

**MINUTES
CITY COUNCIL SPECIAL CALLED MEETING
DECEMBER 17, 2012
5:00 P.M.**

CALL TO ORDER: Mayor W. James Grogan called the special called meeting to order at 5:00 p.m.

CITY COUNCIL ROLL CALL: Present were Mayor James Grogan, Councilman Mike Sosebee, Councilman Jason Power, Councilwoman Angie Smith, Councilman Chris Gaines, City Attorney Kevin Tallant and City Clerk Bonnie Warne.

INVOCATION AND PLEDGE: Jason Power gave the invocation and led the pledge.

APPROVAL OF THE AGENDA: Motion to approve the agenda by Gaines/Smith. Vote unanimous.

BUSINESS: Resolution: City of Ethics

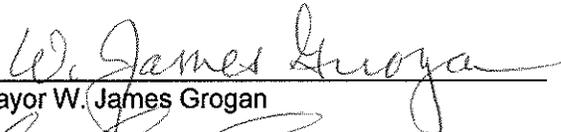
Mayor Grogan read the Ethics Resolution of the City of Dawsonville. Motion made to approve the resolution by Sosebee/Power. Vote passed unanimously in favor. (Exhibit "A")

PUBLIC HEARING: Dawsonville Energy Excise Tax Ordinance (Second Reading)

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF DAWSONVILLE RELATING TO THE PROVISION OF A LOCAL EXCISE TAX ON ENERGY USED IN MANUFACTURING; TO PROVIDE FOR IMPLEMENTATION AND IMPOSITION OF AN EXCISE TAX ON ENERGY SOLD OR USED IN MANUFACTURING; TO PROVIDE FOR RATES; TO PROVIDE FOR A PHASE-IN PERIOD; TO PROVIDE FOR A TIME FOR IMPOSITION; TO PROVIDE FOR RECOVERY OF THE EXCISE TAX; TO PROVIDE FOR ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR AUDITS; TO PROVIDE FOR ALLOWED EXPENDITURES OF THE PROCEEDS; TO PROVIDE FOR TERMINATION; TO PROVIDE AN EFFECTIVE DATE TO COMMENCE COLLECTIONS; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE AUDIT REQUIREMENTS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

Attorney Kevin Tallant informed the Council that this is the second reading on the Dawsonville Energy Excise Tax Ordinance. Motion made to approve the ordinance by Gaines/Sosebee. Vote approved unanimously. (Exhibit "B")

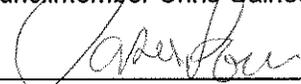
ADJOURNMENT: There being no further business to attend to, the meeting adjourned at 5:12 p.m. The motion carried unanimously; Sosebee/Smith.



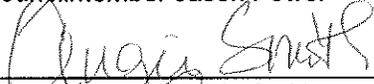
Mayor W. James Grogan



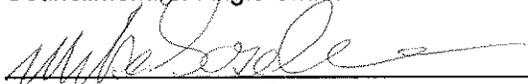
Councilmember Chris Gaines



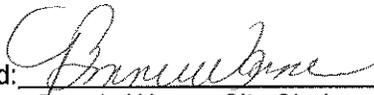
Councilmember Jason Power



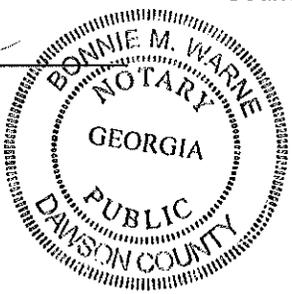
Councilmember Angie Smith



Councilmember Mike Sosebee

Attested: 

Bonnie Warne, City Clerk



ETHICS RESOLUTION OF THE CITY OF DAWSONVILLE

WHEREAS, the Board of Directors of the Georgia Municipal Association has established a Certified City of Ethics program; and,

WHEREAS, the City of Dawsonville is an existing Certified City of Ethics and wishes to be recertified as a Certified City of Ethics under the GMA Program; and,

WHEREAS, the City of Dawsonville has had an Ethics Ordinance in place since 2000 and the same remains codified at Section 2-75 through 2-83 of the Dawsonville Code of Ordinances; and,

