

MINUTES
CITY COUNCIL REGULAR MEETING
G.L. Gilleland Council Chambers on 2nd Floor
Monday, May 6, 2019
5:30 P.M.

1. **CALL TO ORDER:** Mayor Mike Eason called the meeting to order at 5:30 pm.
2. **ROLL CALL:** Present were Councilmember Jason Power, Councilmember Mark French, Councilmember Stephen Tolson, Councilmember Caleb Phillips, City Attorney Dana Miles, Assistant City Attorney Alex Myers, City Manager Bob Bolz, City Clerk Beverly Banister, Utilities Director Gary Barr, Public Works Operations Manager Trampas Hansard, Planning Director Robbie Irvin, Finance Administrator Hayden Wiggins and Human Resource Manager Donna Blanton.
3. **INVOCATION AND PLEDGE:** Invocation and Pledge were led by Councilmember Tolson.
4. **ANNOUNCEMENTS:** No announcements
5. **APPROVAL OF THE AGENDA:** Motion to approve the agenda as presented made by S. Tolson; second by J. Power. Vote carried unanimously in favor.
6. **PUBLIC INPUT:** No comments from the public.
7. **CONSENT AGENDA:** Councilmember Tolson recused himself from the vote since item b was approval for training concerning himself. Motion to approve the consent agenda for the following items (a, b, c, d) made by C. Phillips; second by J. Power. Vote carried three in favor (Phillips, Power, French) with one recused (Tolson).
 - a. Approve Minutes – **passed 3-0-1**
 - Work Session and Regular Meeting held April 22, 2019
 - b. Approve Training for Georgia Academy for Economic Development for Councilmember Tolson – **passed 3-0-1**
 - c. Approve Request to Waive Water Tap Fees for Dawson County – **passed 3-0-1**
 - d. Approve Postponement of Construction Management Services RFQ Selection to June 3, 2019 – **passed 3-0-1**
8. **PROCLAMATIONS:** Mayor Eason read the proclamations and presented them to the individuals below.
 - **WATER PROFESSIONAL’S APPRECIATION DAY, MAY 6, 2019** – Presented to Gary Barr.
Motion to accept the proclamation made by M. French; second by J. Power. Vote carried unanimously in favor.
 - **MUNICIPAL CLERKS WEEK, MAY 5 – 11, 2019** – Presented to Beverly Banister and Tracy Smith.
Motion to accept the proclamation made by J. Power; second by C. Phillips. Vote carried unanimously in favor.
 - **TEACHER APPRECIATION WEEK, MAY 6 – 10, 2019** – Presented to Laura Barr.
Motion to accept the proclamation made by J. Power; second by S. Tolson. Vote carried unanimously in favor.
9. An Ordinance By The City Of Dawsonville To Regulate The Use Of Tobacco Products, Alternative Nicotine Products, Vape Juice, Vapor Products, And Non-Traditional Tobacco Paraphernalia, And Other Similar Products; To Regulate Vape Shops; To Provide For Severability; To Provide For Effective Date; And For Other Purposes. (First Reading: April 22, 2019; Second Reading and Adoption: May 6, 2019)
Assistant City Attorney Alex Myers read the second reading of the ordinance. Motion to approve the ordinance as presented made by J. Power; second by S. Tolson. Vote carried unanimously in favor. (Exhibit “A”)
10. **COMMITTEE FOR DESIGN GUIDELINES:** Mayor Eason would like the Council to consider developing a committee for design guidelines for the City in order to maintain the character of our town. The committee could possibly look at commercial design guidelines, develop a theme that distinguishes the City from the surrounding area, set standards for subdivision entrances that would compliment the City’s theme, and

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add a tree or flower pathway lined on the roads entering the City. Possible committee members would include persons from the GMRC, Dawson County Chamber of Commerce, Board of Education, Dawson County Women's Club, the Planning Commission, Historic Preservation Commission, the Downtown Development Authority and appointments from the Council. Mayor Eason would like the Council to consider appointing members at the next City Council meeting.

11. **CITY HALL SIGN OPTIONS:** Motion to approve the purchase of the large illuminated sign for \$6,680 to be paid out of FY 2019 additional general fund revenue dollars made by S. Tolson; second by C. Phillips. Vote carried unanimously in favor.
12. **DEVELOP DESIGN AND COST ESTIMATES FOR CHASE ELLIOTT DISPLAY:** Motion to request staff to obtain a proposal for developing the Chase Elliott display at the GRHOF made by S. Tolson; second by J. Power. Vote carried unanimously in favor.
13. **ETHICS BOARD APPOINTMENT:** Motion to postpone item to the May 20, 2019 City Council meeting made by M. French; second by J. Power. Vote carried unanimously in favor.
14. **FY 2019-2020 PROPOSED BUDGET PRESENTATION:** Finance Administrator Hayden Wiggins presented the proposed FY 2019-2020 budget to Council. A public hearing is scheduled for the May 20, 2019 meeting and the adoption of the budget by resolution is scheduled for the June 3, 2019 meeting. Council was encouraged to remit any questions or concerns to Bob Bolz or Hayden Wiggins before the next meeting.
15. **GENERAL FUND RESERVES RECOMMENDATION:** Finance Administrator Hayden Wiggins requested a recommendation from Council to establish additional months of prior year operating and non-operating general fund budget to be classified as assigned fund balance. Motion to postpone item to the May 20, 2019 meeting made by C. Phillips; second by M. French. Vote carried unanimously in favor.

