

Planning Commission Meeting

700 Doug Davis Drive
Hapeville, GA 30354

December 4, 2019 6:00 PM

Agenda

1. Welcome and Introduction
2. Approval of Minutes
 - 2.I. November 12, 2019
3. New Business
 - 3.I. Future Land Use Map Update

Background:

Consideration of a resolution to adopt an update to the Future Land Use Map.

- Public Comment

Documents:

1. Planner's Report for FLUM update 2019
 2. Resolution - Future Land Use Map (02360556xA0B3B)
 3. Hapeville Future Development Map
- 3.II. Zoning Map Amendment Text Amendment

Background:

Consideration of a text amendment to update the zoning map.

- Public Comment

Documents:

1. Planners Report C-1 to V Rezoning City Initiated
2. Ordinance to Amend Zoning Map 01-21-2020 (02360311xA0B3B)
3. Hapeville Zoning Map

3.III Arts District Overlay (Food Trucks) Text Amendment

. Background:

Consideration of a Text Amendment to amend Article 28 (A-D Zone Arts District Overlay) for the purpose of updating the food truck regulations within the A-D Zone.

- Public Comment

Documents:

1. Planner's Report Text Amendment A-D Food Truck Revision v2
2. Ordinance - Text Amendment A-D Food Truck (02357936xA0B3B)

3.IV Arts District Overlay (Residential Uses) Text Amendment

. Background:

Consideration of a text amendment to amend Article 28 (A-D Zone Arts District Overlay), Section 93-28-7.5 (Residential Uses) for the purpose of updating the residential uses in the A-D Zone.

- Public Comment

Documents:

1. Planner's Report Text Amendment A-D Residential
2. Ordinance - Text Amendment A-D Residential Use (02357996xA0B3B)

3.V. Administrative Variance Text Amendment

Background:

Consideration of a text amendment to create Section 93-1-3.1 (Administrative Variances) for the purpose of allowing the City Planner to grant Administrative Variances.

- Public Comment

Documents:

1. Planner's Report Text Amendment Administrative Variance Rev 12.2.19
2. Ordinance - Text Amendment Administrative Variances (02358862xA0B3B)

4. Old Business

4.I. Meeting Packet Delivery Discussion

Background:

Open discussion regarding changing to an electronic meeting packet delivery and discontinue the delivery of printed meeting materials.

This discussion was postponed at the November 12, 2019 meeting.

Documents:

5. Next Meeting Date

5.I. Tuesday, January 14, 2020

6. Adjourn

**Planning Commission Meeting
700 Doug Davis Drive
Hapeville, Georgia 30354**

November 12, 2019 6:00PM

MINUTES

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 PM in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Larry Martin, Charlotte Rentz and Cliff Thomas. City Planner Lynn Patterson and Secretary Adrienne Senter were also present.

Commissioners Jeanne Rast and Lucy Dolan were unable to attend the meeting.

MOTION ITEM: Charlotte Rentz made a motion Cliff Thomas seconded to add the minutes of October 8, 2019 to the meeting agenda. Motion Carried: 3-0.

2. Minutes of October 8, 2019

MOTION ITEM: Larry Martin made a motion, Charlotte Rentz seconded to approve the minutes of October 8, 2019 as amended. Motion Carried: 3-0.

MOTION ITEM: Larry Martin made a motion, Cliff Thomas seconded to move item 3.II to item 6 on the agenda. Motion Carried: 3-0.

3. New Business

3.I. 3240 Lake Avenue

Subdivision Plat Review

Beatriz Arroyo sought subdivision plat review for the property located at 3240 Lake Avenue, Parcel Identification Number 14 009900030737. The property is zoned R-SF, Residential Single Family and the applicant proposed to divide the lot into two tracts of land. The overall tract is 0.48 acres (20,828-sf) in size and contains an existing two-story structure.

As proposed, each new parcel will be 0.24 acres (10,414-sf). One parcel will contain the existing structure, while the other will be vacant. The Applicant indicated both lots will be for residential use.

Staff Recommendation

The following items were found to be deficient and must be addressed:

1. Street numbers have not been provided for the new parcels.
2. Existing building setbacks provided to the nearest 10th of a foot rather than required 100th of a foot.
3. Sidewalks are required when lots are developed.
4. Only utilities shown on plat are overhead utility lines and the water main, and the water main is not included in the legend.
5. Only shown service connection is overhead utility connection to existing structure. No proposed connections for any utilities are provided on the plat.
6. Street trees are required as part of the development of each lot.

With the resolution of these items and barring any items required by the City Engineer, the final plat may be approved.

MOTION ITEM: Larry Martin made a motion, Cliff Thomas seconded to approve the subdivision plat request for 3240 Lake Avenue subject to the deficiencies outlined in the planner's and engineer's reports. Motion Carried: 3-0.

3.II. Signs and Murals Ordinance

Text Amendment

Consideration of an amendment to the Code of Ordinances, Article 3.3 (Signs and Murals) for the purpose of amending and updating the general sign regulations.

Background

At the request of City Council, Staff has prepared an update to the City of Hapeville's Sign Ordinance. The revisions are intended to be more permissive towards creative or alternative designs for signs or other displays while maintaining the City's standards for signs overall. Some smaller and routine signs, such as stake signs in single-family residential front yards and vehicle navigation signs for businesses, would now be exempt from review. The proposed updates, if enacted, would make sign regulations simpler to understand, follow, and ultimately enforce.

Summary

1. "Sign area" is now calculated as the net geometric area measured by the smallest possible combination of rectangles enclosing the displace surface of the sign, not including decorative architectural design elements.
2. Changes to sign faces that otherwise maintain the shape and size shall be exempt from review.
3. The Variance process has been clarified and streamlined, now allowing all applicants to seek Variances directly without first needing to appeal the Planner's decision.

4. Awning sign regulations have been updated to permit marquee signs and signs mounted to canopies.
5. Several small signs are now exempt, such as seasonal decorations, yard signs, memorial signs, security signs, etc.
6. "Incidental signs", defined as small signs providing general information to vehicles and pedestrians entering a property from the right-of-way (such as business hours or parking lot entrance signs) are now exempt signs.
7. Multi-tenant signs providing information for multiple commercial tenants at one property are now permitted to exceed the dimensional restrictions for typical ground signs, based on sign district and number of tenants at the property.
8. The sign area for all signs on a lot is no longer limited by linear feet of lot frontage. Instead, wall, awning, and projecting signs shall be limited in aggregate square footage to the linear feet of building or tenant façade.

Discussion ensued regarding limiting the number of temp stake signs per yard frontage in particular on corner lots, striking elections sign regulations as it conflicts with state law and redefining yard signs to lawn signs and stake signs to clarify the which are temporary, and which are perm. Also, there was discussion regarding the removing the maximum height and maximum width of temporary signs within residential areas. The Commission asked staff to clarify the definition of holiday decorations and change the message transitions as a hard cut instead of three seconds or less for changeable LED signs. Include language regarding notice for signs that the City may deem abandoned. Clarify language for projecting signs on the corner of a building on corner facing intersection.

Public Comment

Melvin Traynum, 3550 Atlanta Avenue, commented regarding the proposed changes to the sign ordinance.

MOTION ITEM: Cliff Thomas made a motion, Larry Martin seconded recommend the Mayor and Council update the sign ordinance subject to the following:

1. Permit one temporary stake sign per residential yard frontage.
2. Strike election sign regulations as it conflicts with State law.
3. Redefine "yard sign" as "lawn sign" and clarify which residential ground signs are considered temporary and permanent.
4. Remove the maximum width and maximum height of temporary signs within residential areas.
5. Clarify the definition of holiday decorations.

6. Amend the changeable LED sign requirements to limit the message transitions as a hard cut instead of three seconds or less.
7. Include language regarding notice for signs that the City may deem abandoned.
8. Clarify language for projecting signs on the corner of a building on corner facing intersections.

Motion Carried: 3-0.

3.III. 2020 Planning Commission Meeting Schedule

Consideration and action to approve the 2020 Planning Commission meeting schedule.

MOTION ITEM: Larry Martin made a motion, Charlotte Rentz seconded to approve the 2020 Planning Commission meeting schedule as amended. Motion Carried: 3-0.

4. Open Discussion

4.I. Meeting Packet Delivery Discussion

Open Discussion regarding changing to an electronic meeting packet and discontinuing the delivery of printed copies.

This item was postponed until the next meeting.

5. Next Meeting Date

Consideration and action to move the December 10, 2019 Planning Commission meeting to December 12, 2019 at 6 p.m.

MOTION ITEM: Larry Martin made a motion, Cliff Thomas seconded to move the December 10, 2019 meeting to December 12, 2019. Motion Carried: 3-0.

6. Tree Conservation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 2 (General provisions), Section 93-2-14 (Tree conservation) for the purpose of amending the tree conservation ordinance.