WHEREAS part of the recertification process requires the Mayor and Council to subscribe to the ethics principles approved by the GMA Board;

NOW THEREFORE BE IT RESOLVED by the governing authority of the City of Dawsonville, Georgia, that as a group and as individuals, the governing authority subscribes to the following ethics principles and pledges to conduct its affairs accordingly:

- * Serve Others, Not Ourselves
- * Use Resources With Efficiency and Economy
- * Treat All People Fairly
- * Use The Power of Our Position For The Well Being Of Our Constituents
- * Create An Environment Of Honesty, Openness And Integrity

RESOLVED this 17 day of December, 2012.

W. James Grogan
Mayor James Grogan

Angie Smith
Councilmember Angie Smith

Mike Sosebee
Councilmember Mike Sosebee

Chris Gaines
Councilmember Chris Gaines

Jason Power
Councilmember Jason Power

Bonnie Warne
ATTEST: Bonnie Warne, City Clerk



FIRST READING 12/3/2012
PUBLISHED 10/24&31 11/21&28
SECOND READING &
PASSED 12/17/2012

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF DAWSONVILLE RELATING TO THE PROVISION OF A LOCAL EXCISE TAX ON ENERGY USED IN MANUFACTURING; TO PROVIDE FOR IMPLEMENTATION AND IMPOSITION OF AN EXCISE TAX ON ENERGY SOLD OR USED IN MANUFACTURING; TO PROVIDE FOR RATES; TO PROVIDE FOR A PHASE-IN PERIOD; TO PROVIDE FOR A TIME FOR IMPOSITION; TO PROVIDE FOR RECOVERY OF THE EXCISE TAX; TO PROVIDE FOR ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR AUDITS; TO PROVIDE FOR ALLOWED EXPENDITURES OF THE PROCEEDS; TO PROVIDE FOR TERMINATION; TO PROVIDE AN EFFECTIVE DATE TO COMMENCE COLLECTIONS; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE AUDIT REQUIREMENTS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

SECTION ONE

Chapter 11 of the Municipal Code of the City of Dawsonville is amended by adding a new Article, to be numbered Article IV, which shall include the following language:

Article IV

Sec. 11-100. Short Title.

This Article shall be known as the "Dawsonville Energy Excise Tax Ordinance."

Sec. 11-101. Findings and Intent.

This ordinance is adopted to address the interest of public finance. Georgia law authorizes counties and municipalities to impose an excise tax on the sale or use of energy but the imposition of the excise tax on the sale or use of energy in the law is contingent upon the enactment of an ordinance of the municipality in question. In order for the municipality to properly impose such excise tax the municipality must follow all of the provisions of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, one provision of which is the enactment of this Article.

Sec. 11-102. Definitions.

- (1) 'Dealer' shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.

- (2) 'Energy' shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.
- (3) 'Local Sales and Use Tax' shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.
- (4) 'Purchaser' shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.

Sec. 11-103. Energy Excise Tax Imposed.

- (1) In accordance with the provisions of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, there is imposed within the territorial limits of the municipality, an excise tax on the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated but for the exemption found in the Official Code of Georgia Annotated, Section 48-8-3.2.
- (2) The sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated but for the exemption found in the Official Code of Georgia Annotated, Section 48-8-3.2 includes, but is not limited to, the sales and use of energy that is necessary and integral to the manufacture of tangible personal property such as:
 - (a) Machinery or equipment used to convey or transport industrial materials, work in process, consumable supplies, or packaging materials at or among manufacturing plants or to convey and transport finished goods to a distribution or storage point at the manufacturing plant. Specific examples may include, but are not limited to, forklifts, conveyors, cranes, hoists, and pallet jacks;
 - (b) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat, cool, clean, or otherwise treat, prepare, or store industrial materials for further manufacturing;
 - (c) Machinery or equipment used to control, regulate, heat, cool, or produce energy for other machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Specific examples may include, but are not limited to, boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers, generators, transformers, motor control centers, solar panels, air dryers, and air compressors;
 - (d) Testing and quality control machinery or equipment located at a manufacturing plant used to test the quality of industrial materials, work in process, or finished goods;

