

STATE OF GEORGIA

CITY OF HAPEVILLE

ORDINANCE NO. 2016-08

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF HAPEVILLE, BY AMENDING ARTICLE 3.3 (SIGNS AND MURALS) OF CHAPTER 93 (ZONING) IN ITS ENTIRETY; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

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

WHEREAS, the City has the power to regulate the display of outdoor signage within its limits pursuant to its exclusive zoning and planning authority granted by the 1983 Constitution of the State of Georgia, including but not limited to Article IX, Section II, Paragraph IV and Article IX, Section II, Paragraph III; the authority granted by the General Assembly of the State of Georgia, including but limited to O.C.G.A. § 36-70-3; the authority granted under the Charter of the City of the Hapeville, including but not limited to Sections 1-102; as well as the general police powers of the City and other authority provided by federal, state, and local laws applicable hereto; and

WHEREAS, the City previously exercised such power, having adopted a comprehensive code governing the manner in which people may display outdoor signs and murals that presently is codified in Article 3.3 of Chapter 93 of its Code of Ordinances; and

WHEREAS, the United States Supreme Court’s recent opinion in *Reed v. Town of Gilbert, Arizona*, 135 S.Ct. 2218 (2015), clarified the meaning of content neutrality as a central

requirement of the First Amendment’s protection of free speech with respect to the regulation of certain types of signs; and

WHEREAS, the *Gilbert* Court reaffirmed that ordinances which regulate certain signs by category according to the type of information conveyed are content-based and subject to strict scrutiny analysis, the most exacting form of judicial review and one that is exceptionally hard to satisfy; and

WHEREAS, the *Gilbert* opinion also makes clear that regulations which apply to all signs and use content-neutral standards, such as size, material composition, lighting, moving parts, and portability, would not be subject to strict scrutiny review under the First Amendment and, therefore, would likely to be upheld if challenged; and

WHEREAS, the City desires to revise its sign and mural regulations in light of the *Gilbert* opinion by amending the provisions in Article 3.3 (Signs and Murals) in Chapter 93 (Zoning) of the Code of Ordinances; and

WHEREAS, the public health, safety, and general welfare of the citizens of the City will be positively impacted by the adoption of this Ordinance.

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, and by the authority thereof:

Section 1. The Code of Ordinances of the City of Hapeville, Georgia is hereby amended by repealing the provisions of Article 3.3 (Signs and Murals) in Chapter 93 (Zoning) in their entirety and inserting in lieu thereof the provisions set forth in Exhibit “A”, which is attached hereto and made a part hereof by reference.

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

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

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

Section 4. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

ORDAINED this _____ day of _____, 2016.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED AS TO FORM:

Steven M. Fincher, City Attorney

EXHIBIT A

[See Attached]

Chapter 93 - Zoning

Article 3.3 – Signs and Murals.

DIVISION 1 – Signs

Section 93-3.3-1. Statement of purpose and intent.

- (a) This division seeks to create the legal framework necessary to ensure a comprehensive and balanced system of signs within the city. A comprehensive regulation is necessary to ensure that signs installed in Hapeville are compatible with the unique nature and character of the community. The purpose of this division is to preserve the right of free speech and expression, facilitate appropriate communication between people and their environment, promote the public health, safety and welfare, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance.

With these concepts in mind, the provisions in this division, which regulate signs by such factors as design, size, height, spacing and location, but not on the basis of any message conveyed by such signs, and also regulate the maintenance of signs, are hereby established to achieve the following purposes:

- (1) To protect the health, safety, general welfare and property values of residents and property owners of the city.
- (2) To promote and implement the goals, objectives and policies adopted in the comprehensive plan.
- (3) To effectively balance public and private objectives by allowing adequate signs for the needs of business and developers.
- (4) To regulate the installation and placement of signs in order to provide safe operating conditions for pedestrians and motorists by eliminating unsafe, cluttered, distracting, or illegal signs.
- (5) To promote the use of signs that are aesthetically pleasing, of appropriate scale, integrated with surrounding buildings and landscape, and compatible with the character of the surrounding area.
- (6) To ensure the protection of free speech rights provided by the United States Constitution and the Georgia Constitution.

(b) It is the intent of this division to:

- (1) Enable the public to locate and design sign facilities without difficulty or confusion.
- (2) Provide functional flexibility, encourage variety and relate signing to basic principles of good design.

- (3) Balance the rights of individuals to convey messages through signs and the right of the public to be protected against the unrestricted proliferation of signs by regulating signs on the basis of such factors as design, height, spacing, and location, but not on the basis of the content of any message conveyed thereby.
- (4) Provide an enhanced visual environment for residents and visitors and protect existing view sheds in the community.
- (5) Promote economic development.
- (6) Ensure the fair and consistent enforcement of sign regulations.

Section 93-3.3-2. Definitions.

For the purposes of this Article, the following definitions shall have the meanings ascribed to them in this section, unless specifically stated otherwise:

Aerial view sign. This includes, but is not limited to, any sign horizontally affixed to a roof or attached to a roof such that the sign is not readily viewable from the surrounding ground.

Aggregate sign area. The total area of all signs on a lot. Entrance signs and subdivision signs shall not be considered in the calculation of aggregate sign area in the R-0, R-SF, R-1, R-2, R-3, R-4, R-AD, C-R and V Zones, or in the U-V Zone when a lot is developed for residential use. Street numbers assigned by the United States Postal Service shall not be considered in calculating the aggregate sign area. See definition of "Sign area."

Animated Sign. A sign that features movement or a change of lighting to depict action or to create a special effect or scene. This includes signs that rotate or revolve to display a message.

Awning sign. Any sign applied directly to or attached directly to an awning.

Billboard sign. Any ground sign having an area of 300 square feet or greater. Billboards may display a traditional static image, a "multiple message sign" accomplished by a mechanical transition to a second or third image or a "large screen video display" utilizing full motion video technology and commonly referred to as digital or LED billboards.

Canopy Sign. See Awning Sign.

Changeable copy sign. Any sign that incorporates changing lettering or images to form a message or messages, whether such changes are accomplished electronically or manually.

Decision date. The date upon which the City Planner makes a final decision on the approval or denial of a building permit application.

Entrance sign. Any ground sign placed at the intersection of a public street and a private entryway into a neighborhood or subdivision, apartment community, condominium complex, office park, industrial park or other building with multiple dwelling units or commercial units.

Erect. To build, paint, construct, attach, hang, place, suspend, or affix.

Externally illuminated signs. Any sign illuminated by an external light source directed primarily toward such sign.

Feather flag sign. A temporary banner sign installed on a single post and manufactured of lightweight material designed to move with the wind.

Festoon. A decorative chain, strip or ornamentation hanging between two points.

Flag. A sign consisting of fabric or other similar material attached at one end to a pole or building and hanging freely such that it may flutter or move in the wind.

Flashing sign. Any sign the illumination of which changes in intensity, scrolls, flashes or changes message or appearance more often than once every 10 seconds.

Ground sign. Any sign supported by uprights or braces permanently placed in the ground and not supported by or suspended from any building.

Handheld signs. Any sign larger than six inches by six inches carried by a person including but not limited to picket signs, shields or sandwich boards.

Internally illuminated signs. Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights, LEDs or luminous tubes located within the interior of the sign.

Median. A paved or planted strip dividing any public or private right-of-way, road or highway into lanes parallel to the direction of travel.

Monument Sign. A Ground Sign mounted directly upon the ground and not raised by vertical braces or supports.

Noncombustible material. Any material that will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

Nonconforming Sign. Any sign that does not conform to the provisions of this Article at the date of adoption.

Person. Any individual, entity, firm, partnership, association, corporation, company or organization of any kind.

Primary facade. The exterior wall of the building most nearly parallel to widest street on which the building fronts.

Projecting sign. Any sign which is perpendicular to a building or other structure and extends more than 12 inches horizontally from the plane of the building wall.

Road frontage. The distance measured in linear feet of a lot that abuts any public street.

Roofline. The highest continuous horizontal line of a roof. On a sloping roof, the roofline is the principal ridgeline, or the highest line common to one or more principal slopes of roof. On a flat roof, the roofline is the highest continuous line of the roof or parapet, whichever is the higher.

Roof Sign. Any sign attached to a building or structure and displayed above the lowest horizontal line of the building roof.

Sandwich Board Sign. A movable A-frame sign not secured or attached to the ground or surface on which it is located.

Secondary facade. Any exterior wall of a building that is most nearly parallel to an adjoining street that is not the primary facade. A secondary facade may also be to the rear of the primary facade and may adjoin a parking lot rather than a street. The end elevation of a building shall also be considered a secondary facade.

Sign. Every device, item, product, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter used or intended to be used to attract the attention of or convey information to the general public. For purposes of determining number of signs, a single display surface or a single display device containing elements organized, related and composed to form a unit shall be considered a single sign. Where information is displayed in a random manner without an organized relationship to other elements, or where there is reasonable doubt as to the relationship of elements, each element shall be considered a single sign.

