

**MINUTES**  
**CITY COUNCIL REGULAR MEETING**  
**September 10, 2018**  
**7:00 P.M.**

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1. **CALL TO ORDER:** Mayor Mike Eason called the meeting to order at 7:00 pm.
2. **ROLL CALL:** Present were Councilmember Jason Power, Councilmember Mark French, Councilmember Stephen Tolson, Councilmember Caleb Phillips, City Attorney Dana Miles, City Manager Bob Bolz, Deputy City Clerk Tracy Smith, 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 Phillips.
4. **ANNOUNCEMENTS:** Mayor Eason announced the new Tattoo shop is open. He stated he sent a request to the GDOT Commissioner, as well as our State Representative and State Senator, for a reduction in speed limits within the City limits; this was done in unification with Dawson County and Dawson County Board of Education. The City's parking ordinance is still being reviewed with the Dawson County Sheriff's office. Staff reports have been moved to the work session. Coffee with the Mayor is scheduled for September 29, 2018.
5. **APPROVAL OF THE AGENDA:** Motion to remove item #17 made by C. Phillips; second by S. Tolson. Vote carried unanimously in favor.
6. **PUBLIC INPUT:** No comments from the public.
7. **APPROVAL OF THE MINUTES:** Motion to approve the minutes from the Work Session and Regular City Council meeting held on August 20, 2018 made by M. French; second by J. Power. Vote carried unanimously in favor.

**BUSINESS**

8. **AMENDMENT TO PUBLIC INPUT PROCESS:** Motion to amend Public Input Process to include the term uniformed officer made by M. French; second by J. Power. Vote carried unanimously in favor.
9. **BID – THREE HVAC UNITS FOR CITY HALL:** Mayor Eason reported he approved an emergency purchase for three failed HVAC units which exceeded the City Manager's signing permissions, so the repair could be made and money on the purchase was saved. Motion to ratify approval of the purchase made by J. Power; second by Phillips. Vote carried unanimously in favor.
10. **SPECIAL EVENT PERMIT WITH ALCOHOL – GRHOF OCTOBER 26 – 28, 2018:** Faye Abercrombie spoke on behalf of the GRHOF explaining the three-day event is one of their fundraisers. Motion to approve the event with alcohol made by J. Power; second by French. Vote carried unanimously in favor.
11. **GMEBS DEFINED BENEFIT RETIREMENT PLAN RESTATEMENT:**

- a. The ordinance amendment was presented by Human Resource Manager Donna Blanton.

An Ordinance to amend and restate the Retirement Plan for the Employees of the City of Dawsonville, Georgia in accordance with and subject to the terms and conditions set forth in the attached Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Master Plan Document, and the GMEBS Trust Agreement. (First Reading – September 10, 2018; Second Reading – September 24, 2018)

This is the first reading of the ordinance amendment; the second reading and vote will occur on September 24, 2018

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b. **PENSION COMMITTEE APPOINTMENTS:** Mayor Eason reported the GMEBS adoption agreement requires members be designated to the Pension Committee by position. Motion to appoint the following positions to the Pension Committee made by J. Power:

- Post 2 Councilmember
- Post 4 Councilmember
- Mayor
- City Manager
- City Clerk
- Finance Administrator
- Utilities Director

Second by S. Tolson. Vote carried unanimously in favor.

12. **2019 INSURANCE BENEFITS:** Human Resources Manager Donna Blanton presented the annual review and recommendation for the 2019 Insurance Benefits; questions and discussion followed. The topic will be presented at the 9/24/2018 meeting for a vote.

13. **PROPOSAL FOR PART-TIME CUSTODIAN:** City Manager Bob Bolz presented the City's need to have City Hall cleaned more often and recommended a proposal to hire a part-time custodian to work for the City. Motion to approve the proposal for a part-time custodian made by S. Tolson; second by J. Power. Vote carried unanimously in favor.

14. **REVIEW CITY COUNCIL MEETING DATES FOR THE REMAINDER OF THE YEAR:** Mayor Mike Eason discussed canceling the Regular City Council meeting on 10/8/2018 due to Dawson County School's fall break and the Work Session and Regular Meeting on 11/26/2018 due to it being scheduled one week prior to the December regular meeting. Motion to cancel the October 8, 2018 Regular City Council meeting and the November 26, 2018 Work Session and Regular meeting made by S. Tolson; second by J. Power. Vote carried unanimously in favor.

15. **SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL ORDINANCE:** Planning Director Robbie Irvin presented the ordinance. The first reading was on August 20, 2018; this is the second reading of the ordinance.

An Ordinance For The Purpose of Providing Minimum Requirements For Soil Erosion, Sedimentation and Pollution Control Using Best Management Practices Updated in Accordance With The Model Ordinance From The State of Georgia; To Define Key Terms Herein; To Provide For Exemptions For The Requirements Set Forth Herein; To Provide For The Application And Permit Process To Conduct Land Disturbing Activities In Compliance Herewith; To Provide Enforcement Provisions For The Requirements Set Forth Herein; To Provide Penalties For Violations Of This Ordinance; To Provide Education And Certification Requirements; To Provide For Repealer; To Provide An Effective Date; And For Other Purposes (First Reading – August 20, 2018; Second Reading – September 10, 2018)

Motion to approve the ordinance as presented made by S. Tolson; second by J. Power. Vote carried unanimously in favor. (Exhibit "A")

16. An Ordinance To Provide Updates To Existing Ordinances On Water Sewer And Garbage Services: Related To Reconnection Fees, Fines, Interest And Procedure; Related To Meter Readings, Billings And Collection; Related To Suspension Of Service; Related To Penalties For Violation; And Related To Disconnection Of Service. The Ordinance Also Provides For A Repealer And Restatement, For An Effective Date And For Other Purposes (First Reading - August 20, 2018; Second Reading - September 10, 2018)

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City Attorney Dana Miles presented the ordinance. The first reading was on August 20, 2018; this is the second reading of the ordinance.

Motion to approve the ordinance as presented made by S. Tolson; second by J. Power. Vote carried unanimously in favor. (Exhibit "B")

**17. Agenda Item Removed**

**EXECUTIVE SESSION**

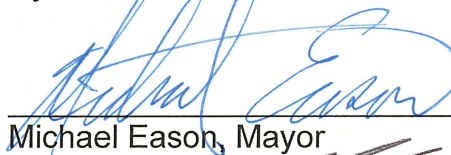
At 7:50 p.m., a motion to close regular session and go into executive session for the purpose of Pending or Potential Litigation and Land Acquisition made by J. Power; second by S. Tolson. Vote carried unanimously in favor.

At 8:14 p.m. a motion to close executive session and resume regular session was made by J. Power; second by S. Tolson. Vote carried unanimously in favor.

**ADJOURNMENT**

With there being no further business to attend to, a motion to adjourn the meeting at 8:15 p.m. made by J. Power; second by C. Phillips. Vote carried unanimously in favor.

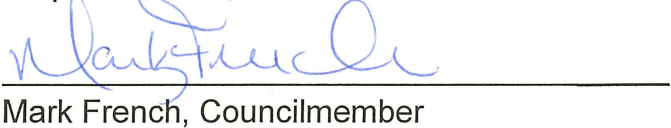
By: CITY OF DAWSONVILLE

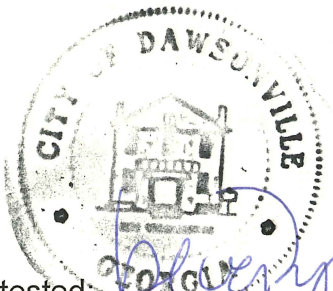
  
\_\_\_\_\_  
Michael Eason, Mayor

  
\_\_\_\_\_  
Caleb Phillips, Councilmember

  
\_\_\_\_\_  
Jason Power, Councilmember/Mayor Pro-Tem

  
\_\_\_\_\_  
Stephen Tolson, Councilmember

  
\_\_\_\_\_  
Mark French, Councilmember



Attested:

  
\_\_\_\_\_  
Beverly Banister, City Clerk

STATE OF GEORGIA  
COUNTY OF DAWSON

AFFIDAVIT OF THE CITY OF DAWSONVILLE MAYOR AND COUNCIL

Mayor Michael Eason, Councilmember Mayor Pro-Tem 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 September 10, 2018.
2. During such meeting, the Board voted to go into closed session.
3. The executive session was called to order at 7:50 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: \_\_\_\_\_.

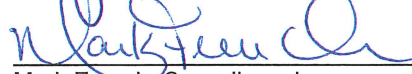
This 5th day of September 2018; By the City of Dawsonville, Mayor, and Council:

  
\_\_\_\_\_  
Michael Eason, Mayor

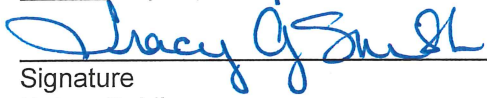
  
\_\_\_\_\_  
Caleb Phillips, Councilmember

  
\_\_\_\_\_  
Jason Power, Councilmember/Mayor Pro-Tem

  
\_\_\_\_\_  
Stephen Tolson, Councilmember

  
\_\_\_\_\_  
Mark French, Councilmember

Sworn to and subscribed before me this  
10<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
Signature  
Notary Public  
My Commission expires \_\_\_\_\_



Tracy G. Smith  
NOTARY PUBLIC  
Dawson County, Georgia  
My Commission Expires  
August 13, 2021

## The City of Dawsonville Soil Erosion, Sedimentation and Pollution Control Ordinance

AN ORDINANCE FOR THE PURPOSE OF PROVIDING MINIMUM REQUIREMENTS FOR SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL USING BEST MANAGEMENT PRACTICES UPDATED IN ACCORDANCE WITH THE MODEL ORDINANCE FROM THE STATE OF GEORGIA; TO DEFINE KEY TERMS HEREIN; TO PROVIDE FOR EXEMPTIONS FOR THE REQUIREMENTS SET FORTH HEREIN; TO PROVIDE FOR THE APPLICATION AND PERMIT PROCESS TO CONDUCT LAND DISTURBING ACTIVITIES IN COMPLIANCE HEREWITH; TO PROVIDE ENFORCEMENT PROVISIONS FOR THE REQUIREMENTS SET FORTH HEREIN; TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; TO PROVIDE EDUCATION AND CERTIFICATION REQUIREMENTS; TO PROVIDE FOR REPEALER; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the existing Soil Erosion and Sedimentation Control ordinance of the City of Dawsonville is set forth in the City of Dawsonville Code of Ordinances Subpart B Land Development Regulations Chapter 106;

WHEREAS, the State of Georgia Department of Natural Resources Environmental Protection Division has adopted a new recommended model ordinance for local government consideration and adoption in order to maintain their status as a certified Local Issuing Authority in accordance with O.C.G.A. §12-7-8; and

WHEREAS, the City of Dawsonville desires to adopt the new recommended model ordinance with such necessary limited modifications required to adapt it to Dawsonville;

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

The City of Dawsonville Code of Ordinances Subpart B Land Development Regulations Chapter 106 Soil and Sedimentation Control Ordinance is deleted, repealed in its entirety and replaced with the following new Chapter 106 Soil Erosion, Sedimentation and Pollution Control Ordinance as follows:

### Chapter 106- Soil Erosion, Sedimentation and Pollution Control Ordinance

#### Sec. 106-1. Title.

This ordinance will be known as “The City of Dawsonville Soil Erosion, Sedimentation and Pollution Control Ordinance.”

#### Sec. 106-2 Definitions.

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. **Best Management Practices (BMPs):**

These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the ‘Manual for Erosion and Sediment Control in Georgia’ published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

2. **Board:** The Board of Natural Resources.

3. **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

4. **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
5. **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. 12-5-282.
6. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
7. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
8. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
9. **Department:** The Georgia Department of Natural Resources (DNR).
10. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
11. **Director:** The Director of the Environmental Protection Division or an authorized representative.
12. **District:** The Upper Chattahoochee Soil and Water Conservation District.
13. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
14. **Drainage Structure:** A device composed of a virtually nonerrodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
15. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
16. **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in Section 106-4 of this ordinance.
17. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
18. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
19. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
20. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
21. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
22. **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 106-3.5.
23. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

24. **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8. As used hereinafter in this ordinance the Local Issuing Authority (“LIA”) shall be the City of Dawsonville.
25. **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. 12-5-440 et. seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
26. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
27. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.
28. **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
29. **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
30. **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
31. **Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
32. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
33. **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
34. **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
35. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
36. **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia” (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
37. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
38. **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
39. **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
40. **Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the Upper Chattahoochee Soil and Water Conservation District.
41. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
42. **State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state’s authority to implement the same through federal delegation

under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.

43. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
44. **Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
45. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.epd.georgia.gov](http://www.epd.georgia.gov). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
46. **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
  - a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
  - b. Temporary seeding, producing short-term vegetative cover; or
  - c. Sodding, covering areas with a turf of perennial sod-forming grass.Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
47. **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.
48. **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

### Sec. 106-3. Exemptions.

This ordinance shall apply to any land-disturbing activity undertaken by any person on any land except for the following

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be



constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;

5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section 106-4.C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any

utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

11. Any public water system reservoir.

#### **Sec. 106-4. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.**

##### **A. GENERAL PROVISIONS**

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section 106-4 B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

##### **B. MINIMUM REQUIREMENTS/ BMPs**

1. Best management practices as set forth in Section 106-4 B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

5. The LIA may set more stringent buffer requirements than stated in C.15,16 and 17, in light of O.C.G.A. § 12-7-6 (c).
- C. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
  2. Cut-fill operations must be kept to a minimum;
  3. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
  4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
  6. Disturbed soil shall be stabilized as quickly as practicable;
  7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
  8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
  9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
  10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
  11. Cuts and fills may not endanger adjoining property;
  12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
  13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
  14. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section IV B. 2. of this ordinance;
  15. Except as provided in paragraph (16) and (17) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
17. There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully

implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat; and
  - b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
  - c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
  - d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.
- D. Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 106-4 of this ordinance.

## **Sec. 106-5. Application and Permit Process.**

### **A. GENERAL**

The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

**B. APPLICATION REQUIREMENTS**

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of The City of Dawsonville without first obtaining a permit from the Planning and Zoning Department to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
2. The application for a permit shall be submitted to the City of Dawsonville Planning and Zoning Department and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 106-5 C of this ordinance. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 106-4 B & C of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by a minimum of 3 copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10.
3. Fees shall be charged in accordance with the City of Dawsonville Fee Schedule set forth in Section 2-110.
4. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
5. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 106-4 C 15, 16 and 17 have been obtained, all fees have been paid, and bonding, if required as per Section 106- B 7, have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the Plan submittal.
6. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
7. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local

Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section 106-4 of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
2. Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
2. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 106-4 C. 15, 16 and 17 are obtained, bonding requirements, if necessary, as per Section 106-5 B. 7 are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
5. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
6. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

**Sec. 106-6. Inspection and Enforcement.**

- A. The City of Dawsonville Planning and Zoning Department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation.

Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.

- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- C. The City of Dawsonville Planning and Zoning Department or designee shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

## **Sec. 106-7. Penalties and Incentives**

### **A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY**

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

### **B. STOP-WORK ORDERS**

- 1. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the



violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

2. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

**C. BOND FORFEITURE**

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 106-5 B 7. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

**D. MONETARY PENALTIES**

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

**Sec. 106-8. Education and Certification.**

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
3. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and

meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

### **Sec. 106-9. Administrative Appeal and Judicial Review.**

#### **A. ADMINISTRATIVE REMEDIES**

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Mayor and City Council within 30 days after receipt by the Local Issuing Authority of written notice of appeal. The Mayor and Council shall issue a written decision on the appeal within ten (10) business days of the hearing.

#### **B. JUDICIAL REVIEW**

Any person, aggrieved by the appeal decision of the Mayor and Council shall have the right to appeal the decision of the Mayor and Council by writ of certiorari to the Superior Court of Dawson County in accordance with the provisions of O.C.G.A. §5-4-1 et seq.

### **Sec. 106-10. Effectivity, Validity and Liability.**

#### **A. EFFECTIVITY**

This ordinance shall become effective upon adoption by the Mayor and Council on the 10<sup>th</sup> day of September, 2018.

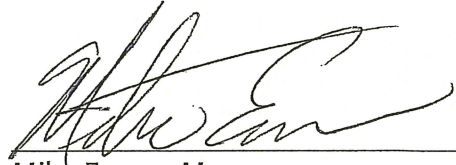
#### **B. VALIDITY**

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

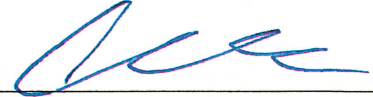
#### **C. LIABILITY**

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or the District for damage to any person or property.
2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, as amended, the Georgia Water Quality Control Act, as amended or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

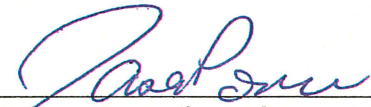
SO ORDAINED THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2018.



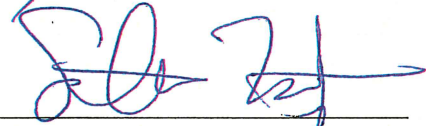
Mike Eason, Mayor



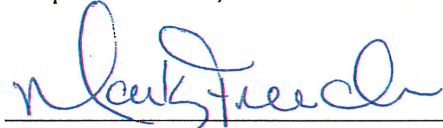
Caleb Phillips, Councilmember



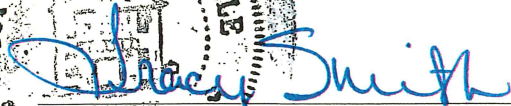
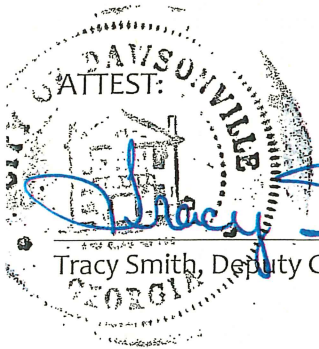
Jason Power, Councilmember



Stephen Tolson, Councilmember



Mark French, Councilmember



Tracy Smith, Deputy City Clerk

**AN ORDINANCE TO PROVIDE UPDATES TO EXISTING ORDINANCES ON WATER SEWER AND GARBAGE SERVICES: RELATED TO RECONNECTION FEES, FINES, INTEREST AND PROCEDURE; RELATED TO METER READINGS, BILLINGS AND COLLECTION; RELATED TO SUSPENSION OF SERVICE; RELATED TO PENALTIES FOR VIOLATION; AND RELATED TO DISCONNECTION OF SERVICE. THE ORDINANCE ALSO PROVIDES FOR A REPEALER AND RESTATEMENT, FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Dawsonville is the provider for water and sewer services for businesses and residences within its territorial boundaries;

**WHEREAS**, the City of Dawsonville is the provider of garbage services to residences within its territorial boundaries which services are billed out on the monthly water and sewer bills;

**WHEREAS**, the City charges each customer of its water and sewer services based upon usage and garbage on a flat fee basis each month;

**WHEREAS**, a customer's nonpayment of a bill for water, sewer and/or garbage services rendered thereto results in the City disconnecting and discontinuing said service until satisfaction of the bill along with any applicable fees, interest and penalties; and

**WHEREAS**, the City intends through this Ordinance to exercise the authority bestowed upon it by the City Charter by implementing updated fines for reconnections, clarifying and revising procedures related to reconnection, meter readings, billings, collection, suspension of service and penalties;

**NOW THEREFORE**, the Council for the City of Dawsonville hereby ordains as follows:

**Section 1.**

Chapter 14 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing Section 14-23 in its entirety and adding a new Section 14-23 to read as follows:

**Sec. 14-23. Connection Fees for Water and Sewer Service**

- (a) *Water service.* Effective December 1, 2005, each consumer subscribing to use the water service of the City of Dawsonville shall pay a connection fee associated therewith. This connection fee is not a deposit, but is the connection fee to reimburse the city for its cost and expense in providing a service line, meter and labor. The meter shall remain the property of the city. By way of clarification, in the event an owner or user has a single water line serving multiple renters, family members, businesses, etc., each distinct line shall constitute a tap-on fee for purposes of this section in accordance with the applicable provisions of sections 14-37 and 14-38. The connection fee shall be according as set forth in section 2-110 of this Code.
- (b) *Sewer service.* Effective December 1, 2005, in addition to the water service fees above, each party shall also pay the amount set out in section 2-110 of this Code for connection to sewer service. This connection

fee is not a deposit, but is the connection fee to reimburse the city for its cost and expense in providing a service line up to the user's property line as well as the costs associated with any labor. The portion of the sewer line up to the user's property line shall remain the property of the city. By way of clarification, in the event an owner or user has a single sewer line serving multiple renters, family members, businesses, etc., each distinct line shall constitute a tap-on fee for purposes of this section in accordance with the applicable provisions of sections 14-37 and 14-38. The connection fee for sewer service shall be as set out in section 2-110 of this Code.

- (c) *Reconnect fees.* Effective upon the passage of this section, with respect to both water and sewer service provided by the City of Dawsonville, in the event that after service has been disconnected a consumer requests service to be reconnected, the consumer shall pay all outstanding bills in full including the reconnection fees set forth in Chapter 2, Section 2-110, late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3) in order to be eligible for the reconnection of water and/or sewer services.
- (d) *Multiple violations.* For the purpose of calculating the appropriate reconnection fee, violations whether by non-payment or otherwise within a Twenty-Four (24) month period of the request for reconnection are considered.

## **Section 2.**

Chapter 14 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing Section 14-25 in its entirety and adding a new Section 14-25 to read as follows:

### **Sec. 14-25. Meter readings, billings and collection.**

- a) *Mailing, payment, penalties and interest.* The City shall read water meters on a monthly basis. Following the monthly meter reading, bills to customers for water, sewer and/or garbage services shall be generated with a billing date and mailed or transmitted electronically if so elected by the customer on a monthly basis. The outstanding balance of each bill is due 10 days from the date of the bill. Bills shall be deemed paid upon receipt of payment at City Hall. Failure to receive bills or notices shall not prevent the bills from becoming delinquent nor relieve the customer from payment of the same. The failure of water, sewer and/or garbage customers to timely pay charges duly imposed shall result in the automatic imposition of the following penalties and interest:
  - (1) Nonpayment within twenty (20) days of the date of the bill will result in a penalty of Ten Dollars (\$10.00) being applied to the delinquent account.
  - (2) Nonpayment within thirty (30) days of the date on the bill will result in water and/or sewer service being disconnected and/or garbage service being discontinued. Disconnection of water for any customer on a payment plan is governed by subsection (b)(2). Reactivation of a disconnected account is governed by subsection (c).
  - (3) All accounts more than 30 days past due from the date on the bill shall bear interest until paid at the rate of one percent per month (12 percent APR) or such other rate as may be set in the future by resolution of the Council.
  - (4) Nonpayment for sixty (60) days after the due date will allow the city, in addition to all other rights and remedies, to terminate the account and apply the security deposit towards the outstanding balance.

- (5) In the event that a customer makes application for water, sewer, or garbage service and it is determined that said customer has or had an outstanding balance due to the city, the city is not obligated to supply any such services until all outstanding bills are paid in full including the reconnection fees set forth in Chapter 2, Section 2-110, late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3).
- (b) *Payment plan.* A payment plan may be initiated to allow customers making application for new water, sewer, or garbage service to satisfy a balance due provided the amount due is greater than \$75.00 or to allow existing customers to avoid disconnection and pay down a balance due greater than \$75.00.
- (1) *New applicants.* A payment plan may be initiated to allow customers making application for new water, sewer, or garbage service to satisfy a past due balance greater than \$75.00.
- a. Any balance due less than \$75.00 will require full payment with the application.
  - b. Ten percent of the balance due is required with the application to activate new service and a monthly or weekly payment plan will be established for the remainder due.
  - c. If any payment due under the payment plan is more than five days late, the water will be disconnected and all services terminated.
  - d. Nothing herein exempts applicant from paying the requisite security deposit or tolls the accruing of interest on the unpaid balance.
- (2) *Existing customers.* A payment plan may be initiated to allow an existing customer with a past due balance greater than \$75.00 to satisfy the balance due and avoid disconnection.
- a. Ten percent of the balance due is required for the customer to initiate the payment plan and a monthly or weekly payment plan will be established for the remainder due.
  - b. If a payment due under the payment plan is more than five days late, the water will be disconnected and all services terminated.
  - c. Nothing herein tolls the accruing of interest on the unpaid balance or exempts the customer from paying their regular monthly bill on time as the payment plan set forth in this subsection is only for a prior outstanding balance.
- (c) *Conditions for reconnection.* Service disconnected for nonpayment of bills will be restored only after all outstanding bills are paid in full including the reconnection fees set forth in Chapter 2, Section 2-110, late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3).
- (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.

### **Section 3.**

Chapter 14 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing Section 14-26 in its entirety and adding a new Section 14-26 to read as follows:

**Sec. 14-26 – Suspension of Service**

- (a) *Refund of security deposit.* When water, sewer and garbage service are discontinued and all bills paid, the security deposit shall be refunded to the consumer by the city.
- (b) *Application of security deposit towards account; collection of balance.* Upon discontinuance of service for nonpayment of bills, the security deposit will be applied by the city toward settlement of the account. Any balance will be refunded to the consumer; however, if the security deposit is insufficient to cover the bill, the city may proceed to collect the balance in the usual way provided by law for collection of debts.
- (c) *Authority to enforce provisions.* The city, the city manager, or any duly authorized representative shall have the authority to enforce the provisions of this section by the discontinuance of water service, sewer service and garbage service in the event any person shall continue to violate the provisions of this section whether through non-payment or otherwise after receiving oral or written notice of the violation from the city.
- (d) *Authority to terminate service.* Whenever the city, the city manager, or any duly authorized representative determines that a person is violating or has violated any provision of this section and determines that the violation of this section will cause immediate damage or harm to the water system, sewers, sewage treatment process, equipment, or treatment facilities of the city, or that the violation endangers the public health, safety, or general welfare of the community, the city, the city manager, or any duly authorized representative shall have the power and authority to immediately revoke, orally or in writing, any water or sewerage permit of the person violating any provision of this section or terminate that person's water service and sewer service, or both.
- (e) *Reinstatement of service.* The City, the City Manager, or any duly authorized representative shall have the power and authority to reinstate and reconnect any water and/or sewerage permit or allow the use of the City's water, sewer and garbage service if the person who had been violating the provisions of this article shall discontinue and cease such violations and pay all outstanding bills in full including the reconnection fees set forth in Chapter 2, Section 2-110, late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3). Upon request for reinstatement of service by the customer, cessation and discontinuance of the violations and payment of all outstanding bills, reconnection fees, late fees, and applicable interest charges in full, the City shall cause the reconnection of services by 4:00 p.m. of the business day following said request and payment.
- (f) *Appeal procedure.* Any person aggrieved by having any sewerage permit, water and sewer service, garbage service or any combination thereof terminated or revoked by the city, the city manager, or any duly authorized representative shall have the right to appeal the revocation to the city council. Such appeal shall be filed within five business days from the date of the termination by notifying the city clerk in writing and specifying the grounds of appeal. The city council shall, within ten days after the receipt of the notice of appeal, fix a date and time for the hearing of the appeal, and after due notice to the parties at interest shall have a hearing on the appeal within twenty days of the date the notice of appeal was received by the city. The council shall issue a written ruling on the issues presented within ten business days of the hearing. Any person dissatisfied with the ruling of the council shall have the right to appeal that ruling by writ of certiorari pursuant to O.C.G.A. § 5-4-1 et seq. to Dawson County Superior Court.

**Section 4.**

Chapter 14, Section 14-30 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing Section 14-30 in its entirety and adding a new Section 14-30 to read as follows:

**Sec. 14-30. Penalties for Violation.**

- (a) Any person or user found to be violating any provision of this article related to non-payment of bills shall as a penalty prior to any further provision of water, sewer and/or garbage services pay all outstanding bills in full including the reconnection fees set forth in Chapter 2, Section 2-110, late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3).
- (b) Any person or user found to be violating any provision of this article, other than for non-payment of bills or wrongful discharge as set forth in subsection (c) below, shall be issued a citation returnable to the City Court for the City of Dawsonville and upon conviction be punished as provided for under city ordinances and state law. Each day in which any such violation continues shall be deemed a separate offense.
- (c) Any industry, commercial concern, person, or user who discharges any waste material from any source into manholes on the city's sewer system or who discharges or causes to be discharged toxic substances without paying for the increased cost, or those incompatible substances as described under [section 14-34](#), shall be in violation of this article and subject to the maximum penalties allowed by state law. Each pound or gallon of the incompatible substances discharged or caused to be discharged into the city sewer system shall be deemed a separate offense with each offense subject to the maximum penalty allowed by state law. Jurisdiction for prosecution of a violation under this sub-section shall lie in the City Court of Dawsonville or in the Superior Court of Dawson County at the choice of the City. Further, the City, in its discretion, may decline to accept the discharge of any industry, commercial concern, person, or user who discharges or causes to be discharged any incompatible substance as outlined in [section 14-34](#) and may quit providing sewage treatment to the violator until such time as the violator has demonstrated the ability to prohibit the discharge of incompatible substances into the sewer system. In order to facilitate the prevention of the discharge of the incompatible substances into the sewer system and the utility to decline to accept such discharges, the City shall have the right to enter upon the private property of such violator and cut off access to the sewer system of the city.
- (d) Any person violating any of the provisions of this article shall become liable to the City for any expense, loss, damage, fine, penalty, or fee occasioned the City by reason of such violation or violations, including, but not limited to, any fee, penalty, or fine assessed against the City by any state or federal agency as a result of such violation or violations. *See* sections 14-23(c); 2-110; 14-25(a)(1); and 14-25(a)(3).

**Section 5.**

Chapter 14, Section 14-49 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing Section 14-49 in its entirety and adding a new Section 14-49 to read as follows:

**Sec. 14-49. Authority to Disconnect Service.**

- (a) Whenever the city, the city manager, or any duly authorized representative determines that a person is violating or has violated the cross connection provisions of this article and determines that the violation of such provision will cause immediate damage or harm to the treatment process, equipment, or treatment and distribution facilities of the city, or that the violation endangers the public health, safety, or general welfare of the community, the city, the city manager, or any duly authorized representative shall have the



power and authority to immediately terminate that person's water service and/or sewer service until that person has ceased the violation.

- (b) Charges for any discontinuance or resumption of water service and/or sewer service shall be in the amounts fixed in this article. *See* sections 14-23(c); 2-110; 14-25(a)(1); and 14-25(a)(3).

**Section 6.**

Chapter 2, Section 2-110 of the Code of Ordinances for the City of Dawsonville is amended by repealing the existing sub-section 14-23(c) of Section 2-110 in its entirety and replacing it with a new sub-section 14-23 (c) as follows:

**Section 2-110. Fee Schedule.**

*Sec. 14-23(c). Reconnection fees with respect to both water and/or sewer service:*

In addition to payment of any outstanding bills, any late fees prescribed in Chapter 14, Section 14-25(a)(1), and applicable interest charges pursuant to Chapter 14, Section 14-25(a)(3) in order to be eligible for the reconnection of water and/or sewer services, the customer must pay the following reconnection fee as applicable:

First time reconnect within a 24 month period: \$50.00;

Second time reconnect within a 24 month period: \$100.00;

Third time reconnect within a 24 month period: \$200.00;

Each subsequent violation beyond the third reconnect within a 24 month period results in a reconnection fee increase of \$100.00 from the previous violation.

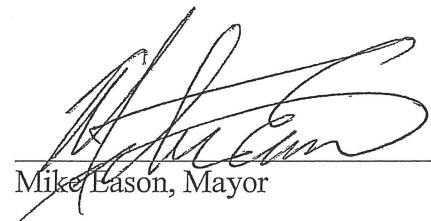
**Section 7. Repealer and Restatement.**

All ordinances and resolutions and parts thereof in conflict herewith are repealed. However, to the extent not in conflict, all remaining ordinances, resolutions, or parts thereof shall not be amended or repealed and shall remain in full force and effect, except as expressly stated in this ordinance.

**Section 8. Effective Date.**

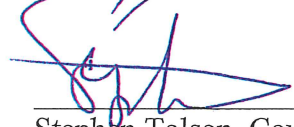
This ordinance shall take effect and be in force from and after its adoption.

SO ADOPTED this 10 day of September, 2018.

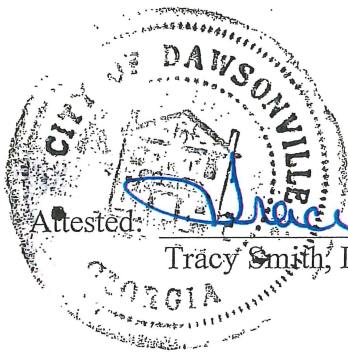
  
Mike Eason, Mayor

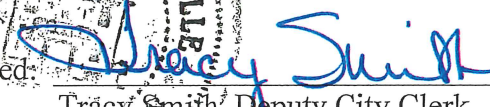
  
Caleb Phillips, Councilmember

  
Jason Power, Councilmember

  
Stephen Tolson, Councilmember

  
Mark French, Councilmember



Attested:   
Tracy Smith, Deputy City Clerk