

MINUTES
CITY COUNCIL REGULAR MEETING AND WORK SESSION
G.L. Gilleland Council Chambers on 2nd Floor
Monday, July 17, 2023
5:00 P.M.

1. **CALL TO ORDER:** Mayor Eason called the meeting to order at 5:00 pm.
2. **ROLL CALL:** Present were Councilmember Mark French, Councilmember Caleb Phillips, Councilmember John Walden, Councilmember William Illg, City Attorney Kevin Tallant, City Manager Bob Bolz, City Clerk Beverly Banister, Public Works Director Trampas Hansard, Utility Director Jacob Barr, Planning Director Jameson Kinley, Finance Administrator Robin Gazaway and Director of Downtown Development Amanda Edmondson.
3. **INVOCATION AND PLEDGE:** Invocation and pledge were led by Councilmember Phillips.
4. **ANNOUNCEMENTS:** Mayor Eason announced the Public Hearing to be held by the City Council for the Atlanta Motorsports Park has been moved to August 21, 2023 since the process had to be restarted due to their newest request to amend their site plan. The Farmer's Market is now open on Wednesdays at 3:00 pm in addition to Saturdays from 8:00 am until 1:00 pm or until sold out. The City is holding a Food Drive for the barrels located in front of City Hall. The City's Comprehensive Plan will hold its final public meeting on August 10, 2023 at 5:30 pm at City Hall; he encouraged the public to attend.
5. **APPROVAL OF THE AGENDA:** Motion to approve the agenda as presented made by M. French; second by W. Illg. Vote carried unanimously in favor.
6. **PUBLIC INPUT:** No participation by the public.
7. **CONSENT AGENDA:** Motion to approve the consent agenda for the following items (a,b) made by J. Walden; second by C. Phillips. Vote carried unanimously in favor.
 - a. Approve Minutes
 - Regular Meeting held June 5, 2023
 - Executive Session held June 5, 2023
 - Special Called Meeting held June 28, 2023
 - b. Approve Amendment One to Service Agreement with SAFEbuilt
8. **2023 GEORGIA RACING HALL OF FAME INDUCTEES:** Mayor Eason read a proclamation honoring the 2023 Class of the Georgia Racing Hall of Fame Inductees who will be honored at the Induction Ceremony to be held on August 5, 2023. Those selected this year are Ed Clark, Harold "Speedy" Evans, Bob Leach, Gordon Pirkle and Hence Pollard.
9. **PRESENTATION OF HISTORIC COURTHOUSE PRINT:** City Manager Bolz reported the print of the 1870 Historic Courthouse was donated by the family of Leon Martin . Mr. Martin served as the Senior Magistrate Judge in Dawson County for a number of years and had the photo hung in his home office. The photo will be hung in the City Hall lobby.
10. **EMPLOYEE RECOGNITION:** City Manager Bolz introduced the City's newest employee, Hayden Harris; Clay Moss was recognized for receiving his certification for Wastewater Collection System Operator; David Schuette (not present at the meeting) was recognized for his two year service award; Amanda Edmondson received the May 2023 Employee of the Month award; Hunter Simmons received the June 2023 Employee of the Month Award; Clay Moss and Stacy Harris received the Spring Employee of the Quarter award.

BUSINESS

11. **A FAMILY FAIR EVENT BY FAMILY CONNECTION: REQUEST FOR ROAD CLOSURE AND FEE WAIVER:** Rebecca Bliss from Family Connection presented the details and overall goal of the event.

Motion to approve the road closure of Main Street through Main Street Park on August 11, 2023 from 5:00 pm – 11:00 pm and to waive the fees for the permit and the pavilion rentals made by M. French; second by J. Walden. Vote carried unanimously in favor.
12. **MAIN STREET PAWN BROKER LICENSE FEE REDUCTION REQUEST:** Planning Director Kinley presented the request made from the owner of Main Street Pawn who is asking for a waiver or reduction of her broker license fee. Erika Smith, the owner of Main Street Pawn, addressed the City

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Council and explained her current situation and reasons for requesting the waiver. Councilmember Walden asked about the history of waivers from the last two years; Planning Director Kinley reported the City Council approved a fifty-percent reduction for both years.

Motion to deny the request to waive or reduce the broker license fee for Main Street Pawn made by J. Walden; second by W. Illg. Vote carried unanimously in favor.

- 13. ORDINANCE NO. 02-2023: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA, TO COMPLY WITH RECENT AMENDMENTS TO THE ZONING PROCEDURES ACT, O.C.G.A. § 36-6-1 ET SEQ.; AND FOR OTHER PURPOSES (PUBLIC HEARING AND FIRST READING: JUNE 5, 2023; SECOND READING AND CONSIDERATION TO ADOPT: JULY 17, 2023)** Attorney Tallant read the second reading of Ordinance No. 02-2023 to amend the zoning ordinance.

Motion to approve Ordinance No. 02-2023 as presented made by C. Phillips; second by J. Walden. Vote carried unanimously in favor. (Exhibit "A")

- 14. ORDINANCE NO. 03-2023: AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF DAWSONVILLE FOR THE PURPOSE OF APPROVING A CLARIFIED REAPPORTIONMENT MAP AND TO ADDRESS COMPENSATION OF THE GOVERNING AUTHORITY (FIRST READING AND ADOPTION: JUNE 5, 2023; SECOND READING AND FINAL ADOPTION: JULY 17, 2023):** Attorney Tallant read the second reading of ordinance No. 03-3023 to amend the City Charter.

Motion to approve the second adoption of Ordinance No. 03-2023 made by W. Illg; second by M. French. Vote carried unanimously in favor. (Exhibit "B")

- 15. ORDINANCE NO. 04-2023: AN ORDINANCE TO AMEND THE DOMESTIC ANIMAL CONTROL ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (FIRST READING: JUNE 5, 2023; SECOND READING AND CONSIDERATION TO ADOPT: JULY 17, 2023):** Attorney Tallant read the second reading of Ordinance No. 04-2023 to amend the animal control ordinance.

Motion to approve Ordinance No. 04-2023 made by J. Walden; second by C. Phillips. Vote carried unanimously in favor. (Exhibit "C")

- 16. ORDINANCE NO. 05-2023: AN ORDINANCE TO AMEND THE HEALTH AND SANITATION ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (FIRST READING: JUNE 5, 2023; SECOND READING AND CONSIDERATION TO ADOPT: JULY 17, 2023):** Attorney Tallant read the second reading of Ordinance No. 05-2023 to amend the health and sanitation ordinance.

Motion to approve Ordinance No. 05-2023 made by W. Illg; second by C. Phillips. Vote carried unanimously in favor. (Exhibit "D")

- 17. ORDINANCE NO. 06-2023: AN ORDINANCE TO AMEND THE UTILITIES ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (FIRST READING: JUNE 5, 2023; SECOND READING AND CONSIDERATION TO ADOPT: JULY 17, 2023):** Attorney Tallant read the second reading of Ordinance No. 06-2023 to amend the utilities ordinance.

Motion to approve Ordinance No. 06-2023 made by J. Walden; second by M. French. Vote carried unanimously in favor. (Exhibit "E")

- 18. EMPLOYEE PERSONNEL POLICY:** Motion to adopt the amendments made to the employee personnel policy made by M. French; second by C. Phillips. Vote carried unanimously in favor.

- 19. IMPACT FEE COMMITTEE RECOMMENDATION:** Planning Director Kinley provided a brief overview of the requirements for the committee stating there needs to be a minimum of five persons but not more than ten; and fifty percent of the committee must be persons involved with the development community.

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Motion to approve a total of five members for the committee to be chosen from the recommended persons (two from the non-development community and three from the development community) as submitted who include Alexis Noggle, Calvin Byrd, Jeremy Porter and Marc Banister from the non-development community and Mike Turner, Corey Guthrie, Bryan Young, Steve Eiberger and Allen Freisem from the development community made by W. Illg; second by J. Walden. Councilmember French thanked the staff for developing the list of recommendations. He further stated, although with no reflection on their character, he does take issue with two people. One being Marc Banister, the spouse of the City Clerk; his concern is public perception and secondly, Mike Turner, due to his perceived objection to impact fees with the concern being his assumed inability to be objective. Attorney Tallant stated, regarding Marc Banister, that a legal conflict issue would only exist if he or she were in either chain of command to each other but understood the public perception issue raised. Vote carried unanimously in favor.