Sign Area. The total area on which a message is displayed on any sign. For double-faced signs, the side with the largest sign area shall be used in computing sign area. The sign area of a double-faced sign having unequal faces shall be the area of the larger face. The sign area of wall signs shall be the net geometric area measured by the smallest possible rectangle or combination of rectangles enclosing the display surface of the sign, including the outer extremities of all letters, characters and delineations. Double-faced signs having an interior angle formed by the faces greater than 45 degrees shall be considered individual sign faces and the area of each face shall be used in computing sign area. Window sign area shall be measured in the same manner as wall signs.

Sign District. A portion of the city believed to share a common character and identified on the City of Hapeville "Sign District Map," Figure 1.1. Sign districts or character areas establish sign standards for properties located in these districts. See section 93-3.3-2-01.

Sign Face. The part or parts of a Sign that is/are used or can be used to convey information visually.

Sign structure. All members of a sign (including braces, posts and supports) except the sign face itself.

Stake Sign. Any Temporary Sign supported by uprights placed in the ground and not supported by or suspended from any building with a maximum sign area of three (3) square feet.

Storefront. The primary facade of a commercial building or a single, undivided tenant space that may be located in a multi-tenant commercial building.

Structural change or repair. Any reinforcement, replacement, bolstering, augmenting or substitution of a support element of a sign structure, including but not limited to alteration or replacement of the foundation, support structures, columns or beams, sign frame or sign head for any purpose other than to render the sign structure safe.

Structural trim. The molding, battens, cappings, nailing strips, latticing, and platforms which are attached to a sign structure, but which do not contribute to the conveying of a message.
Subdivision sign. Any sign placed at the intersection of two public roads, or at the intersection of a public and private road, where one of the roads is the main thoroughfare accessing a commercial or residential subdivision.

Submission date. The date stamped on a sign application indicating the date the application was actually received in the Community Services Department.

Temporary Sign. Any sign or device which is not permanently attached to the ground or other permanent structure, which is designed to be mobile or is designed to remain in place for a limited time. This includes, but is not limited to, signs designed to be transported regularly from one location to another, signs designed with wheels, regardless of whether the wheels remain attached to the sign, or signs tethered to an existing structure. Banners are considered Temporary Signs.

Wall Sign. Any Sign which is attached parallel to or painted on an exterior building wall.

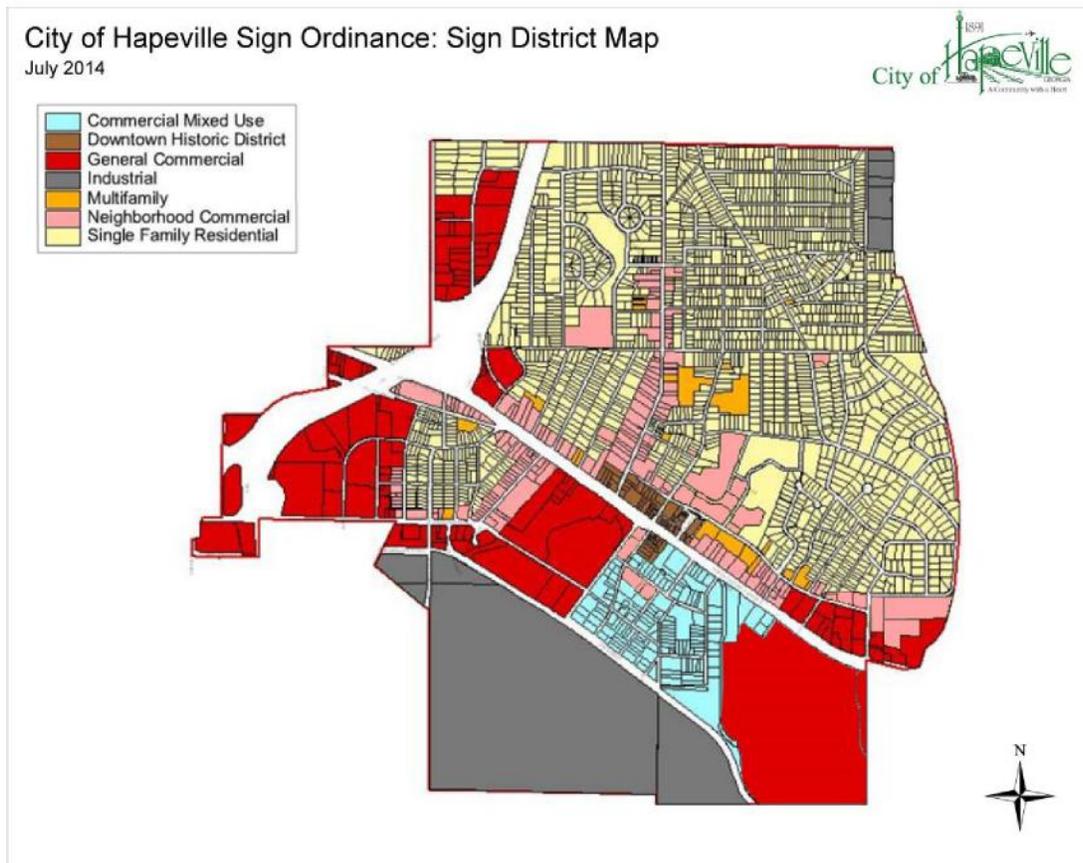
Weekend Sign. A Temporary Sign that is not illuminated, internally or externally, and is erected between the time frame spanning 5:00 p.m. on any Friday and 8:00 a.m. on the subsequent Monday.

Window sign. Any sign displayed to an outside observer on or through a window or covering a window clearly visible from the right-of-way. Any sign that conveys a message at a scale as to font size or graphics or the use of such components as neon or LED lighting clearly intended to advertise to pedestrians or motorists in the right-of-way, despite the location in a store, shall be considered window signs. Window sign shall include signs posted on or otherwise affixed to a glass door.

Zoning district. The classification of parcels of land as defined under the City of Hapeville Zoning Ordinance.

Section 93-3.3-2-01

Figure 1.1 Sign District Map



Section 93-3.3-3. Permit Required.

Except where specifically excluded by a provision in this division, it shall be unlawful for any Person to place, erect, repair, alter, relocate, change, modify or maintain any Sign or any Sign Face without first obtaining a permit from the City Planner in the manner set forth in this chapter and otherwise complying with the terms herein.

Section 93-3.3-4. Permit application submission, requirements, decision, and appeal.

- (a) Submission of sign permit applications. Sign permit applications must be delivered to the Department of Community Services. All permit applications must be stamped by Planning and Zoning Department personnel indicating the Submission Date.
- (b) An application for a permit to erect a Sign shall be made on a form or forms provided by the Community Services Department and shall contain the following information:
 - (1) Name, mailing address, email address, if any, and phone number of the property owner and the applicant;
 - (2) Address of building, structure or lot on which the Sign is to be attached or erected;
 - (3) Position of the Sign in relation to nearby buildings or structures, property lines and other Signs located on the lot;
 - (4) Three sets of accurately scaled drawings of the plans, contents, specifications, and method of construction and attachment to the building or the ground for the Sign as well as a scaled drawing of the site showing drives, structures and any other limiting site features;
 - (5) Name of Person erecting the Sign;
 - (6) Written consent of the property owner, or the property owner's agent, granting permission for the placement of the Sign on the property and permission to enter the property to maintain said Sign;
 - (7) A written list describing all other signs located on the lot indicating the sign type, size, height and placement; and
 - (8) Complete calculations establishing the size and area of the Sign.
- (c) Approval of the Community Services Department. The Community Services Department shall review all sign applications that require a permit for compliance with the building codes and indicate such compliance in a written report attached to the application. After completing any such report, the Community Services Department shall forward the application, including any other documents submitted by the applicant, and the report to the City Planner.
- (d) Decision of the City Planner.
 - (1) Provided that the application is complete, all permit fees have been paid, and the proposed Sign and the lot on which the Sign is to be placed are in compliance with all requirements of this division and all other ordinances and laws of the City, the City Planner shall render a determination and shall inform the applicant of his or her decision within 45 calendar days of the Submission Date. The City Planner shall give notice to the applicant of his or her decision on such application by hand delivery or by mailing such notice, by certified mail, return receipt requested, to the address on the permit application on or before the 45th day.
 - a. Upon the expiration of the 45-day period without a decision being made on the application, the applicant shall be permitted to erect and maintain the sign under this statutory provision unless and until the City Planner notifies the applicant of a denial of the application and states the reasons for the denial. No Person erecting

a sign under this provision shall acquire any vested rights to continued maintenance of such signs, and following a subsequent denial of a sign application by the City Planner, the sign must be brought into compliance with this division.

