

**AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY OF DUNWOODY CODE
OF ORDINANCES BY ALLOWING THE CITY MANAGER TO MAKE AN
ADMINISTRATIVE DECISION REGARDING SUSPENSION OR REVOCATION OF
ALCOHOL LICENSE**

WHEREAS, the City of Dunwoody has heretofore adopted an ordinance for Alcohol Beverages, as set forth in Chapter 4 of the Code of the City of Dunwoody (the “Code”); and

WHEREAS, the provisions of Chapter 4 currently require all suspensions or revocations of an alcohol license for due cause to be pursuant to a hearing of the Alcohol License Review Board; and

WHEREAS, the Mayor and City Council have determined that it may be appropriate to amend the ordinance to allow the City Manager to issue a suspension or revocation of said alcohol license administratively and provide for an appeals process of same to the Alcohol License Review Board and to allow an appeal from the Alcohol License Review Board directly to the Superior Court of DeKalb County by writ of certiorari.

THEREFORE, Mayor and City Council of the City of Dunwoody hereby ordain as follows:

Section 1: Alcohol Beverages, Chapter 4 of the City of Dunwoody Code of Ordinances, Article III, Section 1(d), Suspension or Revocation of License, is hereby amended as follows:

- (d) When a revocation or suspension of a license is permitted under this chapter, such license may be suspended or revoked by the City Manager. The City Manager shall notify the licensee of the suspension or revocation in writing by certified letter detailing the effective date of the suspension or revocation and the reason for said suspension or revocation. The suspension or revocation letter shall also give the licensee ten (10) days in which to appeal the administrative decision to the Alcohol License Review Board. If the licensee desires to appeal the City Manager’s decision, the licensee shall notify the City Manager of same in writing within ten days of receipt of the suspension or revocation letter. The City Manager shall set a date for hearing of the licensee’s suspension or revocation within thirty (30) days of the licensee’s written notice of appeal to the City Manager and the City Manager shall notify the licensee in writing no later than ten (10) days prior to such hearing of the date of such hearing pursuant to Section 2 of this Article. Prior to the suspension or revocation of a license by the City, the City Manager shall give written notice to the licensee of the time, place, purpose of the hearing, and a statement of the charge(s) upon which the hearing before the City Alcohol License Review Board shall be held in accordance with Section 2 hereafter.—Service of such notice shall be by personal service on the Registered Agent. If personal service fails, the notice shall be mailed by certified mail to the Registered Agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third (3rd) day following deposit in the United States mail.

Section 2: Article III, Section 2(c), License Review Board, of Chapter 4 of the City Code of Ordinances is hereby amended as follows:

- (c) Applicants or licensees shall be given written notice of the date, time and place when the Board will consider the respective matter. The applicant and interested parties shall be afforded the opportunity to be heard by the Board and present evidence to the Board prior to making its decision. Except as may be otherwise specifically provided, no alcohol beverage license having been issued shall be suspended or revoked except for due cause, as defined in this section, until ten (10) days after the City Manager's letter notifying the licensee of the suspension or revocation or, if the licensee requests an appeal of the City Manager's administrative decision, after a hearing and upon written notice to the holder of such license of the time, place, purpose of the hearing, and a statement of the charge or charges upon which the hearing shall be held. Ten (10) days notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the Board may deem the circumstances to justify. Due cause for the suspension or revocation of license shall consist of the violation of any laws or ordinances regulating the business; the violation of any state or federal law; any reason which would authorize the City to refuse the issuance of a license; or any violation of this Chapter. Further, the police department shall notify the City Manager if the licensee or anyone in the employ of a licensee is:

- (1) Being charged with or arrested for selling alcohol beverages:

(A) To an underage person or persons; or

(B) On Sunday without necessary Sunday sales license or after
hours in violation of City ordinance; or

- (2) Being convicted of selling alcohol beverages to an intoxicated person or persons pursuant to O.C.G.A. §3-3-22 during the current license year.

Once the City Manager becomes aware of such charge, charges, arrest, or conviction, the City Manager may suspend or revoke the license pursuant to Section 1 above. he shall place the matter before the Board for hearing. The Board, at said hearing and after receiving evidence, may order the license to sell or serve alcohol beverages be suspended or revoked if the evidence so warrants. All decisions of the Board shall be in writing, and a copy shall be furnished to the applicant or licensee.

Section 3: Article III, Section 2(e), of Chapter 4 of the City Code of Ordinances is hereby amended as follows:

- (e) Upon close of the public hearing, the Board shall reach a decision on the matter before it, and the decision of the Board shall be final unless the applicant, licensee, or permit holder applies to the Superior Court of DeKalb County by filing a Petition for Writ of Certiorari within thirty (30)

~~days of the decision rendered by the Board. appeals the decision to the City Council within ten (10) days of the date of its written decision. The appeal shall be in writing and filed with the City Clerk. Within thirty (30) days of the filing of the appeal and at a regularly scheduled meeting, the Council shall conduct a de novo hearing to hear evidence and, at the conclusion of such hearing, shall render a decision to uphold the decision made by the Board, reverse the decision made by the Board, or in its discretion, modify the decision made by the Board.~~

Section 4: Article III, Section 2(f), of Chapter 4 of the City Code of Ordinances is hereby deleted in its entirety as follows:

~~(f) The decision of the Council as rendered on an appeal under this Article shall be final unless the applicant, licensee or permit holder applies to the Superior Court of DeKalb County by filing a Petition for Writ of Certiorari within thirty (30) days of the decision rendered by the Council.~~

Section 5: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2009.

Approved:

Ken Wright, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

Brian Anderson, City Attorney