EXECUTIVE SESSION:

At 6:02 p.m. a motion to close regular session and go into executive session for Pending or Potential Litigation, Real Estate Acquisition and/or Personnel was made by J. Power; second by C. Phillips. Vote carried unanimously in favor.

At 6:29 p.m. a motion to close executive session and resume regular session was made by J. Power; second by M. French. Vote carried unanimously in favor.

ADJOURNMENT:

At 6:30 p.m. a motion to adjourn the meeting was made by J. Power; second by C. Phillips. Vote carried unanimously in favor.

By: CITY OF DAWSONVILLE



Mike Eason, Mayor



Caleb Phillips, Councilmember Post 1



Stephen Tolson, Councilmember Post 2

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Attested:

Beverly A. Banister
Beverly A. Banister, City Clerk

Jason Power

Jason Power, Councilmember Post 3

Mark French

Mark French, Councilmember Post 4

STATE OF GEORGIA
COUNTY OF DAWSON

AFFIDAVIT OF THE CITY OF DAWSONVILLE MAYOR AND COUNCIL

Mayor Michael Eason, Councilmember Jason Power, Councilmember Caleb Phillips, Councilmember Stephen Tolson, 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 the May 6, 2019.
2. During such meeting, the Board voted to go into closed session.
3. The executive session was called to order at 6:02 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);

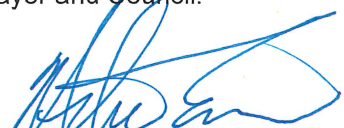
Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and _____;

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 6th day of May 2019; By the City of Dawsonville, Mayor and Council:



Mike Eason, Mayor



Caleb Phillips, Councilmember Post #1



Stephen Tolson, Councilmember Post #2

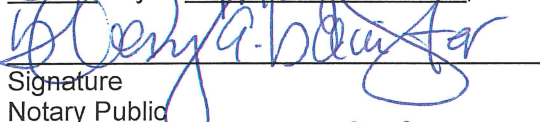


Jason Power, Councilmember Post #3

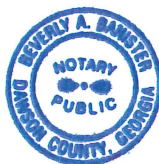


Mark French, Councilmember Post #4

Sworn to and subscribed before me this 6th day of May, 2019.



Signature
Notary Public
My Commission expires: 02-18-2020



Beverly A. Banister
NOTARY PUBLIC
Dawson County, Georgia
My Commission Expires
February 18, 2020

First Reading: 04/22/2019

Second Reading: 05/06/2019

Passed: 5/6/2019

AN ORDINANCE BY THE CITY OF DAWSONVILLE TO REGULATE THE USE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, VAPE JUICE, VAPOR PRODUCTS, AND NON-TRADITIONAL TOBACCO PARAPHERNALIA, AND OTHER SIMILAR PRODUCTS; TO REGULATE VAPE SHOPS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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 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 Mayor and City Council of Dawsonville, Georgia (hereinafter "the City") desire to identify and adopt rules and regulations to protect the public health, safety and welfare; and

WHEREAS, the unregulated sale of nicotine vapor products is a threat to the public health, safety, and welfare of citizens of the City of Dawsonville; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of the City of Dawsonville, Georgia, the Mayor and City Council desire to exercise their authority to adopt this ordinance; and

WHEREAS, Federal Public Law 92-544 provides for national fingerprint-based criminal history record checks for licensing purposes by governmental entities; and

WHEREAS, O.C.G.A. § 35-3-35 (a)(1) provides that local governing authorities may require, by ordinance, the fingerprinting of applicants or licensees for state and national criminal history record information of said applicants or licensees; and

AND WHEREAS, the adoption of this ordinance would authorize the City, the City's Planning and Zoning Department, and their authorized designees to receive criminal history record information from both the Georgia Crime Information Center (hereinafter "GCIC") and Federal Bureau of Investigation (hereinafter "FBI") for applicants desiring to obtain a license and/or permit to operate a vapor shop; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DAWSONVILLE HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

Chapter 8 of the Code of the City of Dawsonville, Georgia, is hereby amended by repealing inserting a new Article X as follows:

ARTICLE X. – TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, NON-TRADITIONAL TOBACCO PRODUCTS, AND VAPOR PRODUCTS

DIVISION 1. – REGULATION OF VAPE SHOPS

Sec. 8-600. – Definitions.

