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**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 2 (“GENERAL PROVISIONS”), SECTION 93-2-5 (“ACCESSORY USES, ACCESSORY BUILDINGS, YARD REQUIREMENTS OF ACCESSORY BUILDINGS, OUTBUILDINGS AND FENCES”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO CREATE CHAPTER 93 (“ZONING”), ARTICLE 2 (“GENERAL PROVISIONS”), SECTION 93-2-26 (“ACCESSORY DWELLING UNITS (ADU)”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the procedures required for amending the City’s zoning ordinance have been satisfied, including, but not limited to, notice and public hearings; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the ordinances regarding accessory buildings and dwelling units.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 93 (Zoning), Article 2 (General Provisions), Section 93-2-5 (Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings and fences) of the City Code of Ordinances is hereby amended by striking the subsection (1) in its entirety and inserting in lieu thereof the following language:

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- (1) An accessory building or structure is a building detached from the principal dwelling on a lot of record, the use of which is incidental and subordinate to the primary use of the property. Accessory buildings shall comply with the following standards and all other applicable regulations of this zoning ordinance and the architectural design standards. Where a conflict exists, the standards of this section shall control.

Accessory uses and structures on a residential lot shall comply with the following standards and all other applicable regulations of this zoning ordinance:

- (a) The accessory use or structure shall be subordinate in area, extent and purpose to the primary use or structure served. No accessory structure shall have a ground floor area greater than that of the principal dwelling. The floor area of an accessory structure shall include all floor area, that is, each floor of a one and one-half or two story accessory building shall be counted toward the maximum floor area. When more than one accessory building is erected, the "maximum accessory building size" controls the sum of the floor areas of those buildings.
- (b) The accessory use or structure shall contribute to the comfort, convenience or necessity of the occupants of the principal use or structure served.
- (c) The accessory use or structure shall not be injurious to the use and enjoyment of surrounding properties.
- (d) No accessory building shall be erected or placed on a lot that does not contain a principal dwelling. Building permits may be issued for the principal dwelling and an accessory structure; however, a certificate of occupancy must be issued for the principal dwelling prior to issuance of a certificate of occupancy for an accessory structure.

Special requirements for accessory buildings are as follows:

- (a) A building permit shall be required for the construction, erection or set-up of any accessory building in excess of 144 square feet. A separate certificate of occupancy shall be required for the construction, erection or set up of any accessory building in excess of 200 square feet. Accessory structures less than 200 square feet, without HVAC, shall be exempt from obtaining a separate certificate of occupancy, but shall not be exempt from all necessary inspections during the construction process.
- (b) Accessory building or outbuilding shall be permitted at the owner's option according to the schedule presented in Table A—Accessory building allowance based on dwelling unit size, or Table B—Accessory building allowance based on lot size.
- (c) Outdoor cooking facilities, gazebos, arbors, pool equipment shelters, arbors, fireplaces, and waste receptacle enclosures shall be exempt in calculating the maximum number of accessory structures on a lot. However, such structures shall be subject to the accessory building setback standards and shall not exceed 144 square feet in area.
- (d) Exterior materials, roof pitches, and other design elements must comply with the city architectural design standards.
- (e) Except as herein provided, the minimum yard requirements of section 93-22.1-1 of this chapter also apply to accessory buildings. However, accessory buildings may be located in rear yards within five feet of a rear or side lot line. In addition to these yard

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requirements, the horizontal separation of accessory buildings from the dwelling on the same lot and the horizontal separation of accessory buildings from dwelling on adjacent lots shall comply with standards in Table C—Distance from Dwelling for Very Large Accessory Buildings. All distances shall be measured from outside wall to outside wall.

- (f) The number of accessory building may vary depending on the size of the lot. Table D—Maximum Number of Accessory Buildings establishes the schedule for number of accessory buildings allowed on a building lot.
- (g) Accessory buildings, including detached garages, shall be permitted in an R-0, R-AD, R-1, R-2, R-3, R-4, R-5, R-I, R-SF, V, U-V, RMU or C-R Zone, subject to the following limitations:

Placement.