Background

The City of Hapeville has identified a need to promote tree conservation, increase the tree canopy, and offer protection of existing trees within the City. To that end, the City has established a Tree Conservation ordinance with the intent of preserving and expanding Hapeville's urban forest. Staff, in conjunction with a consulting arborist, has prepared a new tree conservation ordinance to replace the existing ordinance in its entirety. Unclear regulations have proven difficult for property owners to follow and for

City staff to enforce, rendering the current ordinance less effective at meeting the goals as intended. The ordinance has been carefully designed to simplify compliance and enforcement while applying stricter standards for development that are consistent with other Atlanta-area tree conservation ordinances. The proposed ordinance and its appendices are attached. Below are changes to other portions of the code made necessary by the new ordinance, and/or where Staff identified opportunities to bring existing code closer to the intent of the ordinance.

Summary

1. All properties in the City of Hapeville shall be required to provide a minimum number of trees on-site measured as 100" of tree caliper per acre. The caliper of new trees planted to meet this requirement shall be measured at time of planting.
2. Properties that are unable to meet the 100" per acre requirement may, with the approval of the Planning Commission, pay into the City's Tree Bank in lieu of planting required trees. Funds from the Bank will be used by the Community Services Department for tree plantings on City property and maintenance of City owned trees.
3. Landmark trees are defined based on species and caliper diameter at breast height. Landmark trees may only be removed with the permission of Staff and with proper justification.
4. The plan includes guidelines for tree planting, replacement, protection, and permitted species depending on the type of project
5. Parking lot trees shall be provided so that no parking space is more than 50' away from a tree.
6. Landscape buffers shall be required to provide necessary evergreen trees and shrubs.
7. To assist staff in determining compliance, Tree Protection and/or Tree Replacement plans shall be provided for all applicable projects.
8. All activities requiring a Land Disturbance Permit or resulting in an expansion of any commercial property will be required to comply with the entirety of the Tree Conservation Ordinance. Exceptions to full compliance will be provided to single-family residential properties removing five or fewer trees, trees required to meet the minimum 100" per acre requirement, or landmark trees.
9. Trees under 3" caliper may be removed without a permit.

Public Comment

Melvin Traynum, 3550 Atlanta Avenue, commented regarding the proposed changes to the tree conservation ordinance and the street trees that were replanted along Atlanta Avenue due to the streetscape project.

MOTION ITEM: Cliff Thomas made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment to the Tree Conservation Ordinance provided staff visit the issue of required trees in the supplemental area to

potentially permit the planting of understory trees in all residential yards when planting required overstory trees may not be feasible.

Motion Carried: 3-0.

7. Adjourn

MOTION ITEM: Larry Martin made a motion, Cliff Thomas seconded to adjourn the meeting at 8:44 p.m. Motion Carried: 3-0.

Respectfully submitted by,

Brian Wismer, Chairman

Adrienne Senter, Secretary



**DEPARTMENT OF PLANNING AND ZONING
PLANNER'S REPORT**

DATE: December 3, 2019
TO: Adrienne Senter
FROM: Lynn M. Patterson, Consulting Planner for the City of Hapeville
RE: **Future Land Use Map Update – C-1 Corridor**

BACKGROUND

The City of Hapeville completed the update of its Comprehensive Plan in June 2017. The Plan was then transmitted to the Georgia Department of Community Affairs (DCA) who determined the update was in compliance with the Georgia Minimum standards and Procedures for Local Comprehensive Planning in January 2018. At that time, the City updated its Future Land Use Map (FLUM) to comply with the goals of the Comprehensive plan.

The purpose of the FLUM is to define areas within the City that are suitable for various land use activities. "Future land use" is different from "zoning." Future land use designations establish general ranges of uses that are permitted in each district, while zoning districts include a specific list of permitted uses and land development restrictions. Zoning is dependent upon the future land use designation.

The FLUM includes the following land uses:

- residential;
- multi-family residential;
- low intensity mixed use;
- medium intensity mixed use;
- high intensity mixed use;
- commercial;
- industrial;
- public/institutional;
- parks, recreation, conservation; and,
- transportation, communication, utilities.

In 2018, City Council amended the FLUM to change a portion of Hapeville on the northwest edge of the City from High Intensity Mixed-Use to Residential. Council did this to accommodate a small number of single-family detached residences still in the area (See *Figure 1*). However, the area remains primarily commercial in nature, and is currently zoned C-1 – Retail Commercial. To reconcile these uses, and to encourage the existing residential community to remain while fostering the uses recommended by the Comprehensive Plan, staff proposes a change to the FLUM for this area from Residential to Low Intensity Mixed-Use (See *Figure 2*).

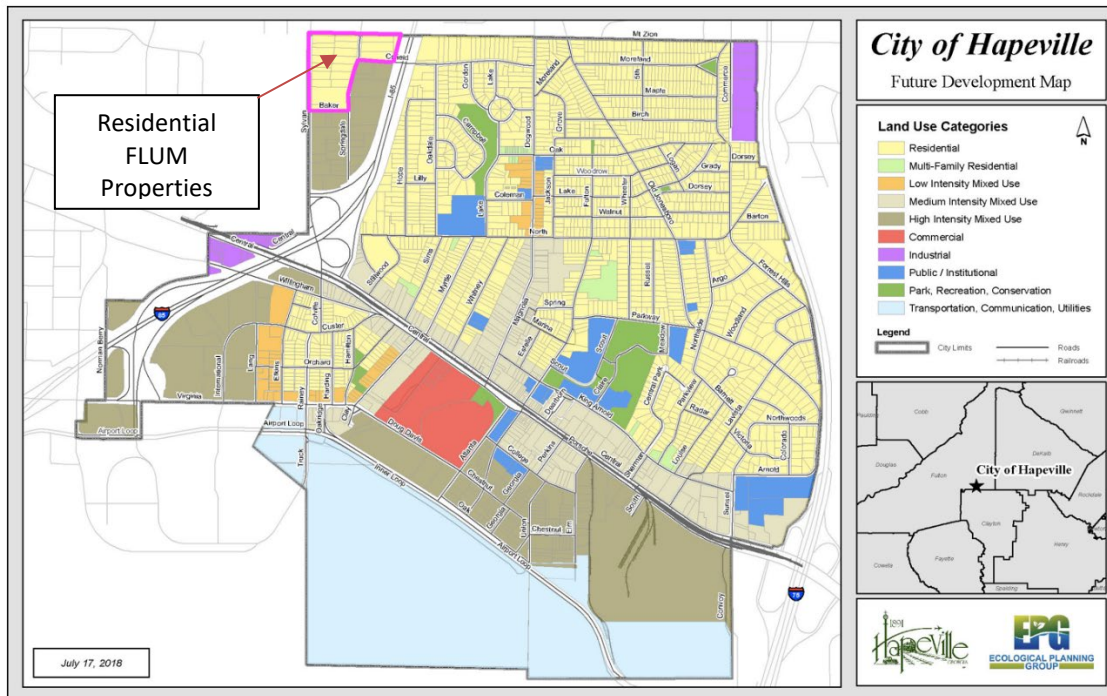
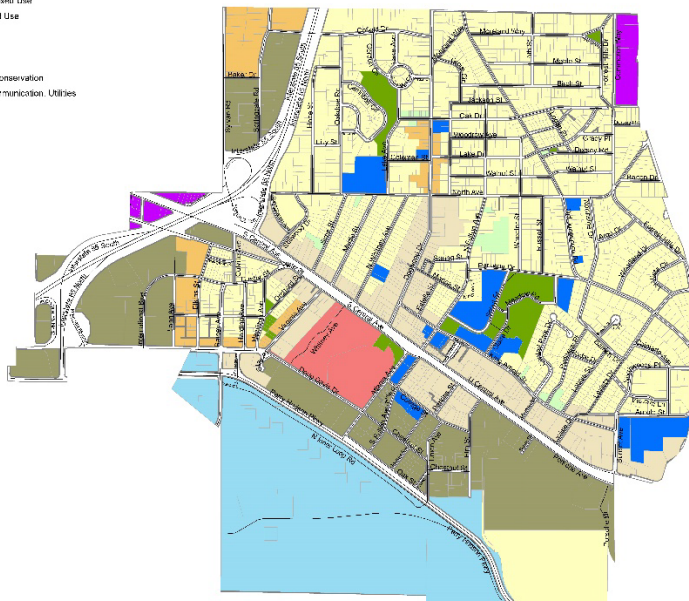


Figure 1 – Current Future Land Use Map

City of Hapeville Future Development Map

- Land Use Categories**
- Residential
 - Multi-Family Residential
 - Low Intensity Mixed Use
 - Medium Intensity Mixed Use
 - High Intensity Mixed Use
 - Commercial
 - Industrial
 - Public / Institutional
 - Park, Recreation, Conservation
 - Transportation, Communication, Utilities
- Legend**
- City Limits
 - Roads



January 7, 2020

Figure 2 – Proposed Future Land Use Map



RECOMMENDATION

A future land use designation of Low Intensity Mixed-Use would allow for Village zoning to be adopted in the area. Village is a mixed-use zoning district that allows for the two distinct needs of the area:

1. Traditional neighborhood residential uses would be retained and made conforming, which under the current C-1 zoning they are not.
2. Commercial uses located within the designated area and found surrounding it to the south in the High Intensity Mixed-Use area, and in Atlanta and East Point to the north, would be permitted.