For the purposes of this section, the following terms shall have the following meanings:

- (1) *"Additional line of devices"* shall refer to the following four separate lines of devices:
 - (a) Grinders;
 - (b) Any storage devices with false or hidden doors or compartments commonly associated with tobacco, vaping, or drug use;
 - (c) Weighing devices commonly associated with tobacco, vaping, or drug use; and
 - (d) Torch lighters;
- (2) *"Alternative nicotine product"* shall mean any noncombustible product containing nicotine or any other chemical, substance, drug, or other harmful additive that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term "alternative nicotine product" shall not include any tobacco product, vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- (3) *"Applicant"* shall mean all persons who are required to sign an application for a Vape Shop license to sell alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia as set forth herein in section 8-502;
- (4) *"City" or "City of Dawsonville"* shall mean the City of Dawsonville, Georgia;
- (5) *"Director"* shall mean the Director of the City of Dawsonville Department of Planning and Zoning;
- (6) *"Minor"* means any person who is under the age of 18 years.
- (7) *"Non-traditional tobacco paraphernalia"* shall mean non-traditional instruments designed to facilitate the smoking, consumption or ingestion of tobacco, nicotine, chemicals, substances, drugs, or other harmful additives in any form (such as bongs, hookah pipes, or faux jewelry, bracelets, or necklaces commonly associated with tobacco, vaping, or drug use, with one purpose of such items being the inhalation or ingestion of tobacco or drugs); provided, however, that the term "non-traditional tobacco paraphernalia" shall exclude products that contain nicotine, tobacco products, cigarette papers or wrappers, blunt wraps, traditional tobacco pipes (such as brand names Briar and Meerschaum), holders, cigarette rolling machines, or other products, devices, or substances used for the purpose of making tobacco cigarettes; provided further that, said term shall also not include any item for which the sale and/or use of the same is regulated under state or federal law;

(8) *"Person"* shall mean and refer to any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other entity;

(9) *"Screened room"* shall mean a room separate from the public sales floor that is completely screened from view by the public such that persons entering into a regulated establishment shall not be able to observe any alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia except after entering the screened room;

(10) *"Tobacco product"* means any cigarettes, cigars, little cigars, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. The term "tobacco product" shall not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(11) *"Tobacco related objects"* means any papers, wrappers, or other products, devices, or substances, including cigar wraps, which are used for the purpose of making cigarettes or tobacco products in any form whatsoever

(12) *"Vape juice"* shall refer to any liquid that contains the compounds identified in section 8-522(a) of these ordinances and can be used for vaping by means of an alternative nicotine product or vapor product;

(13) *"Vape shop"* shall mean any business whose product line for retail sale includes alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia;

(14) *"Vaping"* shall mean the ingestion or inhalation of vape juice from an alternative nicotine product or vapor product; and

(15) *"Vapor product"* means any noncombustible product containing nicotine or any other chemical, substance, drug, or other harmful additive that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from said nicotine, chemical, substance, drug, or harmful additive in a solution or other form. The term "vapor product" shall include, but in no way be limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine, chemical, substance, drug, or harmful additive in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term "vapor product" shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Sec. 8-601. – License required.

(a) Any person who wishes to operate a Vape Shop or offers for retail sale any item of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco

paraphernalia shall, by June 1st of each year, apply to the City of Dawsonville Planning and Zoning Department for a Vape Shop license and shall pay an annual license fee. The annual license fee shall be as set out in section 2-110 and as modified by the Mayor and City Council from time to time. Any person required to obtain a Vape Shop license and who also offers for sale any additional line of devices shall pay an additional annual license fee as set out in section 2-110, and as modified by the Mayor and City Council from time to time. For the purposes of this section, every person who obtains such a license shall be referred to as a "licensee."

(b) All applications shall be fully completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a partnership, then each partner shall sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application for a Vape Shop license is filed on behalf of a corporation, the majority stockholder and each principal officer of the corporation must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the City as a mutual benefit membership group, the individual being primarily responsible for the club or corporation's compliance with this article must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a private club, then each member of its governing body must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a limited liability company, then each member of the limited liability company must sign the application in the presence of a notary public or other officer authorized to administer oaths.

Sec. 8-602. – Application requirements.

(a) All applications shall be accompanied by the following:

(1) A survey (dated no more than 180 days prior to submission of the application to the City), certified by a registered surveyor of this state, showing a scaled drawing of the premises, the location on the premises where the applicant desires to sell any item of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, and the distance in linear feet measured from the front door of the premise where any alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia is to be sold, to the property line of the tract upon which is located the nearest church building, school building, educational building, school grounds or college grounds, or college campus building.

(i) The distance referred to in this subsection shall be measured in the same manner as required by the section 3-122.

(2) If the applicant is a partnership, a copy of the partnership agreement, including amendments, shall accompany the application.

(3) If the applicant is a corporation, a copy of the articles of incorporation and by-laws, including amendments, shall accompany the application.