- (a) *Located on a lot with a principal dwelling.* An accessory building shall be located on the same lot as the principal dwelling to which it is accessory.
- (b) *Setback dependent on distance from dwelling.* Accessory buildings shall be allowed in rear yards only, provided that garages may be allowed in front and side yards. An accessory building located within 20 feet of the principal dwelling shall comply with the setback requirements of the principal dwelling to which it is accessory. Accessory buildings located more than 20 feet from the principal dwelling may be placed five feet from a side or rear lot line. Garages may be located in the front or side yard subject to the setback standards for the principal dwelling.
- (c) *Setback on corner lot.* Accessory buildings on a corner lot shall comply with the setback for the principal dwelling. No accessory building on a corner lot that adjoins a residentially used or zoned lot to the rear shall be located within 25 feet of the rear property line. This 25-foot setback will not be required when the adjoining yard is a rear yard.
- (d) *Distance from dwelling and other accessory buildings.* All accessory buildings must be located a minimum of ten feet from the principal dwelling and all other accessory buildings on the lot or on neighboring lots. This distance shall be measured from outside wall to outside wall.
- (e) *Ordinance setbacks otherwise remain in effect.* Except as herein provided, the minimum setback requirements of section 93-22.1-1 of this chapter also apply to accessory buildings.
- (f) *Non-complying accessory buildings.* Notwithstanding standards of this chapter to the contrary, nothing shall prohibit the re-construction of accessory buildings that are legal, nonconforming structures that have been in existence for a minimum of 20 years along that established building line. That building line shall be the minimum setback for re-building of the accessory building on the lot. All other standards of the chapter shall remain in effect.

Height.

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- (a) *Scale of accessory buildings.* The height of an accessory building shall not exceed 25 feet or the height of the principal dwelling measured from the average adjacent grade to the peak or ridgeline of the roof, whichever is less.

Architectural style and exterior finish.

- (a) *Compatibility with principal dwelling.* Accessory buildings shall be architecturally compatible with the principal dwelling on the lot. The exterior finish of all accessory buildings shall be identical to the exterior finish of the principal dwelling on the lot. In the case of brick dwellings, the exterior finish of the accessory building may be similar to the trim work or other siding materials of the dwelling. Exterior materials, roof pitches and other design elements shall comply with the architectural design standards.
- (b) *Roof design.* Flat or shed roofs shall be prohibited on accessory buildings. Accessory buildings shall have a gable or hip roof design.

Utility services.

- (a) *Water supply.* Running water is permitted to all accessory buildings. Only accessory buildings classified as Accessory Dwelling Units shall have drainage into any sewer or septic system.

Use.

- (a) See Section 93-2-26 (Accessory Dwelling Units (ADU)).
- (b) *Evidence of separate dwelling unit.* The presence of such facilities or equipment as utility services, utility meters, mailboxes or kitchen equipment such as a sink, stove, oven or cabinets in an accessory building or a portion of a principal dwelling shall be considered prima facie evidence that such accessory building or such portion of a principal dwelling is a separate and distinct dwelling unit and is subject to the regulations of the zoning district in which it is located.
- (c) *Temporary buildings.* Temporary buildings may only be used in conjunction with permitted construction work in any zoning district and shall be removed immediately upon the completion of construction.

Permitting schedule.

- (a) *Construction or occupancy of an accessory building to follow principal dwelling.* No permit for an accessory building shall be issued until a permit for construction of the principal dwelling has been issued and construction of such dwelling commenced. No certificate of occupancy for an accessory building shall be issued prior to issuance of a certificate of occupancy for the principal dwelling.

Construction standards.

- (a) *Building anchoring.* Any accessory building having a floor area greater than 144 square feet shall be secured to the ground with a full perimeter foundation to prevent the structure from being moved or damaged by high winds.