20. HISTORIC RESOURCE SURVEY GRANT AWARD: Motion to approve the Historic Preservation Fund Grant in the amount of \$6,000 with a fifty percent match requirement by the City made by W. Illg; second by M. French. Vote carried unanimously in favor.

21. T-MOBILE HOMETOWN GRANT: Downtown Development Director Edmondson reported on the grant application submitted for the T-Mobile Hometown Grant in the amount of \$47,627.13 for the implementation of a project to combine community oral histories and public art intending to serve City goals to preserve history, cultural heritage and engage the public to enhance sense of place.

Motion to approve the grant application made by J. Walden; second by W. Illg. Vote carried unanimously in favor.

STAFF REPORTS

22. BOB BOLZ, CITY MANAGER: He reported there were no leak adjustments for the fourth consecutive month. Councilmember Illg requested clarification on whether or not the skatepark is being eliminated since pickleball and basketball courts are being constructed in the same vicinity. Bolz reported that the intention will be to move the skatepark to the grass area in the loop near the assisted living and transform the existing pad where the skatepark is currently located into a small bathroom and pavilion.

23. ROBIN GAZAWAY, FINANCE ADMINISTRATOR: Finance Administrator Gazaway presented the financial reports representing fund balances and activity through May 31, 2023.

EXECUTIVE SESSION

At 5:33 p.m. a motion to close regular session and go into executive session for land acquisition and litigation made by J. Walden; second by W. Illg. Vote carried unanimously in favor.

At 5:41 p.m. a motion to close executive session was made by C. Phillips; second by J. Walden. Vote carried unanimously in favor.

Motion to resume regular session was made by M. French; second by W. Illg. Vote carried unanimously in favor.

ACTION ON EXECUTIVE SESSION ITEMS

A. LAND ACQUISITION: City Manager Bolz reported on the piece of property the City would like to acquire for the purpose of building a future water tower site.

Motion to approve the purchase of 55 Hwy 9 North in the amount of \$216,000 to be paid out of the Enterprise Fund made by J. Walden; second by W. Illg. Vote carried unanimously in favor.

B. LITIGATION: City Attorney Tallant reported on the agreement signed by Etowah Water and Sewer Authority (EWSA) and presented to Council this evening for adoption. He stated the agreement will end the litigation, clarify service boundaries and define working cooperatively to provide services to both City and County residents.

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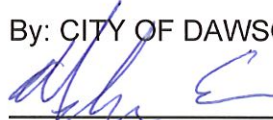
Motion to approve the Intergovernmental Agreement with Etowah Water and Sewer Authority made by C. Phillips; second by M. French. Vote carried unanimously in favor. (Exhibit "F")

ADJOURNMENT:

At 5:45 p.m. a motion to adjourn the meeting was made by J. Walden; second by W. Illg. Vote carried unanimously in favor.

Approved this 7th day of August 2023

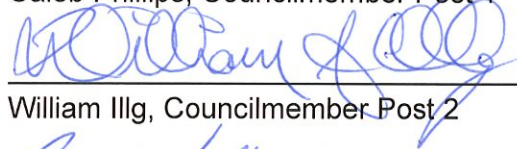
By: CITY OF DAWSONVILLE



Mike Eason, Mayor



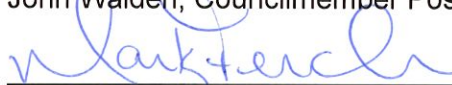
Caleb Phillips, Councilmember Post 1



William Illg, Councilmember Post 2



John Walden, Councilmember Post 3



Mark French, Councilmember Post 4

Attest:



Beverly A. Banister, City Clerk



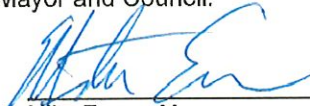
STATE OF GEORGIA
COUNTY OF DAWSON

AFFIDAVIT OF THE CITY OF DAWSONVILLE MAYOR AND COUNCIL

Mayor Michael Eason, Councilmember John Walden, Councilmember Caleb Phillips, Councilmember William Ilg, and Councilmember Mark French; being duly sworn, state under oath that the following is true and accurate to the best of their knowledge and belief:

1. The City of Dawsonville Council met in a duly advertised meeting on July 17, 2023.
2. During such meeting, the Board voted to go into closed session.
3. The executive session was called to order at 5:33 p.m.
4. The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law: (check all that apply)
 - Consultation with the City Attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the City or any officer or employee or in which the City or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1);
 - Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and _____;
 - Discussion of future acquisition of real estate as provided by O.C.G.A. § 50-14-3(b)(1);
 - Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a City officer or employee as provided in O.C.G.A. § 50-14-3(b)(2);
 - Other _____ as provided in: _____.


This 17th day of July 2023; By the City of Dawsonville, Mayor and Council:


Mike Eason, Mayor


Caleb Phillips, Councilmember Post #1


William Ilg, Councilmember Post #2

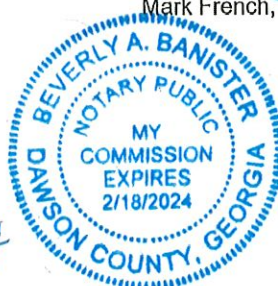

John Walden, Councilmember Post #3


Mark French, Councilmember Post #4

Sworn to and subscribed before me this
17 day of July, 20 23.


Signature, Notary Public

My Commission expires: Feb 18, 20 24



Subject Matter: Zoning Ordinance Amendment
Date of Public Hearing and First Reading: June 5, 2023
Date of Second Reading: July 17, 2023
Date of Adoption: July 17, 2023

ORDINANCE NO. 02-2023

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA, TO COMPLY WITH RECENT AMENDMENTS TO THE ZONING PROCEDURES ACT, O.C.G.A. § 36-6-1 et seq.; AND FOR OTHER PURPOSES

WHEREAS the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing body may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989 pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for coordinated and comprehensive planning; and

WHEREAS, The City finds that the regulations contained in this Ordinance are necessary for the purposes of implementing its comprehensive plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Ordinance has been prepared and considered in accordance with the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., and

WHEREAS, this Ordinance is necessary for the purposes of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of the City of Dawsonville; and encouraging the most appropriate use and development of land and buildings throughout the City of Dawsonville in accordance with its duly adopted comprehensive plan;

NOW THEREFORE, the governing body of the City of Dawsonville, Georgia, does hereby ordain, enact and thereby incorporate into the City Code of Dawsonville, Georgia, this ordinance and all of its sections as set forth below:

SECTION I. Powers of the planning director

Section 901 Powers of the planning director of the Dawsonville Code of Ordinances is deleted in its entirety and a new Section 901 Powers of the planning director is hereby enacted as follows:

The planning director has the authority and responsibility to provide the following services:

- A. Provide information concerning the requirements of this ordinance and require compliance with these requirements.
- B. Issue permits under the conditions and procedures required by this ordinance.
- C. Dispense and receive applications as required by this ordinance.

D. Determine the applicable district, uses, and standards for a particular parcel of land.

E. Provide assistance and guidance to applicants concerning compliance with this ordinance.

F. Collect, receive, disburse, and account for fees and monies as required under the provisions of this ordinance.

G. Serve as the secretary of the planning commission when appointed.

H. Act as liaison for the planning commission with other officials.

I. Maintain official records and perform administrative duties required in the execution of the provisions of this ordinance.

J. The planning director is charged with interpretation of the zoning ordinance and related ordinances.

K. Provide general information to the public concerning the application and administration of this ordinance.

SECTION II: Variances, conditional uses and map amendments

Sections 902 Administrative variances of the Dawsonville Code of Ordinances is deleted in its entirety. Section 907 Variances, conditional uses and map amendments is deleted in its entirety and a new Section 907 Variances, conditional uses and map amendments is hereby enacted as follows:

I. Purpose. The purpose of a variance is to provide relief when a strict application of the district requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other conditions on the site or in the immediate vicinity. No variance shall be granted to allow the use of property for a purpose not authorized within the district in which the proposed use would be located. A variance should be granted only after evidence is presented and accepted that enforcement of all of the required standards on the property in question would render the property useless. This article establishes conditions; criteria for granting variances; public hearings on proposed variances; variances to road requirements; variance procedures; compliance with conditions of approval; vested interest in approved variances; investigations and reports; revocation; limitations on re-applications; and use variance. A variance may be granted, upon specific findings that all of the following conditions exist. The absence of any one of the conditions shall be grounds for denial of the application for variance.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and,

2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and,

3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and,

4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value; and,

5. The special circumstances are not the result of the actions of the applicant; and,

6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; and,

7. The variance is a request to permit a use of land, building or structures which is permitted by right in the district involved.

