

**AN ORDINANCE**

AN ORDINANCE AMENDING THE CODE OF GRIFFIN, GEORGIA, AT CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE II, LICENSES, SECTION 6-53, SUSPENSION AND REVOCATION; GROUNDS AND PROCEDURE, TO COMPLY WITH THE REQUIREMENT OF O.C.G.A. §3-3-2.1 ADOPTING A POLICY AND PROCEDURE BY WHICH DISCIPLINARY ACTION(S) AGAINST AN ALCOHOLIC BEVERAGE LICENSE HOLDER IS REPORTED TO THE GEORGIA DEPARTMENT OF REVENUE; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF GRIFFIN, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:**

Sec. 1. The Code of Griffin, Georgia, is hereby amended at Chapter 6, ALCOHOLIC BEVERAGES, Article II, LICENSES, at Sec. 6.53 – SUSPENSION AND REVOCATION; GROUNDS AND PROCEDURE, by adopting a policy and procedure to comply with O.C.G.A. §3-3-2.1 requiring local governments that take disciplinary action against alcoholic beverage licenses to report such action to the Department of Revenue within 45 days of such action being taken. As amended, said Code Sec. 6-53 shall read as follows:

**“Sec. 6-53. - Suspension and revocation; grounds and procedure.**

- (a) Except as provided in sections 6-55 and 6-56, no license which has been issued or which may be issued pursuant to this chapter shall be suspended or revoked except for due cause and after hearing and upon at least three-day prior written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
- (b) The term "due cause" for the purposes of this section shall include, but not be limited to:
  - (1) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
  - (2) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense when the licensed business is for on-premises consumption.
  - (3) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.

- (4) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.
  - (5) Failure to meet or maintain any standard prescribed by this chapter as a condition or qualification for holding a license.
  - (6) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.
- (c) Notice of suspension or revocation proceedings shall be served on the person(s) named on the license. Notice shall be in writing. The notice may be served personally, by first class mail, or by statutory overnight delivery. If by mail, the notice shall be addressed to the licensee at its address as it appears in the records of the city. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service shall be deemed complete on the third business day following the date of mailing with the United States Postal Service. If by statutory overnight delivery, the notice shall be delivered to the physical street address of the licensee, either at the licensed premises or at his place of residence, and effective on the first business day after depositing with the delivery service.
  - (d) The hearing shall be conducted by a hearing officer appointed by the chairperson of the board of commissioners. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
  - (e) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which has no

relevance or carries no indicia of reliability. All testimony shall be offered under oath or affirmation.

- (f) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed \$5,000.00. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.
- (g) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.
- (h) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the city manager, in consultation with the chief of police. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and nonappealable.
- (i) Pursuant to O.C.G.A. §3-3-2.1, the City Manager shall be required to provide notification to the Georgia Department of Revenue within 45 days of any officer, department, agency, or instrumentality of the municipality taking disciplinary action against any person issued a license to operate any premises at which 75 percent or more total gross annual revenue is derived from the sales of alcoholic beverages for consumption on the premises.
- (j) The notification required under subparagraph (i) above shall be in the format for the reporting of disciplinary actions established by the Georgia Department of Revenue.
- (k) For purposes of subparagraph (i), “disciplinary action” shall have the same meaning as provided for in O.C.G.A. §3-3-2.1(a)(1), which includes any citation or arrest arising out of the violation of any law, rule, regulation, resolution, or ordinance of a governmental entity relating to the manufacture, distribution, sale, or possession of alcoholic beverages against a licensee, any employee of a licensee, or any person holding a financial interest in the license of a licensee on the premises or place of business of any licensee.”

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall become effective immediately upon adoption on second and final reading.

First Reading:        July 26, 2016

Second Reading:    August 9, 2016