



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2018-526

Date of Reading and Adoption: September 10, 2018
At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

AN ORDINANCE TO AMEND VARIOUS CHAPTERS OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AND EFFECTIVE DATE; AND FOR OTHER PURPOSES.

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE AMENDED AS FOLLOWS:

Sec. 62-70. - Administration and appeals.

Appeals regarding tax certificate decisions of the licensing and revenue manager or the director of finance shall be before the ~~alcohol review board~~ City Manager and/or his/her designee.

Sec. 14-123. - Supervised action plan, suspension or revocation.

- (a) A supervised action plan is an intermediate sanction imposed upon a licensee to correct a violation of this article under such terms and conditions as set by the ~~alcohol review board~~ ("ARB") City Manager and/or his/her designee and shall not terminate until the chief of police certifies to the ~~ARB~~ City Manager and/or his/her designee that said terms and conditions have been completed as directed by the ~~ARB~~ City Manager and/or his/her designee.
- (b) A license may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of Lilburn City Code.
- (c) A license may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee is engaged in massage under a false or assumed name, or is impersonating a massage therapist or licensee of a like or different name.
- (d) A license may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee has failed to maintain correct and accurate records as required by this article.
- (e) A license may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee has failed to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers.

- (f) Any licensed massage parlor that is found to be in violation of any section of this article shall be subject to immediate license suspension, provided that an emergency meeting of the ~~ARB~~ Chief of Police and the City Manager has been held as set forth in this article. ~~and that an immediate suspension has been approved by the ARB.~~
- (g) The ~~ARB~~ City Manager and/or his/her designee shall revoke the license of any licensee whose license has been suspended two or more times in any consecutive 12-month period.
- (h) The ~~ARB~~ City Manager and/or his/her designee may mandate a supervised action plan, suspend or revoke the license of any massage parlor which does not meet the licensing qualifications set forth in this article at any time such knowledge becomes known by the ~~ARB~~ City Manager and/or his/her designee.
- (i) An act or omission of a licensee or owner of more than 20 percent interest in the massage parlor, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this article will subject the license to a supervised action plan, suspension or revocation in accordance with the provisions of this article, when the ~~ARB~~ City Manager and/or his/her designee determines to ~~its~~ his/her own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the ~~ARB~~ City Manager and/or his/her designee must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
- (j) Wherever this article permits the ~~ARB~~ City Manager and/or his/her designee to mandate a supervised action plan, revoke or to suspend any license issued hereunder but does not mandate the period of such plan or suspension, such discretion shall be exercised within the guidelines of this section.
- (1) No supervised action plan nor any suspension shall be for a period of time longer than the time remaining on such license.
- (2) The following factors shall be considered on any supervised action plan, revocation or suspension as set out above:
- a. Consistency of penalties mandated by this article and those previously set ~~by the ARB~~;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. Any mitigating circumstances or remedial or corrective steps taken by licensee; and
 - e. Any aggravating circumstances or failure by licensee to take remedial or corrective steps.