Staff recommends approval of the FLUM by the Planning Commission and the Mayor & Council to reconcile the future land use of the city with the Comprehensive Plan and with neighboring uses. The City's zoning map will be presented for amendment immediately following this agenda item to allow for Village zoning to occur in the corridor, thus bringing zoning into compliance with the FLUM and best meeting the planning needs of the City.

RESOLUTION NO. _____

A RESOLUTION TO ADOPT AN UPDATE TO THE FUTURE LAND USE MAP OF THE CITY OF HAPEVILLE; TO ESTABLISH A PUBLIC PURPOSE; TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ANY DOCUMENTS NECESSARY TO CARRY OUT THIS RESOLUTION; TO PROVIDE SEVERABILITY; TO REPEAL INCONSISTENT PROVISIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Hapeville, Georgia ("City") adopted the Future Land Use Map ("Map") on July 17, 2018; and,

WHEREAS, the City has found the following conditions exist that necessitate an update to the Map:

- Traditional neighborhood residential uses would be retained and made conforming, which under the current C-1 zoning they are not.
- Commercial uses located within the designated area and found surrounding it to the south in the High Intensity Mixed-Use area, and in Atlanta and East Point to the north, would be permitted; and,

WHEREAS, the City held a public hearing on January 7, 2020 to discuss updates to the Map; and,

WHEREAS, the City has prepared an amendment to the current Future Land Use Map as shown in **Exhibit "A"**; and,

WHEREAS, notice of this matter has been provided in accordance with applicable state law and local ordinances; and,

WHEREAS, the Mayor and City Council in the exercise of their sound judgement and discretion, after giving thorough thought to all implication involved, and keeping in mind the public interest and welfare to the citizens of the City, have determined this amendment to be in the best interests of the City, that this Resolution be adopted.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE:

1. **Adoption of Map.** The Hapeville City Council hereby adopts the Future Land Use Map as attached as Exhibit "A".
2. **Public Purpose.** The City finds that the foregoing actions constitute a major step in preserving the health, safety, well-being, and economic vitality of the community and are, therefore, consistent with its public purposes and powers.

3. **Attestation.** That the Hapeville City Council hereby authorizes the City Clerk to attest the signature of any City official appearing on the documents necessary to carry out this Resolution, to affix the official seal of the City thereto, as necessary, and to place this Resolution and any related documents among the official records of the City for future reference.
4. **Severability.** To extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.
5. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
6. **Effective Date.** This Resolution shall take effect immediately.

RESOLVED this ____ day of _____, 2020.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

City Clerk

EXHIBIT "A"

Future Land Use Map

City of Hapeville Future Development Map

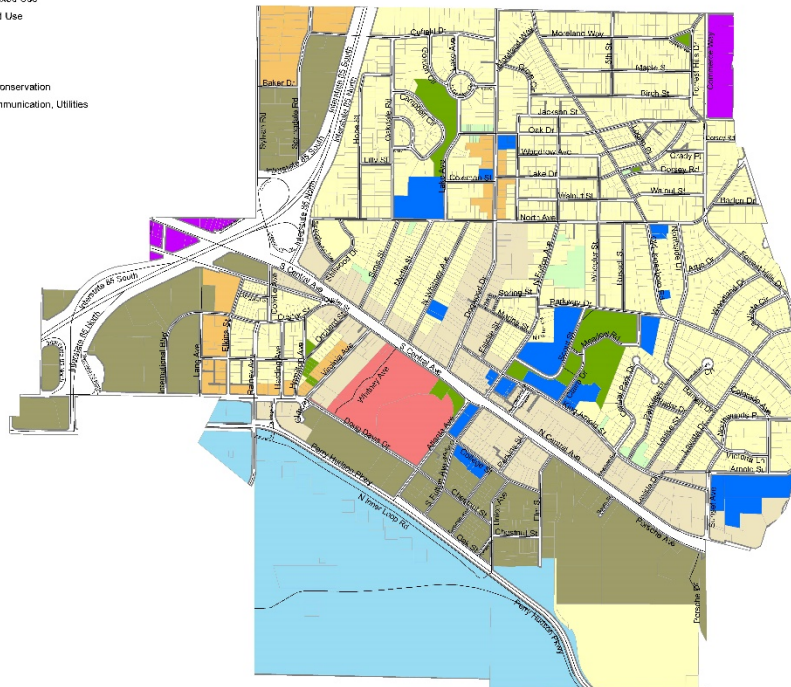


Land Use Categories

- Residential
- Multi-Family Residential
- Low Intensity Mixed Use
- Medium Intensity Mixed Use
- High Intensity Mixed Use
- Commercial
- Industrial
- Public/Institutional
- Park, Recreation, Conservation
- Transportation, Communication, Utilities

Legend

- City Limits
- Roads



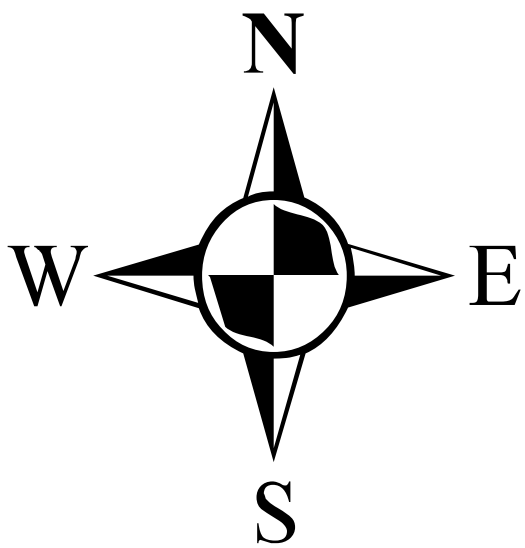
January 7, 2020

City of Hapeville Future Development Map



- Land Use Categories**
- Residential
 - Multi-Family Residential
 - Low Intensity Mixed Use
 - Medium Intensity Mixed Use
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 - Commercial
 - Industrial
 - Public/Institutional
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 - Transportation, Communication, Utilities

- Legend**
- City Limits
 - Roads





**DEPARTMENT OF PLANNING AND ZONING
PLANNER'S REPORT**

DATE: December 3, 2019
TO: Adrienne Senter
FROM: Lynn M. Patterson, Consulting Planner for the City of Hapeville
RE: **Rezoning of Retail Commercial to Village**

CURRENT CONDITIONS

The proposed area slated for rezoning is located within a greater mixed-use residential and commercial region, with general commercial uses to the south in the City of Hapeville and a mix of residences and retail commercial uses to the north in the City of East Point and the City of Atlanta. In recognition of the desired redevelopment of this area of Hapeville and in keeping with the vision outlined in the Hapeville Comprehensive Plan (2017), the Future Land Use Map is being updated to identify these parcels as Low-Intensity Mixed-Use (Figure 1). To improve compatibility with the adjacent area and to allow for the variety of uses in the revised Future Land Use Map, Staff proposes the property be rezoned V, Village. The proposed parcels are all parcels currently zoned C-1, Retail Commercial in the City and are located north of Baker Drive and Cofield Drive, between Sylvan Road and Interstate 85 (see Figure 2).

The proposed rezoning (see Figure 3) would allow single-family development as a permitted use, thus returning the existing residential properties to conformity with zoning. In addition, the V district derives its permitted uses in part from the C-1 district; rezoning would allow the area to provide land for future economic development for the City in line with current zoning while making the district more compatible with surrounding uses.

The parcels to be rezoned from C-1 to V are:

- 14 009900010051
- 14 009900010572
- 14 009900010069
- 14 009900011000
- 14 0099 LL0178
- 14 009900010176
- 14 009900010234
- 14 009900010226
- 14 009900010077
- 14 009900010606
- 14 009900010150
- 14 009900010168
- 14 009900010036
- 14 009900010044
- 14 009900010200
- 14 009900010887
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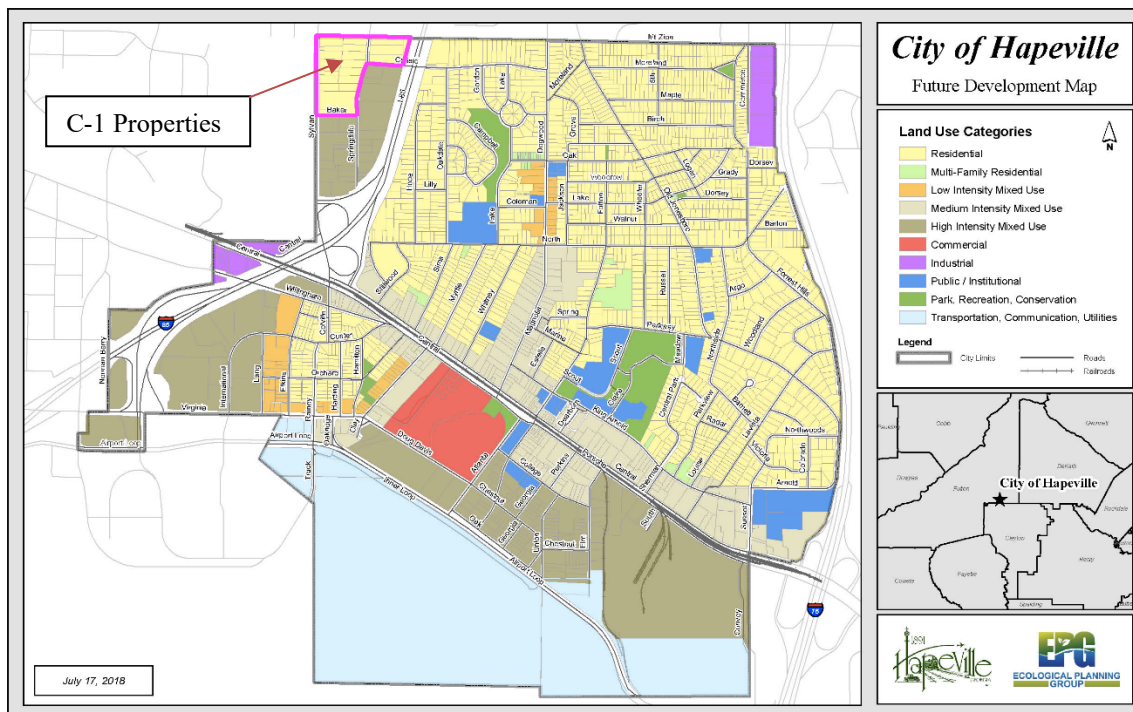


