

**STATE OF GEORGIA**

**CITY OF HAPEVILLE**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND CHAPTER 93, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HAPEVILLE, GEORGIA TO INCLUDE DEFINITIONS REGARDING SURFACING; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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

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

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

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

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

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

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

**WHEREAS**, the governing authority of the City has discovered that several portions of the Code of Ordinances of the City of Hapeville (“Code of Ordinances”), regarding surfacing, incorporate terms that have not been defined the Code of Ordinances; and

**WHEREAS**, to ensure consistency in application and interpretation of its ordinances, the governing authority of the City has determined that such surfacing-related terms should be defined in its Code of Ordinances; and

**WHEREAS**, the governing authority of the City desires to amend its Code of Ordinances to define such terms; and

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

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

**Section One.** The Code of Ordinances is hereby amended by inserting the following text/definitions, alphabetically as described below, into Section 93-1-2, Definitions, of Chapter 93, Zoning, of Article 1, Title, Definitions and Application of Regulations, to read as follows:

**Between the terms and definitions of “Antique shop” and “Basement”:**

*“Asphalt, porous.* Asphalt concrete from which small aggregates are omitted from the asphalt mixture. The remaining large, single-sized aggregate particles leave open voids that give the material its porosity and permeability. To ensure pavement strength, fiber may be added to the mix or a polymer-modified asphalt binder may be used. Generally, porous asphalt pavements are designed with a subsurface reservoir that holds water that passes through the pavement, allowing it to evaporate and/or percolate slowly into the surrounding soils. An example of a porous asphalt surface is an open-graded fixture course.”

**Between the terms and definitions of “Commercial parking lot” and “Condominium”:**

*“Concrete, porous.* A type of concrete with a high porosity used for concrete flatwork applications that allows water from precipitation and other sources to pass directly through, thereby reducing the runoff from a site and allowing groundwater recharge.”

**Between the terms and definitions of “Gasoline service station” and “Home occupation”:**

*“Gravel.* Rock, including but not limited to granite, limestone, dolomite, crushed and graded by screens and then mixed to a blend of stones and fines. Gravel is also known as “crusher run,” DGA (Dense Grade Aggregate), QP (Quarry Process), and shoulder stone. Gravel is generally between 5 to 15 mm in size.”

**Between the terms and definitions of “Lot width” and “Mayor and council”:**

*“Materials, pervious.* Materials, such as concrete paving blocks, concrete grid pavers, perforated brick pavers, or other similar materials approved by the city engineer or his or her

designee, that permit water to enter the ground by virtue of their porous nature or by large spaces in the material.”

**Between the terms and definitions of “Patio houses” and “Planned unit development (PUD)”:**

*“Pavement, hard surfaced.* Pavement made hard or firm by compacting or paving it with an asphalt (or bituminous) surface, Hot Mix Asphalt (HMA) surface, Portland Cement Concrete (PCC) surface, or similar materials approved by the city engineer or his or her designee.

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

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

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

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

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

**ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[SIGNATURES CONTINUED ON NEXT PAGE]

**CITY OF HAPEVILLE, GEORGIA**

---

**Alan H. Hallman**, Mayor

**ATTEST:**

---

**Jennifer Elkins**, City Clerk

**APPROVED BY:**

---

**Steven M. Fincher**, City Attorney