

Ordinance 2016-_____

Administrative Appeal Procedure Regarding Water and Sewer Tap Fee Determinations Made By the City Manager or His Designee

Be it ordained by the City Council of Dahlonega and it is hereby ordained by the authority thereof that the following procedures shall be utilized in regard to appeals from determinations made by the City Manager or his designee regarding water and sewer tap fee determinations:

1.

An appeal may be commenced by any party aggrieved by a decision, demand, determination, interpretation or order of the City Manager or his designee provided to a person in writing with respect to the water or sewer Ordinances of the City of Dahlonega, including but not limited to any fee, charge, rate, or amount billed (either in terms of quantity of water or sewer service used or monetary amount billed for such services) (“Determination”).

2.

An appeal of a Determination must be commenced within 30 days of the date of the Determination and shall be commenced by mailing a notice of appeal to the City Manager of the City of Dahlonega, 465 Riley Road, Dahlonega, Georgia 30533. The appellant should, but is not required to pay moneys owed to the City pursuant to a Determination and any such payment shall not prejudice the person’s appeal. A failure to properly file a notice of appeal waives any right or claim such person may have with respect to a Determination.

3.

The notice of appeal shall include a brief statement of the appellant's grounds for appeal of the Determination.

4.

Within 10 working days of receipt of the notice of appeal, the City Manager shall appoint a hearing officer who may be, but need not be, an employee of the City of Dahlonega.

5.

The hearing officer shall, within five days, send by certified mail to the Appellant, the City Attorney and the City Engineer, or his designee, a notice of hearing setting forth the following:

- (1) A statement of the time, place, and nature of the hearing to be held no sooner than 20 days and no later than 60 days from the date of the notice of hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A copy of the notice of appeal, Upon application of the City or at the discretion of the hearing officer, the hearing officer may require timely furnishing of a more definite and detailed statement from the appellant. Within 10 days of the receipt of the notice of appeal or the more definite statement from the appellant, the City must respond in writing to all parties to the issues raised.

6.

Opportunity at the hearing shall be afforded all parties to respond and present evidence and argument on all issues.

7.

Unless precluded by law, informal disposition may be made of any appeal by stipulation, agreed settlement, consent order, or default prior to the hearing.

8.

The hearing officer shall have the authority to administer oaths and affirmations; regulate the course of the hearings; set the time and place for adjourned and continued hearings; fix the time for filing of briefs and confer to consider simplification of the issues by consent of the parties; and to make evidentiary rulings as he shall deem appropriate and proper.

9.

Parties may appear by attorney and shall have the right to examine and cross-examine all witnesses.

10.

No decision or order shall be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and as supported by and in accordance with substantial evidence. The hearing officer need not observe the formal rules of evidence observed by courts. Irrelevant, immaterial or unduly repetitious evidence or cross-examination may be excluded. Objections to evidentiary offers may be made and shall be noted in the record. All evidence shall be offered and made a part of the record and all documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In the case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

11.

The hearing officer shall: (a) cause a complete record to be made, to include all pleadings, notices, orders, and intermediate rulings; the corrected transcript of the hearing; the relevant exhibits or copies produced and admitted into evidence at the hearing; (b) prepare and make a report containing his proposed findings of fact and conclusions of law, along with his recommendations to the City Council, and the basis therefor, within 30 days of the conclusion of the hearing. However, the City Council shall not be bound by the proposed findings, conclusions and recommendations of the hearing officer.

12.

The City Council shall: (a) examine the report of the hearing officer and, within 15 working days, make its decision; (b) file a copy of the same with the City Clerk and make it available for public inspection; (c) include findings of fact and conclusions of law unless waived by all parties; and (d) furnish a copy of its decision to each party or to his attorney of record. Appeals from the final decision of the City Council shall be made by writ of certiorari to the Superior Court of Lumpkin County, Georgia.

It is so ordained this 6th day of June, 2016.

Mayor

Attest:

City Clerk