II. Notwithstanding anything in paragraph I, the planning commission shall have the power to grant a variance (except for density and use) from the development standards of the zoning ordinance of the city if the intent of the ordinance can be achieved and equal performance obtained by granting the variance.

A. Authority. The authority to grant variances in accord with this section shall be limited to variances from the following requirements:

1. Front yard, side yard and rear yard setbacks. Variances shall not exceed 20 percent of the setback in applicable zoning district;

2. Building height. A variance may be granted up to, but not exceeding, ten feet if such variance does not allow space habitable by humans and is also approved by the fire marshal and would not result in an increase in the number of stories that would otherwise be allowed by the zoning district;

3. Buffers. The dimensions of a landscaping buffer required by the zoning ordinance or other ordinance may be varied by no more than twenty percent if the adopted comprehensive plan recommends a similar or more compatible use of the neighboring property or in other situations if the intent of the required buffer can be equally achieved; however, no buffer required as a condition of zoning shall be modified; and

4. Parking. If the required parking standards cannot reasonably be met and if a variance will not adversely affect the spirit or intent of the ordinance, then a variance of not more than ten percent may be granted.

B. Application, notification and fee. The applicant may choose to either submit an affidavit attesting to notice that includes signatures of all adjoining property owners listed within the application package consenting to the requested variance or the applicant may choose to request written notice from the planning department to adjoining property owners of the variance application and then wait at least thirty business days from notice to all adjoining property owners before the variance may be considered for approval. In either application method, notice of the variance application shall be posted upon the property as required by law before the variance is considered and shall state the variance requested and the date the variance shall be considered.

C. Basis for approval. No variance may be granted under this paragraph for an application for a variance that has been heard by the planning commission within one year or if the application is for the expansion of a non-conforming use or structure. The following criteria shall be considered by the planning commission before granting a variance under this paragraph:

1. The variance neither interferes with the rights of others as provided in this chapter nor is injurious to the public health, safety, general welfare;

2. A strict interpretation and enforcement of the standards or requirement would result in practical difficulty or unnecessary hardship;

3. Exceptional or extraordinary circumstances applicable to the subject property exist that do not generally apply to other properties in the same district;

4. The variance provides for reasonable use under the specified circumstances of each application;

5. The variance achieves the general intent of this ordinance;
6. The variance is the minimum possible variance under the specific circumstances; and
7. The variance does not exceed the scope of the authority set forth in subsection (A) hereof.

III. Conditions of approval. The planning commission may impose reasonable conditions upon any variance to ensure that the public health, safety, and general welfare are protected. A violation of any imposed condition shall be a violation of this section.

IV. At any time before the planning commission renders a decision on an application for a variance, the planning director may direct that the application be transferred to the mayor and city council for consideration by them, and shall take appropriate steps to effect such transfer. The planning director should direct transfer under this paragraph if, based on the nature of the variance requested, consideration of the application by the mayor and city council would be in the public interest. The planning commission shall take no further action on the application after the planning director directs the transfer, and any action taken on the application by the planning commission after such direction shall be void. Upon transfer, the mayor and council shall hold a hearing on the application that complies with section 911 of this article and shall grant or deny the variance, applying the criteria set forth in paragraph I, II, and III of this section, and shall issue or direct the issuance of any necessary permit.

V. Appeal. An applicant or opposing party may seek review in superior court of any decision of the planning commission under this section in accordance with O.C.G.A. § 36-66-5.1. Pursuant to O.C.G.A. § 36-66-5.1(c)(1), the Planning Director of the City of Dawsonville is hereby designated as the officer who shall have authority to receive service of a petition for review of the planning commission's grant or denial of a variance and to approve or issue a certificate needed to perfect the petition.

SECTION III. Appeal

Section 910.3 Appeal of the Dawsonville Code of Ordinances is deleted in its entirety and a new Section 910.2 Appeal is hereby enacted as follows:

Any decision of the city council under this Article is subject to review in the county superior court in accordance with O.C.G.A. § 36-66-5.1. Pursuant to O.C.G.A. § 36-66-5.1(c)(2), the mayor is hereby designated as the elected official who shall have authority to receive service of a petition for review of any quasi-judicial decision of the local government under this Article.

SECTION IV: Public notice and public hearing required

Section 911 Public notice and public hearing required is deleted in its entirety and a new Section 911 Public notice and public hearing required is hereby enacted as follows:

This section shall apply to all applications for amendments to the text of the zoning regulations, amendments to the official zoning map, petitions for variances, requests for conditional use approval, requests for alteration or extension of conditional zoning, applications for site plan approval and petitions for development approval for property within site plan specific zoning districts.

Upon receipt of a completed application, fees and other information required by this article, the planning director or designee shall cause notice of such application to be published at least one time in a newspaper of general circulation in the community at least 15 days (or 30 days in the case of a quasi-judicial decision, as that term is defined in O.C.G.A. § 36-66-3), but not more than 45 days prior to the date of public hearing before the appropriate body. Said published notice shall include, as a minimum, the purpose, location, date and time of the public hearing, before the governing body, the purpose, location, date and time of the public hearing before the planning commission, the location of the property being considered, the present zoning classification of the property, and proposed action to be taken, as appropriate, such as proposed zoning district, type of conditional use, variance to particular articles and sections, and so forth. Whenever published notice is required by this paragraph, additional notice shall be mailed to the owner of the property that is the subject of the proposed action. The planning director or designee shall also cause to have posted in a conspicuous place on said property one or more sign(s), each of which shall contain the information specified for published notices. No public hearing shall take place until said sign(s) have been posted for at least 15 days but not more than 45 days prior to the date of the public hearing.

All required public hearings shall be held by the planning commission and/or the governing body, and no action shall be taken on said applications until a public hearing has been held by the planning commission and/or the governing body.

Public hearings may be delayed, rescheduled or continued at another time and date, provided announcement is given at the time and place of the initially scheduled and advertised public hearing, and provided such date, time and location of the public hearing to be delayed, rescheduled or continued is given. If the applicant of a petition before the planning commission or governing body fails to attend the public hearing, then the planning commission or governing body may deny the subject petition or may require re-advertisement of the subject petition at the expense of the applicant. If there is no quorum of the planning commission or governing body at the scheduled public hearing, then the public hearing(s) shall be rescheduled and re-advertised at the city's expense.

Notwithstanding any other provision of these regulations, when a proposed zoning decision relates to an amendment of a zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision may only be adopted in compliance with the notice and multiple-hearing requirements of O.C.G.A. § 36-66-4(h), which are hereby incorporated into this section. The planning director shall be responsible for carrying out the notice requirements of that provision, and is hereby empowered to take any appropriate action to that end.

SECTION V: Planning commission recommendation

Section 913 Planning commission recommendation of the Dawsonville Code of Ordinances is deleted in its entirety and a new Section 913 Planning commission recommendation is hereby enacted as follows:

Prior to the first public hearing held by the governing body on any of the following matters, the planning commission shall hold a public hearing on all applications for amendment to the text of the zoning regulations, amendments to the official zoning map, conditional use permit applications, petitions for alteration or extension of conditional zoning, requests for development plan approval within site plan specific zoning districts request for site plan approval.

After completing its studies of the particular petition, the planning commission shall submit a recommended action in writing to the governing body. The planning commission may submit any additional report it deems appropriate. The recommendations of the planning commission shall have an advisory effect only and shall not be binding on the governing body. Copies of the planning commission's recommendations and reports shall be made available to the applicant and other interested parties upon completion and distribution to the governing body and at the public hearing before the governing body.

The planning commission shall have 30 days within which to submit its recommendations. The governing body shall not take action on any of said applications, until it has received the recommendation of the planning commission within the specified time period. If the planning commission fails to submit a recommendation within the 30-day period, it shall be deemed to have approved the proposed application.

SECTION VI: Action by the appropriate body

Section 915 Action by the appropriate body of the Dawsonville Code of Ordinances is deleted in its entirety and a new Section 915 Action by the appropriate body is hereby enacted as follows:

After completion of all required public hearings, the governing body may take action to approve or deny the request, refer the application back to the planning director or designee, or planning commission for further study, or the governing body may table or defer action until a later meeting.

