordinances governing drainage, detention, and permeability.
- (d) *Sidewalks.* Sidewalks of not less than five 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, brick or such other material as may be approved by the city council.
- (e) *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 of land. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture and to otherwise eliminate or minimize offensive glare within and outside the development.
- (f) *Fire protection.* No portion of any structure shall be located further from a fire hydrant than may be reached with 500 feet of hose.
- (g) *Streets and common areas.* The development plan shall clearly describe and identify which streets and roadways within the development are to be privately owned and maintained, if any, and which are to be dedicated as public thoroughfares, if any. In any case, all roads and streets within the development, whether public or private, shall be of sufficient width, design and construction to accommodate fire engines and other emergency vehicles and shall comply with such design, engineering, and construction standards as may be established for public and private roads by applicable subdivision regulations or other municipal ordinance or regulation.

(Ord. No. 1767, § 1(19-14-5), 2-25-2008)

Sec. 129-236. - Prehearing conference (preliminary development plan for Mixed Use District).

Prior to the submission of the preliminary development plan to the planning commission for its consideration, at the option of the zoning officer or the applicant, there shall be a conference at which the preliminary development plan, and the other information referred to in the foregoing subsection, shall be reviewed and discussed by the applicant and the zoning

officer. The party who elects to have the conference shall give the other party notice thereof at least 15 days before the public hearing to be held by the planning commission, and the conference shall be held at the city hall of the city at a time which is convenient to all parties.

(Ord. No. 1767, § 1(19-14-6), 2-25-2008; Ord. No. 1770, 3(19-14-6), 5-12-2008)

#### Sec. 129-237. - Application fee.

When an application is filed requesting that the zoning classification of a parcel be changed to a Mixed Use District, a fee (as set forth in chapter 14), to help defray the city's expense of processing the application, shall be payable to the city by the applicant.

(Ord. No. 1767, § 1(19-14-7), 2-25-2008)

#### Secs. 129-238—129-250. - Reserved.

### ARTICLE XV. - RECREATIONAL DISTRICT

#### Sec. 129-251. - Permitted uses.

Within a Recreational District, parks, playgrounds, athletic fields and similar uses, and accessory structures customarily incidental to such uses, shall be permitted.

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

#### Sec. 129-252. - Permitting procedure.

In no case shall a permit be issued for any new construction or development or for the establishment of any new use or activity without the prior written approval of the planning commission. Such approval shall be based on the planning commission's review of a site plan, building specifications and other information which it considers relevant to the proposed development or use, such as any proposed exterior lighting.

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

#### Secs. 129-253, 129-254. - Reserved.

### ARTICLE XVA. - RECREATIONAL 2 (REC-2) DISTRICT

#### *Footnotes:*

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***Editor's note—*** *Ord. No. 1854, adopted June 13, 2011, enacted provisions which did not specify manner of inclusion. Hence, to facilitate indexing, said provisions have been codified herein as Art. XVA, §§ 129-255—129-259.*

Sec. 129-255. - Permitted uses.

Within the Recreational-2 District, the following uses shall be allowed:

- (a) Country clubs; golf courses (public or private); with or without dining facilities and cocktail lounge, providing one or more of the following recreational and social amenities: golf, recreation, tennis, fitness center, swimming, club house, locker room, pro shop and other similar uses.
- (b) Such accessory uses customarily incidental to such uses, including cart barns and maintenance facilities.
- (c) Ancillary uses which are not deemed by the zoning official to be "customary" to the above-noted permitted uses may be allowed with the written permission of the planning commission.

(Ord. No. 1854, § 1, 6-13-2011)

Sec. 129-256. - Area and dimensional regulations.

- (a) *Minimum dimensions of parcel:*
  - (1) Minimum area of parcel: 100 acres.
- (b) *Building limitations:*
  - (1) Maximum building area: Ten percent of the total area of the parcel
  - (2) Maximum number of stories: Three
  - (3) Maximum building height: 60 feet
- (c) *Minimum yards and building set backs:*
  - (1) Minimum front yard set back: 200 feet
  - (2) Minimum rear yard set back: 200 feet
  - (3) Minimum side yard set back: 200 feet

(Ord. No. 1854, § 1, 6-13-2011)

Sec. 129-257. - Exterior Lighting.

If artificial illumination is provided for parking areas, recreational areas, maintenance areas, or other outdoor facilities, it shall be arranged in order to shine and reflect away from any adjacent recreational or residential areas and away from any streets adjacent to or near the parcel.

(Ord. No. 1854, § 1, 6-13-2011)

Sec. 129-258. - Additional requirements and provisions.

- (a) *Storage of garbage and waste.* All trash, garbage, and other waste shall be screened from view from any public street or adjoining residential property and shall comply with the county health department regulations.
- (b) Alcoholic beverages, including beer, wine and liquor, may only be sold in accordance with the city ordinance permitting same.

(Ord. No. 1854, § 1, 6-13-2011)

Sec. 129-259. - Permitting procedure.

In no case shall a permit be issued for any new construction or development or for the establishment of any new use or activity closer than 200 feet from a property line without the prior written approval of the planning commission. Such approval shall be based on the planning commission's review of a site plan, building specifications and other information which it considers relevant to the proposed development or use, such as any proposed exterior lighting.

(Ord. No. 1854, § 1, 6-13-2011)

Sec. 129-260. - Reserved.

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.

(Ord. No. 1224, 2-26-96; Ord. No. 1766, § 1(19-16-1), 2-25-2008; Ord. No. 1975, § 1, 3-27-2017)

#### Sec. 129-262. - Definitions.

As used in this article, the following words and terms shall have the following meaning:

- (1) *Applicant* means the owner of the land proposed for a PUD or a designated representative of the owner.
- (2) *Common area* means an area within a PUD designated and intended for the use and enjoyment of all residents of the PUD and under the common ownership and control of the owners of the property within the PUD.
- (3) *Developer* means the owner of the parcel proposed to be developed as a PUD or a designated representative

of the owner.

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

Sec. 129-263. - Permitted uses.

The PUD District shall be assembled using any of the base zoning districts provided in this chapter and approved by the city council. The permitted uses in the PUD District shall include any of the permitted uses of such base zoning district(s) used to assemble the master development plan. Final approval of any of the uses in the PUD District shall be contingent on submittal of the required master development plan and other materials, proper review of the same by the planning commission, and subsequent determination by the city council that the uses being proposed are appropriate and acceptable due to the arrangement, planning and design demonstrated in the master development plan.

(Ord. No. 1224, 2-26-96; Ord. No. 1766, § 1(19-16-3), 2-25-2008)

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 subsection 129-555(b)(3).
- (b) *Density.* The permitted number of dwelling units and building intensity in a PUD may not exceed the number which would otherwise be allowed in the base zoning district(s) which are used as a basis for the master development plan, though the city council may approve other densities that better meet the purposes of this district and any specific policies and goals of the city master plan and any applicable village master plan. In this regard, the PUD application shall be considered similar to a rezoning request to all of the districts that make up the basis of the master development plan. The burden of proof shall be on the developer to show that existing or proposed facilities and utilities can handle the requested intensity of development.
- (c) *Property development standards.* Property development standards for a PUD shall be determined by the city council after receiving recommendations from the planning commission. The development of the PUD must be compatible with the topography of the parcel and must preserve any unusual topographic or natural features of the parcel. The development shall not adversely affect the developed or undeveloped property in the vicinity of the PUD, and the development must be compatible with such other property with regard to density, size of buildings, architectural style and type of use. The city council's determination as to whether the proposed development of the PUD is compatible with the neighboring properties with regard to the forgoing criteria shall be presumptively correct. Adequate water, sewer, streets, open spaces and other facilities and utilities must be available for the proposed PUD or there must be a definite proposal for making them available at the expense of a party other than the city. Depending upon the density of the proposed PUD and the type of uses proposed for the PUD, the city council may require such building setbacks for any front yards, side yards, or back yards, along

with such buffers, walls, hedges, shrubs, trees, and other designed transitions as the city council deems necessary and appropriate for the preservation of the character of the other property in the vicinity of the PUD. The city council may impose such reasonable conditions, terms or limitations which it finds necessary or helpful for the protection and promotion of the public health, safety, morals and welfare of the city.

- (d) *Other regulations.* All applicable regulations provided for elsewhere in this chapter, including minimum parking requirements and density standards, shall be in force except where the matters covered by such regulations are specifically addressed in this article.
- (e) *Master development plan.* The proposed master development plan ("proposed plan") shall include the following information:
  - (1) The location and size of the parcel to be developed as a PUD, including its legal description and a current perimeter survey prepared and certified by a surveyor who is licensed as a surveyor by the state. The survey must show all streets which are adjacent to the parcel, all easements and rights-of-way on the parcel and the location of any existing buildings or other structures which shall be a part of the PUD.
  - (2) A vicinity map showing the parcel in relation to surrounding property and a general description of the surrounding area, including the current zoning and land uses of the surrounding area.
  - (3) A statement of the planning objectives to be achieved by the PUD. The statement should include a description of the proposed development and the rationale behind the assumptions and projections made by the applicant.
  - (4) The density of land use to be allocated to all parts of the PUD site, together with tabulations by acreage and percentage of the parcel to be occupied by each proposed use.
  - (5) The location, size, and character of all buildings, including identification of the base zoning district related thereto and contemplated use(s) of the building. If any proposed building does not meet the standards of the base zoning district associated with it, a description of the specific standards which are not met by the proposed building, a description of the deviations from those standards and the reasons why the deviations are necessary must be provided.
  - (6) The location, size and character of any common open space or any commonly owned facilities and the type or organization which will own and maintain any commonly owned open space or facilities.
  - (7) The number, location and layout of parking spaces and attendant driveways and other areas necessary for the maneuvering of motor vehicles.
  - (8) Means of access to and from the PUD site.
  - (9) Location and dimensions of any service yards.
  - (10) A landscaping plan.
  - (11) The outside appearance of any proposed buildings.
  - (12) Any signs for any proposed buildings.
  - (13) Materials with which parking areas, driveways and sidewalks will be covered.
  - (14) Storm drainage facilities.
  - (15) Plans for providing utilities.

- (16) A computerized or physical three-dimensional scale model of the proposed site and all buildings showing the scale, massing, and relationship of the buildings to the site and topography, to streetscapes, to open spaces, and to adjacent properties from all relevant perspectives and showing all relevant dimensions. The applicant may submit the model in electronic format if the most recent version of Sketch-Up is used, otherwise, the application shall provide perspective drawings showing all relevant angles and at least one for each side of the buildings. Where applications include multiple similar buildings, a scale model for each similar building type may be submitted, provided all occurrences of the building type have the same relationship to the site and topography, streetscapes, open spaces, and adjacent sites as depicted in the model.
- (17) The substance of covenants, easements or other restrictions which will be imposed upon the use of the parcel, the buildings and other structures.
- (18) All plans shall be prepared at the scale of one inch equals 40 feet.
- (19) Any additional data, plans or specifications which the applicant or the city council believes is pertinent and will assist in clarifying the application.

(Ord. No. 1224, 2-26-96; Ord. No. 1766, § 1(19-16-1), 2-25-2008; Ord. No. 1975, § 1, 3-27-2017)

Sec. 129-265. - Procedure of application for a Planned Unit Development District.

- (a) *Preapplication conference.* Before filing an application for a Planned Unit Development District, the prospective applicant shall schedule a preapplication conference with the zoning officer. At the preapplication conference the prospective applicant shall present to the zoning officer a proposed plan for review. At the preapplication conference the zoning officer and the applicant shall discuss pertinent development matters including, but not limited to, the following:
  - (1) The relationship between the proposed development and the property which is adjacent to the proposed development;
  - (2) The effect of the proposed development on development and planning objectives of the city;
  - (3) The adequacy of existing and proposed streets, utilities and other public facilities to serve the development;
  - (4) The nature, design and appropriateness of the proposed land use arrangement for the parcel involved;
  - (5) The adequacy of open space areas for the proposed PUD;
  - (6) The ability of the subject parcel and surrounding areas to accommodate future expansion, if needed;
  - (7) Net acreage devoted to all land uses;
  - (8) Building coverage and floor area to be devoted to each type of use in the proposed PUD;
  - (9) The number of dwelling units per acre for residential areas; and
  - (10) Other information which, in the opinion of the zoning officer, would assist him, the planning commission and the city council in understanding the nature of the proposed PUD.

The proposed plan and information about the matters referred to in the foregoing items (1) through (10) must be submitted to the zoning officer at least ten days prior to the date scheduled for the preapplication conference to allow the zoning officer adequate time to review them.

- (b) *Application.* After the preapplication conference has been held, the applicant may file with the zoning officer an

application for the rezoning of the parcel. The application shall be accompanied by a preliminary master development plan ("preliminary plan"), which shall include any changes in the proposed plan requested by the zoning officer at, or as a result of, the preapplication conference, and the following documents, materials and information:

- (1) Written documentation including:
  - a. A legal description of the parcel upon which the PUD is to be built;
  - b. The name of the present owner and, if different, the person who will be the owner of the parcel during the development of the PUD;
  - c. A statement of development objectives, including a description of the character of the proposed development and its relationship to surrounding areas;
  - d. A development schedule indicating the approximate date when construction of the PUD is expected to begin and to be completed, and any applicable phasing of construction;
  - e. A statement of the applicant's intentions with regard to future selling or leasing of all or portions of the PUD, including land areas and dwelling units;
  - f. Estimated percentages of the parcel to be devoted to each type of land use, including any subcategories of residential, commercial and institutional uses, open space and recreational areas;
  - g. A plan for the intended manner of permanent care and maintenance of open spaces, recreational areas, and private street rights-of-way.
- (2) A site plan, which shall include the following items, either on the site plan or on an accompanying document:
  - a. The name of the development;
  - b. The legal description of the parcel on which the PUD is to be developed;
  - c. Scale;
  - d. North arrow;
  - e. Boundary survey and dimensions of property;
  - f. Delineation of proposed land use districts or areas;
  - g. Proposed lot lines and dimensions;
  - h. The number of all existing and proposed residential buildings and structures, including:
    1. Distribution of housing types;
    2. Location, grouping and orientation;
    3. Numbers of units, stories and maximum heights; and
    4. Proposed floor areas of all units;
  - i. The number of all existing and proposed nonresidential buildings and structures, including:
    1. Types of uses proposed;
    2. Location, grouping and orientation; and
    3. Number of stories, maximum heights and all floor areas;
  - j. The location and size of all areas to be conveyed, dedicated or reserved as commonly owned open spaces,

- public parks, recreational areas and similar public or semi-public uses;
  - k. The location of utility easements;
  - l. The existing and proposed circulation system of arterial, collector and local streets, both public and private, including:
    1. Location and dimensions of streets, alleys, driveways and points of access to public rights-of-way;
    2. Notations of proposed ownership;
    3. Location, dimensions and capacities of parking areas;
    4. Service and loading zones; and
    5. Pedestrian circulation;
  - m. A general landscape plan indicating treatment of materials used for private and common open spaces, and the proposed treatment of the perimeter of the PUD including materials and techniques to be used; and
  - n. A vicinity map.
- (3) Any additional information determined by the zoning officer to be reasonable and necessary for evaluating the character of the proposed PUD and its potential impact on the surrounding areas.

The materials submitted with the proposed plan shall be reviewed by the zoning officer, and any other appropriate employees or representatives of the city, and may be reviewed by the members of the planning commission, prior to the planning commission meeting at which the proposal for such rezoning is to be heard.

- (c) *Additional time for submission of documents, materials and information.* Exceptions may be made regarding the time when the documents, materials and information required as part of an application for Planned Unit Development District zoning must be submitted in cases in which the subject parcel exceeds ten acres, or in cases in which the zoning officer determines, as a result of the preapplication conference, that there are special, unusual or unique circumstances which warrant such exceptions. In those cases the applicant may be allowed to submit such documents, materials and information in phases as the PUD's planning and development progresses. Such allowance will in no way exempt the applicant from submitting all of such documents, materials and information for review and approval prior to beginning construction of the PUD, or any portion thereof.
- (d) *Preparation of preliminary master development plan.* In the preparation of the preliminary plan, the applicant shall comply with amendments or revisions requested by the zoning officer during, or as a result of, the preapplication conference with the zoning officer and with the requirements of this chapter and the city's subdivision regulations. In addition to meeting requirements of subsection 129-264(g) of this article, the preliminary plan shall be prepared at a scale of one inch equals 40 feet and shall include the following:
- (1) A dimensioned layout of any buildings, open space, recreational areas and other matters which shall be a part of the proposed use, including the number of square feet in each proposed use, with the total number of units and/or habitable improvements to be placed within each delineated area or space;
  - (2) The locations, amounts and types of nonresidential uses within the parcel proposed to be developed;
  - (3) The size and location of all vehicular and pedestrian access points to the PUD; the number, overall dimensions and location of all parking spaces; the pattern, estimated traffic volumes, width and type of paving proposed

- for all vehicular movement areas; all proposed screening and/or lighting of parking and other areas;
- (4) Contours and elevations, which shall be shown on a separate topographical survey; and
- (5) Instruments to be used in conveying title (including beneficial ownership) of common areas to a corporation, association or other legal entity, including provisions for guaranteeing:
- a. The continued use of such land for the intended purposes;
  - b. The continuity of proper maintenance for those portions of the common area requiring maintenance;
  - c. When appropriate, the availability of funds required for such maintenance;
  - d. Adequate insurance protection;
  - e. Recovery for losses sustained by casualty or by condemnation; and
  - f. Proof of the financial responsibility of the established entity to maintain the common area.
- (e) *Platting.* If necessary to do so, the parcel proposed for a PUD shall be resurveyed or subdivided in accordance with the city's subdivision regulations and with the provisions of this article. If there is an irreconcilable conflict between the requirements of the subdivision regulations and the requirements of this article, the requirements of this article shall be controlling. The master development plan must be approved prior to, or simultaneously with, the preliminary approval of the resurvey or subdivision plat. If the parcel has been resurveyed or subdivided prior to the approval of the master development plan, the parcel may have to be resurveyed to ensure the compatibility of the plat with the master development plan.
- (f) *Action on petition.* Upon its consideration of the preliminary plan for a PUD at a public hearing, the planning commission may take action immediately; may, with the consent of the applicant, postpone taking action for no longer than 60 days to allow time for further review of materials; and/or may request changes or other modifications to the proposed PUD. If any such proposed PUD is determined by the planning commission to be unacceptable in terms of conforming with the purpose and intent of this article, as well as in consideration of the best interest of the area affected and the city as a whole, the reasons for such determination shall be set forth in the planning commission's recommendation to the city council for denial of the petition. Upon the planning commission's recommendation that a proposed PUD be approved by the city council, all materials, including the preliminary plan and any changes or modifications made thereto in the review and hearing processes, shall be considered binding on the subsequent development of the affected parcel while zoned as a Planned Unit Development District, unless any changes therein are approved in writing by the city council.
- (g) *Process for consideration of approval of PUD.* For a PUD, the approval process shall comply with procedures set forth in article XXV of this chapter for a zoning amendment, except to the extent that the provisions of this article are inconsistent therewith, in which case such provisions of this article shall be controlling. Promptly after submission of a preliminary plan by the applicant, the city shall initiate the approval process by placing the proposed PUD on an agenda of the planning commission. After holding a public hearing on the application for such PUD rezoning, the planning commission shall prepare a report on the PUD and forward it to the city council, along with copies of the preliminary plan and related documents. Upon receipt of the planning commission's report, the preliminary plan and related documents, the city council shall schedule a public hearing as required by article XXV of this chapter and take appropriate action to approve, amend and approve, or disapprove the preliminary plan.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 4(19-16-5), 5-12-2008)

Sec. 129-266. - Additional requirements and provisions.

- (a) *Deviation from the development plan.* To facilitate minor adjustments to the approved master development plan as may be required by engineering or other circumstances unforeseen at the time of its approval by the city council, the zoning officer is authorized to approve alterations to the final master development plan which, in his opinion, are incidental or minor in scope.

The following changes, which shall be considered major in scope and which may not be approved by the zoning officer, shall be subject to the review of the planning commission, and may be authorized by the planning commission, but only after their review thereof:

- (1) Changes in density, open space, amount of land used for a certain purpose, or change in the size of a lot within the PUD by not more than five percent;
  - (2) Changes in the size of any building or structure by not more than five percent;
  - (3) Changes in the location of any building or structure by not more than five feet in any direction; provided that no such change referred to in the foregoing subparagraphs (a), (b) and (c) may permit: a. Greater density than, or a structure larger than, that which could have been permitted by the city council in its consideration of the preliminary plan, or b. A use which was not approved by the city council in its consideration of the preliminary plan.
  - (4) All other changes in the PUD or the master development plan must be made in accordance with the procedures applicable to the initial approval of the PUD. The planning commission shall have the right to require further review, an additional public hearing or complete reapplication regarding any changes, including those listed above, which may, in the opinion of the planning commission, substantially alter the concept of the PUD as originally approved.
- (b) *Violation of plan.* Any deviation from the master development plan which is not approved in accordance with subsection (a) above shall constitute a violation of the ordinance establishing that Planned Unit Development District and will subject the developer to the procedures and penalties set forth in this chapter.
- (c) *Failure to begin construction.* Construction of the approved development must begin within one year from the date of the approval of the master development plan by the city council. Any approved changes in the plan shall not extend the time at which said one-year period begins to run. The planning commission may, no sooner than 60 days prior to the end of said one-year period, upon the written request of the applicant, extend such one-year period for a period of not more than six months if, in the judgment of the planning commission, such additional time is warranted. In any event, the construction of the PUD must be started within one year and six months of the approval of the master development plan by the city council and must be completed within the period of time determined by the city council for each PUD (the "completion period"), subject to extension by the planning commission, as provided hereinafter. If the planning commission extends the date by which construction of the PUD must be started, it may, but it shall not be obligated to, extend the completion period for the PUD by a period of time which may be less, but may not be greater, than the length of time by which the commencement date was extended. Failure to begin the development of the PUD within said one-year period, or the period as

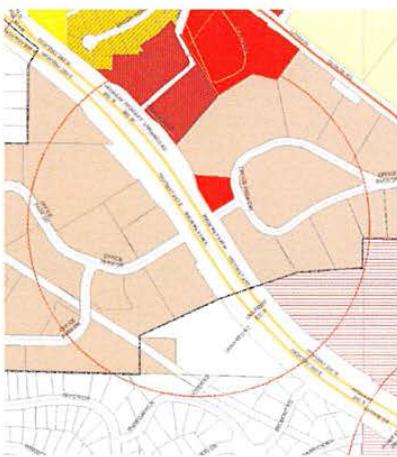
extended, or to complete the development within the completion period, or the extended completion period, shall automatically void the master development plan, and the zoning classification shall automatically revert to the zoning classification in effect for such parcel prior to its being rezoned a Planned Unit Development District. No building permit shall then be issued (except a permit for a building which would be in compliance with such prior zoning classification) until a new master development plan has been resubmitted and approved in accordance with the procedures set forth in this article for an initial submission and approval. The development of a PUD shall be considered to be complete when the land has been resurveyed or subdivided in accordance with the subdivision regulations of the city (if such resurvey or subdivision is required), the subdivision plat has been recorded in the office of the Judge of Probate of Jefferson County, Alabama, the installation of all utilities which are to be used in the PUD has been completed (except for service lines to individual dwelling units), all required streets (public or private), curbs, gutters and sidewalks have been installed in the PUD and the final coat of paving has been placed on all streets in the PUD.

