

1 CITY OF HAPEVILLE

2 STATE OF GEORGIA

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4

ORDINANCE NO. 2015-11

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CITY OF HAPEVILLE, GEORGIA

6

PREAMBLE AND FINDINGS

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AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF

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HAPEVILLE, GEORGIA; TO AMEND VARIOUS SECTIONS OF CHAPTER 93,

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ZONING; TO AUGMENT THE PERMITTED USES OF THE RESIDENTIAL MIXED

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USE DISTRICT; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR

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SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN

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ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER

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PURPOSES ALLOWED BY LAW.

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WHEREAS, the governing authority of the City of Hapeville, Georgia (the "City") are

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the Mayor and Council thereof; and

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WHEREAS, the Mayor and Council have, as a part of planning, zoning and growth

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management, been in review of the City's zoning ordinances and have been studying the City's

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best estimates and projections of the type of development which could be anticipated within the

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City; and

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WHEREAS, the Mayor and Council therefore consider it paramount that land use

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regulation continue in the most orderly and predictable fashion with the least amount of

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disturbance to landowners and to the citizens of the City. The Mayor and Council have always

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had a strong interest in growth management so as to promote the traditional police power goals

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of health, safety, morals, aesthetics and the general welfare of the community; and in particular

25 the lessening of congestion on City streets, security of the public from crime and other dangers,
26 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the
27 City including access to air and light, and facilitation of the adequate provision of transportation
28 and other public requirements; and

29 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
30 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
31 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
32 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
33 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
34 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
35 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
36 within the City, making the most appropriate use of resources, preserving neighborhood
37 characteristics, enhancing and protecting the economic well-being of the community, facilitating
38 adequate provision of public services, and the preservation of the resources of the City; and

39 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
40 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
41 community development through stability, predictability and balanced growth which will further
42 the prosperity of the City as a whole; and

43 **WHEREAS**, the City has determined that to serve the needs of the community, certain
44 amendments are needed in the Zoning Ordinance; and

45 **WHEREAS**, the City desires to amend its standards, permitted uses, and non-permitted
46 uses within certain zoning districts.

47 **NOW THEREFORE**, be it and it is hereby ordained by the Mayor and Council of the
48 City of Hapeville:

49 **Section 1.** **The City’s Code of Ordinances is hereby amended by adding the**
50 **following definition of “Day spa” to Section 93-11.5-2, “Definitions,” within the Article**
51 **establishing the Residential Mixed Use district, which definition shall be inserted**
52 **immediately after the definition of “Build-to line” and shall read as follows:**

53 “*Day spa*: A business location where massages by certified masseurs, makeovers, body
54 wrapping, hair removal, saunas, manicures, pedicures, and nonsurgical cosmetic
55 procedures are performed. Any combination of at least three or more of the above-listed
56 uses shall occur at the location for said location to be considered a day spa. All such
57 businesses shall comply with applicable state licensing regulations.”

58 **Section 2.** **The City’s Code of Ordinances is hereby amended by adding the**
59 **following definition of “Hotel” to Section 93-11.5-2, “Definitions,” within the Article**
60 **establishing the Residential Mixed Use district, which definition shall be inserted**
61 **immediately after the definition of “Enfront” and shall read as follows:**

62 “*Hotel*: A facility designed and used for occupancy as a temporary abode by paying
63 individuals who are lodged therein, and which facility shall comply with the following
64 standards:

- 65 a) With the exception of a single main entrance within view of a desk that is
66 manned at all times, hotel corridors shall be directly accessible from the
67 exterior of the building by magnetic card access only or as otherwise required
68 by fire or life safety regulations.
- 69 b) Has on site and on duty at all times one (1) full-time manager plus a minimum
70 of one (1) additional employee.
- 71 c) Has only interior corridors, with all doors that provide access to guest rooms
72 opening only onto such interior corridors. Notwithstanding this requirement,
73 nothing herein contained shall be construed to prohibit secondary doors to
74 guest rooms from opening onto enclosed balconies, which balconies may be
75 permitted on all floors above the ground-level floor of a hotel, and the square-
76 footage of which balconies shall not be included in the calculation of total
77 floor area of any guest room.

78 d) Any guest room that includes cooking facilities shall have a total floor area of
79 not less than 480 square feet for an efficiency or one bedroom unit; a total
80 floor area of not less than 730 square feet for a two bedroom unit, and not less
81 than an additional 150 square feet of floor area for each additional bedroom;
82 and provided further that all proposed hotel and motel developments shall be
83 subject to the site plan review requirements of section 93-2-16. Microwaves
84 and coffee makers shall not be considered 'cooking facilities.'"

85 **Section 3.** The City's Code of Ordinances is hereby amended by deleting the
86 current subsection (16) of Section 93-11.5-3, "Permitted uses," in its entirety and inserting
87 the following revised subsection (16) in lieu thereof:

88 "(16) Day spas, as defined in Section 93-11.5-2 above."

89 **Section 4.** The City's Code of Ordinances is hereby amended by adding the
90 following subsection (17) to Section 93-11.5-3, "Permitted uses," which subsection (17) shall
91 be inserted immediately after subsection (16) and shall read as follows:

92 "(17) Hotels, as defined in Section 93-11.5-2 above."

93 **Section 5.** (a) It is hereby declared to be the intention of the Mayor and Council that all
94 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
95 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

96 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
97 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance
98 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It
99 is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent
100 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
101 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

102 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for
103 any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the

104 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the
105 Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
106 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable
107 any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance and
108 that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs
109 and sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force
110 and effect.

111 **Section 6.** All ordinances and parts of ordinances in conflict herewith are hereby
112 expressly repealed.


113 **Section 7.** The effective date of this Ordinance shall be the date of its adoption by the
114 Mayor and Council unless otherwise stated herein.

115 **Section 8.** The Ordinance shall be codified in a manner consistent with the laws of
116 the State of Georgia and the City of Hapeville.

117 **Section 9.** It is the intention of the governing body, and it is hereby ordained that the
118 provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of
119 Hapeville, Georgia and the sections of this Ordinance may be renumbered to accomplish such
120 intention.

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122 **ORDAINED** this 7 day of July, 2015.
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CITY OF HAPEVILLE, GEORGIA:



Alan Hallman, Mayor

ATTEST:



Jennifer Elkins, City Clerk

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126 **APPROVED BY:**

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Steve Fincher, City Attorney