SECTION VII: Accessory buildings and uses

Sec. 712 Accessory buildings and uses of the Dawsonville Code of Ordinances is deleted in its entirety and a new Section 712 Accessory buildings and uses is hereby enacted as follows:

Accessory buildings and uses shall be permitted only in side or rear yards, except as otherwise provided by these regulations.

Accessory buildings and uses shall be permitted only if they meet the following:

1. No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory.
2. No more than two accessory buildings shall be permitted on a residential lot.
3. Accessory buildings and uses shall be setback according to zoning classifications.
4. Where an accessory building is structurally attached to the principal building, it shall be subject to and must conform to all regulations applicable to the principal building.
5. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both streets.
6. Accessory buildings in residential districts shall not be used for any type of commercial operation, whether permanent, part-time or as part of a home occupation.
7. No accessory building on a residential lot shall exceed the height of the primary structure.
8. Detached accessory buildings shall be located a minimum of ten feet from the principal building on a lot.
9. In no instance shall an accessory building exceed the gross ground floor area of the principal building.
10. All accessory buildings 201 square feet or greater are required to obtain permits.

Accessory structures shall be no larger than the footprint of the primary structure or one-half the gross square footage, whichever is greater. Notwithstanding the foregoing, if the lot size is three acres or greater, then the size of the accessory structure shall not be regulated in size but shall meet all setback requirements.

SECTION VIII: Assignment of AP

Section 3304 of the Dawsonville Code of Ordinances is amended as follows:

Paragraph 3 is amended by deleting "12 months" and inserting in place thereof "24 months."

SECTION IX: Conversion to city created performance standards.

Section 3305 of the Dawsonville Code of Ordinances is amended by deleting paragraph 2 thereof in its entirety and inserting in place thereof a new paragraph 2 as follows:

2. The AP zoning designation may be applied to land annexed into the corporate limits of the city for a period of up to 36 months after the effective date of the annexation as determined by chapter 36 of title 36 of the Official Code of Georgia Annotated.

a. At any time at least 24 months after the effective date of annexation of the property into the corporate limits of the city, the property may be rezoned pursuant to the application of the landowner or on the initiation of a rezoning by the governing authority.

b. If no zoning change application has been filed by the end of 26-months from the effective date of the annexation, then the zoning administrator shall thereafter initiate a zoning change to be governed by the Zoning Procedures Law, chapter 66 of title 36 of the Official Code of Georgia Annotated, and the City of Dawsonville Code of Ordinances in order to assign the property a zoning district under the City of Dawsonville's zoning ordinance.

SECTION X: Incorporation and Repealer

Except as modified herein, the remainder of the ordinance regulating zoning is affirmed and incorporated herein. All laws and parts of laws in conflict with this enactment are hereby repealed.

SECTION XI: Effective Date

This ordinance shall be effective the day following its passage by the Council of the City of Dawsonville.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 17 day of July, 2023.

[Executions on Following Page]

MAYOR AND DAWSONVILLE CITY COUNCIL

By: 
Mike Eason, Mayor


Caleb Phillips, Council Member Post #1

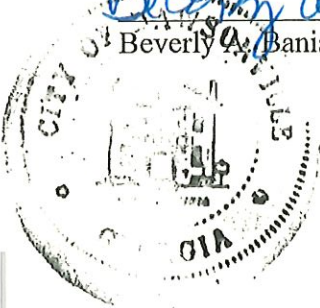

William Illg, Council Member Post #2


John Walden, Council Member Post #3


Mark French, Council Member Post #4

ATTESTED TO BY:


Beverly A. Banister, City Clerk



**Subject Matter: Charter Amendment – District Map Finalization;
Compensation of Mayor and Council**

First Reading and Adoption: 06/05/2023

Second Reading and Final Adoption: 07/17/2023

Publication Dates: 05/24/2023, 05/31/2023, 06/07/2023

Filed with DC Clerk of Court (publication version): 05/19/2023

Filed with DC Clerk of Court (adopted version): _____

Filed with Georgia Secretary of State: _____

ORDINANCE NO. 03-2023

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF DAWSONVILLE FOR THE PURPOSE OF APPROVING A CLARIFIED REAPPORTIONMENT MAP AND TO ADDRESS COMPENSATION OF THE GOVERNING AUTHORITY

WHEREAS, the Charter of the City of Dawsonville, Georgia provides in Section 5.11(e) there shall be four (4) council member districts of approximately equal populations that shall be created and modified as required.

WHEREAS, the City of Dawsonville's current voting district posts were created utilizing data obtained from the 2020 United States Census;

WHEREAS, the City utilized the services of the Georgia Mountain Regional Commission to analyze available data and information from the most recent decennial census to describe population growth and change;

WHEREAS, the Georgia Mountain Regional Commission determined population growth and shifts resulted in uneven voting districts;

WHEREAS, reapportioned election districts were adopted in accordance with state law;

WHEREAS, the maps adopted as part of the reapportionment process have been clarified to include areas where there is no voting population, but which nevertheless is within the City.;

WHEREAS, the City desires to adopt the clarified map, which does not alter the voting districts or apportionment, but more accurately reflects the district breakdown of the City;

WHEREAS, O.C.G.A. § 36-35-4 authorizes municipalities to fix the salary, compensation, and benefits of the members of its governing authority;

WHEREAS, any change to the salary, compensation, and benefits of the governing authority must be completed prior to the time for candidate qualification and cannot take effect until after those persons next elected take office.

WHEREAS, a notice of the proposed Charter Amendment, authorized by the General Assembly pursuant to O.C.G.A. § 36-35-3 was published in the Legal Organ for Dawson County for each of three (3) weeks within sixty (60) days of the final action on this ordinance, O.C.G.A. § 35-35-3(b)(1);

WHEREAS, the title of these Ordinances shall have been read and the Ordinance duly adopted at two (2) consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart, as required by Georgia law;

NOW THEREFORE, the Mayor and Council for the City of Dawsonville, at consecutive Regular meetings of the Governing Authority for the City of Dawsonville, does HEREBY DECLARE AND ORDAIN as follows:

1. The statements and conclusions contained in the “Whereas” paragraphs above are made the findings of fact of the City Council.

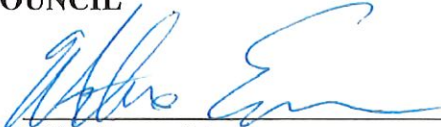
Any previous maps, depictions, or representations of the voting district posts found in the Charter of the City of Dawsonville are hereby REPEALED in their Entirety.

2. A new Appendix A is hereby enacted and described as shown in the attached Exhibit 1 illustrating the clarified district lines.
3. Subsection (a) of **Section 2.13** of Article II of the Charter of the City of Dawsonville is hereby amended by repealing existing subsection (a) in its entirety and replacing it with a new section subsection (a) as follows:

Effective January 1, 2024, the compensation of the mayor shall be \$1,200.00 per month and the compensation of each council member shall be \$600.00 per month, until such time as the compensation of the mayor and/or council are amended by ordinance adding to or amending the City’s Code of Ordinances in accordance with subsection (c). In addition to this monthly compensation, the mayor and council members shall also be paid \$100.00 per individual for each city council meeting and for any other meeting that has been pre-approved for compensation by the council that they attend other than the first regular city council meeting of the month. In addition to their compensation, the mayor and each council member shall be eligible to receive such benefits as may be permitted by law and approved by the City Council.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 17 day of July, 2023.

