

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. 2017-09

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA BY AMENDING 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, on January 10, 2017, the governing authority of the City adopted Ordinance No. 2016-33 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, City of Hapeville, Georgia; and

WHEREAS, on January 10, 2017, the governing authority of the City adopted Ordinance No. 2016-29 wherein such regulations were reinstated to Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities) of the Code of Ordinances, City of Hapeville, Georgia; and

WHEREAS, the governing authority of the City desires to make additional changes to the Chapter 58 of the Code of Ordinances, City of Hapeville, Georgia; 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, City of Hapeville, Georgia is hereby amended by deleting the existing text of Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities), Section 58-1-1 (Purpose, intent, and nonconforming use), to read and to be codified as follows:

“Sec. 58-1-1. Purpose, intent, nonconforming use, and grace period for compliance with 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 were constructed of a material other than Hard-surfaced Pavement prior to July 16, 2013 shall have until June 31, 2021 to come into full compliance with the regulations set forth within sec. 58-1-3 of this chapter.”

Section Two. The Code of Ordinances, City of Hapeville, Georgia is hereby amended by deleting the existing text of subsection (e) of Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities), Section 58-1-2 (Definitions), to read and to be codified as follows:

“(e) *Hard-surfaced Pavement.* 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.”

Section Three. The Code of Ordinances, City of Hapeville, Georgia is hereby amended by deleting the existing text of Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities), Section 58-1-3 (Construction requirements for single-

family residential driveways), to read and to be codified as follows:

“Sec. 58-1-3. – Surfacing requirements for single-family residential driveways and hardship exemptions.

- (a) The construction materials of single-family residential driveways shall 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 were constructed of a material other than Hard-surfaced Pavement prior to July 16, 2013 shall have until June 31, 2021 to come into full compliance with the regulations set forth within sec. 58-1-3(a) of this chapter.
- (c) Hardship Exemption: Owner(s) of a single-family residential driveway who allege that they will suffer an extreme and substantial financial hardship in complying with the regulations set forth under sec. 58-1-3(a) – (b) of this chapter, may apply to the city council for a hardship exemption from the requirements of this chapter. Such application shall be filed the city clerk. Eligibility for a hardship exemption shall be determined based upon evidence provided by the applicant showing that the property owners will suffer an extreme and adverse financial hardship if forced to comply with the requirements of this Chapter. Such evidence may include proof of the financial circumstances of all owners of the property, as well as the status of the property, including the property’s involvement in recent and/or pending transfers of ownership and foreclosure.”

Section Four. The Code of Ordinances, City of Hapeville, Georgia is hereby amended by deleting the existing text of Chapter 58 (Surfacing and Maintenance of Driveways and Off-Street Parking and Loading Facilities), Section 58-1-4 (Surfacing and maintenance requirements for commercial driveways and off-street parking and loading facilities), to read and to be codified as follows:

“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, including excess spaces, does not exceed 110 percent of the requirement.”

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

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

Section Seven. (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 Eight. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

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

SO ORDAINED this _____ day of _____, 2017.

CITY OF HAPEVILLE, GEORGIA

Alan H. Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED BY:

Steven M. Fincher, City Attorney