- (d) *Development in phases.* If a PUD is to be constructed in stages, the construction of the first stage must begin within one year from the date of the approval of the master development plan by the city council, and each additional stage must begin not later than the construction commencement date for each such stage as provided for in the development schedule approved by the city council. In all cases, progress towards completion of the development should proceed in accordance with said development schedule. Failure to comply with this provision shall constitute a deviation from the master development plan, and the provisions and procedures of this section shall apply accordingly.
- (e) When the PUD application is filed, a processing fee, as provided for in section 19-471(c), must be paid to the zoning officer, and the applicant shall provide the city with 17 copies of the preliminary plan and attendant documents and information. During the time the preliminary plan is under consideration by the planning commission, the applicant shall furnish the zoning officer with 17 copies of any revisions of the preliminary plan. During the time the preliminary plan or the master development plan is under consideration by the city council, the applicant shall furnish the zoning officer with 15 copies of any revisions of the preliminary plan or the master development plan.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 5(19-16-6), 5-12-2008)

Sec. 129-267. - Highway 280 gateway maps.

- (a) *Primary gateways—One thousand-foot radius from intersection of Highway 280.*
  - (1) Office Park Gateway.



(2) Shady Creek Parkway/Mountain Brook Parkway Gateway.

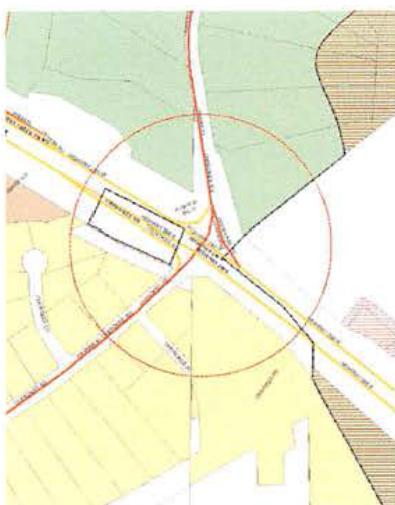


(b) Secondary gateways—Five hundred-foot radius from intersection of Highway 280.

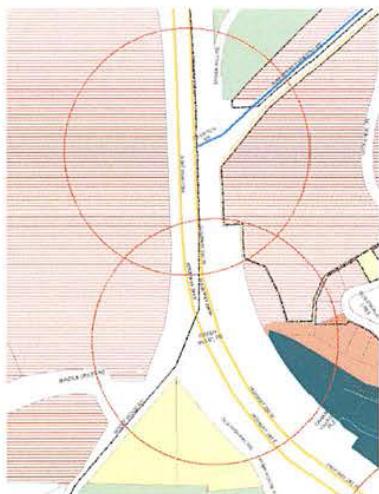
(1) Hollywood Boulevard Gateway.



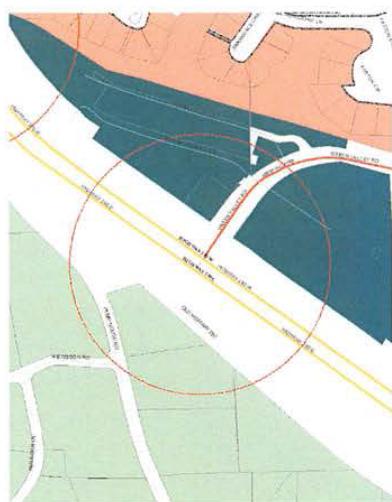
(2) Cherokee Road Gateway.



(3) Overton Road/Rocky Ridge Road.



(4) Green Valley Road.



(5) Pump House Road.



(6) Cahaba River Road.



(Ord. No. 1975, § 1, 3-27-2017)

Secs. 129-268—129-280. - Reserved.

## ARTICLE XVII. - RESERVED

### Footnotes:

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**Editor's note**— Ord. No. 1864, § 1, adopted Dec. 12, 2011, repealed Art. XVII, §§ 129-281—129-283, which pertained to the flood plain overlay district and derived from Ord. No. 1224, 2-26-96; Ord. No. 1770, 6(19-17-3), adopted 5-12-2008.

Secs. 129-281—129-290. - Reserved.

## ARTICLE XVIII. - GENERAL REGULATIONS AND PROVISIONS

#### Sec. 129-291. - Uses in general.

In each district, only the uses specifically listed as "permitted uses", "uses permitted by right" or "conditional uses" shall be allowed. All other uses shall be prohibited except where specifically authorized in this chapter.

Any use or structure existing at the time of the enactment or subsequent amendment of this chapter, but not in compliance with the provisions of this chapter, or this chapter as amended, shall thereafter be considered a nonconforming use, and shall be subject to the stipulations, regulations and other provisions set forth in article XXII of this chapter.

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

#### Sec. 129-292. - Use exemptions.

Notwithstanding any other provision of this chapter, there may be constructed or installed in or upon a parcel located within any zoning district, such equipment and minor structures and improvements incidental to the provision and distribution of gas, electricity, water and telecommunication services, including, but not limited to, gas regulators, fogging stations, electric transformer stations without major rotating equipment, solar panel systems, poles, cables and towers for the transmission of electricity, water pressure regulator stations, water pumping stations, telephone exchanges, cables, poles, antennas and masts for antennas as may be approved by the planning commission.

No permit shall be issued for the installation, construction or use of any such equipment, structures or improvements except with the prior written approval of the planning commission, which approval shall be subject to such conditions, if any, which the planning commission may require to promote the purposes of this chapter. Notwithstanding the foregoing, such approval shall not be required for the installation of poles, service lines, cables and pipelines, the purpose of which is to serve a single residential dwelling unit, a single business building or a single professional building or for pole lines, pipelines or other utility equipment which is otherwise entitled to be installed in the rights-of-way for streets.

(Ord. No. 1224, 2-26-96; Ord. No. 1970, § 1, 1-10-2017)

#### Sec. 129-293. - One dwelling unit per lot in single-family districts.

No parcel or lot in a single-family residential district may contain more than one dwelling unit.

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

#### Sec. 129-294. - Support equipment and facilities.

(a) *Residence D, Residence E, Cluster Residential, Planned Unit Development, Professional, Office Park, Local Business, Community Shopping and Mixed Use Districts.* In Residence D, Residence E, Cluster Residential, Planned Unit Development, Professional, Office Park, Local Business, Community Shopping and Mixed Use Districts, air conditioning units, condensers, cooling towers, machinery or equipment used as a part of, or in conjunction with, a central air conditioning or heating system, or for any other purpose, located on or near the exterior of any building shall be enclosed by a wall, fence or other screen of permanent construction at least as high as the units,

and so designed and constructed as to conceal such units from view and to buffer the noise therefrom. The requirements of this subsection shall not apply to such units or equipment located on top of a roof of a building or to solar panels.

- (b) *In all other residential zoning districts.* In all zoning districts other than those referred to in the preceding subsection, air conditioning units, condensers, cooling towers, machinery or equipment used as a part of, or in conjunction with, a central air conditioning or heating system, or for any other purpose, shall be located in the side yard or rear yard in a location which is as unobtrusive as is practically possible with regard to noise and visibility.

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

Sec. 129-295. - Temporary uses.

- (a) *Yard sales.* A resident of the city may conduct sales commonly known as yard sales, garage sales or estate sales (hereinafter collectively referred to as "yard sales") at the resident's dwelling, or at the dwelling of another resident of the city, under the conditions specified herein below. All such sales shall be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupations).
- (1) Not more than one yard sale shall be held at any dwelling during any calendar year.
- (2) No person may participate in, including having his property sold at, more than one yard sale in the city during any calendar year, regardless of whether such additional sale is held at his dwelling or at the dwelling of another person.
- (3) An agent may be hired to assist in the conduct of, or to conduct, such sale if all property for sale is displayed or located within the dwelling or within an accessory structure of the dwelling or in a portion of the dwelling's yard which is not visible from any street which is adjacent to the parcel on which the dwelling is located.
- (4) Yard sales shall be limited to two days in duration, which days must be consecutive; however, a yard sale may last for up to four consecutive days if all property for sale is displayed or located within the dwelling or within an accessory structure of the dwelling or in a portion of the dwelling's yard which is not visible from any street which is adjacent to the parcel on which the dwelling is located.
- (5) A permit shall be required for each yard sale, regardless of the number of people who participate in a sale, for which a fee to help defray the cost of issuing the permit will be charged in accordance with article XXVII of this chapter. Although only one permit will be required for each sale, each person who participates in the yard sale must be named as an applicant for the permit. Application for such permit must be filed with the city clerk prior to the first day of the proposed yard sale.
- (6) One sign, not to exceed six square feet in area, may be posted in the yard of the dwelling in which the yard sale is conducted. The sign may be in the yard for a period not to exceed four consecutive days, including the day or days of the sale itself, and must be removed within 24 hours after the conclusion of the sale.
- (b) *Trunk sales.* Trunk sales, defined for the purposes of this chapter to mean the sale of new clothes, clothing accessories and other consumer goods by means of the purchaser ordering such items or goods from samples and/or catalogs available for inspection at a dwelling during the trunk sale, may be conducted at the dwelling of a

resident of the city under the conditions specified herein below, and all such sales shall also be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupations).

- (1) In addition to the monitoring and enforcement procedures made applicable in this section, the conditions for use of dwelling for a home occupation set forth in article XXIII of this chapter (home occupations) shall also be applicable to the use of dwellings for trunk sales.
  - (2) No more than four trunk sales shall be conducted at any one dwelling during any one calendar year.
  - (3) Not more than two people who are not residents of the dwelling at which a trunk sale is conducted may conduct or assist with a trunk sale; provided, that: (1) Any such people must be employees, agents or representatives of the company which produces the goods to be sold at the trunk sale; and (2) An adult resident of the dwelling at which the trunk sale is being held is present at the trunk sale when it is held.
  - (4) There shall be no goods in the dwelling that are available for sale.
  - (5) Trunk sales shall be limited to a maximum of five days in duration, which days must be consecutive.
  - (6) However, a single permit may be issued for all trunk sales to be held at a dwelling during any calendar year, provided that either the dates of all such sales are included in the application for the permit; or written notice of the place, date and time of each sale, along with a copy of the permit previously issued for that calendar year, are delivered to the zoning officer at least seven days before each such sale is to be held.
  - (7) The permit fee must be paid for each permit applied for, but only the application for the first permit must be accompanied by an application for a business license; provided, that thereafter the business license is kept in effect. The drawings, plans or other requirements of article XXIII of this chapter made applicable to trunk sales by this section need be filed only with the application for the first permit unless a different portion of the dwelling is to be used for a subsequent trunk sale.
- (c) *Open houses, home tours and special events.* Open houses, home tours and other special events ("special events") wherein a residential premise or part thereof is made open to the general public for a fee, donation or other remuneration for commercial or charitable purposes may be conducted in the residential districts of the city under the conditions specified herein below. Such uses shall also be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupation).
- (1) No more than one such special event shall be conducted at any one residential premises during any one calendar year.
  - (2) Such special event shall be limited in duration to a maximum of 6 weekend days and 8 weekdays, which days must be within an 18 day period beginning with the first day of the event. For the purposes of this provision, weekend days shall mean Saturday and Sunday and weekday shall mean Monday through Friday.
  - (3) Goods sold at the special event shall be limited to inside the premises or the rear yard, and may not be visible from any public street.
  - (4) A permit shall be required for each special event for which a fee to help defray the cost of issuing the permit will be charged in accordance with article XXVII of this chapter. Application for such permit, in the form and with all information requested by the city, must be submitted to the city manager at least 30 days prior to the date upon which the special event is scheduled to begin.

- (5) If, after review of the application, the city manager determines that the parking or the public rights of way are insufficient to handle anticipated traffic volume for the special event, the city manager may require the use of remote parking areas, shuttle buses or valet services, the engagement of law enforcement officers by the applicant to assist with vehicles, or other measures designed to reduce the impact on surrounding properties and the public rights of way in the vicinity.
  - (6) For the purposes of this section, an open house or home tour conducted for the sole purpose of marketing or sale of the residential premises themselves and for which a fee, donation or other remuneration is not collected shall be permitted and shall not be subject to the conditions in this subsection.
- (d) *Temporary structures and related items.* Any structures or items associated with construction taking place on a parcel, or with other activities of a temporary nature, including, but not limited to, portable toilets, shall be placed so as to be in conformity with the minimum setback requirements applicable to the principal building on such parcel.
- (e) *Signs re: sale or rental of property.* A sign advertising the sale or rental of a parcel may be placed in the front yard of any parcel; provided, that such sign may not exceed six square feet in area.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 7(19-18-5), 5-12-2008; Ord. No. 1960, § 1, 9-12-2016)

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

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

- (1) *Buffers and green belts.* For a buffer or green belt, a planted strip of land at least 15 feet in width, composed of living deciduous or evergreen trees spaced not more than ten feet apart, and at least one row of dense evergreen shrubs spaced not more than five feet apart, all of which shall be maintained in perpetuity by the property owner who is required to establish such buffer or green belt, or his heirs, successors or assigns.
- (2) *Privacy fences and walls.* For a privacy fence or wall, a solid wooden fence or brick wall (meaning a fence or wall with no openings or gaps in it, except for a gate which must be closed at all times except when it is in use) six feet in height and, with respect to fences, with all supporting members being on the side of the fence which faces the parcel, the owner of which is required to provide the fence. The fence or wall must be at least five feet inside, and parallel to, the property line of the parcel which is to be screened from view. The area between the privacy fence or wall and the property line shall be grassed, landscaped or otherwise maintained as a buffer or green belt, and both said grassed or landscaped area and the fence or wall shall be perpetually maintained in a neat and orderly condition by the owner of the parcel which is to be screened from view. Nothing contained in this subsection shall permit the construction of a fence or wall more than four feet in height in the required front setback of a parcel or more than eight feet in height between the required front setback line and the existing front building line, or in any required side or rear setback, unless a fence or wall higher than herein specified is specifically permitted by another provision of this Code.

(Ord. No. 1224, 2-26-96; Ord. No. 1840, § 10, 2-14-2011; Ord. No. 1869, § 2, 4-9-2012)

#### Secs. 129-297—129-310. - Reserved.

## ARTICLE XIX. - GENERAL AREA AND DIMENSIONAL REQUIREMENTS

**Footnotes:**

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**Editor's note—** Ord. No. 1778, §§ 2, 3, adopted Sept. 8, 2008, repealed the former Art. XIX, §§ 129-311—129-316, and enacted a new Art. XIX as set out herein. The former Art. XIX pertained to general area and dimensional requirements and derived from Ord. No. 1224, 2-26-96; Ord. No. 1246, 1-13-97; Ord. No. 1618, § 1, 1-12-04; Ord. No. 1770, § 8, 5-12-08.

Sec. 129-311. - Minimum street abutment required for erection of dwellings.

No dwelling shall be erected on any parcel which does not abut at least one 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. 1778, 2(19-19-1), 9-8-2008)

Sec. 129-312. - 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 or more lots and a part of an additional, contiguous lot ("divided lot") may be resurveyed into one 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 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 129-35 (a)(1) 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. 1770, 8(19-19-2), 5-12-2008; Ord. No. 1778, 2(19-19-2), 9-8-2008)

Sec. 129-313. - 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 or more public streets, roads, or thoroughfares;
  - (2) At or near the intersection of a public street, road, or 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 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.
- (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. 1778, 2(19-19-3), 9-8-2008)

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

- (a) *Size.* Accessory buildings may not contain more than the greater of 800 square feet of floor area or 20 percent of the floor area of the principal building on the lot. The height of an accessory building may not exceed the height of the principal building on the lot.
- (b) *Relationship to parcel and dwelling.* No accessory structure or accessory building in a residential district may be erected in any actual or required front yard. An accessory building may not be located closer than 10 feet to any other detached accessory building on the same parcel. An accessory structure or accessory building must be located at least 5 feet from the dwelling on the parcel on which the accessory structure or building is located, and may be attached to the principle structure by means of a covered, open breezeway that is no wider than 8 feet, is not enclosed (contains no more than 2 walls) and is not heated or cooled. 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 buildings which do not exceed 625 square feet and 25 feet in height (or the height of the principal structure on the lot, whichever is lower), must be at least 10 feet from all lot lines, except that such buildings may be allowed to conform to the required side setbacks for principal buildings on non-conforming residence B and residence C lots, as specified in sections 129-53 and 129-63 of this chapter. Accessory buildings exceeding 625 square feet or 25 feet (or the height of the principal structure on the lot, whichever is

lower) 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 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.

(Ord. No. 1778, 3(19-19-4), 9-8-2008; Ord. No. 1869, § 4, 4-9-2012; Ord. No. 1970, § 1, 1-10-2017; Ord. No. 2007, § 1, 1-22-2018)

Sec. 129-315. - Fences and walls in residential districts.

- (a) *Front yards.* Except as further provided in this section and as provided in section 129-335 of this chapter, no fence or wall located in the front setback of any parcel in any residential district may exceed four feet in height. No fence or wall located between the required front setback line and the existing front building line of any parcel in any residential district may exceed eight feet in height.
- (b) *Side and rear yards.* All fences or walls within required side or rear setbacks shall not exceed eight feet in height.
- (c) *Estate district.* For estate lots fences and walls located in the front setback may exceed four feet in height, up to a maximum of eight feet in height as follows:
- (1) *Fences and walls.* Any portion of the fence or wall that exceeds four feet in height must be at least 50 percent open.
  - (2) *Columns.* Columns may be eight feet in height notwithstanding subsection (c)(1) above, but shall be included for the purposes of determining the percentage of open portions of any such fence or wall. Columns may be no more than three feet in width.
  - (3) *Entry gates.* Entry gates and supporting columns are permitted under the same requirements as subsections (c)(1) and (2) above.
- (d) *Residence A District.* For Residence-A lots containing a minimum width at the front property line of 100 feet:
- (1) *Columns.* Columns may be eight feet in height and may be no more than three feet in width.
  - (2) *Entry gates.* Entry gates and supporting columns are permitted under the same requirements as subsections(c)(1) and (2) above.
- (e) *Fence design and materials.*
- (1) The finished side of a fence or wall shall always face the exterior (concrete block, unfinished concrete or modular concrete block must not be left unfinished, but must be finished with stucco, brick or other similar material). Support members, when located on one side of wooden privacy fences, shall be on the interior side.
  - (2) Chain-link fencing shall not be permitted forward of any front building line, or within the required front setback, whichever is greater.

(Ord. No. 1778, 3(19-19-5), 9-8-2008; Ord. No. 1840, § 11, 2-14-2011; Ord. No. 1869, § 1, 4-9-2012; Ord. No. 1875, § 1, 7-9-2012)

Sec. 129-316. - 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.

(Ord. No. 1778, 3(19-19-6), 9-8-2008)

Sec. 129-317. - Front yard requirements on double-frontage parcels and corner parcels.

Double-frontage parcels and corner parcels must comply with the front yard requirements with respect to both streets to which they are adjacent; except as provided in article IV, sections 129-52 and 129-53 and article V, sections 129-62 and 129-63.

(Ord. No. 1794, § 3, 4-27-2009)

Sec. 129-318. - Private recreational facilities in residential districts.

(a) *Private swimming pools in residential districts:*

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

(b) *Other private recreational facilities in residential districts:*

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

(Ord. No. 1869, § 5, 4-9-2012)

Sec. 129-319. - Exterior lighting of private recreational uses in residential districts.

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

(Ord. No. 1869, § 6, 4-9-2012)

Secs. 129-320—129-330. - Reserved.

## ARTICLE XX. - EXCEPTIONS TO GENERAL AREA AND DIMENSIONAL REQUIREMENTS

Sec. 129-331. - Exceptions to the minimum street abutment requirement for dwellings.

- (a) *Nonconforming structures.* If a building constructed prior to January 27, 1986 is located on a parcel which does not comply with the required minimum street frontage, and such building is damaged or destroyed by fire or other casualty, such building may be repaired, restored or reconstructed on such parcel, provided that:
  - (1) When the building was originally constructed, the parcel satisfied the applicable minimum street frontage requirements then in effect; and
  - (2) The building, as it is proposed to be repaired, restored or reconstructed, will comply with all building codes and other applicable ordinances (including those providing for setback lines), rules and regulations in effect at the commencement of such repair, restoration or reconstruction.
- (b) *Parcels fronting on cul de sacs.* If the entire street frontage of a parcel is located on a circular or semi-circular cul de sac, the minimum number of feet of the parcel which must abut a street, and the minimum width of the parcel at all points between the street line and the front setback line of the parcel, shall be at least 70 percent of the number required in the use regulations for the zoning district in which the parcel is located; provided, that the width of the parcel at all points between the front setback line and the rear boundary line of the parcel is equal to or exceeds the required minimum number of feet which a parcel in that zoning district must abut a street, as specified in the use regulations for such district.

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

Sec. 129-332. - Future street lines as lot lines.

With respect to any parcel which, at the time of the adoption or amendment of this chapter, may be reduced in area by the widening of a public street to a future street line as indicated on a duly adopted major street plan of the city, measurements regarding required setbacks, yards, areas and the width of parcels and maximum building areas shall be made based on the future street line or street lines as the lot line or lines of such parcel.

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

Sec. 129-333. - Exceptions for lots of record at time of adoption of this chapter.

*In general.* If a lot which was created, in accordance with then applicable law, on or before January 23, 1950 does not have sufficient land to allow for the required area, setbacks, yards and related requirements of this chapter, an appeal may be made to the board of zoning adjustment for permission to use such lot as a building site. Said board shall hear such appeal as a variance, taking into consideration that the setback, yard, lot area or other matter for which a variance is requested should conform as closely as possible to the requirements for the district in which the lot is located.

(Ord. No. 1224, 2-26-96; Ord. No. 1794, § 4, 4-27-2009)

Sec. 129-334. - Exceptions to height limitations.

- (a) *Projecting items and devices.* The height limitations of this chapter shall not apply to: (1) Spires, towers, belfries, cupolas or domes which are part of a church, school or governmental building; (2) Chimneys which are part of a single-family or multi-family dwelling or other building; or (3) Flagpoles, antennas, aerials or masts for antennas or aerials; provided, that any such projection shall comply with all applicable provisions of the city code, as well as the statutes, rules and regulations of the United States of America, or any agency thereof, including, without limitation, the Federal Aviation Administration.
- (b) *Churches, schools and governmental buildings.* The height limitations set forth in the use regulations of the individual zoning districts shall not apply to churches, schools and governmental buildings; provided, that:
  - (1) The minimum front and rear setbacks applicable to any such building (which shall be the front and rear setbacks for buildings in the district in which such building is located) shall each be increased by two feet for each one foot such building exceeds the height limit prescribed therein for other buildings in said district; and
  - (2) Such building may not exceed three stories or 45 feet in height.

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

#### Sec. 129-335. - Exceptions to height limitation for fences and walls in residential districts.

Privacy walls and fences in excess of four feet in height may be constructed and maintained in the front, side and rear yards of any apartment houses, buildings composed of condominium dwelling units and townhouses which are constructed after April 13, 1992; provided, that no building permit may be issued for any such wall or fence, either separately or in conjunction with the construction of a building, without the prior written approval of the planning commission. Such walls and fences shall be subject to such conditions as the planning commission may impose for the preservation and protection of the established character of the district in which the building and wall or fence are located, and for the promotion of the purposes of this chapter in general. Application for any such wall or fence shall be filed with the zoning officer and shall be accompanied by a full description of the proposed wall or fence, including the proposed location, height, dimensioned construction plans and materials of construction.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 9(19-20-5), 5-12-2008)

#### Sec. 129-336. - Exceptions to required setbacks for architectural features.

Encroachments of certain architectural features may be allowed into required front, side, and/or rear setbacks in accordance with the standards of this subsection.

- (1) Cantilevered awnings and canopies may project into a required front, side, and/or rear setback no more than 3 feet.
- (2) Bay windows and greenhouse windows may project into a required front, side, and/or rear setback no more than 2 feet, including the drip line, with a maximum width of 8 feet.
- (3) Chimneys may project into a required front, side, and/or rear setback, no more than 2 feet, with a maximum width of 8 feet.
- (4) Cornices, pilasters, sills, and other similar decorative architectural features may project into a front, side, and/or rear yard no more than one foot.

- (5) Eaves may project into a front, side, and/or rear yard no more than 2 feet, with a minimum of 2 feet maintained adjoining lot line.