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- (b) *Life safety codes apply.* Accessory buildings must comply with adopted fire safety and building code regulations.
- (c) *Standards for "attached" accessory building.* When an accessory building is attached to the principal dwelling by a breezeway, passageway or similar means, the accessory building shall comply with the setback requirements of the principal dwelling to which it is accessory. In order to qualify as an attached garage or accessory building, therefore eliminating the need for compliance with these accessory building standards, the attached accessory building must share a common wall with the principal dwelling that is a minimum of 80 percent of the wall length of the accessory building or 20 feet, whichever is greater. Such common wall must be an integral part of the principal dwelling. An attached garage or accessory building shall comply in all respects with the standards applicable to the principal dwelling.
- (d) *Second story access.* Where applicable, access to the second story of an accessory building must be located within the interior of the ground floor space.
- (e) *Prohibited accessory and temporary buildings or structures.* Manufactured homes, mobile homes, shipping containers, freight trailers, box cars, trailers or any other structure or vehicle that was not originally fabricated for use as an accessory building shall be prohibited."

Table A—Accessory Building Allowance based on Dwelling Unit Size

Dwelling Unit Ground Floor Area in Square Feet	Accessory Building Size based on 40 Percent of Dwelling Unit Ground Floor Area
800	320
1,000	400
1,200	480
1,400	560
1,600	640
2,000	800
2,400	960
3,000	1,200
3,600	1,440

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4,000	1,600
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Table B—Accessory Building Allowance based on Lot Size

Lot Size in Square Feet	Accessory Building Size based on Variable Percentage of Lot Size
2,400	240
4,000	360
6,750	540
7,000	560
8,500	595
10,000	650
21,780	1,089
32,670	1,307
43,560	1,525
54,450	1,634

Table C—Distance from Dwelling for Very Large Accessory Buildings

Percent of Dwelling Unit Ground Floor Area	Distance from Dwelling
40 Percent	10 feet
50 Percent	30 feet
60 Percent	50 feet

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70 Percent	70 feet
80 Percent	80 feet
90 Percent	90 feet
100 Percent	100 feet

Table D—Maximum Number of Accessory Buildings

Lot Size	Maximum Number of Accessory Buildings
Up to one-half acre	1
Up to one acre	2
Over one acre	3

Section Two. Chapter 93 (Zoning), Article 2 (General Provisions of the City Code of Ordinances is hereby amended by creating Section 93-2-26 (Accessory Dwelling Units (ADU)), which states as follows:

An Accessory Dwelling Unit is an accessory building occupied as a residence. Accessory buildings may be occupied as an ADU by another party so long as one of the dwelling units on the property is owner-occupied. The ADU may be occupied by the property owner or rented. The unit must be aesthetically similar to the primary structure. The primary use of the lot must remain single-family, and the lot may not be subdivided nor may the accessory unit be sold separately. In addition to all requirements for accessory structures, the following criteria apply to ADUs:

- a. All ADUs require a building permit and certificate of occupancy. The application for this permit must be made to the Planning and Zoning department and must include a sworn, notarized statement from the property owner stating that the owner will occupy one of the dwelling units on the premises as their primary residence. Any transfer of ownership of the property will require a new sworn, notarized statement to be submitted by the new owners.
- b. ADUs are allowed in districts R-0, R-1, R-2, R-3, R-4, R-5, R-AD, and R-SF. Additionally, they are allowed in districts U-V, V, and RMU granted the primary use of the lot is residential.
- c. Plumbing including running water and sanitary sewer is required in an ADU.

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- d. A full kitchen is permitted. However, an ADU is only allowed to have one kitchen.
- e. The lot must be a minimum of 4,000 square feet
- f. The structure must be at least 300 square feet.
- g. The property must have an additional parking space beyond the given minimum parking requirements
- h. Only one accessory dwelling unit may be created per lot.

Section Three. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Four. Severability.

(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. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

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

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

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Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney