

**STATE OF GEORGIA  
CITY OF BROOKHAVEN**

**AN ORDINANCE TO AMEND DIVISION 2 OF CHAPTER 4 OF THE BROOKHAVEN  
CODE OF ORDINANCES TO PROVIDE FOR PROCESS IN ALCOHOL LICENSE  
REVOCATION APPEALS**

**WHEREAS**, the City of Brookhaven has the authority pursuant to Article 3, Section 6, Paragraph VII of the Georgia Constitution, O.C.G.A. § 3-3-2, and Charter § 1.03 to regulate the retail sale of distilled alcohol, malt beverages, and wine; and

**WHEREAS**, the Charter of the City of Brookhaven authorizes the City to enact appropriate regulations for the orderly conduct of business and to protect the public, Charter § 1.03(b)(4) & (29); and

**WHEREAS**, the Charter of the City of Brookhaven authorizes the City to provide for sanctions and penalties for the violation of the laws and ordinances of the City of Brookhaven, Charter § 1.03(b)(24); and

**WHEREAS**, the City wishes to provide appropriate process for the adjudication of disputes over the denial, suspension, or revocation of city alcohol licenses;

**NOW THEREFORE**, it is hereby ordained and enacted by the Mayor and Council of the City of Brookhaven that Section 4-67 is amended to add subsections (f) through (h)(1) as follows:

- (f) The evidentiary standard for an action against a licensee shall be preponderance of the evidence.
- (g) During all hearings before the alcoholic beverage hearing board, formal legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The board shall follow the Georgia rules of evidence regarding privileges.
- (h) *Subpoena power.* Whenever the attendance of any witness may be required before the alcoholic beverage hearing board to establish any fact in connection with any hearing or any investigation which may be lawfully conducted by the alcoholic beverage hearing board, the mayor or the mayor's designee is authorized to issue a subpoena, directed to the witness, requiring the witness to personally be and appear at the time and place of the meeting of the board and to produce at that time and place any documentary evidence which, in the judgment of the board, may be required. Such witness shall remain in attendance upon the meeting until excused therefrom. The subpoena shall bear teste in the name of the city, shall be signed by the mayor or the mayor's designee and shall be served by any member of the department of police. Such service shall be had at least 24 hours before the time such witness is required to attend and to continue the attendance of the witness.

(1)*Penalty for violation.* If any person so summoned as set out in subsection (h) of this section as a witness shall fail, neglect or refuse to attend the hearing or shall fail, neglect or refuse to produce any relevant documentary evidence or shall fail or refuse to take and

subscribe to the required oath or affirmation or shall fail to answer any question lawfully propounded or shall fail to continue in attendance until excused by the board, the person shall be cited to appear before the municipal court and, upon conviction by that court shall be subject to the general penalties provided in section 1-11, except the fine shall be limited to \$50.00 and the sentence to work on the streets or public works of the city shall not exceed 25 days.

This \_\_\_\_\_ day of July, 2017.

\_\_\_\_\_  
JOHN ARTHUR ERNST, JR.  
Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
Susan Hiott  
City Clerk

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Christopher D. Balch  
City Attorney