(Ord. No. 1970, § 1, 1-10-2017)

Secs. 129-337—129-350. - Reserved.

## ARTICLE XXI. - PARKING REGULATIONS

Sec. 129-351. - Free flow of traffic and pedestrian protection.

Ingress and egress for all parking facilities shall be arranged to provide for the free flow of motor vehicles at all times, and to prevent motor vehicles from blocking sidewalks or streets or endangering pedestrians or other motor vehicles. If a reservoir or vehicle standing area is deemed necessary by the zoning officer to prevent such blocking of traffic, an adequate reservoir or vehicle standing area must be provided at the expense of the party who owns such parking facilities.

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

Sec. 129-352. - Minimum parking space required for newly established uses.

On any parcel on which any new use is hereafter established, a minimum amount of space for offstreet parking for motor vehicles must be provided as set forth in the use regulations of the district in which such parcel is located, except as otherwise provided in subsection 129-194(d).

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

Sec. 129-353. - Minimum parking space requirements for dwellings units.

Unless otherwise specified in the use regulations of the applicable zoning district, the following minimum amounts of space for offstreet motor vehicle parking shall be provided on any parcel hereafter used as follows:

- (1) Single-family dwelling: 324 square feet;
- (2) Dwellings for two or more families: 324 square feet for each dwelling unit.

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

Sec. 129-354. - Minimum parking space requirements for places of assembly.

For each theater, auditorium, church or other building designed to attract an assembly of persons at scheduled times, there shall be a minimum of one parking space for motor vehicles, which parking space shall contain at least 162 square feet and shall be not less than nine feet in width and 18 feet in length, for every three seats provided in the largest area of assembly in such building. If it is proposed that the building be enlarged or otherwise modified so that the largest area of assembly therein, whether the original largest area of assembly or another area, will contain more seats than were in the largest area of assembly in the building as originally constructed, no building permit may be issued for enlargement or

modification unless the owner of such building presents satisfactory proof to the zoning officer that upon the completion of such enlargement or modification of the building there will be a sufficient number of parking spaces to satisfy the above stated requirements for parking spaces for the building as enlarged or otherwise modified. If any such building contains more than one area of assembly which is as large as, or approximately as large as, the largest area of assembly, such as a multi-theatre movie complex, then the minimum number of required parking spaces shall be based on all of such areas. All such parking spaces and such attendant driveways and other areas which 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.

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

Sec. 129-355. - Exceptions to minimum parking requirements.

If the number of parking spaces for vehicles required hereinbefore cannot reasonably be provided on the same parcel on which the principal use is permitted, appeal may be made to the board of zoning adjustment ("board") to allow the additional required parking spaces ("additional parking spaces") to be located on other property; provided, that all such additional parking spaces must be within 500 feet of the main entrance of the building containing such principal use, and such other property shall be specifically designated for parking for such principal use and thereafter such additional parking spaces may not be reduced in number or used for any purpose other than parking spaces for such principal use unless the board determines that under the circumstances of a particular case it would be reasonable for some or all of such additional parking spaces to be used at certain times by one or more additional parties and the reasons for such exception are included in the minutes of the meeting of the board at which the request is considered. Notwithstanding the foregoing provisions of this section, if the principal use requiring additional parking spaces is a church or synagogue ("place of worship"), the place of worship may file a written application with the board requesting the approval by the board of a plan providing that some, but not more than half, of the additional parking spaces may be located on private property other than the premises of the place of worship ("offsite parking plan"). The place of worship must enter into a contract with the owner of such private property ("private property"), which contract must contain all of the terms, conditions and other provisions relating to the right of the parishioners of the place of worship to park motor vehicles on the private property ("contract"). A copy of the contract must be included with the application filed with the board by the place of worship. The form of the contract shall be subject to the approval of the city attorney. The contract and the offsite parking plan shall be subject to the approval of the board. The offsite parking plan must provide: (1) that the private property on which the offsite parking spaces are to be located is within two miles of the main entrance of the place of worship; and (2) for arrangements, satisfactory to the board, by which the place of worship will transport its parishioners who park their motor vehicles on the private property from the private property to the place of worship and from the place of worship back to the private property. The details of the offsite parking arrangements for the place of worship shall be included in the minutes of the meeting of the board at which the request is considered and a copy of the contract and the offsite parking plan shall be attached to, and made a part of, such minutes. If the contract is terminated by the owner of the private property, the place of worship shall have a period of 90 days from the date it receives notice of such termination within which to: (1) enter into a contract under the terms of which the required additional parking spaces shall be located on another parcel of private property; and (2) submit to the board a copy of such contract and an offsite parking plan with respect to such other parcel of

private property, which offsite parking plan must satisfy the same conditions, and shall be subject to the same procedures, as the procedures, as the original offsite parking plan of the place of worship. The form of such contract shall be subject to the approval of the city attorney, and the contract and the offsite parking plan shall be subject to the approval of the board. The board shall retain continuing jurisdiction over all such offsite parking arrangements for places of worship approved by the board and may require a representative of any such place of worship to appear before the board, from time to time, at the behest of the board, to report to the board about such parking arrangements, and the board shall determine whether such parking arrangements are working in a satisfactory manner, particularly, with respect to whether public streets adjacent to or near such place of worship are being used by its parishioners for parking. If, at any time, after having given the place of worship, and any interested parties who request that they be permitted to address the board, an opportunity to appear before, and address, the board, the board determines that the offsite parking arrangements approved by the board for such place of worship are not working in a satisfactory manner for the benefit of the place of worship and the residents of the property adjacent to and near the place of worship, the board may revoke the right of the place of worship to have the parking spaces on the private property included in the parking places necessary to satisfy the requirements for parking spaces provided for in section 129-195, or the board may modify, or place certain conditions on, such right. Notwithstanding the foregoing, if the principal use requiring additional parking spaces is a place of worship, neither offsite parking spaces which are located within 500 feet of the main entrance of the place of worship and which the place of worship has a nonexclusive right to use, nor parking spaces located on private property located within one mile of the main entrance of such place of worship may be taken into consideration to satisfy a requirement for additional parking spaces created by an expansion of the largest area of assembly in the place of worship which expansion occurs after the date of this section. If the board approves offsite parking arrangements for a place of worship, in accordance with the provisions of this section, which relate to a parcel of land on which, or which relate to one or more proposed buildings, existing buildings or additions to existing buildings for which, the planning commission has approved a nonresidential use in a Residence A District, a Residence B District, a Residence C District or an Estate Residence District, the place of worship which received the planning commission's approval of the nonresidential use shall not be required to resubmit to the planning commission the place of worship's proposal for such nonresidential use even if the parking arrangements approved by the board are different from, or inconsistent with, parking arrangements approved by the planning commission or parking arrangements made a condition to the planning commission's approval of such nonresidential use.

(Ord. No. 1224, 2-26-96; Ord. No. 1401, 3-13-00)

#### Sec. 129-356. - Lighting restrictions in parking areas.

Parking area lights shall be mounted no higher than 14 feet above the finished grade of the parking area and shall be located so that the main beam of light does not extend beyond the property line on which the parking area is located. All lights shall be shielded so that there is no direct visible light above 85 degrees from nadir, and so that the main beam of light shall be shielded from 80 degrees.

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

#### Sec. 129-357. - Screening of parking areas.

(a) *Screening required.* Parking areas for multi-family residential use (other than duplexes) and for any professional,

business or commercial uses which are located adjacent to dwelling units (including multi-family residential units) located on other parcels shall have a privacy fence, wall or buffer which will substantially prevent the lights of motor vehicles from shining on such adjacent dwelling units. The installation and maintenance of the privacy fence, wall or buffer shall be the responsibility of the owner of the parking area. The fence, wall or buffer shall be subject to the prior written approval of the planning commission, which may require such reasonable information about the proposed fence, wall or buffer which it considers necessary. Notwithstanding any other provision of this chapter, with the prior written approval of the planning commission, the height of such fence or wall may exceed four feet.

- (b) *Screening requirements.* In cases where a privacy fence, wall or buffer is required for the purpose of shielding residential uses or areas from parking areas, the following minimum requirements shall apply:

- (1) The fence or wall shall be of solid, opaque permanent construction;
- (2) Any such fence, wall, or buffer shall be maintained in perpetuity by the owner of the parking area being screened; and
- (3) The shielding effect created shall be no less than 80 percent opaque when viewed horizontally from between two feet and five feet above the average ground level of the adjacent residential area or areas.

The requirement for screening shall be waived within 40 feet of any entrance to, or exit from, such parking area to provide adequate view for, and of, pedestrians, vehicular traffic and the motorists entering and leaving the parking area.

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

Secs. 129-358—129-370. - Reserved.

## ARTICLE XXII. - NONCONFORMING USES

### Sec. 129-371. - Continuance of nonconforming uses and structures.

Except as otherwise provided herein, any structure or use existing on January 23, 1950 or on the date of any subsequent amendment to this chapter which amendment resulted in a prior conforming structure or use becoming nonconforming, may continue although such structure or use does not comply with the provisions of this chapter.

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

### Sec. 129-372. - Extension or alteration of nonconforming uses and structures.

No nonconforming use or nonconforming portion of a structure may be enlarged or altered, except as may be permitted by the board of zoning adjustment in accordance with article XXVI of this chapter.

(Ord. No. 1224, 2-26-96; Ord. No. 1972, § 1, 2-27-17)

### Sec. 129-373. - Repair of nonconforming buildings or structures.

Any nonconforming structure which has been damaged by fire or other cause to the extent of more than 60 percent of the precasualty fair market value of the portion of the structure which is above its foundation (using the most recent fair market value placed on such structure by the Jefferson County Board of Equalization and making a reasonable allowance for the value of the foundation of such structure) may not be repaired or reconstructed except in conformity with the provisions of this chapter applicable to the district in which such structure is located and in compliance with all applicable building codes and regulations of the city. Should the city consider it necessary to do so, in determining the value of such structure after it has been damaged, in the course of its consideration of a request that a building permit be issued with respect to such repair or reconstruction, the city shall have the authority to have the value of the structure (above its foundation) determined by a qualified appraiser or qualified building contractor selected by the city. The cost of having such appraisal made shall be paid by the owner of the structure or, if a different person, the person who requests the issuance of a building permit. The amount of such appraisal shall be binding on the owner of the structure and the city.

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

Sec. 129-374. - Reestablishment of nonconforming uses.

Whenever the nonconforming use of any structure or land has been discontinued for a period of one year or more, such use may not be reestablished, nor may such structure or land be used for any other purpose which does not comply with the provisions of this chapter.

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

Secs. 129-375—129-390. - Reserved.

ARTICLE XXIII. - HOME OCCUPATIONS

Sec. 129-391. - Purpose.

It is the city's intent to protect the integrity of its residential areas. It is the purpose of this section to permit residences (dwellings and accessory structures used in connection with such 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.

(Ord. No. 1224, 2-26-96; Ord. No. 1974, § 1, 3-27-2017)

Sec. 129-392. - 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.

(Ord. No. 1974, § 1, 3-27-2017)

**Editor's note—** Ord. No. 1974, § 1, adopted March 27, 2017, repealed the former § 129-392, and enacted a new § 129-392 as set out herein. The former § 129-392 pertained to uses permitted as home occupations and derived from Ord. No. 1224, adopted February 26, 1996.

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 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 located on the same parcel as the dwelling may be used for a home occupation. No more than one accessory structure located on any parcel may be used for a home occupation.
- (e) Reserved.
- (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.
- (g) Reserved.
- (h) No equipment, goods, materials, or other property used in a home occupation may be stored in the yard of a residence.
- (i) There shall be no entrance or exit way in a dwelling 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) Reserved.
- (l) No more than two motor vehicles related to a home occupation shall be parked on the premises of any residence.

Such vehicles may not exceed three-quarters ton in load capacity, provided that such vehicles must be parked on a portion of the premises which was paved or otherwise designed as a parking area.

- (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 residence in which a home occupation is operated shall not interfere with normal traffic circulation in the area in which such 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 who is not a full-time resident of the dwelling:
    - a. The name of 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 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 residence by any such person as an employee of the home occupation may not exceed 40 hours during any calendar week; and,
    - c. Reserved.
- (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 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.

(Ord. No. 1224, 2-26-96; Ord. No. 1974, § 1, 3-27-2017)

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

- (a) Home occupations operated in dwellings and permitted accessory structures in the districts noted in this section, in addition to the other provisions of this article, shall be subject to the following additional condition:
- (1) No customer, client or business invitee may come to or enter the dwelling.

(Ord. No. 1224, 2-26-96; Ord. No. 1974, § 1, 3-27-2017)

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 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, 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.
- (c) *Additional requirements for home occupations conducted in dwellings.* If the home occupation is to be conducted in a dwelling, the application for a permit must be accompanied by a plan or drawing of the dwelling which shows, clearly and in reasonable detail, the following:

- (1) The portion of the dwelling which is to be used for the home occupation;
  - (2) The number of square feet of livable area contained in the dwelling; and
  - (3) The number of square feet to be used for the home occupation. If a particular part of a dwelling is to be used for residential purposes as well as for a home occupation, such part of the dwelling shall be considered as being used for the home occupation.
- (d) Changes in home occupations conducted in dwellings. If a different portion of a dwelling is to be used for the home occupation, at least 30 days prior to any such change, the primary occupant of the dwelling, or his representative, must submit to the zoning officer a revised plan or drawing of the dwelling which shows, clearly and in reasonable detail, the portion of the dwelling which shall be used for the home occupation. Each such revised plan or drawing must be accompanied by a review fee in accordance with section 129-471(7)(b) of article XXVII of this chapter. If, after the commencement of a home occupation in a dwelling, the square footage of the livable area of the dwelling is increased, such additional square footage shall not be taken into account in computing the portion of the dwelling which may be used for the home occupation.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 10(19-23-5), 5-12-2008; Ord. No. 1974, § 1, 3-27-2017)

#### Sec. 129-396. - Monitoring and enforcement procedures.

- (a) *Inspections.* The zoning officer and/or his designated representatives are hereby authorized to make inspections, from time to time, of any dwelling or accessory structure in which a home occupation is conducted to determine whether such home occupation is being conducted in compliance with this section. Such inspections may be made between the hours of 9:00 a.m. and 5:00 p.m. on Mondays through Fridays, except for days which are generally recognized holidays. The zoning officer or his representative may, but shall not be required to, give an occupant of the dwelling advance notice of the inspection.
- (b) *Violations or refusal to permit entry for inspection.* Any person or corporation who is found to be in violation of this article, or of the requirements and restrictions set forth in article XVIII of this chapter regarding yard sales and trunk sales; or who, without good cause, refuses to permit access to a dwelling or accessory structure by the zoning officer or his representative for the purpose of making the inspections referred to in subsection 129-396(a) shall, upon conviction, be punished by a fine of not less than one dollar and not more than \$500.00, at the discretion of the court trying the case. Each day any such violation continues shall constitute a separate offense.

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

#### Secs. 129-397—129-410. - Reserved.

### ARTICLE XXIV. - ADMINISTRATION, ENFORCEMENT AND PENALTIES

#### Sec. 129-411. - Powers and duties of the zoning officer.

The zoning officer shall be an appointed official of the city. The city planner shall be the zoning officer unless another appointed official of the city is designated by the city council to be the zoning officer. The zoning officer is hereby authorized, and it shall be his/her duty, to oversee the enforcement and the administration of the provisions of this chapter. The zoning officer shall give information, upon request, as to the provisions of this chapter and shall interpret the meaning of the provisions of this chapter. The zoning officer shall have the right, at reasonable times and upon reasonable prior notice to the occupant thereof, to enter upon any premises for the purpose of making inspections of buildings or premises as necessary in order to carry out his duties with respect to the enforcement and administration of this chapter.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 11(19-24-1), 5-12-2008)

#### Sec. 129-412. - Building permit required for excavation or construction.

It shall be unlawful to commence the excavation for, or the construction of, any building or other structure, including accessory structures, or to commence the moving, alteration or repair of any structure, including accessory structures, until the building official has issued a permit for such work ("building permit"). No building permit may be issued without certification from the zoning officer or the building official that the plans, specifications and intended use of such structure conform in all respects with the provision of this chapter. If an application for a building permit is not approved, the building official shall state in writing on the application, or on an attachment to the application, the reason or reasons for such disapproval; provided, however, that the building official's failure to include one or more of such reasons shall not constitute a waiver of any requirement or condition with which the applicant for the building permit failed to comply. The issuance of a building permit hereunder shall not be construed as waiving any provision of this chapter.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 12(19-24-2), 5-12-2008)

#### Sec. 129-413. - Zoning approval required for building permit.

It shall be unlawful for the building official to approve any plans, or to issue a building permit, for any excavation for a structure, or for the construction or alteration of a structure until the building official has inspected such plans in detail and found them to be in compliance with the provisions of this chapter. The building official shall require zoning approval as part of every application for a building permit. Application for zoning approval shall be filed in written form with the zoning officer or building official and shall be accompanied by a scaled plan or plat which shows the following in sufficient detail to enable the zoning officer to ascertain whether the proposed excavation, construction, use of land or alteration complies with the provisions of this chapter:

- (1) The shape, location and dimensions of the parcel upon which the construction is to occur;
- (2) The shape, size, height and location of: a. The building or buildings or other structures to be constructed on the parcel; and b. Any buildings or other structures already on the parcel, including any building which is to be altered;
- (3) If an existing building is to be altered so that its size or shape will be changed, the present and proposed size and shape of the building;
- (4) The existing and intended use of all such buildings or other structures; and

- (5) Such additional information concerning the parcel or any building thereon, or to be constructed thereon, which, opinion of the zoning officer, is necessary to determine whether the present and proposed buildings and other s comply with the provisions of this chapter.

If, in the opinion of the zoning officer, the proposed excavation, construction or alteration as set forth in the application complies with the provisions of this chapter, the zoning officer shall, upon payment of any fees required by article XXVII of this chapter or by any other ordinance of the city, issue a zoning approval certificate for such excavation, construction or alteration.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 13(19-24-3), 5-12-2008)

#### Sec. 129-414. - Certificate of occupancy required to commence use or occupancy.

No building or other structure, or part thereof, hereafter constructed, moved or altered in its use, may be occupied or used until a certificate of occupancy is issued stating that such building or structure, or part thereof, is found to be in compliance with the provisions of this chapter and all other applicable ordinances, codes and regulations of the city. Within three business days after the owner of such building or structure, or his agent, has notified the building official or the zoning officer that a building or other structure, or part thereof, is ready for occupancy or use, it shall be the duty of the building official, or other appropriate city official to make a final inspection thereof and to issue a certificate of occupancy if such building or structure, or part thereof, is found to:

- (1) Comply with the provisions of this chapter;
- (2) Comply with the provisions of any other applicable chapters of the City Code;
- (3) Comply with the provisions of any other applicable ordinances, codes or regulations; and
- (4) Comply with the site development plans and other information submitted in an application for the rezoning of the parcel upon which such building or structure is located and any restrictions or conditions accompanying any change of zoning.

If a certificate of occupancy is not issued for such building or structure, the building official shall provide a written statement containing the reason or reasons for not issuing the certificate; provided, however, that the building official's failure to include one or more of such reasons shall not constitute a waiver of any requirement or condition with which the applicant for the certificate of occupancy failed to comply.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 14(19-24-4), 5-12-2008)

#### Sec. 129-415. - Remedies available for violation of this chapter.

If any building or other structure is in the process of being erected, constructed, reconstructed, altered, repaired or maintained in violation of this chapter, or if any building, structure or land is used in violation of this chapter, the zoning officer, the city manager or any other appropriate official of the city may institute injunctive, mandamus or other appropriate actions or proceedings to:

- (1) Stay or prevent such unlawful erection, construction, reconstruction, alteration, repair, maintenance or use;
- (2) Restrain, correct, abate or remove such violation;

- (3) Prevent the occupancy of such building, structure or land; or
- (4) Prevent any illegal act, conduct, business or use in and about such premises.

Any adjacent or neighboring property owner who would be especially damaged or caused hardship by such violation may also institute injunction, mandamus or other appropriate actions or proceedings for the purposes specified herein.

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

Sec. 129-416. - Advisory design review required in the Villages of Mountain Brook.

- (a) The Villages of Mountain Brook, for purposes of this section, are composed of those properties located within the "village boundary line" shown on the village maps found in section 129-557 of the City Code.
- (b) It shall be unlawful for the zoning officer to issue a zoning approval certificate related to any property located within the villages or to issue a permit for the installation, replacement or modification of a sign to be placed on a building located in any of the villages until ten days after the village design review committee has completed an advisory design review of the proposed improvements, renovations or sign and submitted a report of its findings and recommendations to the applicant, the planning commission and the zoning officer.
- (c) In addition to the information and documents referred to in section 129-413 which each applicant for a zoning approval certificate must furnish to the zoning officer, such applicant must furnish the following information to the zoning officer with respect to the improvements to be constructed or renovated on the property for which the zoning approval certificate is sought. Sixteen copies of all documents and drawings related to the following information must be delivered to the zoning officer. The zoning officer shall promptly deliver five copies of such documents and drawings to the village design review committee, one copy to the zoning officer, nine copies to the planning commission and shall retain one copy of each drawing and document for the record.
  - (1) Building elevations;
  - (2) Types and colors of construction materials;
  - (3) Outdoor lighting;
  - (4) Visibility from neighboring properties, buildings and public streets;
  - (5) Vehicles, equipment and materials to be stored;
  - (6) Landscape and planting;
  - (7) Screening of any part of the property by fences, walls, vegetation or other means; and
  - (8) Signs.

Each applicant for a permit to install, replace or modify a sign must furnish the following information with respect to the new sign to be installed (either an initial sign or a replacement sign) or the modifications to an existing sign. Seven copies of all documents and drawings related to the following information must be delivered to the city clerk. The zoning officer shall promptly deliver five copies of such documents and drawings to the village design review committee, one copy to the zoning officer and shall retain one copy of each drawing and document for the record.

- (1) A rendering of the sign, showing the dimensions and color of the sign, the dimensions of any letters, numbers

or other figures on the sign and the material of which the sign is made;

- (2) A photograph of the building with the image of the sign, in accurate scale, superimposed on the building;
- (3) An electric plan for the sign, if the sign is to be lighted; and
- (4) The times during which the sign will be lighted.

(Ord. No. 1269, 8-25-97; Ord. No. 1304, 4-27-98; Ord. No. 1574, § 1, 6-9-03; Ord. No. 1770, 15(19-24-6), 5-12-2008; Ord. No. 1899, § 8, 11-12-2013)

Sec. 129-417. - Village design review committee.