Figure 1 – Future Land Use Map

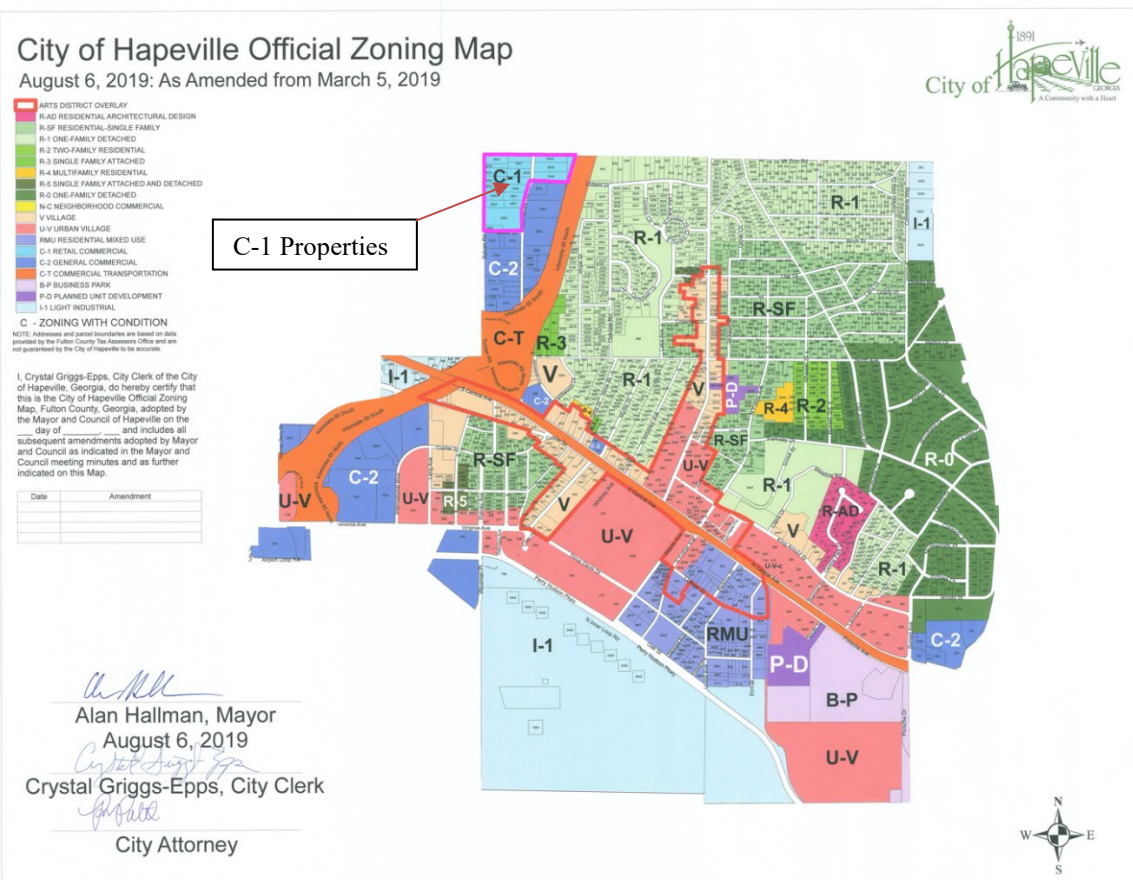


Figure 2- Current Zoning Map

City of Hapeville Official Zoning Map

January 7, 2020: As Amended from August 6, 2019



- R-1 SINGLE-FAMILY DETACHED
- R-2 SINGLE-FAMILY DETACHED
- R-3 SINGLE-FAMILY DETACHED
- R-4 SINGLE-FAMILY DETACHED
- R-5 SINGLE-FAMILY DETACHED
- R-6 SINGLE-FAMILY DETACHED
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- R-100 SINGLE-FAMILY DETACHED

C - ZONING WITH CONDITION
 VILLAGE: Addressed and parcel numbers are shown on the map.

I, Crystal Griggs-Epps, City Clerk of the City of Hapeville, Georgia, do hereby certify that this is the City of Hapeville Official Zoning Map, Fulton County, Georgia, adopted by the Mayor and Council of Hapeville on the day of _____, 2020, and includes all subsequent amendments adopted by Mayor and Council as indicated in the Mayor and Council meeting minutes and as further indicated on this map.

Date: _____
 Amended: _____

Alan Hallman, Mayor
 January 7, 2020

Crystal Griggs-Epps, City Clerk

City Attorney

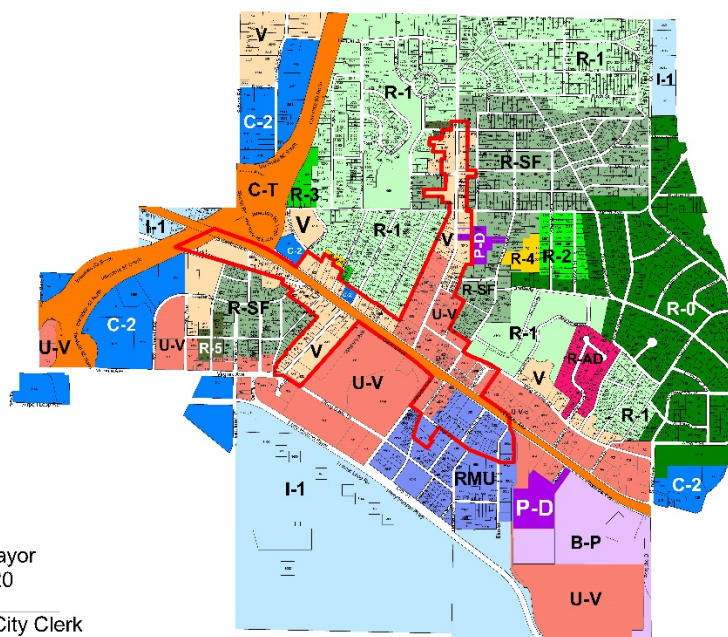


Figure 3 - Proposed Zoning Map

REVIEW OF APPLICATION

- (1) The existing land use pattern;

The existing land use pattern is primarily single-family detached residential, with vehicle rental services provided on parcels neighboring the C-2 – General Commercial district adjacent to Baker Drive to the south.

- (2) The possible creation of an isolated district unrelated to adjacent and nearby districts;

The adjacent district to the south is zoned C-2, and the land uses to the north in East Point and Atlanta are a mix of retail commercial and residential uses. As the Village district allows both retail commercial and single-family residential uses, rezoning would improve compatibility with the nearby districts.

- (3) The population density pattern and possible increase or overtaking of the load one public facilities including, but not limited to, schools, utilities, and streets;

The area already supports a mix of residential and commercial uses. The infrastructure in the area is sufficient to support all existing uses within and surrounding the district. There is no foreseeable significant increase on public facilities such as schools, utilities or streets for the proposed uses.

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

See above. There is no foreseeable significant increase in costs for providing, improving, increasing or maintaining public utilities, schools, streets, and other public safety measures.

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

The commercial uses permitted in the Village district are primarily retail oriented and would have a minimal impact on the environment beyond that imposed by existing similar uses surrounding the district. The Low-Intensity Mixed-Use future land use designation would direct staff to encourage development at a density level consistent with existing area development, thus creating an impact to the environment that is comparable to existing properties.

(6) 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;

The change in zoning is consistent with existing development patterns and would impact values of or improvements to developments in adjacent districts in a manner comparable to adjacent properties.

(7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;

The current C-1 zoning has rendered existing single-family developments non-conforming. Rezoning would permit those properties to be expanded or sold, while still permitting all uses allowed in the C-1 district. Expanding the list of permitted uses will allow compatible commercial development to occur in line with surrounding districts while protecting single-family dwelling property owners.

