

FIRST READING: June 1, 2009

SECOND READING: July 7, 2009

**AN ORDINANCE OF THE CITY COUNCIL OF DAWSONVILLE, GEORGIA IDENTIFYING AND ADOPTING THOSE RULES AND REGULATIONS PROMULGATED BY THE GEORGIA DEPARTMENT OF HUMAN RESOURCES; IDENTIFYING AND ADOPTING THOSE RULES AND REGULATIONS ENACTED BY THE DAWSON COUNTY BOARD OF HEALTH; PROVIDING FOR JURISDICTION AND ENFORCEMENT OF THOSE RULES AND REGULATIONS IN THE MUNICIPAL COURT OF DAWSONVILLE, GEORGIA AND THE MAGISTRATE COURT OF DAWSON COUNTY; PROVIDING FOR CRIMINAL PENALTIES FOR VIOLATION THEREOF; AND FOR OTHER PURPOSES, ALL FOR THE PROTECTION AND PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF DAWSONVILLE, GEORGIA.**

**WHEREAS**, in accordance with Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, and pursuant to O.C.G.A. § 36-35-3(a), the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government; and

**WHEREAS**, the City Council of Dawsonville, Georgia (hereinafter the "City") desires to identify and adopt rules and regulations to protect the public health, safety and welfare by preventing unhealthy conditions to exist in the City; and

**WHEREAS**, the Georgia Department of Human Resources ("DHR") has promulgated multiple rules and regulations for the protection of environmental health and public health, and has tasked local Boards of Health with the enforcement of these requirements; and

**WHEREAS**, enforcement and prosecution of DHR rules and regulations in State and Superior Court can be time consuming and expensive on local Boards of Health,

and the ability to prosecute same through issuance of a citation to Municipal or Magistrate Court could significantly streamline the process both for the local Boards of Health and the citizens accused of prohibited conduct; and

**WHEREAS**, in addition to DHR promulgated rules, the local Boards of Health have adopted their own public health/environmental regulations, which could also benefit from the ability to proceed to Municipal or Magistrate Court for prosecution; and

**WHEREAS**, appropriate notice and hearing on the rules and regulations contained herein have been carried out according to general and local law.

**NOW THEREFORE**, be it resolved and ordained by the City, and it is hereby resolved and ordained by the authority of same as follows:

I.

**STATE PROMULGATED RULES AND REGULATIONS**

The following rules and regulations of the Georgia DHR, including all subsequent amendments, revisions or modifications thereto, and which are expressly incorporated herein, are hereby adopted and approved for enforcement as set forth therein:

- (a) Control of Rabies, Comp. R. & Regs. § 290-5-2.
- (b) Food Service, Comp. R. & Regs. § 290-5-14.
- (c) Tourist Accommodations, Comp. R. & Regs. § 290-5-18.
- (d) Land Disposal of Domestic Septage, Comp. R. & Regs. § 290-5-25.
- (e) On-Site Sewage Management Systems, Comp. R. & Regs. § 290-5-26.
- (f) Drinking Water Supply, Comp. R. & Regs. § 290-5-55.
- (g) Solid Waste, Comp. R. & Regs. § 290-5-56.

(h) Special On-Site Sewage Management Systems, Comp. R. & Regs. § 290-5-59.

(i) The Georgia Smokefree Air Act of 2005, Comp. R. & Regs. § 290-5-61.

Copies of those DHR rules and regulations are available at the DHR website:

[http://rules.sos.state.ga.us/pages/DEPARTMENT\\_OF\\_HUMAN\\_RESOURCES/PUBLIC\\_HEALTH/index.html](http://rules.sos.state.ga.us/pages/DEPARTMENT_OF_HUMAN_RESOURCES/PUBLIC_HEALTH/index.html)

## II.

### **LOCAL BOARD OF HEALTH ENACTMENTS**

Pursuant to O.C.G.A. § 31-3-1, *et seq.*, in addition to the above-referenced rules and regulations of the Georgia DHR, the following rules and regulations have been enacted by the Dawson County Board of Health and are hereby adopted by the City in accordance with State law, and are further hereby adopted and approved for enforcement as set forth herein:

(a) Rules and regulations concerning Tattoo and Body Art, enacted by resolution dated April 17, 2001, as amended and adopted by the Dawson County Commission on August 5, 2004, which are hereby set forth verbatim herein and adopted by the City upon lawful adoption of this Ordinance.

(b) Rules and regulations concerning Swimming Pools, Spas and Recreational Water Parks, enacted by resolution dated February 15, 2001, as amended, which are hereby set forth verbatim herein and adopted by the City upon lawful adoption of this Ordinance.

(c) Rules and regulations concerning Rabies Control, enacted by resolution dated April 9, 2001, as amended, which are hereby set forth verbatim herein and adopted by the City upon lawful adoption of this Ordinance.

(d) Rules and regulations concerning Minimum Lot Size for On-site Sewage Disposal Systems (Septic Tanks), enacted by resolution dated June 22, 2004, as amended, which are hereby set forth verbatim herein and adopted by the City upon lawful adoption of this Ordinance.

Copies of those rules and regulations enacted by the Dawson County Board of Health, and having been adopted by the City, are on file at the Dawson County Board of Health, where the same are available for inspection and copying by the public during regular business operating hours.

### III.

In addition, the rules and regulations concerning Minimum Lot Sizes for the orderly and safe development of property utilizing on-site sewage management systems, having been enacted by the Dawson County Board of Health, are hereby adopted, as the same may be amended from time to time and made a part of this Ordinance as though fully set out at length herein. The City may, however, require larger minimum lot sizes for utilization of on-site sewage management systems in zoning or land use districts providing for septic service, and in the event there is a conflict between the minimum lot size(s) established by the Dawson County Board of Health and that established by the City, the larger lot size(s) established by the City shall control and take precedence.

### IV.

A fee schedule for the implementation and confirmation of compliance with the above-referenced DHR Rules and Regulations and Local Board of Health Enactments, including permit and inspection fees, has been established by the Dawson County

Board of Health, and is hereby adopted by the City, as the same may be amended from time to time. A copy of this fee schedule, including all subsequent amendments, revisions or modifications thereto, is on file in the office of the City Clerk and is available for inspection and copying by the public during regular City operating hours.

V.

The enforcement and prosecution of this Ordinance shall be within the jurisdiction of the City of Dawsonville and the Dawson County Board of Health, and their authorized designee(s) or agent(s), and all law enforcement personnel acting in official capacity on behalf of the City of Dawsonville, Georgia.

VI.

It shall be unlawful for any natural person or persons or any legal entity including, and not limited to, a corporation, partnership, limited liability company, firm or trust, to violate any of the above-identified rules and regulations, and/or to fail or refuse to pay any fee established by the Dawson County Board of Health, and adopted by the City, for the implementation and confirmation of compliance with the above-identified rules and regulations, including all permit and inspection fees.

VII.

Any person or persons or any legal entity including, and not limited to, a corporation, partnership, limited liability company, firm or trust, violating any provision of the rules and regulations identified and adopted in this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or six months imprisonment, or both; provided however, that for any single violation the period of imprisonment shall not exceed one

hundred twenty (120) days and provided, further, that the judge may probate any part or all of any punishment imposed pursuant to this section.

VIII.

Each day during which a violation of any provision of the rules and regulations identified and adopted in this Ordinance shall constitute, and shall be considered, a separate offense.

IX.

The Municipal Court of Dawsonville, Georgia and the Magistrate Court of Dawson County shall have concurrent original jurisdiction upon any offense charged pursuant to this Ordinance.

X.

In addition to the rights and remedies set forth herein, or as otherwise authorized by law, the City, and the Dawson County Board of Health, retain and reserve the right to seek equitable relief, injunction, abatement, or any appropriate action or proceeding to protect the public health, safety and welfare. Failure or refusal to pay any fee approved for the implementation and confirmation of compliance with the above-identified rules and regulations, including all permit and inspection fees, may result in suspension and/or revocation of any permit issued by the Dawson County Board of Health.

XI.

Violations of all DHR promulgated rules and regulations and all local Board of Health enactments identified herein may be prosecuted by an accusation or citation, with or without a prosecuting attorney; and the City hereby authorizes the City attorney or his designee to prosecute violations of this Ordinance. In addition, the District

Attorney of Dawson County and his or her assistants or designees shall also have the authority to prosecute all citations or accusations issued for violation of the rules and regulations identified and adopted in this Ordinance.

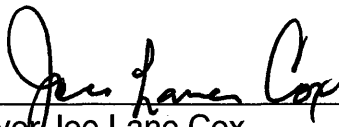
XII.

This Ordinance, and the enforcement and prosecution of this Ordinance by the City and the Dawson County Board of Health, and their authorized agent(s) or designee(s), does not in any way effect, estop, prescribe, regulate, limit, or in any way control or prohibit the Georgia DHR, and its agent(s) or designee(s), from initiating or undertaking any action or proceeding to enforce compliance with its rules and regulations.

XIII.

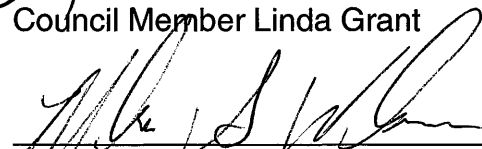
This Ordinance shall become effective immediately upon its adoption by the City Council of Dawsonville, Georgia. Any and all existing or pre-existing ordinances and provisions in conflict with this Ordinance are hereby repealed.

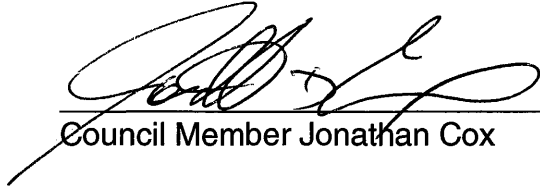
Adopted this 6<sup>th</sup> day of July, 2009.

  
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Mayor Joe Lane Cox

  
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Council Member Mike Sosebee

  
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Council Member Linda Grant

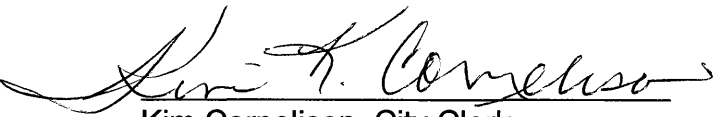
  
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Council Member Mike Wilson



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Council Member Jonathan Cox

Attest:



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Kim Cornelison, City Clerk