- (2) The City Planner shall reject any application that is incomplete or contains false material information or omissions within 45 calendar days of the Submission Date. Applications subsequently submitted in conformity with this section shall be deemed to have been submitted on the date of resubmission rather than the original Submission Date.
 - (3) If the City Planner determines that a previously issued sign permit was issued pursuant to an application that contained false material information or omissions, he or she shall promptly revoke such permit and the Sign shall be immediately removed.
- (e) Appeal. An applicant who is dissatisfied by a decision of the City Planner on the application for a sign permit has the right to appeal that decision. Any such appeal shall occur under the following procedures:
- (1) The applicant shall deliver a written notice of appeal to the City Planner within fourteen (14) calendar days of his or her receipt of the notice of the decision. In the event that that no appeal is made within the 14-day period, the decision of the City Planner shall become final. In the event that an appeal is filed, the City Planner shall promptly transmit to the Board of Appeals all documents constituting the record upon which the decision appealed from was made.
 - (2) The Board of Appeals shall (a) hold a hearing on any timely filed appeal no more than thirty (30) days after the notice of appeal was received; and (b) make its final determination of the appeal not more than thirty (30) days after the date of such hearing. The review by the Board of Appeals shall be limited to a determination of whether or not the decision of the City Planner was clearly erroneous.
 - (3) Any appeal of the decision of the Board of Appeals shall be taken to the Superior Court of Fulton County by a petition for a writ of certiorari.

Section 93-3.3-5. Permit Expiration date.

If work authorized under a permit has not been completed to the satisfaction of the Code Enforcement Officer using common industry standards within six (6) months after the date of issuance, the permit shall become null and void.

Section 93-3.3-6. Permit Fees.

Each application for a sign permit must be accompanied by a payment for the permit fee. The fee for a sign permit shall be as established by Mayor and Council from time to time. A copy of the fee schedule shall be available electronically on the City website or as hard copy in the Community Services Department.

Section 93-3.3-7. Identification labels.

- (a) Every Sign placed, constructed, erected or maintained for which a permit is required by this division, shall be plainly marked with the permit number issued for the structure firmly affixed on the Sign in such a manner that the permit number shall be readily accessible and durable.
- (b) Displaying a permit that has been tampered with, altered or mutilated, or displaying a Sign without a permit, shall be a misdemeanor offense punishable in municipal court as set out in section 93-3.3-25.

Section 93-3.3-8. Nonconforming signs.

- (a) The City finds that Nonconforming Signs may adversely affect the public health, safety and welfare. Such signs may adversely affect the aesthetic character of the city and may adversely affect public safety due to the visual impact and structural characteristics of such signs on motorists. Accordingly, the following registration requirements are found to be necessary to minimize these possible adverse effects through annual inspections essential to enabling the City to remain aware of the location and maintenance of nonconforming signs.
- (b) The owner(s) or authorized agent(s) of each Nonconforming Sign located within the city shall register such Nonconforming Sign with the City Planner no later than six months after the effective date of this division and shall thereafter renew this registration, annually. Any Nonconforming Sign that does not comply with these registration requirements shall be deemed an illegal Sign and shall be subject to the regulations applicable to illegal signs and all other enforcement provisions. The City Planner shall provide a form for registering a Nonconforming Sign and shall annually inspect such Sign to ensure continued conformity in all other respects with all other provisions of this division and any other applicable City ordinances or regulations. The initial registration fee shall be \$50.00. Each subsequent renewal fee shall be \$25.00. These fees are intended to offset administrative costs associated with monitoring compliance with this division.
- (c) Signs which on the effective date of this division were approved and legally erected under previous sign regulations and which became nonconforming with respect to the requirements of this division may continue in existence subject to the following restrictions:
 - (1) No change shall be made in the size of any Nonconforming Sign, nor shall any structural change be made to any such Sign, unless the Sign is brought into compliance with the provisions of this division.
 - (2) Any Nonconforming Sign declared to be unsafe by the Code Enforcement Officer shall be removed or rendered safe and brought into compliance with the provisions of this division.
 - (3) No Nonconforming Sign damaged by fire or other causes to the extent of more than 50 percent of its assessed value shall be repaired or rebuilt except in compliance with this division. Repair work shall take place within six (6) months of the incident that caused the damage.

- (4) Any Sign erected on public property or in a public right-of-way in violation of this division may be removed by duly authorized employees of the City and the responsible party may be cited for such violation.
- (d) A Nonconforming Sign shall not be replaced by another Nonconforming Sign, except the substitution or interchange of poster panels or dismountable material on nonconforming signs shall be permitted, provided such materials do not constitute structural elements.
- (1) Minor repairs and maintenance of Nonconforming Signs shall be permitted. However, no structural repair or change in the size, shape or height of a Nonconforming Sign shall be permitted except to bring the Sign into compliance with the requirements of this division.
 - (2) A nonconforming Sign which meets all requirements of the City Code when erected may remain in place until one of the following conditions occurs:
 - a. The deterioration of the Sign or damage to the Sign renders the Sign a hazard; or
 - b. The Sign has been damaged to such extent that structural repairs are required to restore the Sign. A structural repairs are any repair necessary to maintain the stability and structural integrity of the Sign and are not merely aesthetic in nature.
 - (3) No structural repair, change in shape, size, height or design of a Nonconforming Sign shall be permitted except to render such Sign in compliance with all requirements of this division.

Section 93-3.3-9. Applicability.

The provisions of this division shall apply to all Signs erected within the corporate limits of the City of Hapeville.

Section 93-3.3-10. Prohibited signs.

The following signs are prohibited:

- (1) Any sign that due to its color, shape, size, height, lighting, location, position and/or design appears to be in imitation of, or may be considered by motorists and pedestrians, to be an official traffic control Sign or signal.
- (2) Signs attached to telephone, electrical power or light poles.
- (3) Roof Signs.
- (4) Sandwich Board Signs located in any residential zoning district.
- (5) A Vehicle Sign with a total Sign Area in excess of ten square feet, where the vehicle upon which the Sign is painted, drawn or otherwise affixed meets the following:
 - a. Any part of the vehicle is parked for more than three consecutive hours within 100 feet of any public right-of-way;

- b. The vehicle is visible from any public right-of-way;
 - c. The vehicle is not being actively loaded or unloaded;
 - d. If parked on a non-residential lot, the vehicle is not being used for the purpose of providing transportation for the owners, employees, inventory, merchandise, supplies or materials concerning a business operating on the lot; and
 - e. There are other available and accessible locations on or about the lot where the vehicle can be parked, which are not within 100 feet of any public right-of-way and visible from such.
- (6) Animated Signs involving motion or sound.
 - (7) Flashing, blinking, or varying light intensity signs, with the exception of Changeable Copy Signs that meet the requirements of section 93-3.3-18.
 - (8) Streamers or searchlights.
 - (9) Inflatable Signs or Festoons.
 - (10) Feather Flag Signs.
 - (11) Building, window and door lighting having an intensity greater than 0.3 foot-candles measured as prescribed in a "Recommended Night-time Brightness Levels for On-Premises Electronic Message Centers (EMC's)" document published by the International Sign Association, April 2011.
 - (12) Any Sign that impedes the view of an official traffic control Sign or signal.
 - (13) Any Sign that obstructs the sight of motorists or pedestrians so as to create a traffic safety hazard.
 - (14) Any Sign in a public right-of-way or on City property.
 - (15) Any Sign that is erected or maintained in such a manner so as to interfere with safe and free ingress and egress of any door, any window, any emergency exit or any fire escape. In addition, no Sign shall be attached or otherwise affixed to any standpipe, any emergency exit, or any fire escape.

Section 93-3.3-11. Signs requiring a special use permit.

The following signs require a special use permit. These signs must be historic in nature and must not include sound, flashing or blinking lights or lights of varying intensity.

- (a) An Animated Sign that rotates.

Section 93-3.3-12. Temporary signs.

- (a) Temporary Signs shall be limited to a maximum of two (2) Signs allowed twice per year for a period not to exceed 30 consecutive days.
- (b) Temporary Signs shall not exceed 32 square feet in Sign Area.

- (c) Free standing Temporary Signs shall not exceed four feet in height.
- (d) Temporary Signs shall not be placed in any public right-of-way.
- (e) All Temporary Signs shall be securely installed and shall meet all applicable safety standards as prescribed by the building code, electrical code and life safety code.
- (f) Prior to issuance of a permit for a Temporary Sign, as prescribed by Section 93-3.3-4, the applicant must demonstrate that such Sign will not adversely affect public health, safety, welfare or aesthetics of the community or create a safety hazard to motorists or pedestrians.
- (g) The Code Enforcement Officer may give written notice to the owner of any Temporary Sign erected or maintained in violation of this division or any other City ordinances or laws and to the owner of the property or premises on which the sign is located. Such notice may require that the Sign be removed within three (3) calendar days. The Code Enforcement Officer may cause removal of any such sign and impose the cost of removal as a lien on the property.
- (h) No fee shall be required for issuance of a permit for two (2) or fewer Temporary Signs in a single calendar year.