(8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area;

The proposed zoning maintains the surrounding aesthetic by allowing for similar architectural design and site design as neighboring properties.

(9) The extent to which the proposed zoning map amendment is consistent with the land use plan;

The Future Land Use Map is being updated. This proposed map amendment will create consistency between the Future Land Use Map and the zoning district.

(10) 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;

The zoning map amendment would allow the existing character of the neighborhood to continue while allowing for future commercial development in line with the character of the general area.

(11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations;

The proposed zoning map amendment would support the purpose of the zoning regulations and zoning scheme of the area as both a commercial and residential district.

(12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;

This is a City initiated rezoning of multiple parcels. The above does not apply.

(13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;

The rezoning will bring the current neighborhood into conformity while making it compatible with the existing surrounding uses.

(14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

See above.

RECOMMENDATION

The amendment to the Zoning Map supports the updated Future Land Use Map and will provide a regulatory framework for the district that best matches its existing character and that of the surrounding area. The existing neighborhood would be brought into conformity with the zoning code, allowing property owners to improve and sell their land, activities that are not viable at present. While preserving this housing, the rezoning would also establish a district consistent with the surrounding commercial development to the south and low-intensity mixed-use to the north. Further, the City will be able to provide the land for commercial uses vital for the economic development of the City and for its tax base, following prevailing development patterns along the Sylvan and Springdale corridors.

Staff recommends this application for approval.

DRAFT

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 3.1 (“ZONES”), SECTION 93-3.1-2 (“ZONING MAP”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO UPDATE THE CITY OF HAPEVILLE ZONING MAP; 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, 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, 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, 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 City of Hapeville Zoning Map.

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

Section One. Section 93-3.1-2 (Zoning map) in Chapter 93 (Zoning), Article 3.1 (Zones) of the City Code of Ordinances is hereby amended by striking:

August 6, 2019

and inserting in lieu thereof the following language:

DRAFT

January 21, 2020

Section Two. The “zoning map” referred to in Section 93-3.1-2 (Zoning map) in Chapter 93 (Zoning), Article 3.1 (Zones) of the City Code of Ordinances is attached hereto and incorporated herein by reference as:

Exhibit “A”

The zoning map attached as Exhibit “A” shall replace the zoning map adopted on August 6, 2019.

Section Three. Codification and Certify. This Ordinance and the Zoning Map 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.

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CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

City Clerk

APPROVED BY:

City Attorney

City of Hapeville Official Zoning Map

January 7, 2020: As Amended from August 6, 2019



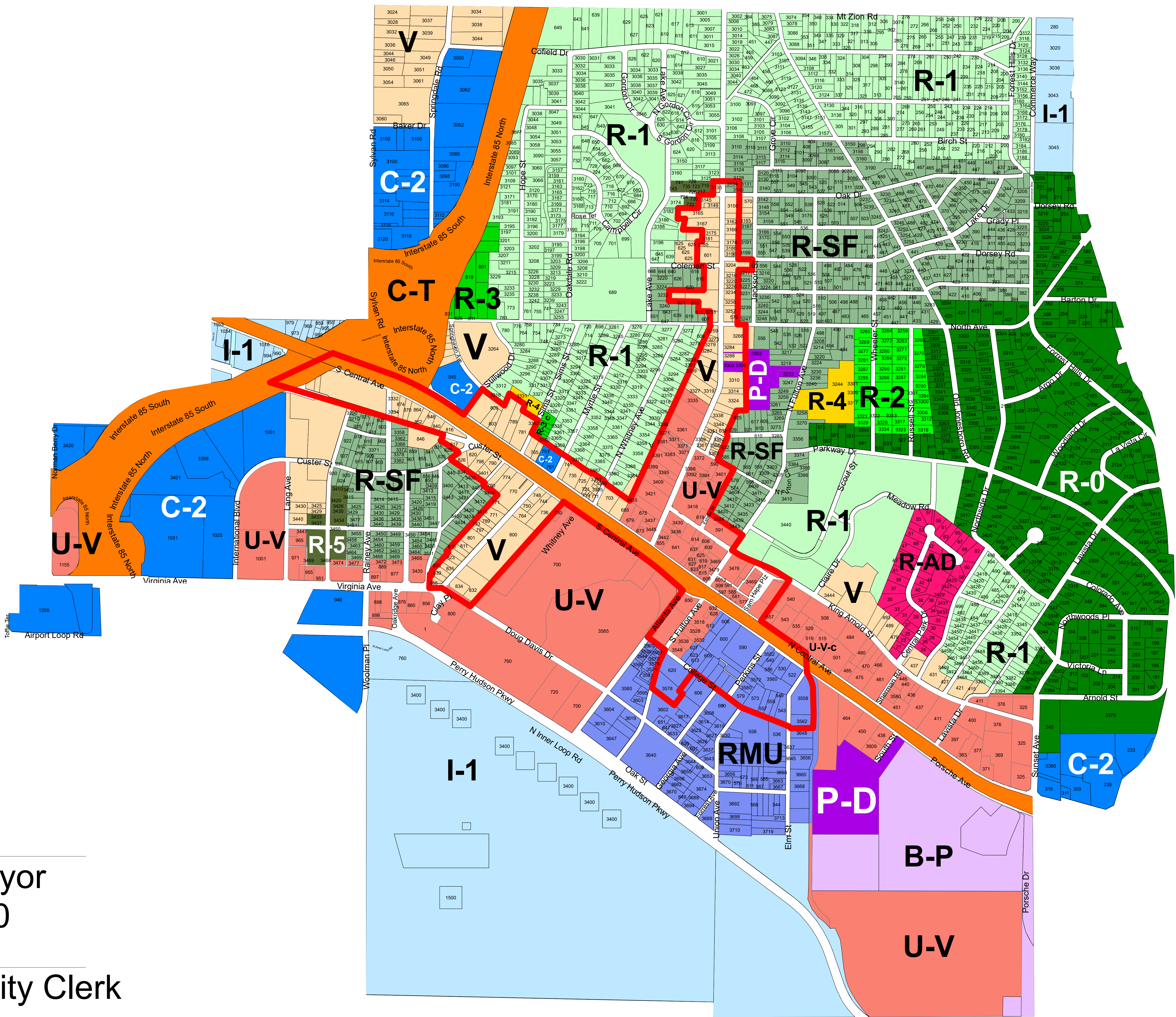
- ARTS DISTRICT OVERLAY
- R-AD RESIDENTIAL ARCHITECTURAL DESIGN
- R-SF RESIDENTIAL-SINGLE FAMILY
- R-1 ONE-FAMILY DETACHED
- R-2 TWO-FAMILY RESIDENTIAL
- R-3 SINGLE FAMILY ATTACHED
- R-4 MULTIFAMILY RESIDENTIAL
- R-5 SINGLE FAMILY ATTACHED AND DETACHED
- R-0 ONE-FAMILY DETACHED
- N-C NEIGHBORHOOD COMMERCIAL
- V VILLAGE
- U-V URBAN VILLAGE
- RMU RESIDENTIAL MIXED USE
- C-1 RETAIL COMMERCIAL
- C-2 GENERAL COMMERCIAL
- C-T COMMERCIAL TRANSPORTATION
- B-P BUSINESS PARK
- P-D PLANNED UNIT DEVELOPMENT
- I-1 LIGHT INDUSTRIAL

C - ZONING WITH CONDITION

NOTE: Addresses and parcel boundaries are based on data provided by the Fulton County Tax Assessors Office and are not guaranteed by the City of Hapeville to be accurate.

I, Crystal Griggs-Epps, City Clerk of the City of Hapeville, Georgia, do hereby certify that this is the City of Hapeville Official Zoning Map, Fulton County, Georgia, adopted by the Mayor and Council of Hapeville on the ____ day of _____, ____ and includes all subsequent amendments adopted by Mayor and Council as indicated in the Mayor and Council meeting minutes and as further indicated on this Map.

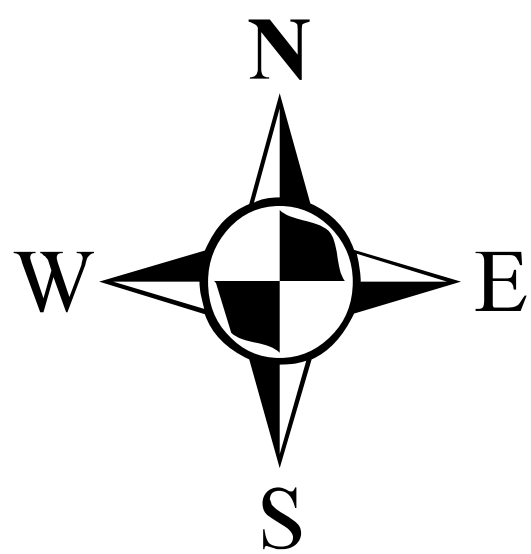
Date	Amendment



Alan Hallman, Mayor
January 7, 2020

Crystal Griggs-Epps, City Clerk

City Attorney





**Department of Planning and Zoning
Planner's Report**

DATE: November 26, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Arts District Food Truck Court Revision**

BACKGROUND

Food trucks can provide increased traffic for local businesses, provide residents with walkable recreational activities, and help promote the City of Hapeville's distinct sense of place. In addition to the uses allowed in section 11-11-3 – *Regulation and licensing of mobile food vendors*, the City allows private food truck courts within the A-D, Arts District overlay. Food truck courts are allowed as a use accessory to any businesses with adequate parking space and are subject to special conditions. The City must designate such food truck courts as being compliant with the requirements of the Code. The current conditions are designed to keep the operators of food truck courts accountable and to ensure the courts are viable. However, their restrictive nature has prevented businesses from pursuing the necessary certification. Furthermore, some businesses have instead hosted food truck courts without any permission or oversight.

