

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 AMEND THE PERMITTED USES IN THE C-2 (“GENERAL COMMERCIAL”), U-V (“URBAN VILLAGE”), AND I-1 (“LIGHT INDUSTRIAL”) ZONES; TO CREATE DEFINITIONS FOR AND ESTABLISH LIMITS ON THE ISSUANCE OF CERTIFICATES OF OCCUPANCY FOR BAIL BOND OFFICES, PRIVATE PROBATION OFFICES, CHECK CASHING BUSINESSES AND PAWNSHOPS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

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

**WHEREAS**, the Mayor and Council therefore consider 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 Mayor and Council 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 Mayor and Council are, and have been interested in, developing a cohesive and coherent policy regarding certain uses in the City, and have 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 City desires to define, regulate the location, and regulate the number of certificates of occupancy that may be issued by the City for the following uses: Bail Bond Offices; Private Probation Offices; Check Cashing Businesses; and Pawnshops; and

**WHEREAS**, the Mayor and Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to amend certain provisions of the City's Zoning Ordinance to accomplish its desires as indicated above.

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

**Section 1.** That the City's Code of Ordinances is hereby amended by inserting a definition of "Bail Bond Office" after the paragraph establishing the definition of "Antique Shop" and before the paragraph establishing the definition of "Basement" in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*"Bail Bond Office.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business that acts as a surety for a person accused of a crime and pledges money or property as bail to insure the appearance of such person in a court proceeding concerning such accusations."

**Section 2.** That the City's Code of Ordinances is hereby amended by inserting the definition of "Check Cashing Business" after the paragraph establishing the definition of "Cellar" and before the paragraph establishing the definition of "City Council" in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*"Check Cashing Business.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business

that cashes payroll, personal and other checks for the general public for a fee. The term does not include a bank, savings and loan association or credit union that is incorporated or organized under the law of the United States or any state thereof. Nor does this term include an office, building or other facility whose primary business would be retail sales or services and that would cash checks only as an incidental, accessory convenience service to its customers.”

**Section 3.** That the City’s Code of Ordinances is hereby amended by inserting the definition of “Pawnshop” after the paragraph establishing the definition of “Patio Houses” and before the paragraph establishing the definition of “Planned Unit Development (PUD)” in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“*Pawnshop.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business that loans money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or purchases tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or purchases tangible personal property from persons or sources other than manufacturers or licensed dealers.”

**Section 4.** That the City’s Code of Ordinances is hereby amended by inserting the definition of “Private Probation Office” after the paragraph establishing the definition of “Planned Unit Development (PUD)” and before the paragraph establishing the definition of “Residential Infill” in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*“Private Probation Office.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership, enterprise, agency or any other entity pursuant to a written contract with a court of a county or a municipality, operates a business that provides probation supervision, counseling and collection services for all monies to be paid by a defendant according to the terms of a sentence imposed on such defendant as well any monies which by operation of law are to be paid by such defendant in consequence of a sentence, and other probation services for defendants convicted in such court and placed on probation.”

**Section 5.** That the City’s Code of Ordinances is hereby amended by inserting new Subsections (42), (43), (44) and (45) to Section 93-14-3, Permitted uses, of Article 14, C-2 Zone (General Commercial), of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“(42) Bail Bond Offices, subject to sec. 93-2-23.  
 (43) Check Cashing Businesses, subject to sec. 93-2-23.  
 (44) Pawnshops, subject to sec. 93-2-23.  
 (45) Private Probation Offices, subject to sec. 93-2-23.”

**Section 6.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of subsection (19) of Section 93-11.2-3, Permitted uses, of Article 11.2, U-V Zone (Urban Village), of Chapter 93, Zoning, and inserting new Subsections (19), (20), (21), (22), and (23) in lieu thereof, to read and to be codified as follows:

“(19) Bail Bond Offices, subject to sec. 93-2-23.  
 (20) Check Cashing Businesses, subject to sec. 93-2-23.  
 (21) Pawnshops, subject to sec. 93-2-23.  
 (22) Private Probation Offices, subject to sec. 93-2-23.  
 (23) Residential density limitations shall be as follows:  
 a. The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;

- b. The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
- c. Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.”