MAYOR AND DAWSONVILLE CITY COUNCIL

By: 
Mike Eason, Mayor


Caleb Phillips, Council Member Post 1

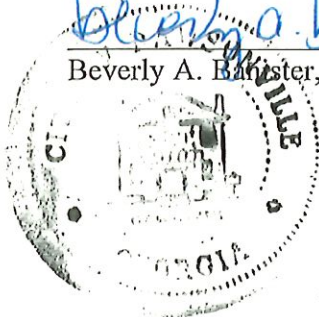

William Ilg, Council Member Post 2


John Walden, Council Member Post 3

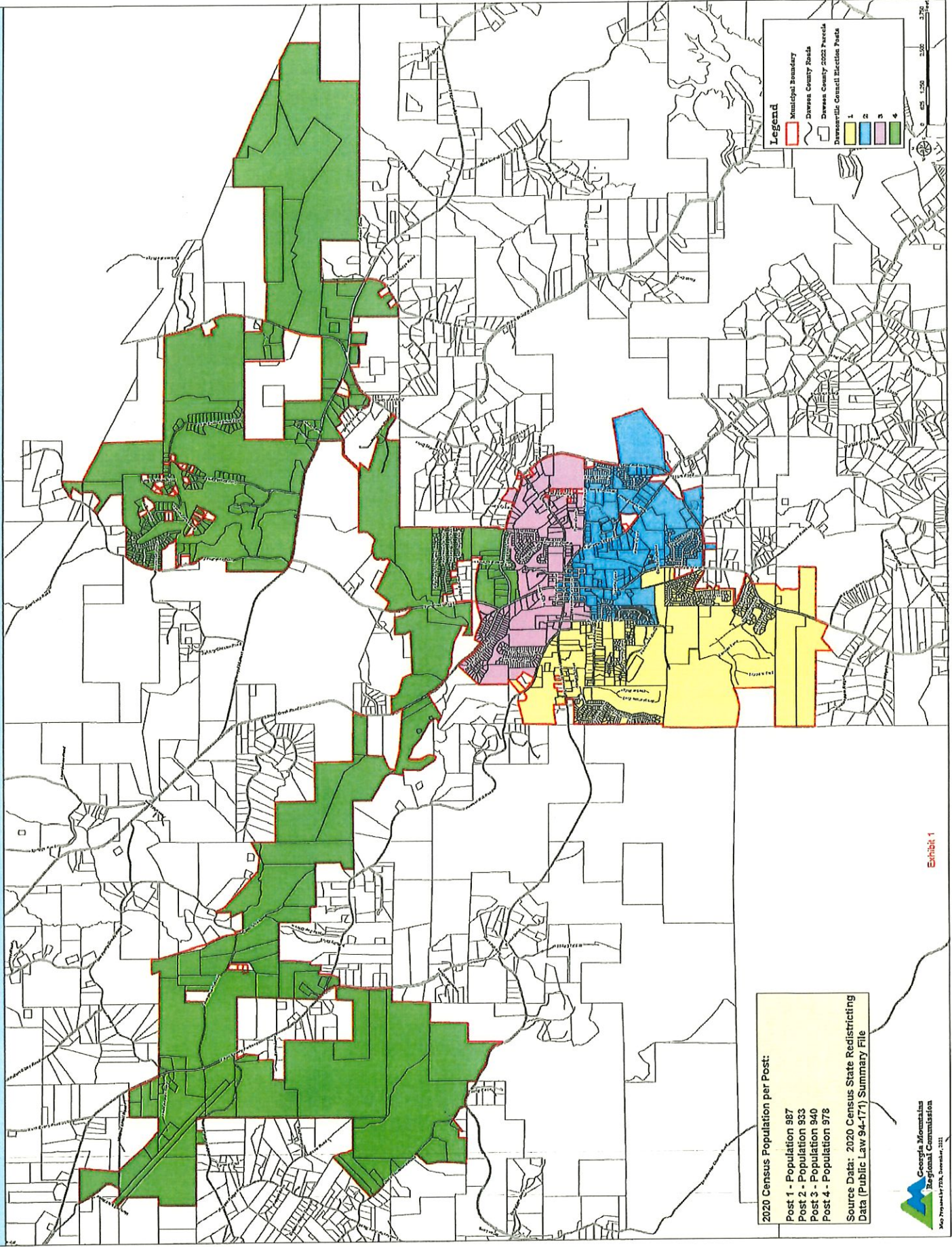

Mark French, Council Member Post 4

ATTESTED TO BY:


Beverly A. Banister, City Clerk



City of Dawsonville Council Election Posts



2020 Census Population per Post:
Post 1 - Population 987
Post 2 - Population 933
Post 3 - Population 940
Post 4 - Population 978
Source Data: 2020 Census State Redistricting Data (Public Law 94-171) Summary File

Subject Matter: Animal Control
Date of First Reading: June 5, 2023
Date of Second Reading: July 17, 2023
Date of Adoption: *July 17, 2023*

ORDINANCE NUMBER 04-2023

AN ORDINANCE TO AMEND THE DOMESTIC ANIMAL CONTROL ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, pursuant to Article IX, Section II, Paragraph II of the Constitution of the State of Georgia and Chapter 35 of Title 36 of the Official Code of Georgia, the City Council of Dawsonville is empowered to adopt reasonable ordinances for local government upon matters not governed by general law and which are not inconsistent with the Constitution of the State of Georgia or the Charter of the City of Dawsonville; and

WHEREAS, the City Council has determined it is in the interests of public health, safety, morals, convenience, order, prosperity, and general welfare of the City of Dawsonville to update and clarify certain provisions of the City's Domestic Animal Control Ordinance;

NOW THEREFORE, the governing body of the City of Dawsonville, Georgia, does hereby amend its Domestic Animal Control Ordinance as follows:

SECTION I: Chapter 4 Animals, Article II Domestic Animal Control, Section 4-27 Duty to keep animal under restraint, While on property is hereby amended by deleting Section 4-27 in its entirety and inserting in lieu thereof a new Section 4-27, as follows:

§ 4-27 Duty to keep animal under restraint, While on property

It shall be the duty of every owner of any animal to ensure the animal, while on the owner's property, is confined by way of a fence or other enclosure (which shall include an invisible fence which is functioning properly and to which the animal is responsive) or is otherwise under control as that term is defined in Section 4-28 of this article, such that the animal cannot leave the property except while under control.

SECTION II: Chapter 4 Animals, Article II Domestic Animal Control, Section 4-28 Same, While off property is hereby amended by deleting Section 4-28 in its entirety and inserting in lieu thereof a new Section 4-28, as follows:

§ 4-28 Duty to restrain animals generally.

(a) Whenever an animal is not confined by way of a fence or other enclosure pursuant to Section 4-27 of this article, it shall be the duty of the owner of such animal or anyone having the animal in his possession to keep the animal under control at all times. An animal is deemed under control when it is confined within

Subject Matter: Health and Sanitation
Date of First Reading: June 5, 2023
Date of Second Reading: July 17, 2023
Date of Adoption: July 17, 2023

ORDINANCE NUMBER 05-2023

AN ORDINANCE TO AMEND THE HEALTH AND SANITATION ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, in accordance with Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, and pursuant to O.C.G.A. § 36-35-3, the governing authority of the City of Dawsonville has power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government;

WHEREAS, on July 1, 2009, the City Council of Dawsonville adopted a comprehensive Health and Sanitation Ordinance;

WHEREAS, it has come to the attention of the City Council of Dawsonville that the Health and Sanitation Ordinance requires updating to cite current rules and regulations of the Georgia Department of Public Health; and

WHEREAS, it is in the interest of the public health, safety, good order, and general welfare of the City of Dawsonville to amend the Health and Sanitation Ordinance;

NOW THEREFORE, the City Council of Dawsonville hereby resolves and ordains as follows:

SECTION I: Chapter 6.5 Health and Sanitation, Article II Rules and Regulations, Section 6.5-50 State promulgated rules and regulations is hereby amended by deleting Section 6.5-50 in its entirety and inserting in lieu thereof a new Section 6.5-50 State Promulgated Rules and Regulations as follows:

The following rules and regulations of the Georgia Department of Public Health ("DPH"), 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:

- (1) Control of Rabies, Comp. R. & Regs. 511-2-7.
- (2) Food Service, Comp. R. & Regs. 511-6-1.
- (3) Tourist Accommodations, Comp. R. & Regs. 511-6-2.
- (4) Land Disposal of Domestic Septage, Comp. R. & Regs. 511-3-6.
- (5) On-Site Sewage Management Systems, Comp. R. & Regs. 511-3-1.
- (6) Drinking Water Supply, Comp. R. & Regs. 511-3-3.
- (7) Solid Waste, Comp. R. & Regs. 511-3-4.
- (8) The Georgia Smokefree Air Act of 2005, Comp. R. & Regs. 511-3-7.

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

<https://dph.georgia.gov/about-dph/public-health-regulations/current-dph-regulations>

SECTION II: Chapter 6.5 Health and Sanitation, Article II Rules and Regulations, Section 6.5-53 Fee schedule is hereby amended by deleting Section 6.5-53 in its entirety and inserting in lieu thereof a new Section 6.5-53 Fee Schedule as follows:

A fee schedule for the implementation and confirmation of compliance with the above-referenced rules and regulations and local board of health enactments, including permit and inspection fees, has been established by the 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.