(4) If the applicant is a nonprofit tax exempt civic, patriotic or social club or corporation which is organized and operated in the City as a mutual benefit membership

group, a copy of the charter or articles of incorporation, as well as sufficient proof of the organization's tax-exempt status shall accompany the application.

(5) If the applicant is a private club, a copy of the articles of incorporation and by-laws, including amendments, shall accompany the application.

(6) If the applicant is a limited liability company, a copy of the operating agreement.

(7) As a prerequisite to the issuance of any license, the applicant shall furnish a complete set of fingerprints for all persons required to sign the application to be forwarded to the Georgia Bureau of Investigation and to the Federal Bureau of Investigation, as specified under Georgia law. Each person required to sign the application for an original license and/or renewal license, must authorize the City of Dawsonville or its designated representatives to secure from any state, county, municipal or federal court, any police department and/or law enforcement agency his, her or its criminal history and civil history and further authorize the City, its officers and employees to use such information in determining whether or not a license for the sale of any item of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia will be issued to the applicant. Further, the applicant must authorize the City, its officers and employees to use such information in a public hearing if necessary, to determine whether or not the applicant's license should be denied, voided, cancelled and/or revoked. Each applicant waives any right or rights he, she or it may have under state or federal law, statute and/or court ruling to preclude the City from securing such criminal and/or civil history from any source and waives any right he, she or it may have to preclude the City from using such information publicly in determining whether the license will be issued to such applicant.

(8) The application shall be accompanied by the full amount of the license fee combined with the investigative fee and employee(s) application permit fee(s) as set out in section 2-110, and as modified by the Mayor and City Council from time to time, that may be paid with a check, credit or debit card for each individual fingerprinted. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded to the applicant. All other fees paid to the City which were submitted as part of the application, including, but not limited to the investigative fee and any employee(s) application permit fee(s) shall be retained by the City.

(9) The director may require any additional information and records he reasonably deems necessary. Failure to furnish such data shall automatically serve to deny the application. Any misstatement or concealment of fact in the application shall be grounds for denying a license or revoking an issued license and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.

(10) A valid email address and a valid mailing address that can be used for serving documents upon the applicant.

(11) Each applicant shall certify that applicant has read and understands this article and if the license is granted, each licensee shall maintain a copy of this article on the premises and shall require each of the licensee's employees to be familiar with this article.

- (b) No Vape Shop license may be issued to an applicant under the following circumstances:
- (1) An applicant who is not at least 21 years old.
 - (2) An applicant who has been convicted under any federal or state law of a felony or any misdemeanor involving the usage, distribution, or possession of controlled substances, alcohol, or offenses involving moral turpitude within a five-year period immediately preceding application. For purposes of this subsection, a "conviction" shall include any plea of guilty or admission of guilt and subsequent sentence under the First Offender Act of O.C.G.A. §§ 42-8-60, 16-13-2 or 3-3-23.1(c), or any similar sentencing provision for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, except traffic violations, or the forfeiture of a bond (except traffic offenses) when charged with a crime is also considered a conviction under this article.
 - (3) An applicant who has been held in civil or criminal contempt by any federal, state or local court if such citation indicates to the Mayor and City Council that the applicant will not maintain the outlet for which the applicant is seeking a license in conformity with federal, state or local laws, rules, and regulations.
 - (4) An applicant whom the Director, or the Mayor and City Council, determines, by reason of such applicant's business experience, financial standing, trade associations, personal associations, records of arrests, or reputation in any community in which the applicant has resided, is not likely to maintain the outlet for which the license is sought in conformity with federal, state, or local laws.
 - (5) An applicant who is not the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. The applicant for a Vape Shop license, whether it be an individual, a partnership, a corporation, a nonprofit tax exempt civic, patriotic, or social club, limited liability company, or a private club, shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. If the premises are leased, then the applicant shall provide information regarding the owner or landlord of the premise.
 - (6) An applicant or family member (by blood or marriage within the 5th degree) of an applicant who has had a license suspended or revoked, or an applicant who has had an application for a license denied under the provisions of this article within one year from the final date of such denial, suspension or revocation. For purposes of this provision, the final date of a denial of license shall be the date of written notice of such denial if the denial is not appealed; or, if the denial is appealed, the date of written notice of denial of the appeal.
 - (7) An applicant who seeks to sell alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia in premises that are in or within 100 yards of any church building or in or within 200 yards of any school building, educational building, school grounds, or college campus.
 - (8) An applicant whose intended sales of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia products at that location

will exceed twenty-five percent (25%) of said applicant's aggregate retail sales at that location.

(9) An applicant whom the Director or the Mayor and City Council determines, based upon an investigation into the applicant, the applicant's prior businesses or entities, (whether operating under the same establishment name or not) in the City of Dawsonville or in other jurisdictions, has him or herself, or has engaged employees and/or agents, who have sold cigarettes, tobacco products, tobacco related objects, alternative nicotine products, and/or vapor products in violation of state law or local ordinances, including but not limited to sales to minors.