Sec. 14-124. - Hearings ~~by the ARB.~~

- (a) *Emergency review hearings ~~by the ARB.~~*

- (1) The chief of police shall notify ~~either the chairman or the vice chairman of the ARB~~ the City Manager that such a situation exists that constitutes a significant, present threat to public safety or public order, which is likely to continue and that requires the immediate suspension of a license.
- (2) A decision to immediately suspend a license shall be jointly made by the chief of police and the ~~chairman or vice chairman of the ARB~~ City Manager and shall be justified when any of the criteria set forth in section 14-123 is present and at least one identifiable aggravating circumstance exists that the ~~chairman or vice chairman of the ARB~~ City Manager finds requires an emergency suspension, after consideration of the following:
 - a. Consistency of penalties mandated by this article and those previously set ~~by the ARB~~;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. History of prior suspensions and/or revocations of licensee and of warnings of violations to licensee;
 - e. Sexually-related conduct or public indecency at the establishment;
 - f. Presence of illegal drugs at the establishment;
 - g. Violence at the establishment;
 - h. Gambling at the establishment; and
 - i. Any public safety implications of failing to immediately suspend the subject license.
- (3) Within five days of the decision to immediately suspend a license, the ~~ARB~~ City Manager shall conduct an evidentiary emergency review hearing to determine if the situation presented is sufficient to justify any further suspension or revocation of a license or a supervised action plan.
- (4) At least within 24 hours of said hearing, the ~~ARB~~ City Manager and/or his/her designee shall issue a show cause order notifying licensee of the decision to immediately suspend said license; notifying licensee of the time, date, and place of the review hearing to be conducted before the ~~ARB~~ City Manager; and directing licensee to show cause why said license should not be subject to further suspension, revocation or a supervised action plan; both licensee and the chief of police shall receive a copy of the show cause order.
- (5) The city clerk shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said emergency review hearing, unless further subpoenas are approved in writing by the ~~chairman of the ARB~~ City Manager and/or his/her designee.
- (6) At said emergency review hearing, licensee shall be allowed to present evidence to the ~~ARB~~ City Manager to show cause why the license should not be further suspended, revoked or subject to a supervised action plan, and the chief of police or his designee shall be allowed to present evidence to the ~~ARB~~ City Manager as to why the license should be further suspended, revoked or subject to a supervised action plan.
- (7) Strict evidentiary rules shall not apply to said emergency review hearing.

- (8) After consideration of all evidence presented at the emergency review hearing, the ~~ARB~~ City Manager shall issue ~~its~~ a decision to either:
- a. Mandate a supervised action plan;
 - b. Further suspend the subject license for a certain time period; or
 - c. Revoke the subject license.
- (9) Within 72 hours of the conclusion of the emergency review hearing, the ~~ARB~~ City Manager and/or his/her designee shall provide written notice of ~~it's~~ the City Manager's decision to licensee and the chief of police. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this article. A review of the ~~ARB's~~ City Manager's decision may be made by appeal to the city council on the record only; no further evidentiary hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the ~~ARB~~ City Manager. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~ARB~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee.
- (10) The findings of the ~~ARB~~ City Manager shall not be set aside unless found to be:
- a. Contrary to law or ordinances, or
 - b. There is no evidence in the record to support the findings of the ~~ARB~~ City Manager.
- (11) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.
- (b) *Regularly scheduled hearings ~~by the ARB.~~*
- (1) Except as set forth in this article, no license shall be suspended or revoked without the opportunity for a hearing as hereinafter provided. The ~~ARB~~ City Manager and/or his/her designee shall hold evidentiary hearings regarding the denials, imposition of supervised action plans, suspensions and/or revocations of all licenses.
 - (2) Except in the case of emergency hearings as set forth in this section, in the event the ~~ARB~~ City Manager and/or his/her designee intends to mandate a supervised action plan, suspend or revoke a license, ~~it~~ he/she shall provide written notice to the licensee that licensee shall show cause before the ~~ARB~~ City Manager and/or his/her designee why said license should not be subject to a supervised action plan, suspended or revoked; said order shall notify licensee and the chief of police of the time, date, and place of the hearing to be conducted before the ~~ARB~~; City Manager and/or his/her designee.
 - (3) The city clerk shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the ~~chairman of the ARB~~; City Manager and/or his/her designee.
 - (4) At said hearing, licensee shall be allowed to present evidence to the ~~ARB~~ City Manager and/or his/her designee to show cause why the license should not be suspended or revoked, and if necessary, the chief of police or his designee shall be allowed to present evidence to the ~~ARB~~ City Manager and/or his/her designee as to why the license should be suspended or revoked.

- (5) Strict evidentiary rules shall not apply to said hearing.
- (6) After consideration of all evidence presented at the hearing, the ~~ARB~~ City Manager and/or his/her designee shall issue ~~its~~ a decision to either:
 - a. Mandate a supervised action plan;
 - b. Suspend the subject license for a certain time period; or
 - c. Revoke the subject license.
- (7) After said hearing, the ~~ARB~~ City Manager and/or his/her designee shall provide written notice to licensee and the chief of police of ~~its~~ the decision. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this article. A review of the ~~ARB's~~ decision of the City Manager and/or his/her designee may be made by appeal to the city council on the record only; no further evidentiary hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the ~~ARB~~ City Manager and/or his/her designee. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~ARB~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee.
- (8) The findings of the ~~ARB~~ City Manager and/or his/her designee shall not be set aside unless found to be:
 - a. Contrary to law or ordinances, or
 - b. There is no evidence in the record to support the findings of the ~~ARB~~ City Manager and/or his/her designee.
- (9) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

Sec. 14-171. - Hearing for denial, suspension or revocation of permit.

No permit shall be denied, suspended or revoked without the opportunity for a hearing as provided.

- (a) The chief of police or his/her designee shall provide written notice to the applicant or permit holder of his or her order to deny, suspend or revoke the permit. Such written notification shall set forth in reasonable detail the cause for such action and shall notify the applicant or permit holder of the right to appeal under the provisions of this article. Any applicant or permit holder who is aggrieved or adversely affected by a final action of the chief of police may have a review thereof by appeal to the ~~alcohol review board established pursuant to the city alcoholic beverage ordinance~~ City Manager and/or his/her designee. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the chief of police and to defray administrative costs, must be accompanied by a filing fee of \$100.00.
- (b) A hearing shall be conducted on each appeal within 30 days of the date of filing with the city clerk in accordance with the provisions set forth herein and in the alcoholic beverage ordinance, unless the appellant and the chief of police agree upon a continuance of such date. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant. Both the appellant and the chief of police shall be allowed to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, the request must be made at least three days prior to the hearing, and the appellant shall be responsible for one-half of the costs of the court reporter and of the

transcript. The appellant shall have the burden of proof on any such appeal. ~~Before hearing an appeal, each member of the alcohol review board shall sign an affidavit to be part of the record that he or she is not related to, or personal friends with, any owner of the establishment in question in the appeal being considered, and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the alcohol review board in accordance with the provisions set forth in the alcoholic beverage ordinance.~~

- (c) The written findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be forwarded to the city clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the city clerk to notify the appellant and the chief of police in writing of the action of the ~~alcohol review board~~ City Manager and/or his/her designee.
- (d) The finding of the ~~alcohol review board~~ City Manager and/or his/her designee shall not be set aside unless found to be:
 - (1) Contrary to law or ordinances, or
 - (2) Unsupported by substantial evidence on the records as a whole, or
 - (3) Unreasonable.
- (e) The findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be final unless an appeal of said decision is made to the city council. Said appeal shall be on the record only; no further hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final decision of the ~~alcohol review board~~ City Manager and/or his/her designee. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~alcohol review board~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00.
- (f) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

Sec. 14-174. - Hearings for the denial, suspension or revocation of certificate.

No certificate shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. The following shall apply to all persons, firms, or corporations engaging in the business, trade or occupation of a pawnshop:

- (1) The director shall provide written notice to the applicant or certificate holder of his or her order to deny, suspend or revoke the certificate. Such written notification shall set forth in reasonable detail the cause for such action and shall notify the applicant or certificate holder of the right to appeal under the provisions of this article. Any applicant or certificate holder who is aggrieved or adversely affected by a final action of the director may have a review thereof by appeal to the ~~alcohol review board established pursuant to the city alcoholic beverage ordinance~~ City Manager and/or his/her designee. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the director and to defray administrative costs, must be accompanied by a filing fee of \$100.00.
- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the city clerk in accordance with the provisions set forth herein and in the alcoholic beverage ordinance, unless the appellant and the director agree upon a continuance of such date. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant. Both the appellant and the director shall be allowed to present evidence and cross-examine witnesses.

