

Planning Commission Meeting
Tuesday, October 11, 2016
6:00 PM

AGENDA

1. Welcome And Introduction
2. Approval Of Minutes

September 13, 2016

3. Old Business
4. New Business

4.I. 3037 Oakdale Road Subdivision Plat Review

Documents:

[WEB - 3037 OAKDALE ROAD, SUBDIVISION PLAT REVIEW.PDF](#)

4.I.i. Public Comment

4.II. 301 North Central Avenue Subdivision Plat Review

Documents:

[WEB - 301 NORTH CENTRAL AVENUE, SUBDIVISION PLAT.PDF](#)

4.II.i. Public Comment

4.III. Halfway House Ordinance Text Amendment

Documents:

[WEB - HALFWAY HOUSE ORDINANCE PT. 2.PDF](#)

4.III.i. Public Comment

4.IV. Fireworks Ordinance Text Amendment

Documents:

[WEB - FIREWORKS ORDINANCE.PDF](#)

4.IV.i. Public Comment

4.V. Pavement Surfacing Definitions Ordinance Text Amendment

Documents:

[WEB - PAVEMENT SURFACING ORDINANCE.PDF](#)

4.V.i. Public Comment

5. Open Discussion

- LCI/Comprehensive Plan Update

5.I. Public Comment

6. Next Meeting Date - November 8, 2016 At 6:00PM

7. Adjourn



Department of Planning & Zoning

MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman
FROM: Bill Johnston, City Planner
SUBJECT: Final Subdivision Plat for 3037 Oakdale Road
DATE: Wednesday, 5 October 2016

Findings

Mr. Devan Klucas, applicant and owner, has submitted a Final Plat that will subdivide an existing lot at 3037 Oakdale Road into four lots. Lot 3, a new lot, is developed as a single family detached dwelling. The property is zoned R-1, One-Family Residential. Mr. Klucas cites future development of the property as the reason for the proposed re-subdivision.

As seen in Sec. 93-22.1-1. *Chart of dimensional requirements*, minimum lot size in the R-1 Zone is 6,750 square feet; minimum front yard setback is 15 feet, side yard is 5 feet and rear yard is 25 feet. Minimum lot frontage is 50 feet. One of the proposed lots will back up to I-85. Lot 1 correctly reflects the “double front yard setback” of 15 feet as 3037 Oakdale is a corner lot and Lot 1, fronting on Hope Street and Oakdale, will be as well.

Subdivision Process

Chapter 90. Subdivisions, Sec. 90-1-2. *Procedure for plat approval*, subsection (g) provides a Short-cut Procedure: “Subdivisions that do not involve the creation of new streets or installation or dedication of infrastructure may be submitted as final plats without the necessity of preliminary plat approval.” Final plat requirements are found in subsection (f) Final plat and include the following information; any deficiencies are underlined:

a. The lines of all streets, roads, and alleys, lot lines, building setback lines, lots numbered in numerical order, house numbers, reservations, easements and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.

This standard is met except that the rear yard setback on Lots 1 and 2 are labeled incorrectly as 15 feet rather than the scaled distance of 25 feet. All standards of Sec. 93-22.1-1 are met.

b. Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including the true north point. This shall include the radius, central angle and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.

Brian Wismer, Planning Commission Chair
Final Subdivision Plat for 3037 Oakdale Road
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This standard is met, subject to confirmation by the City Engineer.

c. All dimensions to the nearest 100th of a foot and angles to the nearest minute.

This standard is met.

d. Location and description of monuments.

This standard is met, subject to confirmation by the City Engineer.

e. The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining property.

This standard is met.

f. Date, title, name and location of subdivision, graphic scale and true north point.

This standard is met.

g. Location map showing site in relation to area.

This standard is met.

h. Certification showing that the applicant is the landowner or legally authorized representative and dedicates streets, rights-of-way, improvements and any sites for public use. Certification form must comply with the following: Owner's Acknowledgement and Dedication. For example, the required language is reprinted below:

The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey, and dedicates by this Declaration to the use of the public forever all streets, easements, sanitary sewers and appurtenances, potable water mains and appurtenances, storm drains and appurtenances, and other public facilities and appurtenances thereon shown.

This standard is met as it contains the certificate in Ordinance 2014-11.

i. Certification by the landowner acknowledging that the City assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent of the street right-of-way, or for the extension of culverts beyond the point shown on the approved and recorded subdivision plat and that the City does not assume responsibility for maintenance of pipes and drainage ditches in drainage easements beyond the City right-of-way. Structures other than storm drainage structures are not permitted in drainage easements.

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This standard is met as it contains the certificate in Ordinance 2014-11.

j. Certification by land surveyor or engineer to accuracy of survey and plat and placement of monuments.

This standard is met as it contains the certificate in Ordinance 2014-11.

k. Certification of Final Plat Approval

This standard is met as it contains the certificate in Ordinance 2014-11.

Recommendation

Based on the above findings, approval of the final plat is appropriate, subject any stipulations identified by the City Engineer and satisfaction of the single deficiency underlined above. The plat must be renamed as a “Final Plat” rather than a “Proposed Sketch Plat.”

c: Commissioner Travis Horsley, Vice Chair
Commissioner Lucy Dolan
Commissioner Mark Farah
Commissioner Kaity Ferrero
Commissioner Jeanne Rast
Commissioner Charlotte Rentz
Adrienne Senter, Planning Commission Secretary

Brian Wismer, Planning Commission Chair
Final Subdivision Plat for 3037 Oakdale Road
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Location Map



**CITY OF HAPEVILLE
COMMUNITY SERVICE DEPARTMENT
SUBDIVISION APPLICATION**

Name of Applicant Devan Klucas

Mailing Address 3037 Oakdale RD Hapeville, GA 30354

Telephone _____ Mobile _____

Email _____

Property Owner (s) Devan Klucas

Mailing Address 3037 Oakdale RD Hapeville, GA 30354

Telephone _____ Mobile _____

Address/Location of Property:
3037 Oakdale RD Hapeville, GA 30354

Present Zoning Classification: R-1

Present Land Use: residential

Parcel ID #: 14 0099 LL0269

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered to. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

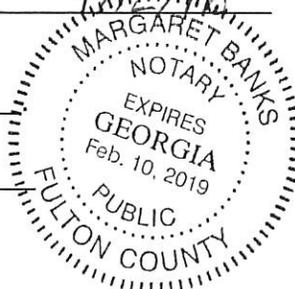
Devan Klucas
Applicant's signature

Date: 9/12/16

Sworn to and subscribed before me

This 12th day of September, 2016

Margaret Banks
Notary Public



Final Plat Checklist

A Final Plat is a legal document, once approved and signed by the Hapeville Planning Commission, can be recorded with Fulton County Superior Court. Only a final plat legally subdivides a parcel. Filing with the County will establish the new deed for the property and assign tax parcel identification information. To be considered, a Final Plat must contain the following information:

- The lines of all streets and roads, alley lines, lot lines, building setback lines, lots numbered in numerical order, house numbers, reservations, easements and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
- Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including true north point. This shall include the radius, central angle and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
- All dimensions to the nearest 100th of a foot and angles to the nearest minutes.
- Location and description of monuments.
- The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining unsubdivided property.
- Date, title, name and location of subdivision, graphic scale and true north point.

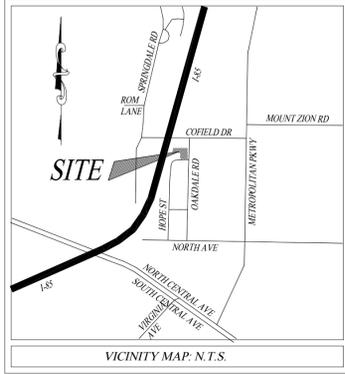
Please initial each item on the list above certifying that all required information has been included on the plat. Sign and submit this form with your Final Plat application. Failure to include this form and information required herein may result in additional delays for the consideration of your application.

Supplemental Documents for Final Plat:

- Certification showing that the applicant is the landowner or legally authorized representative and dedicates streets, rights-of-way and any sites for public use.
- Certification by surveyor or engineer to accuracy of survey and plat and placement of monuments.
- Certification by the City Engineer that the subdivider has complied with one of the following alternatives:
 1. All improvements have been installed in accord with the requirements of the regulations; or
 2. A security bond has been posted in sufficient amount to ensure the completion of all required improvements.
- Certification of approval to be signed by the secretary of the Planning Commission following the approval of the final plat.

Once a Final Plat has been approved and signed by the Chair of the Hapeville Planning Commission, the applicant may pick up copies of the plat for filing with Fulton County Superior Court at 136 Pryor Street, Atlanta, GA 30303. Once filed and stamped by the recorder's office, a copy should be returned to the Hapeville Department of Community Service to be held on file.

Applicant Signature: Dwain King Date 9/12/16

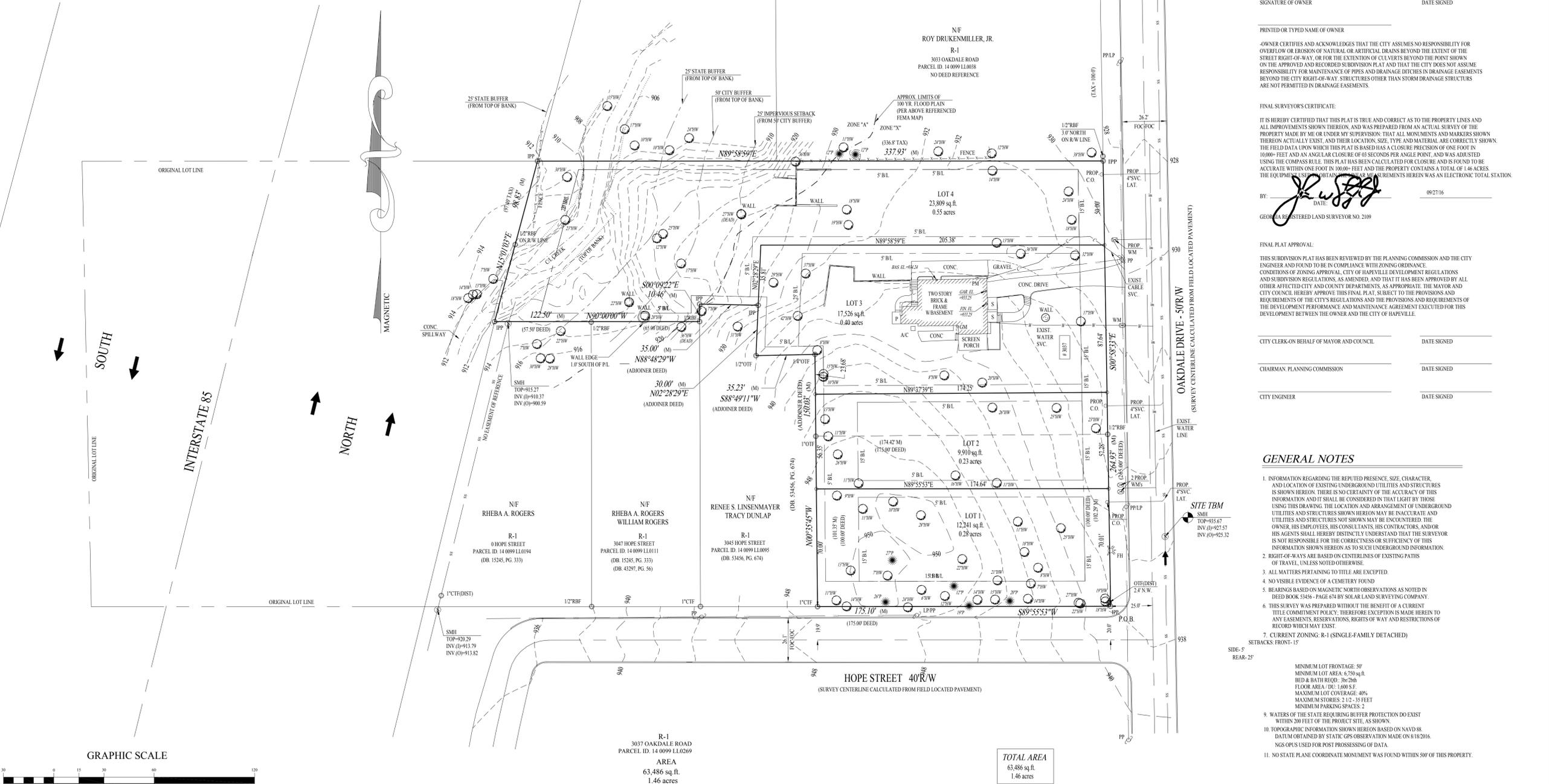


FLOOD STATEMENT

BY FIELD LOCATION, THE SUBJECT PROPERTY DOES FALL WITHIN A 100 YEAR FEDERALLY DESIGNATED FLOOD HAZARD AREA. THE SUBJECT PROPERTY FALLS IN ZONE "A" & "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 131210366 F - EFFECTIVE DATE 9/18/2013.

LEGEND

IPF	IRON PIN FOUND	CMF	CONCRETE MONUMENT FOUND
OT	OPEN TOP PIN	OHLL	OVERHEAD UTILITY LINES
CT	CRIMP TOP PIN	SMH	SEWER MAN HOLE
RB	REINFORCING BAR	MHT	MAN HOLE TELEPHONE
CL	CENTERLINE	CB	CATCH BASIN
RW	RIGHT-OF-WAY	JB	JUNCTION BOX
LL	LAND LOT	DI	DROP INLET
L	LINE	LLL	LAND LOT LINE
R	RADIUS	IW	HEAD WALL
CONC	CONCRETE	CMP	CORRUGATED METAL PIPE
C	CURVE	RCP	REINFORCED CONCRETE PIPE
CO	CLEAN OUT	CD	CROSS DRAIN
PP	POWER POLE	SSE	SANITARY SEWER EASEMENT
SP	SERVICE POLE	DE	DRAINAGE EASEMENT
GV	GAS VALVE	FH	FIRE HYDRANT
GM	GAS METER	WV	WATER VALVE
LP	LIGHT POLE	WM	WATER METER
SS	SANITARY SEWER	PC	POINT OF CURVE
NAC	NAIL & CAP	POB	POINT OF BEGINNING
FC	FENCE CORNER	POC	POINT OF COMMENCEMENT
-X-X-	FENCE	PI	POINT OF INTERSECTION
M	MEASURED	D	DEED
P	PLAT	IPP	IRON PIN PLACED (1/2" REBAR)



PROPOSED SKETCH PLAT OF:
#3037 OAKDALE ROAD
FULTON COUNTY PARCEL ID: 14 0099 LL0269
LOCATED IN LAND LOT 99 - 14th DISTRICT
CITY OF HAPEVILLE, FULTON COUNTY, GEORGIA

OWNERS ACKNOWLEDGEMENT AND DEDICATION:
(STATE OF GEORGIA)
(FULTON COUNTY)
THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED THEREON, AND IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, ACKNOWLEDGES THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY, AND DEDICATES BY THIS DECLARATION TO THE USE OF THE PUBLIC FOREVER ALL STREETS, EASEMENTS, SANITARY SEWERS AND APPURTENANCES, POTABLE WATER MAINS AND APPURTENANCES, STORM DRAINS AND APPURTENANCES, AND OTHER PUBLIC FACILITIES AND APPURTENANCES THEREON SHOWN.

SIGNATURE OF SUBDIVIDER _____ DATE SIGNED _____

PRINTED OR TYPED NAME OF SUBDIVIDER _____

SIGNATURE OF OWNER _____ DATE SIGNED _____

PRINTED OR TYPED NAME OF OWNER _____

OWNER CERTIFIES AND ACKNOWLEDGES THAT THE CITY ASSUMES NO RESPONSIBILITY FOR OVERFLOW OR EROSION OF NATURAL OR ARTIFICIAL DRAINS BEYOND THE EXTENT OF THE STREET RIGHT-OF-WAY OR FOR THE EXTENSION OF CURBS BEYOND THE POINT SHOWN ON THE APPROVED AND RECORDED SUBDIVISION PLAT AND THAT THE CITY DOES NOT ASSUME RESPONSIBILITY FOR MAINTENANCE OF PIPES AND DRAINAGE DITCHES IN DRAINAGE EASEMENTS BEYOND THE CITY RIGHT-OF-WAY. STRUCTURES OTHER THAN STORM DRAINAGE STRUCTURES ARE NOT PERMITTED IN DRAINAGE EASEMENTS.

FINAL SURVEYOR'S CERTIFICATE:

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT AS TO THE PROPERTY LINES AND ALL IMPROVEMENTS SHOWN THEREON, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION. THAT ALL MONUMENTS AND MARKERS SHOWN THEREON ACTUALLY EXIST, AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 100,000 FEET AND AN ANGULAR CLOSURE OF 07 SECONDS PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000 FEET AND THE PROPERTY CONTAINS A TOTAL OF 1.46 ACRES. THE EQUIPMENT USED IN THIS SURVEY AND THE INSTRUMENTS HEREIN WAS AN ELECTRONIC TOTAL STATION.

BY: *[Signature]* DATE: 09/27/16
GEORGIA REGISTERED LAND SURVEYOR NO. 2109

FINAL PLAT APPROVAL:

THIS SUBDIVISION PLAT HAS BEEN REVIEWED BY THE PLANNING COMMISSION AND THE CITY ENGINEER AND FOUND TO BE IN COMPLIANCE WITH ZONING ORDINANCE. CONDITIONS OF ZONING APPROVAL, CITY OF HAPEVILLE DEVELOPMENT REGULATIONS AND SUBDIVISION REGULATIONS, AS AMENDED, AND THAT IT HAS BEEN APPROVED BY ALL OTHER AFFECTED CITY AND COUNTY DEPARTMENTS, AS APPROPRIATE. THE MAYOR AND CITY COUNCIL HEREBY APPROVE THIS FINAL PLAT, SUBJECT TO THE PROVISIONS AND REQUIREMENTS OF THE CITY'S REGULATIONS AND THE PROVISIONS AND REQUIREMENTS OF THE DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT EXECUTED FOR THIS DEVELOPMENT BETWEEN THE OWNER AND THE CITY OF HAPEVILLE.

CITY CLERK ON BEHALF OF MAYOR AND COUNCIL _____ DATE SIGNED _____

CHAIRMAN, PLANNING COMMISSION _____ DATE SIGNED _____

CITY ENGINEER _____ DATE SIGNED _____

GENERAL NOTES

- INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, HIS CONTRACTORS, AND/OR HIS AGENTS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION SHOWN HEREON AS TO SUCH UNDERGROUND INFORMATION.
- RIGHT-OF-WAYS ARE BASED ON CENTERLINES OF EXISTING PATHS OF TRAVEL, UNLESS NOTED OTHERWISE.
- ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED.
- NO VISIBLE EVIDENCE OF A CEMETERY FOUND.
- BEARINGS BASED ON MAGNETIC NORTH OBSERVATIONS AS NOTED IN DEED BOOK 5346 - PAGE 674 BY SOLAR LAND SURVEYING COMPANY.
- THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT POLICY. THEREFORE EXCEPTION IS MADE HEREIN TO ANY EASEMENTS, RESERVATIONS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD WHICH MAY EXIST.
- CURRENT ZONING: R-1 (SINGLE-FAMILY DETACHED)
- SETBACKS: FRONT - 15'
SIDE - 5'
REAR - 25'
- MINIMUM LOT FRONTAGE: 50'
MINIMUM LOT AREA: 6,750 sq. ft.
BED & BATH REQ: 300 sq. ft.
FLOOR AREA (D): 1,800 S.F.
MAXIMUM LOT COVERAGE: 40%
MAXIMUM STORIES: 2 1/2 - 35 FEET
MINIMUM PARKING SPACES: 2
- WATERS OF THE STATE REQUIRING BUFFER PROTECTION DO EXIST WITHIN 200 FEET OF THE PROJECT SITE, AS SHOWN.
- TOPOGRAPHIC INFORMATION SHOWN HEREON BASED ON NAVD 88 DATUM OBTAINED BY STATIC GPS OBSERVATION MADE ON 8/18/2016. NGS OPUS USED FOR POST PROCESSING OF DATA.
- NO STATE PLANE COORDINATE MONUMENT WAS FOUND WITHIN 500' OF THIS PROPERTY.

IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MAXIMUM STANDARDS AND REQUIREMENTS OF THE LAW OF THE STATE OF GEORGIA.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67, AUTHORITY O.C.G.A. SECS. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

SOLAR LAND SURVEYING COMPANY
P.O. BOX 723993 ATLANTA, GEORGIA 31139-0993
TELEPHONE (770) 794-9055 FAX (770) 794-9052

DATE	08/25/16	SCALE	1" = 30'
CITY	FULTON	COUNTY	GEORGIA
SECTION	99	DISTRICT	14th
BLOCK		LOT	
OWNER	DEVAN KLUCAS	PREPARED BY	DEVAN KLUCAS
REVISION		DATE	
PERC. COMMENTS		PH	9/27/16

SECTION	99	UNIT	
DISTRICT	14th	BLOCK	
LOT		LOT	
OWNER	DEVAN KLUCAS	PREPARED BY	DEVAN KLUCAS
REVISION		DATE	
PERC. COMMENTS		PH	9/27/16

ABOVE THE GROUND AS BUILT SURVEY PREPARED BY: **DEVAN KLUCAS**

OWNER/PURCHASER: **DEVAN KLUCAS**

LAND LOT: 99

LOT: (CITY OF HAPEVILLE)

DRAFTED: _____ DISC #:

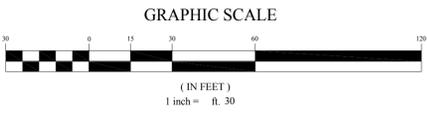
PLOTTED: _____

APPROVED: _____

PLAT BOOK: _____ PAGE: _____

DEED BOOK: 54363C PAGE: 29

PROFESSIONAL LAND SURVEYOR
No. 2109
09/27/16
DEVAN KLUCAS



This plat was prepared by the Surveyor in accordance with the Georgia Surveying and Mapping Act of 1997, as amended. This plat does not constitute any warranty of accuracy, and the Surveyor assumes no liability for any errors or omissions in this plat.

ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED



Department of Planning & Zoning

MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman
FROM: Bill Johnston, City Planner
SUBJECT: Final Subdivision Plat for 301 North Central Avenue
DATE: Thursday, 6 October 2016

Background

Raj A. Patel, owner of Apsilon Management, Inc., has submitted a Final Plat that subdivides a 5.00-acre tract into Lot #1 having an area of 2.86 acres and Lot #2 having an area of 2.15 acres. As you may recall, Planning Commission considered the site plan for redevelopment of this site at the October 2015 meeting. A 112-room, 5-story "Holiday Inn Express" hotel is planned on Lot #2. A two-story hotel previously on this lot has been demolished to accommodate the 5-story hotel. Lot # 1 is the location of a one-story restaurant facility and an 11-story "Best Western" hotel. The property is zoned C-2 General Commercial.

Findings

The property is situated at the I-75 right-of-way and North Central Avenue with access from North Central. As Lot #2 will have no frontage on North Central Avenue, a 50-foot "Ingress and Egress" easement across Lot #1 is proposed. This easement runs along the rear of the Best Western Hotel and uses the existing driveway on North Central Avenue. An easement has also been recorded allowing vehicular access to Sunset Drive across neighboring St. John's the Evangelist Catholic Church and McDonald's. That easement is not involved in the proposed subdivision.

As concerns parking, the total number of rooms in the two hotels is 258, requiring 258 parking spaces. The restaurant floor area is 12,770 square feet yielding a parking requirement of 64 spaces. The total number of required parking spaces is 322; 322 spaces are available on Lots #1 and #2. A cross easement for parking, in addition to the "Ingress and Egress" easement, will be depicted on the plat. The plat also depicts an outparcel at the I-75 right-of-way which is designated as a billboard parcel.

As noted in the October 9, 2015 site plan report, the proposed 5-story hotel exceeds the maximum building height of the C-2 Zone:

a. The locations, size and height of all existing and proposed structures on the site.

The existing 11-story hotel contains 146 rooms; the proposed hotel is 5-story building and 112 rooms. Building locations are depicted on the site plan; all setbacks which are 15 feet, 0 feet and 0 feet for the front, side and rear yards, respectively, are met by the proposed construction.

Sec. 93-22.1-1. *Chart of dimensional requirements* establishes a maximum building height of 40 feet in the C-2 Zone. The proposed hotel exceeds this maximum building height.

Subdivision Process

Chapter 90. Subdivisions, Sec. 90-1-2. Procedure for plat approval paragraph (g) provides a Short-cut Procedure: "Subdivisions that do not involve the creation of new streets or installation or dedication of infrastructure may be submitted as final plats without the necessity of preliminary plat approval." Final plat requirements are found in paragraph (f) Final plat and include the following information:

a. The lines of all streets, roads, and alleys, lot lines, building setback lines, lots numbered in numerical order, house numbers, reservations, easements and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.

This standard is met.

b. Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including the true north point. This shall include the radius, central angle and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.

This standard is met, subject to confirmation by the City Engineer.

c. All dimensions to the nearest 100th of a foot and angles to the nearest minute.

This standard is met.

d. Location and description of monuments.

This standard is met, subject to confirmation by the City Engineer.

e. The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining property.

This standard is met.

Brian Wismer, Planning Commission Chair
Final Subdivision Plat for 301 North Central Avenue
Thursday, 6 October 2016
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f. Date, title, name and location of subdivision, graphic scale and true north point.

This standard is met.

g. Location map showing site in relation to area.

This standard is met.

h. Certification showing that the applicant is the landowner or legally authorized representative and dedicates streets, rights-of-way, improvements and any sites for public use.

This standard is met with the exception of a line for "Printed or Typed Name of Owner" which is now indicated as Oakdale Rd. L.L.C.

i. Certification by the landowner acknowledging that the City assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent of the street right-of-way, or for the extension of culverts beyond the point shown on the approved and recorded subdivision plat and that the City does not assume responsibility for maintenance of pipes and drainage ditches in drainage easements beyond the City right-of-way. Structures other than storm drainage structures are not permitted in drainage easements.

This standard is met.

j. Certification by land surveyor or engineer to accuracy of survey and plat and placement of monuments.

This standard is met.

k. Certification of Final Plat Approval

This standard is met.

Recommendation

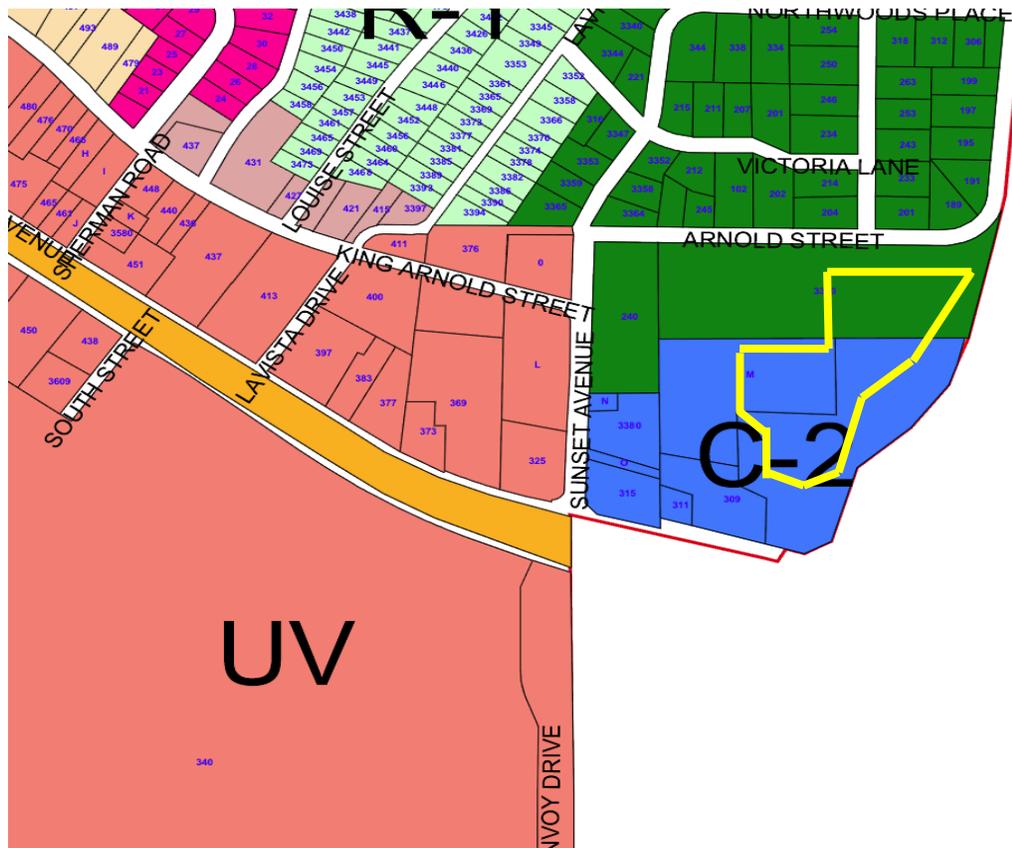
Based on the above findings, approval of the final plat is appropriate, subject any stipulations identified by the City Engineer and the following conditions:

1. Sec. 93-22.1-1. *Chart of dimensional requirements* states “Buildings over 40 feet in height must be approved by the building official and fire chief to ensure that fire safety design standards are met.” It is not clear that this approval has been granted. An approval notation must be added to the plat unless otherwise directed by the City Engineer.