- (e) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical components, including associated cable trays, conduit, and insulation, located between a motor control center and exempt machinery or equipment or between separate units of exempt machinery or equipment;
- (f) Machinery or equipment used to maintain, clean, or repair exempt machinery or equipment;
- (g) Machinery or equipment used to provide safety for the employees working at a manufacturing plant, including, but not limited to, safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, or breathing apparatuses, regardless of whether the items would otherwise be considered consumable supplies;
- (h) Machinery or equipment used to condition air or water to produce conditions necessary for the manufacture of tangible personal property, including pollution control machinery or equipment and water treatment systems;
- (i) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;
- (j) Industrial materials bought for further processing in the manufacture of tangible personal property for sale or further processing or any part of the industrial material or by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process;
- (k) Machinery or equipment used in quarrying and mining activities, including blasting, extraction, and crushing; and
- (l) Energy used at a manufacturing plant.

Sec. 11-104. Energy Excise Tax Rate and Phase-In.

- (1) The rate of the excise tax levied and collected pursuant to this Article shall be phased in over a four-year period as directed by the Official Code of Georgia Annotated, Sections 48-13-112(a)(3) and 48-13-112(b) and as set forth below:
 - (a) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2;
 - (b) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the total amount of local sales and use tax in effect in such

special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2;

- (c) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2; and
 - (d) On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2.
- (2) In accordance with Official Code of Georgia Annotated, Section 48-8-3.2 (c)(4), if a project of regional significance under Official Code of Georgia Annotated, Section 48-8-3(92) is started in the special district, it shall not be subject to the phase-in period contained in paragraphs (a), (b), and (c) of subsection (1) of this section, and the sale, use, storage, or consumption of energy in connection therewith shall be subject to the rate specified in paragraph (d) of subsection (1) of this section notwithstanding the January 1, 2016 limitation in that paragraph (d).
 - (3) Following such initial imposition during the phase-in time period, on or after January 1, 2016, the rate of the excise tax levied and collected by the governing authority of the city shall be directed by the Official Code of Georgia Annotated, Section 48-13-112(d). Such rate shall be controlled by the maximum amount of local sales and use tax in effect in the special district, but in no event more than 2 percent.
 - (4) In the event the total rate of local sales and use taxes in effect in the special district decreases from 2 percent to 1 percent, the rate of the excise tax under this Article shall likewise be reduced at the same time such local sales and use tax rate reduction becomes effective.
 - (5) In the event the total rate of local sales and use taxes in effect in the special district increases from 1 percent to 2 percent, the rate of the excise tax under this article shall likewise be increased at the same time such local sales and use tax rate increase becomes effective.

Sec. 11-105. Energy Excise Tax Imposition, Remittance and Recovery.

- (1) The excise tax levied and collected pursuant to this Article shall be imposed at the time and be recoverable as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).

- (2) The excise tax shall be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other debts as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).
- (3) The dealer collecting the excise tax shall remit the excise tax to the city if the city is the governing authority imposing the excise tax as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).
- (4) Every dealer subject to an excise tax under this Article shall be liable for the excise tax at an applicable rate on the charges actually collected or the amount of the excise taxes collected from the purchasers, whichever is greater as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).

Sec. 11-106. Exemption Certificates.

- (1) The governing authority of the city, or the collecting officer appointed under this Article, shall make diligent efforts to identify all energy providers and purchasers in the city and to ascertain whether such purchasers have completed a uniform exemption certificate provided by the Georgia Department of Revenue seeking to qualify such purchaser under the exemption found in the Official Code of Georgia Annotated, Section 48-8-32.2. Such certificate shall be utilized by such governing authority or collecting officer for the purpose of determining the applicability of the excise tax under this Article.
- (2) An energy provider shall be authorized to rely upon such uniform exemption certificates provided by the Georgia Department of Revenue. The energy provider shall not be liable for failing to collect and remit the excise tax imposed under this Article if a purchaser has failed to submit the uniform exemption certificate provided by the Georgia Department of Revenue to such energy provider.