Should the appellant desire an official transcript of the appeal proceedings, the request must be made at least three days prior to the hearing, and the appellant shall be responsible for one-half of the costs of the court reporter and of the transcript. The appellant shall have the burden of proof on any such appeal. ~~Before hearing an appeal, each member of the alcohol review board shall sign an affidavit to be part of the record that he or she is not related to, or personal friends with, any owner of the establishment in question in the appeal being considered, and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the alcohol review board in accordance with the provisions set forth in the alcoholic beverage ordinance.~~

- (3) The written findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be forwarded to the city clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the city clerk to notify the director and the appellant in writing of the action of the ~~alcohol review board~~ City Manager and/or his/her designee.
- (4) The finding of the ~~alcohol review board~~ City Manager and/or his/her designee shall not be set aside unless found to be:
 - a. Contrary to law or ordinances, or
 - b. Unsupported by substantial evidence on the records as a whole, or
 - c. Unreasonable.
- (5) The findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be final unless an appeal of said decision is made to the city council. Said appeal shall be on the record only; no further hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final decision of the ~~alcohol review board~~ City Manager and/or his/her designee. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~alcohol review board~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00.
- (6) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

Sec. 14-208. - Hearings for the denial, suspension or revocation of certificate.

No certificate shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. The following shall apply to all persons, firms, or corporations engaging in the business, trade or occupation of a precious metals dealer:

- (1) The director shall provide written notice to the applicant or certificate holder of his or her order to deny, suspend or revoke the certificate. Such written notification shall set forth in reasonable detail the cause for such action and shall notify the applicant or certificate holder of the right to appeal under the provisions of this article. Any applicant or certificate holder who is aggrieved or adversely affected by a final action of the director may have a review thereof by appeal to the ~~alcohol review board established pursuant to the city alcoholic beverage ordinance~~ City Manager and/or his/her designee. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the director and to defray administrative costs, must be accompanied by a filing fee of \$100.00.
- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the city clerk in accordance with the provisions set forth herein and in the alcoholic beverage ordinance, unless the appellant and the director agree upon a continuance of such date. The appellant at such

hearing shall have the right to be represented by an attorney, at the expense of the appellant. Both the appellant and the director shall be allowed to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, the request must be made at least three days prior to the hearing, and the appellant shall be responsible for one-half of the costs of the court ~~reporter and of the transcript. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the alcohol review board shall sign an affidavit to be part of the record that he or she is not related to, or personal friends with, any owner of the establishment in question in the appeal being considered, and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the alcohol review board in accordance with the provisions set forth in the alcoholic beverage ordinance.~~

- (3) The written findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be forwarded to the city clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the city clerk to notify the director and the appellant in writing of the action of the ~~alcohol review board~~ City Manager and/or his/her designee.
- (4) The finding of the ~~alcohol review board~~ City Manager and/or his/her designee shall not be set aside unless found to be:
 - a. Contrary to law or ordinances, or
 - b. Unsupported by substantial evidence on the records as a whole, or
 - c. Unreasonable.
- (5) The findings of the ~~alcohol review board~~ City Manager and/or his/her designee shall be final unless an appeal of said decision is made to the city council. Said appeal shall be on the record only; no further hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final decision of the ~~alcohol review board~~ City Manager and/or his/her designee. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~alcohol review board~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00.
- (6) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

Sec. 14-325. - Supervised action plan, suspension or revocation.

- (a) A supervised action plan is an intermediate sanction imposed upon a licensee or permittee to correct a violation of this article under such terms and conditions as set by ~~the alcohol review board ("ARB")~~ City Manager and/or his/her designee and shall not terminate until the chief of police certifies to the ~~ARB~~ City Manager and/or his/her designee that said terms and conditions have been completed as directed by the ~~ARB~~ City Manager and/or his/her designee.
- (b) A license or permit may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee or permittee furnishes fraudulent or untruthful information in the application for a license or permit and for failure to pay all fees, taxes or other charges imposed under the provisions of Lilburn City Code.
- (c) A license or permit may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee or permittee is engaged in CSTTOM under a false or assumed name, or is impersonating a CSTTOM agent or licensee of a like or different name.