Section 93-3.3-13. Exempt signs.

The following Signs are allowed and exempt from the permit regulations contained in this division but, notwithstanding, must comply with all other applicable requirements in this division and the Code:

1. A Wall Sign that does not exceeding one (1) square foot in Sign Area.
2. Any Sign not visible from a public right-of-way.
3. A Handheld Sign that meets the requirements of section 93-3.3-18.
4. Each lot is entitled to one Sign that is less than 36 square inches in Sign Area and that must be placed in any of the following locations:
 - (a) On the front of every building, every unit in a multiple unit building, residence or structure;
 - (b) On the side of an authorized United States Postal Service mailbox; or
 - (c) On one post, which measures no more than 48 inches in height when placed and standing in ground and no more than 4 inches in width and which shall not be placed in any public right-of-way.
5. A Temporary Sign that is not internally or externally illuminated and meets any of the following criteria:
 - (a) For each lot during the period that it is being developed under an active building permit issued by the City, one Sign per each street frontage that is no more than 16 square feet in area, is no more than six feet in height to the top of the Sign component when placed and standing in ground, and is not placed in any public right-of-way. Any Sign erected under this subsection shall be removed within 10 days after the development occurring under the building permit is completed.
 - (b) For each lot during the period in which it is listed for sale or lease, one Sign per each street frontage that is no more than 16 square feet in area, is no more than six feet in

- height to the top of the Sign component when placed and standing in ground, and is not placed in any public right-of-way. Any Sign erected under this subsection shall be removed within 10 days after the lot has been sold or leased.
- (c) For a period of 45 days immediately preceding or following a federal, state, Fulton County, or City of Hapeville election or referendum, any lot may, in addition to any other signs authorized by this division, erect a maximum of four Stake Signs. Any Sign erected under this subsection shall be removed one day after the conclusion of the election period, which period shall include the time preceding any run-off election.
6. A Weekend Sign that meets all of the following requirements:
- a. A Weekend Sign shall only be erected between the time frame beginning at 5:00 p.m. on any Friday and ending at 8:00 a.m. on the following Monday.
 - b. A Weekend Sign shall be removed no later than 8:00 a.m. on the first Monday after it is erected.
 - c. A lot or dwelling unit shall have no more than three (3) Weekend Signs at any time.
 - d. A Weekend Sign shall not exceed a maximum Sign Area of four (4) square feet.
 - e. No Weekend Sign shall be located on any public right-of-way.
 - f. A Weekend Sign shall only be located on private property for which the property owner, or the property owner's agent, has given prior, written permission for the placement of such Sign.

Any Sign erected under this section shall not be calculated as part of the overall sign area allowed per lot by another section in this division.

Section 93-3.3-14. Reserved.

Section 93-3.3-15. Maintenance.

- (a) All Signs regulated by this division shall be kept clean, neatly painted, and free from all electrical and mechanical hazards, including, but not limited to, faulty wiring and loose connections. The premises surrounding all Signs shall be maintained by the owner in a sanitary and inoffensive condition, free of weeds, rubbish, and debris. The Code Enforcement Officer may cause any Sign which shows gross neglect, becomes dilapidated, or the ground area around such a sign is not well maintained to be removed after due notice.
- (b) The Code Enforcement Officer shall give the permittee or owner of any Sign which shows gross neglect or has become dilapidated or which the ground area around the Sign is not well maintained 10 days written notice to correct the deficiencies or to remove the Sign. Upon the failure of the permittee or the owner to correct the deficiencies or remove the Sign, the Code Enforcement Officer shall have the Sign removed at the expense of the owner.

Section 93-3.3-16. Illumination.

- (a) Internal illumination. The illumination of internally lit signs shall not exceed 20 foot-candles of incandescent light measured at a distance of ten feet from such signs.
- (b) External illumination. Indirectly lit signs shall be lighted so that no light source is positioned in such a manner that creates a hazardous condition for motorists or pedestrians.
- (c) Illuminated signs shall be installed in a manner that prevents spillover on direct light on adjacent properties or public right-of-ways. No illuminated sign shall be installed within 75 feet of any single-family dwelling.

Section 93-3.3-17. Sign standards by sign district.

- (a) Any Sign not specifically allowed in a Sign District under this Section shall be prohibited in that district, except as otherwise provided for under this division. Size, height, setback, quantity and type of sign shall be regulated under Sections 93-3.3-17 and 93-3.3-18 of this division.
- (b) *Single family residential.* Permitted sign types and regulations for signs in the single family residential Sign District in the city:
 - (1) An Entrance Sign located at the entrance of a subdivision.
 - (2) Wall Signs.
 - (3) All Signs shall be setback a minimum of ten (10) feet from any right-of-way and all electrical transmission lines.
 - (4) Except for an Entrance Sign, no Sign shall be illuminated, internally or externally. An Entrance Sign may only be illuminated externally and may only be illuminated from dusk to dawn.
 - (5) Stake Signs are the only type of permitted temporary signs. For regulations regarding temporary signs, see Section 93-3.3.-12.
 - (6) The aggregate Sign Area for any lot shall not exceed 20 square feet, regarding of the construction, placement or type of sign or signs.

| | Wall Sign | Subdivision Sign | Temporary Sign |
|----------------|-----------|------------------|----------------|
| Maximum Height | | 4 feet | 3 feet |
| Maximum Width | | 8 feet | 3 feet |

| | | | |
|----------------|---------------|----------------|---------------|
| Maximum Area | 1 square foot | 32 square feet | 3 square feet |
| Maximum Number | 1 | 1 | 2 |

(c) *Commercial mixed use.* Master planned developments in this Sign District that are proposed or existing developments that propose a sign package may provide a detailed sign plan to Planning Commission for approval. The Commission shall consider the purpose and intent of this division in determining the appropriateness of the sign package. Permitted sign types and regulations for signs in the commercial mixed use Sign District include:

- (1) Monument Signs.
- (2) Billboards, subject to Section 93-3.3-19. Billboards.
- (3) Projecting Signs, not to exceed a projection of six (6) feet from the face of the building. Signs must provide for eight feet of minimum clear space between the bottom of any Sign and the sidewalk or ground.
- (4) Wall Signs.
- (5) Sandwich Board Signs, which must be removed at the end of each business day and must allow at least five (5) feet of unobstructed passageway. No Sandwich Board Sign shall exceed six (6) square feet in Sign Area.
- (6) Window Signs.
- (7) Temporary Signs, a maximum of two (2) signs per lot per year.
- (8) Entrance Signs.
- (9) Flags.
- (10) All Signs shall be setback a minimum of ten (10) feet from any public right-of-way and any electrical transmission line and shall be setback a minimum of 25 feet from the I-85 and I-75 rights-of-way
- (11) All exterior lighting shall comply with FAA requirements related to aircraft safety, and all exterior lighting shall be maintained in accordance with plans and specifications submitted to and approved by the building official.
- (12) Any Sign to be erected by any owner, any tenant, any lessee, or any sublessee of a unit in a multi-story building shall be detailed in a sign plan that is submitted to the Planning Commission for approval prior to the erection of such Sign.
- (13) The Sign Area for any lot shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.
- (14) Standards for multi-tenant, multiple phase or multiple parcel developments:

- a. Where possible, a uniform design scheme of Signs shall be established for the development as a whole and/or for each building in the development and approved by the city.
- b. Plans for the development shall include detailed descriptions of all Signs, including but not limited to, size, height, location, type, colors and materials to be used, lighting and ownership responsibility.
- c. Plans for Signs shall undergo the same review and approval process as is required of other aspects of the development.
- d. All Signs shall be designed, erected and maintained in accordance with an approved plan.
- e. In addition to the Signs allowed in this section, each individual unit with a storefront may have one wall sign with a sign area not to exceed one (1) square foot for each horizontal linear foot of primary storefront, plus one sign on the secondary facade not to exceed one (1) square foot for each horizontal linear foot of secondary facade.

Commercial Mixed Use

| | Ground Sign | Projecting Sign | Wall Sign | Entrance Sign | Temporary Sign |
|----------------|----------------|---|---|---------------|----------------|
| Maximum Height | 10 feet | 4 feet/ Not above roofline | | 6 feet | 6 feet |
| Maximum Width | 5 feet | 5 feet | 50% of façade width | | 8 feet |
| Maximum Area | 20 square feet | 20 square feet | 1 SF/LF of building or tenant façade | 4 square feet | 32 square feet |
| Maximum Number | 1 | 1/primary facade; 1/secondary facade | 1/primary facade; 1/secondary facade | 1 | 2/year |

(d) *Downtown district.* Permitted sign types and regulations for Signs in the Downtown Sign District include:

- (1) Projecting Signs, which shall not exceed a projection of either four (4) feet from any building or one-third of the width of any sidewalk, whichever is less. Projecting Signs must provide for a minimum of eight (8) feet of space between the bottom of the Sign and the sidewalk or ground.
- (2) Wall Signs.
- (3) Sandwich Board Signs that must be removed at the end of each business day and must accommodate a minimum of five (5) feet of unobstructed walkway. No Sandwich Board Sign shall exceed six (6) square feet in Sign Area.
- (4) Window Signs shall not exceed 50 percent of the window area and shall be a maximum of 12 square feet of Sign Area. A second Window Sign of the same dimension shall be allowed on buildings with multiple frontages fronting on a public street. Interior neon or LED signs not to exceed an aggregate maximum of six (6) square feet in Sign Area shall be permitted.
- (5) Awning Signs.
- (6) Flags.
- (7) Temporary Signs, a maximum of two signs per lot per year.
- (8) The total number of Signs in this district shall not exceed one (1) Sign of any allowed type for the primary building or tenant facade and one (1) sign of any allowed type for each secondary building or tenant facade.
- (9) All Signs shall be setback a minimum of six (6) feet from any public right-of-way and any electrical transmission line.
- (10) The aggregate Sign Area for any lot shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.

| | Projecting Sign | Wall Sign | Window Signs | Awning Sign | Temporary Sign |
|-----------------------------|--------------------|--------------------------------------|--------------------|--------------------|----------------|
| Downtown District | | | | | |
| Maximum Height | Not above roofline | | | | 6 feet |
| Maximum Width | 4 feet | 50% of façade width | | | 8 feet |
| Maximum Area Primary Facade | 12 square feet | 1 SF/LF of building or tenant façade | 50% of window area | 50% of awning area | 32 square feet |

| | | | | | |
|----------------------------------|---|---|-----------------------|---|---|
| Maximum Area Secondary Facade | 12 square feet | 1 SF/LF of building or tenant façade | 50% of window area | | |
| Maximum Number | 1/primary facade; 1/secondary facade | 1/primary facade; 1/secondary facade | No Maximum | 2 | 1 |

(e) *General commercial.* Master planned developments in the General Commercial Sign District that are proposed or existing developments that propose a sign package may provide a detailed sign plan to Planning Commission for approval. The Commission shall consider the purpose and intent of this division in determining the appropriateness of the sign package.

Permitted sign types and regulations for signs in the General Commercial Sign District include:

- (1) Ground Signs.
- (2) Billboards, subject to the requirements and limitations in Section 93-3.3-19.
- (3) Projecting Signs, which shall not exceed a projection of six (6) feet from the face of any building.
- (4) Wall Signs.
- (5) Temporary Signs, a maximum of two signs per lot per year.
- (6) Window Signs.
- (7) Awning Signs.
- (8) Flags.
- (9) The Sign Area for any lot shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.
- (10) All Signs in this district shall be setback a minimum of ten (10) feet from any public right-of-way and any electrical transmission line, and shall be setback a minimum of 25 feet from the I-85 and I-75 rights-of-way, including off- and on-ramps.
- (11) Except as provided in section 93-3.3-20(h), no Wall Sign or Window Sign shall be permitted above the ground floor of any building.

General Commercial

| | Ground Sign | Projecting Sign | Wall Sign | Temporary Sign | Window Sign | Awning Sign |
|----------------|----------------|---|---|----------------|--------------------|--------------------|
| Maximum Height | 15 feet | Not above roofline | | | | |
| Maximum Width | 8 feet | 6 feet | 50% of façade width | 8 feet | | |
| Maximum Area | 50 square feet | 32 square feet | 1 SF/LF of building or tenant façade | 32 square feet | 50% of window area | 50% of awning area |
| Maximum Number | 2 | 1/primary facade; 1/secondary facade | 1/primary facade; 1/secondary facade | 2/year | No Maximum | 2 |

(f) *Industrial*. Permitted sign types and regulations for signs in the Industrial Sign District in the city:

- (1) Ground Signs. The maximum number of Ground Signs shall be one for every 500 linear feet of frontage or fraction thereof on a single frontage. Frontage on one street shall not be allocated to sign area on another street. One Entrance Sign shall be permitted at each entrance with a maximum of two such Signs on a single street frontage.
- (2) Billboards, subject to the requirements and limitations in Section 93-3.3-19.
- (3) Projecting Signs, which shall not exceed a projection of six (6) feet from the face of any building. Any Projecting Sign must provide a minimum of eight (8) feet of space between the bottom of such Sign and the sidewalk or ground.
- (4) Wall Signs.
- (5) Temporary Signs, a maximum of two signs per lot per year.
- (6) Window Signs.
- (7) Awning Signs.
- (8) Flags.
- (9) The Sign Area for any lot shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.
- (10) All Signs shall be setback a minimum of ten (1) feet from any public right-of-way and any electrical transmission line, and shall be setback a minimum of 25 feet from the I-85 and I-75 rights-of-way.

Industrial

| | Ground Sign | Projecting Sign | Wall Sign | Temporary Sign | Entrance Sign | Window Sign |
|----------------|----------------|---|---|----------------|----------------|--------------------|
| Maximum Height | 15 feet | Not above roofline | | | 4 feet | |
| Maximum Width | 15 feet | 6 feet | 50% of façade width | 8 feet | 8 feet | |
| Maximum Area | 50 square feet | 32 square feet | 1 SF/LF of building or tenant façade | 32 square feet | 32 square feet | 50% of window area |
| Maximum Number | 3 | 1/primary facade; 1/secondary facade | 1/primary facade; 1/secondary facade | | 1 | No Maximum |

(g) *Neighborhood commercial.* Permitted sign types and regulations for signs in the Neighborhood Commercial Sign District include:

- (1) Monument Signs.
- (2) Projecting Signs, which shall not exceed a projection of either four (4) feet from any building or one-third of the width of the sidewalk, whichever is less. Any Projecting Sign must provide for a minimum of eight (8) feet of minimum space between the bottom of such Sign and the sidewalk or ground.
- (3) Wall Signs.
- (4) Sandwich Board Signs, which must be removed at the end of each business day and must allow at least five (5) feet of unobstructed passageway. A Sandwich Board Sign shall not exceed six (6) square feet in Sign Area.
- (5) Window Signs.
- (6) Awning Signs.
- (7) Temporary Signs, a maximum of two signs per lot per year.
- (8) Flag.
- (9) Any Sign to be erected by any owner, any tenant, any lessee, or any sublessee of a unit in a multi-story building shall be detailed in a sign plan that is submitted to the Planning Commission for approval prior to the erection of such Sign.
- (10) The total number of Signs in this district shall not exceed two Signs of any allowed type for the primary facade and one Sign of any allowed type for each secondary facade.

- (11) The Sign Area for any lot shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.
- (12) All Signs in this district shall be setback a minimum of six (6) feet from any public right-of-way and any electrical transmission line.

Neighborhood Commercial

| | Ground Sign | Projecting Sign | Wall Sign | Window Sign | Awning Sign |
|----------------|----------------|--------------------|--------------------------------------|--------------------|--------------------|
| Maximum Height | 6 feet | Not above roofline | | | |
| Maximum Width | 4 feet | 4 feet | 50% of façade width | | |
| Maximum Area | 20 square feet | 10 square feet | 1 SF/LF of building or tenant façade | 50% of window area | 50% of awning area |
| Maximum Number | 1 | 1/primary facade; | 1/primary facade; | No Maximum | 2 |
| | | 1/secondary facade | 1/secondary facade | | |

- (h) *Multi-family residential.* Master planned developments in this Sign District that are proposed or existing developments that propose a sign package may provide a detailed sign plan to Planning Commission for approval. The Commission shall consider the purpose and intent of this division in determining the appropriateness of the sign package.

Permitted sign types and regulations for signs in the Multi-Family Residential Sign District include:

- (1) An Entrance Sign that is located at the entrance of a subdivision.
- (2) Temporary Signs in a residential development, maximum size of 16 square feet. Such Signs shall be removed at the expense of the owner upon the sale of all property in a development or the lease of all dwellings.
- (3) The Sign Area for any lot in this district shall not exceed one (1) square foot for every linear foot of lot frontage, regardless of the construction, placement or type of sign or signs.

Multi-family Residential

| | Subdivision Sign | Temporary Sign |
|----------------|------------------|----------------|
| Maximum Height | 6 feet | 6 feet |
| Maximum Width | 12 feet | 8 feet |
| Maximum Area | 50 square feet | 32 square feet |
| Maximum Number | 1/entrance | 2/year |

- (i) *Public Institutional*. The standards for Signs to be erected on those lots or upon buildings in the Public Institutional Sign District shall be subject to the standards of the Neighborhood Commercial Sign District.

Section 93-3.3-18. General sign regulations.

In addition to the limitations set forth in the other sections of this division, the following limitations shall apply to these specific types of Signs:

(1) Wall Signs.

- a. No Wall Sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
- b. Wall Signs shall not exceed 50 percent of the width of the building or tenant facade, provided that no Wall Sign shall have an area exceeding one (1) square foot for each horizontal linear foot of building or tenant facade.

(2) Projecting Signs.

- a. No Projecting Sign may be placed over any street, any alley, or any other public right-of-way available for vehicular traffic.
- b. Any Projecting Sign located at a commercial business that is illuminated, either internally or externally, shall be illuminated between sunset and the close of business, on each side thereof, by lighting of at least five (5) watts per square foot of sign surface, but in no case lighting that is less than 60 watts for each sign surface.
- c. All Projecting Signs must be installed at a 90-degree angle to the building facade.
- d. Projecting Signs shall not project above the Roofline or be installed above a height of 14 feet from the ground, whichever is lower.
- e. Projecting Signs must vertically clear sidewalks by at least eight (8) feet and may project no more than four (4) feet from a building or one-third of the width of the sidewalk, whichever is less.

(3) Awning Signs.

- a. An Awning Sign must be painted or installed directly on the awning.
- b. The Sign Area of any Awning Sign shall not exceed 50 percent of the surface area of the awning.
- c. Awnings must be a maximum of eight (8) feet above the sidewalks and may extend to within one (1) foot of the vertical plane formed by the curb or the public right-of-way line.

(4) Entrance Signs. All entrance signs shall be placed on private property and shall not be placed in any public right-of-way.

(5) Entrance Signs at subdivisions. All Entrance Signs at subdivisions shall be placed on private property and shall not be placed in any public right-of-way.

(6) Handheld signs.

- a. Handheld Signs are allowed during the time period in which a parade, picket, or procession that is permitted under Section 35-3-1 et. seq. occurs.
- b. No Handheld Sign shall be placed or carried that extends beyond the width of the body of the individual holding such Sign or that extends more than 24 inches above that individual's head.
- c. All individuals carrying any such Signs shall remain at least ten (10) feet apart, shall not stand or loiter in front of any doorway, driveway or street intersection and shall not interfere with the general flow of traffic, whether pedestrian or vehicular.
- d. All Handheld Signs are exempt from the permitting requirements of Section 93-3.3-4.

(7) Window signs.

Window Signs shall not exceed 50 percent of the window area of the building in which they are displayed. Window Signs may be arranged as a single Sign or as multiple Signs. Window Signs shall be limited to ground floor windows. Interior neon or LED signs not to exceed an aggregate maximum of six (6) square feet shall be permitted.

(9) Canopy signs.

Canopy Signs having a maximum area of 50 percent of the canopy Face and limited to three (3) faces shall be permitted.

(10) Sandwich board signs.

- a. The owner of a building or occupant of a tenant space in a building in the downtown district, neighborhood commercial district or commercial mixed use district may display one Sandwich Board Sign for each business having a storefront. Such signs must be constructed of wood, metal or durable plastic. The surface of any Sandwich Board Sign may be chalkboard, whiteboard or other durable material.
- b. No Sandwich Board Sign may be placed as to restrict the flow of pedestrians. A minimum sidewalk clear zone of five feet shall be maintained. Sandwich Board Signs shall be removed at the end of each business day.
- c. The maximum Sign Area of a Sandwich Board Sign shall be six (6) square feet.

(11) Changeable copy or LED signs, excluding billboards.

For the purpose of this Section, "LED sign" shall mean a digital sign, including but not specifically limited to light-emitting diode (LED), liquid crystal display (LCD) and other similar technology signs. LED signs shall only be permitted for signs regulated under O.C.G.A. § 10-1 164 and located in the General Commercial Sign District.

- a. An owner or a permittee may incorporate up to 40 percent of the allowable Sign Area of a Sign as a Changeable Copy Sign, which shall be physically part of that sign. The changeable copy portion of the Sign may not be installed absent the remaining 60 percent of the Sign that shall be non-changeable copy or static in nature, excluding framing and other structural elements.
- b. No Changeable Copy Sign may change more often than six (6) times per minute and no message shall change more often than once every ten (10) seconds. Signs shall accomplish message transitions in three (3) seconds or less. The brightness of such signs shall not have an illumination level of more than three-tenths of a foot-candle above the average ambient light level measured 100 feet from the face of the sign.
- c. A maximum of two (2) LED panels shall be allowed on any one (1) Sign Face.
- d. The area of each LED panel shall not exceed 10 percent of the total Sign Face.
- e. LED signs shall be equipped with an automatic dimming device that shall lower the intensity of the sign illumination to ensure that a hazardous condition for motorists or pedestrians is not created.
- f. LED signs shall remain, and appear to be, fixed and static. In no instance shall LED lights move, change, flash, or be animated or appear to move, change, flash, or be animated in any way.
- g. The color of any characters, symbols, text, mark or the like must contrast with the field of the Sign to provide for maximum visibility and legibility, and each character, symbol, text, mark or the like on the LED panel must be the same color. The background or field of the Sign shall be a solid color.
- h. Individual LED lighting erected at fuel stations shall not exceed a size of two (2) feet and no LED panel shall be larger than 30 square feet or face any property zoned for single family residential use.
- i. No LED sign shall be located within one hundred fifty (150) feet of any single family residence, or any property zoned for single family residential use.

(13) Flags, excluding Feather Flags. An owner or a permittee may display a Flag that meets the following regulations.

a. The following methods of displaying a Flag are allowed:

- i. Pole Flags. A Flag may be flown from a metal pole permanently placed in the ground. The length of the Flag shall be no greater than one-quarter of the height of the pole. This guideline applies to poles twenty (20) feet and taller. Flags flown on single family residential properties shall not exceed three (3) feet from top to bottom and five (5) feet in length. Flag poles on single family residential properties shall not exceed twenty (20) feet in height. Flags on small commercial, industrial, institutional, and multifamily properties, defined as properties of less than two acres or having buildings with less than 10,000 square feet of floor area, shall not exceed four (4) feet from top to bottom and six (6) feet in length. Flag poles on such properties shall not exceed twenty-four (24) feet in height. Flags on all other commercial, industrial, and institutional properties shall not exceed six (6) feet from top to bottom and ten (10) feet in length and flag poles on these properties shall not exceed forty (40) feet in height. The pole may be of varying diameters, appropriate in scale to the length of the flag being flown.
 - ii. Projecting Flags. Flags may be flown from a metal or wooden pole attached to a bracket projecting from the side of a building or doorframe. The pole shall not exceed six (6) feet in length, or one (1) inch in diameter. Any flag flying from such a pole shall not exceed three (3) feet from top to bottom and five (5) feet in length. Additionally, no flag displayed on a projected pole shall impede pedestrian or vehicular traffic.
 - iii. Window Flags. Flags may be hung in the window of any non-residential property. The area of the Flag shall be used in the calculation of the allowable window sign area.
- b. Limit on Number. The number of Flags (whether displayed as a Pole Flag, a Projecting Flag, a Window Flag, or any combination thereof) that may be displayed on each property is limited by the maximum Sign Area allocated to said property. However, a maximum of three (3) Flags (whether displayed as a Pole Flag, a Projecting Flag, a Window Flag, or any combination thereof) shall be exempt from the limitations of the Ordinance. Any additional Flags (ground, projecting or window) displayed shall be used in the calculation of the ground, projecting or window sign area permitted on the property.
- c. Condition of Flags. Any Flag that is displayed shall be in serviceable condition and fit for use. All fabric or similar material of which the Flag is constructed (including any stitching) shall remain intact. Any Flag that contains tattered or faded fabric or similar material (including stitching) shall be removed.

Section 93-3.3-19. Billboard signs.

(a) The regulation and design of all billboard signs shall be governed by this section, subject to the following standards:

(1) Billboard Signs are permitted on any property having frontage on an interstate and located in any of the following Sign Districts: the Commercial Mixed Use Sign District; the General Commercial Sign District; and the Industrial Sign District.

(2) A Billboard Sign shall not be located more than 100 feet from an interstate right-of-way.

(3) A. In addition to the other information required in Section 93-3.3-4, a permit issued by the Georgia Department of Transportation authorizing the installation of the proposed Billboard Sign shall be submitted to the City Planner simultaneously with the application for a permit to erect said Sign.

(4) No Billboard Sign shall be located within 300 feet of a residentially zoned property as measured from the outermost edge of the sign to the closest point of the residential property.

(5) A Billboard Sign shall meet the setback standards of the zoning district, provided the structure setback from any interstate right-of-way shall be a minimum of 25 feet.

(6) No Billboard Sign shall exceed a height of 65 feet as measured from the ground to the top of the Sign.

(7) A Billboard Sign shall have a maximum width of 48 feet and a maximum Sign Face area of six hundred seventy-two (672) square feet.

(8) No Billboard Sign shall be located within five hundred (500) linear feet of any other Billboard Sign on the same side of the street, road or highway, including any such Sign located outside of the Hapeville city limits, as measured along the right-of-way.

(9) The Sign Area of a Billboard Sign located adjacent to an interstate right-of-way shall not be used in calculating "aggregate sign area."