(9) The City has suspended or revoked a business license and/or Vape Shope license, or any other license issued under this Chapter at the location where the applicant desires to sell any item of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, within the previous 12 months for a suspension or within the previous 36 months for a revocation, for any reason related to the sale or bartering of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, and/or vapor products.

(c) At the time the applicant makes application for a license, a sign shall be posted and furnished by the Applicant and will be painted or printed in black letters one and one-half inches in height, against an yellow background, on a two-face, back-to-back surface of not less than 24 × 30 inches in space, and shall be placed by the Applicant with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises. The sign shall state clearly the nature and purpose of the application, and the name of the person, partnership, organization, corporation or private club making the application.

Sec. 8-603. – Review and compilation of application by Planning Director.

(a) Once an application, the accompanying documents described in section 8-502, and the required investigative and license fees are submitted, the City shall conduct a criminal investigation of the application and produce a written criminal investigation report concerning all information relating to fingerprinting, criminal history, arrest data, and other matters pertaining to law enforcement. In the event the failure to obtain fingerprinting information from state and federal authorities delays completion of the written report, the City may later supplement any fingerprinting information. If the fingerprinting information later reveals that the applicant fails to meet the requirements set by this article, this may be grounds for denying the application or revoking a license, despite an otherwise satisfactory written report. Upon production of the criminal investigation report, the Planning Director or his designee shall make a determination as to compliance with the requirements of this article as to the issues contained therein and shall forward that determination to the Mayor and City Council. The Planning Director shall cause the application forms and all accompanying documents required for consideration of the Application to be assembled for review.

(b) If the criminal investigation report shows that the applicant fails to meet the requirements set by this article, or if the Planning Director finds that the applicant fails to meet other qualifications outlined by this article, then the Planning Director shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his/her right to appeal to the Mayor and City Council in accordance with section 8-502. If an applicant desires to appeal a denial by the

Planning Director, the applicant must file a written request for an appeal hearing with the Planning Director within ten (10) business days of the date of the written notice informing the applicant of the denial by the Planning Director.

(c) Any application which the Planning Director determines to satisfy all the qualifications outlined in this article, including character requirements as contained in the criminal investigation report, shall be scheduled for review at the next regularly scheduled meeting of the Mayor and City Council.

Sec. 8-604. – Review by Mayor and City Council.

(a) In making its determination on whether to approve or deny the application, the Mayor and City Council shall look to the qualifications set forth in this article and consider the public interest and welfare. The Mayor and City Council shall have the sole discretion to grant or deny the application based on the information presented. A decision by the Mayor and City Council shall be made at or within thirty (30) days from the date of the City Council meeting, unless the decision is postponed for purposes of the Mayor and City Council obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Mayor and City Council shall be mailed or emailed to the applicant. In the event the application is denied, written notification of such denial shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his right to appeal as set forth in section 8-505.

(b) Upon approval by the Mayor and City Council of the application for a license, the Director shall issue a license in accordance with the approved application.

Sec. 8-605. – Appeal of determination by Mayor and City Council.

(a) In the event the Mayor and City Council deny the application for a license, suspend a license, or revoke a license, the applicant for a license or the licensee whose license was suspended or revoked may appeal to the Mayor and City Council for reconsideration of the license denial, suspension or revocation by filing a written request for an appeal hearing with the Director within ten (10) business days of the date of the written notice informing the applicant of the denial, suspension or revocation. Any such appeal hearing shall be conducted according to the procedures set forth in the subsection below.

(1) Upon receipt of a timely appeal (accompanied by a fee as set out in section 2-110, and as modified by the Mayor and City Council from time to time, made payable to the City of Dawsonville, Georgia), the Planning Director shall schedule a hearing before the Mayor and City Council and provide written notice to the applicant of the time, place and date of the scheduled hearing. The Planning Director shall also state in the written notice in reasonable detail the factual basis for the denial of the application or the suspension or revocation of the license. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the Director and the applicant and/or counsel for the applicant.

(2) The Mayor and Council shall have the duty of conducting hearings concerning the timely filed appeal of the denial, suspension, or revocation of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

(3) At the hearing, the Planning Director or his or her designee shall present the facts upon which the denial, suspension, or revocation of the license were based. After presentation of the case against the Applicant, the Applicant will have an opportunity to present his/her case, to rebut the allegations made against him/her, and present whatever defenses he/she has. The Applicant shall have the right to be represented by an attorney, at the expense of the Applicant, and to present evidence and cross-examine opposing witnesses.

(4) At the conclusion of the hearing, the Mayor and Council shall determine whether the denial, revocation, or suspension of the license was warranted. The findings and conclusions of the Mayor and Council shall be forwarded to the Planning Director and it shall be the duty of the Planning Director to provide written notification to the adverse party of the actions of the Mayor and Council.