- (a) *Creation, membership, and powers.* A village design review committee is hereby established ("committee"). The committee shall consist of five members and two supernumerary members. The supernumerary members shall attend meetings, at the call of the chairman of the committee, only in the absence of the members of the committee. Members shall be appointed by the city council for terms of three years, except that, of the initial members of the committee, two shall be appointed to terms of three years, two shall be appointed to terms of two years and one shall be appointed to a term of one year. At its first meeting the committee shall elect a chairman and a vice-chairman, who shall serve as chairman in the absence of the chairman or the inability of the chairman to act as chairman. If any member dies, resigns or otherwise becomes unable to complete his term of office, the city council shall appoint a person to complete his unexpired term. Members of the committee must be residents of the City of Mountain Brook and shall serve without compensation. The committee may seek technical advice from outside its own membership on any matter related to its powers and duties, but may not obligate the city for the expenditure of funds without the prior approval of the city council.
- (b) *Meetings, procedures, and records.* Meetings of the committee shall be held at the call of the chairman of the committee at such times as the chairman may determine. All meetings of the committee shall be open to the public, and notice of each meeting shall be given by posting notices within the city at the same places where ordinances adopted by the city council are posted. The committee shall keep minutes of its meetings and the committee's rules of procedure shall be Robert's Rules of Order.
- (c) *Design review guidelines.* The committee shall adopt and publish design review guidelines for the villages which shall relate to the compatibility of proposed construction and renovations with the architectural styles of existing buildings in the villages ("guidelines"). Copies of the guidelines may be obtained from the zoning officer for a reasonable charge, which shall be established by the city council, from time to time.
- (d) *Duties.* The duties of the committee shall be:
  - (1) To review all proposed construction, renovations and signs within the villages for compatibility with the guidelines;
  - (2) a. To review and make recommendations to the owners and developers of, and architects for, each building proposed to be constructed in a village and each building located in a village which is proposed to be renovated, with respect to the compatibility of such building with existing buildings in such village;
  - b. To review and make recommendations to the owners and developers of, and architects for, each sign proposed to be installed on a building in a village and each sign located on a building in a village, which sign is proposed to be modified, with respect to the compatibility of the proposed sign with the

architectural style of the building on which the sign is to be installed (or the building on which the sign is located, with respect to a sign to be modified) and the architectural style of the other buildings in such village; and

- c. Within five business days following the completion of the committee's advisory design review: (1) to submit a written report to the applicant, the planning commission and the zoning officer about its findings, including any comments and recommendations made to owners, developers and architects; (2) certify completion of the advisory design review to the zoning officer. Notwithstanding any other provision of this section, if the report is not submitted to the applicant, the zoning officer and the planning commission within 30 days (or such longer period of time which may be agreed upon by the applicant and the committee) of the applicant's submission of all required information and materials to zoning officer, the applicant's submission shall be considered to have been approved as submitted, and the zoning approval certificate may be issued by the zoning officer at the end of such period.

- (e) *Conflicts of interest.* At any time the committee schedules the review of a proposed construction or renovation of an improvement which is owned by a member of the committee, or any person related to a member of the committee by blood or affinity, or in which a member of the committee or such related person has an interest, that member shall advise the chairman of such interest, and the chairman shall appoint a supernumerary member of the committee to sit on the committee with respect to such matter. The replaced member may not discuss or vote on the matter.

(Ord. No. 1269, 8-25-97; Ord. No. 1304, 4-27-98; Ord. No. 1770, 16(19-24-7), 5-12-2008)

Secs. 129-418—129-430. - Reserved.

## ARTICLE XXV. - AMENDMENTS

### Sec. 129-431. - Amendments in general.

The number and boundaries of, and the regulations relating to, the districts established by this chapter may be amended, supplemented, or repealed by the city council, but no such amendment, supplement or repeal shall become effective unless it is first submitted to the planning commission for its recommendation. The planning commission shall hold a public hearing for the consideration of any such proposed amendment, supplement or repeal, after giving at least ten days' notice thereof, by posting notice of such hearing in four conspicuous places within the city, or by any other means permitted by applicable law, and shall, after the consideration of such amendment, supplement or repeal at the public hearing, forward its recommendation to the city council. The city council shall hold a public hearing for the consideration of such proposed amendment, supplement or repeal, after giving notice of such public hearing in accordance with applicable law. Written notice of public hearings held by the planning commission and by the city council shall be sent, by United States certified mail or registered mail, to all property owners, any portion of whose property lies within 500 feet of any portion of the parcel included in a request for rezoning. For the purpose of such notice, the owner of a parcel shall be considered to be the person who is shown as the owner of such parcel according to the records of the tax assessor of Jefferson County, Alabama.

If a public hearing is continued or postponed during the meeting of the planning commission or city council during which such hearing was held or was scheduled to have been held, no notice of such continued or postponed hearing need be given.

(Ord. No. 1224, 2-26-96; Ord. No. 1902, § 1, 3-10-2014)

#### Sec. 129-432. - Petitions for rezoning.

The owner of any parcel, or an authorized representative of such owner, may present a request for rezoning of such parcel by filing an application for rezoning and a preliminary site plan of such parcel with the city clerk. Materials and/or information in addition to that provided for by the application may be required with respect to requests for changes to certain zoning classifications, as set forth in this chapter. Such additional materials or information must be filed with the application, or, if some or all of such additional materials are requested by the zoning officer or the planning commission after the application has been filed, such materials must be filed with the zoning officer within a reasonable time after such request, to enable the members of the planning commission to review the materials prior to the public hearing to be held by the planning commission.

The hearing of a request for the amendment of this chapter or the zoning map will be scheduled for the next regularly scheduled meeting of the planning commission, provided that the application and all materials and information required to be submitted therewith are submitted to the zoning officer at least 24 days prior to such meeting. Any application which is incomplete with regard to any of the materials or information required by this article shall not be considered at such meeting, but will be postponed until the next regularly scheduled meeting of the planning commission which is to be held at least 24 days after all of the required materials and information have been submitted by the applicant to the zoning officer. Revised plans for cases which are heard by the planning commission and then carried-over to the next regular meeting of the planning commission, whether at the request of the planning commission or the applicant, must be submitted at least 17 days before the date of the hearing at which the planning commission will hear the revised case.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 17(19-25-2), 5-12-2008)

#### Sec. 129-433. - Basic requirements for application for rezoning.

An application for any change in the zoning classification of a parcel must include the following items and information:

- (1) Present zoning classification of the parcel;
- (2) Zoning classification to which the applicant wishes to have the property changed;
- (3) The address, real estate tax parcel identification number and legal description of the parcel, and the size of the parcel in square feet and acreage;
- (4) Name and address of the owner of the parcel;
- (5) Name and address of the applicant, if he is someone other than the owner;
- (6) If the application is made by anyone other than all of the owners of the parcel, written authorization from the other owners with respect to the filing of the application;
- (7) Name and address of any party who holds a mortgage on the parcel, or any part thereof;

- (8) Statement of how the parcel is to be used if the rezoning application is granted;
- (9) A preliminary site plan consisting of, at a minimum, a dimensioned drawing of the parcel showing at least the location of:
  - a. Existing and proposed buildings and other structures;
  - b. Any existing or proposed easements or rights-of-way;
  - c. Lot and yard areas, and how they are to be used;
  - d. Parking areas and the location or locations at which motor vehicles will have ingress to, and egress from, the parcel;
  - e. Water supply facilities; and
  - f. Sewage disposal facilities;
- (10) Names and addresses of all property owners, any portion of whose property lies within 500 feet of any portion of the parcel included in the request for rezoning; said names and addresses are to be certified by the tax assessor or a title insurance company;
- (11) A letter from an attorney or a title insurance company stating whether the parcel which is the subject of the rezoning application is subject to any covenants or restrictions and, if so, a copy of the covenants and/or restrictions; and
- (12) Any additional information which may be required by any other provision of this chapter, or which the zoning officer or the planning commission may consider necessary for an adequate evaluation of the effect of the proposed rezoning of the parcel on adjacent and nearby properties.

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

Sec. 129-434. - Additional requirements for the rezoning of property to certain districts.

The requirements of this section are in addition to, and not in lieu of, the other information and materials required in this chapter for a rezoning, including, but not limited to, those listed in section 129-433.

- (1) *Additional requirements for application for Residence D, Residence E and Clustered Residential District zoning classifications:*
  - a. Information with respect to how the lots, parcels and dwelling units will be owned and maintained;
  - b. Information with respect to how the parks, ways, recreational facilities, planted or forested areas and other common areas which are a part of the parcel proposed to be rezoned will be owned and maintained;
  - c. A preliminary site plan showing the location and dimensions of all lots upon which dwellings are to be constructed, easements and all facilities to be constructed in any common area, the location of dwelling units, the proposed number of dwellings units and the maximum number of stories in the proposed building and the floor areas and heights of the dwelling units. Development plans should show that the following will be provided:
    1. Satisfactory provisions for the visual and acoustical privacy of each dwelling unit must be made; and

2. Fences, walks and landscaping shall be provided for the protection and aesthetic enhancement of the privacy of its occupants, for the screening of views of certain uses and to minimize noise.
  - d. Any final site plan required under this chapter shall also provide whatever additional information is necessary to ensure that the proposed development will conform to the subdivision regulations of the city.
- (2) *Additional requirements for an application to create a subdivision, with private streets, containing ten or more acres in an Estate Residence District:*
- a. A statement of the manner in which title to all streets, parks, ways, recreational facilities, open spaces and other common areas within the subdivision shall be held, and the manner in which the same shall be maintained; and
  - b. A preliminary site plan showing the location and dimensions of all lots upon which dwellings are to be situated, all common areas, easements, streets, parks, open spaces, recreational facilities and all facilities to be constructed in any common area.

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

#### Sec. 129-435. - Amendment procedure.

After an application for rezoning has been determined to contain all of the required materials and information, the application will be submitted to the planning commission for consideration. The planning commission will hold a public hearing, after giving notice, as permitted by applicable law, of its consideration of the rezoning application. Following the public hearing, the planning commission shall forward to the city council its recommendation with respect to the proposed rezoning. After receiving the recommendation from the planning commission, the city council shall also give notice as permitted by applicable law and hold a public hearing to consider the proposed rezoning, after which the city council will take action on the proposed amendment.

If the city council determines that a proposed rezoning may be appropriate, but that the preliminary site plan and/or other information submitted to the city is not sufficient, the city council may:

- (1) Postpone further consideration of the proposed rezoning to a later meeting to provide a reasonable opportunity for the applicant to submit a properly detailed final site plan and/or other information in proper form; or
- (2) Refer the proposed rezoning to the planning commission for further consideration.

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

#### Sec. 129-436. - Time limit.

- (a) If the city council denies an application for an amendment to this chapter, another application for the same amendment to this chapter ("subsequent application") shall not be considered by the planning commission or the city council until two years have elapsed from the date on which the application was denied by the city council or, if the application is withdrawn by the applicant prior to the city council making a decision with respect to such application, but after the planning commission made a recommendation to the city council with respect to such application.

application, until two years have elapsed from the date on which the planning commission made its recommendation. Notwithstanding the foregoing, within less than two years from the date on which an application for an amendment to this chapter was denied by the city council or, if the application is withdrawn by the applicant prior to the city council making a decision with respect to such application, but after the planning commission made a recommendation to the city council with respect to such application, within less than two years from the date on which the planning commission made such recommendation, the city council, by a resolution adopted by its members, may request the planning commission to make a recommendation to the city council with respect to, a subsequent application and, after receiving such recommendation from the planning commission, consider the subsequent application.

- (b) If the city council denies an application for a change in the zoning classification of a parcel, another application for the same change in the zoning classification of the parcel, or any part of such parcel, shall not be considered by the planning commission or the city council until two years have elapsed from the date on which the application is denied by the city council or, if the application is withdrawn by the applicant prior to the city council making a decision with respect to such application, but after the planning commission made a recommendation to the city council with respect to such application, until two years have elapsed from the date on which the planning commission made its recommendation.
- (c) Notwithstanding the provisions of subsection (b) above, if the decision of the city council to grant an application for a change in the zoning classification of a parcel is challenged in the Jefferson County Circuit Court ("circuit court") and if the final judicial determination is that such application will not be granted, regardless of whether such decision is made by the circuit court or by an appellate court to which the decision of the circuit court is appealed, another application for the same change in the zoning classification of the parcel, or any part of such parcel, shall not be considered by the planning commission or the city council until two years have elapsed from:
  - (i) the date on which the decision or order of the court, whether it be the circuit court or an appellate court, is final and the time for appeal, or further appeal, has expired; or
  - (ii) the date on which such legal proceeding is dismissed if it is dismissed prior to a final judicial determination being made with respect to such application.
- (d) Notwithstanding the provisions of subsection (b) above, if the decision of the city council to deny an application for a change in the zoning classification of a parcel is challenged in the circuit court and if the final judicial determination is that such application will not be granted, regardless of whether such decision is made by the circuit court or by an appellate court to which the decision of the circuit court is appealed, another application for the same change in the zoning classification of the parcel, or any part of such parcel, shall not be considered by the planning commission or the city council until five years have elapsed from:
  - (i) the date on which the decision or order of the court, whether it be the circuit court or an appellate court, is final and the time for appeal, or further appeal, has expired; or
  - (ii) the date on which such legal proceeding is dismissed if it is dismissed prior to a final judicial determination being made with respect to such application.
- (e) Notwithstanding the provisions of subsections (b), (c) and (d) above, the city council may consider an application for a proposed change in the zoning classification of a parcel, or any part of the parcel, which, under subsection (b), subsection (c) or subsection (d) above was not to have been considered within the respective two-year periods referred to in said subsections (b) and (c) or within the five-year period referred to in said subsection (d), after receiving from the planning commission a recommendation with respect to such proposed rezoning of the parcel;

provided, that prior to the consideration of the proposed change in the zoning classification of such parcel, or any part of such parcel, by the planning commission: (i) the city council determines that, because of reasons which would be proper for the city council to consider with respect to the proposed change in the zoning classification of the parcel, or such part of the parcel, it would be appropriate for the city council to consider changing the zoning classification of the parcel, or such part of the parcel, at such time; and (ii) the city council adopts a resolution providing that it has made such determination.

- (f) If an application for a change in the zoning classification of a parcel is filed with the city clerk and: (i) at any time prior to the city council's consideration of the application at a meeting of the city council, the city council determines that the application is one which, under subsection (d) above, is not to be considered by the planning commission or the city council until the expiration of the five-year period referred to in said subsection (d); (ii) the city council does not make the determination and adopt the resolution referred to in subsection (e) above; and (iii) two years have elapsed from the date on which the decision or order of the court referred to in subsection (d) above is final and time for appeal, or further appeal, has expired or two years have elapsed from the date on which the legal proceeding referred to in subsection (d) above is dismissed if it is dismissed prior to a final judicial determination being made with respect to the application which was the basis for such legal proceeding, the city council may, by a resolution adopted by its members, agree to consider the application on the conditions that the applicant agree in writing that: (i) if the city council denies the application to change the zoning classification of the parcel and the applicant challenges such decision of the city council in the circuit court, the applicant shall be obligated to reimburse the city for the costs incurred by the city in defending such challenge (including, without limitation, attorneys' fees, court costs and fees and expenses of expert witnesses) (collectively, "costs") if the final court order with respect to such decision of the city council, whether it be the order of the circuit court or a decision of an appellate court, shall uphold the city council's decision to deny the application to change the zoning classification of the parcel; and (ii) that the applicant post a bond in an amount which the city council determines will be sufficient to reimburse the city for the costs ("bond"). The bond must be issued by a bonding company which is licensed by the state as a bonding company and is qualified to do business in the state, and which shall be subject to the reasonable approval of the city. Neither the planning commission nor the city council shall institute its consideration of the application until the bond has been posted with the city. If the applicant agrees to reimburse the city for the costs but objects to the amount of the bond, as determined by the city council, or objects to the city's determination that a bonding company proposed by the applicant is not acceptable, the applicant may, within 15 days of the date the amount of the bond is determined by the city council, file a petition with the city clerk requesting that the municipal court of the city ("municipal court") determine the amount of the bond, and/or approve the bonding company proposed by the applicant for the issuance of the bond. The municipal court shall hold a hearing on such petition within 30 days of the date the petition is filed with the city clerk. At the hearing the applicant and the city may present evidence with respect to the reasonableness of the amount of the bond as determined by the city council and with respect to whether the bonding company proposed by the applicant should be acceptable to the city. In determining the amount of the bond, the municipal court may take into consideration the amount of the costs of litigation incurred by the city in the litigation with respect to the prior application for the rezoning of such parcel or a larger parcel of which such parcel is a part.

After consideration of all evidence presented, the municipal court shall, within a reasonable time thereafter, determine the, issues raised by the applicant in his petition with respect to the amount of the bond and/or the city's disapproval of the bonding company proposed by the applicant.

(Ord. No. 1224, 2-26-96; Ord. No. 1357, 5-10-99; Ord. No. 1459, § I, 2-12-01)

Secs. 129-437—129-450. - Reserved.

## ARTICLE XXVI. - BOARD OF ZONING ADJUSTMENT

Sec. 129-451. - Creation and membership.

The board of zoning adjustment is hereby established. The word "board," when used in this article, shall mean the board of zoning adjustment of the city. The board shall consist of five members, appointed by the city council for terms of three years. The city council shall also appoint two supernumerary members of the board, who shall serve on the board, at the call of the chairman of the board, only in the absence of regular members. While so serving, the supernumerary members shall have and exercise the power and authority of regular members. The supernumerary members shall be appointed to serve for three-year terms, and they shall be eligible for reappointment.

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

Sec. 129-452. - Meetings, procedures and records.

Meetings of the board shall be held at such times as the board may determine, or upon the call of the chairman. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

The board shall adopt its own rules of procedure and keep minutes of its proceedings, showing the vote of each member upon each question; or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions. All records shall be immediately filed in the office of the board, which shall be the office of the city clerk, and shall be a public record.

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

Sec. 129-453. - Hearing of appeals.

An appeal from the decision of the zoning officer may be taken to the board by any person aggrieved, or by any officer, department, board or bureau of the city affected by such decision. Such appeal shall be taken within a reasonable time, as provided by the rules for the board, by filing with the zoning officer and with the board a notice of appeal specifying the grounds thereof. Any such notice must be filed at least 24 days prior to the meeting of the board at which the applicant wished to have the appeal heard, and shall be accompanied by a survey or drawing which shows, in reasonable detail, the property which is the subject of the appeal and the aspect of such property, or the improvement thereon, which is the reason for the appeal. The board shall fix a reasonable time for the hearing of the appeal and it shall give notice thereof to

the party who filed the appeal, to the owners of the property which is adjacent to the property which is the subject of the appeal and to the owners of the property which is separated from the property which is the subject of the appeal, only by a street, and decide the same within a reasonable time. The notice of appeal must be accompanied by a list of the names and addresses of such owners, according to the records of the tax assessor of Jefferson County, Alabama. Upon the hearing of an appeal, any party may appear in person or by agent or attorney.

(Ord. No. 1224, 2-26-96; Ord. No. 1770, 18(19-26-3), 5-12-2008)

#### Sec. 129-454. - Stay of proceedings.

Upon the filing of an appeal, the zoning officer shall promptly transmit to the board all the papers constituting the record of the matter which is the basis of the appeal. An appeal stays all proceedings relating to the action appealed from unless the zoning officer or the city manager certifies to the board in writing, after the notice of appeal has been filed, that, in his opinion and by reason of the facts stated in the certificate, a stay could cause imminent peril to life or property. In such case, the proceedings shall not be stayed, except by a restraining order granted by the board or by a court which has jurisdiction of the matter.

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

#### Sec. 129-455. - Powers and duties.

In exercising the powers set forth in this article, the board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination from which the appeal is taken, and the board may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under this chapter or to effect any variance in this chapter.

- (1) *Powers and duties.* The board, in appropriate cases and subject to appropriate conditions and safeguards, shall have the following powers: (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter; (b) To authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship to the owner of the parcel for which the variance is sought, and so that the spirit of this chapter shall be observed and substantial justice done; such special conditions to be limited to exceptional narrowness, shallowness or shape of a specific parcel existing at the time of the enactment of this chapter, or exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such parcel which would result in peculiar, extraordinary and practical difficulties; (c) before any variance is granted, the board shall consider the following factors, and the board may not grant a variance unless it finds that all of the following factors exist:
  - a. The special circumstances or conditions applying to the building or land in question are peculiar to such

- building or land and do not apply generally to other buildings or land in the vicinity;
- b. The granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant;
  - c. The condition from which relief or a variance is sought did not result from action by the applicant; and
  - d. The authorizing of the variance will not impair an adequate supply of light and air to adjacent property, will not increase noise or the danger of fire or otherwise imperil the public safety or unreasonably increase the congestion in public streets or the risk of flooding or water damage, or unreasonably diminish or impair established property values within the surrounding area and will not in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city; and
  - e. The requested variance will be in harmony with the purpose and intent of this chapter.

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

Sec. 129-456. - Granting of variances.

The board shall not grant a variance to allow a structure or use in a district restricted against such structure or use except as specifically provided in the following subsections (1) and (2).

- (1) The board may modify the strict application of the provisions of this chapter and cause a permit to be issued upon such reasonable conditions as it may prescribe in the following cases:
  - a. The extension of a district for a distance of not more than 50 feet where the boundary line of a district divides a parcel held in single ownership on January 23, 1950;
  - b. The determination of the proper district applicable to a particular parcel in cases of ambiguity or doubt arising from a difference between the streets as existing and established on the ground and the street layout as shown on the zoning map;
  - c. The reconstruction of a building, the use of which is nonconforming, which has been destroyed, or partially destroyed, by fire, other casualty, the public enemy or an act of God, but no such variance may be granted which would violate, or be inconsistent with, the provisions of article XXII of this chapter;
  - d. The erection, extension and use of a structure, or the use of a parcel not otherwise authorized or permitted by this chapter in any location, by a public service corporation for public utility purposes, which purposes are deemed by the board to be reasonably necessary for the public convenience or welfare;
  - e. The reduction in the parking space requirements of this chapter whenever the character or use of a building or a parcel makes unnecessary the required number of parking spaces, or where such regulations would impose an unreasonable hardship, such as structural difficulties, upon the use of the premises;
  - f. The erection or placement of a temporary commercial building on a parcel in a residential district to be used exclusively in connection with the construction of a residential development, which building may not be used in connection with such development for more than one year.
- (2) If the board determines, upon the consideration of pertinent evidence, including a view of the parcel in issue and the adjacent property, that a modification authorized in this section will not tend to impair the health, safety, convenience or comfort of the public, including, particularly, that portion of the public occupying the

property contiguous to parcel, the board, in its discretion, may modify the strict application of the provisions of this chapter and cause a permit to be issued, upon such reasonable conditions as the board may prescribe, for the location, construction, extension, structural alteration and operation of any of the following uses in any district from which these uses are prohibited or limited by this chapter:

- a. Hospital or institution, provided, that any hospital or institution authorized in any residential district shall be located on a parcel containing at least five acres and shall be set back from all required setback lines an additional distance of at least two feet for each foot of the building height of such hospital or institution;
- b. Commercial, recreational or amusement development for temporary or seasonal periods;
- c. Private club;
- d. Radio or television broadcasting tower;
- e. Public building owned by a governmental agency;
- f. Offstreet parking area, provided, the parking area adjoins a Local Business District, a Professional Office Park District or a Community Shopping District.

To defray a portion of the costs caused by the consideration of an appeal, no appeal from the decision of the zoning officer and no application for an exception, variance or other matter, shall be entered on the docket of, or heard by, or ruled on by, the board until there has been paid to the city clerk a fee in the amount set forth in article XXVII of this chapter, which fee shall be remitted to the treasurer of the city. Once proceedings have begun to publish a notice of a proposed hearing, such fee may not be refunded, in whole or in part. Neither the city nor any officer, agent or employee or the city acting in his official capacity, nor any agency of the city, shall be required to pay such fee.

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

#### Sec. 129-457. - Expiration of variance.

A variance shall expire if it is not implemented within one year of the day it is granted. The board may, for good cause presented to it, extend the time for implementation of the variance for a period of six months, provided the request for an extension is presented to the board prior to the expiration of the initial one-year period.

(Ord. No. 1224, 2-26-96; Ord. No. 2003, § 1, 12-11-2017)

#### Sec. 129-458. - Filing of appeal after denial.

If an appeal is denied by the board, another appeal, based on the same facts, may not be filed with the board until a period of six months has passed since the denial of such appeal.

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

#### Sec. 129-459. - Appeals from action of the board.

Any party aggrieved by any final judgment or decision of the board may, within 15 days thereafter, appeal therefrom to the Jefferson County Circuit Court, or to a court of like jurisdiction, by filing with the board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal, the board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken, and the case in such court shall be tried de novo.

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

Secs. 129-460—129-470. - Reserved.

#### ARTICLE XXVII. - SCHEDULE OF FEES

Sec. 129-471. - Fee amounts.