- (d) A license or permit may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee or permittee has failed to maintain correct and accurate records as required by this article.
- (e) A license or permit may be subjected to a supervised action plan, suspended or revoked by the ~~ARB~~ City Manager and/or his/her designee where the licensee or permittee has failed to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers.
- (f) Any licensed CSTTOM establishment that is found to be in violation of any section of this article shall be subject to immediate license or permit suspension, provided that an emergency meeting of the ~~ARB~~ chief of police and the City Manager has been held as set forth in this article ~~and that an immediate suspension has been approved by the ARB.~~
- (g) The ~~ARB~~ City Manager and/or his/her designee shall revoke the license or permit of any licensee or permittee whose license or permit has been suspended two or more times in any consecutive 12-month period.
- (h) The ~~ARB~~ City Manager and/or his/her designee may mandate a supervised action plan, suspend or revoke the license of any CSTTOM establishment which does not meet the licensing qualifications set forth in this article at any time such knowledge becomes known by the ~~ARB~~ City Manager and/or his/her designee.
- (i) An act or omission of a permittee, licensee, owner of more than 20 percent interest in the CSTTOM licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this article will subject the license or permit to a supervised action plan, suspension or revocation in accordance with the provisions of this article, when the ~~ARB~~ City Manager and/or his/her designee determines to its own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the ~~ARB~~ City Manager and/or his/her designee must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
- (j) Wherever this article permits the ~~ARB~~ City Manager and/or his/her designee to mandate a supervised action plan, revoke or to suspend any license or permit issued hereunder but does not mandate the period of such plan or suspension, such discretion shall be exercised within the guidelines of this section.
 - (1) No supervised action plan nor any suspension shall be for a period of time longer than the time remaining on such license or permit.
 - (2) The following factors shall be considered on any supervised action plan, revocation or suspension as set out above:
 - a. Consistency of penalties mandated by this article and those previously set ~~by the ARB~~;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. Any mitigating circumstances or remedial or corrective steps taken by licensee or permittee; and
 - e. Any aggravating circumstances or failure by licensee or permittee to take remedial or corrective steps.

Sec. 14-326. - Hearings ~~by the ARB.~~

(a) *Emergency review hearings ~~by the ARB.~~*

- (1) The chief of police shall notify ~~either the chairman or the vice chairman of the ARB~~ the City Manager that such a situation exists that constitutes a significant, present threat to public safety or public order, which is likely to continue and that requires the immediate suspension of a license or permit.
- (2) A decision to immediately suspend a license or permit shall be jointly made by the chief of police and the ~~chairman or vice chairman of the ARB~~ City Manager and shall be justified when any of the criteria set forth in section 14-325 is present and at least one identifiable aggravating circumstance exists that the ~~chairman or vice chairman of the ARB~~ City Manager finds requires an emergency suspension, after consideration of the following:
 - a. Consistency of penalties mandated by this article and those previously set ~~by the ARB~~;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. History of prior suspensions and/or revocations of licensee or permittee and of warnings of violations to licensee or permittee;
 - e. Sexually-related conduct or public indecency at the establishment;
 - f. Presence of illegal drugs at the establishment;
 - g. Violence at the establishment;
 - h. Gambling at the establishment; and
 - i. Any public safety implications of failing to immediately suspend the subject license or permit.
- (3) Within five days of the decision to immediately suspend a license or permit, the ~~ARB~~ City Manager shall conduct an evidentiary emergency review hearing to determine if the situation presented is sufficient to justify any further suspension or revocation of a license or permit or a supervised action plan.
- (4) At least within 24 hours of said hearing, the ~~ARB~~ City Manager and/or his/her designee shall issue a show cause order notifying licensee or permittee of the decision to immediately suspend said license or permit; notifying licensee or permittee of the time, date, and place of the review hearing to be conducted before the ~~ARB~~ City Manager; and directing licensee or permittee to show cause why said license or permit should not be subject to further suspension, revocation or a supervised action plan; both licensee or permittee and the chief of police shall receive a copy of the show cause order.
- (5) The city clerk shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said emergency review hearing, unless further subpoenas are approved in writing by the ~~chairman of the ARB~~ City Manager.
- (6) At said emergency review hearing, licensee or permittee shall be allowed to present evidence to the ~~ARB~~ City Manager to show cause why the license or permit should not be further suspended, revoked or subject to a supervised action plan, and the chief of police or his designee shall be allowed to present evidence to the ~~ARB~~ City Manager as to why the license or permit should be further suspended, revoked or subject to a supervised action plan.
- (7) Strict evidentiary rules shall not apply to said emergency review hearing.