(5) The decision of the Mayor and Council shall be final unless appealed to the Superior Court of Dawson County, Georgia, within thirty (30) days of the Director providing written notification to the adverse party of the decision. Appeal shall be by writ of *certiorari* based upon the record in accordance with O.C.G.A. § 5-4-1.

(6) For purposes of this article, notice shall be deemed delivered when personally served, , or when served by email on the date served or email sent or when served by certified mail postage prepaid within three days after the date of deposit in the United States Mail.

Sec. 8-606. – Renewal of license.

(a) All licenses granted under this article shall expire on June 30th of each year. An investigative fee as set out in section 2-110, and as modified by the Mayor and City Council from time to time, shall be required for renewal applications pertaining to licenses that are to be issued for odd years in order to complete a criminal history report. In instances where a new, named licensee has been designated, a criminal history report and investigative fee shall be required regardless of the year. Persons holding a license for more than any one establishment and desiring to renew the license for such establishments shall pay only one investigative fee charge. Late applications will begin being processed at the time of receipt but are not guaranteed renewal prior to July 1st. If an application is submitted after July 31st, a new application shall be required because renewal eligibility will not be considered past this date.

(1) For applications in which there are no changes of information and data contained in the original application, licensees shall file a renewal application accompanied by the requisite license fee with the City upon forms prescribed by the City on or before the second Monday in June of each year without penalty. Applications for renewal filed after the second Monday in June shall be subject to a late charge of ten percent of the license fee.

(2) Renewal Applications must go before the Mayor and City Council for review and approval.

(3) Applicants shall be required to file a new application if changes have occurred in the information and data furnished with the original application. Any changes to an applicant's criminal history will be subject to sections 8-502 through 8-504.

(4) Each application for renewal will show the date of the original application and that the applicant or applicants for the renewal are familiar with applicable Georgia laws and regulations and with the rules and ordinances of the City. The renewal application must be signed and sworn to by all applicants in the presence of a notary public or other officer authorized to administer oaths. The applicant will furnish all information required by the renewal application and failure to furnish the information will be grounds for denying the application. A false statement made on the renewal application will void the application and shall make the applicant liable to prosecution for false swearing under the laws of the State of Georgia.

(5) Each application for renewal of a license shall be approved or denied in accordance with the procedures prescribed in this article.

Sec. 8-607. – Licenses Non-transferable.

No Vape Shop license shall be transferable, except upon the death of a licensee, at which time such license may be transferred to the administrator, executor, or lawful adult heir or heirs of such deceased person. If the legal representatives of such deceased licensee cannot meet all the requirements of this article when the time arrives to renew the license, it shall not be renewed.

Sec. 8-608. – Suspension, revocation, or forfeiture of license.

(a) Any suspension, revocation, or forfeiture of a license by the Mayor and City Council shall occur only after notice and opportunity for a hearing before the Mayor and City Council consistent with the procedures set for in section 8-505, above, and upon the following occurrences:

(1) Any licensed outlet that is found to be in violation of this article shall be subject to license revocation or suspension and shall also be subject to citation and prosecution as outlined in section 8-505(f).

(2) Every Vape Shop license issued by the City shall be immediately revoked in case of bankruptcy, receivership, levy of legal process, or failure to promptly account for and pay the excise tax levied on the sale of nontraditional tobacco paraphernalia.

(3) Except as provided for transfers under section 8-507 above, any change in the ownership of any entity owning a licensed outlet shall cause the Mayor and City Council to immediately revoke any license issued under this article.

(4) All licensees must, within six (6) months after the approval of said license, open for business the outlet referred to in the application for license and begin the sale of the product or products authorized by the said license. Failure to open the outlet and begin the sales referred to within the six-month period, shall cause the Mayor and City Council to immediately revoke the license and no refund of any fees paid pursuant to this article shall be made.

(5) Any licensee who shall for a period of three consecutive months cease to operate the business and sale of the product or products authorized in the said license, shall, after

said three months period, cause the Mayor and City Council to immediately revoke the license, and no refund of any fees paid pursuant to this article shall be made.

(6) A license may be immediately suspended or revoked by the Mayor and City Council upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this article.

(7) Whenever the state shall revoke any permit or license to sell alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, as is or may become applicable, the City license shall thereupon be immediately revoked.

(8) The Mayor and City Council shall immediately suspend or revoke the license of any outlet which does not meet the licensing qualifications set forth in this article at any time such knowledge becomes known to the Mayor and City Council.

(9) The Mayor and City Council shall immediately suspend or revoke the license for any business whose retail sales of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia products at that location exceeds twenty-five percent (25%) of said business's aggregate retail sales at that location.

(10) The Mayor and City Council shall immediately suspend or revoke the license for any business engaged in the sale of vape juice containing any other chemical, substance, drug, or other harmful additive other than pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.

