

ORDINANCE 2015 - 6

AN ORDINANCE TO PROCLAIM THE EXISTENCE AND ESTABLISHMENT OF AN ADMINISTRATIVE HEARING OFFICER, TO ESTABLISH THE DUTIES, JURISDICTION

WHEREAS, it is the desire of the City Council of Dahlonega to have an appropriate judge to oversee the decision for granting, denial, probating, suspending or revoking of any license or permit granted by the City of Dahlonega; and

WHEREAS, other neighboring cities have had success in appointing an administrative hearing officer to preside in these certain situation; and

WHEREAS, the City Council desires to proclaim certain jurisdiction and procedures for an administrative hearing officer; and

NOW, THEREFORE, it is hereby ordained by the City Council of Dahlonega, Georgia that from the effective date of this ordinance there is hereby created the position of administrative hearing officer whose term and duties shall be as set out below:

- (1) The administrative hearing officer shall be the Dahlonega Municipal Court Judge appointed by the city council and shall serve until a successor is appointed and qualified. The administrative hearing officer who is also the Dahlonega Municipal Court Judge shall be an attorney who is a member in good standing of the State Bar of Georgia Association.
- (2) The duties of the administrative hearing officer shall be the hearing of all issues under the ordinances of the City of Dahlonega which would determine the granting, denial, probating, suspending or revoking of any license or permit granted under the City of Dahlonega ordinances.
- (3) The jurisdiction of the hearing officer over the licenses or permits shall be in addition to and concurrent with that of the Municipal Court of the City of Dahlonega, except that the hearing officer is specifically prohibited from awarding any punishment involving imprisonment. The administrative hearing officer may award fines and penalties where specifically provided for in other regulations of the City.
- (4) Jurisdiction of and procedures for administrative hearing officer:
  - a. The administrative hearing officer shall have jurisdiction over any action against any licensee or permittee holding a license or permit issued by any department of the City of Dahlonega. Said action shall be brought by the City of Dahlonega Attorney, upon information from any city personnel; and
  - b. Any hearing before the administrative hearing officer shall be on a date and time certain which shall be reflected on the summons issued by the attorney or any other person specifically authorized by city ordinance, regulation or other law to issue such summons to appear in municipal court, or by the clerk of the municipal court on behalf of any aggrieved citizen.

c. The notice of administrative hearing shall contain a place, date and time certain and shall be served on responding party more than five days before any scheduled hearing. The notice of administrative hearing shall be served as follows:

1. By certified mail return/receipt requested; or
2. By leaving a copy thereof at the licensed business location with an employee working therein (and in the case of an alcohol licensee, said notice shall also be sent by regular mail to the agent set out on the license or listed on the license application); or
3. By personal service on the responding party or on an agent authorized by law or by appointment to receive service of process.

All service shall be by an authorized person in the City of Dahlonega City Attorney's office or by any sworn Lumpkin County deputy or any City of Dahlonega Code Enforcement officer.

d. The administrative hearing officer shall have the authority to hear evidence and subpoena witnesses on behalf of the City of Dahlonega or the aggrieved citizen and shall generally conduct the hearings in accordance with the requirements of due process as required by the United States Constitution and the Constitution of the State of Georgia. The administrative hearing officer shall entertain any and all evidence relevant to the matter without regard to evidentiary rules regarding hearsay.

e. The standard for an action against a licensee or permittee is the standard "preponderance of the evidence."

f. The administrative hearing officer may promulgate any rules of procedure not in conflict with this ordinance or other law.

(5) Whenever, from any cause, the administrative hearing officer is unable to be in attendance, or it should appear that he or she is disqualified in any case, it shall be the duty of the administrative hearing officer to appoint a hearing officer pro hac vice to preside over the hearing in place and stead of the administrative hearing officer, and all actions of the appointee shall be binding as if performed by the administrative hearing officer.

(6) In the event of any vacancy in the office of administrative hearing officer for any cause, whether by death, resignation, sickness, vacancy or removal, one or more persons to fill the vacancy shall be nominated by the mayor and confirmed or rejected by the city council. The person or persons appointed to fill the vacancy shall serve for a term as set by resolution of the mayor and commission at the time of appointment and shall be a member in good standing of the State Bar of Georgia.

All ordinances and parts of ordinances in conflict herewith are hereby repealed. This ordinance shall become effective immediately upon its passage.

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

By: \_\_\_\_\_  
Gary McCullough, Mayor

Attest: \_\_\_\_\_  
Rebecca Shirley, Acting City Clerk