



## MEMORANDUM

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

### Background

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

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

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

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

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

Brian Wismer, Planning Commission Chairman

**Text amendments concerning standards for driveway and parking lot surfacing**

Wednesday, 5 October 2016

2 of 4

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

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

**Findings**

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

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

**Conclusions**

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

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

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

Brian Wismer, Planning Commission Chairman

**Text amendments concerning standards for driveway and parking lot surfacing**

Wednesday, 5 October 2016

3 of 4

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

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

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

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

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

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

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

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

Brian Wismer, Planning Commission Chairman

**Text amendments concerning standards for driveway and parking lot surfacing**

Wednesday, 5 October 2016

4 of 4

**Recommendation**

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

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

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

1 **STATE OF GEORGIA**

2  
3 **CITY OF HAPEVILLE**

4  
5 **ORDINANCE NO.** \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 57       (a) In adopting this chapter, it is the intent of mayor and council to clarify amendments made  
 58       on July 16, 2013 to former sec. 93-23-5 of the Code wherein the surfacing and  
 59       maintenance of residential driveways and commercial off-street parking and loading  
 60       facilities were regulated.  
 61       (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced  
 62       Pavement, are exempt from the regulations within sec. 58-1-3 and deemed a  
 63       nonconforming use, if applicable, under article 3 of chapter 93.  
 64

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

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

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

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

97 (a) The construction materials of single-family residential driveways may consist of Porous  
 98 Concrete, Asphalt, plain concrete, brick and concrete pavers, or other Permeable  
 99 Pavements. Loose Gravel shall, in no event, be allowed as a finished surface for such  
 100 driveways.

101 (b) Residential driveways that, prior to July 16, 2013, were not constructed of Hard-Surfaced  
 102 Pavement, are exempt from the regulations in subsection (a) hereinabove and deemed a  
 103 nonconforming use, if applicable, under article 3 of chapter 93.

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

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

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

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

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

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

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

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

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

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

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

143

144

[SIGNATURES CONTINUED ON NEXT PAGE]

145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167

**CITY OF HAPEVILLE, GEORGIA**

---

**Alan H. Hallman**, Mayor

**ATTEST:**

---

**Jennifer Elkins**, City Clerk

**APPROVED BY:**

---

**Steven M. Fincher**, City Attorney