(11) The Mayor and City Council shall immediately revoke the license for any premises where alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia have been sold or distributed during a period of suspension.

(12) It shall be a violation of this article for any licensee or any employee or agent of the licensee or licensed establishment to permit any person to engage in any activity on the premises for which the license is issued or within the place of business, which is in violation of the laws or regulations of any federal, state, county, or municipal governing authority or regulatory agency. A violation of this subsection shall subject the license to immediate suspension or revocation.

(13) An act or omission of a licensee which constitutes a violation of federal or state law or regulation, relating to the sale of alcoholic beverages, taxes, gambling, violation of the Georgia Controlled Substances Act, or constitutes a crime of moral turpitude, shall subject the license to immediate suspension or revocation.

(14) Any license shall automatically expire on June 30th of each year unless renewed in accordance with this article.

Sec. 8-609. – General regulation of business operations.

(a) No licensee, employee of any licensee, or other person shall sell or permit to be sold any item of non-traditional tobacco paraphernalia to any person who is a minor (i.e. has not reached the age of eighteen), either directly or indirectly.

(b) Each licensee shall maintain their entire inventory of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia and any additional line of devices in a screened room and shall not allow minors to enter into the screened room nor sell any alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia to any minor. It shall be unlawful for a licensee to allow any item of n alternative nicotine products, vape juice, vapor products, and/or on-traditional tobacco paraphernalia or any additional line of devices to be in view of the public, except during actual sales transactions of such items.

(c) The City of Dawsonville Code Enforcement Officers and the Planning Director (or his/her designee) shall have the authority to inspect the outlet and premises licensed under this article during the hours when the outlet is open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this article and state law. This section is not intended to limit the authority of any other municipal, county, state or federal officer to conduct inspections authorized by other provisions of law.

(d) Any license for the sale of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia and any license for the sale of any additional line of devices shall be posted conspicuously in the place of business for which such license is issued.

(e) No tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia shall be sold in premises that are in or within 100 yards of any church building, or on any property owned or leased to a church, or in or within 200 yards of any school building, educational building, school grounds, or college campus, or on any property owned or leased to a public or private school or school board for elementary or secondary education; provided, however, that any premises permitted to sell tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia as of the effective date of this article that is located within such proximity of any church building, school building, educational building, school grounds, or college campus on the effective tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia in such premises provided that said permit holder remains in compliance with all other provisions of this section and the use of the premises to sell tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia remains ongoing and continuous. If the sale of tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia is discontinued, the grandfather entitlement under this paragraph shall be forfeited.

(f) No licensee shall sell any vape juice that contains any chemical, substance, drug, or other harmful additive other than pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.

Sec. 8-610. – Required signage for vape juice.

(a) All persons or entities selling vape juice in the City shall prominently post a sign on any premises where vape juice is sold stating that the only chemicals authorized to be used in such

vape juice are pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.

(b) All persons or entities selling vape juice in the City shall prominently post a sign on any premises where vape juice is sold explaining how to safely use e-batteries for alternative nicotine products.

Sec. 8-611. – Compliance with federal regulations.

All persons or entities selling alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia or any additional line of devices in the City shall comply with all applicable state and federal laws and regulations, as amended, governing the sale and manufacture of alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia and additional lines of devices, and all such state and federal laws and regulations, as amended, are hereby incorporated by reference into this section. Persons or entities who are registered to mix vape juice with the United States Food and Drug Administration shall be allowed to mix vape juice in the City and shall maintain documentation reflecting such registration at all times on the premises where vape juice is mixed.

Sec. 8-612. – Enforcement.

(a) Any violation of this article, excluding sales to underage persons, shall subject the licensee to the following progressive actions by the Mayor and City Council, except for those violations and occurrences set forth in section 8-508 above that provide for immediate suspension or revocation upon notice and hearing:

(1) The first violation shall result in a warning or a license suspension for a period of up to sixty (60) days.

(2) The second violation within a consecutive 24-month period shall be punished as provided in section 1-8 and shall result in a license suspension for a period of not less than sixty (60) days nor more than ninety (90) days.

(3) The third violation within a consecutive 24-month period shall result in license revocation.

(b) Sales of non-traditional tobacco paraphernalia to underage persons shall subject the licensee to the following progressive actions by the Mayor and City Council:

(1) The first violation shall result in a mandatory hearing before the Mayor and City Council, a license suspension for a period of up to sixty (60) days, and a minimum fine in the City of Dawsonville Municipal Court of \$500.00.

(2) The second violation within a consecutive 24-month period shall result in a mandatory hearing before the Mayor and City Council, a license revocation, and a minimum fine in municipal court of \$1,000.00.

(c) For any vendor that is licensed to sell alcohol in the City of Dawsonville, Georgia, any violation of sections 8-500 through 8-509 that results in a conviction, license suspension, or license revocation, excluding the sale of non-traditional tobacco paraphernalia to a minor, shall

also count as a violation with respect to those actions or sanctions provided for in section 3-3 of the City of Dawsonville ordinances governing alcoholic beverages. For purposes of this subsection, "conviction" shall have the same meaning as provided in section 8-502(b)(1).