(b) Multiple message Billboard Signs shall be subject to the following standards:

(1) Multiple message Billboard Signs shall not be located within 500 feet of the nearest residentially zoned property, park, playground, recreation area, scenic area or cemetery, as measured from the outermost edge of such Sign to the closest point of the above-referenced property line.

(2) When a message is changed mechanically, the transition shall be accomplished in three seconds or less.

(3) No multiple message Billboard Sign shall be placed within 5,000 feet of another multiple message Billboard Sign on the same side of the street, road, or highway.

(c) As light-emitting diode (LED) Billboard Signs, also known as digital billboards, present a different set of circumstances regarding their impact on the community, such signs shall be governed by the following additional standards:

(1) Digital billboards shall be limited to parcels fronting on interstate highways only, and shall be positioned for viewing from such interstate highways.

(2) No digital billboard shall be located within five hundred (500) feet of another billboard on the same side of the interstate highway. Billboard Signs located outside the Hapeville city limits shall be included in determining this distance.

(3) No digital billboard shall be located within five thousand (5,000) feet of another multiple message billboard, including any other digital billboard, on the same side of the highway. Billboard Signs located outside the Hapeville city limits shall be included in determining this distance.

(4) Digital billboards shall not be located within 500 feet of the nearest residentially zoned property, park, playground, recreation area, scenic area or cemetery, as measured from the outermost edge of the sign to the closest point of the above-referenced property line.

(5) All digital billboard images must remain stationary and not contain any visible moving parts, alternating, "crawling" or other moving messages or have the appearance of having moving parts or messages.

(6) The display, background or other message medium on a digital billboard shall not change more often than once every 10 seconds, with a transition period of one (1) second or less.

(7) No digital billboard shall be placed within 5,000 feet of another digital billboard on the same side of the street, road, or highway.

(8) A digital billboard shall contain a default design that will freeze the sign in one position should a malfunction occur.

(9) Any maximum size limitations shall apply to the side of the multiple message sign with the greater area.

(10) The owner of a digital billboard shall arrange for an annual certification of the foot-candle intensity measured in foot-candles by an independent contractor showing compliance and provide such certification to the Code Enforcement Officer.

(11) All digital billboards shall have installed an ambient light monitor that will continuously monitor and automatically adjust the brightness of the display based on ambient light conditions. Maximum brightness levels for digital billboards shall not exceed three-tenths (0.3) foot-candles over ambient light levels measured as prescribed in a "Recommended Night-time Brightness Levels for On-Premise Electronic Message Centers (EMC's)" published by the International Sign Association, April 2011. Certification that the sign has been preset to automatically adjust the brightness to this level or lower must be provided to the Code Enforcement Officer.

(12) Digital billboards shall meet the same installation and permitting requirements and inspections as adopted for electrified signs and all other signs.

(13) The owner or permittee of a digital billboard shall coordinate with the City of Hapeville in displaying, when appropriate, emergency information important to the travelling public including, but not limited to, Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues such information.

(14) The owner of a digital billboard shall provide contact information to the Code Enforcement Officer for an individual who is available at any time and who is capable of turning off said Sign promptly following a malfunction.

(15) At any time more than five percent of the LED display lights on a digital billboard malfunction or are no longer working, the owner of billboard permittee shall repair said Sign within 60 calendar days or the Sign will be subject to removal.

(16) In the event the Code Enforcement Officer finds that a digital billboard causes glare, impairs the vision of a motorist, or otherwise poses a traffic safety hazard to motorists or pedestrians, the owner of said Sign shall reduce the intensity of lighting on such Sign to a level acceptable to the City within 24 hours of receipt of written notice by the Code Enforcement Officer.

(17) Each digital billboard must comply with all Georgia Department of Transportation rules and regulations applicable to electronic changeable message signs where not in conflict with this section.

Section 93-3.3-20. Special requirements for all signs.

(a) Applicability. All lots, buildings, structures or property shall be regulated under the requirements of this division.

(b) Placement. All Signs must be placed on a lot as defined in other sections of the zoning ordinance and the subdivision regulations. No Sign may be placed on any lot where such lot does not meet the minimum requirements of the zoning ordinance and subdivision regulations. No Sign may be placed on any lot that has road frontage only on an interstate or intrastate highway.

(c) Covering architectural elements. No placement of any Sign shall cover or conceal architectural fenestrations, adornments, details, doors or windows unless the Design Review Committee determines that the placement of such Sign cannot be more appropriately located and that the placement of such Sign will not adversely affect access to the building, cause unnecessary glare into the building or adversely impact the historic character or architectural theme of the building.

(d) Posting on trees, poles, etc. No sign shall be allowed to be tacked, painted, posted, marked, or otherwise affixed on trees, utility poles, or other similar structures, or on rocks, the ground itself, or other natural features.

(e) No posting on supports. No message may be displayed on any portion of the structural supports of any sign.

(f) Special situations; buildings of three stories or more. Those developments having buildings of three or more stories may be permitted one wall sign on the primary and secondary building or tenant facade not to exceed 50 percent of the width of the building or tenant facade and not exceeding an area of one (1) square

foot for each horizontal linear foot of building or tenant facade. Such wall signs shall be limited to the ground floor wall, only. A single Wall Sign may be installed on each facade of the highest floor, subject to a maximum width of 20 twenty percent of the building facade and a maximum area of 10 percent of the exterior wall area of that floor; the Sign Area and width allowance for such Wall Signs apply to each individual building facade and are not cumulative.

Section 93-3.3-21. Construction standards for all signs.

- (a) Building code compliance. All Signs shall be constructed and maintained in accordance with the provisions of the building code as adopted and from time to time amended (hereinafter referred to as the "city building code") except that no building permit shall be required unless the building official determines that a structure must be built to support the sign.
- (b) Materials required. All Signs for which a permit is required by this division, and Temporary Signs, shall be constructed of noncombustible material with the exception of chemically treated, red wood, and blasted carved materials. All Signs must be made of materials at least four inches thick and bordered around the edges of the Sign by permitted material at least two inches thick.
- (c) Reflectors. Gooseneck reflectors and lights shall be permitted on Ground Signs, Projecting Signs, and Wall Signs; provided, however, the reflectors shall be provided with proper glass lenses so that no light creates a hazardous or dangerous condition.
- (d) Other code compliance. All building, setback, zoning, or other relevant codes excluding building permitting (other than that permitting required elsewhere herein) shall be applicable to the location, construction and siting of signs and shall be read in harmony with this division.

Section 93-3.3-22. Variance for signs in this division.

In any appeal brought under Section 93-3.3-4, the Board of Appeals shall judge a request for a variance from the terms of this division based on the following criteria:

- (1) All signs and structures within the business development are in conformance with this division; and
- (2) The variance, if granted, would not cause substantial detriment to other property owners or tenants, or to the public good, nor would it impair the purpose and intent of this division; and
 - a. The Board of Appeals may consider factors such as the size of the buildings constructed on the subject lot, the potential to subdivide the lot, and the number of different tenants occupying the buildings.

- b. Financial loss to the appellant is not sufficient grounds by itself to justify a variance.
- c. Peculiar conditions or circumstances that are the result of actions of the current or former owner of the property covered by the application cannot be considered as grounds to justify a variance.
- d. The authority to erect and maintain additional signs as may be permitted under any such variance shall terminate upon the subdivision of the lot for which such variance was granted.

Section 93-3.3-23. Unsafe or unlawful signs.

Any Sign determined by the Code Enforcement Officer to be unsafe or unstable, a menace to the public health or safety, abandoned, dilapidated, or erected or maintained in violation of this division shall cause the Code Enforcement Officer to notify the permittee, owner, or occupant of the property on which the sign is located of such violation by certified mail. Such notice shall include a brief and complete statement of the violations to be remedied. In the event the permittee, owner, or occupant of the property on which the sign is located cannot be contacted, the Code Enforcement Officer having affixed the notice to the sign or to the building on which the sign is erected for a period of 10 days shall be deemed to have effected notice.

Failure of the permittee or property owner to remove or alter such sign so as to comply with the standards of this division within 10 days after such notice shall cause the Code Enforcement Officer to revoke the permit for such sign and the permittee or property owner shall be subject to the penalties set forth in section 93-3.3-25 of this division.

The Code Enforcement Officer may cause any unsafe or unlawful sign that constitutes an immediate threat to the physical safety of persons or adjoining property to be removed summarily and without notice and cause the cost of removal to be placed as a lien on the property on which the sign is located.

Section. 93-3.3-24. Penalties.

Any person found in violation of any provision of this division shall be subject to a fine not to exceed \$1,000.00 per day. A separate offense shall be deemed committed each day during or on which a violation occurs or is permitted to continue. Any sign erected or maintained in violation of this division shall be subject to removal by the City upon an order of the municipal court and all costs related to such removal shall be charged against the property and may be collected by lien or otherwise.

Section 93-3.3-25. – Substitution.

The owner or the permittee of any sign which is otherwise allowed by this article may substitute non-commercial speech in lieu of any other commercial or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision in this article to the contrary.

Section 93-3.3-26. Severability.

It is hereby declared the intention of Mayor and Council that all parts, sections, subsection, paragraphs, sentences, clauses, phrases, terms and words of this division are or were, upon their enactment, believed by Mayor and Council to be fully valid, enforceable and constitutional.

It is hereby declared the intention of Mayor and Council that, to the greatest extent allowed by law, each and every part, section, subsection, paragraph, sentence, clause, phrase, term and word of this division is severable from every other part, section, subsection, paragraph, sentence, clause, phrase, term and word of this division. It is hereby further declared the intention of Mayor and Council that, to the greatest extent allowed by law, no part, section, subsection, paragraph, sentence, clause, phrase, term, or word of this division is mutually dependent on any other part, section, subsection, paragraph, sentence, clause, phrase, term or word of this division.

In the event that any word, term, phrase, clause, sentence, paragraph, subsection, section or part of this division shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining words, terms, phrases, clauses, sentences, paragraphs, subsections, sections or parts of the division and that, to the greatest extent allowed by law, all remaining words, terms, phrases, clauses, sentences, paragraphs, subsections, sections and parts of the division shall remain valid, constitutional, enforceable, and of full force and effect.

DIVISION 2 – MURALS

Section 93-3.3-27. – Statement of Purpose and Intent.

A mural is a work of art painted otherwise directly applied on a building or wall. The presence of works of art, including murals, can be a key element to creating a visually satisfying environment for a community. The city is likely to attract commercial enterprises, permanent residents, and visitors if it improves and maintains its overall appearance. The residents ultimately will benefit from enhanced retail and commercial environments and improvements in the quality of life if an attractive environment exists. The existence of works of art, such as murals, is an invaluable element to creating and maintain a visually appealing setting, which will promote economic development, advance the general prosperity of the community, and serve the general welfare. This is particularly true for the City of Hapeville, which has concentrated residential and commercial areas where murals are more readily noticed and appreciated than such works of art would be in municipalities with geographically large areas.

The purpose of this division is to recognize the following mural types: (1) Historic Murals; (2) Original Art Murals; and (3) Limited Message Murals. All other similar forms of outdoor visual art that do not meet the definitions of these three forms of murals set forth herein shall be regulated as wall signs under division 1 of this chapter pertaining to signs.

Sec. 93-3.3-28. – Historic Murals.

Historic Murals are original works of visual art or signs produced by hand that were tiled, painted directly on or affixed directly to a wall or building prior to the date of adoption of this division. Murals that re-create a historic image bearing a relationship to a historic Hapeville theme established after the date of adoption of this division also constitute Historic Murals. Original Historic Murals and re-creations of historic images are deemed to comply with this Code.

Sec. 93-3.3-29. – Original Art Murals.

Original Art Murals are original works of visual art produced by hand that are tiled, painted directly on, or affixed directly to a wall or building. This section is intended to allow and encourage content neutral Original Art Murals. Original Art Murals may be mechanically produced or computer generated prints or images, but shall not include the use of digitally printed vinyl. Such murals shall not contain electrical or mechanical components or feature a changing image. Original Art Murals cannot contain text, graphics, or symbols.

- (a) Standards for Original Art Murals. Original Art Murals shall comply with the following standards:
- (1) The mural shall remain in place, without alteration, a minimum of five years. The applicant shall attest to this standard on the permit application.
 - (2) No part of any mural shall extend beyond the building wall or freestanding wall on which it is tiled, painted, or affixed.

- (3) No part of the mural shall extend more than six inches from the plane of the wall upon which it is tiled, painted, or affixed.
 - (4) Only oil based alkyd enamel or polyurethane enamel, or newer 100% acrylic exterior paints shall be used to create murals.
 - (5) Murals executed using spray paint shall be limited to air brushing to ensure that high quality paint is used.
 - (6) An appropriate clear sealer or a suitable varnish or topcoat shall be applied to the finished mural. Graffiti resistant sealers should be chosen.
- (b) Prohibited Original Art Murals. The following forms of Original Art Murals shall be prohibited:
- (1) Any mural that contains an element that moves, rotates, or otherwise creates a changing image or message.
 - (2) Any mural that uses flashing or scrolling lights, an internal light source, or other light feature.
 - (3) Any mural containing electrical or mechanical components.
 - (4) Any mural that is applied to a surface as a vinyl or other non-permanent material.

Sec. 93-3.3-30. – Limited Message Murals.

Limited Message Murals are murals that are painted on or applied to and made integral with a building wall or free-standing wall that contain a graphic or written message.

- (a) Standards for Limited Message Murals. Limited Message Murals shall comply with the following standards:
- (1) Limited Message Murals may contain a graphic or written message not exceeding 50 percent of the width of the building or tenant façade, provided that no such graphic or written message shall have an area exceeding 10 percent of the building or tenant façade area as measured at the exterior dimension of the graphic or written message and framing.
 - (2) The mural shall remain in place, without alteration, a minimum of five years. The applicant shall attest to this standard on the permit application.
 - (3) No part of any mural shall extend beyond the building wall or freestanding wall on which it is tiled, painted, or affixed.
 - (4) No part of the mural shall extend more than six inches from the plane of the wall upon which it is tiled, painted, or affixed.
 - (5) Only oil based alkyd enamel or polyurethane enamel, or newer 100% acrylic exterior paints shall be used to create murals.
 - (6) Murals executed using spray paint shall be limited to air brushing to ensure that high quality paint is used.
 - (7) An appropriate clear sealer or a suitable varnish or topcoat shall be applied to the finished mural. Graffiti resistant sealers should be chosen.
- (b) Prohibited Limited Message Murals. The following forms of Limited Message Murals shall be prohibited:
- (1) Any mural that contains an element that moves, rotates, or otherwise creates a changing image or message.

- (2) Any mural that uses flashing or scrolling lights, an internal light source, or other light feature.
- (3) Any mural containing electrical or mechanical components.
- (4) Any mural that is applied to a surface as a vinyl or other non-permanent material.

Sec. 93-3.3-31 – Mural Permitting Process.

This section establishes administrative permitting procedures to allow re-creation, preservation, and maintenance of Historic Murals, and creation of Original Art Murals and Limited Message Murals. The procedures set forth herein establish standards for review and approval of applications for new murals or those proposed for repainting or other maintenance to ensure the appropriateness of the mural with the context and compliance with this division. Administrative permits for such applications shall encompass review and approval by the Design Review Committee relative to the following standards; compliance with all other aspects of this Code shall be subject to application of the Code by the City Planner.

(a) Standards to be Used to Process Mural Applications.

- (1) The Design Review Committee shall consider the size, scale, and relationship of a mural to the historic context in the case of Historic Murals. Original Art Murals and Limited Message Murals may or may not bear any relationship to the Hapeville context. The content of a mural shall not be the focus of review.
- (2) Repainting of historic advertising shall be guided by exacting documentation concerning the mural.
- (3) A permanent plan for maintenance and exact repainting according to the plan of the original artist shall be submitted with the application. The exact matching of color and application technique shall be specified in the plan.
- (4) Any mural proposed must be on a wall surface that will not mar a key historic feature and will be compatible with the streetscape. The image of any faded advertising murals shall be stabilized using appropriate preservation techniques and shall remain otherwise unchanged.
- (5) The standards of this division applicable to each mural type shall be considered.

Sec. 93-3.3-32 – Substitution.

The owner or the permittee of any mural which is otherwise allowed by this article may substitute non-commercial speech in lieu of any other commercial or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision in this article to the contrary.

Sec. 93-3.4-33 – Severability.

It is hereby declared the intention of Mayor and Council that all parts, sections, subsection, paragraphs, sentences, clauses, phrases, terms and words of this division are or were, upon their enactment, believed by Mayor and Council to be fully valid, enforceable and constitutional.

It is hereby declared the intention of Mayor and Council that, to the greatest extent allowed by law, each and every part, section, subsection, paragraph, sentence, clause, phrase, term and word of this division is severable from every other part, section, subsection, paragraph, sentence, clause, phrase, term and word of this division. It is hereby further declared the intention of Mayor and Council that, to the greatest extent allowed by law, no part, section, subsection, paragraph, sentence, clause, phrase, term, or word of this division is mutually dependent on any other part, section, subsection, paragraph, sentence, clause, phrase, term or word of this division.

In the event that any word, term, phrase, clause, sentence, paragraph, subsection, section or part of this division shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining words, terms, phrases, clauses, sentences, paragraphs, subsections, sections or parts of the division and that, to the greatest extent allowed by law, all remaining words, terms, phrases, clauses, sentences, paragraphs, subsections, sections and parts of the division shall remain valid, constitutional, enforceable, and of full force and effect.