SECTION II: Chapter 6.5 Health and Sanitation, Article II Rules and Regulations, Section 6.5-59 Prosecution, Citations or accusations is hereby amended by deleting Section 6.5-59 in its entirety and inserting in lieu thereof a new Section 6.5-59 Prosecution, Citations or Accusations as follows:

Violations of all 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 the 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 article.

SECTION III: Chapter 6.5 Health and Sanitation, Article II Rules and Regulations, Section 6.5-60 is hereby amended by deleting Section 6.5-60 in its entirety and inserting in lieu thereof a new Section 6.5-60 Enforcement by State as follows:

This article, and the enforcement and prosecution of this article by the city and the 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 DPH, and its agent(s) or designee(s), from initiating or undertaking any action or proceeding to enforce compliance with its rules and regulations.

SECTION IV: Incorporation and Repealer


Except as modified herein, the remainder of the Health and Sanitation Ordinance is affirmed and incorporated herein. All laws and parts of law in conflict with this enactment are hereby repealed.

SECTION V: Effective Date

This ordinance shall be effective the day following its passage by the City Council of Dawsonville.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 17 day of July, 2023.

MAYOR AND DAWSONVILLE CITY COUNCIL

By: 
Mike Eason, Mayor


Caleb Phillips, Council Member Post #1


William Illg, Council Member, Post #2


John Walden, Council Member Post #3


Mark French, Council Member Post #4

ATTESTED TO BY:


Beverly A. Bamister, City Clerk



a vehicle, whether parked or in motion; is secured by a leash or other device held by a competent person and the owner or another competent person authorized by the owner to take charge of the animal is present; or is properly confined within an enclosure with permission of the owner of the property where the enclosure is located. An animal may be under voice control only if the owner is present, the animal is responsive to the owner, and the animal is being used in hunting in accordance with section 4-26 of this article.

(b) No person shall tie, stake, or fasten any animal within any street, alley, sidewalk, or other public place or in such manner that the animal has access to any portion of any street, alley, sidewalk, or other public place.

(c) In addition to the other requirements of this section and Section 4-27, all male and female dogs and cats that have not been spayed or neutered must be securely confined in such a way that they cannot be reached by other dogs or cats, except for planned breeding. Every female dog in heat shall be confined in a building or other enclosure in such manner that such female dog cannot come into contact with another animal, except for planned breeding.

(d) In addition to the other requirements of this section and Section 4-27, every animal shall be restrained and controlled so as to prevent it from harassing passersby, chasing vehicles, or attacking persons or other animals.

(e) All animals must be confined in a vehicle or secured by a leash or other device held by a competent person while on property of the City, including but not limited to Main Street Park, the Dawsonville Municipal Complex, the Dawsonville Farmer's Market, and sidewalks owned by the City, and the owner or a competent authorized person must be present with the animal.

(f) Nothing contained in this ordinance shall authorize an animal to be confined or otherwise left in a vehicle under such circumstances where it is likely that the animal will come to harm through either heat or cold, and any person confining or leaving an animal in such circumstances shall be in violation of this ordinance, and may, in addition to any other enforcement, be subject to the enforcement mechanisms of Sec. 1-8 of the code of Dawsonville, Georgia.

SECTION III: Incorporation and Repealer


Except as modified herein, the remainder of the Domestic Control Ordinance is affirmed and incorporated herein. All laws and parts of law in conflict with this enactment are hereby repealed.

SECTION IV: Effective Date

This ordinance shall be effective the day following its passage by the City Council of Dawsonville.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 17 day
of July, 2023.

MAYOR AND DAWSONVILLE CITY COUNCIL

By: 
Mike Eason, Mayor


Caleb Phillips, Council Member Post #1


William Illg, Council Member Post #2


John Walden, Council Member Post #3


Mark French, Council Member Post #4

ATTESTED TO BY:


Beverly A. Banister, City Clerk



Subject Matter: Utilities
Date of First Reading: June 5, 2023
Date of Second Reading: July 17, 2023
Date of Adoption: July 17, 2023

ORDINANCE NUMBER 06-2023

AN ORDINANCE TO AMEND THE UTILITIES ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, pursuant to Article IX, Section II, Paragraph II of the Constitution of the State of Georgia and Chapter 35 of Title 36 of the Official Code of Georgia, the City Council of Dawsonville is empowered to adopt reasonable ordinances for local government upon matters not governed by general law and which are not inconsistent with the Constitution of the State of Georgia or the Charter of the City of Dawsonville; and

WHEREAS, the City Council has determined it is in the interests of public health, safety, morals, convenience, order, prosperity, and general welfare of the City of Dawsonville to update and clarify certain provisions of the City's Utilities Ordinance;

NOW THEREFORE, the governing body of the City of Dawsonville, Georgia, does hereby amend its Utilities Ordinance as follows:

SECTION I: Chapter 14 Utilities, Article II Water and Sewer Service, Section 14-21 Minimum charges is hereby amended by deleting Section 14-21 in its entirety and inserting in lieu thereof the following:

(a) The minimum charges, as provided in section 14-22, shall be made for each connection, provided that in any case when a customer commences or terminates service within 7 days of the monthly meter reading and the customer's usage for such period does not exceed 1,500 gallons, the minimum charge as set forth in section 14-22 shall be prorated per diem. Water furnished for a given lot shall be used on that lot only. Except for fire protection for the citizens of the city, the city shall not, under any circumstance, furnish water free of charge to anyone.

SECTION II: Chapter 14 Utilities, Article II Water and Sewer Service, Section 14-25 Meter readings, billing and collection is hereby amended by deleting paragraph (d) thereof in its entirety and inserting in lieu thereof a new paragraph (d), as follows:

(d) Return check fee. A service charge in the amount charged to the city by the city's bank plus the sum of \$35.00 will be charged on all checks returned to the city for insufficient funds, account closed, or any other reason, except that for electronic checks returned because the account cannot be found, the service charge shall be \$15.00.

SECTION III: Chapter 14 Utilities, Article II Water and Sewer Service is amended by inserting in lieu of reserved Section 14-85 the following:

The city manager or his or her designee shall have the authority, in his or her sole discretion, to remove or adjust any fee imposed by this article upon finding the imposition of such fee would cause undue hardship to the customer, that there is a valid basis for removing or adjusting the fee, and that the removal or adjustment of the fee will not result in repetitive fee adjustments or removals for the customer at issue or any other. Notwithstanding, neither the city manager nor his or her designee shall have authority to remove or adjust service charges imposed under sections 14-21 and 14-22 of this article.

SECTION IV: Chapter 14 Utilities, Article III Garbage Service is amended by inserting in lieu of reserved Section 14-143 the following:

Section 14-143: Service Termination Fee.

(a) Whenever garbage service is terminated for nonpayment, the city shall impose a service-termination fee in the amount of \$35.00 in addition to any outstanding balance owed, and the service to the customer shall not resume until the customer pays the service-termination fee in addition to any outstanding balance.

(b) Whenever a residential customer terminates garbage service and fails to leave the garbage can issued by the City on the premises, a service fee of \$65.00 shall be added to the customer's final bill.

(c) Whenever a customer terminates garbage service and leaves excess garbage outside the designated container, a service fee up to \$50.00 shall be added to the customer's final bill.

(d) The fees imposed by this section may be paid out of the customer's security deposit and shall be imposed only to the extent not covered thereby.

SECTION V: Incorporation and Repealer

Except as modified herein, the remainder of the Utilities Ordinance is affirmed and incorporated herein. All laws and parts of law in conflict with this enactment are hereby repealed.

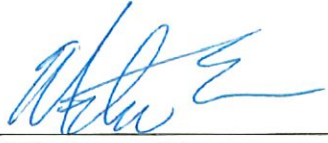
SECTION VI: Effective Date

This ordinance shall be effective the day following its passage by the City Council of Dawsonville.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 17 day of July, 2023.

[Executions on Following Page]

MAYOR AND DAWSONVILLE CITY COUNCIL

By: 
Mike Eason, Mayor



Caleb Phillips, Council Member Post #1



William Illg, Council Member Post #2


John Walden, Council Member Post #3


Mark French, Council Member Post #4

ATTESTED TO BY:


Beverly A. Banister, City Clerk



INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (this "Agreement") is made and entered into as of the 17, day of July, 2023, by and between the CITY OF DAWSONVILLE, GEORGIA, a municipal corporation of the State of Georgia (the "City"); and the ETOWAH WATER AND SEWER AUTHORITY ("EWSA") (hereinafter collectively the "Parties").

WITNESSETH:

WHEREAS, the Parties are authorized to enter into this Intergovernmental Agreement pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 regarding intergovernmental contracts ("Intergovernmental Contracts Clause"); and

WHEREAS, the Intergovernmental Contracts Clause provides, in pertinent part, as follows:

The state, or any institution, department, or other agency thereof, and any county, municipality, school district, or other political subdivision of the state may contract for any period not exceeding 50 years with each other or with any other public agency, public corporation, or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment; but such contracts must deal with activities, services, or facilities which the contracting parties are authorized by law to undertake or provide.

WHEREAS, intergovernmental agreements under Article IX, Section III, Paragraph I must "involve the provision of services, or . . . the joint or separate use of facilities or equipment, and deal with activities, services, or facilities which the contracting parties are authorized by law to undertake or provide" (*City of Decatur v. DeKalb County*, 289 Ga. 612, 713 S.E.2d 846 (2011) (internal quotations omitted)); and

WHEREAS, the City has an established potable water utility and a sanitary sewer utility which provide potable and waste water services to portions of Dawson County, Georgia; and

WHEREAS, EWSA has an established potable water utility and a sanitary sewer utility which provide potable and waste water services to portions of Dawson County, Georgia; and

WHEREAS, the City and EWSA have previously entered into agreements pertaining to the division of service areas for Dawson County, Georgia; and

AND WHEREAS, the City and EWSA desire to terminate all prior agreements pertaining to the division of service areas for Dawson County, Georgia, and enter into this new agreement pertaining to the division of service areas for Dawson County, Georgia.

NOW THEREFORE, in consideration of the mutual benefits to the City and EWSA, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties enter into this Intergovernmental Agreement upon the following terms, conditions, and stipulations:

1. Service Area Map. Attached hereto as Exhibit A is the map which shall be used to delineate between the service area of the City and that of EWSA. Any area in Dawson County, Georgia not delineated on the map and described herein as an area the City shall serve with potable water and/or sanitary sewer services shall be served by EWSA.

a. *General Delineation:* The attached Exhibit A has an area delineated with red cross hatching. The area delineated with red cross hatching shall be served by the City for both potable water and sanitary sewer purposes (subject to any specific exceptions noted herein). The area delineated with blue hexagons shall be served by the City for sewer only (EWSA shall serve water within that area).

- i. To the extent not otherwise clearly included in the general description of § 1(a), Perimeter Road (marked with a solid black line along the eastern side of the City's water and sewer area) will be the line of delineation between the service area of the City and EWSA. Those areas on Perimeter Road which will gravity flow to the collection system for sanitary sewer of the City of Dawsonville shall be within the service area of the City of Dawsonville for potable water and sanitary sewer purposes, except as may be otherwise specified below.
- ii. The City's service area for potable water and/or sanitary sewer shall specifically include the area commonly known as "Pigeon Creek," which area is shown on the attached Exhibit "A" in the northwestern area of the red cross hatched portion of the map, lying to the West of Shoal Creek Road.
- iii. In the northeastern portion of the City's service area, for the Crown Pointe and Gold Creek Communities, the City shall provide sanitary sewer service, while EWSA shall provide potable water service.
- iv. Tax Map Parcel No. D05 005, which at the time of this agreement is known as The Place of Dawson a/k/a Ric Rack, which lies to the north of Perimeter Road at its intersection with Highway 9, North, shall be served by the City for potable water and sanitary sewer purposes.
- v. Tax Map Parcels D05 032, D05 033, D05 013, and D05 012, which at the time of this agreement make up the campus of the First Baptist Church of Dawsonville, shall be part of the service area of EWSA. However, EWSA shall pump untreated wastewater to the City of Dawsonville collection system for treatment purposes.
- vi. Any areas in Dawson County, Georgia, not described above as being within the service delivery area of the City shall be within the service delivery area of EWSA for potable water and sanitary sewer purposes.

2. Cooperative Provision of Services: The following provisions shall govern the relationship between the Parties when either utilizes the services of the other for the provision of potable water or sanitary sewer services in their service area.

a. Rates and Billing For Services Acquired from one Party by the Other Party to this Agreement: in the event the City utilizes the services of EWSA to provide potable water or sanitary sewer services in the City's service area, or in the event EWSA utilizes the services of the City to provide potable water or sanitary sewer services in the service area of EWSA, the party utilizing the services of the other shall pay the lowest tiered, non-discounted (i.e. no senior discounts, etc.) volumetric rate for such services between them. By way of example and not limitation, this provision shall apply to EWSA's utilization of the City's sanitary sewer treatment facilities described in § 1(a)(v), above, and EWSA shall pay to the City the lowest tiered, non-discounted volumetric rate for services, whether that volumetric rate be the rate of EWSA or the rate charged by the City. Billing shall be done on a monthly basis based upon the water meter usage within the area served.

b. Billing for when a service area falls within one entity for water, and another entity for sanitary sewer: The bill for the services provided as described in this paragraph shall be based on any base rate charged by the City or EWSA based on the water meter usage within the area served (that is, shall include any base rate plus the charge for water usage above the base rate, if any). The total meter usage for each billing period shall serve as the basis for invoicing. The Parties will work cooperatively to handle billing, including administrative fees to handle billing, penalties and termination for non-payment. By way of example and not limitation, in the areas described in § 1(a)(iii), EWSA shall coordinate and handle the billing for both potable water and sanitary sewer (the latter of which shall be billed at the rates and fees established by the City (including its "base rate" any applicable usage fees, any overdue amounts at the time and late fees) and provided to EWSA for that service, plus any other reasonable administrative fees, penalties and nonpayment fees charged by EWSA). Billing shall be based upon individual meter readings, and EWSA shall provide a report of water usage to enable the City to establish the amount due for sanitary sewer service which amounts shall be provided to EWSA. EWSA shall make payment to the City for those amounts collected within 30 days of billing the customer and shall provide a report to the City detailing the amounts collected per account. Any amounts collected after 30 days of billing shall be paid during the next billing cycle. All billing and enforcement matters vis a vis the customers shall be the responsibility of EWSA, as the service provider for water in this instance. The foregoing notwithstanding, with respect to enforcement in the stated example for non-payment, EWSA shall not differentiate between whether a customer attempts to pay a bill for water service or for sewer service, but shall treat the said bill as indivisible, and if any portion of the bill is not paid then EWSA shall follow its normal and customary practices for shutting off the water utility service.

c. Cooperative Provision of Services: In the event that a Party desires to extend one or more services within its service area, but cannot at that time extend both services to that portion of its service area, and the other Party has the capacity and the ability to extend the other service, then the Party possessing the service area may request the assistance of the other. The Party providing service outside of its service area shall provide the service so long as it has sufficient capacity, sufficient infrastructure in place (i.e. capacity in lift stations, sufficiently sized lines, etc.), and will be able to meet its projected capacity needs for the next thirty-six (36) months within its own service area while doing so. The Party providing the service outside of its service

area shall invoice the other Party at the lowest, non-discounted, retail volumetric rate (i.e. no senior citizen discounts, etc.) for the provision of that service.