- (8) After consideration of all evidence presented at the emergency review hearing, the ~~ARB~~ City Manager shall issue ~~its~~ a decision to either:
 - a. Mandate a supervised action plan;
 - b. Further suspend the subject license or permit for a certain time period; or
 - c. Revoke the subject license or permit.
 - (9) Within 72 hours of the conclusion of the emergency review hearing, the ~~ARB~~ City Manager and/or his/her designee shall provide written notice of ~~its~~ the decision to licensee or permittee and the chief of police. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this article. A review of the ~~ARB's~~ City Manger's decision may be made by appeal to the city council on the record only; no further evidentiary hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the ~~ARB~~-City Manager. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~ARB~~ City Manager. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee or permittee.
 - (10) The findings of the ~~ARB~~ City Manager shall not be set aside unless found to be:
 - a. Contrary to law or ordinances, or
 - b. There is no evidence in the record to support the findings of the ~~ARB~~ City Manager.
 - (11) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.
- (b) *Regularly scheduled hearings ~~by the ARB.~~*
- (1) Except as set forth in this article, no license or permit shall be suspended or revoked without the opportunity for a hearing as hereinafter provided. The ~~ARB~~ City Manager and/or his/her designee shall hold evidentiary hearings regarding the denials, imposition of supervised action plans, suspensions and/or revocations of all licenses and/or permits.
 - (2) Except in the case of emergency hearings as set forth in this section, in the event the ~~ARB~~ City Manager and/or his/her designee intends to mandate a supervised action plan, suspend or revoke a license or permit, ~~it~~ he/she shall provide written notice to the licensee or permittee that licensee or permittee shall show cause before the ~~ARB~~ City Manager and/or his/her designee why said license or permit should not be subject to a supervised action plan, suspended or revoked; said order shall notify licensee or permittee and the chief of police of the time, date, and place of the hearing to be conducted before the ~~ARB~~ City Manager and/or his/her designee.
 - (3) The city clerk shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the ~~chairman of the ARB~~ City Manager and/or his/her designee.
 - (4) At said hearing, licensee or permittee shall be allowed to present evidence to the ~~ARB~~ City Manager and/or his/her designee to show cause why the license or permit should not be suspended or revoked, and if necessary, the chief of police or his designee shall be allowed to present evidence to the ~~ARB~~ City Manager and/or his/her designee as to why the license or permit should be suspended or revoked.
 - (5) Strict evidentiary rules shall not apply to said hearing.

- (6) After consideration of all evidence presented at the hearing, the ~~ARB~~ City Manager and/or his/her designee shall issue ~~its~~ a decision to either:
 - a. Mandate a supervised action plan;
 - b. Suspend the subject license or permit for a certain time period; or
 - c. Revoke the subject license or permit.
- (7) After said hearing, the ~~ARB~~ City Manager and/or his/her designee shall provide written notice to licensee or permittee and the chief of police of its decision. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this article. A review of the ~~ARB's~~ decision by the City Manager and/or his/her designee may be made by appeal to the city council on the record only; no further evidentiary hearings shall be held before the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the ~~ARB~~ City Manager and/or his/her designee. It shall be the duty of the city clerk to forward a copy of said appeal to the ~~ARB~~ City Manager and/or his/her designee. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee or permittee.
- (8) The findings of the ~~ARB~~ City Manager and/or his/her designee shall not be set aside unless found to be:
 - a. Contrary to law or ordinances, or
 - b. There is no evidence in the record to support the findings of the ~~ARB~~ City Manager and/or his/her designee.
- (9) The findings of the city council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

BE IT FURTHER ORDAINED that this ordinance becomes effective upon its adoption.

BE IT FURTHER ORDAINED that all regulations or parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

SO ORDAINED this the 10th day of September, 2018.

Johnny D. Crist, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, City Clerk
(Seal)