**Section 7.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of subsection (1) of Section 93-11.2-4, Nonpermitted uses, of Article 11.2, U-V Zone (Urban Village), of Chapter 93, Zoning, and inserting the following text, in lieu thereof, to read and to be codified as follows:

“(1) Reserved;”

**Section 8.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of Section 93-15-3, Permitted uses, of Article 15, I-1 Zone (Light Industrial), of Chapter 93, Zoning, and inserting the following text, in lieu thereof, to read and to be codified as follows:

“The following uses are permitted within any I-1 zone:

- (1) Automobile laundries.
- (2) Automobile servicing and repairing.
- (3) Bail Bond Offices, subject to sec. 93-2-23.
- (4) Building materials sales yards and contractors' equipment yards, provided these yards are completely enclosed by a solid wall at least six feet high. These walls shall comply with all setback requirements for this zone.
- (5) Check Cashing Businesses subject to sec. 93-2-23.
- (6) Customary accessory buildings and uses.
- (7) Electronic manufacturing and assembly.
- (8) Electrical repair shops.
- (9) Establishments manufacturing prepared food and miscellaneous food products, such as bakeries, bottling plants, ice plants, etc.
- (10) Fabricating shops such as sheet metal works, woodworking shops, cabinet shops and upholstery shops.
- (11) Film developing.

- (12) Gasoline service stations.
- (13) Instruments manufacturing for professional, scientific, photography, optical and similar uses.
- (14) Laboratories for industrial testing and research.
- (15) Laundry and dry cleaning establishments.
- (16) Leather products manufacturing.
- (17) Nurseries, greenhouses and truck gardens.
- (18) Parking facilities.
- (19) Pawnshops, subject to sec. 93-2-23.
- (20) Printing shops.
- (21) Private Probation Offices, subject to sec. 93-2-23.
- (22) Sign manufacturing and construction.
- (23) Small items manufacturing, such as toys, clocks, jewelry, fountain pens, pencils, and plastic products.
- (24) Textile cutting, assembly and processing plants, not including spinning, knitting, weaving, dyeing, combing, scouring and similar activities.
- (25) Veterinarians, animal hospitals and kennels.
- (26) Warehouses and other storage facilities.
- (27) Welding shops, provided all glare is shielded from outside view.”

**Section 9.** That the City’s Code of Ordinances is hereby amended by inserting a new Section 93-2-23, to be entitled “Provisions concerning Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices”, within Article 2, General Provisions, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“Sec. 93-2-23. – Provisions concerning Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices.

- (a) Permitted locations. Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices shall be allowed only in those areas designated as “Permitted Locations for Private Probation Offices, Bail Bond Offices, Check Cashing Businesses, and Pawnshops” as indicated on those certain maps prepared by the Ecological Planning Group, dated \_\_\_\_\_, 2016, which maps are kept on file with the City Clerk. Any person, entity, or individual may review said map upon request to the City Clerk.
- (b) Limitation on Certificates of Occupancy. For every 10,000 persons living in the city according to the most recent decennial census of the United States as published by the United States Bureau of the Census, no more than one certificate of occupancy shall be

allowed, at one time, for the operation of each of the following businesses: Bail Bond Office, Check Cashing Business, Pawnshop or Private Probation Offices. Where the number of persons living in the city according to said census is less than 10,000, one such certificate of occupancy shall be allowed.”

**Section 10.** The maps entitled “Permitted Locations for Private Probation Offices, Bail Bond Offices, Check Cashing Businesses, and Pawnshops,” adopted \_\_\_\_\_ \_\_\_\_, 2016 and referenced in Section 9 of this Ordinance (and to be referenced in Section 93-2-23 of the Code of Ordinances), are attached hereto and incorporated herein by reference. A true and correct copy of such maps are displayed in Exhibit “A.” A copy of such maps, as are displayed in Exhibit A, are available for inspection during normal business hours in the office of the City Clerk

**Section 11.** The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 12.**

(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 13.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 14.** Penalties in effect for violations of the Zoning Ordinance of the City of Hapeville at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

**Section 15.** The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

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

[SIGNATURES CONTINUED TO NEXT PAGE]

**CITY OF HAPEVILLE, GEORGIA**

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**ALAN HALLMAN**, Mayor

**ATTEST:**

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**JENNIFER ELKINS**, City Clerk

**APPROVED AS TO FORM:**

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**STEVE FINCHER**, City Attorney

EXHIBIT A