2. A determination of “No Hazard to Air Navigation” must be obtained from the Federal Aviation Administration by the Subdivider. The determination notation must be added to the plat unless otherwise directed by the City Engineer.

- c: Commissioner Travis Horsley, Vice Chair
- Commissioner Lucy Dolan
- Commissioner Mark Farah
- Commissioner Kaity Ferrero
- Commissioner Jeanne Rast
- Commissioner Charlotte Rentz
- Adrienne Senter, Planning Commission Secretary

Location Map





Keck & Wood, Inc.

3090 Premiere Parkway
Suite 200
Duluth, Georgia 30097
Office: (678) 417-4000
Fax: (678) 417-4055
www.keckwood.com

September 28, 2016

Ms. Adrienne Senter
Planning & Development
Project Coordinator
City of Hapeville
3468 N. Fulton Avenue
P.O. Box 82311
Hapeville, Georgia 30354

Re: 301 N. Central Ave
Final Plat Review
K&W Ref. No. 161051.40

Dear Ms. Senter:

As requested, I have reviewed the Final Plat for 310 N. Central Avenue for compliance with the City's Final Plat requirements of the City of Hapeville. The submittal was received on September 23, 2016, and consists of a 2 lot property subdivision to the overall 5.00 acre parcel within a C-2 Zoning District. The Final Plat was prepared by Southside Surveying & Planning, under the Surveying seal of Angel M. Marrero. My comments are as follows:

1. It does not appear that monuments (concrete monuments four inches in diameter or square, three feet long, with a flat top) per Section 90-1-4.(a)(1) of the Code of Hapeville have been placed at all points where the street line intersects the exterior boundaries of the property and at angle points along each street (along N. Central Avenue and I-75 ROW).
2. The Final Plat should include dimensioned easements for the 48 inch storm drainage pipe system on lot 2 and the sanitary sewer easement on lot 1 per Section 90-1-2(f)(5)(a.) of City Code. The depth and invert elevations of the storm drainage pipe should be shown. Easements for public utilities to serve lot 2 that cross lot 1 should also be shown. Power line easements should be shown.
3. All Final Plat Statements and Certifications should be signed and dated. It is not clear why a portion of the landowner certification contains the phrase "Oakdale Rd LLC".
4. While the plat includes a 50 feet wide ingress and access easement, it is not clear how this can be used since several areas in the easement contain curb and gutter and wood fencing that prevent vehicle access. In addition, the right angle turn on the east side of the easement at the back of lot 1 does not have a radius curve that allows vehicle turning movements. . The City Fire Marshall should review the information to verify vehicle access.
5. Building setback distance lines should be shown for both lots. It is not clear which lot line is the front line for lot 2. The street address for lot 2 should be shown.
6. Lot 2 does not front on a public street as required in Section 90-1-3(c)(1). Sidewalks along N. Central Avenue per Section 90-1-4(a)(7) are not provided.
7. The Final Plat does not indicate size or location of water mains, fire hydrants, or valves and the size of the sanitary sewer is not shown.

I have retained the one copy of the plat provided for review in the event there are questions. The petitioner should be made aware that the review does not constitute a waiver of City Ordinance requirements or assumption of responsibility for full review of City Ordinance requirements. Deviations from Ordinance requirements may be noted at any time during the review, permitting or construction processes. Re-submittals should include a narrative indicating how and where the review comments were addressed.

Very truly yours,

KECK & WOOD, INC.



Michael J. Moffitt, P.E.

Enclosures

**CITY OF HAPEVILLE
COMMUNITY SERVICE DEPARTMENT
PLANNING COMMISSION APPLICATION**

WRITTEN SUMMARY

In detail, provide a summary of the proposed project in the space provided below. (Please type or print legibly)

We are proposing to demo abundant closed down 2-story building behind Best Western and to build 5 story 112 rooms Holiday Inn Express. Additional parking spaces are provided to accommodate new hotel. Hotel will be built using existing slab and all underground utilities. We will also redo entire landscaping and other upgrades to revitalize this area.

**CITY OF HAPEVILLE
COMMUNTY SERVICE DEPARTMENT
PLANNING COMMISSION APPLICATION**

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:

301 N. Central Ave.
Hapeville, GA. 30354

City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION FOR PLANNING COMMISSION REVIEW.

Name of Applicant: Rajesh A. Patel / Apsilon Management Inc.

Address of Applicant: Atlanta, GA. 30354.

Telephone of Applicant: _____

R. Patel

Signature of Owner

Rajesh A. Patel.

Print Name of Owner

Personally Appeared Before Me this 19th day of SEPTEMBER, 2015.

[Signature]
Notary Public



Site Plan Checklist – Please include with your application.

A site plan is used to determine the practical ability to develop a particular property within the City of Hapeville. Information relating to environmental condition, zoning, development impact, consistency with the Hapeville Comprehensive Plan and relevant town master plans will be considered in the decision process. To be considered, a site plan **must** contain the following information:

- _____ A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. Please complete and submit all forms contained within the application for site plan review.
- _____ Site plans shall be submitted indicating project name, applicant's name, adjoining streets, scale, North arrow and date drawn.
- _____ The locations, size (sf) and height (ft) of all existing and proposed structures on the site. Height should be assessed from the base of the foundation at grade to the peak of the tallest roofline.
- _____ Site plans shall include the footprint/outline of existing structures on adjoining properties. For detached single-family residential infill development, the front yard setback shall be assessed based on the average setback of existing structures on adjoining lots. Where practical, new construction shall not deviate more than ten (10) feet from the average front yard setback of the primary residential structure on an adjoining lot. Exemption from this requirement due to unnecessary hardship or great practical difficulty can be approved at the discretion of the Planning Commission. To be considered for an exemption, the applicant must submit a "Request for Relief" in writing with their site plan application, including the conditions that necessitate relief (i.e. floodplain, wetland encroachment, excessive slope, unusual lot configuration, legally nonconforming lot size, unconventional sitting of adjoining structures, etc).

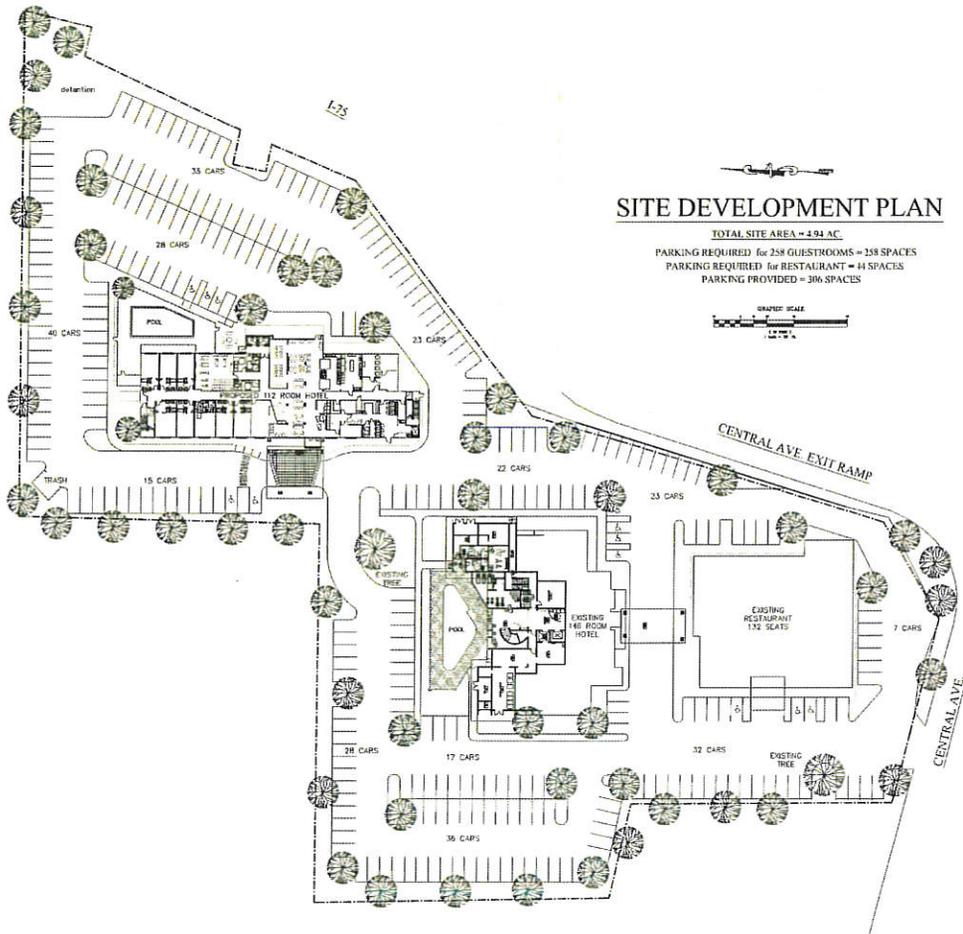
- _____ The location and general design cross-section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances. A walkway from the primary entrance directly to the public sidewalk is required for all single-family residential development.
- _____ The locations, area and number of proposed parking spaces. Please refer to Article 22.1 Chart of Dimensional Requirements to determine the correct number of parking spaces for your particular type of development.
- _____ Existing and proposed grades at an interval of five (5) feet or less.
- _____ The location and general type of all existing trees over six (6) inch caliper and, in addition, an identification of those to be retained. Requirements for the tree protection plan are available in Code Section 93-2-14(f). Please refer to Sec. 93-2-14(y) to determine the required tree density for your lot(s).
- _____ A Landscape Plan: The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in Section 93-23-18.
- _____ The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the general location and description of all proposed, outdoor furniture (seating, lighting, telephones, etc.). Detached single-family residential development may be exempt from this requirement.
- _____ The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms. Detached single-family residential development may be exempt from this requirement.
- _____ The identification and location of all refuse collection facilities, including screening to be provided. Detached single-family residential development may be exempt from this requirement.

- _____ Provisions for both on-site and offsite storm-water drainage and detention related to the proposed development.
- _____ Location and size of all signs. Detached single-family residential development may be exempt from this requirement.
- _____ Typical elevations of proposed building provided at a reasonable scale (1/8" = 1'0") and include the identification of proposed exterior building materials. Exterior elevations should show all sides of a proposed building.
- _____ Site area (square feet and acres).
- _____ Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.
- _____ Floor area in nonresidential use by category. Detached single-family residential development may be exempt from this requirement.
- _____ Total floor area ratio and/or residential density distribution.
- _____ Number of parking spaces and area of paved surface for parking.
- _____ At the discretion of the Planning Commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, storm water and erosion control, etc. of the proposed development.

Please ***initial*** each item on the list above certifying that all the required information has been included on the site plan. Sign and submit this form with your site plan application. Failure to include this form and information required herein may result in additional delays for the consideration of your application.

Applicant Signature: 

Date: 08/19/2015



SITE DEVELOPMENT PLAN

TOTAL SITE AREA = 4.91 AC.
 PARKING REQUIRED for GUESTROOMS = 158 SPACES
 PARKING REQUIRED for RESTAURANT = 44 SPACES
 PARKING PROVIDED = 396 SPACES



NO.	REVISIONS	DATE

Hyperlic
Georgia

**Holiday Inn
Express
& Suites**

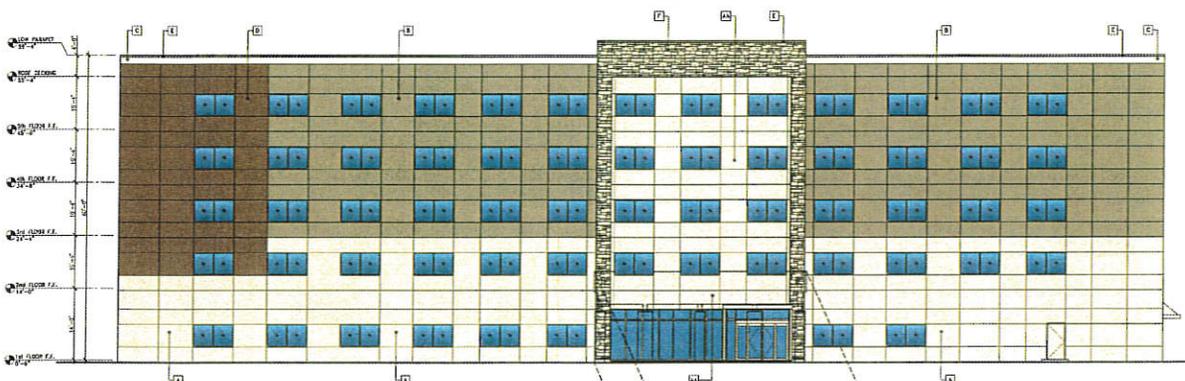
DANIEL LEMBERG - ARCHITECT
 3445 CONCORD CORNER
 CONVERS, GA 30013

PHONE: 770-922-8022

NO.	REVISIONS	DATE

FOR PERMIT

ALL NOTATIONS ARE THE INTELLECTUAL PROPERTY OF DANIEL L. LEMBERG

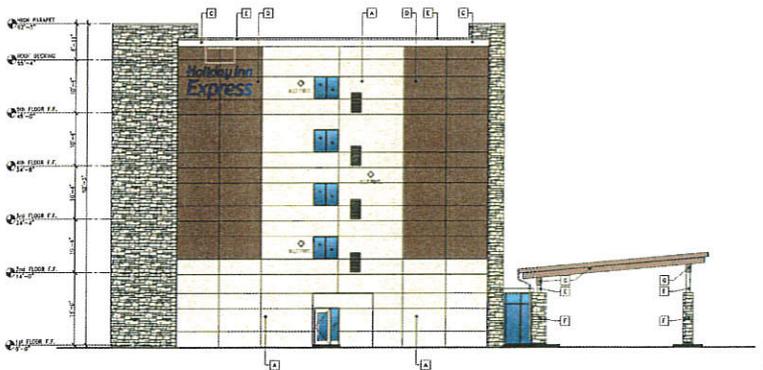


1 FRONT ELEVATION
SCALE: 1/8" = 1'-0"

- GENERAL NOTES:**
1. COLORS AND FINISHES ARE SELECTED BY INTERIOR DESIGNER. CONTRACTOR SHALL PROVIDE A 4'-0" WIDE BY 8'-0" TALL HOOD-UP WHICH INCLUDES ALL EXTERIOR MATERIALS FOR APPEARANCE TO MATCH THAT OF INTERIOR FINISH MATERIALS.
 2. ALL COLOR CHANGES ARE TO OCCUR AT JOIST CORNERS ONLY. NO DISCREPANCY ALLOWED.
 3. NOTES ON THIS SHEET ARE TO BE CONSIDERED TYPICAL FOR ALL EXTERIOR ELEVATIONS.
 4. MECHANICAL LOUVERS ARE TO BE FINISHED/PANED TO MATCH THE INTERIORS TEXT AND HORIZONTAL FIN.
 5. NOTES TO ADD SERIES (REQUIRED) FOR GREATER DETAILS ON FLOOR TO FLOOR TRANSITIONS AND ALL OTHER DISCREPANCIES.
 6. ALL EXPOSED CARBING MUST MATCH THE COLOR OF THE MATERIALS TO WHICH THEY ARE ADHERED TO / SEAMS. IF THIS COLOR IS JOINED, THE CARBING WILL MATCH THE LARGER SECTION OF COLOR (EACH END OF JOIST LINES TO LARGER SECTION COLOR HAS NATURAL VARIANCES SUCH AS STAIN AND BIRCH). SECTION COLOR BEING MORE VISIBLY BE NOTICED.
 7. ALL SEAMANTS TO BE INSTALLED BY EPF INSTALLER.
 8. ALL OUTLETS TO BE 12 GA. AND 3"x3" MINIMUM.
 9. ALL DOWNPOUTS TO BE 3"x4" MINIMUM.

COLOR/MATERIAL:

(A) EPT-15	LIMESTONE/SANDSTONE MEDIUM-TURE FINEH COLOR FINISH MEDIUM COOL
(B) EPT-153	LIMESTONE/SANDSTONE SMOOTH, SAND FINISH SURFACE COLOR FINISH MEDIUM COOL
(C) EPT-154	DAVE BRONZE MEDIUM SAND FINISH COLOR FINISH TRUE NEUTRAL
(D) EPT-154	WHITE SANDS/ SAND FINISH COLOR FINISH TRULY NEUTRAL
(E) EPT-154	RUSTIC RED SANDS/ SAND FINISH COLOR FINISH TRUE WOOD BLEND
(F) EPT-154	SHEET METAL SOME W/ME
(G) EPT-154	BRUSH - FINISH LIMESTONE SOUTHWEST BLEND
(H) EPT-1	SHEET METAL COLOR STEEL CLASS B/177 (TRUE RED COLOR)



2 LEFT SIDE ELEVATION
SCALE: 1/8" = 1'-0"

PROJECT NO.	DATE
REVISION	DATE
FIELD SET UP	
DATE	

Hapeville
Georgia

Holiday Inn Express

DANIEL LEMBERG - ARCHITECT
348 CONCORD CORNER
CONYERS, GA 30013

PHONE: 770-922-8122

FOR PERMIT

A201



Department of Planning & Zoning

M E M O R A N D U M

TO: Brian Wismer, Planning Commission Chairman
FROM: Bill Johnston, City Planner
SUBJECT: Text amendment concerning standards for halfway houses
DATE: Thursday, 8 September 2016

Background

This amendment to the zoning ordinance defines halfway houses and introduces standards applicable to a use that, like group homes, can generate substantial neighborhood opposition. Despite that, the absence of standards and regulations may leave the City open to challenge. Importantly, all such non-traditional “community residences,” including group homes, nursing homes, and personal care homes should be defined and the accommodation of these uses clearly communicated to the public. This has been accomplished in adopted ordinances with the exception of halfway houses.

Findings

Hapeville’s ordinance does not define or establish standards for the regulation of halfway houses. The proposed ordinance accomplishes both, proposing halfway houses, as seen in Table 1, as subject to approval of a special use permit by Mayor and Council and limited to the C-2, General Business Zone. The rationale for this limitation is that the use is more an institutional than a residential use, and the fact that occupants are not part protected class. Ready access to necessary goods and services and public transportation by those occupants is also a justification for identifying the C-2 Zone as potential locations for such facilities.

Table 1. *Community Residences by Zone* (P = Permitted; X = Non-permitted; S = Special Use Permit)

Use	R-O, R-AD, R-1, R-2, R-3, R-4, R-I, R-SF & R-5	RMU	V	U-V	C-R	N-C	C-1	C-2
Group Home	P	P	P	P	P	P	X	X
Adult Day Care Facility	X	P	P	P	P	P	P	S
Halfway House	X	X	X	X	X	X	X	S
Nursing Home	X	S	S	S	S	S	S	X
Personal Care Home	X	S	S	S	S	S	S	X

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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The proposed text amendment defines halfway houses as follows:

Halfway house. A temporary residential living arrangement for persons discharged from an institutional setting and in need of a supportive living arrangement to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present for the following purposes:

- (1) To help them recuperate from the effects of drug or alcohol addiction;
- (2) To help them re-enter society while housed under supervision while under the constraints of alternatives to imprisonment including, but not limited to, pre-release, work release, or probationary programs; or
- (3) To help persons with family or school adjustment problems that require specialized attention and care in order to achieve personal independence.

The following standards are proposed for regulation of halfway houses:

1. Halfway houses may be permitted in the C-2 Zone, subject to approval of a Special Use Permit by Mayor and Council;
2. No other such facility shall be established within 1,000 feet of an existing halfway house as measured from property line to property line;
3. The halfway house operator has obtained all applicable certifications and licenses from the appropriate federal and state regulatory agency;
4. The resident occupancy of any halfway house shall not exceed twelve (12) individuals who shall be unrelated. This maximum shall not include facility staff.
5. Halfway houses shall be limited to one (1) bed for every 250 gross square feet of heated floor area;
6. Occupancy of any bedroom shall be a maximum of two (2) residents;
7. A minimum of one (1) functional toilet, lavatory and bathing or showering facility is provided for each four (4) persons living in the facility, including live-in staff and residents;
8. The facility shall provide on-premises laundering facilities for the personal laundry of residents;
9. An operable telephone is maintained and readily available in the facility; provided further that the city shall be contacted immediately in the event that a physical altercation or any violation of state or federal law or local ordinances occurs on the premises;
10. No alcoholic beverages or controlled substances are stored, served, sold, consumed, or in the possession of any person in the facility;

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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11. The governing body for the facility maintains two (2) responsible persons on the premises, and provides the City with the names and phone numbers of two (2) persons who may be contacted in the event of an emergency. As used herein "governing body for the facility" shall mean the board of trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the facility and which is legally responsible for the operation of the facility;

12. The halfway house shall provide on-site parking and/or drop-off space adequate to meet the needs of the proposed facility; provided, however, that any modifications to the existing parking or drop-off area shall not expand the overall square footage of the existing parking and/or drop-off area;

13. No modification of an existing structure shall expand the floor area of that structure;

14. The structure shall comply with all aspects of the Building Code adopted by the City of Hapeville, including minimum dwelling area requirements;

15. No additional halfway house operator may be granted a Special Use Permit or occupational tax permit that would result in the total number of such permits being greater than one (1) for each 5,000 residents in the city. It is the intent of this provision to require a population of 5,000 persons for each permit issued. For purposes of complying with this section, the most recent decennial census of the United States as published by the United States Bureau of the Census shall be used. The following examples shall guide review of permit applications:

(i) Population is below 5,000, then no such permit shall be issued;

(ii) Population equals 5,000 to 9,999, then one (1) permit may be issued;

(iii) Population equals 10,000 to 14,999, then two (2) permits may be issued, etc.

If a permittee shall cease operation or if a permit is revoked and the number of such permits in effect shall continue to exceed the limit prescribed herein, such permit shall not be reinstated.

Conclusions

Sec. 93-25-6. *Standards of review* of the Ordinance provides the following guidance to Planning Commission and Mayor and Council in consideration of text or map amendments:

"In ruling on any matter herein in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as they may be relevant to the application:"

Potential impacts of the proposed text amendment on those standards of review most relevant to the proposed amendment are discussed below:

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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The existing land use pattern

The locations proposed for halfway houses are characterized by intense commercial uses. The “Commercial” land use designations on the Future Development Map are an acknowledgement of existing and projected land uses. These commercial locations as planned and zoned are removed from residential uses, being buffered by less intense mixed use designations. Accordingly, the proposal is consistent with the existing land use pattern.

The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets

Based on the very limited scale of halfway houses that would be accommodated by the proposed ordinance, a total of twelve (12) residents, and the circumstances of those residents, including absence of dependents and likely no personal vehicles, population density and public facilities will not be significantly impacted. The halfway house use that would be permitted by special use permit is characterized by lower demand for public services than uses permitted by right in the C-2 Zone proposed for halfway houses.

Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations

Considering public opposition to such facilities as halfway houses, a limit on the number of halfway houses that could be established in the city may be appropriate. Hapeville has adopted such measures for regulation of pawn brokers. Whether this use is comparable to pawn shops, labor pools and other uses that seem to garner public attention is debatable. However, such limitations have the effect of reducing impacts on the value of development of adjacent property.

Excerpts from studies conducted by nationally recognized organizations follow:

APA: <https://www.planning.org/policy/guides/adopted/commres.htm>

HALFWAY HOUSE OR RECOVERY COMMUNITY

A temporary residential living arrangement for persons leaving an institutional setting and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present, for the following purposes: (a) to help them recuperate from the effects of drug or alcohol addiction (a disability); (b) to help them reenter society while housed under supervision while under the constraints of alternatives to imprisonment including, but not limited to, prerelease, work release, or probationary programs (not a disability); or (c) to help persons with family or school adjustment problems that require specialized attention and care in order to achieve personal independence (not a disability). Interrelationships between residents is an essential component of a halfway house. Residency is limited to a specific number of weeks or months.

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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People with drug or alcohol addictions often need to live in a halfway house as a transitional living arrangement before they can live more independently in the community or return to their homes. The key for them is to learn to abstain completely from using drugs or alcohol. Treatment usually consists of an initial withdrawal period followed by intensive counseling and support both through treatment programs and through residential living arrangements. Such community residences are based on the group home model with some significant differences with implications for proper zoning regulation.

The halfway house or recovery community helps people with drug or alcohol addictions readjust to a normal life before moving out on their own. A person with an addiction is admitted only after completing detoxification. The halfway house staff helps residents adjust to a drug free lifestyle, learn how to take control of their lives, and learn how to live without drugs. Nearly all halfway houses place a limit, measured in months, how long someone can live there. Unlike a group home, the halfway house aims to place all its residents into independent living situations upon graduation. For both therapeutic and financial reasons, most halfway houses need 10 to 15 residents to be successful. Because the number of residents in a halfway house is greater than in a group home and their length of tenancy shorter, halfway houses more closely resemble multiple family housing than single family residences, although, like group homes, they work best in single family neighborhoods.

The extent to which the proposed zoning map amendment is consistent with the land use plan

Introduction of uses formerly absent from a particular zone constitutes a zoning map amendment as the character of the zone can be altered by such introduction. Halfway houses may be deemed compatible with other land uses encompassed by the "Commercial" designation, particularly as this use may be considered by the public as incompatible with residential uses.

A land use objective of PLAN HAPEVILLE 2025, states:

"Preserve Hapeville's stable, single family neighborhoods from encroachment by incompatible uses, which may include higher density housing; and provide such mechanism as buffers, transitional height planes and appropriate building setbacks designed to mitigate the impact of more intense development."

To the extent that halfway houses are considered incompatible with single family uses, and may be characterized as commercial or institutional uses, accommodating this use in an intense commercial zone (Hapeville has no "Institutional" zoning district), the proposed amendment may be deemed consistent with the land use plan.

The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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The purposes of the C-2 Zone are as follows:

- (1) Protect present business and commercial uses.
- (2) Guide the further development of this zone in accordance with the design principles of modern shopping centers oriented to the extensive use of the automobile as well as public transit.
- (3) Exclude industrial uses (such as manufacturing, processing and warehousing) and residential uses.
- (4) Encourage the eventual elimination of uses inappropriate to the function of the central business area.
- (5) Encourage intensive development of this zone as the shopping and business center of the city and surrounding trade areas.
- (6) Exclude uses which would be dangerous or offensive, or detrimental to the present or intended character of this zone or vicinity or persons or property therein by reason of the emission of dust, gas, smoke, noise, fumes, glare, odors, vibrations or surface water and drainage.

The proposed amendment appears to introduce a use that will not advance the purposes of the C-2 Zone.

The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight

Halfway houses are often considered incompatible with residential uses. The “commercial” designations on the Future Development Map are removed from Hapeville neighborhoods as are the C-2 zone designations proposed for this use. This separation from those neighborhoods will tend to preserve the integrity of the neighborhoods.

In addition, Hapeville is a compact center consisting of just over two (2) square miles. Neighborhoods may therefore, lie proximate to commercial districts. Accordingly, a limit on the absolute number of such facilities may be essential to preserving the integrity of those neighborhoods.

Recommendation

Based on the above findings and conclusions, a recommendation of approval of the proposed text amendment that would allow halfway houses in locations planned for “commercial” use and zoned C-2, General Business subject to conditions 1. through 15 on pages 2 and 3, above, is appropriate.

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for halfway houses

Thursday, 8 September 2016

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c: Commissioner Travis Horsley, Vice Chair
Commissioner Lucy Dolan
Commissioner Mark Farah
Commissioner Kaity Ferrero
Commissioner Jeanne Rast
Commissioner Charlotte Rentz
Adrienne Senter, Planning Commission Secretary

Attachments: Halfway House Ordinance
Study Links concerning Halfway Houses

APA Policy Guide on Community Residences

<https://www.planning.org/policy/guides/adopted/commres.htm>

Compiled by Daniel Lauber, AICP, Planner/Attorney

http://www.planningcommunications.com/bibliography_group_home_impact_studies.pdf

Center on Juvenile and Criminal Justice

http://www.justicepolicy.org/images/upload/02-01_REP_DCHalfwayHouses_AC-DC.pdf

The John Marshall Law Review

<http://repository.jmls.edu/cgi/viewcontent.cgi?article=1710&context=lawreview>

Hapeville – Comparison Chart - Halfway House Amendments		
Code Sec.	Existing ordinance	New Ordinance
93-2-20	Halfway House was not mentioned at all in “community residences by zone” table.	Halfway House is now included in the table—nonpermitted in all districts but C-2 where it is a special use.
93-4-3	<p>Sec. 93-4-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-0 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-4-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-0 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.
93-5-3	<p>Sec. 93-5-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-AD zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-5-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-AD zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.

<p>93-6-3</p>	<p>Sec. 93-6-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-1 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-6-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-1 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.
<p>93-7-3</p>	<p>Sec. 93-7-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the N-C zone:</p> <ul style="list-style-type: none"> (1) Reserved. 	<p>Sec. 93-7-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the N-C zone:</p> <ul style="list-style-type: none"> (1) Halfway Houses.
<p>93-8-3</p>	<p>Sec. 93-8-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-2 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-8-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-2 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.

93-9-3	<p>Sec. 93-9-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-3 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-9-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-3 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.
93-10-3	<p>Sec. 93-10-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-4 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<p>Sec. 93-10-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-4 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses. (3) Nursing homes. (4) Personal care homes.
93-11-4	<p>Sec. 93-11-4. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-I zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. 	<p>Sec. 93-11-4. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-I zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses.

	<ul style="list-style-type: none"> (2) Reserved. (3) Nursing homes. (4) Personal care homes. 	<ul style="list-style-type: none"> (3) Nursing homes. (4) Personal care homes.
<p>93-11.1-3</p>	<p>Sec. 93-11.1-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the V zone:</p> <ul style="list-style-type: none"> (1) Pawnshops and check cashing businesses excluding banks and credit unions; (2) Adult entertainment establishments as defined by section 11-2-1 of this Code, including, but not limited to, adult bookstores, video or DVD adult rental or purchase, adult movie or adult live theaters, or adult gifts and novelties, or viewing or listening to other adult entertainment through any other electronic or other technological medium; (3) Automotive repair shops, 	<p>Sec. 93-11.1-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the V zone:</p> <ul style="list-style-type: none"> (1) Pawnshops and check cashing businesses excluding banks and credit unions; (2) Adult entertainment establishments as defined by section 11-2-1 of this Code, including, but not limited to, adult bookstores, video or DVD adult rental or purchase, adult movie or adult live theaters, or adult gifts and novelties, or viewing or listening to other adult entertainment through any other electronic or other technological medium; (3) Automotive repair shops, dealerships and service stations, boat sales, auto parts stores; (4) Tattoo parlors; (5) Palm reading and fortunetelling including psychic and crystal ball readings; (6) Billiard parlors and pool halls; (7) Carnivals; (8) Stables; (9) Shooting galleries, firearm, and archery ranges; (10) Firearms dealers;

	<p>dealerships and service stations, boat sales, auto parts stores;</p> <p>(4) Tattoo parlors;</p> <p>(5) Palm reading and fortunetelling including psychic and crystal ball readings;</p> <p>(6) Billiard parlors and pool halls;</p> <p>(7) Carnivals;</p> <p>(8) Stables;</p> <p>(9) Shooting galleries, firearm, and archery ranges;</p> <p>(10) Firearms dealers;</p> <p>(11) Modeling agencies;</p> <p>(12) Massage parlors;</p> <p>(13) Spas;</p> <p>(14) Hypnotists;</p> <p>(15) Handwriting analysis;</p> <p>(16) Escort services;</p> <p>(17) Bazaars;</p> <p>(18) Specialty shops;</p> <p>(19) Flea markets;</p> <p>(20) Junk stores;</p> <p>(21) Variety shops;</p> <p>(22) Labor pools;</p>	<p>(11) Modeling agencies;</p> <p>(12) Massage parlors;</p> <p>(13) Spas;</p> <p>(14) Hypnotists;</p> <p>(15) Handwriting analysis;</p> <p>(16) Escort services;</p> <p>(17) Bazaars;</p> <p>(18) Specialty shops;</p> <p>(19) Flea markets;</p> <p>(20) Junk stores;</p> <p>(21) Variety shops;</p> <p>(22) Labor pools;</p> <p>(23) Extended stay motels/hotels;</p> <p>(24) Parking lots (except for municipal parking lots benefiting the V zone);</p> <p>(25) Warehouses or longterm storage of material except where such storage does not constitute more than 25 percent of the business's floor space;</p> <p>(26) Halfway Houses; and</p> <p>(27) Reserved.</p>
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	<ul style="list-style-type: none"> (23) Extended stay motels/hotels; (24) Parking lots (except for municipal parking lots benefiting the V zone); (25) Warehouses or longterm storage of material except where such storage does not constitute more than 25 percent of the business's floor space; (26) Reserved; and (27) Reserved. 	
<p>93-11.2-4</p>	<p>Sec. 93-11.2-4. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the U-V zone.</p> <ul style="list-style-type: none"> (1) Pawnshops and check cashing businesses, excluding banks and credit unions; (2) Adult entertainment establishments, as defined by section 11-2-1 of this Code, including, but not limited to, adult bookstores, video or 	<p>Sec. 93-11.2-4. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the U-V zone.</p> <ul style="list-style-type: none"> (1) Pawnshops and check cashing businesses, excluding banks and credit unions; (2) Adult entertainment establishments, as defined by section 11-2-1 of this Code, including, but not limited to, adult bookstores, video or DVD adult rental or purchase, adult movie or adult live theaters, adult gifts and novelties, and other venues for viewing other adult entertainment through any other electronic or other technological medium; (3) Automotive repair shops, dealerships and service stations,

	<p>DVD adult rental or purchase, adult movie or adult live theaters, adult gifts and novelties, and other venues for viewing other adult entertainment through any other electronic or other technological medium;</p> <p>(3) Automotive repair shops, dealerships and service stations, boat sales, auto parts stores;</p> <p>(4) Tattoo parlors;</p> <p>(5) Palm reading and fortunetelling, including psychic and crystal ball readings;</p> <p>(6) Billiard parlors and pool halls;</p> <p>(7) Carnivals;</p> <p>(8) Stables;</p> <p>(9) Shooting galleries, firearm, and archery ranges;</p> <p>(10) Firearms dealers;</p> <p>(11) Modeling agencies;</p> <p>(12) Massage parlors;</p> <p>(13) Bathhouses;</p>	<p>boat sales, auto parts stores;</p> <p>(4) Tattoo parlors;</p> <p>(5) Palm reading and fortunetelling, including psychic and crystal ball readings;</p> <p>(6) Billiard parlors and pool halls;</p> <p>(7) Carnivals;</p> <p>(8) Stables;</p> <p>(9) Shooting galleries, firearm, and archery ranges;</p> <p>(10) Firearms dealers;</p> <p>(11) Modeling agencies;</p> <p>(12) Massage parlors;</p> <p>(13) Bathhouses;</p> <p>(14) Hypnotists;</p> <p>(15) Handwriting analysis;</p> <p>(16) Escort services;</p> <p>(17) Bazaars;</p> <p>(18) Specialty shops;</p> <p>(19) Flea markets;</p> <p>(20) Junk stores;</p> <p>(21) Variety shops;</p> <p>(22) Labor pools;</p> <p>(23) Health clinics;</p> <p>(24) Extended stay motels/hotels;</p> <p>(25) Nursing Homes;</p> <p>(26) Personal Care Homes.</p>
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	<ul style="list-style-type: none"> (14) Hypnotists; (15) Handwriting analysis; (16) Escort services; (17) Bazaars; (18) Specialty shops; (19) Flea markets; (20) Junk stores; (21) Variety shops; (22) Labor pools; (23) Health clinics; (24) Extended stay motels/hotels; (25) Nursing Homes; (26) Personal Care Homes. 	<p>(27) Halfway Houses.</p>
<p>93-11.3-3</p>	<p>Sec. 93-11.3-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-SF zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved; (3) Nursing homes; and (4) Personal care homes. 	<p>Sec. 93-11.3-3. - Nonpermitted uses.</p> <p>The following uses, while permitted in other areas within the city, are not permitted in the R-SF zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses; (3) Nursing homes; and (4) Personal care homes.
<p>93-11.4-3</p>	<p>Sec. 93-11.4-3. - Nonpermitted uses.</p>	<p>Sec. 93-11.4-3. - Nonpermitted uses.</p>

	<p>The following uses are not permitted in any R-5 zone:</p> <ul style="list-style-type: none"> (1) Multifamily; (2) Duplexes; (3) Triplexes; (4) Adult daycare facilities; (5) Reserved; (6) Nursing homes; (7) Personal care homes; and (8) Commercial uses. 	<p>The following uses are not permitted in any R-5 zone:</p> <ul style="list-style-type: none"> (1) Multifamily; (2) Duplexes; (3) Triplexes; (4) Adult daycare facilities; (5) Halfway Houses; (6) Nursing homes; (7) Personal care homes; and (8) Commercial uses.
<p>93-11.5-4</p>	<p>Sec. 93-11.5-4. - Nonpermitted uses.</p> <p>The following uses are not permitted in any RMU zone:</p> <ul style="list-style-type: none"> (1) Reserved. 	<p>Sec. 93-11.5-4. - Nonpermitted uses.</p> <p>The following uses are not permitted in any RMU zone:</p> <ul style="list-style-type: none"> (1) Halfway Houses.
<p>93-12-3</p>	<p>Sec. 93-12-3. – Nonpermitted uses.</p> <p>The following uses are not permitted in any C-R zone:</p> <ul style="list-style-type: none"> (1) Reserved. 	<p>Sec. 93-12-3. – Nonpermitted uses.</p> <p>The following uses are not permitted in any C-R zone:</p> <ul style="list-style-type: none"> (1) Halfway Houses.
<p>93-13-4</p>	<p>Sec. 93-13-4. – Nonpermitted uses.</p> <p>The following uses are not permitted in</p>	<p>Sec. 93-13-4. – Nonpermitted uses.</p>

	<p>any C-1 zone:</p> <ul style="list-style-type: none"> (1) Group homes. (2) Reserved. (3) Reserved. 	<p>The following uses are not permitted in any C-1 zone:</p> <ul style="list-style-type: none"> (1) Group homes. (2) Halfway Houses. (3) Reserved.
<p>93-14-6</p>	<p>Sec. 93-14-6. – Uses requiring a special use permit.</p> <p>The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-6, in any C-2 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Reserved. 	<p>Sec. 93-14-6. – Uses requiring a special use permit.</p> <p>The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-6, in any C-2 zone:</p> <ul style="list-style-type: none"> (1) Adult daycare facilities. (2) Halfway Houses may be permitted, subject to approval of a Special Use Permit, pursuant to Sec. 93-3.2-5 and 93-3.2.6, and subject to the following regulations: <ul style="list-style-type: none"> (a) No Halfway House shall be established within 1,000 feet of an existing Halfway House as measured from property line to property line; (b) The Halfway House operator has obtained all applicable certifications and licenses from the appropriate federal and state regulatory agency; (c) The resident occupancy of any Halfway House shall not exceed twelve (12) individuals who shall be unrelated. This maximum shall not include facility staff;

		<ul style="list-style-type: none">(d) Halfway Houses shall be limited to one (1) bed for every 250 gross square feet of heated floor area;(e) Occupancy of any bedroom shall be a maximum of two (2) residents;(f) A minimum of one (1) functional toilet, lavatory and bathing or showering facility is provided for each four (4) persons living in the facility, including live-in staff and residents;(g) The facility shall provide on-premises laundering facilities for the personal laundry of residents;(h) An operable telephone shall be maintained and readily available in the facility; provided further that the city shall be contacted immediately in the event that a physical altercation or any violation of state or federal law or local ordinances occurs on the premises;(i) No alcoholic beverages or controlled substances shall be stored, served, sold, consumed, or in the possession of any person in the facility;(j) The governing body for the facility maintains two (2) responsible persons on
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		<p>the premises, and provides the city with the names and phone numbers of two (2) persons who may be contacted in the event of an emergency. As used herein "governing body for the facility" shall mean the board of trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the facility and which is legally responsible for the operation of the facility;</p> <p>(k) The Halfway House shall provide on-site parking and/or drop-off space adequate to meet the needs of the proposed facility; provided, however, that any modifications to the existing parking or drop-off area shall not expand the overall square footage of the existing parking and/or drop-off area;</p> <p>(l) No modification of an existing structure shall expand the floor area of that structure;</p> <p>(m) The structure shall comply with all aspects of the Building Code adopted by the city, including minimum dwelling area requirements;</p>
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		<p>(n) No additional Halfway House operator may be granted a Special Use Permit that would result in the total number of such permits being greater than one (1) for each 5,000 residents in the city. It is the intent of this provision to require a population of 5,000 persons for each permit issued. For purposes of complying with this section, the most recent decennial census of the United States as published by the United States Bureau of the Census shall be used. The following examples shall guide review of permit applications:</p> <ol style="list-style-type: none">i. If the city's population is below 5,000, then no such permit shall be issued;ii. If the city's population equals 5,000 to 9,999, then one (1) permit may be issued;iii. If the city's population equals 10,000 to 14,999, then two (2) permits may be issued.iv. If a permittee shall cease operation or if a permit is revoked and the number of such permits in effect shall continue to exceed the limit
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		prescribed herein, such permit shall not be reinstated.
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1 **CITY OF HAPEVILLE**

2 **STATE OF GEORGIA**

3

4 **ORDINANCE NO. _____**

5 **PREAMBLE AND FINDINGS**

6 **AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF**
7 **HAPEVILLE, GEORGIA; TO AMEND VARIOUS SECTIONS OF CHAPTER**
8 **93, ZONING; TO ESTABLISH ZONING REQUIREMENTS FOR HALFWAY**
9 **HOUSES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR**
10 **SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO**
11 **PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE;**
12 **AND FOR OTHER PURPOSES ALLOWED BY LAW.**

13 **WHEREAS**, the governing authority of the City of Hapeville, Georgia (the “City”) are
14 the Mayor and Council thereof; and

15 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth
16 management, been in review of the City's zoning ordinances and have been studying the City's
17 best estimates and projections of the type of development which could be anticipated within the
18 City; and

19 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use
20 regulation continue in the most orderly and predictable fashion with the least amount of
21 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
22 had a strong interest in growth management so as to promote the traditional police power goals
23 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
24 the lessening of congestion on City streets, security of the public from crime and other dangers,
25 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the

26 City including access to air and light, and facilitation of the adequate provision of transportation
27 and other public requirements; and

28 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
29 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
30 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
31 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
32 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
33 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
34 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
35 within the City, making the most appropriate use of resources, preserving neighborhood
36 characteristics, enhancing and protecting the economic well-being of the community, facilitating
37 adequate provision of public services, and the preservation of the resources of the City; and

38 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
39 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
40 community development through stability, predictability and balanced growth which will further
41 the prosperity of the City as a whole; and

42 **WHEREAS**, the City has determined that to serve the needs of the community, certain
43 amendments are needed in the Zoning Ordinance; and

44 **WHEREAS**, the City desires to amend its standards, permitted uses, and nonpermitted
45 uses within certain zoning districts to regulate Halfway Houses; and

46 **WHEREAS**, the City has advertised and held hearings with regard to the foregoing
47 ordinance in accordance with O.C.G.A. § 36-66-1, et seq. (the “Zoning Procedures Law”); and

48 **NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR**
 49 **AND COUNCIL OF THE CITY OF HAPEVILLE:**

50 **Section 1.** **The City’s Code of Ordinances is hereby amended by adding a new**
 51 **definition of “Halfway House” to the existing Section 93-1-2(c) to read and to be codified as**
 52 **follows:**

53 *“Halfway House.* A temporary residential living arrangement for persons discharged from an
 54 institutional setting and in need of a supportive living arrangement to readjust to living outside
 55 the institution. These are persons who are receiving therapy and counseling from support staff
 56 who are present when residents are present for the following purposes:

- 57 (1) To help them recuperate from the effects of drug or alcohol addiction;
- 58 (2) To help them re-enter society while housed under supervision while under the constraints of
 59 alternatives to imprisonment including, but not limited to, pre-release, work release, or
 60 probationary programs; or
- 61 (3) To help persons with family or school adjustment problems that require specialized attention
 62 and care in order to achieve personal independence.”

63 **Section 2.** **The City’s Code of Ordinances is hereby amended by deleting the**
 64 **existing Table 1 of Section 93-2-20 and inserting a new Table 1, in lieu thereof, to read and**
 65 **to be codified as follows:**

66 “Table 1. Community Residences by Zone

Use	R-O, R-AD, R-1, R-2, R-3, R-4,R-I, R-SF & R-5	RMU	V	U-V	C-R	N-C	C-1	C-2
Group Home	P	P	P	P	P	P	X	X
Adult Day Care Facility	X	P	P	P	P	P	P	S
Halfway House	X	X	X	X	X	X	X	S
Nursing Home	X	S	S	S	S	S	S	X

Personal Care Home	X	S	S	S	S	S	S	X
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68 P-Permitted

69 X-Nonpermitted

70 S-Special Use”

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72 **Section 3. The City’s Code of Ordinances is hereby amended by deleting the**73 **existing subsection 2 of Section 93-4-3 and inserting a new subsection 2 of Section 93-4-3, in**74 **lieu thereof, to read and to be codified as follows:**

75 “(2) Halfway Houses.”

76 **Section 4. The City’s Code of Ordinances is hereby amended by deleting the**77 **existing subsection 2 of Section 93-5-3 and inserting a new subsection 2 of Section 93-5-3, in**78 **lieu thereof, to read and to be codified as follows:**

79 “(2) Halfway Houses.”

80 **Section 5. The City’s Code of Ordinances is hereby amended by deleting the**81 **existing subsection 2 of Section 93-6-3 and inserting a new subsection 2 of Section 93-6-3, in**82 **lieu thereof, to read and to be codified as follows:**

83 “(2) Halfway Houses.”

84 **Section 6. The City’s Code of Ordinances is hereby amended by deleting the**85 **existing subsection 1 of Section 93-7-3 and inserting a new subsection 1 of Section 93-7-3, in**86 **lieu thereof, to read and to be codified as follows:**

87 “(1) Halfway Houses.”

88 **Section 7. The City’s Code of Ordinances is hereby amended by deleting the existing**89 **subsection 2 of Section 93-8-3 and inserting a new subsection 2 of Section 93-8-3, in lieu**90 **thereof, to read and to be codified as follows:**

91 “(2) Halfway Houses.”

92 **Section 8.** The City’s Code of Ordinances is hereby amended by deleting the
93 existing subsection 2 of Section 93-9-3 and inserting a new subsection 2 of Section 93-9-3, in
94 lieu thereof, to read and to be codified as follows:

95 “(2) Halfway Houses.”

96 **Section 9.** The City’s Code of Ordinances is hereby amended by deleting the
97 existing subsection 2 of Section 93-10-3 and inserting a new subsection 2 of Section 93-10-3,
98 in lieu thereof, to read and to be codified as follows:

99 “(2) Halfway Houses.”

100 **Section 10.** The City’s Code of Ordinances is hereby amended by deleting the
101 existing subsection 2 of Section 93-11-4 and inserting a new subsection 2 of Section 93-11-4,
102 in lieu thereof, to read and to be codified as follows:

103 “(2) Halfway Houses.”

104 **Section 11.** The City’s Code of Ordinances is hereby amended by deleting the
105 existing subsection 26 of Section 93-11.1-3 and inserting a new subsection 26 Section 93-
106 11.1-3, in lieu thereof, to read and to be codified as follows:

107 “(26) Halfway Houses; and”

108 **Section 12.** The City’s Code of Ordinances is hereby amended by adding a new
109 subsection 27 to Section 93-11.2-4, to read and to be codified as follows:

110 “(27) Halfway Houses.”

111 **Section 13.** The City’s Code of Ordinances is hereby amended by deleting the
112 existing subsection 2 of Section 93-11.3-3 and inserting a new subsection 2 to Section 93-
113 11.3-3, in lieu thereof, to read and to be codified as follows:

114 “(2) Halfway Houses.”

115 **Section 14.** The City’s Code of Ordinances is hereby amended by deleting the
116 existing subsection 5 of Section 93-11.4-3 and inserting a new subsection 5 of Section 93-
117 11.4-3, in lieu thereof, to read and to be codified as follows:

118 “(5) Halfway Houses;”

119 **Section 15.** The City’s Code of Ordinances is hereby amended by deleting existing
120 subsection 1 of Section 93-11.5-4 and inserting a new subsection 1 of Section 93-11.5-4, in
121 lieu thereof, to read and to be codified as follows:

122 “(1) Halfway Houses.”

123 **Section 16.** The City’s Code of Ordinances is hereby amended by adding new
124 subsections 19 and 20 to Section 93-11.5-3, to read and to be codified as follows:

125 “(19) SIC Code 5411 and 5412, grocery stores and food stores, with a maximum floor area of
126 2,000 square feet.

127 (20) Day spas, as defined in Subsection 93-11.5-2 above.”

128 **Section 17.** The City’s Code of Ordinances is hereby amended by deleting the
129 existing subsection 1 of Section 93-12-3 and inserting a new subsection 1 of Section 93-12-3,
130 in lieu thereof, to read and to be codified as follows:

131 “(1) Halfway Houses.”

132 **Section 18.** The City’s Code of Ordinances is hereby amended by deleting the
133 existing subsection 2 of Section 93-13-4 and inserting a new subsection 2 of Section 93-13-4,
134 in lieu thereof, to read and to be codified as follows:

135 “(2) Halfway Houses.”

136 **Section 19.** The City’s Code of Ordinances is hereby amended by striking through
137 subsection 2 of Section 93-14-6 and inserting a new subsection 2 of Section 93-14-6 to read
138 and to be codified as follows:

139 “(2) Halfway Houses may be permitted, subject to approval of a Special Use Permit, pursuant to
140 Sec. 93-3.2-5 and 93-3.2.6, and subject to the following regulations:

- 141 (a) No Halfway House shall be established within 1,000 feet of an
142 existing Halfway House as measured from property line to
143 property line;
- 144 (b) The Halfway House operator has obtained all applicable
145 certifications and licenses from the appropriate federal and state
146 regulatory agency;
- 147 (c) The resident occupancy of any Halfway House shall not exceed
148 twelve (12) individuals who shall be unrelated. This maximum
149 shall not include facility staff;
- 150 (d) Halfway Houses shall be limited to one (1) bed for every 250 gross
151 square feet of heated floor area;
- 152 (e) Occupancy of any bedroom shall be a maximum of two (2)
153 residents;
- 154 (f) A minimum of one (1) functional toilet, lavatory and bathing or
155 showering facility is provided for each four (4) persons living in
156 the facility, including live-in staff and residents;
- 157 (g) The facility shall provide on-premises laundering facilities for the
158 personal laundry of residents;
- 159 (h) An operable telephone shall be maintained and readily available in
160 the facility; provided further that the city shall be contacted
161 immediately in the event that a physical altercation or any violation
162 of state or federal law or local ordinances occurs on the premises;
- 163 (i) No alcoholic beverages or controlled substances shall be stored,
164 served, sold, consumed, or in the possession of any person in the
165 facility;
- 166 (j) The governing body for the facility maintains two (2) responsible
167 persons on the premises, and provides the city with the names and
168 phone numbers of two (2) persons who may be contacted in the
169 event of an emergency. As used herein "governing body for the

- 170 facility" shall mean the board of trustees, the partnership, the
171 corporation, the association, or the person or group of persons who
172 maintain and control the facility and which is legally responsible
173 for the operation of the facility;
- 174 (k) The Halfway House shall provide on-site parking and/or drop-off
175 space adequate to meet the needs of the proposed facility;
176 provided, however, that any modifications to the existing parking
177 or drop-off area shall not expand the overall square footage of the
178 existing parking and/or drop-off area;
- 179 (l) No modification of an existing structure shall expand the floor area
180 of that structure;
- 181 (m) The structure shall comply with all aspects of the Building Code
182 adopted by the city, including minimum dwelling area
183 requirements;
- 184 (n) No additional Halfway House operator may be granted a Special
185 Use Permit that would result in the total number of such permits
186 being greater than one (1) for each 5,000 residents in the city. It is
187 the intent of this provision to require a population of 5,000 persons
188 for each permit issued. For purposes of complying with this
189 section, the most recent decennial census of the United States as
190 published by the United States Bureau of the Census shall be used.
191 The following examples shall guide review of permit applications:
- 192 i. If the city's population is below 5,000, then no such permit
193 shall be issued;
 - 194 ii. If the city's population equals 5,000 to 9,999, then one (1)
195 permit may be issued;
 - 196 iii. If the city's population equals 10,000 to 14,999, then two
197 (2) permits may be issued.
 - 198 iv. If a permittee shall cease operation or if a permit is revoked
199 and the number of such permits in effect shall continue to
200 exceed the limit prescribed herein, such permit shall not be
201 reinstated."

202 **Section 20.** (a) It is hereby declared to be the intention of the Mayor and Council that all
203 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
204 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

205 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
206 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
207 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
208 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
209 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
210 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
211 of this Ordinance.

212 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
213 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
214 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
215 express intent of the Mayor and Council that such invalidity, unconstitutionality or
216 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
217 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
218 sections of this Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
219 clauses, sentences, paragraphs and sections of this Ordinance shall remain valid, constitutional,
220 enforceable, and of full force and effect.

221 **Section 21.** All ordinances and parts of ordinances in conflict herewith are hereby
222 expressly repealed.

223 **Section 22.** The effective date of this Ordinance shall be the date of adoption unless
224 otherwise stated herein.
225

1 **CITY OF HAPEVILLE**

2 **STATE OF GEORGIA**

3

4

ORDINANCE NO. 2015-15

5

CITY OF HAPEVILLE, GEORGIA

6

PREAMBLE AND FINDINGS

7 **AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF**
8 **HAPEVILLE, GEORGIA; TO AMEND VARIOUS SECTIONS OF CHAPTER 93,**
9 **ZONING; TO ESTABLISH ZONING REQUIREMENTS FOR VARIOUS FORMS OF**
10 **COMMUNITY RESIDENCES, INCLUDING GROUP HOMES, ADULT DAYCARE**
11 **FACILITIES, PERSONAL CARE HOMES, AND NURSING HOMES; TO PROVIDE**
12 **FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL**
13 **CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE**
14 **AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.**

15 **WHEREAS,** the governing authority of the City of Hapeville, Georgia (the "City") are
16 the Mayor and Council thereof; and

17 **WHEREAS,** the Mayor and Council have, as a part of planning, zoning and growth
18 management, been in review of the City's zoning ordinances and have been studying the City's
19 best estimates and projections of the type of development which could be anticipated within the
20 City; and

21 **WHEREAS,** the Mayor and Council therefore consider it paramount that land use
22 regulation continue in the most orderly and predictable fashion with the least amount of
23 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
24 had a strong interest in growth management so as to promote the traditional police power goals
25 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
26 the lessening of congestion on City streets, security of the public from crime and other dangers,

27 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the
28 City including access to air and light, and facilitation of the adequate provision of transportation
29 and other public requirements; and

30 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
31 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
32 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
33 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
34 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
35 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
36 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
37 within the City, making the most appropriate use of resources, preserving neighborhood
38 characteristics, enhancing and protecting the economic well-being of the community, facilitating
39 adequate provision of public services, and the preservation of the resources of the City; and

40 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
41 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
42 community development through stability, predictability and balanced growth which will further
43 the prosperity of the City as a whole; and

44 **WHEREAS**, the City has determined that to serve the needs of the community, certain
45 amendments are needed in the Zoning Ordinance; and

46 **WHEREAS**, the City desires to amend its standards, permitted uses, and nonpermitted
47 uses certain zoning districts.

48 **NOW THEREFORE**, be it and it is hereby ordained by the Mayor and Council of the
49 City of Hapeville:

50 **Section 1.** **The City’s Code of Ordinances is hereby amended by deleting the**
51 **existing Subsection (c) of Section 93-1-2, of the Code of Ordinances of the City of Hapeville**
52 **and adding a new Section 93-1-2(c) to read as follows:**

53 “Sec. 93-1-2 – Definitions.

54 *Adult daycare facility.* A facility in which for pay more than three (3) but less than forty-eight
55 (48) persons eighteen (18) years of age or older, who have difficulty in functioning
56 independently, receive care for fewer than twenty-four (24) hours per day without transfer of
57 legal custody.

58 *Airport parking facility.* Any commercial property approved for the storage of vehicles for
59 greater than 24 hours where patrons are transported between the facility and the airport for
60 compensation. Establishment and operation of such facilities is subject to approval of a special
61 use permit by mayor and council as set forth in sections 93-3.2-5 and 93-3.2-6.

62 *Antique shop.* Any business that sells, at retail, merchandise which is at least 50 years old where
63 such merchandise reflects the architectural, design, or construction aesthetic of a particular
64 historical period, person, or geographical area as distinguished from used retail merchandise,
65 used automobiles, junk or other articles that would otherwise be sold at specialty shops, flea
66 markets, bazaars or variety shops as defined herein. In any antique shop as defined herein, new
67 or reproduction goods, which have been made to resemble antiques, shall not make up more than
68 25 percent of the business' inventory.

69 *Basement.* A story partly underground but having at least one-half of its height above the average
70 level of the adjoining ground.

71 *Bazaars.* Any meeting place, either temporary or permanent, where retail or wholesale business
72 is conducted in junk as defined herein, used merchandise, used merchandise or junk sold on
73 consignment, and/or new merchandise.

74 *Boardinghouse.* Any dwelling in which more than two persons are lodged on a continuous basis
75 and served meals for compensation.

76 *Building.* Any structure having a roof and intended for the shelter, housing or enclosure of
77 persons, animals or chattels.

78 *Building, accessory.* A building subordinate in nature, extent or purposes to the principal
79 building on a lot, and used for purposes customarily incidental to those of the principal building.

- 80 *Building, alteration of.* Any change or rearrangement in the supporting members (such as
81 bearing walls, beams, columns or girders) of a building, any addition to a building, or movement
82 of a building from one location to another.
- 83 *Building, front line of.* A line parallel to the street, intersecting the foremost point of the building,
84 excluding steps.
- 85 *Building, principal.* A building in which is conducted the main use of the lot on which the
86 building is located.
- 87 *Car rental agency.* Any commercial operation approved for the leasing of automobiles to the
88 public where patrons may or may not be transported between the facility and the airport.
89 Establishment and operation of such facilities is subject to approval of a special use permit by
90 mayor and council as set forth in sections 93-3.2-5 and 93-3.2-6.
- 91 *Cellar.* A story partly underground and having more than one-half of its height below the
92 average level of the adjoining ground.
- 93 *City council.* The mayor and council of the city.
- 94 *Clinic.* A building used by a group of doctors or dentists for the medical examination or
95 treatment of persons on an outpatient, or nonboarding basis only.
- 96 *Club.* A building owned, leased or hired by a nonprofit association of persons, who are bona fide
97 members paying dues, the use of which is restricted to those members and their guests. The
98 serving and selling of food and alcoholic beverages may be permitted, providing that adequate
99 kitchen facilities are available and that any sales are in accordance with federal, state and
100 municipal laws.
- 101 *Commercial parking lot.* Any commercial property which provides locations for the storage of
102 automobiles for a period of less than 24 hours and does not provide a shuttle service for
103 customers. Such lots are intended to serve customers of surrounding businesses and area office
104 workers.
- 105 *Condominium.* A type of joint ownership applying to buildings (usually apartment buildings) in
106 which dwelling units or enclosed spaces are individually owned, each owner receiving a
107 recordable deed enabling him to sell, mortgage, exchange, etc., his enclosed area or apartment
108 independently of owners of other areas or apartments; and further applying to an undivided
109 interest in common areas and facilities.
- 110 *Curb break.* Any interruption, or break, in the line of a street curb in order to connect a driveway
111 to a street, or otherwise to provide vehicular access to abutting property.
- 112 *Dwelling.* A building, or portion thereof, designed, arranged or used mainly for residential
113 occupancy, but not including trailers, mobile homes or recreation vehicles.

114 *Dwelling, one-family.* A building designed, arranged or used exclusively for occupancy by one
115 family.

116 *Dwelling, one-family attached.* Any dwelling in a structure which consists entirely of dwellings
117 each of which is attached to one or more other dwellings, has its own separate entrance from the
118 exterior of the building, and has an adjacent ground level outdoor area for the exclusive use of its
119 occupants.

120 *Dwelling, multifamily.* A residential building designed, arranged or used for occupancy by three
121 or more families living independently of each other.

122 *Dwelling, two-family.* A building designed, arranged or used for occupancy by two families
123 living independently of each other.

124 *Dwelling unit.* A dwelling, or portion thereof, providing complete living facilities for one family.

125 *Family.* One or more persons related by blood, adoption or marriage, living and cooking together
126 as a single nonprofit housekeeping unit, exclusive of household servants. A number of persons
127 but not exceeding three living and cooking together as a single nonprofit housekeeping unit
128 though not related by blood, adoption, or marriage shall be deemed to constitute a family.

129 *Flea market.* Any retail or wholesale business which buys, sells, exchanges, or accepts for sale
130 on consignment junk, as defined herein, or used merchandise less than 50 years old.

131 *Floodplain.* An area identified by the U.S. Army Corps of Engineers or other surveying agencies
132 as subject to flooding once every 100 years and necessary for the flow of floodwaters.

133 *Floor area.* The sum of the gross horizontal areas of the several floors of a dwelling unit,
134 exclusive of porches and balconies, garages, basements and cellars, measured from the exterior
135 faces of the exterior walls or from the centerlines of walls or partitions separating dwelling units.
136 For uses other than residential, the floor area shall be measured from the exterior faces of the
137 exterior walls or from the centerlines of walls or partitions separating those uses, and shall
138 include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to
139 those uses.

140 *Frontage.* The length of the front lot line.

141 *Garage.* An accessory building or portion of a principal building used for vehicular storage only,
142 and having a capacity adequate to accommodate the automobiles or light trucks owned and
143 registered in the name of the occupants of the principal building.

144 *Gasoline service station.* Any area of land, including structures thereon, that is used or designed
145 to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and
146 which may include facilities used or designed to be used for polishing, greasing, washing, dry
147 cleaning or otherwise serving motor vehicles. However, major mechanical or body repair,
148 customarily known as a repair garage, shall not be included in this definition.

149 *Group home.* Any dwelling unit designed for single-family occupancy and occupied by no more
150 than six (6) disabled individuals. The term "group home" shall not include the business of
151 operating a boarding house, rooming house, halfway house, homeless shelter, or other similar
152 enterprise, nor shall the term "group home" include any releases of any penal institution or place
153 for persons convicted of a crime, persons found to be juvenile delinquents, or juveniles found to
154 be persons to be in need of supervision. In addition to disabled persons, up to two (2) additional
155 persons acting as house parents or guardians may reside in a group home.

156 *Home occupation.*

157 (1) Any accessory use of a commercial service character customarily conducted within a
158 dwelling by the residents thereof, which is clearly secondary to the use of the dwelling
159 for living purposes and does not change the character thereof or have any exterior
160 evidence of the secondary use, where there is no group instruction, assembly or activity,
161 where no power other than that used in the home is used, no signs other than a name
162 plate not in excess of one square foot in area is displayed, no merchandise or other
163 articles are stored in the open or in accessory resident buildings or are displayed for
164 advertising purposes, no assistants other than family members are employed and an area
165 equivalent to not more than 25 percent of the ground floor area is so used.

166 (2) In particular, a home occupation includes, but is not limited to, the following:

167 a. The office of a physician, surgeon, dentist, chiropractor, lawyer, engineer,
168 architect, accountant or other professional person, within a dwelling occupied by
169 the same for consultation or emergency treatment, but not for the general practice
170 of his profession and where no assistants are employed.

171 b. Art studio, dressmaking, sewing or millinery, canning or baking conducted only
172 by members of the family residing on the premises and conducted entirely within
173 the dwelling.

174 c. Teaching violin, piano or other individual musical instruments and dancing with
175 instruction limited to not more than two pupils at any one time.

176 (3) However, a home occupation shall not be interpreted to include the following:

177 a. Dancing or band instrument instruction in groups.

178 b. Florists: flower shops or greenhouses.

179 c. Tearooms and restaurants.

180 d. Tourist homes.

181 e. Beauty parlors or shops and barbershops.

182 f. Fish hatcheries, worm farms or bait houses.

183 g. Office of real estate salesmen or brokers.

184 h. Convalescent and nursing homes.

185 i. Kennels and animal hospitals.

186 j. Clinics and hospitals.

187 k. Purchase or sale of economic goods of the type customarily sold in stores and
188 business establishments.

189 l. Activities that involve the use of chemicals, machinery or matter of energy that
190 may create or cause to be created, noise, noxious odors or hazards that will
191 endanger the health, safety or welfare of the community.

192 *Height.* The distance between the eaves of a building and the average ground line across the front
193 of the building.

194 *Junk.* Items including, but not limited to, waste, secondhand materials and merchandise less than
195 50 years old, scrap iron and other metals, paper, rugs, tires, bottles, broken items, and items in
196 disrepair which are unserviceable for their originally intended purpose.

197 *Junkyard.* An open area where waste, used or secondhand materials are bought, sold, exchanged,
198 stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other
199 metals, paper, rags, rubber tires and bottles. A "junkyard" also includes an auto wrecking yard,
200 but does not include uses established entirely within enclosed buildings.

201 *Kennel.* Any building or land used, designed or arranged for the boarding, breeding or care of
202 dogs for a fee.

203 *Kindergarten school.* Any building used routinely for the daytime care or education of preschool
204 age children, and including all accessory and play areas.

205 *Labor pools.*

206 (1) Labor pool means a business entity which operates by:

207 a. Contracting with other entities or persons to supply them with
208 temporary employees for shortterm assignments of casual labor;

209 b. Hiring persons to fulfill these contracts for shortterm assignments of
210 casual labor; and

211 c. Employing each individual employee no longer than the time period
212 required to complete the assignment for which that individual
213 employee was hired, although an individual may be eligible for
214 rehire when additional temporary assignments are available.

215 (2) A business entity which fulfills any contracts in accordance with this
216 subsection is a labor pool, even if the entity also conducts other business.

217 (3) Labor pool does not include a temporary help service that requires advanced
218 applications, job interviews and references.

219 (4) Short term assignment of casual labor means a work assignment for a term of
220 40 hours or less involving work for which neither the entity nor the person
221 contracting or arranging for temporary employees requires any of the
222 following from any such employees:

- 223 a. A professional or occupational license which requires for its issuance
224 a demonstration of knowledge or proficiency and which is issued by
225 the state or a political subdivision of the state;
- 226 b. A high school diploma or its equivalent;
- 227 c. Education beyond high school;
- 228 d. Vocational education;
- 229 e. Demonstrated proficiency with a specified type of machinery; or
- 230 f. Training before the assignment or on the job which exceeds one
231 hour.

232 This subsection shall not be construed as prohibiting or limiting the placement of a skilled
233 employee on a short-term assignment of casual labor as long as such skill or education is not a
234 requirement of the assignment.

235 *Lodge.* See "*Club.*"

236 *Lot.* A portion or parcel of land devoted to a single principal use, or occupied by a building or
237 group of buildings devoted to a common use, together with the customary accessories and open
238 spaces belonging to the same.

239 *Lot, corner.* A lot fronting on two or more streets at their intersection.

240 *Lot coverage.* The total horizontal ground area of a lot covered by all buildings on the lot and
241 which is not open to the sky.

242 *Lot coverage, maximum.* The maximum permitted ratio of lot coverage to usable area of the lot.
243 Usable area shall not include floodplains or slopes in excess of 30 percent grade.

244 *Lot depth.* The mean horizontal distance between the front and rear lot lines, measured
245 perpendicular to the front lot line.

246 *Lot, double frontage.* An interior lot having frontage on two parallel or approximately parallel
247 streets not intersecting at a point common with the boundary lines of lot.

248 *Lot, interior.* A lot other than a corner lot.

249 *Lot line, front.* The lot line coincident with a street right-of-way line.

250 *Lot of record.* A lot which is part of a subdivision, the plat of which has been recorded in the
251 office of the clerk of the county superior court, or a parcel of land, the deed to which has been
252 recorded in the same offices as of the effective date of this chapter.

253 *Lot width.* The horizontal distance between the side lot lines, measured at right angles to the
254 depth.

- 255 *Mayor and council.* The mayor and council of the city.
- 256 *Nursery.* Any building or lot, or portion thereof, used for the cultivation or growing of plants,
257 and including all accessory buildings.
- 258 *Nursing home.* Any facility for the aged, recuperating, or chronically ill persons who need
259 medical care or medical monitoring in which three (3) or more persons not related to the operator
260 are kept or provided with food and shelter or care for compensation for twenty-four (24) hours
261 per day; but not including hospitals, clinics, or similar institutions devoted primarily to the
262 diagnosis and treatment of the sick or injured.
- 263 *Patio houses.* A type of single-family attached dwelling unit which covers the entire lot by
264 combining front, side and rear yards into one "landscaped patio" bordered on two sides by the
265 house, and on the other two sides by ornamental brick or stone walls at least seven feet in height.
266 Windows are located at the front of the house and usually glass walls are adjacent to the patio.
267 Units are built abutting each other, making common use of three of the enclosure walls.
- 268 *Personal care home.* Any dwelling, whether operated for profit or not, which undertakes
269 through its ownership or management to provide or arrange for the provision of housing, food
270 service, and one or more personal services for two or more adults who are not related to the
271 owner or administrator by blood or marriage. The term "personal services" includes but is not
272 limited to, individual assistance with or supervision of self-administered medication, assistance
273 with ambulation and transfer, and essential activities of daily living such as eating, bathing,
274 grooming, dressing, and toileting.
- 275 *Planned unit development (PUD).* A PUD is a land development project which is planned as one
276 entity, grouping dwelling units into clusters providing an appropriate amount of land for open
277 space, mixed housing types and densities. Many development and dimensional requirements are
278 generally waived and land use intensity and design criteria are applied through a site plan review
279 process.
- 280 *Residential infill.* Residential infill is small scale single-family residential development (up to 12
281 units) in developed neighborhoods. It is characterized by such elements as subdivisions of
282 established residential parcels and reduced lot size and frontage.
- 283 *Restaurants, drive-in.* Restaurants oriented to serving the motoring public, where curb service,
284 window pickup or counter service is provided for over ten percent of the customers.
- 285 *Setback.* The distance from the centerline of a street to the nearest point of a building.
- 286 *Single-family attached dwelling.* A type of residential development which includes a dwelling
287 unit on a subdivided lot usually individually owned, though attached by a common party wall to
288 another dwelling unit on an adjoining lot.
- 289 *Specialty shops.* Any business that sells, at retail, merchandise that has been previously used or is
290 sold on consignment and has been previously used that sells junk, sells new or reproduction

291 goods which have been made to resemble antiques that make up at least 25 percent of the
292 business's inventory, operates a flea market or bazaar all as defined in this article, or does not sell
293 antiques as defined in this article.

294 *Street.* A public way for vehicular traffic which affords primary means of access to abutting
295 property.

296 *Street centerline.* A line surveyed at the direction of the mayor and council and designated as an
297 official street centerline, or in the absence of such line, a line drawn parallel to and midway
298 between the right-of-way lines of any mapped street.

299 *Story.* The portion of a building included between the surface of any floor and the surface of the
300 floor next above it, or if there is no floor above it, the space between any floor and the ceiling
301 next above it. A basement shall be counted as a story for height measurement if the vertical
302 distance between the ceiling and the average level of the adjoining ground is more than five feet.
303 A cellar shall not be counted as a story for height measurement.

304 *Story, half.* A story under a gable, hip or gambrel roof, the wall plates of which on at least two
305 opposite exterior walls are not more than two feet above the floor of that story.

306 *Structure.* Anything constructed or erected with a fixed location on or in the ground, or attached
307 to something having a fixed location on the ground. Structures include, but are not limited to, the
308 following: site-built buildings, industrialized buildings, modular homes, manufactured homes,
309 mobile homes, billboards, swimming pools, advertising signs, satellite dishes, fallout shelters,
310 telecommunications towers and facilities, and satellite communication facilities.

311 *Use, accessory.* A use subordinate in nature, extent or purpose to the principal use of a building
312 or lot, and customarily incidental thereto.

313 *Use, conditional.* A use of a building or lot that is permitted only if and when the planning
314 commission, and mayor and council specifically approve that use, and all plans, specifications,
315 written conditions or written restrictions are complied with on a continuing basis.

316 *Used car lot.* Any lot or tract used for the storage, display or sale of used automobiles, trucks or
317 other motorized vehicular equipment, including the sales and maintenance buildings incidental
318 thereto.

319 *Use, nonconforming.* Any lawful use of a building or lot which does not comply with all of the
320 regulations of this chapter governing the use at that particular location.

321 *Use, principal.* The main use of a building or lot.

322 *Variety shops.* Any business that sells, at retail, new merchandise except that such a business
323 may have up to 25 percent used merchandise other than antiques, as defined in this chapter, as
324 part of the business's inventory.

325 *Yard.* An unoccupied space, open to the sky, on the same lot with a building.
326 *Yard, front.* A yard measured at right angles from the front lot line to the nearest point of the
327 principal building, exclusive of steps, and extending the full width of the lot.
328 *Yard, rear.* A yard measured at right angles from a rear lot line to the nearest point of the
329 principal building, exclusive of steps, and extending the full width of the lot.
330 *Yard, side.* A yard measured at right angles from a side lot line to the nearest point of the
331 principal building, exclusive of steps, and extending the front yard to the rear yard.”

332 **Section 2. The City’s Code of Ordinances is hereby amended by inserting a new**
333 **Section 93-2-19 to read as follows:**

334 “Sec. 93-2-19. – Use regulations regarding group homes.

335 In addition to the other requirements set forth in this ordinance, group homes may be permitted
336 in the following zones: R-O, R-AD, R-1, R-2, R-3, R-4, R-I, R-SF, R-5, V, U-V, RMU, N-C and
337 C-R, subject to the following conditions:

- 338 (1) No additional parking beyond the existing driveway and garage areas is allowed on the
339 property where the group home is located, and vehicles may only be parked on such
340 areas. In the event that additional parking is required, the operator of the group home
341 may apply for a variance from the Board of Appeals to increase the existing parking area,
342 such increase to be confined to the rear of the lot;
- 343 (2) The group home provides a current list of residents living in the facility who have
344 disabilities, and information concerning special needs to the Hapeville fire and police
345 departments to ensure resident safety and evacuation from the premises in the event of a
346 fire or other emergency within the home;
- 347 (3) The governing body for the facility provides the city with the names and telephone
348 numbers of two (2) persons who can be contacted in the event of an emergency;
- 349 (4) As used herein "governing body for the facility" shall mean the board of trustees, the
350 partnership, the corporation, the association, or the person or group of persons who
351 maintain and control the facility and which is legally responsible for operation of the
352 facility;
- 353 (5) The existing dwelling is upgraded and inspected by the city with respect to the
354 accommodation and accessibility of the dwelling by disabled persons;
- 355 (6) No controlled substances are stored, served, sold, consumed, or in the possession of any
356 person on the premises;
- 357 (7) An operable telephone is maintained and readily available in the facility; provided
358 further that the city shall be contacted immediately in the event that a physical altercation
359 or any violation of state or federal law or local ordinances occurs on the premises;
- 360 (8) The facility at all times of operation adheres to the guidelines and procedures as provided
361 by Georgia Department of Human Resources, Office of Regulatory Services.

- 362 (9) Unless more stringent restrictions apply, every room in all group homes and similar
363 facilities, occupied for sleeping purposes by one (1) person shall contain at least eighty
364 (80) square feet of floor space and every room occupied for sleeping purposes by more
365 than one (1) person shall contain at least eighty (80) square feet of floor space for each
366 occupant thereof.
- 367 (10) The facility is rendered compliance with all applicable life safety codes including
368 but not limited to federal, state and local fire and building codes.
- 369 (11) Any exterior modifications to the existing structure will be consistent with the
370 residential character of the surrounding neighborhood;
- 371 (12) The group home has obtained all federal and/or state permits or licenses required
372 for its operation;
- 373 (13) The group home must register with the City of Hapeville Community Services
374 Department and provide a copy of all State licenses and documentation to the city's
375 building official and code enforcement officer;
- 376 (14) The group home shall meet all parking regulations as identified in this Code;
- 377 (15) The group shall apply for and receive a city business license prior to operation;
378 and
- 379 (16) The group home is not located within one thousand five hundred (1,500) feet of
380 an existing group home.”

381 **Section 3. The City’s Code of Ordinances is hereby amended by inserting a new Section**

382 **93-2-20 to read as follows:**

383 “Sec. 93-2-20. – Use regulations regarding personal care homes.

- 384 (a) Personal care homes, as defined herein, may be permitted in any RMU, V, U-V, C-R, N-
385 C, C-1 and C-R zone, subject to special use permit and the following conditions:
- 386 (1) Any exterior modifications to an existing structure or construction of a new
387 structure shall be consistent with the character of the surrounding area;
- 388 (2) The personal care home provides on-site parking and/or drop-off space adequate
389 to meet the needs of the proposed facility;
- 390 (3) The personal care home provides to the Hapeville fire and police departments a
391 current list of residents living in the facility who have disabilities, and
392 information concerning special needs, so as to ensure each resident's safety and
393 evacuation from the premises in the event of a fire or other emergency within the
394 home; and
- 395 (4) The personal care home has obtained all federal and/or state permits or licenses
396 required for its operation.

397

398 Table 1. Community Residences by Zone

Use	R-O, R-AD, R-1, R-2, R-3, R-4, R-I, R-SF & R-5	RMU	V	U-V	C-R	N-C	C-1	C-2
Group Home	P	P	P	P	P	P	X	X
Adult Day Care Facility	X	P	P	P	P	P	P	S
Nursing Home	X	S	S	X	S	S	S	X
Personal Care Home	X	S	S	X	S	S	S	X

399
 400 P-Permitted
 401 X-Nonpermitted
 402 S-Special Use”
 403

404 **Section 4. The City’s Code of Ordinances is hereby amended by deleting the**
 405 **existing Section 93-3.2-5 and adding a new Section 93-3.2-5 to read as follows:**

406 “Sec. 93-3.2-5. - Special use permit procedures.

407 Mayor and council may in considering a special use permit following a public hearing impose
 408 reasonable conditions deemed necessary to the protection or benefit of owners of adjacent and
 409 nearby properties to ensure compatibility of the proposed development or use with surrounding
 410 uses. The decision of mayor and council concerning consideration of a special use shall be given
 411 to the applicant in writing, by certified U.S. mail to the address indicated in the application.
 412 Aggrieved applicants shall have 30 calendar days from the date of receipt of the notice in which
 413 to petition the Superior Court of Fulton County for writ of certiorari.”

414 **Section 5. The City’s Code of Ordinances is hereby amended by deleting the**
 415 **existing Section 93-4-2 of the Code of Ordinances of the City of Hapeville and adding new**
 416 **Sections 93-4-2 and 93-4-3 to read as follows:**

417 “Sec. 93-4-2. - Permitted uses.

418 The following uses are permitted in any R-0 zone:

- 419 (1) One-family dwellings.
- 420 (2) Group homes, subject to the restrictions in Sec. 93-2-19.

- 421 (3) Public, private and parochial schools, not including nursery schools or kindergartens.
422 (4) Playgrounds, parks and buildings operated on a noncommercial basis for recreational
423 purposes only.
424 (5) Customary home occupations as defined in Sec. 93-1-2
425 (6) Customary accessory uses and buildings including noncommercial gardens and
426 greenhouses.

427 Sec. 93-4-3. - Nonpermitted uses.

428 The following uses, while permitted in other areas within the city, are not permitted in the R-0
429 zone:

- 430 (1) Adult daycare facilities.
431 (2) Reserved.
432 (3) Nursing homes.
433 (4) Personal care homes.”

434 **Section 6. The City’s Code of Ordinances is hereby amended by deleting the**
435 **existing Section 93-5-2 and adding a new Section 93-5-2; deleting the existing Section 93-5-3**
436 **and adding a new Section 93-5-3; retaining the text of the existing Section 93-5-3 and**
437 **renumbering it to 93-5-4; and only renumbering existing Sections 93-5-4 through 93-5-12 to**
438 **read as follows:**

439 “Sec. 93-5-2. - Permitted uses.

440 The following uses are permitted in any R-AD zone:

- 441 (1) Single-family dwellings.
442 (2) Group homes, subject to the restrictions in section 93-2-19.
443 (3) Customary home occupations as defined in this chapter.
444 (4) Customary accessory uses and buildings.

445 Sec. 93-5-3. - Nonpermitted uses.

446 The following uses, while permitted in other areas within the city, are not permitted in the R-AD
447 zone:

- 448 (1) Adult daycare facilities.
449 (2) Reserved.
450 (3) Nursing homes.

451 (4) Personal care homes.

452 Sec. 93-5-4. - Lot width, size, and frontage.

453 The minimum lot shall be 65 feet at the building line as measured at the front yard setback; all
454 building lots shall abut a public street right-of-way for a minimum dimension of 25 feet. No lot
455 shall contain less than 7,000 square feet.

456 Sec. 93-5-5. - Unit size.

457 The minimum floor area of the principal dwelling shall not be less than 1,400 square feet. The
458 combined floor area of all accessory buildings on the lot shall not exceed 25 percent of the floor
459 area of the principal dwelling, and in no case shall it exceed 600 square feet.

460 Sec. 93-5-6. - Building height.

461 The maximum building height in the R-AD zone shall be 35 feet as measured above the average
462 adjacent grade. Accessory buildings shall not exceed the height of the principal dwelling.

463 Sec. 93-5-7. - Site development standards.

464 The following site development standards shall apply to all development in the R-AD zone:

465 (1) All front yards must be landscaped and sodded and maintained in that condition in
466 perpetuity.

467 (2) No fence shall be permitted in the front yard; fences installed in side or rear yards
468 shall not exceed a height of six feet. No fence shall be erected using materials other
469 than those specifically designed and manufactured for such purpose.

470 (3) Accessory buildings are not permitted in front yard.

471 Sec. 93-5-8. - Architectural standards.

472 The following architectural standards shall apply:

473 (1) Each dwelling unit shall provide a front porch having a minimum area of 100 square
474 feet and a rear or side yard deck having a minimum area of 128 feet.

475 (2) Building materials shall not include concrete block (other than foundation), T-111
476 siding, plywood, particle board or other "economy" materials. Siding shall be limited
477 to aluminum, vinyl, brick, stone, architectural concrete or other acceptable materials
478 manufactured for permanent applications.

479 (3) A roof pitch of less than one foot of rise in two feet of run is prohibited; use of tar
480 paper roofing or other materials in lieu of shingles manufactured for use as traditional
481 roofing shall be prohibited.

482 Sec. 93-5-9. - Development standards.

483 The following development standards shall apply:

- 484 (1) Sidewalks with a minimum horizontal dimension of four feet shall be installed within
485 the right-of-way along at least one side of all public streets; all construction shall
486 conform to ADA specifications.
- 487 (2) Concrete curb and gutter are required.
- 488 (3) Pedestrian scale lighting at a minimum height of 14 feet shall be installed at a
489 minimum horizontal spacing 125 feet on center.
- 490 (4) Sidewalks shall not encroach within four feet of the back of curb; all areas between
491 sidewalks and curbs shall be landscaped and sodded.
- 492 (5) The minimum street width shall be 24 feet from back of curb to back of curb. The
493 minimum diameter of all culs-de-sac shall be 80 feet; a landscaped island with a
494 minimum dimension of 30 feet shall be provided in the center of all culs-de-sac.

495 Sec. 93-5-10. - Required yards.

496 Dimensions provided in Table I, as measured from the right-of-way, shall be the required yard
497 dimensions for principal and accessory buildings:

498 Table I. Required Yards

Structure	Front	Side	Rear
Dwelling	25 feet	7 feet	15 feet
Accessory	N/A	5 feet	10 feet

499 Sec. 93-5-11. - Lot coverage.

500 Lot coverage of all impervious surfaces shall not exceed 50 percent of the lot area. For the R-AD
501 zone, impervious surfaces shall be defined as all structures, including dwellings and accessory
502 buildings, pavement and any other structure that prevents the movement of precipitation directly
503 into the ground.

504 Sec. 93-5-12. - Vehicle access and parking.

- 505 (a) *Parking and storage.* No longterm parking shall be permitted in the public right-of-way.
506 For the purposes of this section, "longterm parking" shall mean any continuous parking
507 of a vehicle of any type for a period exceeding 24 hours. No parking of buses or trucks
508 other than noncommercial vans, pickup trucks and sport utility vehicles shall be

509 permitted. Outside storage of unlicensed vehicles is prohibited; no parking or vehicle
510 storage on unpaved areas shall be permitted. No vehicle maintenance of any kind shall be
511 performed in the front yard. No storage of boats, campers, camping trailers or
512 recreational vehicles shall be permitted in the front yard.

513 (b) *Driveways*. Driveways accessing two road frontages shall be prohibited. In the case of a
514 corner lot, access shall be from the street on which the lot has its least dimension, only.
515 No driveway shall be located within 35 feet of the intersection of two public street rights-
516 of-way or within five feet of the side lot line.

517 Sec. 93-5-13. - Protective covenants or deed restrictions.

518 The provisions of section 93-18-6 shall apply to the R-AD zone.”

519 **Section 7. The City’s Code of Ordinances is hereby amended by deleting the**
520 **existing Section 93-6-2 and adding new Sections 93-6-2 and 93-6-3 to read as follows:**

521 “Sec. 93-6-2. - Permitted uses.

522 The following uses are permitted in any R-1 zone:

- 523 (1) One-family dwellings.
524 (2) Group homes, subject to the restrictions in section 93-2-19.
525 (3) Public, private and parochial schools operated for the purpose of instructing in
526 elementary and high school general education subjects. In addition, other schools are
527 allowed subject to a finding by the planning commission that the proposed method of
528 establishment and operation would not adversely impact the use and enjoyment of
529 surrounding properties.
530 (4) Playgrounds, parks and buildings operated on a noncommercial basis for recreational
531 purposes only.
532 (5) Customary home occupations as defined in section 93-1-2
533 (6) Customary accessory uses and buildings including noncommercial gardens and
534 greenhouses.

535 Sec. 93-6-3. - Nonpermitted uses.

536 The following uses, while permitted in other areas within the city, are not permitted in the R-1
537 zone:

- 538 (1) Adult daycare facilities.
539 (2) Reserved.

- 540 (3) Nursing homes.
- 541 (4) Personal care homes.”

542 **Section 8.** The City’s Code of Ordinances is hereby amended by deleting the
543 existing Section 93-7-2 and adding new Sections 93-7-2, 93-7-3 and 93-7-4 to read as
544 follows:

545 “Sec. 93-7-2. - Permitted uses.

- 546 (a) The following uses are permitted within the N-C zone:
 - 547 (1) All uses permitted in the C-1 zone.
 - 548 (2) Child day care facilities.
 - 549 (3) Group homes, subject to the restrictions in section 93-2-19.
 - 550 (4) Adult daycare facilities.
 - 551 (5) Credit unions.
 - 552 (6) Food stores.
 - 553 (7) Hardware stores.
 - 554 (8) Laundromats and dry cleaners.
 - 555 (9) Public, private and parochial schools operated for the purpose of instructing in
556 elementary and high school general education subjects. In addition, other
557 schools are allowed subject to a finding by the planning commission that the
558 proposed method of establishment and operation would not adversely impact
559 the use and enjoyment of surrounding properties.
 - 560 (10) Real estate offices.
 - 561 (11) Existing single-family dwellings which were originally designed for that
562 purpose.
 - 563 (12) Existing multifamily dwellings which were originally designed for that
564 purpose.
 - 565 (13) Any use existing within the N-C zone at the time the N-C zone was adopted
566 may be extended or enlarged, provided that an application for such extension
567 or enlargement is prepared and submitted in accordance with the provisions of
568 subparagraph (b) hereof, and further provided that there is a determination by
569 the planning commission that the proposed extension or enlargement would
570 have no material additional adverse impact on the N-C zone.
- 571 (b) Applicants for building permits within this zone must submit to the building official,
572 for review and approval by the planning commission, a written application specifying

573 the proposed use and containing a plan, drawings, information and reports as may be
574 reasonably required to determine whether or not the proposed use and its proposed
575 method of establishment and operation would comply with the intent provisions of
576 section 93-7-1

577 (c) Upon a finding by the planning commission that the proposed use and its proposed
578 method of establishment and operation would comply with the intent provisions of
579 the N-C zone, a building permit for such use shall be issued. In the absence of such
580 finding by the planning commission, a building permit for the proposed new use shall
581 not be issued.

582 Sec. 93-7-3. - Nonpermitted uses.

583 The following uses, while permitted in other areas within the city, are not permitted in the N-C
584 zone:

585 (1) Reserved.

586 Sec. 93-7-4. - Special uses.

587 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
588 6, in any N-C zone:

589 (1) Nursing homes.

590 (2) Personal care homes, subject to the restrictions in section 93-2-20.”

591 **Section 9. The City’s Code of Ordinances is hereby amended by deleting the existing**

592 **Section 93-8-2 and adding new Sections 93-8-2 and 93-8-3 to read as follows:**

593 “Sec. 93-8-2. - Permitted uses.

594 The following uses are permitted in any R-2 zone:

595 (1) One-family dwellings.

596 (2) Two-family dwellings.

597 (3) Group homes, subject to the restrictions in section 93-2-19.

598 (4) Public, private and parochial schools operated for the purpose of instructing in
599 elementary and high school general education subjects. In addition, other schools are
600 allowed subject to a finding by the planning commission that the proposed method of
601 establishment and operation would not adversely impact the use and enjoyment of
602 surrounding properties.

- 603 (5) Playgrounds, parks and buildings operated on a noncommercial basis for purposes of
604 recreation only.
- 605 (6) Customary home occupations, as defined in section 93-1-2
- 606 (7) Customary accessory uses and buildings.

607 Sec. 93-8-3. - Nonpermitted uses.

608 The following uses, while permitted in other areas within the city, are not permitted in the R-2
609 zone:

- 610 (1) Adult daycare facilities.
- 611 (2) Reserved.
- 612 (3) Nursing homes.
- 613 (4) Personal care homes.”

614 **Section 10. The City’s Code of Ordinances is hereby amended by deleting the**
615 **existing Section 93-9-2 and adding new Sections 93-9-2 and 93-9-3 to read as follows:**

616 “Sec. 93-9-2. - Permitted uses.

617 The following uses are permitted in any R-3 zone:

- 618 (1) One-family dwellings.
- 619 (2) Two-family dwellings.
- 620 (3) Group homes, subject to the restrictions in section 93-2-19.
- 621 (4) Single-family attached and patio houses with no more than four dwelling units
622 attached.
- 623 (5) Public, private, and parochial schools operated for the purpose of instructing in
624 elementary and high school general education subjects. In addition, other schools are
625 allowed subject to a finding by the planning commission that the proposed method of
626 establishment and operation would not adversely impact the use and enjoyment of
627 surrounding properties.
- 628 (6) Playground, parks, and buildings operated on a noncommercial basis for the purposes
629 of recreation only.
- 630 (7) Customary home occupations, as defined in section 93-1-2; and
- 631 (8) Customary accessory uses and buildings.

632 Sec. 93-9-3. - Nonpermitted uses.

633 The following uses, while permitted in other areas within the city, are not permitted in the R-3
634 zone:

- 635 (1) Adult daycare facilities.
- 636 (2) Reserved.
- 637 (3) Nursing homes.
- 638 (4) Personal care homes.”

639 **Section 11. The City’s Code of Ordinances is hereby amended by deleting the**
640 **existing Section 93-10-2 and adding new Sections 93-10-2 and 93-10-3 to read as follows:**

641 “Sec. 93-10-2. - Permitted uses.

642 (a) The following uses are permitted in any R-4 zone, subject to the general requirements
643 of the zone:

- 644 (1) Single-family detached dwellings.
- 645 (2) Two-family dwellings.
- 646 (3) Group homes, subject to the restrictions in Sec. 93-2-19.
- 647 (4) Customary home occupations, as defined in section 93-1-2
- 648 (5) Customary accessory uses and buildings.
- 649 (6) Playgrounds, parks and buildings operated on a noncommercial basis for
650 purposes of recreation only.

651 (b) The following uses are permitted in any R-4 zone subject to the general requirements
652 of the zone and the site plan review requirements of section 93-2-16; provided that
653 any unit for occupancy shall have a total floor area of not less than 480 square feet for
654 an efficiency or one bedroom unit, a total floor area of not less than 730 square feet
655 for a two bedroom unit and an additional 150 square feet of floor area for each
656 additional bedroom.

- 657 (1) Single-family attached developments, including single-family attached patio
658 developments, in structures with not more than four attached dwellings.
- 659 (2) Multifamily dwellings, in buildings containing no more than four dwelling
660 units and having a minimum lot area of 7,200 square feet per dwelling unit,
661 and provided that the minimum total lot area is 30,000 square feet.
- 662 (3) Multifamily dwelling developments having a minimum lot area of 3,000
663 square feet per dwelling unit, and provided that the minimum total lot area for
664 any such development is five acres.

665 Sec. 93-10-3. - Nonpermitted uses.

666 The following uses, while permitted in other areas within the city, are not permitted in the R-4
667 zone:

- 668 (1) Adult daycare facilities.
- 669 (2) Reserved.
- 670 (3) Nursing homes.
- 671 (4) Personal care homes.”

672 **Section 12. The City’s Code of Ordinances is hereby amended by deleting the**
673 **existing Section 93-11-2 and adding new Sections 93-11-2 and 93-11-4 to read as follows:**

674 “Sec. 93-11-2. - General use criteria.

675 Only the following uses may be developed under provisions of the R-I overlay zone:

- 676 (1) Single-family detached residential.
- 677 (2) Single-family attached residential.
- 678 (3) Single-family attached (patio) residential.
- 679 (4) Group homes, subject to the restrictions in Sec. 93-2-19.

680 Sec. 93-11-4. - Nonpermitted uses.

681 The following uses, while permitted in other areas within the city, are not permitted in the R-I
682 zone:

- 683 (1) Adult daycare facilities.
- 684 (2) Reserved.
- 685 (3) Nursing homes.
- 686 (4) Personal care homes.”

687 **Section 13. The City’s Code of Ordinances is hereby amended by deleting the**
688 **existing Sections 93-11.1-2, 93-11.1-3 and 93-11.1-5 and adding new Sections 93-11.1-2, 93-**
689 **11.1-3, and 93-11.1-5; retaining the text of the existing Section 93-11.1-5 and renumbering**
690 **it to 93-11.1-6 to read as follows:**

691 “Sec. 93-11.1-2. - Permitted uses.

692 The following are permitted within the V zone:

- 693 (1) Any use permitted in the D-D zone;
- 694 (2) Any use permitted in the C-1 zone subject to the requirements of this article;
- 695 (3) Single-family detached dwellings;
- 696 (4) Single-family attached dwellings with at least four units attached;

- 697 (5) Group homes, subject to the restrictions in Sec. 93-2-19.
- 698 (6) Adult daycare facilities.
- 699 (7) Condominiums subject to approval as a conditional use; and
- 700 (8) Combination of residential and business applications within a single structure.
- 701 However, each use must have a separate entrance.

702 Sec. 93-11.1-3. - Nonpermitted uses.

703 The following uses, while permitted in other areas within the city, are not permitted in the V
704 zone:

- 705 (1) Pawnshops and check cashing businesses excluding banks and credit unions;
- 706 (2) Adult entertainment establishments as defined by section 11-2-1 of this Code,
707 including, but not limited to, adult bookstores, video or DVD adult rental or purchase,
708 adult movie or adult live theaters, or adult gifts and novelties, or viewing or listening
709 to other adult entertainment through any other electronic or other technological
710 medium;
- 711 (3) Automotive repair shops, dealerships and service stations, boat sales, auto parts
712 stores;
- 713 (4) Tattoo parlors;
- 714 (5) Palm reading and fortunetelling including psychic and crystal ball readings;
- 715 (6) Billiard parlors and pool halls;
- 716 (7) Carnivals;
- 717 (8) Stables;
- 718 (9) Shooting galleries, firearm, and archery ranges;
- 719 (10) Firearms dealers;
- 720 (11) Modeling agencies;
- 721 (12) Massage parlors;
- 722 (13) Spas;
- 723 (14) Hypnotists;
- 724 (15) Handwriting analysis;
- 725 (16) Escort services;
- 726 (17) Bazaars;
- 727 (18) Specialty shops;
- 728 (19) Flea markets;
- 729 (20) Junk stores;
- 730 (21) Variety shops;
- 731 (22) Labor pools;

- 732 (23) Extended stay motels/hotels;
- 733 (24) Parking lots (except for municipal parking lots benefiting the V zone);
- 734 (25) Warehouses or longterm storage of material except where such storage does not
- 735 constitute more than 25 percent of the business's floor space;
- 736 (26) Reserved; and
- 737 (27) Reserved.

738 Sec. 93-11.1-5. - Special uses.

739 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
740 6, in any V zone:

- 741 (1) Nursing homes.
- 742 (2) Personal care homes, subject to the restrictions in section 93-2-20.

743 Sec. 93-11.1-6. - Area, placement, and buffering requirements.

744 All buildings or structures erected, converted or structurally altered shall hereafter comply with
745 the following lot area, yard, and building coverage requirements:

- 746 (1) Lot area and width. No lot shall have a minimum frontage of less than 50 feet, while
- 747 the minimum area shall be established by the restriction governing lot coverage,
- 748 setbacks, screening, and parking requirements.
- 749 (2) Front yard. All structures located along a street shall be set back, at a minimum, of 15
- 750 feet, or greater as may be determined to be necessary and advisable by the city
- 751 planning commission in the course of its site plan review process. In determining
- 752 such yard setbacks, the city planning commission shall consider the size and
- 753 configuration of the proposed buildings, their relationship to the existing and
- 754 proposed thoroughfares; in order to maximize all vehicular and pedestrian safety.
- 755 (3) Side and rear yards. The side and rear yards adjacent to, or separated by a street, alley
- 756 or other right-of-way from a residential or commercial zone, shall provide a building
- 757 setback of at least 15 feet.
- 758 (4) Distance between buildings. The minimum distance between two multiple family
- 759 buildings on a single lot or on contiguous property under the same ownership shall be
- 760 20 feet, plus four additional feet for every story or fraction thereof that the building
- 761 exceeds two stories, or such distance determined necessary by the planning
- 762 commission to enhance the aesthetics of development.
- 763 (5) Height regulations. No building or structure shall exceed 2½ stories or a 35 feet in
- 764 height, provided the planning commission may allow a development with greater
- 765 height, if it finds that:

- 766 a. The proposed height will not adversely impact adjacent properties or nearby
767 residential neighborhoods;
- 768 b. The added height is necessary to support redevelopment of an area, which
769 currently contains uses that have an adverse impact upon adjacent
770 neighborhoods;
- 771 c. The proposed development is designed to facilitate the objectives and
772 strategies of the master plan;
- 773 d. Meets approval from the fire department and FAA.
- 774 (6) Residential buffer. New development shall provide sufficient setback as well as an
775 attractive physical barrier between the residential and nonresidential uses as necessary
776 to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive
777 activity relative to the residential environment. A smooth transition between
778 residential neighbors and nonresidential uses (including all parking lots) shall be
779 ensured by the provision of sufficient screening of more intensive uses (i.e.,
780 commercial/offices uses) from residential neighborhoods through the use of
781 decorative landscaping and screened walls. A 15-foot landscaped buffer shall be
782 installed between and along the residential and nonresidential sides of said buffer.
783 The landscaped area shall be planted with trees, flowers, grasses and shrubs to
784 visually screen non-residential areas and provide an attractive boundary that
785 encourages continued investment in the adjacent residential property.”

786 **Section 14. The City’s Code of Ordinances is hereby amended by deleting the**
787 **existing Sections 93-11.2-3, 93-11.2-4 and 93-11.2-6 and adding new Sections 93-11.2-3, 93-**
788 **11.2-4, and 93-11.2-6; only renumbering existing Sections 93-11.2-6 through 93-11.2-12;**
789 **retaining the text of Subsections 1 through 6 of existing Section 93-11.2-13 and**
790 **renumbering it to 93-11.2-14; and deleting existing Subsections 7 through 10 of existing**
791 **Section 93-11.2-13 and adding new respective subsections to read as follows:**

792 “Sec. 93-11.2-3. - Permitted uses.

793 The following are permitted within the U-V zone:

- 794 (1) Business and professional offices/agencies, including:
- 795 a. Architectural.
- 796 b. Dental.

- 797 c. Engineering.
- 798 d. Graphic arts.
- 799 e. Insurance.
- 800 f. Legal.
- 801 g. Manufacturers' representatives.
- 802 h. Medical.
- 803 i. Real estate.
- 804 j. Banks and other financial institutions (not including pawnshops and check
- 805 cashing businesses).
- 806 (2) Institutional uses, including:
- 807 a. Art studios.
- 808 b. Business schools.
- 809 c. Colleges and universities.
- 810 d. Dance studios.
- 811 e. Libraries and other public buildings.
- 812 f. Professional schools (including music/dance studios).
- 813 g. Technical schools.
- 814 h. Playgrounds, parks, and buildings open on a noncommercial basis for
- 815 recreation only. Uses of this nature are exempt from being within a
- 816 completely enclosed building.
- 817 (3) Retail; sales, with a maximum floor area of 6,000 square feet, including:
- 818 a. Antique shops.
- 819 b. Apparel shops (offering new merchandise).
- 820 c. Appliance, radio and television sales outlets and services, including incidental
- 821 repairing where all repair is conducted out of customers' view and is limited to
- 822 25 percent of the business's floor area (offering new merchandise).
- 823 d. Baking shops.
- 824 e. Book, card and stationary stores.
- 825 f. Computer sales and repairs (offering new or refurbished merchandise). These
- 826 uses are subject to a finding by the city planning commission that the
- 827 proposed method of establishment and operation would not adversely impact
- 828 the use and enjoyment of surrounding properties nor negatively affect the
- 829 character of the zone. For purposes of this subsection, refurbished shall mean
- 830 merchandise intended for retail that has been tested and certified by an
- 831 authorized service center of the manufacturer or otherwise restored to like-
- 832 new working condition and appearance and then re-packaged and labeled as a

- 833 refurbished product. Such merchandise shall appear new and be free from all
834 defects such as major scratches, dents or other forms of cosmetic damage.
- 835 g. Florist shops.
 - 836 h. Furniture stores (offering new merchandise).
 - 837 i. Hobby shops (offering new merchandise).
 - 838 j. Jewelry stores (offering new or used merchandise)
 - 839 k. Opticians and optical stores.
 - 840 l. Photography stores.
 - 841 m. Printing shops.
- 842 (4) Retail; drugstores, pharmacies and soda shops with a maximum floor area of 15,000
843 square feet.
- 844 (5) Retail; sales, with a maximum floor area of 20,000 square feet, including:
- 845 a. Department stores (offering new merchandise).
 - 846 b. General merchandise stores (selling new merchandise).
 - 847 c. Hardware stores.
 - 848 d. Office supply stores.
- 849 (6) Retail; grocery stores with a minimum floor area of 30,000 square feet.
- 850 (7) Personal services, with a maximum floor area of 6,000 square feet, including:
- 851 a. Barbershops and beauty shops.
 - 852 b. Data processing facilities.
 - 853 c. Laundry and dry cleaning shops.
 - 854 d. Tailor shops.
 - 855 e. Travel agencies.
- 856 (8) Bed and breakfast inns without kitchens or cooking facilities in rooms used for guest
857 occupancy.
- 858 (9) Restaurants, grills, cafes, taverns and similar eating and drinking establishments with
859 a maximum size of 6,000 square feet, but excluding drive-in restaurants, fast food
860 restaurants, or restaurants in which patrons are not served exclusively seated or
861 standing at a counter.
- 862 (10) Theaters (with a maximum size of 8,000 square feet) which do not provide
863 entertainment as defined in section 11-2-1 of this Code, including adult films, adult
864 stage productions, adult videos or other adult entertainment performances.
- 865 (11) Customary accessory buildings and uses.
- 866 (12) Public, private and parochial schools operated for the purpose of instructing in
867 elementary and high school general education subjects. In addition, other schools are
868 allowed subject to a finding by the city planning commission that the proposed

869 method of establishment and operation would not adversely impact the use and
870 enjoyment of surrounding properties.

871 (13) Churches and other places of worship.

872 (14) Single-family detached dwellings, subject to the density restrictions in subsection
873 (19) of this section.

874 (15) Single family attached dwellings with at least two units attached, but no more than 12
875 and subject to the density restrictions in subsection (19) of this section.

876 (16) Group homes, subject to the restrictions in section 93-2-19.

877 (17) Adult daycare facilities.

878 (18) Combination of residential and business applications within a single structure,
879 provided that each use must have a separate entrance directly accessible from the
880 required sidewalk or within a jointly used lobby.

881 (19) Residential density limitations shall be as follows:

882 a. The maximum permitted residential density of a master planned development
883 shall be 40 units per acre as calculated based on the sum of all residential uses
884 and the total acreage of the project, including multiple parcels or city blocks,
885 but not rail lines, public streets, or other areas not owned by the applicant;

886 b. The built residential density of individual parcels or blocks within a master
887 planned development may be greater or less than 40 units per acre, provided
888 the project's combined average maximum permitted residential density is not
889 exceeded; and

890 c. Any changes to an approved site plan shall require approval of the city
891 planning commission and shall be reviewed based on the geographic extent of
892 the original approved site plan, shall not exceed maximum density
893 requirements of the original application, and shall indicate all built or planned
894 improvements.

895 Sec. 93-11.2-4. - Nonpermitted uses.

896 The following uses, while permitted in other areas within the city, are not permitted in the U-V
897 zone.

898 (1) Pawnshops and check cashing businesses, excluding banks and credit unions;

899 (2) Adult entertainment establishments, as defined by section 11-2-1 of this Code,
900 including, but not limited to, adult bookstores, video or DVD adult rental or purchase,
901 adult movie or adult live theaters, adult gifts and novelties, and other venues for
902 viewing other adult entertainment through any other electronic or other technological
903 medium;

- 904 (3) Automotive repair shops, dealerships and service stations, boat sales, auto parts
905 stores;
- 906 (4) Tattoo parlors;
- 907 (5) Palm reading and fortunetelling, including psychic and crystal ball readings;
- 908 (6) Billiard parlors and pool halls;
- 909 (7) Carnivals;
- 910 (8) Stables;
- 911 (9) Shooting galleries, firearm, and archery ranges;
- 912 (10) Firearms dealers;
- 913 (11) Modeling agencies;
- 914 (12) Massage parlors;
- 915 (13) Bathhouses;
- 916 (14) Hypnotists;
- 917 (15) Handwriting analysis;
- 918 (16) Escort services;
- 919 (17) Bazaars;
- 920 (18) Specialty shops;
- 921 (19) Flea markets;
- 922 (20) Junk stores;
- 923 (21) Variety shops;
- 924 (22) Labor pools;
- 925 (23) Health clinics;
- 926 (24) Extended stay motels/hotels;
- 927 (25) Nursing Homes;
- 928 (26) Personal Care Homes.

929 Sec. 93-11.2-6. - Special uses.

930 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
931 6, in any U-V zone:

- 932 (1) Reserved.

933 Sec. 93-11.2-7. - Area, placement, and buffering requirements.

934 All buildings or structures erected, converted or structurally altered shall hereafter comply with
935 the following lot area, yard, and building coverage requirements:

- 936 (1) *Lot area and width.* The minimum area shall be established by the restriction
937 governing lot coverage, setbacks, height, and parking requirement as found in article

- 938 22.1. Generally, no lot shall have a minimum frontage of less than 20 feet; however,
939 single-family residential lots shall have a minimum frontage of 30 feet.
- 940 (2) *Front yard.* See subsection (3) below.
- 941 (3) *Build-to line.* The minimum build-to line shall be zero feet and the maximum shall be
942 15 feet, provided that the maximum build-to line may be increased as determined to
943 be necessary and advisable by the city planning commission in the course of its site
944 plan review process. In determining such increase, the city planning commission shall
945 consider the size and configuration of the proposed buildings, their relationship to the
946 existing and proposed thoroughfares, the relationship to existing and proposed parks
947 and plazas, the location of existing mature trees, and supplemental area of adjacent
948 structures. Where the built-to line is modified to provide parks and plazas, said
949 facilities shall be directly accessible to the public during normal city park hours.
- 950 (4) *Side yards.* There shall be no minimum side yard requirement except as required by
951 subsection (8) of this section for residential zone buffers.
- 952 (5) *Rear yards.* There shall be no minimum rear yard requirements except as required by
953 subsection (8) of this section for residential zone buffers.
- 954 (6) *Distance between buildings.* Section 93-2-6 notwithstanding, the minimum distance
955 between two buildings on a single lot or on contiguous property under the same
956 ownership shall be ten feet, plus four additional feet for every story or fraction thereof
957 that the building exceeds three stories, or such distance determined necessary by the
958 city planning commission to enhance the aesthetics of development. All exterior walls
959 shall be designed per the International Residential Building Code 2003, as amended,
960 or the International Building Code 2003, as amended. Adjoining buildings, whether
961 commercial, residential, or mixed-use, shall have sprinkler systems and there shall be
962 a fire resistance rating of one hour between buildings and occupancies that are side-
963 by-side and top and bottom. However, if a building is a single-family dwelling and
964 the adjacent building is closer than 15 feet there can be no vertical openings
965 (windows) between the two structures of buildings that exist within 15 feet of the
966 horizontal fire separation.
- 967 (7) *Height regulations.* No building or structure shall be less than 24 feet in height or
968 exceed four stories or a 64 feet in height, provided the city planning commission may
969 allow a development with greater height via site plan approval, if it finds that:
- 970 a. The proposed height will not adversely impact adjacent properties or nearby
971 residential neighborhoods.

- 972 b. The added height is necessary to support redevelopment of an area, which
973 currently contains uses that have an adverse impact upon adjacent
974 neighborhoods.
- 975 c. The proposed development is designed to facilitate the objectives and
976 strategies of an officially adopted master plan, an LCI Study or the current
977 comprehensive plan.
- 978 d. The proposed development meets approval from the fire department and FAA.
- 979 e. The proposed development meets the sprinkling standards set forth by the fire
980 department. It shall meet the requirements as set forth in NFPA (13)(D),
981 standard for the installation of sprinkler systems in one-family or two-family
982 dwellings and NFPA (13)(R) for residential occupancies up to and including
983 four stories in height. All others shall be required to meet NFPA (13) standard
984 for the installation of sprinklers.

985 (8) *Residential buffer.* Where this district adjoins a residential zone, new development
986 shall provide an attractive physical barrier between different zones as necessary to
987 minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive
988 activity relative to the residential zone. A smooth transition to adjacent residential
989 zones shall be ensured by the provision of:

- 990 a. A minimum 15-foot landscaped buffer located within the U-V zone along the
991 district line. Said buffer shall be planted with a minimum of one tree per 40
992 linear feet. Shrubs, flowers or grasses shall also be provided and maintained to
993 visually screen non-residential areas and provide an attractive boundary that
994 encourages continued investment in the adjacent residential zones.
- 995 b. A permanent opaque wall between six and eight feet in height and faced in
996 wood, stacked stone, brick or hard-coat true stucco. Said wall may be located
997 anywhere within the required landscaped buffer.
- 998 c. Where an alley separates this zone from a residential zone, the required
999 landscape buffer and permanent opaque wall shall be provided on the portion
1000 of the U-V-zoned property adjacent to the alley.

1001 Sec. 93-11.2-8. - Supplemental area requirements.

1002 Supplemental areas shall meet the following requirements:

- 1003 (1) The following may not be located in the supplemental area:
 - 1004 a. Recreational areas and facilities such as swimming pools, tennis courts;
 - 1005 b. Fences and walls;
 - 1006 c. Service elements such as dumpsters, loading docks and similar elements;

- 1007 d. Mechanical features; and
1008 e. Parking.
- 1009 (2) Adjacent to ground floor retail or restaurant uses the supplemental area:
- 1010 a. Shall be at the same grade, slope, and cross slope as the adjacent required
1011 sidewalk;
- 1012 b. Shall be hardscaped for a minimum of 80 percent of its horizontal area with
1013 decorative pavers, bricks, slate, or stamped or colored concrete, but not
1014 asphalt;
- 1015 c. Shall be accessible to the general public and may be used for pedestrian
1016 amenity elements such as benches, trees, outdoor dining, merchandise display
1017 and potted plants.
- 1018 (3) Adjacent to ground floor dwelling units, excluding live-work dwellings, the
1019 supplemental area:
- 1020 a. Shall be landscaped, except for area uses for stoops, porches, wheelchair
1021 ramps, or walkways;
- 1022 b. Shall be planted with one canopy tree, as established in section 93-2-
1023 14(k)(11), an average of 40 feet on-center as measured parallel to the front lot
1024 line.
- 1025 c. Shall be differentiated from the adjacent sidewalk by a continuous wall, fence,
1026 hedge, or retaining wall between six and 30 inches in height.
- 1027 (4) Adjacent to ground floor live-work dwellings, all other uses, or when not adjacent to
1028 a building the supplemental area shall be treated as identified in subsections (2) or (3)
1029 of this section.

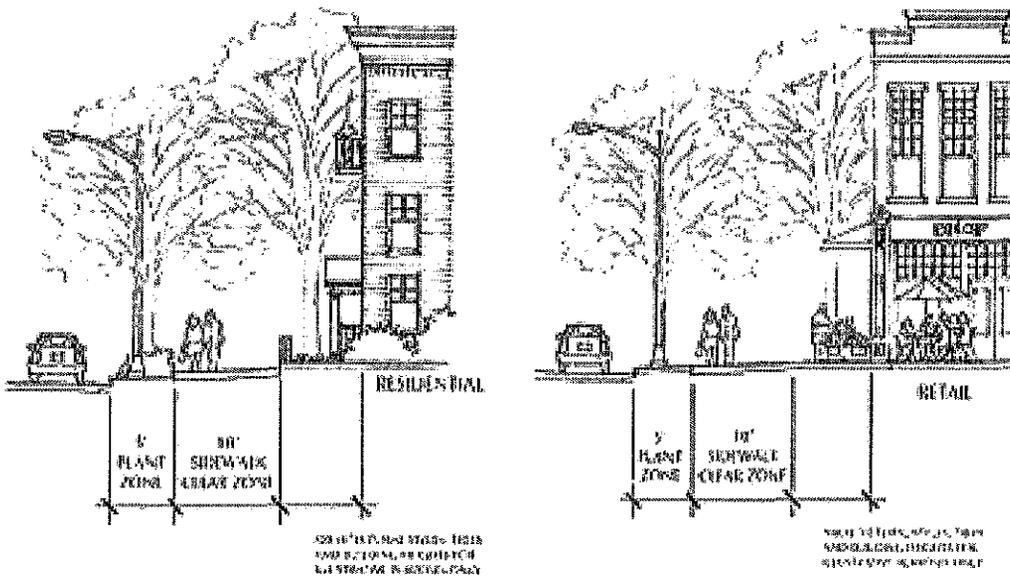
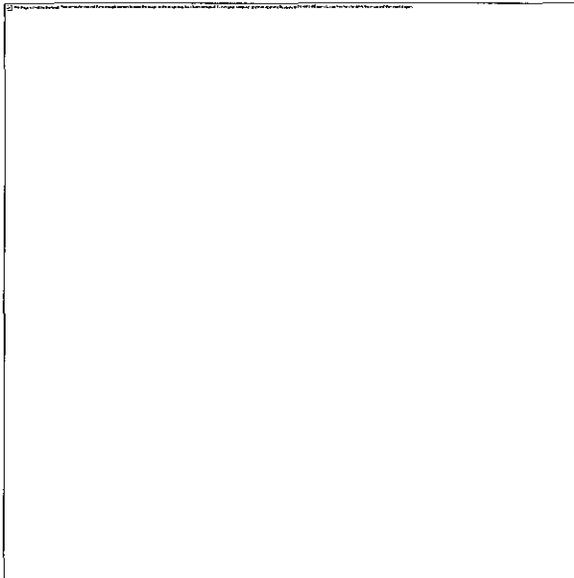
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1031 Sec. 93-11.2-9. - Sidewalk requirements.

1032 Public sidewalks shall be located along all public and private streets. Sidewalks shall be of the
1033 widths indicated below and shall consist of two areas: a landscape area and a clear area. The
1034 following regulations shall apply to all required sidewalks:

- 1035 (1) *Sidewalk landscape area requirements.*
- 1036 a. The landscape area shall have a minimum width of five feet and shall be
1037 located adjacent to the curb.
- 1038 b. The landscape area may be primarily paved adjacent to on-street parking and
1039 shall be landscaped in all other areas.

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- c. Street trees shall be planted a maximum of 40 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall be a minimum caliper of 3½ inches measured 12 inches above ground, shall be limbed up to a minimum height of seven feet and shall have a minimum mature height of 40 feet. Trees shall have a minimum planting area of 40 square feet. The city planning commission may approve an alternate for street tree requirement subject to

1050 constraints such as overhead or underground utilities or underground utility
1051 easements.

1052 d. The landscape area is also intended for the placement of street furniture,
1053 including utility poles, waste receptacles, fire hydrants, traffic signs,
1054 newspaper vending boxes, bus shelters, bicycle racks, public kiosks and
1055 similar elements in a manner that does not obstruct pedestrian access or
1056 motorist visibility as approved by the city.

1057 e. The landscape area shall be maintained by the adjacent property owner.

1058 (2) *Sidewalk clear area requirements.*

1059 a. The clear area shall be the portion of the sidewalk reserved for pedestrian
1060 passage and unobstructed by permanent objects to a height of eight feet,
1061 including but not limited to steps and stoops, traffic control boxes, and utility
1062 structures. The sidewalk clear area shall have a consistent cross slope not
1063 exceeding two percent.

1064 b. No awning or canopy shall extend more than five feet over the clear area.

1065 c. Along the following streets, if zoned U-V: South Central Avenue, North
1066 Central Avenue, Perry Hudson Boulevard, Dogwood Drive, Sylvan Road,
1067 Virginia Avenue, International Boulevard, and Atlanta Avenue, the sidewalk
1068 clear area shall have a minimum width of ten feet.

1069 d. Along all other streets zoned U-V, the sidewalk clear zone shall have a
1070 minimum width of six feet.

1071 e. Where property within the district abuts a residential zone without an
1072 intervening street, the sidewalk area within 20 feet of such district shall taper
1073 when necessary to provide a smooth transition to the existing residential zone
1074 sidewalk. In the event that the abutting residential zone has no existing
1075 sidewalk, the sidewalk shall taper to a width of six feet, measured from the
1076 street curb, or as approved by the city planning commission.

1077 (3) *Paving materials to remain continuous.* Any paving materials, including concrete,
1078 special pavers, or decorative paving within the landscape area or clear area shall
1079 continue across any intervening driveway.

1080 Sec. 93-11.2-10. - Parking and curb cut requirements.

1081 In addition to the requirements of article 23, off-street parking and loading, the following
1082 requirements shall apply within the U-V district:

1083 (1) See article 22.1 of this chapter for minimum parking space requirements.

1084 (2) See section 93-23-7 for mixed-use developments, which may be reduced as authorized by
1085 the board of appeals subject to a shared parking arrangement under the following criteria:

1086 a. The minimum number of parking spaces for a project where shared parking is
1087 proposed shall be determined by a study prepared by the applicant following
1088 the procedures of the Urban Land Institute (ULI) Shared Parking Report or
1089 Institute of Transportation Engineers (ITE) Shared Parking Guidelines. The
1090 actual number of parking spaces required shall be based on well-recognized
1091 sources of parking data such as the ULI or ITE reports. If standard rates are
1092 not available or limited, the applicant may collect data at similar sites to
1093 establish local parking demand rates. If the shared parking plan assumes use
1094 of an existing parking facility, then field surveys shall be conducted to
1095 determine actual parking accumulation.

1096 b. An applicant shall submit the following information as part of an application
1097 to reduce parking requirements and avoid conflicting parking demands:

- 1098 1. A to-scale map indicating location of proposed parking spaces;
- 1099 2. Hours of business operation of nonresidential parking users;
- 1100 3. Copies of the legal instrument that authorizes the use of shared parking
1101 facilities;
- 1102 4. Copies of the relevant legal instrument authorizing the shared use,
1103 shall be filed with the department of economic development.
- 1104 5. Where authorized shared parking exists and a change affecting the
1105 shared use occurs, the applicant shall have up to 30 calendar days to
1106 provide the city director of economic development with a valid legal
1107 instrument reflecting the modified parking arrangements.

1108 c. Change to any of the conditions identified in this subsection, except as
1109 identified in subsection (2)b.5 above, shall terminate authorization for shared
1110 parking. A shared parking arrangement shall be deemed a condition of the
1111 zoning and any modification will require a new site plan, parking plan, and
1112 zoning approval.

1113 (3) Developments are permitted a maximum of two driveway curb cuts per block face or one.
1114 For the purposes of this section, two curb cuts serving two one-way driveways shall only
1115 be counted as one curb cut.

1116 (4) No curb cuts, driveways or circular drives shall be permitted on South Central Avenue,
1117 Virginia Avenue or Atlanta Avenue when access can be provided from a side or rear
1118 street. Circular drives are prohibited, with the exception of hotel and hospital uses.

- 1119 (5) Rear alleys or rear drives shall be provided to access attached single-family garages,
1120 detached single-family dwelling garages, and commercial loading and service areas.
- 1121 (6) Carports shall be prohibited.
- 1122 (7) Garages shall not face adjacent streets except where alley or rear drive access is not
1123 feasible, in which case such garages shall be set back a minimum of 25 feet from the
1124 build-to line. All garage materials shall match those of the principal structure.
- 1125 (8) Parking structures shall conceal automobiles from view, shall have the appearance of a
1126 horizontal storied building on all levels, shall be faced in brick, stacked stone, cast stone,
1127 poured-in-place rubbed concrete, or pre-cast concrete faced in or having the appearance
1128 of brick or stacked stone. Parking structures adjacent to the supplemental area shall also
1129 meet the requirements of section 93-11.2-10(1).
- 1130 (9) Bicycle or moped parking spaces are required as follows: All non-residential uses shall
1131 provide one such space for every 20 automobile spaces and condominium and apartment
1132 uses shall provide one such space for every five units provided that no such uses shall
1133 have fewer than two such spaces or be required to exceed 30 spaces. Such spaces shall be
1134 located within the sidewalk landscape a maximum distance of 100 feet from the primary
1135 pedestrian entrance, or within the supplemental area, or at least as close as the closest
1136 automobile space, except for handicapped parking spaces. Bicycle parking spaces shall
1137 include a bike rack with a metal anchor sufficient to secure the bicycle frame when used
1138 in conjunction with a user-supplied lock.
- 1139 (10) Dumpsters shall be entirely screened from view of any street with vertically
1140 enclosed opaque walls matching the materials of the principal structure.

1141 Sec. 93-11.2-11. - Reserved.

1142 Sec. 93-11.2-12. - Commercial design ground floor requirements.

1143 In addition to the requirements of section 93-11.2-10, the following shall apply to buildings with
1144 enfronting ground floor commercial uses; and all enfronting buildings along South Central
1145 Avenue, North Central Avenue, Virginia Avenue, International Boulevard, or Atlanta Avenue:

- 1146 (1) Enfronting ground floor facades shall provide a display window area consisting of:
- 1147 a. A non-glass base or knee wall beginning at grade and extending not more than 24
1148 inches above the required sidewalk.
- 1149 b. A glass display window beginning at the top of the bulkhead or knee wall, to a height
1150 not less than ten feet and not more than 12 feet above the adjacent required sidewalk.
1151 Such glass shall provide views into display windows that have a minimum depth of
1152 2½ feet into and are accessible from the building interior.

- 1153 c. Primary pedestrian entrances to all commercial uses adjacent to the front yard shall be
1154 recessed a maximum of five feet from the exterior facade, remain unlocked during
1155 normal business hours, and have a surface area that is a minimum of 70 percent glass.
1156 d. A glass transom located above the glass display window and entry door shall have a
1157 minimum height of 24 inches and a maximum height of 36 inches.
1158 e. A minimum of 75 percent of the length of the enfronted portion of the build-to line
1159 shall be provided in glass, including glass doors and display windows.
1160 f. No linear distance of more than ten feet without intervening glass display windows or
1161 glass doors.
1162 g. A non-glass sign band located above the glass transom having a minimum height of
1163 36 inches.
1164 (2) Ground floor drop ceilings shall be recessed a minimum of 18 inches from the display
1165 window opening.
1166 (3) The ground floor finished floor to ceiling slab shall be a minimum of 18 feet. Finished
1167 ceiling height shall be a minimum of 14 feet.

1168 Sec. 93-11.2-13. - Reserved.

1169 Sec. 93-11.2-14. - Regionally significant developments.

1170 The following additional requirements shall apply to regionally significant developments:

- 1171 (1) The regulations set forth herein shall only apply to portions of regionally significant
1172 developments located greater than 30) feet from any parcel zoned R-1, R-2, R-3, R-4, R-
1173 5, R-O, R-SF, or V.
1174 (2) In addition to those uses set forth in section 93-11.2-3, the following shall also be
1175 permitted uses within regionally significant developments:
1176 a. Conference/convention centers;
1177 b. Hotels and motels having at least 200 guest rooms and at least one on-premises
1178 restaurant defined as a retail establishment that serves prepared food to customers,
1179 generally for eating on premises;
1180 c. Telecommunications and/or data centers;
1181 d. Subsection 93-11.2-5(6) notwithstanding, commercial parking lots and decks shall
1182 be a permitted use when located in an area with a day-night sound level (DNL) in
1183 excess of 75 decibels at the time of the adoption of this section, as shown in
1184 exhibit 1 of the FAA's Hartsfield-Jackson Atlanta International Airport FAR 150
1185 Study, dated January 2006. For all other areas, commercial parking lots and decks
1186 shall be permitted uses when serving retail, restaurant, conference/convention

1187 centers, hotels, or office uses within an adjoining jurisdiction, and as set forth in
1188 subsection (3) below.

1189 e. Warehouse and Distribution facilities, subject to the following:

1190 1. Such facilities shall be located inside the 70+ DNL area identified in the
1191 Hartsfield-Jackson Atlanta International Airport FAR 150 Study, dated
1192 January 2006, and shall have their primary points of ingress/egress on
1193 North Airport Loop Road.

1194 2. Manufacturing and assembly line operations shall not be permitted.

1195 3. Truck loading and unloading areas shall be shielded from the main road(s)
1196 serving the facility.

1197 4. All equipment, electrical substations and mechanical devices shall be
1198 shielded from view from the main road(s) servicing the facility.

1199 5. The storage of goods or materials in an open area is not allowed.

1200 6. Accessory buildings, when such are required for the function of the
1201 principal building/use(s), are permitted provided that all such accessory
1202 building comply with all setback and yard area requirements,
1203 screening/landscaping and any other provisions of this zoning district as
1204 are required of principal buildings.

1205 7. The grade level of all proposed structured shall be oriented for safe
1206 pedestrian access.

1207 8. All electric, telephone, telecommunications, and other service lines shall
1208 be installed subsurface.

1209 9. A greenbelt planting screen is required between the main service road and
1210 the facility.

1211 10. Landscaped islands are required in parking lots.

1212 11. No land or structure in this district shall be used or occupied in any
1213 manner which creates dangerous, injurious, noxious or otherwise
1214 objectionable conditions which may affect any other property.

1215 (3) Parking for a retail, restaurant, office, conference/convention centers, or hotel uses within
1216 an adjoining jurisdiction shall only be permitted in Hapeville when:

1217 a. Such use occupies a building that is located in multiple jurisdictions, and

1218 b. Such use meets or exceeds the minimum parking requirements of the city,
1219 including for the portion within the adjoining jurisdiction; and

1220 c. At least 75 percent of the required parking for the proportion of the use within
1221 another jurisdiction is located within the adjoining jurisdiction.

- 1222 (4) The minimum parking space requirements for uses not specified in Section 93-22.1-1
1223 shall be:
- 1224 a. *Conference/conventions centers*. One space per 1,500 square feet of floor area.
 - 1225 b. *Hotels and motels*. One space per lodging unit.
 - 1226 c. *Telecommunications and/or data centers*. One space per employee.
- 1227 (5) In no case shall the number of parking spaces within a commercial parking lot(s) exceed
1228 more than 30 percent of the minimum number of parking spaces required for the
1229 regionally significant development at build-out in accordance with article 22.1 and
1230 section 3 [section 93-22.1-3] herein, which shall be calculated by applying such
1231 minimum requirements to all portions of the regionally significant development,
1232 including those portions within other jurisdictions
- 1233 (6) Sections 93.11.2-3 and 93.11.2-5 notwithstanding, there shall be no maximum floor
1234 area limits for any use.
- 1235 (7) Subsections 93-11.2-7(1), (2), and (3) and section 93-22.1-1 notwithstanding, there
1236 shall be no minimum lot frontage, lot area, lot coverage, setbacks, or width
1237 requirements for nonresidential uses within regionally significant developments.
1238 Furthermore, the minimum build-to line along a public street within a regionally
1239 significant development shall be zero (0) feet and the maximum build-to-line shall be
1240 15 feet.
- 1241 (8) Subsection 93-11.2-7(6) notwithstanding, the minimum distance between two
1242 buildings on a single lot or on contiguous property shall only be limited by applicable
1243 public safety and fire codes.
- 1244 (9) Subsection 93-11.2-7(7) notwithstanding, no building or structure height shall exceed
1245 the applicable flight-safety restrictions for Hartsfield-Jackson Atlanta International
1246 Airport established by the FAA, not to exceed 1,176 feet above mean sea level,
1247 except where the applicable property has been encumbered, prior to adoption of this
1248 section, by a pre-existing aviation easement, the terms of which shall control over the
1249 above FAA standards.
- 1250 (10) The prohibition against them in subsection 93-11.2-8(1) notwithstanding, fences and
1251 walls not exceeding four feet in height shall be permitted in the supplemental area
1252 when used to surround outdoor dining.”

1253 **Section 15. The City’s Code of Ordinances is hereby amended by deleting the**
1254 **existing Section 93-11.3-2 and adding new Sections 93-11.3-2 and 93-11.3-3 to read as**
1255 **follows:**

1256 "Sec. 93-11.3-2. - Permitted uses.

1257 The following uses are permitted in any R-SF zone:

1258 (1) One-family dwellings detached;

1259 (2) Group homes, subject to the restrictions in Sec. 93-2-19.

1260 (3) Playgrounds, parks and buildings operated on a noncommercial basis, solely for
1261 recreational purposes; and

1262 (4) Customary accessory uses and buildings used for utility storage not to exceed 600
1263 square feet.

1264 Sec. 93-11.3-3. - Nonpermitted uses.

1265 The following uses, while permitted in other areas within the city, are not permitted in the R-SF
1266 zone:

1267 (1) Adult daycare facilities.

1268 (2) Reserved;

1269 (3) Nursing homes; and

1270 (4) Personal care homes."

1271 **Section 16. The City's Code of Ordinances is hereby amended by deleting the**
1272 **existing Sections 93-11.4-2 and 93-11.4-3 and adding new Sections 93-11.4-2 and 93-11.4-3**
1273 **to read as follows:**

1274 "Sec. 93-11.4-2. - Permitted uses.

1275 The following uses are permitted in any R-5 zone:

1276 (1) One-family dwellings detached;

1277 (2) Group homes, subject to the restrictions in section 93-2-19;

1278 (3) Four up to eight townhouse units per lot;

1279 (4) Playgrounds, parks and buildings operated on a noncommercial basis, solely for
1280 recreational purposes; and

1281 (5) Customary accessory uses and buildings used for utility storage not to exceed 600
1282 square feet.

1283 Sec. 93-11.4-3. - Nonpermitted uses.

1284 The following uses are not permitted in any R-5 zone:

1285 (1) Multifamily;

- 1286 (2) Duplexes;
- 1287 (3) Triplexes;
- 1288 (4) Adult daycare facilities;
- 1289 (5) Reserved;
- 1290 (6) Nursing homes;
- 1291 (7) Personal care homes; and
- 1292 (8) Commercial uses.”

1293 **Section 17. The City’s Code of Ordinances is hereby amended by deleting existing**
1294 **Sections 93-11.5-3, 93-11.5-4 and 93-11.5-5 and adding new Sections 93-11.5-3, 93-11.5-4,**
1295 **and 93-11.5-5; adding a new Section 93-11.5-6; retaining the text of existing Section 93-**
1296 **11.5-5 and renumbering it to Section 93-11.5-7; and only renumbering existing Sections**
1297 **93-11.5-6 through 93-11.5-8 to read as follows:**

1298 “Sec. 93-11.5-3. - Permitted uses.

1299 The following are permitted within the RMU zone:

- 1300 (1) Business and professional offices/agencies, including:
 - 1301 a. Architectural.
 - 1302 b. Dental.
 - 1303 c. Engineering.
 - 1304 d. Graphic arts.
 - 1305 e. Insurance.
 - 1306 f. Legal.
 - 1307 g. Manufacturers' representatives.
 - 1308 h. Medical, including, but not limited to, private physicians, medical specialists,
 - 1309 chiropractors, and physical therapists.
 - 1310 i. Real estate.
 - 1311 j. Banks and other financial institutions (not including pawnshops, check
 - 1312 cashing businesses, title pawn, and payday loans).
 - 1313 k. Art studios.
 - 1314 l. Dance studios.
- 1315 (2) Playgrounds, parks, and buildings open on a noncommercial basis for recreation only.
- 1316 Uses of this nature are exempt from being within a completely enclosed building.
- 1317 (3) Retail; sales, with a maximum floor area of 6,000 square feet, including:

- 1318 a. Antique shops.
- 1319 b. Book stores.
- 1320 c. Baking shops.
- 1321 d. Florist shops.
- 1322 e. Hobby shops (offering new merchandise).
- 1323 f. Jewelry stores (offering new or estate merchandise).
- 1324 g. Opticians and optical stores.
- 1325 h. Photography stores.
- 1326 (4) Retail; sales, with a maximum floor area of 15,000 square feet, including:
- 1327 a. Retail; drugstores and pharmacies.
- 1328 (5) Personal services, with a maximum floor area of 6,000 square feet, including:
- 1329 a. Barbershops, beauty shops, and hair salons.
- 1330 b. Laundry and dry cleaning establishments, excluding coin operated laundry,
- 1331 with a maximum floor area of 2,000 square feet.
- 1332 c. Tailor shops.
- 1333 d. Travel agencies.
- 1334 (6) Restaurants, grills, and taverns, and similar eating and drinking establishments, with a
- 1335 maximum floor area of 6,000 square feet.
- 1336 (7) Coffee shops, cafes, pastry shops, and similar establishments, with a maximum floor
- 1337 area of 4,000 square feet.
- 1338 (8) Churches and other places of worship, subject to the requirements of section 93-2-17
- 1339 of the Hapeville Code of Ordinances.
- 1340 (9) Single-family detached dwellings, subject to the density restrictions in subsection
- 1341 (14).
- 1342 (10) Single-family attached dwellings with at least two units attached, but no more than
- 1343 12, and subject to the density restrictions in subsection (14).
- 1344 (11) Group homes, subject to the restrictions in section 93-2-19.
- 1345 (12) Adult daycare facilities.
- 1346 (13) Apartments, subject to the density restrictions in subsection (14).
- 1347 (14) Condominiums, subject to the density restrictions in subsection (14).
- 1348 (15) Combination of residential and business applications within a single structure
- 1349 provided that each use must have a separate entrance directly accessible from the
- 1350 required sidewalk or within a jointly used lobby.
- 1351 (16) Residential density limitations shall be as follows:
- 1352 a. The maximum permitted residential density of a master planned development
- 1353 zoned RMU shall not exceed:

- 1354 (i) Twenty units/acre for single-family detached;
1355 (ii) Thirty-six units/acre for single-family attached patio/townhomes and
1356 live-work units;
1357 (iii) Fifty units/acre for multifamily.
- 1358 (1) In no case shall the maximum combined residential density exceed 75 units per acre,
1359 calculated based on the total acreage of the project, including multiple parcels or city
1360 blocks.
- 1361 b. The residential density of individual parcels or blocks within a master planned
1362 development may be greater or less than 75 units per acre, provided the
1363 project's combined average maximum permitted residential density shall-not
1364 exceed a combined total of 75 units per acre as calculated based on the sum of
1365 all residential uses and the total acreage of the project, including multiple
1366 parcels or city blocks, but not rail lines, public streets, or other areas not
1367 owned by the applicant; and
- 1368 c. Any changes to an approved site plan shall require approval of the city
1369 planning commission and shall be reviewed based on the geographic extent of
1370 the original approved site plan, shall not exceed maximum density
1371 requirements of the original application, and shall indicate all built or planned
1372 improvements.
- 1373 (17) SIC Code 5411 and 5412, grocery stores and food stores, with a maximum floor area
1374 of 2,000 square feet.
- 1375 (18) Day spas. For the purpose of this section, a spa shall be defined as a business location
1376 where massages by certified masseurs, makeovers, body wrapping, hair removal,
1377 saunas, manicures, pedicures and nonsurgical cosmetic procedures are performed.
1378 Any combination of at least three or more of the above listed uses shall occur in the
1379 location. All business shall comply with applicable state licensing regulations.

1380 Sec. 93-11.5-4. - Nonpermitted uses.

1381 The following uses are not permitted in any RMU zone:

1382 (1) Reserved.

1383 Sec. 93-11.5-5. – Uses requiring a special use permit.

1384 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
1385 6, in any RMU zone:

1386 (1) Nursing homes.

1387 (2) Personal care homes, subject to the restrictions in section 93-2-20.

1388 Sec. 93-11.5-6. - Area, placement, and buffering requirements.

1389 All buildings or structures erected, converted or structurally altered shall hereafter comply with
1390 the following lot area, yard, and building coverage requirements:

1391 (1) Lot area and width. The minimum area shall be established by the restriction
1392 governing lot coverage, setbacks, height, and parking requirement as found in article
1393 22.1 and set forth herein. Generally, no lot shall have a minimum frontage of less than
1394 20 feet; however, single-family residential lots shall have a minimum frontage of 30
1395 feet.

1396 (2) Front yard. See subsection (3) below.

1397 (3) Build-to line. The minimum build-to line shall be zero feet and the maximum shall be
1398 15 feet, provided that the maximum build-to line may be increased as determined to
1399 be necessary and advisable by the city planning commission in the course of its site
1400 plan review process. In determining such increase, the city planning commission shall
1401 consider the size and configuration of the proposed buildings, their relationship to the
1402 existing and proposed thoroughfares, their relationship to existing and proposed parks
1403 and plazas, the location of existing mature trees, and the supplemental area of
1404 adjacent structures. Where the build-to line is modified to provide parks and plazas,
1405 said facilities shall be directly accessible to the public during normal city park hours.

1406 (4) Side yards. There shall be no minimum side yard requirement except as required by
1407 subsection (9) for residential zone buffers.

1408 (5) Rear yards. There shall be no minimum rear yard requirements except as required by
1409 subsection (9) for residential zone buffers.

1410 (6) Distance between buildings. The minimum distance between two buildings on a
1411 single lot or on contiguous property shall only be limited by applicable public safety
1412 and fire codes.

1413 (7) Height regulations. For those structures zoned RMU, the maximum permitted height
1414 shall not exceed the lesser of six stories or 96 feet.

1415 (8) [Sprinkling standards.] All proposed development shall meet applicable sprinkling
1416 standards set forth by the National Fire Protection Association (NFPA) and all state
1417 and city codes and ordinances.

1418 (9) Residential buffer. Where this district adjoins a residential zone without an
1419 intervening street, new development shall provide an attractive physical barrier
1420 between different zones as necessary to minimize disruptive light, noise, odor, dust,
1421 unsightly appearances and intrusive activity relative to the residential zone. A smooth
1422 transition to adjacent residential zones shall be ensured by the provision of:

- 1423 (a) A minimum 15-foot landscaped buffer located within the RMU zone along the
1424 district line. Said buffer shall be planted with a minimum of one tree per 30
1425 linear feet. Evergreen shrubs, flowers or grasses shall also be provided and
1426 maintained to visually screen nonresidential areas and provide an attractive
1427 boundary that encourages continued investment in the adjacent residential
1428 zones.
- 1429 (b) A permanent opaque wall between six and eight feet in height and faced in
1430 wood, stacked stone, brick or hard-coat true stucco. Said wall may be located
1431 anywhere within the required landscaped buffer.
- 1432 (c) The tree spacing and wall placement requirements of paragraphs (a) and (b)
1433 above may be adjusted by the planning and zoning manager where the
1434 applicant wishes to preserve existing specimen trees within the required
1435 buffer. This may include alternative arrangements that minimize the impacts
1436 of the screening requirements on the health of existing trees.

1437 Sec. 93-11.5-7. - Supplemental area requirements.

1438 Supplemental areas shall meet the following requirements:

- 1439 (1) The following may not be located in the supplemental area:
- 1440 a. Recreational areas and facilities such as swimming pools or tennis courts;
 - 1441 b. Fences and walls, except up to four feet in height for outdoor dining;
 - 1442 c. Service elements such as dumpsters, loading docks and similar elements; and
 - 1443 d. Mechanical features.
- 1444 (2) Adjacent to ground floor retail or restaurant uses the supplemental area:
- 1445 a. Shall be at the same grade, slope, and cross slope as the adjacent required
1446 sidewalk;
 - 1447 b. Shall be hardscaped for a minimum of 80 percent of its horizontal area with
1448 decorative pavers, brick, slate, or stamped or colored concrete, but not asphalt;
 - 1449 c. Shall be accessible to the general public and may be used for pedestrian
1450 amenity elements such as benches, trees, lighting, outdoor dining,
1451 merchandise display and potted plants.
 - 1452 d. Eating places shall be permitted to have an outdoor dining area subject to
1453 compliance with the following provisions:
 - 1454 (i) The outdoor dining area shall not be located in the sidewalk clear
1455 area nor shall it obstruct pedestrian movement, fire lanes, access to
1456 any business, or areas designated for access by the physically
1457 impaired. Outdoor dining within the public right-of-way may not be

1458 surrounded by fences or walls and shall utilize movable tables and
1459 chairs.

1460 (ii) The number of seats in the outdoor dining area shall not exceed fifty
1461 (50) percent of the number of indoor seats within the eating place.

1462 (iii) Compliance with applicable state and county health regulations.

1463 (3) This section shall not be deemed to permit signage or structural alterations such as
1464 canopies or walls regulated elsewhere in this chapter.

1465 (4) Adjacent to ground-floor dwelling units, excluding live-work dwellings, the
1466 supplemental area:

1467 a. Shall be landscaped, except for area used for stoops, porches, wheelchair
1468 ramps, or walkways;

1469 b. Shall be planted with canopy trees, as established in subsection 93-2-
1470 14(k)(11), at a minimum of one tree per 30 linear feet on-center as measured
1471 parallel to the front lot line.

1472 c. Shall be differentiated from the adjacent sidewalk by a continuous wall, fence,
1473 hedge, or retaining wall between six and 30 inches in height.

1474 (5) The supplemental area, when adjacent to ground-floor live-work dwellings or other
1475 uses, or when not adjacent to a building, shall be subject to subsections (2) and (4).

1476 Sec. 93-11.5-8. - Sidewalk requirements.

1477 Public sidewalks shall be located along all existing and new public and private streets, excluding
1478 private alleys. Sidewalks shall be of the widths indicated below and shall consist of two areas: a
1479 landscape area and a clear area. The following regulations shall apply to all required sidewalks:

1480 (1) *Sidewalk landscape area requirements.*

1481 a. The landscape area shall have a minimum width of five feet and shall be
1482 located adjacent to the curb.

1483 b. The landscape area may be paved adjacent to on-street parking when located
1484 adjacent to ground floor retail, and shall be landscaped in all other areas.

1485 c. Street trees shall be planted a maximum of 40 feet on center, spaced equal
1486 distance between streetlights, and in line with stripes of parallel parking
1487 spaces. All newly planted trees shall be a minimum caliper of two and one-
1488 half inches measured 12 inches above ground, shall be limbed up to a
1489 minimum height of seven feet, and shall have a minimum mature height of 40
1490 feet. Trees shall have a minimum planting area of 40 square feet. The city
1491 planning commission may approve an alternate street tree plan subject to

1492 constraints such as overhead or underground utilities or underground utility
1493 easements.

1494 d. The landscape area is also intended for the placement of street furniture,
1495 including utility poles, waste receptacles, fire hydrants, traffic signs, bus
1496 shelters, bicycle racks, public kiosks and similar elements in a manner that
1497 does not obstruct pedestrian access or motorist visibility as determined by the
1498 city.

1499 e. The landscape area shall be maintained by the adjacent property owner.

1500 f. Where tree grates are provided they may encroach into the sidewalk clear area
1501 a maximum depth of two feet and the landscape area may be reduced by a
1502 corresponding depth.

1503 (2) *Sidewalk clear area requirements.*

1504 a. The clear area shall be the portion of the sidewalk reserved for pedestrian
1505 passage and unobstructed by permanent objects to a height of eight feet,
1506 including, but not limited to, steps and stoops, traffic control boxes, traffic
1507 signs, awnings, canopies, and utility structures. The sidewalk clear area shall
1508 have a consistent cross slope not exceeding two percent.

1509 b. No awning or canopy shall extend more than five feet over the clear area.

1510 c. The sidewalk clear area shall comply with the standards established in chapter
1511 81 (City of Hapeville Architectural Design Standards), section 81-1-6 of the
1512 Hapeville Code of Ordinances.

1513 d. Where property within the district abuts a residential zone without an
1514 intervening street, the sidewalk area within 20 feet of such district shall taper
1515 when necessary to provide a smooth transition to the existing residential zone
1516 sidewalk. In the event that the abutting residential zone has no existing
1517 sidewalk, the sidewalk shall taper to a width of six feet, measured from the
1518 street curb, or as approved by the city planning commission.

1519 (3) *Paving materials to remain continuous.* Any paving materials, including concrete,
1520 special pavers, or decorative paving within the landscape area or clear area shall
1521 continue across any intervening driveway.

1522 Sec. 93-11.5-9. - Parking and curb cut requirements.

1523 In addition to the requirements of article 23 of this chapter, off-street parking and loading, the
1524 following requirements shall apply within the RMU district:

1525 (1) See article 22.1 for minimum parking space requirements.

- 1526 (2) See section 93-23-7 of the Hapeville Code of Ordinances for mixed-use
1527 developments, which may be reduced as authorized by the board of appeals subject to
1528 a shared parking arrangement under the following criteria:
- 1529 a. The minimum number of parking spaces for a project where shared parking is
1530 proposed shall be determined by a study prepared by the applicant following
1531 the procedures of the Urban Land Institute (ULI) Shared Parking Report or
1532 Institute of Transportation Engineers (ITE) Shared Parking Guidelines. The
1533 actual number of parking spaces required shall be based on well-recognized
1534 sources of parking data such as the ULI or ITE reports. If standard rates are
1535 limited or not available, the applicant may collect data at similar sites to
1536 establish local parking demand rates. If the shared parking plan assumes the
1537 use of an existing parking facility, then field surveys shall be conducted to
1538 determine actual parking accumulation.
 - 1539 b. An applicant shall submit the following information as part of an application
1540 to reduce parking requirements and avoid conflicting parking demands:
 - 1541 (i) A to-scale map indicating location of proposed parking spaces;
 - 1542 (ii) Hours of business operation of nonresidential parking users;
 - 1543 (iii) Copies of the legal instrument that authorizes the use of shared parking
1544 facilities, which shall be filed with the department of economic
1545 development.
 - 1546 c. Where authorized shared parking exists, and a change affecting the shared use
1547 occurs, the applicant shall have up to 30 calendar days to provide the city
1548 planning and zoning manager with a valid legal instrument reflecting the
1549 modified parking arrangements.
 - 1550 d. A change to any of the conditions identified in this subsection, except as
1551 identified in subsection (2)c. above, shall terminate authorization for shared
1552 parking. A shared parking arrangement shall be deemed a condition of the
1553 zoning and any modification will require a new site plan, parking plan, and
1554 zoning approval.
- 1555 (3) Developments are permitted a maximum of two driveway curb cuts per block face.
1556 For the purposes of this Section, two curb cuts serving two one-way driveways shall
1557 only be counted as one curb cut.
- 1558 (4) No curb cuts, driveways or circular drives shall be permitted on South Central
1559 Avenue or Atlanta Avenue where access can be provided from a side or rear street.
- 1560 (5) Rear alleys or rear drives shall be provided to access attached single-family garages,
1561 detached single-family dwelling garages, and commercial loading and service areas.

- 1562 (6) Carports shall be prohibited.
- 1563 (7) Garages shall not face adjacent streets except where alley or rear drive access is not
1564 feasible, in which case such garages shall be set back a minimum of 25 feet from the
1565 build-to line. All garage materials shall match those of the principal structure.
- 1566 (8) Parking structures shall conceal automobiles from view, shall have the appearance of
1567 a horizontal storied building on all levels, shall be faced in brick, stacked stone, cast
1568 stone, poured-in-place rubbed concrete, or pre-cast concrete faced in or having the
1569 appearance of brick or stacked stone. Parking structures adjacent to the supplemental
1570 area shall also meet the requirements of subsection 81-1-6(e) of the Hapeville Code
1571 of Ordinances.
- 1572 (9) Bicycle or moped parking spaces are required as follows: All nonresidential uses shall
1573 provide one such space for every 20 automobile spaces and condominium and
1574 apartment uses shall provide one such space for every five units provided that no such
1575 uses shall have fewer than two such spaces or be required to exceed 30 spaces. Such
1576 spaces shall be located within the sidewalk landscape area a maximum distance of
1577 100 feet from the primary pedestrian entrance, or within the supplemental area and at
1578 least as close as the closest automobile space, except for handicapped parking spaces.
1579 Bicycle parking spaces shall include a bike rack with a metal anchor sufficient to
1580 secure the bicycle frame when used in conjunction with a user-supplied lock.
- 1581 (10) Dumpsters shall be entirely screened from view of any street with vertically enclosed
1582 opaque walls matching the materials of the principal structure. Dumpsters shall not be
1583 permitted between a primary building and a public street.

1584 Sec. 93-11.5-10. - Greenspace and open space requirements.

1585 In addition to the requirements of sections 93-2-14, Tree preservation, and 93-23-18, Landscape
1586 requirements for vehicular use areas, of the Hapeville Code of Ordinances, master planned
1587 developments in excess of two acres shall be required to provide and maintain a minimum of 20
1588 percent greenspace/open space. Calculations for greenspace/open space shall exclude required
1589 sidewalks and landscape strips along streets, but may include the following:

- 1590 (1) Parks;
- 1591 (2) Playgrounds;
- 1592 (3) Trails;
- 1593 (4) Gardens;
- 1594 (5) Undeveloped space designated for habitat restoration and preservation;
- 1595 (6) Plazas improved for pedestrian use shall also be considered greenspace when finished
1596 in brick or stone pavers and planted with at least One canopy tree per 2,500 square

1597 feet of area, with a minimum of one hundred (100) square feet of unpaved planting
1598 area around each tree.”

1599 **Section 18. The City’s Code of Ordinances is hereby amended by deleting the**
1600 **existing Sections 93-12-2 and 93-12-3 and adding new Sections 93-12-2, 93-12-3, and 93-12-**
1601 **4; retaining the text of existing Section 93-12-3 and renumbering it to Section 93-12-5 to**
1602 **read as follows:**

1603 “Sec. 93-12-2. - Permitted uses.

1604 (a) The following uses are permitted in any C-R zone, subject to the general
1605 requirements of the zone:

- 1606 (1) Single-family detached dwellings.
- 1607 (2) Two-family dwellings.
- 1608 (3) Group homes, subject to the restrictions in section 93-2-19.
- 1609 (4) Adult daycare facilities.
- 1610 (5) Professional and business office uses, in buildings of not more than
1611 3,000 square feet of floor area, provided that no parking area shall be
1612 located within 20 feet of a front property line, and provided further
1613 that all buildings conform to the following:
 - 1614 a. The roofs of all buildings shall be not less than four feet in rise
1615 to ten feet in run. No roof-mounted equipment shall be
1616 allowed.
 - 1617 b. The exterior wall construction of all buildings shall be one or
1618 more of the following:
 - 1619 1. Wood;
 - 1620 2. Hard-burned clay brick;
 - 1621 3. Stone with either a weathered face or a polished,
1622 fluted or broken face.

1623 (b) The following uses are permitted in any C-R zone subject to the general
1624 requirements of the zone; and subject further to the site plan review
1625 requirements of section 93-2-16

- 1626 (1) Single-family attached developments, in structures with not more than
1627 four dwellings attached.
- 1628 (2) Multifamily dwelling developments, in buildings containing no more
1629 than four dwelling units.

- 1630 (3) Offices, in buildings of not more than 6,000 square feet of floor area.
- 1631 (4) Banks and other financial institutions, in buildings of not more than
- 1632 6,000 square feet of floor area.
- 1633 (5) Clinics, in buildings of not more than 6,000 square feet of floor area.
- 1634 (6) Churches and other places of worship.
- 1635 (7) Reserved.
- 1636 (8) Public, private and parochial schools operated for the purpose of
- 1637 instructing in elementary and high school general education subjects.
- 1638 In addition, other schools are allowed subject to a finding by the
- 1639 planning commission that the proposed method of establishment and
- 1640 operation would not adversely impact the use and enjoyment of
- 1641 surrounding properties.
- 1642 (9) Offices, banks and other financial institutions, and clinics in buildings
- 1643 with more than 6,000 square feet of floor area, provided that the
- 1644 minimum lot area for any such development is five acres.
- 1645 (10) Hotels and motels and multifamily developments of high density;
- 1646 provided that the minimum lot area for any such development is five
- 1647 acres; and provided further that any unit for occupancy which includes
- 1648 cooking facilities shall have a total floor area of not less than 480
- 1649 square feet for an efficiency or one bedroom unit, a total floor area of
- 1650 not less than 730 square feet for a two bedroom unit, and not less than
- 1651 an additional 150 square feet of floor area for each additional
- 1652 bedroom.
- 1653 (11) Accessory uses to hotels, motels, office buildings with more than
- 1654 6,000 square feet of floor area, or high-density multifamily buildings
- 1655 are permitted, but limited to the first two floors and further limited to
- 1656 those retail uses permitted in the C-1 commercial district, wholly
- 1657 within the principal building. In no case shall accessory use activities
- 1658 utilize more than 25 percent of the floor area of any hotel, motel,
- 1659 office or multifamily building.
- 1660 (12) Art galleries, in buildings of not more than 6,000 square feet of floor
- 1661 area.
- 1662 (13) North American Industry Classification System (NAICS) Code
- 1663 712110 Museums, in buildings of not more than 6,000 square feet of
- 1664 floor area.

1665 (14) NAICS Code 711510 Independent Artists, Writers, and Performers, in
1666 buildings of not more than 6,000 square feet of floor area.

1667 (15) NAICS Code 453920 Art Dealers, in buildings of not more than 6,000
1668 square feet of floor area.

1669 Sec. 93-12-3. – Nonpermitted uses.

1670 The following uses are not permitted in any C-R zone:

1671 (1) Reserved.

1672 Sec. 93-12-4. - Special uses.

1673 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
1674 6, in any C-R zone:

1675 (1) Nursing homes.

1676 (2) Personal care homes, subject to the restrictions in section 93-2-20.

1677 Sec. 93-12-5. - Temporary use permits.

1678 (a) The mayor and council may authorize the issuance of temporary use permits in
1679 the C-R zone, for any use permitted in the C-1 and C-2 zones, upon a finding that
1680 the proposed use would not cause adverse noise, glare, parking or traffic
1681 conditions, or otherwise unduly impair the value, use or enjoyment of adjacent
1682 property.

1683 (b) Temporary permits shall be for the duration of six months and may be renewed at
1684 the discretion of the mayor and council. The mayor and council may stipulate
1685 special conditions or restrictions concerning the method of operation of any use
1686 granted a six month temporary permit.

1687 (c) Prior to authorizing the issuance of any six-month temporary use permit, the
1688 mayor and council may consider the planning commission recommendations
1689 concerning the potential action, including any special conditions or restrictions
1690 concerning the method of operation of the use, as may be suggested by the
1691 commission. The planning commission and the mayor and council shall use the
1692 standards of review found in section 93-25-6 to decide whether or not to
1693 recommend approval or denial and to approve or deny the permit.

1694 (d) A use granted a six-month temporary use permit shall not be granted the status of
1695 a lawful nonconforming use as defined and provided for in this chapter.

1696 (e) If a temporary use is granted, an occupation tax certificate may be issued.
1697 Issuance of tax a certificate shall convey no rights to continue the temporary use.

1698 (f) A temporary use permit issued pursuant to this section which has been approved
1699 for use by the mayor and city council for two consecutive six-month terms may
1700 be converted upon application to a conditional use permit subject to the standards
1701 and requirements set forth above. Such application shall be subject to article 3.2
1702 of this chapter.”

1703 **Section 19. The City’s Code of Ordinances is hereby amended by deleting the**
1704 **existing Section 93-13-3 and adding new Sections 93-13-3, 93-13-4, and 93-13-5 to read as**
1705 **follows:**

1706 “Sec. 93-13-3. - Permitted uses.

1707 The following uses are permitted within any C-1 zone:

- 1708 (1) Adult daycare facilities.
- 1709 (2) Apparel shops.
- 1710 (3) Art studios.
- 1711 (4) Bakery shops.
- 1712 (5) Banks and other financial institutions, including loan and finance companies.
- 1713 (6) Barbershops and beauty shops.
- 1714 (7) Book, cards and stationery stores.
- 1715 (8) Business offices and agencies.
- 1716 (9) Clubs and lodges.
- 1717 (10) Churches and other places of worship.
- 1718 (11) Customary accessory buildings and uses.
- 1719 (12) Dance studios.
- 1720 (13) Department and variety stores.
- 1721 (14) Drugstores, pharmacies and soda shops.
- 1722 (15) Florist shops.
- 1723 (16) Health clinics.
- 1724 (17) Hobby shops.
- 1725 (18) Jewelers and jewelry stores.
- 1726 (19) Kennels.
- 1727 (20) Minor storage, repackaging and servicing of goods and small nonmotorized
1728 equipment, provided such use does not violate the intent provisions of this article. In
1729 addition, incidental activities associated with this use such as sales, loading,
1730 bookkeeping and administration shall also be permitted.

- 1731 (21) Office supply stores.
1732 (22) Off-street commercial automobile parking and storage only in those cases where such
1733 specific uses and buildings were in existence on lots of record at the time of adoption
1734 of this chapter.
1735 (23) Opticians and optical stores.
1736 (24) Photography stores.
1737 (25) Professional offices.
1738 (26) Public, private and parochial schools operated for the purpose of instructing in
1739 elementary and high school general education subjects. In addition, other schools are
1740 allowed subject to a finding by the planning commission that the proposed method of
1741 establishment and operation would not adversely impact the use and enjoyment of
1742 surrounding properties.
1743 (27) Restaurants, grills, cafes, taverns and similar eating or drinking establishments, but
1744 not including drive-in restaurants.
1745 (28) Theaters.

1746 Sec. 93-13-4. – Nonpermitted uses.

1747 The following uses are not permitted in any C-1 zone:

- 1748 (1) Group homes.
1749 (2) Reserved.
1750 (3) Reserved.

1751 Sec. 93-13-5. - Special uses.

1752 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
1753 6, in any C-1 zone:

- 1754 (1) Nursing home.
1755 (2) Personal care home, subject to the restrictions in section 93-2-20.”

1756 **Section 20. The City’s Code of Ordinances is hereby amended by deleting the**
1757 **existing Section 93-14-3 and adding a new Section 93-14-3; deleting the existing Section 93-**
1758 **14-4 and adding new Sections 93-14-4 and 93-14-6; and adding a new Section 93-14-5 to**
1759 **read as follows:**

1760 “Sec. 93-14-3. - Permitted uses.

1761 The following uses are permitted within any C-2 zone:

- 1762 (1) Antique shops.
- 1763 (2) Apparel shops, including cloth and sewing stores.
- 1764 (3) Appliance, radio and television sales outlets and services, including incidental
1765 repairing.
- 1766 (4) Art and photography stores and studios.
- 1767 (5) Automobile parts sales stores.
- 1768 (6) Bakery shops.
- 1769 (7) Banks and other financial institutions, including loan and finance shops.
- 1770 (8) Barbershops and beauty shops.
- 1771 (9) Business and professional offices, including incidental warehousing of products sold.
- 1772 (10) Churches and other places of worship.
- 1773 (11) Clubs and lodges.
- 1774 (12) Commercial parking lots and parking garages.
- 1775 (13) Customary accessory buildings and uses.
- 1776 (14) Dance studios.
- 1777 (15) Department, gift and bookstores.
- 1778 (16) Drugstores, pharmacies and soda fountains.
- 1779 (17) Electrical sales outlets and services.
- 1780 (18) Florist shops.
- 1781 (19) Food stores.
- 1782 (20) Furniture stores.
- 1783 (21) Hardware stores.
- 1784 (22) Hobby shops.
- 1785 (23) Hospitals, medical and health clinics, including chiropractic.
- 1786 (24) Hotels and motels; provided, however, that any unit for occupancy which includes
1787 cooking facilities shall have a total floor area of not less than 480 square feet for an
1788 efficiency or one bedroom unit; a total floor area of not less than 730 square feet for a
1789 two bedroom unit, and not less than an additional 150 square feet of floor area for
1790 each additional bedroom; and provided further that all proposed hotel and motel
1791 developments shall be subject to the site plan review requirements of section 93-2-16
- 1792 (25) Jewelers and jewelry stores.
- 1793 (26) Laundries, self-service and laundry pickup stations.
- 1794 (27) Laundry and dry cleaning establishments.
- 1795 (28) Libraries and other public buildings.
- 1796 (29) Locksmith shops.

- 1797 (30) Minor storage, repackaging and servicing of goods and small nonmotorized
1798 equipment, provided the use does not violate the intent provisions of this article. In
1799 addition, incidental activities associated with the use such as sales, loading,
1800 bookkeeping and administration shall also be permitted.
- 1801 (31) Opticians and optical stores.
- 1802 (32) Paint stores.
- 1803 (33) Plumbing sales outlets and services.
- 1804 (34) Printing shops.
- 1805 (35) Public, private and parochial schools operated for the purpose of instructing in
1806 elementary and high school general education subjects. In addition, other schools are
1807 allowed subject to a finding by the planning commission that the proposed method of
1808 establishment and operation would not adversely impact the use and enjoyment of
1809 surrounding properties.
- 1810 (36) Restaurants, bars, grills, taverns, cafes and similar eating and/or drinking
1811 establishments.
- 1812 (37) Shoe stores and repair shops.
- 1813 (38) Tailor shops.
- 1814 (39) Theaters and bowling alleys.
- 1815 (40) Undertaking establishments and funeral homes.

1816 Sec. 93-14-4. – Nonpermitted uses.

1817 The following uses are not permitted in any C-2 zone:

- 1818 (1) Group homes.
- 1819 (2) Nursing homes.
- 1820 (3) Personal care homes.
- 1821 (4) Reserved.

1822 Sec. 93-14-5. - Conditional uses.

1823 Upon application to and favorable decision thereon by the mayor and council, as provided in
1824 article 25 of this chapter, the conditional uses specified herein are permitted in this district
1825 provided that their establishment promotes the health, safety, morals, and general welfare of the
1826 city. Specific conditional uses which may be permitted as so specified are as follows:

- 1827 (1) Labor pools, provided also that:
- 1828 a. The building or structure located on the property has a sufficient amount of space or
1829 area, either inside or outside, which is configured in such a way as to prevent

1830 potential laborers who have congregated in the building or on the property from being
1831 observed from any right-of-way or any adjoining property;
1832 b. The proposed site for a labor pool is not located within 1,000 feet of an existing labor
1833 pool;
1834 c. No further labor pools may be established when the total number of such operating
1835 establishments would number more than one for each 5,000 persons residing in the
1836 city. It is the intent of this provision to require a population of 5,000 for each such
1837 operating establishment.

1838 Examples:

- 1839 1. Population = 5,000, then one license may be issued;
- 1840 2. Population = 9,999, then one license may be issued;
- 1841 3. Population = 10,000, then two licenses may be issued.

1842 If an existing operating establishment shall go out of business and the number of such existing
1843 operating establishments shall continue to exceed the limit prescribed herein, such
1844 establishments may not be reinstated. The population shall be determined by the most recent
1845 United States decennial Census.

1846 d. The labor pool has a properly configured, safe area on the property where the day
1847 laborers can be picked up and dropped off. Any such area shall not include any right-
1848 of-way immediately adjacent to the property or on any adjoining property which is
1849 not owned or leased by the labor pool.

1850 e. The labor pool is located only in one of the following areas:

- 1851 1. On properties along the north right-of-way of Willingham Drive, west of Colville
1852 Avenue to the city limits of East Point.
- 1853 2. On South Central Avenue from its intersection with Colville Avenue to the city limits
1854 of East Point.
- 1855 3. On Sylvan Road from its intersection with Central of Georgia Railroad to its
1856 intersection with Baker Street.
- 1857 4. i. On North Central Avenue from its intersection with Sylvan Road to the city limits
1858 of East Point.
1859 ii. Any labor pool in existence as of the effective date of this section which is not
1860 located in the above described areas will be considered a nonconforming use and
1861 subject to the provisions of this chapter.

1862 (2) Automobile sales lots (new and used and showrooms (outside use), including
1863 incidental service and repairing when conducted entirely within a completely
1864 enclosed building.

- 1865 a. All vehicles offered for sale shall: be clean in appearance, not require body repairs or
1866 painting, be in an operable condition and suitable for licensing and operation under
1867 laws applicable in the state.
- 1868 b. All vehicle repairs shall be conducted within an enclosed building and shall be
1869 limited to those vehicles actually available for sale on the premises. Such repairs shall
1870 consist of minor auto repair operations, only; bodywork is prohibited.
- 1871 c. A 30-foot landscaped buffer shall be maintained along the boundary of any residential
1872 property. Such buffer shall consist of species and plant sizes sufficient to yield a
1873 substantial visual screen throughout the year. Section 93-23-18 regarding landscape
1874 requirements for vehicular use areas shall be applicable to these conditional uses.
- 1875 d. No driveway shall be located within 25 feet of any residential property.
- 1876 e. All site lighting shall be directed inward and toward the ground to prevent glare on
1877 public rights-of-way and adjoining properties.
- 1878 (3) Boat sales and service (outside uses).
- 1879 a. All boats offered for sale shall be clean in appearance; not require hull or
1880 other repairs or painting; be in an operable condition; and be suitable for
1881 licensing and operation under laws applicable in the state.
- 1882 b. Boat motor repairs shall be conducted within an enclosed building; hull
1883 repairs or other repairs utilizing fiberglass or other materials that produce
1884 fumes shall not be conducted on the premises. Provided, however, that upon
1885 presentation of evidence of on-site filtering techniques that effectively
1886 eliminate such odors or fumes, rendering them imperceptible at the property
1887 line, such repairs may be permitted.
- 1888 c. A 30-foot landscaped buffer shall be maintained along the boundary of any
1889 residential property. Such buffer shall consist of species and plant sizes
1890 sufficient to yield a substantial visual screen throughout the year. The
1891 standards found in section 93-23-18 regarding landscape requirements for
1892 open lot sales shall be applicable to these conditional uses.
- 1893 d. No driveway shall be located within 25 feet of any residential property.
- 1894 e. All site lighting shall be directed inward and toward the ground to prevent
1895 glare on public right-of-ways and adjoining properties.
- 1896 (4) Gasoline service stations (outside use), not including outside repair of automobiles or
1897 outside storage of any tires batteries, new or used automobile parts or other
1898 merchandise not necessary for the sale of gasoline and motor oil.
- 1899 a. Access drives shall be clearly defined utilizing curbing.

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1. No truck terminals shall be allowed;
 2. Shipping shall be accomplished using local haul trucks as the term is commonly used in the trucking industry, and shall not use trucks with 18 or more wheels, also known as long haul trucks, on the permitted property;
 3. No outdoor storage of materials, equipment or other materials shall be permitted;
 4. All such operations shall be conducted in an enclosed building; and
 5. The maximum lot area of such a use shall be one acre.
- c. Performance standards. The following performance standards which shall be met are:
1. Pollution control and nuisance abatement. Each nonresidential use is required to continuously employ the best pollution control and nuisance abatement technology when reasonable and practicably available for each particular use; provided that where federal and state laws or regulations establish the appropriate level of technology to be employed, the applicable standards shall apply.
 2. Heat, light and glare.
 - i. All operations and facilities producing heat, light or glare shall be so constructed, screened or used so as to not unreasonably infringe upon the use and enjoyment of property beyond the lot line for the use concerned.
 - ii. Outdoor lighting structures shall be located, angled, shielded and/or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.
 3. Ground vibrations. No ground vibration other than that caused by highway vehicles, trains or construction activity shall be permitted which is discernible, without instruments, at or beyond the property line for the use concerned.
 4. Odor, dust, dirt and smoke. No odor, dust, dirt, or smoke shall be emitted that is detectable, at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the property line of the use concerned.

- 1972 5. Noise. The maximum constant sound level of 120 decibels as
1973 measured on the "A" scale of a sound meter (hereinafter dbA) and a
1974 maximum peak sound level of 150 dbA shall not be exceeded at or
1975 beyond the property line of the use emitting such sound.
- 1976 6. Toxic gases and fumes. There shall be no emission of toxic gases or
1977 fumes in such a concentration or of such duration as to cause a
1978 public nuisance, to exceed state or federal mandated limitations, or
1979 to be injurious to the public health or general welfare.
- 1980 7. Nuisance uses. No use or manner of operation shall be permitted
1981 which would constitute a nuisance or which is obnoxious or
1982 offensive by reason of odor, smoke, noise, glare, gas, fumes,
1983 vibration, unusual danger of fire or explosion, emission of particulate
1984 matter, or interference with radio or television communication or is
1985 otherwise incompatible with the character of the district and in
1986 relation to any adjoining district.

1987 Sec. 93-14-6. – Uses requiring a special use permit.

1988 The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-
1989 6, in any C-2 zone:

1990 (1) Adult daycare facilities.

1991 (2) Reserved.”

1992 **Section 21. The City’s Code of Ordinances is hereby amended by deleting the**
1993 **existing Section 93-18-7 and adding a new Section 93-18-7 to read as follows:**

1994 “Sec. 93-18-7. - Residences in business districts.

1995 It shall be unlawful to construct any residence building, either single-family or multifamily, in
1996 the B-P district. However, any residence building existing in this district at the date of adoption
1997 of this section shall be permitted to continue. Any such residence maintained after the date of
1998 adoption of this section shall be considered a nonconforming use subject to the provisions of
1999 article 3 this chapter (provided, however, that these uses shall be allowed to continue in this
2000 district regardless of the extent of future damage.) A personal care home shall be considered as a
2001 residence building for purposes of this section. For the purposes of this section, “personal care
2002 home” retains the definition provided in Section 93-1-2. For purposes of this section, hotels,
2003 motor courts, and motels shall not be considered residence buildings.”

2004 **Section 22.** (a) It is hereby declared to be the intention of the Mayor and Council that all
2005 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
2006 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

2007 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
2008 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance
2009 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It
2010 is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent
2011 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
2012 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

2013 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for
2014 any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the
2015 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the
2016 Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
2017 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable
2018 any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance and
2019 that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs
2020 and sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force
2021 and effect.

2023 **Section 23.** All ordinances and parts of ordinances in conflict herewith are hereby
2024 expressly repealed.

2026 **Section 24.** The effective date of this Ordinance shall be the date of adoption unless
2027 otherwise stated herein.
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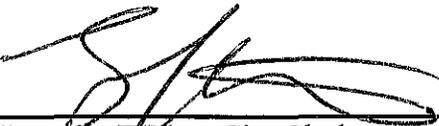
ORDAINED this 4th day of August, 2015.

CITY OF HAPEVILLE, GEORGIA:



Alan Hallman, Mayor

ATTEST:



Jennifer Wilkins, City Clerk

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2033 **APPROVED BY:**

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2036
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Steve Fincher, City Attorney



Department of Planning & Zoning

MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman
FROM: Bill Johnston, City Planner
SUBJECT: Text amendment concerning standards for fireworks sales
DATE: Thursday, 6 October 2016

Background

This amendment to the zoning ordinance defines the classes of fireworks retailers within the authority of the City of Hapeville to regulate consistent with state law. Until recently, fireworks sales were illegal in Georgia. Now that state law allows such sales, it is important that Hapeville accommodates such retailers and establishes appropriate regulations. An ordinance has been drafted for review by Planning Commission and eventual adoption by Mayor and Council.

Findings

The attached ordinance defines two classes of fireworks retailers and establishes regulations specific to their operation. These classes are: (1) Consumer Fireworks Retail Sales Facility and (2) Consumer Fireworks Retail Sales Stand. Retail Sales Facilities include “permanent or temporary buildings or structure, tents, canopies, or membrane structures used primarily for retail display and sale of Consumer Fireworks to the public.” Retail Sales Stands include “a permanent or temporary building or structure that has a floor area of not greater than 800 square feet, other than tents, canopies, or membrane structures, used primarily for retail display and sale of consumer fireworks.” Retail sales of fireworks would be limited to the C-1 Zone.

The ordinance also defines “Consumer Fireworks” as “any small fireworks devices containing restricted amounts of pyrotechnic composition.” Stores that carry a limited inventory of consumer fireworks such as Wal-Mart are not subject to regulation by municipalities.

Conclusions

Sec. 93-25-6. *Standards of review* of the Ordinance provides the following guidance to Planning Commission and Mayor and Council in consideration of text or map amendments:

“In ruling on any matter herein in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as they may be relevant to the application:”

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for fireworks sales

Thursday, 6 October 2016

2 of 3

Potential impacts of the proposed text amendment on those standards of review most relevant to the proposed amendment are discussed below:

The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures

The proposed addition of a retail use similar to retail uses now permitted in the C-1 Zone does not suggest that additional and inordinate costs of services in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures would be incurred.

The extent to which the proposed zoning map amendment is consistent with the land use plan

While a comprehensive plan may deal in broader issues than a specific use, general guidance is found in Land Use Strategy C of the PLAN HAPEVILLE 2025 document: "Ensure appropriate transitions in land use by enforcing appropriate buffering or a "step down" in land use from medium density residential development to low density, single family development and similar transitions. The "similar transitions" could apply to Hapeville's C-1 Zone properties, supporting a transition from intense commercial uses to residential uses. The C-1 Zone does not establish such a transition.

The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community

A Consumer Fireworks Retail Sales Facility could employ "permanent or temporary buildings or structure, tents, canopies, or membrane structures." Such structures may not be allowed in other retail sales operations that are among the permitted uses of the C-1 Zone. To that extent, the use of such temporary structures could adversely impact residential uses established on adjacent and nearby property also zoned C-1. Possible mitigation measures could include a prohibition of fireworks sales on property adjacent to property zoned or used for residential purposes.

The existing land use pattern

The locations proposed for fireworks sales are characterized by auto-oriented uses such as airport parking and car rental facilities. In addition, a number of residential uses form the context of the properties zoned C-1. Retail uses are not found in this section of Hapeville.

Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations

The use of temporary structures for fireworks sales could be a deterrent to the value or improvement of development of adjacent property. Such structures are not permitted in the C-1 Zone.

Brian Wismer, Planning Commission Chairman

Text amendment concerning standards for fireworks sales

Thursday, 6 October 2016

3 of 3

The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations

Sec. 93-13-1. *Intent* establishes the following purpose related to the text amendment:

- Stimulate the orderly arrangement, growth and development of retail and office facilities.

Given the unusual land use pattern in the sole area of the city zoned C-1, that is, intense auto oriented uses abutting low density residential uses, all of which are zoned C-1, introduction of a retail use such as fireworks sales may not represent “the orderly arrangement, growth and development of retail facilities.” This is based on the absence of any retail establishments within the properties zoned C-1.

Recommendation

Based on the above findings and conclusions, a recommendation of approval of the proposed text amendment that would allow Consumer Fireworks Retail Sales Facilities and Consumer Fireworks Retail Sales Stand in locations planned for “commercial” use and zoned C-1, Retail Commercial is appropriate if the goal is to limit the number of such retailers. A stipulation that no such sales shall occur on lots abutting a lot held in residential use should be considered.

- c: Commissioner Travis Horsley, Vice Chair
Commissioner Lucy Dolan
Commissioner Mark Farah
Commissioner Kaity Ferrero
Commissioner Jeanne Rast
Commissioner Charlotte Rentz
Adrienne Senter, Planning Commission Secretary

Attachment: Fireworks Sales Ordinance

1 STATE OF GEORGIA

2 CITY OF HAPEVILLE

3 **ORDINANCE NO.** _____

4 AN ORDINANCE TO AMEND CHAPTER 93, ZONING, OF THE CODE OF
5 ORDINANCES OF THE CITY OF HAPEVILLE, GEORGIA; TO AMEND THE
6 PERMITTED USES IN THE C-1 (“RETAIL COMMERCIAL”) AND U-V (“URBAN
7 VILLAGE”) ZONES; TO CREATE DEFINITIONS REGARDING CONSUMER
8 FIREWORKS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY;
9 TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND
10 FOR OTHER PURPOSES.

11 **WHEREAS**, the duly elected governing authority of the City of Hapeville, Georgia (the
12 “City”) is the Mayor and Council thereof; and

13 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth
14 management, been in review of the City's zoning ordinances and have been studying the City's
15 best estimates and projections of the type of development which could be anticipated within the
16 City; and

17 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use
18 regulation continue in the most orderly and predictable fashion with the least amount of
19 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
20 had a strong interest in growth management so as to promote the traditional police power goals
21 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
22 the lessening of congestion on City streets, security of the public from crime and other dangers,

23 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the
24 City including access to air and light, and facilitation of the adequate provision of transportation
25 and other public requirements; and

26 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
27 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
28 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
29 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
30 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
31 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
32 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
33 within the City, making the most appropriate use of resources, preserving neighborhood
34 characteristics, enhancing and protecting the economic well-being of the community, facilitating
35 adequate provision of public services, and the preservation of the resources of the City; and

36 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
37 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
38 community development through stability, predictability and balanced growth which will further
39 the prosperity of the City as a whole; and

40 **WHEREAS**, on May 5, 2015, the Governor of the State of Georgia signed into law,
41 House Bill 110, which became effective on July 1, 2015, amending applicable chapters of the
42 Georgia Code relating to the regulation of consumer fireworks and the role of local governments
43 in regulating and prohibiting the sale and use of consumer fireworks; and

44 **WHEREAS**, on April 26, 2016, the Governor of the State of Georgia signed into law,
45 House Bill 727, which became effective on April 26, 2016, amending applicable chapters of the
46 Georgia Code relating to the regulation of consumer fireworks and the role of local governments
47 in regulating and prohibiting the sale and use of consumer fireworks; and

48 **WHEREAS**, House Bills 110 and 727, contain provisions regarding the sale of consumer
49 fireworks in Consumer Fireworks Retail Sales Facilities (“Facilities”) and Consumer Fireworks
50 Retail Sales Stands (“Stands”); and

51 **WHEREAS**, the City must determine, pursuant to its powers to zone businesses within
52 its city limits, the most appropriate locations in which such Facilities and Stands can exist; and

53 **WHEREAS**, currently, the City’s zoning ordinance contains no provisions regarding the
54 location of such Facilities and Stands within city limits; and

55 **WHEREAS**, the Mayor and Council find it desirable and in the interest of the health,
56 safety, and welfare of the citizens of the City to amend certain provisions of the City’s Zoning
57 Ordinance to regulate the location of such Facilities and Stands.

58 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
59 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

60 **Section 1.** That the City’s Code of Ordinances is hereby amended by inserting
61 definitions of “Consumer Fireworks,” “Consumer Fireworks Retail Sales Facilities,” and
62 “Consumer Fireworks Retail Sales Stands,” after the paragraph establishing the definition of
63 “Condominium” and before the paragraph establishing the definition of “Curb Break” in Section
64 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93,
65 Zoning, and inserting the following text to read and to be codified as follows:

66 “*Consumer Fireworks*. Any small fireworks devices containing restricted amounts of
 67 pyrotechnic composition, designed primarily to produce visible or audible effects by combustion,
 68 that comply with the construction, chemical composition, and labeling regulations of the United
 69 States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16
 70 of the Code of Federal Regulations, the United States Department of Transportation as provided
 71 for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics
 72 Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and
 73 additionally shall mean Roman candles. The definition of Consumer Fireworks shall have the
 74 same meaning as set forth in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ
 75 from the definition in this subsection.

76
 77 *Consumer Fireworks Retail Sales Facility*. A permanent or temporary building or structure,
 78 Consumer Fireworks Retail Sales Stand, tent, canopy, or membrane structure that is used
 79 primarily for the retail display and sale of Consumer Fireworks to the public. The definition of
 80 Consumer Fireworks Retail Sales Facility shall have the same meaning as set forth in O.C.G.A. §
 81 25-10-1 and NFPA 1124 should that definition differ from the definition in this subsection.

82
 83 *Consumer Fireworks Retail Sales Stand*. A permanent or temporary building or structure that
 84 has a floor area of not greater than 800 ft² (74m²), other than tents, canopies, or membrane
 85 structures, that is used primarily for the retail display and sale of consumer fireworks to the
 86 public. The definition of Consumer Fireworks Retail Sales Stand shall have the same meaning
 87 as set forth in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ from the
 88 definition in this subsection.”

89
 90 **Section 2.** That the City’s Code of Ordinances is hereby amended by inserting the
 91 definition of “NFPA 1124” after the paragraph establishing the definition of “Mayor and
 92 council” and before the paragraph establishing the definition of “Nursery” in Section 93-1-2,
 93 Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning,
 94 and inserting the following text to read and to be codified as follows:

95 “*NFPA 1124*. National Fire Protection Association Standard 1124, Code for the Manufacture,
 96 Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition.”

97
 98 **Section 3.** That the City’s Code of Ordinances is hereby amended by inserting new
 99 Subsections (29) and (30) to Section 93-13-3, Permitted uses, of Article 13, C-1 Zone (Retail
 100 Commercial), of Chapter 93, Zoning, and inserting the following text to read and to be codified
 101 as follows:

102 “(29) Consumer Fireworks Retail Sales Facilities
103 (30) Consumer Fireworks Retail Sales Stands.”

104
105 **Section 4.** That the City’s Code of Ordinances is hereby amended by deleting the
106 existing text of Subsection (a)(1) Section 93-7-2, Permitted uses, of Article 7, N-C Zone
107 (Neighborhood Commercial), of Chapter 93, Zoning, and inserting the following text to read and
108 to be codified as follows:

109 “(1) All uses permitted in the C-1 Zone, except for Consumer Fireworks Retail Sales Facilities
110 and Consumer Fireworks Retail Sales Stands.”

111
112 **Section 5.** That the City’s Code of Ordinances is hereby amended by deleting the
113 existing text of Subsection (2) Section 93-11.1-2, Permitted uses, of Article 11.1, V Zone
114 (Village), of Chapter 93, Zoning, and inserting the following text to read and to be codified as
115 follows:

116 “(2) Any use permitted in the C-1 Zone, except for Consumer Fireworks Retail Sales Facilities
117 and Consumer Fireworks Retail Sales Stands, and subject to the requirements of this article.”

118
119 **Section 6.** The preamble of this Ordinance shall be considered to be and is hereby
120 incorporated by reference as if fully set out herein.

121 **Section 7.**

122 (a) It is hereby declared to be the intention of the Mayor and Council that all sections,
123 paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment,
124 believed by the Mayor and Council to be fully valid, enforceable and constitutional.

125 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
126 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
127 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
128 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the

129 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
130 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
131 of this Ordinance.

132 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
133 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
134 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
135 express intent of the Mayor and Council that such invalidity, unconstitutionality or
136 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
137 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
138 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
139 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
140 enforceable, and of full force and effect.

141 **Section 8.** All ordinances and parts of ordinances in conflict herewith are hereby
142 expressly repealed.

143 **Section 9.** Penalties in effect for violations of the Zoning Ordinance of the City of
144 Hapeville at the time of the effective date of this Ordinance shall be and are hereby made
145 applicable to this Ordinance and shall remain in full force and effect.

146 **Section 10.** The effective date of this Ordinance shall be the date of adoption unless
147 otherwise specified herein.

148 **ORDAINED** this ____ day of _____, 2015.

149

150 [SIGNATURES CONTINUED TO NEXT PAGE]

151

CITY OF HAPEVILLE, GEORGIA

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153

154

ALAN HALLMAN, Mayor

155 **ATTEST:**

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157

JENNIFER ELKINS, City Clerk

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160 **APPROVED AS TO FORM:**

161

162

STEVE FINCHER, City Attorney

164



MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman
FROM: Bill Johnston, City Planner
SUBJECT: Text amendments concerning standards for driveway and parking lot surfacing
DATE: Thursday, 6 October 2016

Background

This amendment is accomplished by two ordinances that concern two Chapters of the City Code, Chapter 93 “Zoning,” specifically Article 23 “Off-street parking and loading” and a new Chapter 58 “Parking and Maintenance of Driveways and Off-Street Parking and Loading Facilities.” The first Ordinance repeals Sec. 93-23-5 “Surfacing and Maintenance” of Article 23. The second Ordinance places Sec. 93-23-5 standards in Chapter 58 and the definition of various technical terms used in Sec. 93-23-5 related to pavement surfacing, including “porous asphalt,” “porous concrete,” “gravel,” “pervious materials,” “hard surfaced pavement” and “permeable pavement” in Sec. 58-1-2. Definitions. Clearly defined terms are essential to application of the standards of the City Codes and Ordinances.

The amendments establish clear standards for residential and commercial (including industrial) applications as reprinted below. As the amendments do not substantially revise the original standards adopted in 2013, the amendments are more of a clarifying exercise.

Sec. 58-1-3. *Construction requirements for single-family residential driveways* establishes the following standards for single family residential driveways:

- (a) The construction materials of single-family residential driveways may consist of Porous Concrete, Asphalt or other Permeable Pavements. Gravel shall, in no event, be allowed as a construction material for such driveways.
- (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced Pavement, are hereby deemed a nonconforming use.

Sec. 58-1-4. *Surfacing and maintenance requirements for commercial driveways and off-street parking and loading facilities* establishes the following standards for commercial properties:

Brian Wismer, Planning Commission Chairman

Text amendments concerning standards for driveway and parking lot surfacing

Wednesday, 5 October 2016

2 of 4

(a) All commercial driveways and off-street parking and loading facilities regulated under Article 23 of Chapter 93 of this Code shall be Hard-Surfaced Pavement. Gravel shall, in no event, be allowed as a construction material for such driveways and off-street parking and loading facilities. Such driveways and off-street parking and loading facilities shall also be drained, lighted and maintained by the property owner in accordance with specifications of the city.

(b) Parking areas that are in excess of the parking requirements of Article 23 of Chapter 93 of this Code may consist of Pervious Materials, provided the total number of parking spaces does not exceed 110 percent of the requirement.”

Findings

Portions of the zoning ordinance concerning pavement on private property have rendered enforcement of the standards of the ordinance difficult. In particular, the status of properties having gravel driveways and/or parking lots has been difficult to determine. In addition to introducing definitions and standards that address the broad range of paving materials in use today, the City Attorney has provided guidance as concerns the legal, nonconforming status of existing commercial and residential pavement applications. This Ordinance also acknowledges that the City has determined that residential driveways that did not comply with the regulations contained within Section 93-23-5’s predecessors (former Sections 8-5-195 (1981 version) and 1905 (1959 version)) should be “grandfathered,” or deemed a nonconforming use under the City Code. This guidance is critical to enforcement of the standards of the City Code.

The proposed ordinance also sets forth the reason for such repeal of text: “The regulations in Section 93-23-5 of the Zoning Code regarding construction materials of residential driveways and commercial off-street parking and loading facilities do not concern the zoning powers of the City as such regulations do not classify property into separate districts and instead regulate such driveways and facilities in terms of their inherent character.”

Conclusions

Sec. 93-25-6. *Standards of review* of the Ordinance provides the following guidance to Planning Commission and Mayor and Council in consideration of text or map amendments:

“In ruling on any matter herein in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as they may be relevant to the application:”

Potential impacts of the proposed text amendment on those standards of review most relevant to the proposed amendment are discussed below:

Brian Wismer, Planning Commission Chairman

Text amendments concerning standards for driveway and parking lot surfacing

Wednesday, 5 October 2016

3 of 4

The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community

Anecdotal evidence suggests that pavement applications prohibited in commercial, residential and industrial districts by the proposed amendment are more consistent with economically distressed districts. The appearance of properties can have a substantial effect on public perception of an area, a neighborhood and a community. The proposed standards contemplate new and environmentally “green” pavement applications. Adoption of such standards will have a positive effect on the Hapeville community by introducing standards consistent with attractive, upscale communities.

Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations

While owners of upscale properties, both residential and commercial, may choose pea gravel, cobblestone or other decorative pavement applications, most “gravel” lots feature an industrial aggregate commonly known as crusher run or #57 stone. These materials require periodic refreshing to prevent soil from being carried onto the street and often have vegetation growing in the pavement surface. The periods between refreshing of such driveways and parking areas can be unsightly compared to asphalt or concrete driveways and parking areas. In addition, concrete curbing that has historically been required by ordinance to prevent vehicles from being driven onto unpaved areas is not typically part of a “gravel” installation. As such, gravel lots that may have been permitted under the current and past ordinances could be a deterrent to the value of adjacent property.

The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures

Depositing of sediment onto city streets, and eventually the stormwater sewer system, can have significant cost implications for the City. Adoption of standards that require the use of pavement materials that preclude such depositing can minimize such costs.

The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity

As mentioned, the proposed amendments will have long term positive impacts on the environment, including, minimizing soil erosion and sedimentation and enhanced water quality. Traditional parking lots using acceptable pavement materials also often require installation of underground stormwater systems. These systems are designed to minimize flooding and potential damage to downstream properties. As gravel is characterized by GA EPD as an “impervious” material, such applications as will now be prohibited could actually contribute to flooding.

Brian Wismer, Planning Commission Chairman

Text amendments concerning standards for driveway and parking lot surfacing

Wednesday, 5 October 2016

4 of 4

Recommendation

Based on the above findings and conclusions, a recommendation of approval of the proposed text amendment that defines specific pavement materials, prohibits undesirable materials and reorganizes the related standards of the City Code is appropriate.

c: Commissioner Travis Horsley, Vice Chair
Commissioner Lucy Dolan
Commissioner Mark Farah
Commissioner Kaity Ferrero
Commissioner Jeanne Rast
Commissioner Charlotte Rentz
Adrienne Senter, Planning Commission Secretary

Attachment: Pavement Surfacing and Maintenance Ordinance
Repealing Ordinance Section 93-23-5. *Surfacing and Maintenance*

1 **STATE OF GEORGIA**

2
3 **CITY OF HAPEVILLE**

4
5 **ORDINANCE NO.** _____

6
7 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF
8 HAPEVILLE, GEORGIA TO ADD A NEW CHAPTER 58 (SURFACING AND
9 MAINTENANCE OF DRIVEWAYS AND OFF-STREET PARKING AND LOADING
10 FACILITIES); TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING
11 ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE
12 DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

13 **WHEREAS**, the duly elected governing authority of the City of Hapeville, Georgia
14 (hereinafter the “City”) is the Mayor and Council thereof; and

15 **WHEREAS**, the governing authority of the City has the power to adopt ordinances
16 promoting the public health, safety, and general welfare of its citizenry; and

17 **WHEREAS**, the governing authority of the City recently adopted Ordinance No. 2016-
18 __ wherein regulations regarding the composition of construction materials of residential
19 driveways and commercial off-street parking and loading facilities were removed from Chapter
20 93 (“Zoning Code”) of the Code of Ordinances of the City of Hapeville, Georgia (“City Code”);
21 and

22 **WHEREAS**, the governing authority of the City desires to reinstate such regulation,
23 formerly codified as Section 93-23-5 of the Zoning Code, into a newly-created and more
24 appropriate section of the City Code; and

25 **WHEREAS**, the governing authority of the City has discovered that former Section 93-
26 23-5 of the Zoning Code regulated surfacing and maintenance of driveways, off-street parking
27 and loading facilities, but incorporated terms that have not been defined the City Code; and

28 **WHEREAS**, to ensure consistency in application and interpretation of its ordinances, the
29 governing authority of the City has determined that such terms should be defined in its Code of
30 Ordinances and as such, desires to amend its Code of Ordinances to define such terms; and

31 **WHEREAS**, the governing authority of the City has determined that since July 16, 2013,
32 regulations contained within Chapter 93 of the Zoning Code at Section 93-23-5 have governed
33 the types of construction materials of which residential driveways must be composed; and

34 **WHEREAS**, the governing authority of the City has determined that prior to July 16,
35 2013, regulations contained within the Zoning Code at Section 93-23-5 and its predecessors,
36 former Sections 8-5-195 (1981 version) and 1905 (1959 version), have, in addition to governing
37 the lighting and maintenance requirements of commercial off-street parking and loading
38 facilities, governed the types of construction materials of which commercial off-street parking
39 and loading facilities must be composed; and

40 **WHEREAS**, the governing authority of the City has determined that residential
41 driveways that did not comply with the regulations contained within Section 93-23-5's
42 predecessors (former Sections 8-5-195 (1981 version) and 1905 (1959 version)) should be
43 "grandfathered," or deemed a nonconforming use under the City Code; and

44 **WHEREAS**, the governing authority of the City finds it desirable and in the interest of
45 the public health, safety, and general welfare of its citizenry to amend its ordinances accordingly.

46 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
47 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

48 **Section One.** The Code of Ordinances of the City of Hapeville, Georgia is hereby
 49 amended by adding a new Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street
 50 Parking and Loading Facilities) to follow Chapter 57 (Soil Erosion, Sedimentation and Pollution
 51 Control) and to precede Chapter 60 (Solid Waste), to read and to be codified as follows:

52 “CHAPTER 58-SURFACING AND MAINTENANCE OF DRIVEWAYS AND OFF-STREET
 53 PARKING AND LOADING FACILITIES
 54

55 **Sec. 58-1-1. Purpose , intent, and nonconforming use.**
 56

- 57 (a) In adopting this chapter, it is the intent of mayor and council to clarify amendments made
 58 on July 16, 2013 to former sec. 93-23-5 of the Code wherein the surfacing and
 59 maintenance of residential driveways and commercial off-street parking and loading
 60 facilities were regulated.
 61 (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced
 62 Pavement, are hereby deemed a nonconforming use under Article 3 of Chapter 93 of the
 63 Code.
 64

65 **Sec. 58-1-2. – Definitions.**
 66

- 67 (a) *Asphalt, porous.* Asphalt concrete from which small aggregates are omitted from the
 68 asphalt mixture. The remaining large, single-sized aggregate particles leave open voids
 69 that give the material its porosity and permeability. To ensure pavement strength, fiber
 70 may be added to the mix or a polymer-modified asphalt binder may be used. Generally,
 71 porous asphalt pavements are designed with a subsurface reservoir that holds water that
 72 passes through the pavement, allowing it to evaporate and/or percolate slowly into the
 73 surrounding soils. An example of a porous asphalt surface is an open-graded fixture
 74 course.
 75 (b) *Concrete, porous.* A type of concrete with a high porosity used for concrete flatwork
 76 applications that allows water from precipitation and other sources to pass directly
 77 through, thereby reducing the runoff from a site and allowing groundwater recharge.
 78 (c) *Gravel.* Rock, including but not limited to granite, limestone, dolomite, crushed and
 79 graded by screens and then mixed to a blend of stones and fines. Gravel is also known as
 80 “crusher run,” DGA (Dense Grade Aggregate), QP (Quarry Process), and shoulder stone.
 81 Gravel is generally between 5 to 15 mm in size.
 82 (d) *Materials, pervious.* Materials, such as concrete paving blocks, concrete grid pavers,
 83 perforated brick pavers, or other similar materials approved by the city engineer or his or
 84 her designee, that permit water to enter the ground by virtue of their porous nature or by
 85 large spaces in the material.
 86 (e) *Pavement, hard surfaced.* Pavement made hard or firm by compacting or paving it with
 87 an asphalt (or bituminous) surface, Hot Mix Asphalt (HMA) surface, Portland Cement
 88 Concrete (PCC) surface, or similar materials approved by the city engineer or his or her
 89 designee.

90 (f) *Pavement, permeable.* Pavement utilizing a range of sustainable materials and
 91 techniques with a base and subbase that allow the movement of storm water through the
 92 surface. Pervious Materials allow storm water to percolate and infiltrate the surface areas,
 93 traditionally impervious to the soil below. Examples of permeable pavement include open
 94 cell pavers, porous asphalt, porous concrete, and other material approved by the city
 95 engineer or his or her designee.

96 **Sec. 58-1-3. – Construction requirements for single-family residential driveways.**

- 97 (a) The construction materials of single-family residential driveways may consist of Porous
 98 Concrete, Asphalt or other Permeable Pavements. Gravel shall, in no event, be allowed
 99 as a construction material for such driveways.
 100 (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced
 101 Pavement, are hereby deemed a nonconforming use under Article 3 of Chapter 93 of the
 102 Code.

103 **Sec. 58-1-4. – Surfacing and maintenance requirements for commercial driveways and off-**
 104 **street parking and loading facilities.**

- 105 (a) All commercial driveways and off-street parking and loading facilities regulated under
 106 Article 23 of Chapter 93 of this Code shall be Hard-Surfaced Pavement. Gravel shall, in
 107 no event, be allowed as a construction material for such driveways and off-street parking
 108 and loading facilities. Such driveways and off-street parking and loading facilities shall
 109 also be drained, lighted and maintained by the property owner in accordance with
 110 specifications of the city.
 111 (b) Parking areas that are in excess of the parking requirements of Article 23 of Chapter 93
 112 of this Code may consist of Pervious Materials, provided the total number of parking
 113 spaces does not exceed 110 percent of the requirement.”

114 **Section Two.** The preamble of this Ordinance shall be considered to be and is hereby
 115 incorporated by reference as if fully set out herein.

116 **Section Three.** This Ordinance shall be codified in a manner consistent with the laws of
 117 the State of Georgia and the City.

118 **Section Four.** (a) It is hereby declared to be the intention of the Mayor and Council that
 119 all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
 120 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

121 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
 122 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this

123 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
124 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
125 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
126 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
127 of this Ordinance.

128 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
129 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
130 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
131 express intent of the Mayor and Council that such invalidity, unconstitutionality or
132 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
133 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
134 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
135 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
136 enforceable, and of full force and effect.

137 **Section Five.** All ordinances and parts of ordinances in conflict herewith are hereby
138 expressly repealed.

139 **Section Six.** The effective date of this Ordinance shall be the date of adoption unless
140 otherwise stated herein.

141 **ORDAINED** this _____ day of _____, 2016.

142

143 [SIGNATURES CONTINUED ON NEXT PAGE]

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CITY OF HAPEVILLE, GEORGIA

Alan H. Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED BY:

Steven M. Fincher, City Attorney

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1 **STATE OF GEORGIA**

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3 **CITY OF HAPEVILLE**

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5 **ORDINANCE NO. _____**

6
7 AN ORDINANCE TO AMEND CHAPTER 93, ZONING, OF THE CODE OF ORDINANCES
8 OF THE CITY OF HAPEVILLE, GEORGIA BY REPEALING SECTION 93-23-5
9 (SURFACING AND MAINTENANCE) OF ARTICLE 23 (OFF-STREET PARKING AND
10 LOADING) OF CHAPTER 93 (ZONING); TO PROVIDE FOR SEVERABILITY; TO
11 REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO
12 PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

13 **WHEREAS**, the duly elected governing authority of the City of Hapeville, Georgia
14 (hereinafter the "City") is the Mayor and Council thereof; and

15 **WHEREAS**, the governing authority of the City has the power to adopt ordinances
16 promoting the public health, safety, and general welfare of its citizenry; and

17 **WHEREAS**, the governing authority of the City has, as a part of planning, zoning and
18 growth management, been in review of the City's zoning ordinances and has been studying the
19 City's best estimates and projections of the type of development which could be anticipated
20 within the City; and

21 **WHEREAS**, the governing authority of the City therefore considers it paramount that
22 land use regulation continue in the most orderly and predictable fashion with the least amount of
23 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
24 had a strong interest in growth management so as to promote the traditional police power goals
25 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
26 the lessening of congestion on City streets, security of the public from crime and other dangers,

27 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the
28 City including access to air and light, and facilitation of the adequate provision of transportation
29 and other public requirements; and

30 **WHEREAS**, it is the belief of the governing authority of the City that the concept of
31 “public welfare” is broad and inclusive; that the values it represents are spiritual as well as
32 physical, aesthetic as well as monetary; and that it is within the power of the City “to determine
33 that a community should be beautiful as well as healthy, spacious as well as clean, well balanced
34 as well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
35 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
36 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
37 within the City, making the most appropriate use of resources, preserving neighborhood
38 characteristics, enhancing and protecting the economic well-being of the community, facilitating
39 adequate provision of public services, and the preservation of the resources of the City; and

40 **WHEREAS**, the governing authority of the City is, and has been interested in,
41 developing a cohesive and coherent policy regarding certain uses in the City, and has intended to
42 promote community development through stability, predictability and balanced growth which
43 will further the prosperity of the City as a whole; and

44 **WHEREAS**, since July 16, 2013, regulations contained within Chapter 93 of the Code of
45 Ordinances of the City of Hapeville (“Zoning Code”) at Section 93-23-5 have governed the types
46 of construction materials of which residential driveways must be composed; and

47 **WHEREAS**, prior to July 16, 2013, regulations contained within the Zoning Code at
48 Section 93-23-5 have, in addition to governing the lighting and maintenance requirements of

49 commercial off-street parking and loading facilities, governed the types of construction materials
50 of which commercial off-street parking and loading facilities must be composed; and

51 **WHEREAS**, the regulations in Section 93-23-5 of the Zoning Code regarding
52 construction materials of residential driveways and commercial off-street parking and loading
53 facilities do not concern the zoning powers of the City as such regulations do not classify
54 property into separate districts and instead regulate such driveways and facilities in terms of
55 their inherent character. See City of Walnut Grove v. Questco, 275 Ga. 266, 266 (2002); and

56 **WHEREAS**, accordingly, such regulations in Section 93-23-5 of the Zoning Code
57 regarding construction materials should not remain in the Zoning Code; and

58 **WHEREAS**, accordingly, the governing authority of the City has determined that such
59 regulation in Section 93-23-5 should be removed from the Zoning Code and inserted into another
60 applicable part of the City's Code of Ordinances; and

61 **WHEREAS**, the governing authority of the City finds it desirable and in the interest of
62 the public health, safety, and general welfare of its citizenry to amend its ordinances accordingly.

63 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
64 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

65 **Section One.** The Code of Ordinances is hereby amended by repealing in its entirety
66 Section 93-23-5 (Surfacing and Maintenance) of Article 23 (Off-street parking and loading) of
67 Chapter 93 (Zoning).

68 **Section Two.** The preamble of this Ordinance shall be considered to be and is hereby
69 incorporated by reference as if fully set out herein.

70 **Section Three.** This Ordinance shall be codified in a manner consistent with the laws of
71 the State of Georgia and the City.

72 **Section Five.** (a) It is hereby declared to be the intention of the Mayor and Council that
73 all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
74 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

75 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
76 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
77 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
78 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
79 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
80 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
81 of this Ordinance.

82 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
83 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
84 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
85 express intent of the Mayor and Council that such invalidity, unconstitutionality or
86 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
87 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
88 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
89 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
90 enforceable, and of full force and effect.

91 **Section Six.** All ordinances and parts of ordinances in conflict herewith are hereby
92 expressly repealed.

93 **Section Seven.** The effective date of this Ordinance shall be the date of adoption unless
94 otherwise stated herein.

95 **ORDAINED** this _____ day of _____, 2016.

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97 [SIGNATURES CONTINUED ON NEXT PAGE]

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CITY OF HAPEVILLE, GEORGIA

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Alan H. Hallman, Mayor

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106 **ATTEST:**

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Jennifer Elkins, City Clerk

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114 **APPROVED BY:**

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Steven M. Fincher, City Attorney

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