The following text amendment would re-structure the food truck court section of the Code to better reflect contemporary trends in food truck courts and, more broadly, outdoor public events. The new regulations would make operating food trucks courts simpler by removing a layer of bureaucracy while still ensuring such operations are safe and compatible with neighboring uses. They would also allow food truck courts as a primary use requiring a Special Use Permit on any private commercial lot.

CODE

ARTICLE 28 – A-D ZONE ARTS DISTRICT OVERLAY

Sec. 93-28-2. – Definitions.

Update the following definitions to:

Food truck. A motorized vehicle or trailer drawn by a motorized vehicle used to prepare and sell food to the public directly from the vehicle or trailer. Food trucks are Mobile Food Vendors and shall follow all requirements of Sec. 11-11-3.

Food truck court. An area designated in a private parking lot for hosting food trucks, subject to the requirements of Sec. 93-28-12 and the Mobile Food Vendor requirements of Sec. 11-11-3.

Food truck vendor. Any person or entity that prepares and sells food from a food truck in a designated food truck court or that otherwise operates a food truck in accordance with the requirements of Sec. 11-11-3.

Sec. 93-28-12. – Use specific standards,

Subsection (1), Food truck court, will be replaced by the following:

- a. Food truck courts as a primary or accessory use may be established in free-standing commercial parking lots provided that the property owner has given permission for the property to be used as a food truck court, that the property is not zoned Residential, that the lot is paved, and that there are no unoccupied buildings present on the parcel.
- b. Food truck courts may operate accessory to a primary use without a separate occupational tax permit. Accessory food truck courts may operate up to six hours per day, and up to three days per week. If the primary use shares a parking lot with other tenants or property owners, and the minimum parking requirements for all users are greater than the number of spaces provided in the lot, the hosting entity shall obtain written consent from each tenant or property owner prior to operating a food truck court. This consent will be made available to the City upon request. Lack of written consent will constitute a violation of the Code and the food trucks will be required to leave the premises immediately.
- c. Food truck courts operating as a primary use shall require a Special Use Permit and shall be required to provide customer restrooms on-site.
- d. All food trucks shall have valid Mobile Food Vendor permits from the City of Hapeville per the requirements of Sec. 11-11-3. Operators of food truck courts shall retain a copy of each food truck's Mobile Food Vendor permit, to be furnished upon request to the code enforcement officer.
- e. Operators of food truck courts shall enter into rental contracts with any food truck vendor, which shall include the specific space being leased. Copies of said contracts shall be furnished upon request to the code enforcement officer.
- f. Food trucks shall not sell or offer to sell any goods, foods, products, or services between the hours of 10:00 p.m. to 9:00 a.m.
- g. Where food trucks are an accessory to a primary use, a maximum of one food truck shall be permitted on a parcel per one-half acre of the parcel's area.
- h. Where food truck courts are a primary use, such courts must provide a minimum of two parking spaces for customer use per food truck in addition to any parking necessary for the use of the food trucks themselves. There shall be no maximum number of food trucks in a food truck court.
- i. No wastes of any kind shall be discharged from a food truck. Trash receptacles shall be provided by the host of the food truck vendor for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such receptacles shall be located no more than ten feet from the food truck. The host of the food truck vendor

shall be responsible for removing all trash, litter and refuse from the site at the end of each business day.

- j. Food truck courts must adhere to all requirements of the sign ordinance. No LED strip lighting shall be used in conjunction with any food truck court.
- k. No loudspeakers shall be used for announcements or hawking of products in conjunction with any food truck court.
- l. The property owner and/or landlord may provide limited seating on the food truck court to customers of the food truck vendor(s). Canopies for the protection of customers from the elements may also be provided by the property owner and/or landlord or the food truck vendor(s). Such canopies shall be temporary, shall not exceed an area of 144 square feet, and shall be removed at the conclusion of business.
- m. A minimum distance of 100 feet shall be maintained between any food truck and the entrance to any restaurant.
- n. No food truck shall not be located within any required setback, any sight distance triangle or required buffer. Access aisles sufficient to provide emergency access to any food truck shall be provided.
- o. Sales of articles other than food & non-alcoholic beverages shall be prohibited.

DRAFT

1 **STATE OF GEORGIA**
2 **CITY OF HAPEVILLE**

3
4 **ORDINANCE NO. _____**
5

6 **AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 28 (“A-D ZONE**
7 **(ARTS DISTRICT OVERLAY”), SECTION 93-28-2 (“DEFINITIONS”) AND SECTION**
8 **93-28-12 (“USE SPECIFIC STANDARDS”) OF THE CODE OF ORDINANCES, CITY OF**
9 **HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL**
10 **CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO**
11 **PROVIDE FOR OTHER LAWFUL PURPOSES.**

12
13 **WHEREAS**, the Mayor and Council shall have full power and authority to provide for the
14 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
15 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,
16

17 **WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and
18 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
19 the legislative body of the City; and,
20

21 **WHEREAS**, amendments to any of the provisions of the City’s Code may be made by
22 amending such provisions by specific reference to the section number of the City’s Code; and,
23

24 **WHEREAS**, existing ordinances, resolutions, rules and regulations of the City and its
25 agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall
26 remain effective until they have been repealed, modified or amended; and,
27

28 **WHEREAS**, every official act of the Mayor and Council which is to become law shall be
29 by ordinance; and,
30

31 **WHEREAS**, the procedures required for amending the City’s zoning ordinance have been
32 satisfied, including, but not limited to, notice and public hearings; and,
33

34 **WHEREAS**, the governing authority of the City finds it desirable to amend and update the
35 food truck regulations in the A-D Zone.
36

37 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
38 **THE CITY OF HAPEVILLE, GEORGIA THAT:**
39

40 **Section One.** Chapter 93 (Zoning), Article 28 (A-D Zone (Arts District Overlay)), Section
41 93-28-2 (Definitions) of the City Code of Ordinances is hereby amended by striking the section in
42 its entirety and inserting in lieu thereof the following language:
43

44 *Arts.* The interpretation of imagination and creativity in a physical form or
45 performance.

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46 *Art gallery.* An establishment that engages in the sale, loan or display of paintings,
47 sculptures, photographs, video art or other works of art. "Art gallery" does not include a
48 cultural facility such as a library, museum or non-commercial gallery that may also display
49 works of art or an arts studio.

50 *Art center.* A facility whose mission is to promote the arts and make them available to the
51 public. An arts center may hosts art exhibits and shows, provide studio space for the use of
52 artists and engage in public education and exposure to the arts.

53 *Art use.* Creation or assembly of visual art, including two- and three-dimensional works of
54 fine art or craft, or other fine art objects created or assembled for purposes of sale, display,
55 commission, or trade by artists or artisans. Art use may also include classes held for art
56 instruction.

57 *Artist studio.* An area in a building used for creation, production, rehearsal, study or
58 teaching of any visual art or craft, including but not limited to painting, drawing, graphic
59 design, photography, video, film, sculpture and pottery; written works of fiction or nonfiction;
60 or any performing art, whether for live or recorded performance, including music, dance and
61 theater. "Artist studio" may include performance space related to classes taught on-site and
62 recording studios; a studio for artisan related crafts, such as small scale metalworking,
63 glassblowing, furniture making, pottery, leather craft and similar activities. "Artist studio" may
64 also include accessory sales of art produced on the premises.

65 *Artist.* A person who practices one of the fine arts, design, graphic, musical, literary,
66 computer, or performing arts; or a person whose profession relies on application of these skills
67 to produce a creative product. The term includes, but is not limited to, individuals who practice
68 visual arts, such as painters, print makers, illustrators, sculptors, potters, jewelry makers, glass
69 makers, craft artists and photographers; performing arts, such as musicians, composers,
70 playwrights, choreographers and dancers; literary arts, such as creative writers and literary
71 translators; architecture and design, such as architects, landscape architects, engineers, urban
72 designers and planners, interior designers and decorators, industrial designers, graphic
73 designers and fashion designers; and media arts, such as filmmakers, video and audio artists
74 and web-based designers.

75 *Consignment store.* An enclosed retail establishment, whether operated by a for or not for
76 profit organization or entity, engaged in selling used merchandise, such as clothing, furniture,
77 jewelry, books, shoes, or household appliances, etc., on consignment. Consignment stores do
78 not include those selling vehicles, auto parts, scrap, or waste.

79 *Drive-through.* Any facility that may be accessed directly by means of a motor vehicle for
80 transacting business.

81 *Entertainment, live.* Any musical act, including karaoke; theatrical act, including a play,
82 revue or stand-up comedy; dance; magic act; disc jockey or similar activity performed live by
83 one or more persons, whether or not for compensation or an admission charge.

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84 *Food truck.* A motorized vehicle or trailer drawn by a motorized vehicle used to prepare
85 and sell food to the public directly from the vehicle or trailer. Food trucks are Mobile Food
86 Vendors and shall follow all requirements of Section 11-11-3.

87 *Food truck court.* An area designated in a private parking lot for hosting food trucks,
88 subject to the requirements of Section 93-28-12 and the Mobile Food Vendor requirements of
89 Section 11-11-3.

90 *Food truck vendor.* Any person or entity that prepares and sells food from a food truck in
91 a designated food truck court or that otherwise operates a food truck in accordance with the
92 requirements of Sec. 11-11-3.

93 *Juried commission.* The commission that determines whether individual(s) are eligible to
94 occupy live-work and artist housing unit(s) in the arts district overlay. The juried commission
95 will consist of five members. Three of these members must be an artist, architect, landscape
96 architect, arts educator, or gallery owner. Lay persons with sufficient knowledge, experience,
97 and judgment who have an interest in public art shall make up the balance of the juried
98 commission. The members of the juried commission shall each be appointed by the mayor and
99 council of the city. Three of the initial five members shall be appointed for a term of two years,
100 and two of the initial five members shall be appointed for a term of three years. Thereafter,
101 each new member shall be appointed for a term of two years.

102 *Makerspace.* An indoor or outdoor facility or both intended to be used by artists as studio
103 and retail space. Makerspaces often combine production, equipment, community, and
104 education for the purposes of enabling participating individuals to design, prototype, and create
105 works that said individuals would have difficulty producing if working alone due to a lack of
106 resources, tools, artistic input, and/or space. Such space may be in a residential, commercial,
107 mixed use or a live/work building and often provides tools for community use. Makerspaces
108 are characterized by consistent design elements, such as high ceilings, large windows, durable
109 surfaces and wide entrances. These spaces are designed to accommodate and foster a variety of
110 creative activities. Makerspaces may also include common space such as galleries, meeting
111 rooms and open space that encourages resident engagement and community involvement.

112 *Microbrewery.* Any establishment where malt beverages are produced or brewed (as
113 further defined and regulated in [chapter 5](#), "Alcoholic beverages," of this Code).

114 *Outdoor arts market.* A temporary event held on private or public property where artwork
115 is offered for sale.

116 *Small power tools.* Hand equipment driven by other than human means. Examples include
117 circular saws, power drills, portable mitre saws, routers, electric belt sanders and wood lathes.
118 Not defined as small power tools are chain saws, mounted mitre saws, band saws,
119 jackhammers and similar power tools.

120 *Thrift store.* An enclosed retail establishment, whether operated by a for or not for profit
121 organization or entity, engaged in selling previously owned or used goods and merchandise
122 from an area greater than 25 percent of the total floor area devoted to retail sales and whose

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merchandise is acquired principally by donation. Thrift stores do not include those selling vehicles, auto parts, scrap, or waste.

Section Two. Chapter 93 (Zoning), Article 28 (A-D Zone (Arts District Overlay)), Section 93-28-12 (Use specific standards), Subsection (1) of the City Code of Ordinances is hereby amended by striking the subsection in its entirety and inserting in lieu thereof the following language:

(1) *Food Truck Courts:*

- a. Food truck courts as a primary or accessory use may be established in free-standing commercial parking lots provided that the property owner has given permission for the property to be used as a food truck court, that the property is not zoned Residential, that the lot is paved, and that there are no unoccupied buildings present on the parcel.
- b. Food truck courts may operate accessory to a primary use without a separate occupational tax permit. Accessory food truck courts may operate up to six hours per day, and up to three days per week. If the primary use shares a parking lot with other tenants or property owners, and the minimum parking requirements for all users are greater than the number of spaces provided in the lot, the hosting entity shall obtain written consent from each tenant or property owner prior to operating a food truck court. This consent will be made available to the City upon request. Lack of written consent will constitute of violation of the Code and the food trucks will be required to leave the premises immediately.
- c. Food truck courts operating as a primary use shall require a Special Use Permit and shall be required to provide customer restrooms on-site.
- d. All food trucks shall have valid Mobile Food Vendor permits from the City of Hapeville per the requirements of Sec. 11-11-3. Operators of food truck courts shall retain a copy of each food truck's Mobile Food Vendor permit, to be furnished upon request to the code enforcement officer.
- e. Operators of food truck courts shall enter into rental contracts with any food truck vendor, which shall include the specific space being leased. Copies of said contracts shall be furnished upon request to the code enforcement officer.
- f. Food trucks shall not sell or offer to sell any goods, foods, products, or services between the hours of 10:00 p.m. to 9:00 a.m.
- g. Where food trucks are an accessory to a primary use, a maximum of one food truck shall be permitted on a parcel per one-half acre of the parcel's area.
- h. Where food truck courts are a primary use, such courts must provide a minimum of two parking spaces for customer use per food truck in addition to any parking necessary for the use of the food trucks themselves. There shall be no maximum number of food trucks in a food truck court.
- i. No wastes of any kind shall be discharged from a food truck. Trash receptacles shall be provided by the host of the food truck vendor for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such receptacles shall be located no more than ten feet from the food truck. The host of the food truck vendor shall be responsible for removing all trash, litter and refuse from the site at the end of each business day.
- j. Food truck courts must adhere to all requirements of the sign ordinance. No LED strip lighting shall be used in conjunction with any food truck court.

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- k. No loudspeakers shall be used for announcements or hawking of products in conjunction with any food truck court.
- l. The property owner and/or landlord may provide limited seating on the food truck court to customers of the food truck vendor(s). Canopies for the protection of customers from the elements may also be provided by the property owner and/or landlord or the food truck vendor(s). Such canopies shall be temporary, shall not exceed an area of 144 square feet, and shall be removed at the conclusion of business.
- m. A minimum distance of 100 feet shall be maintained between any food truck and the entrance to any restaurant.
- n. No food truck shall not be located within any required setback, any sight distance triangle or required buffer. Access aisles sufficient to provide emergency access to any food truck shall be provided.
- o. Sales of articles other than food & non-alcoholic beverages shall be prohibited.

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.

DRAFT

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

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: November 25, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Text Amendment – Allow Ground Floor Residential in A-D Without Mixed-Use**

BACKGROUND

City Code currently prohibits any new residential construction unless it is part of a mixed-use development with a commercial use at the ground floor in the A-D, Arts District overlay. While ground floor commercial and retail uses are encouraged, this may preclude the development of medium to higher density residential uses such as townhomes and multi-family dwellings. The following text permits residential development with entrances at street level and is submitted for recommendation to Mayor & City Council.

CODE

Sec. 93-28-7.5. - Residential uses.

Change:

No residential use shall front on a public street, sidewalk or alley at the ground floor or street level. All ground level uses fronting on a public street, sidewalk or alley shall be non-residential uses.

To:

Ground level uses fronting on a public street, sidewalk, or alley are encouraged as non-residential uses.

DRAFT

1 **STATE OF GEORGIA**
2 **CITY OF HAPEVILLE**

3
4 **ORDINANCE NO. _____**
5

6 **AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 28 (“A-D ZONE**
7 **(ARTS DISTRICT OVERLAY)”), SECTION 93-28-7.5 (“RESIDENTIAL USES”) OF THE**
8 **CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR**
9 **SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN**
10 **EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.**
11

12 **WHEREAS**, the Mayor and Council shall have full power and authority to provide for the
13 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
14 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,
15

16 **WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and
17 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
18 the legislative body of the City; and,
19

20 **WHEREAS**, amendments to any of the provisions of the City’s Code may be made by
21 amending such provisions by specific reference to the section number of the City’s Code; and,
22

23 **WHEREAS**, existing ordinances, resolutions, rules and regulations of the City and its
24 agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall
25 remain effective until they have been repealed, modified or amended; and,
26

27 **WHEREAS**, every official act of the Mayor and Council which is to become law shall be
28 by ordinance; and,
29

30 **WHEREAS**, the procedures required for amending the City’s zoning ordinance have been
31 satisfied, including, but not limited to, notice and public hearings; and,
32

33 **WHEREAS**, the governing authority of the City finds it desirable to amend and update the
34 residential uses in the A-D Zone.
35

36 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
37 **THE CITY OF HAPEVILLE, GEORGIA THAT:**
38

39 **Section One.** Chapter 93 (Zoning), Article 28 (A-D Zone (Arts District Overlay)), Section
40 93-28-7.5 (Residential uses) of the City Code of Ordinances is hereby amended by striking the
41 section in its entirety and inserting in lieu thereof the following language:

42 Live-work and artist housing, subject to the following stipulations:

- 43 (1) The residential portion of a live-work unit shall contain sleeping areas, cooking facilities
44 and complete sanitary facilities.