(d) For any vendor that is licensed to sell alcohol in the City of Dawsonville, Georgia, any conviction, license suspension, or license revocation resulting from the sale of non-traditional tobacco paraphernalia to a minor shall also count as a violation with respect to those actions or sanctions provided for in section 3-3 of the City of Dawsonville ordinances governing alcoholic beverages. For purposes of this subsection, "conviction" shall have the same meaning as provided in section 8-502(b)(1).

(e) For any license suspension of less than thirty (30) days, the licensee will not be required to remove alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia from the premises, but shall be required to secure with lock and chain all alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia in an on-premise locked storage area out of view of the public. Nothing contained in this subsection shall be construed to preclude the Mayor and City Council from suspending or revoking a Vape Shop license for a period exceeding those periods identified in subsection (a) above, or from revoking the license if the Mayor and City Council determine in their discretion that such action is necessary and in the best interest of the public health, safety and welfare of the City. The suspension periods set forth above may be mitigated by the Mayor and City Council upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.

(f) In addition to the available actions to be taken by the Mayor and City Council, any licensee, employee of a licensee, individual, or other person who violate this division shall be subject to citation and prosecution. Each violation of this article shall constitute a separate violation subject to a separate citation and penalties. The penalties may result in a fine not to exceed \$1,000.00, imprisonment not to exceed sixty (60) days, or both.

DIVISION 2. – USE AND SALE OF TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, NON-TRADITIONAL PARAPHERNALIA, AND VAPOR PRODUCTS

Sec. 8-621. – Prohibition.

(a) The use of tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, including, but in no way limited to, smoking, vaping, and chewing is prohibited in all City government buildings and on all City government properties other than in designated areas, if any.

(b) The use of tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, including, but in no way limited to, smoking, vaping, and chewing is prohibited in or within 100 yards of any church building, or on any property owned or leased to a church, other than in designated areas, if any.

(c) The use of tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, including, but in no way limited to, smoking, vaping, and chewing is prohibited in or within 200 yards of any school building, educational building, school grounds, or college campus, or on any property owned or leased to a public or

private school or school board for elementary or secondary education, other than in designated areas, if any.

(d) The use of tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, including, but in no way limited to, smoking, vaping, and chewing shall be prohibited in the premises of any building or premises that offers for sale any tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia, or additional line of devices unless such building or premises has an operational dehumidifier and exhaust fan vented to the outside to dispel any smoke or vapor produced by on-premises use.

(e) It shall be prohibited to mix or prepare vape juice on the premises of any building or establishment that offers tobacco products, alternative nicotine products, non-traditional tobacco paraphernalia, or vapor products for retail sales to consumers.

(f) It shall be unlawful for any minor to:

(1) Purchase, attempt to purchase, possess for personal use, and/or use non-traditional tobacco paraphernalia; or

(2) Misrepresent such minor's identity or age or use any false identification of the purpose of purchasing or procuring any non-traditional tobacco paraphernalia; or

(3) Enter into the screened area on any premises of any establishment that offers tobacco products, alternative nicotine products, vape juice, vapor products, and/or non-traditional tobacco paraphernalia.

Sec. 8-622. – Enforcement.

Each person violating this division shall be punished as provided in section 1-8.

SECTION 2.

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

SECTION 3.

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

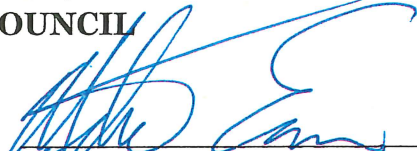
SECTION 4.

This ordinance shall become effective upon adoption, the public good demanding the same.

SO ADOPTED AND ORDAINED by the City Council of Dawsonville, Georgia, this 6 day of May, 2019.

**MAYOR AND DAWSONVILLE CITY
COUNCIL**

By:



Mike Eason, Mayor



Caleb Phillips, Council Member Post 1



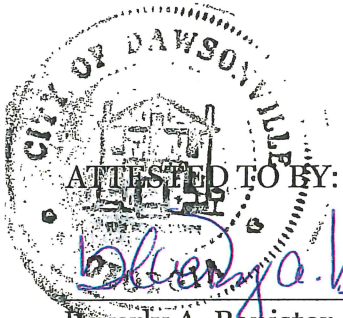
Stephen Tolson, Council Member Post 2



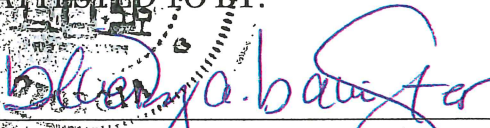
Jason Power, Council Member Post 3



Mark French, Council Member Post 4



ATTESTED TO BY:



Beverly A. Banister, City Clerk