To help defray the costs of processing applications, reviewing plans and petitions, issuing permits and otherwise administering the provision of this chapter, the city deems it to be both reasonable and appropriate to assess fees for actions undertaken pursuant to this chapter. The fees of this section, as set forth in chapter 14, shall apply only to action under this chapter, and are in addition to, and not in lieu of, any other licenses or fees which may be required.

(Ord. No. 1224, 2-26-96; Ord. No. 1543, 8-12-02; Ord. No. 1558, 11-12-02)

**Editor's note**— At the request of the city, fees previously listed under this section have been moved to chapter 14.

Sec. 129-472. - Cost of advertising and postage.

In addition to the foregoing fees, if an application, petition, appeal or other matter filed with, or presented to, the city, including the city council, the planning commission, the board of zoning adjustment, the city clerk and the zoning officer, requires that certain parties be notified of such matter or that certain notices be posted or published, the person filing such application, petition, appeal or other matter shall be required to reimburse the city for the costs of mailing, posting or advertising such notices, including, without limitation, the cost of postage by certified mail or registered mail.

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

Sec. 129-473. - Special provisions regarding rezoning fees.

The fees and charges specified in this article shall be nonrefundable, and shall not be conditioned upon, or related to, the action taken with respect to any application or petition.

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

Sec. 129-474. - Fee exemptions.

The city and its agencies are exempt from the payment of fees under this article.

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

Secs. 129-475—129-490. - Reserved.

## ARTICLE XXVIII. - RESIDENTIAL INFILL DISTRICT

Sec. 129-491. - Intent and purpose.

The residential infill district is an "overlay" district that is designed to promote the highest and best use of residential real estate by permitting the cost-effective development or redevelopment of residential property in limited areas within the city, under carefully controlled conditions, and in ways that will serve the purpose of the zoning ordinance without compromising the unique character of the residential districts within the city. More particularly, the creation of a "residential infill" zoning classification serves the following purposes:

- (1) To permit additional, high-quality residential land use and development options for "transitional" zones between existing commercial and/or business uses and residential districts, the effect of which would be to maintain the residential character of existing residential districts while simultaneously discouraging objectionable nonresidential encroachment into such districts;
- (2) To permit and promote the coordination and integration of compatible uses, architectural styles, and functional considerations between designated "village districts" within the city and surrounding residential neighborhoods;
- (3) To encourage desirable development or redevelopment within the "village districts" by enhancing pedestrian access to and patronage of shops, stores, restaurants, and service establishments within such districts;
- (4) To maintain or enhance the fair market value of residential property within the city;
- (5) To serve the foregoing objectives, the purposes of the zoning ordinance, and the purposes of the city's master plan by permitting the full and effective use of land through modification of, flexible application of, or exemption from otherwise applicable zoning requirements, but with imposition of site-specific requirements and restrictions that are designed and intended to ensure appropriate use and development of the property.

(Ord. No. 1526, § 1, 5-13-02)

Sec. 129-492. - Permitted uses.

- (a) *Detached single-family dwellings.*
- (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 on the premises.

(Ord. No. 1526, § 2, 5-13-02; Ord. No. 1972, § 1, 2-27-17)

Sec. 129-493. - Area and dimensional requirements.

- (a) *Minimum site area:* None.
- (b) *Maximum density:* Regarding the development taken as a whole, the average lot size shall be 6,000 square feet of land area; however, the city may require lower densities to achieve compatibility with the nature, density, and character of surrounding property.
- (c) *Minimum yards, setbacks, and building separation:* No structure shall be located closer than ten feet from any adjacent residential property; provided, however, that the city may require additional setback area, buffers, greenbelts, or other landscape feature to achieve compatibility with the nature, density, and character of surrounding property. All buildings shall be located so as to conform to the Southern Standard Building Code and the Standard Fire Prevention Code, both as may be adopted and amended by the city.
- (d) *Minimum lot frontage on a public street:* None; however, all lots shall either adjoin a public street or have access to a public street via a recorded easement or a private right-of-way.
- (e) *Maximum building height:* Two and one-half stories or 37½ feet, provided that a lower building height may be mandated in order to achieve the purposes of this article.

(Ord. No. 1526, § 3, 5-13-02)

Sec. 129-494. - Streets.

All proposed public streets and improvements shall meet or exceed the minimum standards established by the Mountain Brook subdivision regulations. The city shall determine whether private streets or roadways are appropriate for the proposed development, based upon its master development plan review, considering the size of the development, density, relationship to the surrounding area, and public safety.

(Ord. No. 1526, § 4, 5-13-02)

Sec. 129-495. - Offstreet parking areas.

Driveways, parking areas, and related improvements shall be privately owned. Convenient offstreet parking shall be provided for all dwelling units. All parking spaces, driveways, and other areas necessary for the maneuvering of motor vehicles shall be arranged so as to provide convenient access to a paved street or alley. Sidewalks, parking spaces, driveways, and maneuvering areas shall be paved and shall have adequate storm drainage facilities. All driveways, parking areas, and steps shall be adequately lighted.

(Ord. No. 1526, § 5, 5-13-02)

Sec. 129-496. - Additional requirements and provisions.

- (a) *Utilities.* All utility lines shall be placed underground.
- (b) *Fire protection.* All buildings or structures must be located no farther from a fire hydrant than may be reached

with 500 feet of hose.

- (c) *Separate ownership.* Each dwelling shall be situated on a separate lot, unless the development is a condominium which use shall be permitted in the residential infill district.
- (d) *Title to property.* All common areas, such as private streets, driveways, parks, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements 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.
- (e) *Documentation of maintenance of improvements.* Prior to final plat approval of a subdivision for a residential infill development, the developer shall submit to the city clerk appropriate legal documents that provide for adequate maintenance of private streets and driveways, parks, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements located within the common areas.

(Ord. No. 1526, § 6, 5-13-02)

#### Sec. 129-497. - Master development plan.

Each application for residential infill zoning shall be accompanied by a master development plan. The master development plan shall contain the following information, in addition to the general requirements for a zoning amendment found in article XXV of the city's zoning ordinance:

- (1) Written documentation, including:
  - a. A legal description and confirmation of current zoning of the subject property.
  - b. The names and addresses of the applicant and owner of the property.
    - 1. If a corporation, the principal officers and members of the board of directors must be provided.
    - 2. If a partnership or limited liability company, general and managing partners must be provided.
  - 3. A statement of development objectives to be achieved through the particular approach proposed by the applicant, including a detailed description of the character of the proposed development and its relationship to surrounding areas.
  - 4. The substance of covenants, easements, and other restrictions that will be imposed on the use of the subject property, structures, and other improvements.
  - 5. A plan for the ownership and perpetual maintenance of private streets, driveways, parks, buffers, recreational facilities, planted or forested areas, and all other improved or unimproved real property and improvements of the proposed development.
  - 6. A statement describing how the proposed development will minimize the impact of increased densities, including a description of any buffers, landscape features, specialized lighting or other character or feature of the development that will maintain residential privacy, both within the zone and for surrounding properties, and otherwise offset increased density.
  - 7. A written description of all efforts made to contact and discuss with neighboring residential property

owners the proposed development, along with a general statement of neighborhood concerns and proposed actions to address said concerns.

8. A traffic study analyzing the impact of the development on traffic volume, flow and public safety.

- (2) A site plan, which shall include the following items, either on the site plan or on an accompanying document.
  - a. North arrow, scale, size, boundary lines, and dimensions of the subject property;
  - b. Means of access to and from the development, including a delineation as to how said access is to be provided (e.g., identification of easements, etc.);
  - c. The areas to be devoted to each use;
  - d. The location, size, and character of any common spaces and improvements identifying the nature and type of material for such improvements, if applicable;
  - e. Streets, driveways, and sidewalks;
  - f. A grading plan identifying existing and proposed contours;
  - g. A general landscape and buffer plan identifying the nature and type of materials proposed to be utilized;
  - h. An exterior lighting plan;
  - i. A preliminary drainage plan that indicates the location of proposed detention areas;
  - j. Location and identification of all utilities, easements, and fire hydrants;
  - k. General location of structures and the minimum floor area, height, and number of floors to be proposed in each dwelling;
  - l. A rendering generally describing the conceptual character of the development and of individual structures, including examples of architectural styles and types of building materials to be utilized in the development;
  - m. Building setbacks from the boundaries of all property lines, proposed lot lines, public and private streets, and other buildings;
  - n. The number, location, and size of all parking spaces and the locations thereof relative to the streets and driveways that provide access to and from the development; and
  - o. Description of all paving materials for private improvements.

(Ord. No. 1526, § 7, 5-13-02)

Sec. 129-498. - Review and approval process.

(a) *Application process and preliminary conference.*

- (1) Except as provided to the contrary in this section, applications for zoning or rezoning property to a residential infill classification shall follow the application procedures established for all zoning or rezoning applications.
- (2) At least 30 days prior to the first public meeting at which the proposed rezoning is to be considered, the applicant shall meet with the city's zoning officer to review the application and master development plan and to discuss any revisions thereto that would, in the view of the zoning officer, bring the plan into conformity

with applicable city codes and ordinances, including the zoning ordinance, and which would better meet the objectives of this article.

- (3) Following the aforementioned meeting and any revision to the plan agreed to as a result thereof, the application shall be set for consideration by the planning commission at the earliest practicable date, taking into account any notice and hearing requirements that must be met in connection therewith.
- (b) *Review by planning commission.* The approval process shall comply both with procedures set forth in article XXV of this chapter for a zoning amendment and any additional procedure required by this article. After submission of a master development plan by the applicant, the proposed residential infill development shall be placed on an agenda of the planning commission for consideration. The planning commission shall hold a public hearing on the residential infill zoning application and make a recommendation to the city council thereupon in accordance with article XXV, section 129-431, of this Code. The commission may consider all factors allowed by law in making its recommendation and should specifically consider the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the objectives of the city's master plan, and the purposes of the residential infill district.
- (c) *Review by and final action by the city council.* Following action on the rezoning application by the planning commission, the commission shall forward its recommendation and any accompanying report on the application to the city council, along with the proposed master development plan and any related documents. After providing notice of the proposed rezoning and a public hearing thereupon in the manner provided by the Code and by applicable law, the city council may approve the rezoning request (with accompanying master plan) as submitted, approve the rezoning request conditionally, amend and approve the rezoning request, or deny the rezoning request. In reviewing and acting on the rezoning request, the city council may consider any permitted by law, and specifically the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the city's master plan, and the purposes of the residential infill district. In approving any application for residential infill zoning, the city council may impose such terms, conditions, restrictions, or limitations as it deems reasonable, appropriate, and necessary to meet the objectives of this article or to protect and promote the health, safety, and welfare of the city.
- (d) *Binding effect of approved master development plan.* The master development plan that is required to be submitted with an application for zoning or rezoning shall be deemed an integral and essential element of any zoning or rezoning approved hereunder; and the plan, if and as modified and approved by the city council, shall be binding on the property and any subsequent development thereof unless and until the property is subsequently rezoned or modified in the manner prescribed by law; provided, however, that in order to accommodate such minor adjustments to the approved master development plan as may be required by engineering or other circumstances unforeseen at the time of its approval by the city council, the city's zoning officer is authorized to approve alterations to the master development plan which, in his opinion, are incidental or minor in scope, and which maintain the intent and character of the approved master development plan; further provided that, as an overlay district, approval of a residential infill zoning classification shall not preclude use or development of property that is permitted under its underlying zoning classification.

(Ord. No. 1526, § 8, 5-13-02)

Secs. 129-499—129-505. - Reserved.

#### ARTICLE XXXVIII.I. - RESIDENCE F-LEGACY DISTRICT (APPLICABLE ONLY TO PROPERTIES ZONED RESIDENCE F PRIOR TO 2001)

Sec. 129-506. - Uses permitted.

The uses permitted in a Residence F—Legacy district shall be as follows:

- (1) Duplexes;
- (2) 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;
- (3) Gardens and greenhouses customarily incidental to residential occupancy; provided, that the products grown there may not be sold on the premises.

(Ord. No. 1972, § 1, 2-27-17)

Sec. 129-507. - Area and dimensional requirements.

- (a) Minimum total site area .....15,000 square feet
- (b) Minimum width of parcel at all points between the street line and the front setback line .....100 feet
- (c) Minimum number of feet of the parcel which must abut a street .....100 feet
- (d) Minimum front yard setback .....40 feet
- (e) Minimum rear yard setback .....40 feet
- (f) Minimum side yard setback: .....
- (1) One to 1½ stories high .....15 feet
- (2) Two to 2½ stories high .....20 feet
- (g) Maximum building area .....25 percent
- (h) Maximum building height .....35 feet
- (i) Maximum number of stories .....2½

(Ord. No. 1972, § 1, 2-27-17)

Sec. 129-508. - Parking spaces.

Minimum number of parking spaces required for each dwelling unit .....2, each not less than 10 feet wide by 20 feet long.

(Ord. No. 1972, § 1, 2-27-17)

Sec. 129-509. - Applicability.

The Residence F district in place in 2001 shall hereby be renamed the Residence F—Legacy district. The Residence F—Legacy district will only apply to properties zoned Res-F prior to 2001, as the city ceased using the district at that time. The Residence F—Legacy district regulations remain in place only for those properties so zoned and no property that was not zoned as the Residence F district as of 2001 shall be zoned or rezoned to the Residence Legacy—F district. In the event that all properties zoned Residence F prior to 2001 (and are now noted as zoned to Residence F—Legacy district) are rezoned to other districts and no more such Residence F—Legacy properties in the city remain, this district shall be repealed and removed from the zoning ordinance of the city as of the date that the last Residence F—Legacy district property is so rezoned.

(Ord. No. 1972, § 1, 2-27-17)

Sec. 129-510. - Reserved.

#### ARTICLE XXIX. - RESIDENCE F DISTRICT—TOWNHOME DWELLING UNITS

Sec. 129-511. - Purpose and applicability.

The Residence F District is intended to provide compact, appropriate-scaled buildings in the villages for residential use. The district may be applied to limited sites which can establish an effective transition from the villages to adjacent neighborhoods. The sites shall provide a high degree of pedestrian connectivity within the villages to increase accessibility and patronage of businesses, and to enhance the pedestrian character of the villages. The Residence F District is only applicable as a base zoning district in association with the village overlay standards, where building scale and orientation to streetscapes and surrounding parcels have been considered in association with a specific area master plan, or the Residence F District may be used as a base zoning district in a PUD plan for areas identified as being appropriate for a PUD in the village master plans.

(Ord. No. 1764, § 1(19-29-1), 2-25-2008)

Sec. 129-512. - Permitted uses.

The uses permitted in the Residence F District shall be townhome dwelling units.

(Ord. No. 1764, § 1(19-29-2), 2-25-2008)

Sec. 129-513. - Area and dimensional requirements.

All lot and building standards shall be as specified in the village overlay standards, or where the Residence F District is used in conjunction with a PUD plan, the lot and building standards shall be based upon those specified in the village overlay standards and modified only as specifically identified in an approved PUD plan.

(Ord. No. 1764, § 1(19-29-3), 2-25-2008)

Sec. 129-514. - Parking.

- (1) Minimum offstreet parking per dwelling unit: Two spaces.
- (2) Visitor and accessory parking shall be provided based on the following:
  - One to ten dwelling units: one-half parking space per unit;
  - Eleven or more units: Five spaces plus one-fourth additional parking space for each unit over ten;
- (3) Any offstreet surface parking, interior parking or parking structures for the dwelling units and for visitor or accessory parking shall meet the parking design and vehicle access limitations of the village overlay standards.

(Ord. No. 1764, § 1(19-29-4), 2-25-2008)

Sec. 129-515. - Additional requirements.

- (a) *Sidewalks.* Sidewalks of not less than five 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.
- (b) *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 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.
- (c) *Development plan.* Any rezoning proposal for the Residence F District shall submit a development plan in conformity with section 129-234 of this Code demonstrating compliance with all site and building standards of this district, the applicable overlay standards, and conformance with the village master plan and design guidelines.

(Ord. No. 1764, § 1(19-29-5), 2-25-2008)

Secs. 129-516—129-530. - Reserved.

ARTICLE XXX. - RESIDENCE G DISTRICT—STACKED FLAT DWELLING UNITS

Sec. 129-531. - Purpose and applicability.

The Residence G District is intended to provide compact, appropriate-scaled buildings in the villages, which offer an alternative to single-family dwellings. The district may be allowed in limited sites in the villages, which can establish an effective transition from the villages to adjacent neighborhoods. The sites shall provide a high degree of pedestrian connectivity to increase accessibility and patronage of businesses, and to enhance the pedestrian character of the villages. The Residence G District is only applicable as a base zoning district in association with the village overlay standards, where

building scale and orientation to streetscapes and surrounding parcels have been considered in association with a specific area master plan, or the Residence G District may be used as the base zoning district in a PUD plan for areas identified as being appropriate for a PUD in the village master plans.

(Ord. No. 1765, § 1(19-30-1), 2-25-2008)

#### Sec. 129-532. - Permitted uses.

The uses permitted in the Residence G District shall be stacked flat dwelling units.

(Ord. No. 1765, § 1(19-30-2), 2-25-2008)

#### Sec. 129-533. - Area and dimensional requirements.

The maximum allowable density for the Residence G District shall be 12 units per acre per floor.

All other lot and building standards shall be as specified in the village overlay standards, or where the Residence G District is used in conjunction with a PUD plan, the lot and building standards shall be based upon those specified in the village overlay standards and modified only as specifically identified in the approved PUD plan.

(Ord. No. 1765, § 1(19-30-3), 2-25-2008)

#### Sec. 129-534. - Parking.

(1) Minimum offstreet parking per dwelling unit: Two spaces.

a. *Exception:* Projects over 20 dwelling units, and which may have a substantial mix of dwelling units which could be designed for families with fewer than two vehicles may propose an alternative parking ratio. The proposal for a reduced rate shall be based on demonstrated and convincing market and demographic data regarding the parking demand per each dwelling type included in the mix. Approval of an alternative ratio is in the sole discretion of the city council, based on a recommendation of the planning commission.

(2) Visitor and accessory parking shall be provided based on the following:

One to ten dwelling units: One-half parking space per unit;

Eleven or more units: Five spaces plus one-fourth additional parking space for each unit over ten;

(3) Any offstreet surface parking, interior parking or parking structures for the dwelling units and for visitor or accessory parking shall meet the parking design and vehicle access limitations of the village overlay standards.

(Ord. No. 1765, § 1(19-30-4), 2-25-2008)

#### Sec. 129-535. - Additional requirements.

(a) *Service yards.* Each building erected in a Residence G 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 feet, but not more than eight 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 feet, but not more than eight feet, in height.

- (b) *Sidewalks.* Sidewalks of not less than five 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.
- (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 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) *Development plan.* Any rezoning proposal for the Residence G District shall submit a development plan in conformity with section 129-234 of this Code demonstrating compliance with all site and building standards of this district, the applicable overlay standards, and conformance with the village master plan and design guidelines.

(Ord. No. 1765, § 1(19-30-5), 2-25-2008)

Secs. 129-536—129-550. - Reserved.

## ARTICLE XXXI. - VILLAGE OVERLAY STANDARDS.

Sec. 129-551. - Purpose and applicability.

- (a) *General purposes.* The village overlay standards are designed to:
  - (1) Implement the village master plans, officially recommended by the planning commission as part of the overall master plan for the City of Mountain Brook and promote the health, safety, morals and general welfare of the community.
  - (2) Provide for the kind, character and use of structures and improvements that may be erected or made within the villages, to promote and preserve the unique character and encourage pedestrian use of each of the villages.
  - (3) Regulate the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land subject to the standards, in conformance with the village master plan.
  - (4) To permit differences in the height, mass, scale, design, type, and uses of buildings subject to the standards based on the relationship of sites to specific public streets, open spaces, and to surrounding parcels.
  - (5) To allow coordinated development in the villages according to a comprehensive master plan that best complements the design and investment by the city in streets, open space and other public infrastructure.

- (b) *General applicability.* The village overlay standards supplement the standards of the current base zoning district of a parcel to the extent that the standards herein do not conflict with the standards in the base zoning district. To the extent that the standards set forth in the base zoning district conflict or are inconsistent with the standards herein, the standards set forth in this article shall apply; all uses allowed on lots in the base zoning district "Vine Street Transitional (VST) District" shall be exempt from the building type specifications of the village overlay standards. The standards in this section are applicable to the following base zoning districts which exist in the villages:
- (1) Local business;
  - (2) Professional;
  - (3) Mixed use;
  - (4) Vine Street Transitional; and
  - (5) Any residential zoning districts that exist in the village boundaries.
- (c) *Specific applicability.* The village overlay standards address building types, building heights, building form and orientation (relationship to streets and open spaces), and are specifically applicable to the following areas:
- (1) Crestline Village (except for lots zoned Vine Street Transitional (VST) District), as indicated on the attached building and development regulating plan for Crestline Village;
  - (2) English Village, as indicated on the attached building and development regulating plan for English Village;
  - (3) Mountain Brook Village, as indicated on the attached building and development regulating plan for Mountain Brook Village;
  - (4) Overton Village, as indicated on the attached building and development regulating plan for Overton Village.

The boundaries officially approved for the village overlay standards, 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.

- (d) *Building and development regulating plans.* The building and development regulating plans for Crestline Village (except for lots zoned Vine Street Transitional (VST) District), English Village, Mountain Brook Village and Overton Village are attached hereto, included within, and made a part of these village overlay standards, and apply in all areas identified thereupon.

(Ord. No. 1762, § 1(19-31-1), 2-25-2008; Ord. No. 1899, §§ 2—4, 11-12-2013)

#### Sec. 129-552. - Permitted uses and building type.

- (a) *Uses.* The uses permitted in areas subject to the village overlay standards are those authorized by the base zoning district for each parcel.
- (b) *Building types.* The following building types are permitted by the village overlay standards in accordance with the table set forth below. Differences in size, placement, orientation and design of each building type are regulated by this article, and the applicable building and development regulating plan.

Permitted Building Type	Building and Development Regulating Plan Frontage Types +			
	Primary Frontage	Secondary	Support Frontage	Residential

		Frontage		Frontage
Street-Front Building	✓	✓	No Specific Building Type Standards Apply to Support Frontages	
Free-Standing Building		✓		
Town-house				✓*
Stacked Flats				✓*

\* Townhouse building types are only permitted in association with a base zoning of residence D or F; stacked flats are only permitted in association with a base zoning of residence D or G.

+ Refer to the village master plans for frontage definitions and requirements.

(c) *Civic uses.* There is no specified building type for civic buildings. Civic uses in the village overlay area with proposed buildings that do not meet the requirements for any of the above building types require development plans subject to review for general compliance with the village master plan, the design guidelines and intent and purposes of the base zoning district and this article.

(d) *Vine Street Transitional District uses.* There is no specified building type for uses on lots zoned Vine Street Transitional District in the village overlay area; proposed building plans are subject to review by the planning commission and village design review committee for compliance with the VST District regulations, the village master plan, the design guidelines and intent and purposes of the base zoning district and this article.

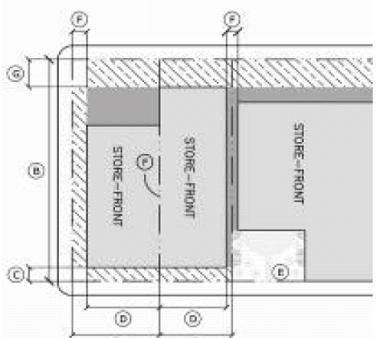
(Ord. No. 1762, § 1(19-31-2), 2-25-2008; Ord. No. 1899, § 5, 11-12-2013)

#### Sec. 129-553. - Building type standards.

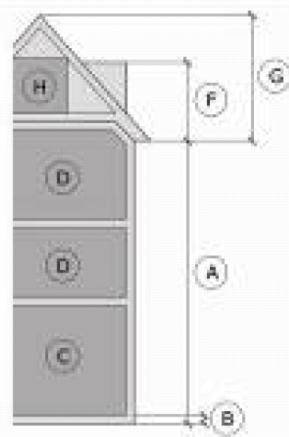
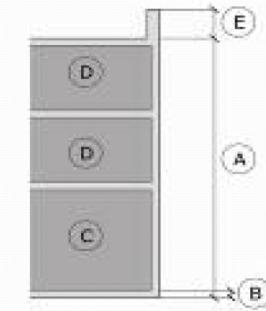
(a) *Objective.* The objective of the building type standards is to develop specific standards for site (building orientation), height and massing, and facade design for each of the building types included in the village master plan. The standards are specifically designed to:

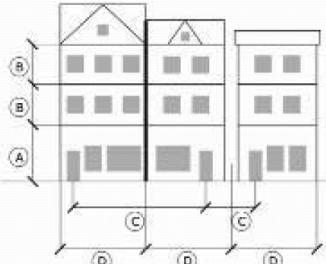
- (1) Allow for efficient, compact, and appropriate-scaled development in the villages, emphasizing the existing pedestrian scale and character of the village;
- (2) Emphasize lot frontages, and the orientation, location, and facade design of the buildings, as a key determinant of compatible development, and a key element in shaping the character and streetscape of the village;

- (3) Recognize that different lot standards are appropriate for different building types;
  - (4) Promote public and private development that enhances public streetscapes and frames public streetscapes with appropriate scaled buildings, with proportions and massing that create a pedestrian scale on each site;
  - (5) Create compatible scale and heights of individual buildings on adjacent sites which may have a different amount of stories;
  - (6) Promote a consistent scale and proportion throughout the village based upon the relationship of buildings to immediately adjacent buildings, the relationship of buildings to the streetscape and opposing buildings, and the relationship of buildings to transition areas outside of the village;
  - (7) Animate the public streetscapes with pedestrian activity by promoting transparency of buildings; and
  - (8) Establish standards that achieve the above objectives based on the context and street designs associated with a development site.
- (b) *Standards.* Permitted building types shall meet the following building standards, which standards shall control over any conflicting standard of the base zoning district (with the exception of any permitted use on lots zoned Vine Street Transitional (VST) District):

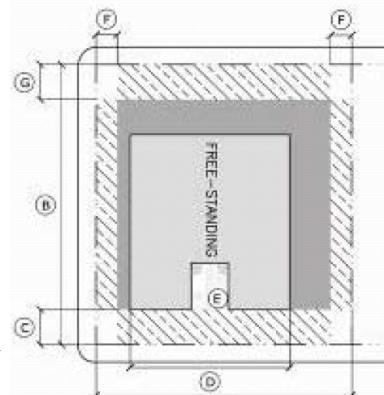
<b>STREET-FRONT BUILDING TYPE SPECIFICATIONS</b>	
Applicability	The Street-front building type is permitted wherever Primary or Secondary Frontage is designated on the applicable Building and Development Regulating Plan.
<b>SITE SPECIFICATIONS</b>	
Required Lot Width	25' Minimum [A]
Minimum Lot Depth	None [B]
Required Front Building Line [1]	Within 5' of the front lot line. [C]
Street Wall [2]	Between 90% and 100% [D]
Street Wall Exception	<p>An exception to the minimum Street Wall requirement may be permitted for Public or Quasi-civic Open Space in exceptional cases, provided: [E]</p> <p>a. The open space has a direct frontage along the streetscape;  b. The open space shall occupy no more than 40% of the entire building frontage; and the open space is designed as an integrated and fundamental part of either business or professional use of the building; c. All building frontages on the open space shall be designed to meet the façade specifications; and  d. The open space shall meet the design standards of the Design Guidelines in the Village Master Plan.</p> 
Minimum Side Setback	0' if party wall or corner buildings; [F] 5' for end units or units on a mid-block alley access or pedestrian passage; 20' if adjacent to a lot zoned for Residence D or a lesser-intensity residential zoning.
Minimum Rear Setback	10' [G]
Maximum % of Lot Coverage (building footprint)	90%, reduced by additional Open Space required by Section 129-554 for multi-story buildings.
Site Access - Vehicles	Vehicle access to individual lots is limited according to the street frontage type and as further specified in Section 129-555(d)

<b>STREET-FRONT BUILDING TYPE SPECIFICATIONS</b>	
<b>MASS AND HEIGHT SPECIFICATIONS</b>	
Maximum Height (external to building)[6]	1 story: 18' to eaves/cornice plus roof structure 2 story: 26' to eaves/cornice plus roof structure <b>[A]</b> 3 story: 36' to eaves/cornice plus roof structure  (actual permitted stories for individual sites is controlled by the applicable Building and Development Regulating Plan)
Required Ground Floor Elevation	0' to 1' above grade at front building line <b>[B]</b>
1 <sup>st</sup> Story Height (internal)	12' Minimum <b>[C]</b> 18' Maximum
Upper Story Heights (internal)	12' Maximum <b>[D]</b>  (top story ceiling heights on the interior of the building may exceed the Maximum Internal Story Height, provided the exterior of the structure maintains the Maximum Height specified above)
Roof Structure Heights [7]	Flat: 2' to 4' parapet <b>[E]</b> Pitched (5:12, or more) 10' maximum; <b>[F]</b> Steep pitch (14:12 to 20:12) 16' maximum; <b>[G]</b> provided that no building shall exceed 46 feet in height.  Pitched Roof structures may contain additional floor area which may be occupied without counting towards the story maximum for purposes of the applicable Building and Development Regulating Plan, provided the additional floor area is: <b>[H]</b> a. associated with and accessory to the floor area of the top story; and b. limited so that areas with clear ceiling height of 7' or more is no more than 50% of the floor area of the story immediately below.
Exceptions	Height exceptions may be permitted for architectural features according to sub-section (c) below.

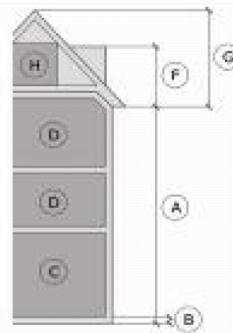
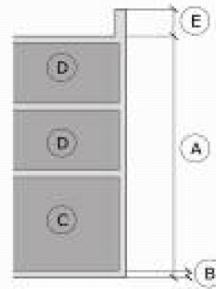


STREET-FRONT BUILDING TYPE SPECIFICATIONS		
FAÇADE SPECIFICATIONS [5]		
First Story Transparency [3]	60% to 90% [A] Where internal operation of a business renders the transparency requirement impractical, up to 60% of the required transparency at the street level may be met through the alternative compliance of a display window. The display window shall have a depth of at least 2.5 feet, but may otherwise obstruct views to the interior of the building.	
Upper Story Transparency [3]	15% to 60% [B]	
Primary Entrances	1 Primary Entrance at least every 50' of street frontage on Primary Frontages. [C]	
Bays [4]	Differentiated Bays are required a minimum of every 20' and a maximum of every 30' on Primary Frontages [D]	
Façade Projections	Bay windows and balconies may extend up to 3' over the front building line on upper stories	

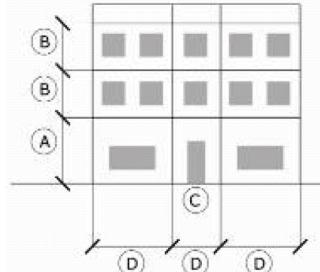
- [1] The front lot line shall be deemed to be the edge of the adjacent public street right-of-way, or the edge of the adjacent sidewalk which is nearest the building, (whether the sidewalk is then existing or is required as part of the site development under § 129-555 of this Code), whichever is farther from the center line of such right-of-way.
- [2] Street Wall is the percentage of the lot frontage that is occupied by a building façade established within the Required Front Building Line range.
- [3] Façade Transparency is the percentage of the façade required to have glazed openings of clear or lightly tinted glass, sufficient to provide views between the interior spaces and the streetscape. For street-level uses, this percentage shall be measured between 2' and 8' above street level. For upper stories this shall be measured between floor plates, and each story must satisfy the requirement independently.
- [4] Bays refer to the rhythm associated with the differentiation of the façade along the streetscape and the resulting scale of the building façade to pedestrians. The differentiation may be achieved by piers, pilasters, columns, off-sets in the façade, differentiated primary materials or other architectural techniques that signify a different structural building element and mass so long as architectural syntax among bays is respected. [Reference Section 5.2 of the Urban Design Guidelines in the Village Master Plan for specific building design techniques for creating Bays.]
- [5] Façade specifications shall apply to any building front on a public street, or any other façade which fronts on open space located at the Required Front Building Line and opening to the public street. Corner buildings shall be considered to have two frontages, but may designate one frontage as the principal frontage that meets all of the standards of this section. The other frontage shall meet all of the standards of this section for at least the first 25 feet of building façade, and shall maintain the required front building line for at least the first 40' of the side frontage.
- [6] At any and all points, the maximum building height (external) shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.
- [7] All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

<b>FREE-STANDING BUILDING TYPE SPECIFICATIONS</b>		
Applicability	The Free-standing building type is permitted wherever Secondary Frontage is designated on the applicable Building and Development Regulating Plan.	
<b>SITE SPECIFICATIONS</b>		
Required Lot Width	60' Minimum [A]	
Minimum Lot Depth	None [B]	
Required Front Building Line [1]	Between 10' and 25' of front lot line [C]	
Street Wall	Between 60% and 90% [D] An exception to the minimum Street Wall requirement may be permitted for Public or Quasi-civic Open Space in exceptional cases, provided: [E] a. the open space has a direct frontage along the streetscape; b. The open space shall occupy no more than 40% of the entire building frontage; and the open space is designed as an integrated and fundamental part of either business or professional use of the building; c. All building frontages on the open space shall be designed to meet the façade specifications; and d. The open space shall meet the design standards of the Design Guidelines in the Village Master Plan.	
Street Wall Exception		
Minimum Side Setback	10% of the lot width or 10', whichever is less; Except that 10' shall be required if adjacent to a lot zoned for Residence D or a lesser-intensity residential zoning. [F]	
Minimum Rear Setback	10' [G]	
Maximum % of Lot Coverage (building footprint)	60%, reduced by any additional Open Space required by Section 129-554 for multi-story buildings.	
Site Access - Vehicles	Vehicle access to individual lots is limited according to the street frontage type and as further specified in Section 129-555(d)	

<b>FREE-STANDING BUILDING TYPE SPECIFICATIONS</b>	
<b>MASS AND HEIGHT SPECIFICATIONS</b>	
Maximum Height (external)[6]	1 story: 18' to eaves/cornice plus roof structure 2 story: 26' to eaves/cornice plus roof structure 3 story: 36' to eaves/cornice plus roof structure  [A]  (actual permitted stories for individual sites is controlled by the applicable Building and Development Regulating Plan)
Required Ground Floor Elevation	0' to 1' above grade at front building line [B]
1 <sup>st</sup> Story Height (internal)	12' Minimum [C] 18' Maximum
Upper Story Heights (internal)	12' Maximum [D]  (top story ceiling heights on the interior of the building may exceed the Maximum Internal Story Height provided the exterior of the structure maintains the Maximum Height specified above)
Roof Structure Heights [7]	Flat: 2' to 4' parapet [E] Pitched (5:12, or more) 10' maximum; [F] Steep pitch (14:12 to 20:12) 16' maximum, [G] provided that no building shall exceed 46 feet in height Pitched Roof structures may contain additional floor area which may be occupied without counting towards the story maximum for purposes of the applicable Building and Development Regulating Plan, provided any additional floor area is: [H] a. associated with and accessory to the floor area of the top story; and b. limited so that areas with clear ceiling height of 7' or more is no more than 50% of the floor area of the story immediately below.
Exceptions	Height exceptions may be permitted for architectural features according to sub-section (c) below.

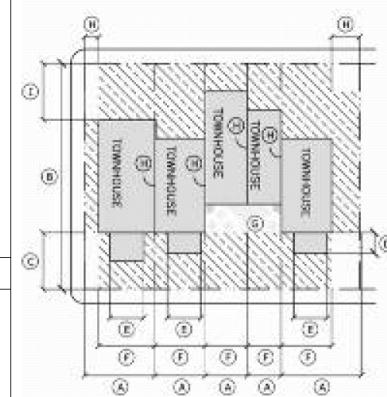


FREE-STANDING BUILDING TYPE SPECIFICATIONS		
FAÇADE SPECIFICATIONS [5]		
First Story Transparency [3]	60% to 90% [A]	Where internal operation of a business renders the transparency requirement impractical, up to 60% of the required transparency at the street level may be met through the alternative compliance of a display window. The display window shall have a depth of at least 2.5 feet, but may otherwise obstruct views to the interior of the building.
Upper Story Transparency [3]	15% to 60% [B]	
Primary Entrances	1 Primary Entrance for each building [C]	
Bays [4]	Differentiated Bays are required a minimum of every 25' and a maximum of every 50'. [D]	
Façade Projections	Bay windows and balconies may extend up to 5' from the façade, but may not extend over the front building line.	



- [1] The front lot line shall be deemed to be the edge of the adjacent public street right-of-way, or the edge of the adjacent sidewalk which is nearest the building (whether the sidewalk is then existing or is required as part of the site development under § 129-555 of this Code), whichever is farther from the center line of such right-of-way.
- [2] Street Wall is the percentage of the lot frontage that is occupied by a building façade established within the Required Front Building Line range.
- [3] Façade Transparency is the percentage of the façade required to have glazed openings of clear or lightly tinted glass, sufficient to provide views between the interior spaces and the streetscape. For street-level uses, this percentage shall be measured between 2' and 8' above street level. For upper stories this shall be measured between floor plates, and each story must satisfy the requirement independently.
- [4] Bays refer to the rhythm associated with the differentiation of the façade along the streetscape and the resulting scale of the building façade to pedestrians. The differentiation may be achieved by piers, pilasters, columns, off-sets in the façade, differentiated primary materials or other architecture techniques that signify a different structural building element and mass so long as architectural syntax among bays is respected. [Reference Section 5.2 of the Urban Design Guidelines in the Village Master Plan for specific building design techniques for creating Bays.]
- [5] Façade specifications shall apply to any building front on a public street, or any other façade which fronts on open space located at the Required Front Building Line and opening to the public street.
- [6] At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.
- [7] All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

<b>TOWNHOUSE BUILDING TYPE SPECIFICATIONS</b>	
<b>SITE SPECIFICATIONS</b>	
Applicability	The Townhouse building type is permitted in any areas of the Village Overlay Standards with a base zoning of Residence F and a Residential Frontage designation on the applicable Building and Development Regulating Plan.
Required Lot Width	20' Minimum; 36' Maximum; [A] End units: 30' Minimum; 46' Maximum
Minimum Lot Depth	80' [B]
Required Front Building Line [1]	Between 22' and 26' [C]
Front Entrance Extensions	An Enhanced Primary Entrance feature may extend up to 5' beyond the constructed front building line of the building provided: [D] a. It occupies no more than 30% of the front facade on each lot; [E] b. It remains unenclosed, with no fixed windows or screens. c. Any roof structure on or associated with the feature is up to one and one-half stories; and d. It is designed as an extension of the primary building using the same foundation, building materials, architectural styles and ornamentation as the primary building
Street Wall [2]	Between 65% and 100% [F]
Minimum Side Setback	0' if party wall; [G] 5' for end units or units on a mid-block alley access or pedestrian passage; 10' for corner lots; 15' if more than fifty percent (50%) of the side lot line abuts a lot zoned for, or having an existing lower intensity residential use.
Minimum Rear Setback	20' [H]
Maximum % of Lot Coverage (building footprint)	60%, reduced by additional Open Space required by Section 129-554 for residential uses.
Site Access - Vehicles	Vehicle access to individual lots is limited according to the street frontage type and as further specified in Section 129-555(d)

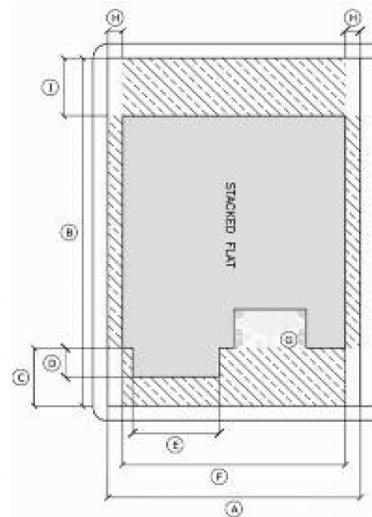


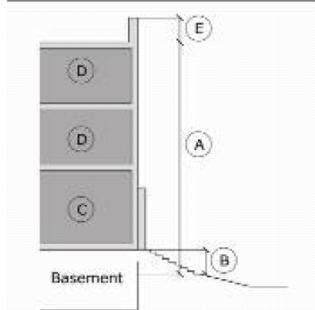
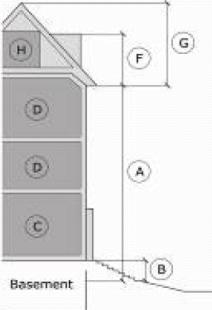
<b>TOWNHOUSE BUILDING TYPE SPECIFICATIONS</b>		
<b>MASS AND HEIGHT SPECIFICATIONS</b>		
Maximum Height (external) [6]	1 story: 16' to eaves/cornice plus roof structure 2 story: 26' to eaves/cornice plus roof structure 3 story: 36' to eaves/cornice plus roof structure <b>[A]</b>  (actual permitted stories for individual sites is controlled by the applicable Building and Development Regulating Plan)	
Required Ground Floor Elevation	1.5' to 4' above grade at front building line <b>[B]</b>	
1 <sup>st</sup> Story Height (internal)	10' to 15' <b>[C]</b>	
Upper Story Heights (internal)	12' Maximum <b>[D]</b>  (top story ceiling heights on the interior of the building may exceed the Maximum Internal Story Height provided the exterior of the structure maintains the Maximum Height specified above)	
Roof Structure Heights [7]	Flat: 2' to 4' parapet <b>[E]</b> Pitched (5:12, or more) 10' maximum; <b>[F]</b> Steep pitch (14:12 to 20:12) 16' maximum, <b>[G]</b> provided that no building shall exceed 46 feet in height Pitched Roof structures may contain additional floor area which may be occupied without counting towards the story maximum for purposes of the applicable Building and Development Regulating Plan, provided any additional floor area is:  a. associated with and accessory to the floor area of the top story; and b. limited so that areas with clear ceiling height of 7' or more is no more than 50% of the floor area of the story immediately below.	

<b>TOWNHOUSE BUILDING TYPE SPECIFICATIONS</b>		
<b>FAÇADE SPECIFICATIONS [5]</b>		
First Story Transparency [3]	15% to 40% <b>[A]</b>	
Upper Story Transparency [3]	15% to 40% <b>[B]</b>	
Primary Entrances	1 Enhanced Primary Entrance for each dwelling unit <b>[C]</b>	
Bays [4]	Each dwelling unit shall have a differentiated Bay <b>[D]</b>	
Façade Projections	Bay windows and balconies may extend up to 5' from the façade.	

- [1] The front lot line shall be deemed to be the edge of the adjacent public street right-of-way, or the edge of the adjacent sidewalk which is nearest the building (whether the sidewalk is then existing or is required as part of the site development under § 129-555 of this Code), whichever is farther from the center line of such right-of-way.
- [2] Street Wall is the percentage of the lot frontage that is occupied by a building façade established within the Required Front Building Line range.
- [3] Façade Transparency is the percentage of the façade required to have glazed openings of clear or lightly tinted glass, sufficient to provide views between the interior spaces and the streetscape. For street-level uses, this percentage shall be measured between 3.5' and 10' above street level. For upper stories this shall be measured between floor plates, and each story must satisfy the requirement independently.
- [4] Bays refer to the rhythm associated with the differentiation of the façade along the streetscape and the resulting scale of the building façade to pedestrians. The differentiation may be achieved by piers, pilasters, columns, differentiated secondary or trim materials or other architectural techniques that signify a different structural building element and mass so long as architectural syntax among bays is respected. [Reference Section 5.2 of the Urban Design Guidelines in the Village Master Plan for specific building design techniques for creating Bays.]
- [5] Façade specifications shall apply to any building front on a public street, or any other façade which fronts on open space located at the Required Front Building Line and opening to the public street.
- [6] At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.
- [7] All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

<b>STACKED FLAT BUILDING TYPE SPECIFICATIONS</b>		
Applicability		The Stacked Flat building type is permitted in any areas of the Village Overlay with a base zoning of Residence G and a Residential Frontage designation on the applicable Building and Development Regulating Plan.
<b>SITE SPECIFICATIONS</b>		
Required Lot Width	60' Minimum	[A]
Minimum Lot Depth	100'	[B]
Required Front Building Line [1]	Between 22' and 26'	[C]
Front Entrance Extensions	An Enhanced Primary Entrance feature may extend up to 8' beyond the constructed front building line of the building provided: [D] a. It occupies no more than 60% of the front facade on each lot; [E] b. It remains unenclosed, with no fixed windows or screens. c. Any roof structure on or associated with the feature is up to one and one-half stories; and d. It is designed as an extension of the primary building using the same foundation, building materials, architectural styles and ornamentation as the primary building	
Street Wall [2]	Between 65% and 100%	[F]
Minimum Side Setback	10% of the lot width or 10', whichever is less; Except that 15' shall be required if more than fifty percent (50%) of the side lot line abuts a lot zoned for, or having and existing lower intensity residential use.	[G]
Minimum Rear Setback	20'	[H]
Maximum % of Lot Coverage (building footprint)	60%, reduced by additional Open Space required by Section 129-554 for residential uses.	
Site Access - Vehicles	Vehicle access to individual lots is limited according to the street frontage type and as further specified in Section 129-555(d)	



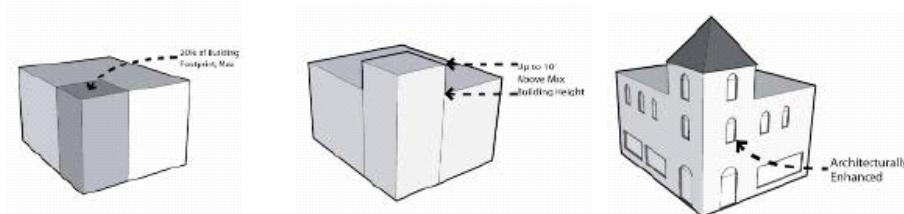
STACKED FLAT BUILDING TYPE SPECIFICATIONS		
MASS AND HEIGHT SPECIFICATIONS		
Maximum Height (external) [6]	1 story: 16' to eaves/cornice plus roof structure 2 story: 26' to eaves/cornice plus roof structure 3 story: 36' to eaves/cornice plus roof structure <b>[A]</b>  (actual permitted stories for individual sites is controlled by the applicable Building and Development Regulating Plan)	
Required Ground Floor Elevation	1.5' to 4' above grade at front building line <b>[B]</b>	
1 <sup>st</sup> Story Height (internal)	10' to 15' <b>[C]</b>	
Upper Story Heights (maximum)	12' Maximum <b>[D]</b>  (top story ceiling heights on the interior of the building may exceed the Maximum Internal Story Height provided the exterior of the structure maintains the Maximum Height specified above)	
Roof Structure Heights [7]	Flat: 2' to 4' parapet <b>[E]</b> Pitched (5:12, or more) 10' maximum; <b>[F]</b> Steep pitch (14:12 to 20:12) 16' maximum, <b>[G]</b> provided that no building shall exceed 46 feet in height Pitched Roof structures may have additional floor areas which may be occupied without counting towards the story maximum for purposes of the applicable Building and Development Regulating Plan, provided any additional floor area is:  a. associated with and accessory to the floor area of the top story; and b. limited so that areas with clear ceiling height of 7' or more is no more than 50% of the floor area of the story immediately below.	

STACKED FLAT BUILDING TYPE SPECIFICATIONS		
FAÇADE SPECIFICATIONS [5]		
First Story Transparency [3]	15% to 40% <b>[A]</b>	
Upper Story Transparency [3]	15% to 40% <b>[B]</b>	
Primary Entrances	1 Enhanced Primary Entrance for each building <b>[C]</b>	
Bays [4]	Differentiated bays are required a minimum of every 25' and a maximum of every 50'. <b>[D]</b>	
Façade Projections	Bay windows and balconies may extend up to 5' from the façade.	

- [1] The front lot line shall be deemed to be the edge of the adjacent public street right-of-way, or the edge of the adjacent sidewalk which is nearest the building (whether the sidewalk is then existing or is required as part of the site development under §129-555 of this Code), whichever is farther from the center line of such right-of-way.
- [2] Street Wall is the percentage of the lot frontage that is occupied by a building façade established within the Required Front Building Line range.
- [3] Façade Transparency is the percentage of the façade required to have glazed openings of clear or lightly tinted glass, sufficient to provide views between the interior spaces and the streetscape. For street-level uses, this percentage shall be measured between 3.5' and 10' above street level. For upper stories this shall be measured between floor plates, and each story must satisfy the requirement independently.
- [4] Bays refer to the rhythm associated with the differentiation of the façade along the streetscape and the resulting scale of the building façade to pedestrians. The differentiation may be achieved by piers, pilasters, columns, off-sets in the façade, differentiated primary materials or other architecture techniques that signify a different structural building element and mass so long as architectural syntax among bays is respected. [Reference Section 5.2 of the Urban Design Guidelines in the Village Master Plan for specific building design techniques for creating Bays.]
- [5] Façade specifications shall apply to any building front on a public street, or any other façade which fronts on open space located at the Required Front Building Line and opening to the public street.
- [6] At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.
- [7] All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

**(c) Building height exceptions.**

- (1) *Architectural features.* A height exception may be permitted for architectural features such as turrets, towers, or similar features on buildings two stories or less, based upon the following:
- The architectural feature may extend up to ten feet above the maximum allowed building height of the building but shall not include any additional stories;
  - The portion of the building receiving a height exception shall occupy no more than 20 percent of the building footprint.
  - The architectural feature shall be in appropriate proportion to, shall enhance and shall emphasize the design features of both the village and the building and shall include enhanced ornamentation such as decorative molding, articulated openings, or other architectural details that meet the design guidelines for the overall village as expressed in the village master plan; and
  - The architectural feature shall be located only at one of the following prominent locations that contribute to the overall design context of the village:
    - At the corner of two public streets;
    - On the block face opposite a "T" intersection with another public street and centered on that intersecting street; or
    - Fronting on a significant public or quasi-civic open space that has street frontage and is located and designed according to the village master plan.



- (2) *Ornamental features.* A height exception may be permitted for ornamental features on all buildings where such features do not exceed an additional six feet in height and where said feature is limited to the following: spires, chimneys, chimney pots, flag poles, and weather vanes.

(Ord. No. 1762, § 1(19-31-3), 2-25-2008; Ord. No. 1899, §§ 6, 7, 11-12-2013)

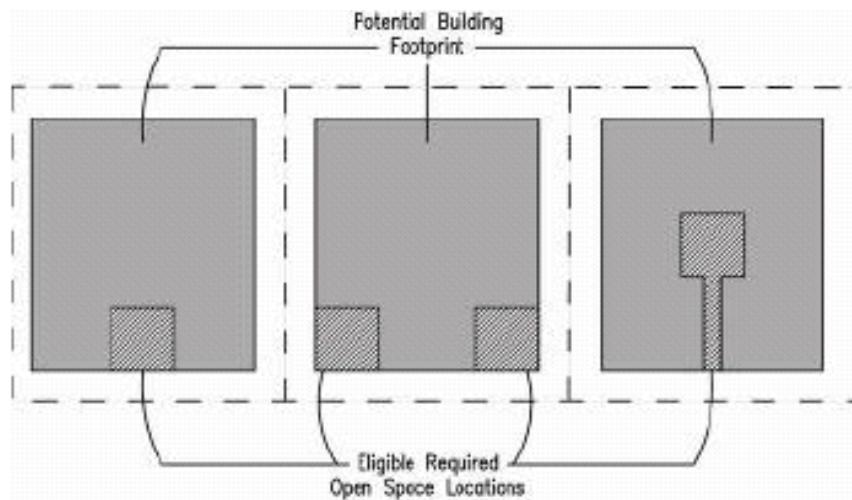
#### Sec. 129-554. - Open space standards.

- (a) *Objective.* The objective of these open space standards is to:
- Create civic amenities in the villages in exchange for any increased density or building intensity that is constructed under the village overlay standards;
  - Provide functional open space for occupants and patrons of buildings on all sites;
  - Require open space in relation to variations in the mass and orientation of buildings, that serves a purpose in the site plan and overall village-wide urban design; and
  - Create effective transitions between new buildings and the streetscapes of the village.
- (b) *Standards.* Lots shall contain public or quasi-public open space in addition to open space created implicitly by the operation of setbacks, maximum lot coverage or other building regulations. The required open space shall be

based upon the type of use and building type and mass based upon the following table. The required open space shall be in addition to any required setbacks for the lot and building type, and must occur within the otherwise allowable building footprint. All open space required for street-front and free-standing buildings shall be directly accessible from and located along the building frontage or accessible by a passage that breaks the facade along the building frontage. Open space required for townhouse or stacked flat building types may be located at any location within the otherwise allowable building footprint. Open space must be functional and should utilize the design guidelines for open space in the village master plans, but may not consist of parking areas, service areas or site utility areas. [refer to section 5.4, Open Space Design, of the Design Guidelines of the Village Master Plan for specific strategies for open space design].

Building Uses	Required Open Space
Ground-Level NonResidential Uses	No Requirement
Upper Level Nonresidential Uses	Ten percent of all upper level square footage
Residential Uses	100 square feet per dwelling unit*

\* For residential buildings, this open space may also be common or private open space according to the village master plans.



(Ord. No. 1762, § 1(19-31-4), 2-25-2008)

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 per 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
Fitness studios (including but not limited to yoga, Pilates, barre, and personal fitness), gyms, dance studios	One per 150
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.

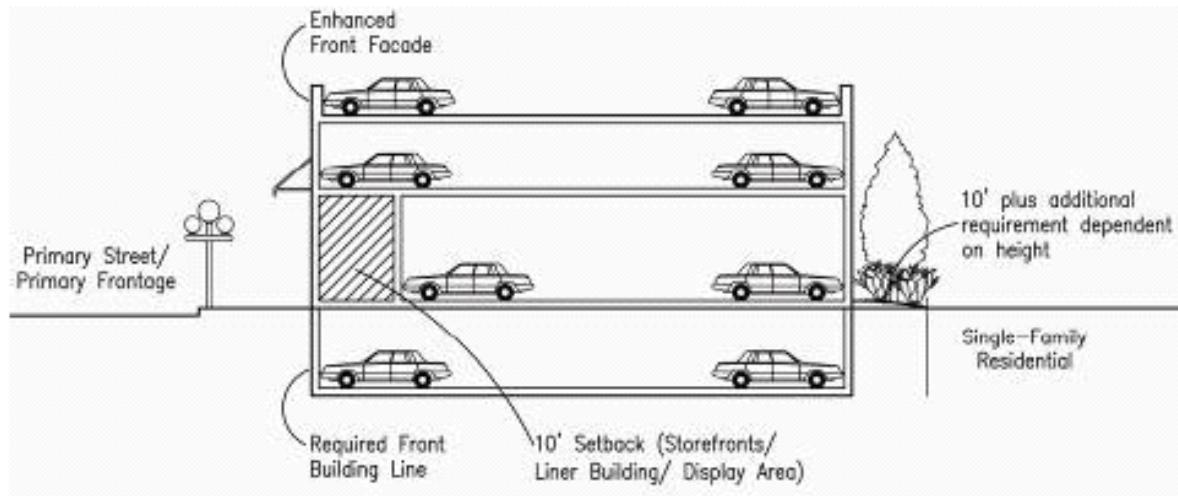
\* Per square feet of floor area exclusive of basements or areas used exclusively for storage, mechanical equipment, common interior areas.

(b) *Exceptions.*

(1) *Nonresidential exemption.* All new nonresidential construction may be exempt from the parking requirement provided:

- a. The new building replaces existing square footage. For buildings with expanded total square footage beyond square footage, parking for the expanded square footages shall be required at the rate specified in this section.
  - b. The new building does not eliminate existing onsite parking.
- (2) *Onstreet credit.* New and additional onstreet parking created as part of a development plan may be credited to the parking to the parking requirement of this section.
- (3) *Shared or offsite parking management agreement.* Shared parking may be applied to meet the requirements of this section subject to the following criteria:
- a. All landowners participating in the shared parking must execute an appropriate access agreement with respect to the shared parking location;
  - b. A written agreement executed by all parties participating in the sharing agreement must be presented to the city council, which may approve the agreement in its sole discretion;
  - c. All parking spaces shall be within reasonable proximity of the main entrance of any building for which the agreement is intended to benefit. Employee parking may warrant greater distances from the main entrance than parking for customers; and
  - d. The cumulative requirements of uses sharing the parking may be reduced for uses having different hours of operation or different peak periods of demand. The proposed reduction shall be based upon 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 the agreement; and
  - e. If any of the circumstances underlying an approved shared parking agreement change, including but not limited to the parties, the location of shared parking spaces, the number of parking spaces available, the number of parking spaces required, the type of business or use, an increase or reduction in parking spaces available onsite, or any other like change in circumstances, a revised written agreement executed by all parties participating in same must be presented to the council, which may approve the revised agreement in its sole discretion. A failure at any and all times to maintain a valid approved shared parking agreement shall constitute a violation of this article and will further constitute grounds for the revocation of the business license of any business utilizing the subject shared parking as the method of meeting the parking requirements in this section.
- (c) *Parking design.* Onsite parking in areas subject to the village overlay standards shall meet the following design standards.
- (1) Parking for all residential uses shall be located in the rear of any residential building, and no parking shall be permitted in any front yard or any side yard; provided, however, that required parking for visitors may be permitted in the front of any building if located onstreet and if said spaces are new spaces either dedicated or made available for public use.
  - (2) All surface parking shall be set back at least 30 feet from any primary street frontage, and screened from the streetscape by a liner building meeting the requirements of this article.
  - (3) All parking shall be setback at least eight feet from any secondary street frontage and screened from the streetscape by a landscape area or low decorative wall.

- (4) No setback is required for parking located off an access or service alley.
- (5) Any parking structure that is provided shall meet the following standards:
  - a. Street-level parking shall be set back at least ten feet from a primary street and be screened by liner buildings or display areas that meet the street-front building design requirements.
  - b. All upper-level parking, and street-level parking on secondary frontages may be up to the front building line provided that the facades shall otherwise meet all of the building standards and design guidelines applicable in the village.



- (6) Any parking that abuts a lot zoned for single-family use shall meet the following:
  - a. Surface parking shall be set back at least ten feet from the common lot line and be screened by a combination of a high intensity landscape buffer composed of primary plantings of at least six feet in height at installation and a solid fence or finished wall between six feet and seven feet in height.
  - b. Any parking structure shall be set back at least ten feet from the lot line, and an additional one foot for every two feet of parking structure that is above grade. This setback area shall be improved with a high intensity landscape buffer which provides a year-round screen of the structure.
- (d) *Vehicle access limitations.* Vehicle access to all lots subject to the village overlay standards shall be limited according to frontage type indicated on the applicable building and development regulating plan based upon the following standards:
  - (1) *Primary frontages.* Vehicle access is prohibited except for one mid-block shared access area providing access to multiple lots within the block, and not to exceed 20 feet in width. All other vehicle access to individual lots shall be via alleys or off secondary, access, or support streets identified in the master plan.
  - (2) *Secondary frontages.* Vehicle access is permitted subject to:
    - a. No more than 20 percent of the lot frontage shall be dedicated to vehicle access.
    - b. Access points shall be limited in width to no more than 24-foot wide per access point.
    - c. Individual access points shall be separated by at least 100 feet on center.
  - (3) *Support frontages.* No limitations.
  - (4) *Residential frontages.* Vehicle access points shall be limited to no more than 15 percent of the lot frontage.

Where this limitation prohibits vehicle access to individual lots, access shall be via a shared access or alley system.

- (5) *Drive-through facilities.* Drive-through facilities may be permitted only where ingress and egress is provided from a secondary or access street as identified in the master plan.
  - (6) *Waiver.* A waiver of these access limitations may be granted by the city council if it is based on an overall circulation plan for a development site and supported by a technical study that considers vehicle and pedestrian circulation comprehensively, including all blocks in the surrounding area and the village as a whole.
- (e) *Sidewalk standards.* Any development fronting on streets that do not currently have sidewalks shall include sidewalks in association with the site development according to the following:
- (1) Sidewalks on primary village street designated in the Circulation and Urban Design Plan of the Village Master Plan, adopted June 2007, shall be between eight-foot and 12-foot wide.
  - (2) Sidewalks on secondary village streets or village support streets designated in the Circulation and Urban Design Plan of the Village Master Plan, adopted June 2007, shall be between six-foot and eight-foot wide.
  - (3) Where streets do not contain onstreet parking that buffers pedestrians from moving traffic, the sidewalk shall be separated from the edge of the finished street by a landscape or light fixture/signage zone at least five-foot wide. Where onstreet parking exists or is added to the streetscape as part of the site development, the sidewalk may immediately abut the finished street edge.
  - (4) Enhancements such as landscaping and tree wells, pedestrian amenities and seating, or other streetscape elements may be added within the sidewalk or any landscape buffer areas, provided all areas of the sidewalk maintain a minimum five-foot clear area for pedestrian movement.
  - (5) The city council may grant exceptions to one or more of these standards, either allowing smaller sidewalks or waiving the requirement entirely, in the event it finds all of the following:
    - a. Strict compliance with these standards would lead to:
      1. An inappropriate design of the right-of-way and site according to sound urban design, planning, or landscape principles;
      2. A detriment to general public safety; or
      3. Excessive construction costs due to extreme and unusual topography or other site conditions.
    - b. The inability to meet the standards is due to unique conditions of the site; and
    - c. The degree of exception granted by the city council is the minimum necessary to result in an appropriate design of both the site and right-of-way on which the site fronts, and will not be detrimental to general transportation patterns along the street and through the village.

(Ord. No. 1762, § 1(19-31-5), 2-25-2008; Ord. No. 1976, § 1, 3-27-2017)

#### Sec. 129-556. - Material specifications.

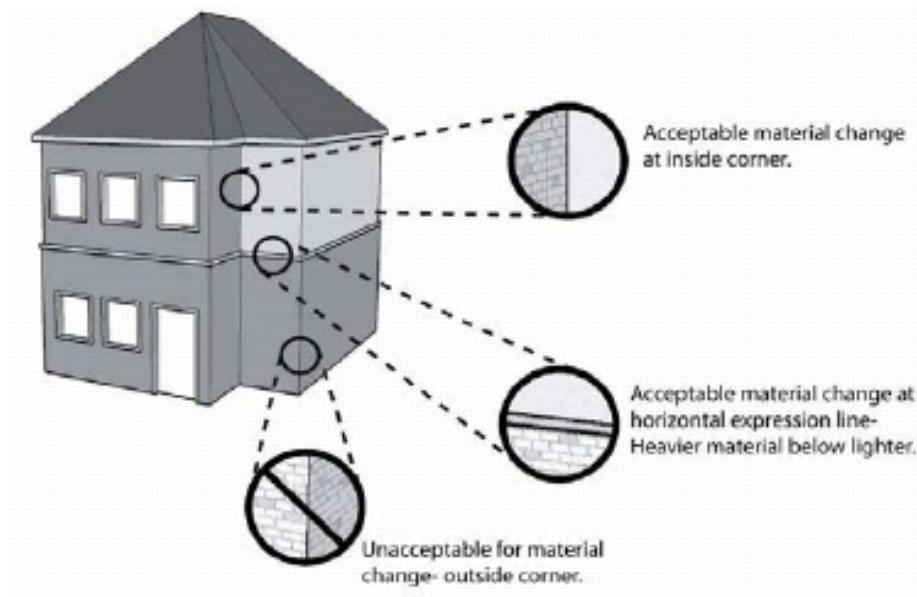
- (a) *Objectives.* The objectives of the material specifications are to:
- (1) Enhance the existing character of the villages through the use of materials and architectural styles that are

compatible to existing buildings throughout the village;

- (2) Permit flexibility and variety in architectural style, design and function while maintaining and promoting consistency with the overall form, scale and aesthetics of all of the buildings collectively in the villages;
- (3) To preserve the value and investment in buildings with quality and durable materials that complement the public investment in streetscapes and open spaces throughout the village.

**(b) Standards.**

- (1) All buildings shall have one primary material covering at least 70 percent of the building facades. Buildings may have a secondary material covering up to 20 percent of the facades. Building may have up to three accent or trim materials covering no more than 30 percent of the building facades, however no building shall use more than four materials for primary, secondary, and accent or trim combined.
- (2) Except for accent or trim materials, changes in the facade material shall only occur at horizontal expression lines, with the heavier material below the lighter material. Alternatively, changes in the material may occur to emphasize distinct forms or massing on the building if material changes occur only at inside corners.



- (3) Exterior materials shall be permitted in accordance with the following table:

Residential Building Materials		
Primary Materials	Secondary Materials	Accent/Trim Materials
Horizontal wood clapboard (or equal or better simulated material)	[Same as primary materials]	Any of the primary materials may be used as an accent material Wood trim (or equal or better simulated material)
Brick, unpainted with natural muted red, gray, or dark red tone,		Copper

with or without enhanced mortar techniques. Stone, unpainted with natural earth tones. Stucco (or equal or better simulated material) Wood shingles (or equal or better simulated material)		Wood panels or horizontal clapboard siding (or equal or better simulated material) Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)
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Nonresidential Buildings		
Primary Materials	Secondary Materials	Accent/Trim Materials
Brick, unpainted with natural muted red, gray, or dark red tone, with or without enhanced mortar techniques. Stone, unpainted with natural earth tones. Stucco (or equal or better simulated material).	Any of the primary materials may be used as secondary materials Horizontal wood clapboard (or equal or better simulated material) (natural or earth tones; or subtle or muted colors) Wood shingles (or equal or better simulated material) (natural or earth tones; or subtle or muted colors)	Any of the primary or secondary materials may be used as an accent material Wood trim (or equal or better simulated material) Copper Horizontal wood clapboard (or equal or better simulated material) Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)

- (4) *Equal or better simulated materials.* Where "equal or better" simulated materials are permitted, they shall only be permitted in the sole discretion of the planning commission, which shall require the review and recommendation of the design review committee prior to consideration of the request. The planning commission may permit "equal or better" simulated materials only where specified in the permitted materials section and upon finding that:

- a. The proposed material has an identical physical appearance as the material it is intended to simulate, including limited to color and texture;
  - b. The material presents benefits in addition to cost savings, such as reduced maintenance, or enhanced durability and performance;
  - c. The material has a demonstrated track record of successful application and use; and
  - d. Use of equal or better materials may be conditioned upon compliance with all application and manufacturer specifications.
- (5) *Alternative materials.* Materials other than those specified herein may be proposed for use to the planning commission, which shall first require the review and recommendation of the design review committee. The planning commission, in its sole discretion, may allow the use and installation of alternative materials when it finds that:
- a. Use of the proposed material advances the design objectives specified in this section;
  - b. The proposed material meets the "equal or better" standards in subsection (4)(a—d) for any material that it is similar to;
  - c. Use of the proposed material is consistent with the architectural style for the proposed building and will help achieve the objectives set forth in the Design Guidelines in section 5.0 of the Village Master Plan; and
  - d. Use of the proposed material is limited and does not introduce the potential to erode the overall character of the village if applied in a similar manner on other sites.

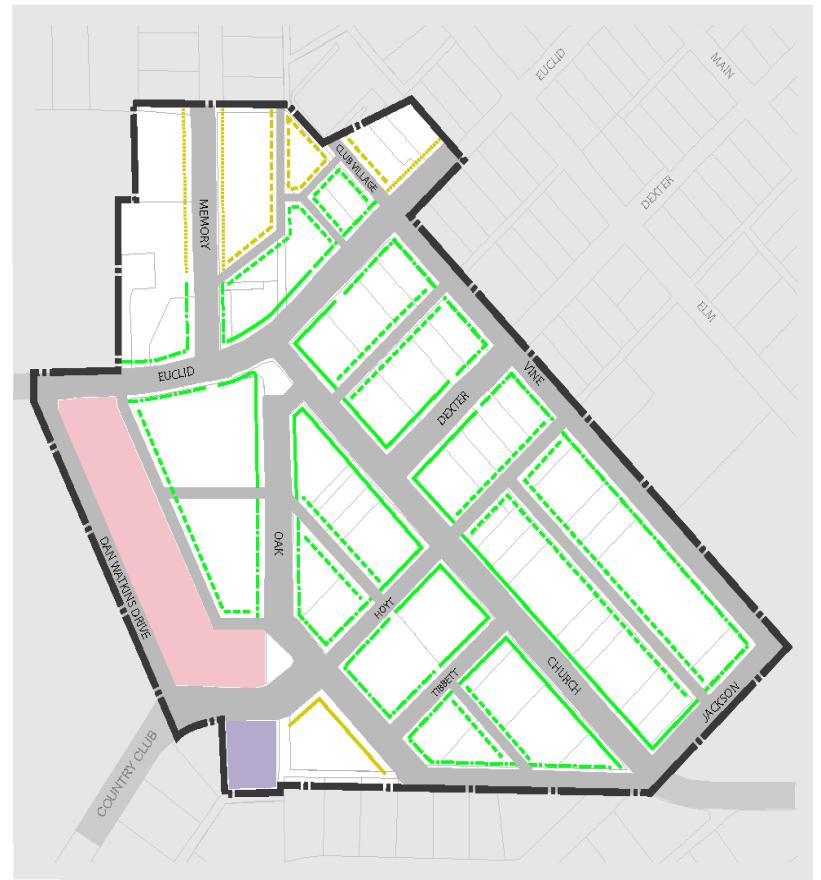
Sec. 129-557. - Village maps.

# City of MOUNTAIN BROOK

## CRESTLINE VILLAGE BUILDING AND DEVELOPMENT REGULATING PLAN

### BUILDING FRONTAGE TYPES

- Primary Frontage**
  - 2 story
  - 3 story
- Secondary Frontage**
  - 2 story
  - 3 story
- Support Frontage**
  - 2 story
  - 3 story
- Residential ("Neighborhood") Frontage**
  - 2 story
  - 3 story
- Village Boundary Line**
- Area controlled by base zoning districts standards only**
- Overlay standards Not applicable-area controlled by base zoning district standards and court decrees only.**



Revised Draft 11/02/2010

# City of MOUNTAIN BROOK

## MOUNTAIN BROOK VILLAGE Village Center BUILDING AND DEVELOPMENT REGULATING PLAN

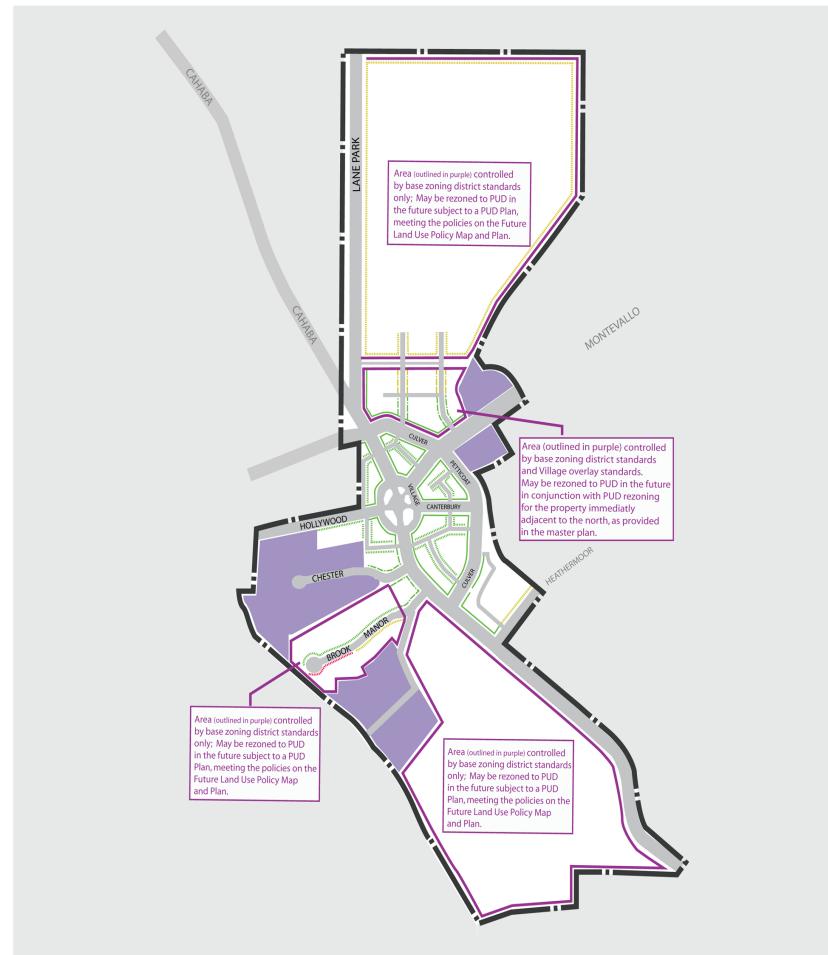
### BUILDING FRONTEAGE TYPES

- Primary Frontage**
  - 2 story
  - 3 story
- Secondary Frontage**
  - 2 story
  - 3 story
- Support Frontage**
  - 2 story
  - 3 story
- Residential ("Neighborhood") Frontage**
  - 2 story
  - 3 story
  - 4 story

— Village Boundary Line

■ Area controlled by base zoning districts standards only

Revised 01/28/08



# City of MOUNTAIN BROOK

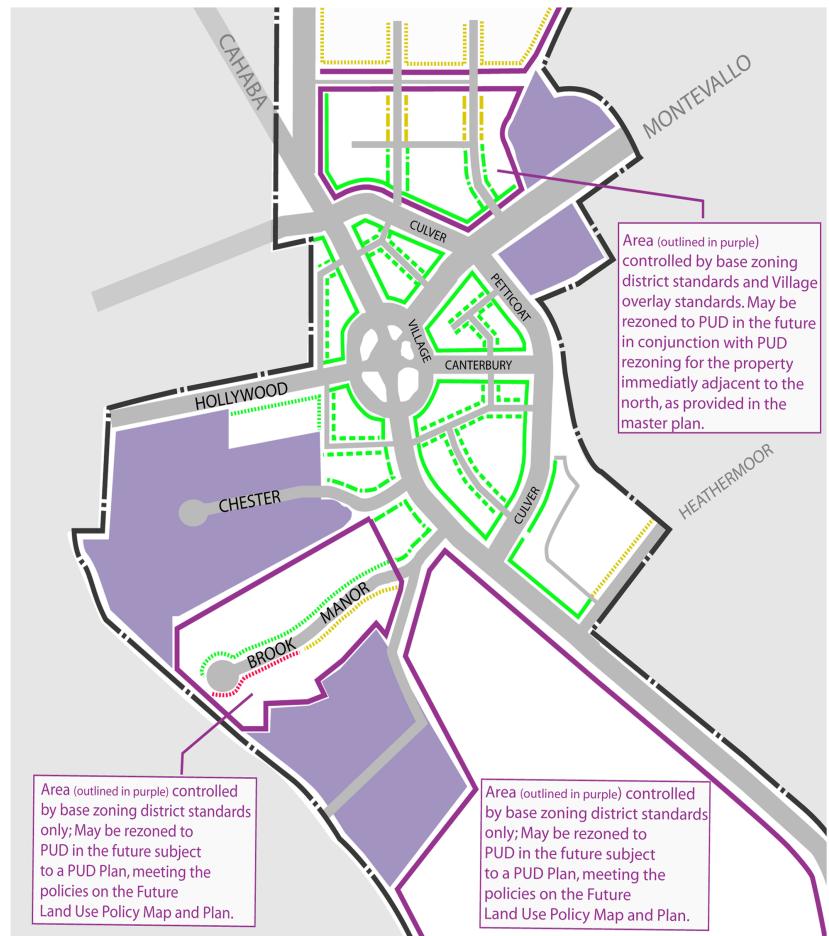
## MOUNTAIN BROOK VILLAGE Village Center

### BUILDING AND DEVELOPMENT REGULATING PLAN

#### BUILDING FRONTAGE TYPES

- Primary Frontage**
  - 2 story
  - 3 story
  - Secondary Frontage**
  - 2 story
  - 3 story
  - Support Frontage**
  - 2 story
  - 3 story
  - Residential ("Neighborhood") Frontage**
  - 2 story
  - 3 story
  - 4 story
- Village Boundary Line
- Area controlled by base zoning district standards only

Revised 01/28/08



# City of MOUNTAIN BROOK

## OVERTON VILLAGE BUILDING AND DEVELOPMENT REGULATING PLAN

### BUILDING FRONTAGE TYPES

Primary Frontage  
— 2 story  
— 3 story

Secondary Frontage  
— 2 story  
— 3 story

Support Frontage  
— 2 story  
— 3 story

Residential ("Neighborhood") Frontage  
— 2 story  
— 3 story

— Village Boundary Line

\* the Building and Development Regulating Plan should be updated to require primary building frontages on Overton Road for all frontages currently designated "support". This change should only occur in association with streetscape improvements to Overton Road, which includes on-street parking. (see implementation section 4 of the plan).



OV - 3-6

Overton Village - Adopted June 2007

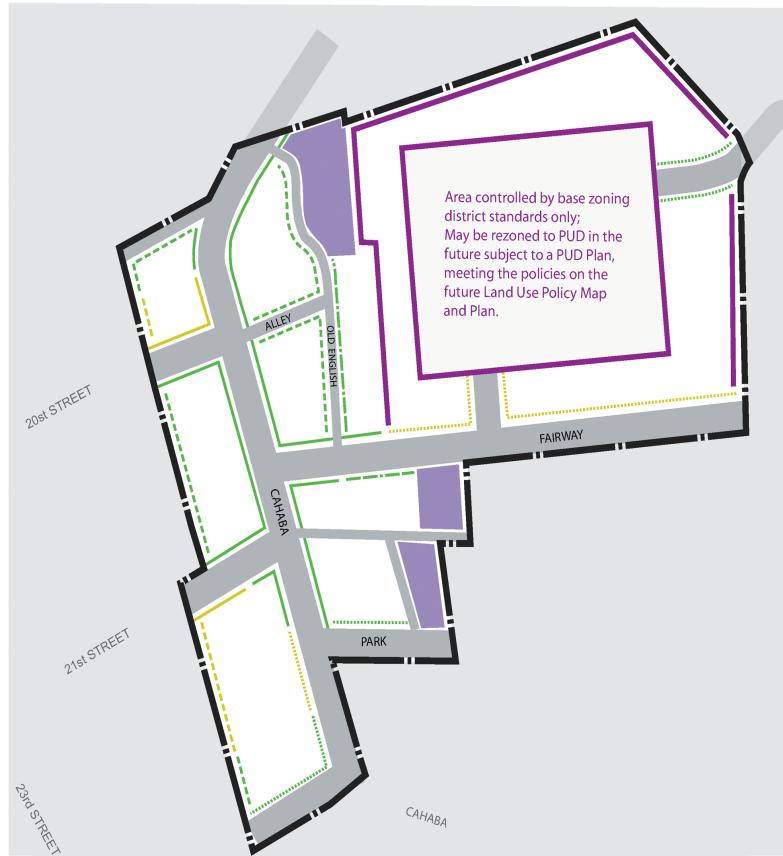
Villages By Design

# City of MOUNTAIN BROOK

## ENGLISH VILLAGE BUILDING AND DEVELOPMENT REGULATING PLAN

### BUILDING FRONTAGE TYPES

- Primary Frontage**  
— 2 story  
— 3 story
- Secondary Frontage**  
— 2 story  
— 3 story
- Support Frontage**  
— 2 story  
— 3 story
- Residential ("Neighborhood") Frontage**  
— 2 story  
— 3 story
- Village Boundary Line**
- Area controlled by base zoning districts standards only**



Revised 12/20/07

(Ord. No. 1762, § 1(19-31-6), 2-25-2008; Ord. No. 1834, § 1, 11-8-2010)

Secs. 129-558—129-570. - Reserved.

### ARTICLE XXXII. - VINE STREET TRANSITIONAL (VST) DISTRICT

Sec. 129-571. - Intent and purpose.

The Vine Street Transitional (VST) District is intended to provide compact, appropriate-scaled buildings along the west side of Vine Street in Crestline Village for detached single-family, attached single-family (townhouse dwelling), professional and business offices and mixed use (residential above office). The district may be applied to sites which can establish an effective transition from the Local Business District in Crestline Village to adjacent residential neighborhoods and the Crestline Elementary School site. The district is intended to provide a high degree of pedestrian connectivity within Crestline Village to increase accessibility and patronage of businesses, and to enhance the pedestrian character of Crestline Village.

The Vine Street Transitional (VST) District is also intended to emphasize lot frontages, and the orientation, location, and façade design of the buildings, as a key determinant of development that is transitionally compatible with the neighboring Local Business, Residence-A, Residence-C and Recreation Districts, and a key element in shaping the transitional character and streetscape of Vine Street in Crestline Village.

The VST District may be applied to those properties abutting the west side of Vine Street in Crestline Village, as that village is defined by reference to the village boundary line for Crestline Village in section 129-557 of the City Code.

(Ord. No. 1899, § 1, 11-12-2013)

Sec. 129-572. - Permitted uses.

The uses permitted in the Vine Street Transitional District shall be as follows:

- (1) Detached single-family dwellings;
- (2) Attached single-family dwellings (townhouse dwelling units);
- (3) Professional offices;
- (4) Business offices;
- (5) Mixed use, with residential uses above office uses;
- (6) The uses in any of the above permitted uses may be condominium units;
- (7) Accessory structures and accessory buildings customarily incidental to the above permitted uses.

(Ord. No. 1899, § 1, 11-12-2013)

Sec. 129-573. - Area and dimensional requirements.

(a) *Minimum dimensions of parcel.*

- (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 .....50 feet
- (3) Minimum number of feet of the parcel which must abut a street .....50 feet

(b) *Minimum yards and building setbacks.*

- (1) Minimum front (primary) yard setback .....5 feet
- (2) Minimum front (secondary) yard setback .....8 feet
- (3) Minimum rear yard setback .....5 feet
- (4) Minimum side yard setback:  
Zero feet if party wall;

Five feet for end units or a detached single-family dwelling.

- (5) An enhanced primary entrance feature may extend up to five feet beyond the permitted and constructed front building line of the building provided that:
  - a. It occupies no more than 30 percent of the front façade (primary or secondary) of the lot;
  - b. It remains unenclosed, with no fixed windows or screens;
  - c. Any roof structure on or associated with the feature is up to one and one-half stories;

- d. It is designed as an extension of the primary building using the same foundation, building materials, architecture and ornamentation as the primary building.

The front lot line shall be deemed to be the edge of the adjacent public right-of-way.

(c) *Building limitations.*

(1) Maximum building area:

For detached single-family dwellings: 60 percent of the total area of the parcel, reduced by additional open space required by section 129-554 for residential uses.

For attached single-family dwellings (townhouse dwellings): 80 percent of the total area of the parcel, reduced by additional open space required by section 129-554 for residential uses.

For office and mixed use: 80 percent of the total area of the parcel, reduced by additional open space required by section 129-554 for residential uses.

(2) Maximum building height .....36 feet

At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.

(3) Maximum number of stories .....none

(4) Maximum allowable density: One dwelling unit per 2,500 square feet of land contained in the parcel

(5) All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

(Ord. No. 1899, § 1, 11-12-2013; Ord. No. 1930, § 1, 2-23-2015)

Sec. 129-574. - Off-street parking.

- (a) Location of parking must be in accordance with section 129-555 of the village overlay standards.
- (b) Minimum off-street parking per dwelling unit: Two spaces.
- (c) Visitor and accessory parking for two or more attached single-family dwellings shall be one-half parking space per unit;
- (d) Surface parking, interior parking or parking structures for the dwelling units and for visitor or accessory parking shall meet the parking design and vehicle access limitations of section 129-555 of the village overlay standards.

(Ord. No. 1899, § 1, 11-12-2013)

Sec. 129-575. - Additional requirements.

- (a) *Compliance with village overlay standards.* All uses allowed in the VST District are excluded from the building type specifications in section 129-553 of the village overlay standards, but must otherwise conform to the remainder of the village overlay standards in its entirety.

- (b) *Exterior lighting.* If artificial illumination is provided for a parking area, it shall be arranged so as to shine and reflect from any adjacent residential areas and away from any streets adjacent to or near the parcel. No lighting fixtures used on any parking area shall be elevated more than 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.

(Ord. No. 1899, § 1, 11-12-2013)

Sec. 129-576. - Master development plan.

Each application for Vine Street Transitional zoning shall be accompanied by a master development plan. The master development plan shall contain the following information, in addition to the general requirements for a zoning amendment found in article XXV of the city's zoning ordinance:

- (1) Written documentation, including:
  - a. A legal description and confirmation of current zoning of the subject property.
  - b. The names and addresses of the applicant and owner of the property.
    1. If a corporation, the principal officers and members of the board of directors must be provided.
    2. If a partnership or limited liability company, general and managing partners must be provided.
      - i. A statement of development objectives to be achieved through the particular approach proposed by the applicant, including a detailed description of the character of the proposed development and its relationship to surrounding areas.
      - ii. The substance of covenants, easements, and other restrictions that will be imposed on the use of the subject property, structures, and other improvements.
      - iii. A statement describing how the proposed development will meet the objectives of the district and how it will minimize the impact of increased densities, both within the zone and for surrounding properties, and otherwise offset increased density.
      - iv. A written description of all efforts made to contact and discuss with neighboring residential property owners the proposed development, along with a general statement of neighborhood concerns and proposed actions to address said concerns.
  - (2) A site plan, which shall include the following items, either on the site plan or on an accompanying document.
    - a. North arrow, scale, size, boundary lines, and dimensions of the subject property;
    - b. Means of access to and from the development, including a delineation as to how said access is to be provided (e.g., identification of easements, etc.);
    - c. The areas to be devoted to each use if multiple uses are proposed;
    - d. The location, size, and character of any common spaces and improvements identifying the nature and type of material for such improvements, if applicable;
    - e. Streets, driveways, and sidewalks;
    - f. A grading plan identifying existing and proposed contours;

- g. A general landscape and buffer plan identifying the nature and type of materials proposed to be utilized;
- h. An exterior lighting plan;
- i. A preliminary drainage plan that indicates the location of proposed detention areas;
- j. Location and identification of all utilities, easements, and fire hydrants;
- k. General location of structures and the minimum floor area, height, and number of floors to be proposed in each dwelling;
- l. A rendering generally describing the conceptual character of the development and of individual structures, including examples of architectural styles and types of building materials to be utilized;
- m. Building setbacks from the boundaries of all property lines, proposed lot lines, public and private streets, and other buildings;
- n. The number, location, and size of all parking spaces and the locations thereof relative to the streets and driveways that provide access to and from the development; and
- o. Description of all paving materials for private improvements.

(Ord. No. 1899, § 1, 11-12-2013)

Sec. 129-577. - Review and approval process.

(a) *Application process and preliminary conference.*

- (1) Except as provided to the contrary in this ordinance, applications for zoning or rezoning property to the Vine Street Transitional (VST) classification shall follow the application procedures established for all zoning or rezoning applications.
- (2) At least 30 days prior to the first public meeting at which the proposed rezoning is to be considered, the applicant shall meet with the city's zoning officer to review the application and master development plan and to discuss any revisions thereto that would, in the view of the zoning officer, bring the plan into conformity with applicable city codes and ordinances, including the zoning ordinance, and which would better meet the objectives of this article.
- (3) Following the aforementioned meeting and any revision to the plan agreed to as a result thereof, the application shall be set for consideration by the planning commission at the earliest practicable date, taking into account any notice and hearing requirements that must be met in connection therewith.

(b) *Review by planning commission.* The approval process shall comply both with procedures set forth in article XXV of this chapter for a zoning amendment and any additional procedure required by this article. After submission of a master development plan by the applicant, the proposed Vine Street Transitional (VST) zoning proposal shall be placed on an agenda of the planning commission for consideration. The planning commission shall hold a public hearing on the Vine Street Transitional application and make a recommendation to the city council thereupon in accordance with article XXV, section 19-25-1, of the Mountain Brook City Code. The commission may consider all factors allowed by law in making its recommendation and should specifically consider the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the objectives of the city's master plan, and the purposes of the Vine Street Transitional District.

- (c) *Review by and final action by the city council.* Following action on the rezoning application by the planning commission shall forward its recommendation and any accompanying report on the application to the city council, along with the proposed master development plan and any related documents. After providing notice of the proposed rezoning and a public hearing thereupon in the manner provided by the City Code and by applicable law, the city council may approve the rezoning request (with accompanying master plan) as submitted, approve the rezoning request conditioned and amend and approve the rezoning request, or deny the rezoning request. In reviewing and acting on the rezoning request, the city council may consider any factor permitted by law, and specifically the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the city's master plan, and the purposes of the Vine Street Transitional District. In approving any application for Vine Street Transitional zoning, the council may impose such terms, conditions, restrictions, or limitations as it deems reasonable, appropriate, and necessary to meet the objectives of this ordinance or to protect and promote the health, safety, and welfare of the City of Mountain Brook.
- (d) *Binding effect of approved master development plan.* The master development plan that is required to be submitted with an application for zoning or rezoning shall be deemed an integral and essential element of any zoning or rezoning approved hereunder; and the plan, if and as modified and approved by the city council, shall be binding on the property and any subsequent development thereof unless and until the property is subsequently rezoned or modified in the manner prescribed by law; provided, however, that in order to accommodate such minor adjustments to the approved master development plan as may be required by engineering or other circumstances unforeseen at the time of its approval by the city council, the city's zoning officer is authorized to approve alterations to the master development plan which, in his opinion, are incidental or minor in scope, and which maintain the intent and character of the approved master development plan; further provided that, as an overlay district, approval of a Vine Street Transitional zoning classification shall not preclude use or development of property that is permitted under its underlying zoning classification.

(Ord. No. 1899, § 1, 11-12-2013)

Secs. 129-578—129-590. - Reserved.

#### ARTICLE XXXIII. - SHORT-TERM RENTALS

Sec. 129-591. - Intent and purpose.

- (a) The City of Mountain Brook is committed to maintaining and preserving the quality of its residential character, the housing stock and existing residential communities, scenic beauty, and the natural resources that are the foundation of its economic strength and quality of life.
- (b) The rental of residences for temporary occupancy has been identified as a community concern due to the potential for increased traffic, noise, high occupant turnover, and density in residential districts.
- (c) The number of occupants occupying short-term rentals has the potential to negatively impact the health and safety of residential neighborhoods and nearby residential properties.
- (d) The purpose of this article is to safeguard the peace, safety and general welfare of the residents of Mountain Brook.

Brook, and their visitors and guests, by eliminating noise, vandalism, overcrowding, high occupancy turnover, diminution of neighborhood character, and other effects that have become associated with the short-term rental of residential dwellings.

- (e) The restrictions established by this article are necessary to protect the integrity and residential character of the city's residential neighborhoods and the health and safety of the residents of Mountain Brook.
- (f) This article is required to prohibit the rental of residences and the promotion and advertisement of short-term rentals of residences for periods of less than 30 consecutive days, in order to protect the public health, safety, and welfare, and the existing community standards in the City of Mountain Brook relating to residentially zoned property.

(Ord. No. 1997, § 1, 8-14-2017)

#### Sec. 129-592. - Definitions.

For the purposes of this article, the following definitions shall apply:

*Advertise or advertisement.* Any written, electronic, or oral publication, dissemination, solicitation, or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the rental of a residence in violation of this article or other applicable provisions of the zoning ordinance of the City of Mountain Brook. This definition includes but is not limited to mailings, print advertisements, internet listings, e-mail publications, Facebook publications, or other oral, printed, or electronic means.

*Dwelling.* A building containing one 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 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.

*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 or more rooms forming a single residential unit.

*Enterprise.* Any corporation, association, firm, partnership, LLC, or other legal entity.

*Facilitate.* A person, operator, or enterprise "facilitates" if, acting with knowledge that an operator, managing agency or rental agent is committing or intends to commit the offense of renting a residence in violation of this article, the person or enterprise knowingly provides the operator, managing agency or rental agent with means or opportunity for the commission of said offense.

*Managing agency or rental agent.* A person, operator, enterprise, or agency representing the owner of the residence, or a person, enterprise or agency owning more than one residence.

*Operator.* A person or enterprise who is owner or proprietor of a residence, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, managing agency, rental agent, or any other capacity. Where the operator performs his or her functions through a managing agency of any type or character, or where the operator performs his or her functions through a managing agency or the rental agent, the operator has the same duties as its principal.

*Person.* Any individual or a group of individuals, enterprise, managing agency, rental agent, operator, or any entity.

*Remuneration.* Compensation, money, or other consideration given in return for occupancy, possession, or use of real property.

*Rent.* The consideration or remuneration charged whether or not received, for the occupancy or possession of space in a residence, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property or services of any kind.

*Rental.* An arrangement between a transient and an operator whereby rent is received in exchange for the right to possess a residential structure.

*Residence.* Any dwelling, dwelling unit, or structure (in whole or in part) located in any residential zoning district as defined in the zoning ordinance and zoning map of the City of Mountain Brook, including detached single family dwellings, attached single family dwelling, duplexes, and multi-family dwellings.

*Solicit.* A person "solicits" if, with the intent to promote or facilitate the short-term rental of a residence in violation of this article, or if such person commands, encourages, requests or solicits another person to engage in conduct which would constitute a violation of this article.

*Transient.* Those who reside, possess, or inhabit a residence (or a portion thereof) as defined by this article for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days.

(Ord. No. 1997, § 1, 8-14-2017)

#### Sec. 129-593. - Prohibited rental duration.

It shall be unlawful for any person to rent or possess to rent for any type of remuneration, any residence, as defined by this article, for a period of time of less than 30 consecutive days in duration to any transient.

(Ord. No. 1997, § 1, 8-14-2017)

#### Sec. 129-594. - Advertisement of short-term rentals of residences prohibited.

It shall be unlawful for any person to advertise, solicit, or facilitate the rental for a duration less than 30 consecutive days of any residence as defined by this article. Such activity is prohibited, whether by mailings, print advertisements, internet listings, or any other means for communicating such advertisement.

(Ord. No. 1997, § 1, 8-14-2017)

#### Sec. 129-595. - Vesting.

- (a) Existing short-term rentals (previously licensed by the City of Mountain Brook and operating in accordance with the terms of the city's municipal code at the time of business license issuance) as of September 11, 2017 shall be considered vested short-term rentals only as related to contracts entered into prior to July 24, 2017. Rental/lease agreements that were entered into prior to the July 24, 2017, as evidenced by a written and validly executed rental agreement or contract provided to the city zoning administrator no later than October 11, 2017 shall be considered vested.

## (b) Vesting shall:

- (1) Apply only to date specific contracts entered into in accordance with the terms of the city's municipal code at the time of license issuance;
  - (2) Not apply to renewals of existing rental agreements or contracts which are at the option of either of the parties.
- (c) A vested contract/lease transferred to a subsequent owner shall continue to be vested, but shall not be transferred to a different short-term rental property.

(Ord. No. 1997, § 1, 8-14-2017)