

STATE OF GEORGIA**CITY OF HAPEVILLE****ORDINANCE NO. _____**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HAPEVILLE, GEORGIA TO ADD A NEW CHAPTER 58 (SURFACING AND MAINTENANCE OF DRIVEWAYS AND OFF-STREET PARKING AND LOADING FACILITIES); 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 recently adopted Ordinance No. 2016-__ wherein regulations regarding the composition of construction materials of residential driveways and commercial off-street parking and loading facilities were removed from Chapter 93 (“Zoning Code”) of the Code of Ordinances of the City of Hapeville, Georgia (“City Code”); and

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

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

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

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

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

WHEREAS, the governing authority of the City has determined that residential driveways that did not comply with the regulations contained within Section 93-23-5's predecessors (former Sections 8-5-195 (1981 version) and 1905 (1959 version)) should be exempt from such regulation under the City Code; 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 of the City of Hapeville, Georgia is hereby amended by adding a new Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities) to follow Chapter 57 (Soil Erosion, Sedimentation and Pollution Control) and to precede Chapter 60 (Solid Waste), to read and to be codified as follows:

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

Sec. 58-1-1. Purpose , intent, nonconforming use, and exemption from regulations.

- (a) In adopting this chapter, it is the intent of mayor and council to clarify amendments made on July 16, 2013 to former sec. 93-23-5 of the Code wherein the surfacing and maintenance of residential driveways and commercial off-street parking and loading facilities were regulated.
- (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced Pavement, are exempt from the regulations within sec. 58-1-3 and deemed a nonconforming use, if applicable, under article 3 of chapter 93.

Sec. 58-1-2. – Definitions.

- (a) *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.
- (b) *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.
- (c) *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.
- (d) *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.
- (e) *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, pervious pavement, or similar materials approved by the city engineer or his or her designee.

- (f) *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 open cell pavers, porous asphalt, porous concrete, and other material approved by the city engineer or his or her designee.

Sec. 58-1-3. – Surfacing requirements for single-family residential driveways.

- (a) The construction materials of single-family residential driveways may consist of Porous Concrete, Asphalt, plain concrete, brick and concrete pavers, or other Permeable Pavements. Loose Gravel shall, in no event, be allowed as a finished surface for such driveways.
- (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced Pavement, are exempt from the regulations in subsection (a) hereinabove and deemed a nonconforming use, if applicable, under article 3 of chapter 93.

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

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

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