

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2010 - 26

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, PART II, CHAPTER 22, BUSINESSES, ARTICLE II, OCCUPATIONAL LICENSES, BY DELETING SECTION 22-34 "REVOCATION" AND SUBSTITUTE IN LIEU THEREOF A NEW SECTION 22-34 "REVOCATION"; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED:

Section 1. The CODE OF CLAYTON COUNTY, GEORGIA, as amended, is hereby further amended by amending, CODE OF CLAYTON COUNTY, GEORGIA, Part II, Chapter 22, "Businesses", Article II "Occupational Licenses", by deleting the existing Section 22-34 "Revocation" and substituting in lieu there of a new Section 22-34 "Revocation" , which shall read as follows:

**"Sec. 22-34. Revocation.**

**(a) Cause for revocation**

Any license issued for conducting a business pursuant to this article may be suspended or revoked in the event of any of the following:

- (1) The licensee is found to have been engaged in any unlawful activity, including any act which would constitute a violation of a federal, state or county law, ordinance or resolution, and where such unlawful activity is such as to directly or indirectly affect the licensee's ability or qualification to conduct the business for which the license was issued;
- (2) Whenever the state or other licensing governmental agency has revoked or suspended any required permit, license, or occupational registration;
- (3) Whenever the licensee fails to commence doing business as set forth in its application within six months from the date the license was issued;
- (4) Whenever the licensee fails to pay the annual license fees or any other fee or tax imposed by law or ordinance.

(b) Director's review and determination

In the event it is reported to the department that a licensee is or was engaged in any prohibited activity described in this section, an investigation shall be conducted by the department director. If the director's investigation reveals that there is reasonable belief that revocation or suspension of the license, is justified the licensee shall be notified to appear before the director on a date certain and show cause why his license should not be revoked or suspended. The licensee may appear in person at such hearing and/or be represented by counsel. At this hearing, the licensee shall be presented with the facts that establish the reasonable belief and will then be given an opportunity to present any evidence the licensee wishes the director to consider. At the conclusion of the hearing, the director, based upon evidence available, shall enter a decision making a finding of fact and conclusion, which includes a statement that:

(1) The evidence does not support a finding that the licensee was engaged in any prohibited activity, and the issue is therefore terminated; or

(2) The evidence does support a finding that the licensee was engaged in prohibited activity, in which case the director may:

a. Issue a warning to the licensee;

b. Suspend the license for a time certain;

c. Revoke the license; and/or

d. Take any other action regarding the licensee as the director deems just and appropriate under the circumstances.

(c) Appeal and Hearing

Within ten days from the date of the director's decision, the licensee may appeal this decision by filing a written notice of appeal with the Board of Commissioner's Chief of Staff. The Chief of Staff, or such other person appointed by the Board of Commissioners, shall serve as the hearing officer for the appeal. The notice of appeal shall supersede any suspension or revocation pending a determination following the appeal hearing. The hearing officer shall schedule a hearing within 45 days of receipt of the notice. Notice of the hearing shall be made by certified mail to the business address of the licensee. In the event the notice is returned undelivered, then notice shall be posted to any door of the licensee's place of business giving no less than seven days notice of the hearing. The licensee may appear in person and/or be represented by counsel. The County shall be represented by an attorney selected by the County's Chief Staff Attorney. Either party shall have the right to subpoena witnesses and present evidence at this hearing. Either party may request a continuance for good cause shown and the granting of such continuance shall be at the discretion of the hearing officer.

(d) Rules of evidence and conduct of appeal hearing

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in the trial of civil nonjury cases in the superior courts shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under such rules, evidence not admissible there under may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs or if it consists of a report of a type routinely submitted to and relied upon by a department of the county in the normal course of its business. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(2) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of this state;

(3) A party may conduct such cross-examination as shall be required for a full and true disclosure of the facts;

(4) Official notice may be taken of judicially cognizable facts. In addition, official notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The experience, technical competence, and specialized knowledge of a county employee may be utilized in the evaluation of the evidence; and

(5) Any appeal hearing may be conducted by utilizing remote telephonic communications if the record reflects that all parties have consented to the conduct of the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing.

(e) Findings and determinations

Within ten days of the close of evidence the hearing officer shall complete a written finding of facts and order that:

(1) The evidence does not support a finding that the licensee was engaged in any prohibited activity, and the issue is therefore terminated; or

(2) The evidence does support a finding that the licensee was engaged in prohibited activity, in which case the hearing officer may:

a. uphold the determination of the director, or

b. Issue a warning to the licensee;

c. Suspend the license for a time certain;

d. Revoke the license; and/or

e. Take any other action regarding the licensee as the hearing officer deems just and appropriate under the circumstances.

(f) Appeal to superior court

The parties may appeal the final ruling of the hearing officer to the Superior Court of Clayton County by writ of certiorari.

(g) The provisions of this section shall also apply to the holder of any permit or license authorizing the permittee or licensee to conduct business in the county.”

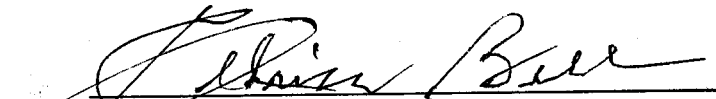
Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 3 If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 7. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 2<sup>nd</sup> day of February, 2010.

CLAYTON COUNTY BOARD OF COMMISSIONERS

  
ELDRIN BELL, CHAIRMAN

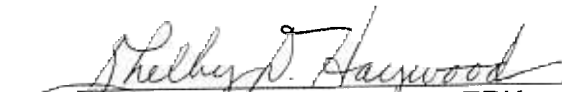
  
WOLE RALPH, VICE CHAIRMAN

  
GAIL B. HAMBRICK, COMMISSIONER

  
SONNA SINGLETON, COMMISSIONER

  
MICHAEL EDMONDSON, COMMISSIONER

ATTEST:

  
SHELBY D. HAYWOOD, CLERK