Sec. 11-107. Commencement of Collections and Due Date.

- (1) The excise tax imposed pursuant to this ordinance shall become effective on January 1, 2013.
- (2) The excise tax levied pursuant to this Article shall be imposed only at the time that sales and use tax on the sale and use of such energy would have been due and payable under the Official Code of Georgia Annotated, Section 48-8-30 but for the exemption in Official Code of Georgia Annotated, Section 48-8-3.2.
- (3) The excise tax shall be due and payable in the same manner as would otherwise be required under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated.
- (4) All sales and purchases taxable under this Article during the preceding calendar month shall be due and payable to the City of Dawsonville monthly on or before the twentieth day of every month and each respective month in which such taxes are

collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross sales and purchases arising from all sales and purchases taxable under this Article during the preceding calendar month.

Sec. 11-108. Expenditure of Proceeds.

The proceeds of the excise tax levied and collected pursuant to this Article shall not be subject to any use or expenditure requirements provided for under any of the local sales and use taxes but shall be authorized to be expended in the same manner as otherwise would have been required under such local sales and use taxes or may be expended for any lawful purpose as governed by the Official Code of Georgia Annotated, Section 48-13-112(c). Any proceeds received by the City pursuant to this Article shall be deposited in the general fund of the City.

Sec. 11-109. Termination of Municipal Excise Tax.

- (1) If the City has levied and collected an excise tax within the corporate limits of municipality under this Article because the county in which the city is located has refused or failed to enter into an intergovernmental agreement with each municipality wishing to participate in such excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(a)(1) and then the county determines to commence proceedings for the imposition of the excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(b)(2), then the excise tax levied and collected by the municipality shall cease to the extent as provided for by the Official Code of Georgia Annotated, Section 48-13-115(b)(2).
- (2) If the county has commenced proceedings for the imposition of the excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(b)(2) and the excise tax levied and collected by the municipality has terminated and the municipality has chosen to participate in the county excise tax, then this Article shall remain effective for the purposes of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated and particularly for the rates required by the Official Code of Georgia Annotated, Section 48-13-112.

Sec. 11-110. Administrative Provisions and Audit.

- (1) The City governing authority shall be authorized to designate a collecting officer for collection and administration of the excise tax under this ordinance.
- (2) The collecting officer shall be authorized to provide for procedures necessary to the proper implementation of this ordinance, including, but not limited to, periodic auditing of dealers collecting and remitting the excise tax.
- (3) The collecting officer, or designee, may examine the books, papers, records, financial reports, equipment and other facilities of and locations within the City of

any purchaser which is required to remit the excise tax to the energy dealer under this Article.

- (4) As part by the audit report required by the Official Code of Georgia Annotated, Section 36-81-7 the auditor shall include, in a separate schedule, a report of the revenues pertaining to the excise tax under this Article.

SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE

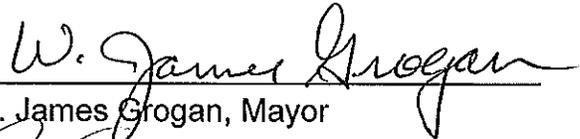
If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FOUR

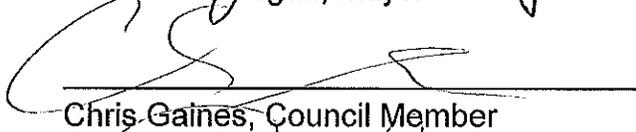
This ordinance shall become effective immediately upon its adoption by the City Council, except that the imposition of the excise tax shall become effective as of January 1, 2013 as specified in the Official Code of Georgia Annotated, Section 48-13-116.

APPROVED this 17th day of December 2012 by the Mayor and Council of the City of Dawsonville, Georgia.

CITY OF DAWSONVILLE



W. James Grogan, Mayor



Chris Gaines, Council Member



Jason Power, Council Member



Angie Smith, Council Member



Mike Sosebee, Council Member

ATTESTED TO BY:



Bonnie Warne, City Clerk