- i. The determination of whether or not a Party has capacity to provide a service as discussed in § 2(c) shall take into consideration the existing ability of the utility to provide service (considering any and all infrastructure or treatment limitations), any capacity for which a deposit or fee has been paid even if not actually allocated at the time the determination is made, any projected or planned projects about which the entity providing the service is aware, as well as any materials prepared by, or for, and utilized by the providing utility for its planning purposes. The Party providing a service outside of its service area may rely upon the determination of an engineer experienced in utility planning matters in making the determination as to whether or not it has the capacity required to provide a requested service outside of its service area.
- ii. The Party providing a service outside of its service area shall not be required to incur a capital expense to extend infrastructure to customers outside of its service area. Any infrastructure expansion expense shall be the responsibility of the Party requesting the extraterritorial service or third Parties, even to the extent that work is done within the service area of the Party providing extraterritorial service. Once in place, the Party providing extraterritorial service shall maintain and bear the cost of maintaining its infrastructure within its service area, while the entity receiving service in its service area shall be responsible for maintaining the infrastructure within its service area.
- iii. It is the overall intent of the Parties that the provisions of this § 2(c) shall be temporary in nature, such that services shall be provided by the Party possessing the service area in question as soon as practicable. To that end, "tap fees" or "capacity fees" assessed for the provision of services shall be retained by the Party holding the service area, so long as the provision of extraterritorial service is for a period of thirty-six (36) months or less. In the event that the Party providing extraterritorial service does so for in excess of 36 months, then the "tap fees" or "capacity fees" shall be remitted to the Party providing the service, and the fees remitted shall be non-refundable.
- iv. The following **hypothetical** is an example used only for the purpose of illustrating how this § 2(d) is expected to work. Parcel A is in the service area of EWSA for both potable water and waste water services. EWSA has the ability to provide potable water to Parcel A, but not the ability to provide waste water services to Parcel A. EWSA requests the City to provide waste water services to Parcel A, believing that it has the ability to do so. The City may consult with an engineer experienced in the provision of and planning for waste water utility systems, and if it is determined that the City does not have the capacity to provide the requested service based upon the

criteria discussed above, the City shall notify EWSA and this shall end the matter as to Parcel A with respect to the City. However, if it is determined that the City has the capacity to provide the service based upon the criteria described above, then the City shall do so. Any costs to extend the City's infrastructure shall be borne by a Party other than the City. The City shall bill EWSA for the sanitary sewer charges at the lowest tiered non-discounted, retail volumetric rate, and shall thereafter maintain the infrastructure which is located within the City's service area. So long as within 36 months of the date that the service is first provided by the City, EWSA extends (or has a fully executed contract to extend with a notice to proceed issued) its infrastructure so as to provide sanitary sewer service to Parcel A, then EWSA shall retain any collected "capacity" or "tap" fees. If EWSA does not so extend its service (or have a fully executed contract to extend service with a notice to proceed issued) to Parcel A within 36 months, then the "capacity" or "tap" fees shall be remitted to the City.

3. Changes to Service Delivery Area: In the event that a Party ("Declining Party") desires not to provide water and/or wastewater services to an area ("Declined Area") within its service area prior to or after it has secured cooperation of the other Party per Section 2 (d) above, and the other Party desires to expand its service area to include the Declined Area, the other party may notify the Declining Party, in writing, of its desire to discuss a service delivery area amendment for the Declined Area. The Parties shall negotiate in good faith for a period of not less than 60 days after such notice is provided. In the event that no agreement is reached, the Party requesting the change may demand mediation of the issue, and the Parties shall schedule and attend a mediation of the service delivery request within 120 days of the date of the demand. Any agreement reached at mediation shall be binding on the Parties. If agreement is not reached, the provisions of this IGA and the service areas delineated herein shall continue in full force and effect. The foregoing notwithstanding, nothing in this paragraph shall limit or prohibit any communications between the parties to this agreement about the provision of services, including but not limited to one party's belief or proposal as to how services may be more efficiently provided.

4. Disputes: In the event there is a dispute arising out of or related to this Agreement, including but not limited to the interpretation to be placed on this Agreement and its terms, either Party may, but at least one Party shall, give written notice to the other of the dispute. Thereafter, the Parties shall negotiate in good faith for a period of not less than 60 days after such notice is provided. In the event that no agreement is reached, either Party may demand mediation of the dispute, and the Parties shall schedule and attend a mediation of the dispute within 120 days of the date of the demand for mediation. The foregoing shall be a condition precedent to the right to pursue legal action under this Agreement. The Parties each agree to continue the provision of services under this Agreement during the entire dispute resolution process, including any legal action. Furthermore, the Parties each agree and covenant that, if the dispute arises out of or relates to a dispute as to the service delivery areas described herein, and whether or not one of the Parties may extend service to an area, no extension of service will be initiated (or if initiated already, it shall not be completed) until this dispute including any and all appeals thereof, if any, are fully and finally resolved.

5. Governing Law, Venuc. This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. Any litigation filed which arises out of or relates to this Agreement shall be filed in the Superior Court of Dawson County, State of Georgia.

6. Entire Agreement/Amendment. This Intergovernmental Agreement contains the entire agreement of the Parties as to the matters discussed herein, and supersedes all prior communications or agreements, whether oral, written, or understood, regarding the subject of this Intergovernmental Agreement. This Intergovernmental Agreement may be modified or amended only in writing properly executed by both Parties.

7. Severability. If any portion of this Intergovernmental Agreement shall be held to be invalid, illegal, void or otherwise unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Intergovernmental Agreement is invalid or unenforceable but that, by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

8. Third Party Beneficiaries. This Intergovernmental Agreement is entered into for the benefit of the Parties hereto only and shall confer no benefits, direct or implied, to any third persons or authorize anyone not a party to this Intergovernmental Agreement to maintain an action pursuant to the terms or provisions of this Intergovernmental Agreement.

9. Notification. Any notices required to be given pursuant to the provisions of this Intergovernmental Agreement shall be given in writing and shall be deemed received, and shall be effective when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the other Party at the address given below, or at a substitute address furnished to the Party by written notice in accordance herewith:

To Etowah Water & Sewer Authority
General Manager
1162 Hwy. 53
Dawsonville, Georgia 30534

To City of Dawsonville
City Manager
415 Hwy. 53 East
Dawsonville, Georgia 30534

10. Authority. Each of the individuals executing this Intergovernmental Agreement on behalf of his or her respective Party agrees and represents to the other Party that he or she is authorized to do so and further agrees and represents that this Intergovernmental Agreement has been duly passed upon by the required governmental agency or board in accordance with all applicable laws and spread upon the minutes thereof. The Parties hereto agree that this Intergovernmental Agreement is an intergovernmental contract, and is entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia 1983.

11. Records. Each Party shall maintain any records relating to matters covered by this Intergovernmental Agreement as required by Georgia law. Such records shall be maintained for a period of three years following the termination of this Intergovernmental Agreement.

11. Records. Each Party shall maintain any records relating to matters covered by this Intergovernmental Agreement as required by Georgia law. Such records shall be maintained for a period of three years following the termination of this Intergovernmental Agreement.

12. Modification; Waiver. No modification or waiver of any of the terms and conditions of this Intergovernmental Agreement shall be effective unless such modification or waiver is expressed in a writing executed by each of the Parties hereto.

13. Force Majeure. Neither EWSA nor the City shall be liable for their respective nonnegligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of their respective duties or obligations under this Intergovernmental Agreement or for any delay in such performance due to: (a) any cause beyond their respective reasonable control; (b) any act of God; (c) any change in applicable governmental rules or regulations rendering the performance of any portion of this Intergovernmental Agreement legally impossible; (d) earthquake, fire, explosion, flood, or pandemic; (e) strike or labor dispute; (f) delay or failure to act by any governmental or military authority; or (g) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

14. Counterparts. This Intergovernmental Agreement may be executed in multiple counterparts, and each counterpart shall be considered an original.

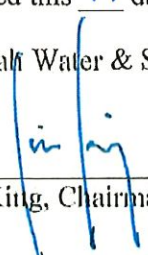
15. Term. The term of this Agreement shall be fifty (50) years, unless the same is amended by the Parties hereto, in writing.

16. Interpretation. The Parties hereto have cooperated in the preparation of this Intergovernmental Agreement, and hence, it shall not be interpreted or construed against or in favor of either Party by virtue of identity, interest, or affiliation of its preparer.

IN WITNESS WHEREOF, the City and EWSA have caused this Intergovernmental Agreement to be executed under seal as of the Effective Date first written above.

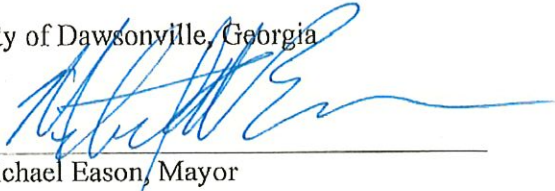
Adopted this 17 day of July, 2023.

Etowah Water & Sewer Authority



Jim King, Chairman

City of Dawsonville, Georgia




Michael Eason, Mayor

Attest:



Secretary: Doug Schuster

Attest:



Clerk, City of Dawsonville, Georgia

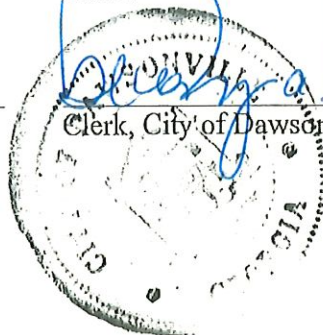


Exhibit "A"