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- (2) The residential occupancy of a live-work unit shall include, at a minimum, one person who is an artist and is employed or carries out an occupation in the arts within the nonresidential portion of the unit.
- (3) The nonresidential portion of a live-work unit shall be limited to two employees per shift, including the person living in the unit that is associated with the business.
- (4) The "artist" occupant will be subject to qualification by a juried commission that will determine the eligibility for occupancy in live-work and artist housing units. Upon receiving an application for occupation of live-work and artist housing unit(s), the juried commission shall meet to review the application, and hear the applicant should the applicant wish to appear before the juried commission. Said meeting shall occur within thirty calendar days of receipt of said application by the juried commission. The juried commission shall then issue a written determination to the applicant within 14 calendar days of said meeting. If the applicant is dissatisfied with the decision of the juried commission, the applicant may appeal the decision to the mayor and council of the city within seven calendar days of receipt of said decision. The mayor and council shall then hear the appeal within 30 calendar days of receipt of said appeal and shall issue a written final determination within 14 calendar days of said appellate hearing. Applications for live-work and artist housing may be acquired by contacting the city clerk.
- (5) The minimum floor area of a live-work and artist housing unit shall be 320 square feet, exclusive of kitchen and bathroom floor area.

The maximum number of dwelling units in a single building shall not be limited, provided that no development shall exceed 50 units. The parking requirement for such uses shall be one space for each dwelling unit. No minimum lot area shall apply in the arts district overlay provided all other development standards of this article are met.

Ground level uses fronting on a public street, sidewalk, or alley are encouraged as nonresidential uses.

Single-family detached units, duplexes and triplexes are prohibited as incompatible with such higher density settings in recognition of the urban character of the arts district overlay and the need to preserve land for arts and entertainment uses.

Nothing contained in this section is intended to remove or restrict the potential of other residential uses for property within the arts district overlay that may be permitted or authorized pursuant to the city's zoning code.

Section Two. 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 Three. 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.

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

Section Five. 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

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

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133 City Attorney

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**Department of Planning and Zoning
Planner's Report**

DATE: December 2, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Administrative Variance**

BACKGROUND

Per Sec. 87-3-3(a), the City of Hapeville provides a process for to obtain a variance from the provisions of the zoning chapter "as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of [the zoning] chapter will, in an individual case, result in unnecessary hardship." The power to grant a variance rests with the Board of Appeals, and in every case where a variance is requested, one must file a \$350 application and present their case before the Board at a monthly public meeting.

In an effort to provide applicants in the city be given another route to obtaining minor and routine variances, limited administrative variance powers may streamline the process without adversely affecting the intent of the Code. The text amendment below would introduce the power for the City Planner to grant Administrative Variances of up to 20% of the stated dimensional requirements for a use or structure, or 10% of stated dimensional requirements for a sign. Such decisions shall follow a rigorous set of standards and any given decision will be given in the form of a detailed report explaining the Planner's rationale. Should an applicant disagree with the decision, they may appeal to the Board of Appeals for a traditional variance.

CODE

ARTICLE 1

Create a new section:

Sec. 93-1-3.1 – Administrative Variances

The City Planner shall have the authority to provide variances in accordance with Sec. 87-3-3(a) without an official appeal to the Zoning Board of Appeals in accordance with the provisions of this section.

1. *Purpose.* For the purposes of this section, carrying out the strict letter of a provision of this Chapter may cause a practical difficulty and an administrative variance is permitted to alleviate these practical difficulties

2. *Standards.* To approve an application for an administrative variance, the City Planner shall make an affirmative finding that the following standards are met:
 - a. For variances to Article 3.3, Division 1 - *Signs*, the standards contained in [the sign ordinance variance section] shall apply.
 - b. For all other variances, the general variance standards contained in Sec. 87-3-3(a)(2). – *Variances* shall apply.
3. *Extent of variances.*
 - a. The Planner shall have the authority to approve an administrative variance for no more than twenty (20%) of the specified mathematical measurement of the Chart of Dimensional Requirements (Sec. 93-22.1-1) or of any measurements provided directly for any zoning district or overlay.
 - b. Administrative variances for signs and murals governed by Article 3.3 – Signs and Murals shall be for no more than 10% of any height, width, or area requirement. Variances shall not be granted for number or type of sign.
 - c. Use variances are not permissible under this code section.
4. *Procedures.*
 - a. An application for an administrative variance shall include a brief description of the requirement to be varied and any other material necessary to ensure the criteria in this section are addressed.
 - b. Within 30 days, the City Planner shall review the application and approve, approve with conditions or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria above shall be provided to the applicant.
 - c. The decision of the City Planner regarding an administrative variance shall state the reasons for approval or denial and shall be considered the final decision.
5. *Limitations.*
 - a. An administrative variance shall become null and void unless a Certificate of Zoning Compliance and/or building permit is obtained and work is commenced within one year from the date of approval.
6. *Appeals.*
 - a. Appeal of a decision by the City Planner on an administrative variance shall be taken to the Board of Zoning Appeals within 60 days of the date of the decision.
 - b. An appeal from any final decision of the City Planner as to any matter regarding administrative variance may be taken within 30 days of the filing of such decision may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board or commission of the city.

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1 **STATE OF GEORGIA**
2 **CITY OF HAPEVILLE**

3
4 **ORDINANCE NO. _____**
5

6 **AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 1 (“TITLE,**
7 **DEFINITIONS AND APPLICATION OF REGULATIONS”), TO CREATE SECTION 93-**
8 **1-3.1 (“ADMINISTRATIVE VARIANCES”) OF THE CODE OF ORDINANCES, CITY**
9 **OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL**
10 **CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO**
11 **PROVIDE FOR OTHER LAWFUL PURPOSES.**
12

13 **WHEREAS**, the Mayor and Council shall have full power and authority to provide for the
14 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
15 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,
16

17 **WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and
18 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
19 the legislative body of the City; and,
20

21 **WHEREAS**, amendments to any of the provisions of the City’s Code may be made by
22 amending such provisions by specific reference to the section number of the City’s Code; and,
23

24 **WHEREAS**, existing ordinances, resolutions, rules and regulations of the City and its
25 agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall
26 remain effective until they have been repealed, modified or amended; and,
27

28 **WHEREAS**, every official act of the Mayor and Council which is to become law shall be
29 by ordinance; and,
30

31 **WHEREAS**, the procedures required for amending the City’s zoning ordinance have been
32 satisfied, including, but not limited to, notice and public hearings; and,
33

34 **WHEREAS**, the governing authority of the City finds it desirable to amend and allow for
35 administrative variances in limited circumstances.
36

37 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
38 **THE CITY OF HAPEVILLE, GEORGIA THAT:**
39

40 **Section One.** Chapter 93 (Zoning), Article 1 (Title, Definitions and Application of
41 Regulations) of the City Code of Ordinances is hereby amended by creating Section 93-1-3.1
42 (Administrative Variances), which shall state the following:
43

44 **Sec. 93-1-3.1 – Administrative Variances**
45

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The City Planner shall have the authority to provide variances in accordance with Sec. 87-3-3(a) without an official appeal to the Zoning Board of Appeals in accordance with the provisions of this section.

1. *Purpose.* For the purposes of this section, carrying out the strict letter of a provision of this Chapter may cause a practical difficulty and an administrative variance is permitted to alleviate these practical difficulties

2. *Standards.* To approve an application for an administrative variance, the City Planner shall make an affirmative finding that the following standards are met:

- a. For variances to Article 3.3, Division 1 - *Signs*, the standards contained in [the sign ordinance variance section] shall apply.
- b. For all other variances, the general variance standards contained in Sec. 87-3-3(a)(2). – *Variances* shall apply.

4. *Extent of variances.*

- a. The Planner shall have the authority to approve an administrative variance for no more than twenty (20%) of the specified mathematical measurement of the Chart of Dimensional Requirements (Sec. 93-22.1-1) or of any measurements provided directly for any zoning district or overlay.
- b. Administrative variances for signs and murals governed by Article 3.3 – Signs and Murals shall be for no more than 10% of any height, width, or area requirement. Variances shall not be granted for number or type of sign.
- c. Use variances are not permissible under this code section.

5. *Procedures.*

- a. An application for an administrative variance shall include a brief description of the requirement to be varied and any other material necessary to ensure the criteria in this section are addressed.
- b. Within 30 days, the City Planner shall review the application and approve, approve with conditions, or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria above shall be provided to the applicant.
- c. The decision of the City Planner regarding an administrative variance shall state the reasons for approval or denial and shall be considered the final decision.

6. *Limitations.*

- a. An administrative variance shall become null and void unless a Certificate of Zoning Compliance and/or building permit is obtained and work is commenced within one year from the date of approval.

7. *Appeals.*

- a. Appeal of a decision by the City Planner on an administrative variance shall be taken to the Board of Zoning Appeals within 60 days of the date of the decision.
- b. An appeal from any final decision of the City Planner as to any matter regarding administrative variance may be taken within 30 days of the filing of such decision may be

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taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board or commission of the city.

Section Two. 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 Three. 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 Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. 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

Alan Hallman, Mayor

DRAFT

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney