

**CITY OF PEWEE VALLEY
ORDINANCE #1, SERIES 2016
AN ORDINANCE RELATING TO THE REGULATION OF ALCOHOLIC
BEVERAGES IN THE CITY OF PEWEE VALLEY AND APPOINTMENT OF
AN ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

WHEREAS, KRS Chapters 241, 242 and 243 give the City of Pewee Valley the ability to appoint its own ABC administrator and regulate the sale of alcoholic beverages and the city desires to exercise that authority,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF PEWEE VALLEY**

Section 1:

A new Chapter of the codified ordinances is hereby created to read as follows:

(1) ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW

The provisions of the Alcoholic Beverage Control Laws and Administrative Regulations of the Commonwealth of Kentucky (KRS Chapters 241, 243, and 244), and all amendments and supplements thereto, are adopted as far as applicable as a portion of this chapter except as otherwise lawfully provided herein. The City of Pewee Valley Alcoholic Beverage Control (ABC) Administrator shall administer all Alcoholic Beverage Control Ordinances and regulations of the city and all statutes of the Commonwealth of Kentucky relating thereto and the regulations of the Kentucky Alcoholic Beverage Control Board. The City of Pewee Valley Alcoholic Beverage Control (ABC) Administrator shall have all the powers and duties as set out in KRS Chapters 241, 243, and 244. Pursuant to KRS 244.160(2); the duties of the City of Pewee Valley Alcoholic Beverage Control (ABC) Administrator are hereby combined with the duties of a sitting city council member; which designated council member shall be appointed by the City Mayor, with the concurrence of the City Council. In the alternative, the City may appoint a dedicated Alcoholic Beverage Control (ABC) Administrator, who is not one of the sitting council members.

(2) PUBLISHED NOTICE OF APPLICATION

The City of Pewee Valley ABC Administrator shall not approve any application for an original license to sell alcoholic beverages until the applicant has caused to be published a concise advertisement in accordance with the provisions of KRS 243.360.

(3) DELINQUENT TAXES; LICENSE WITHHELD

No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the City of Pewee Valley at the time of

issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes or liens due to the City of Pewee Valley Government. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes or liens of the City of Pewee Valley due on the property or premises have not been paid. In such cases, the City of Pewee Valley ABC Administrator may, in his or her discretion, issue a license to sell after receiving from the City of Pewee Valley a written statement to the effect that the applicant for the license and the owner of the property or premises on which the license is sought have made arrangements with the City of Pewee Valley, satisfactory to it, for taking care of the indebtedness represented by the unpaid and delinquent taxes or liens referred to above.

(4) FORFEITURES

If any license issued under this chapter is revoked or cancelled for any reason by the City of Pewee Valley ABC Administrator, the licensee shall forfeit any and all claims, which the licensee might otherwise have had to any portion of the license fee paid by the licensee on the issuing of the license.

(5) COMPLIANCE WITH OTHER ORDINANCES AND REGULATIONS

No license shall be issued or renewed to any person for selling at retail or wholesale any alcoholic beverages at any premises or location where such business or associated activities are prohibited under, or are in violation or conflict with any regulation, including but not limited to signs, fire prevention and/or the zoning code and regulations of the City of Pewee Valley and any ordinance supplementary or amendatory to it, and any license issued in violation of this section shall be void. Any zoning restrictions that may apply shall be noted on the license at the time of issuance.

(6) CONDITIONS GOVERNING LICENSES

All licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of other ordinances and regulations of the City of Pewee Valley applicable thereto and all rules and regulations duly adopted by the City of Pewee Valley ABC Administrator.

- (A) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises and no nuisance suffered, permitted or maintained thereon.
- (B) It shall be unlawful for any licensee under this chapter to sell, keep or permit to be sold, or kept on the licensed premises any controlled substances as defined in KRS Chapter 218A. In addition to other penalties set out in this chapter for the violation of this section the City of Pewee

Valley ABC Administrator shall also have the authority to revoke the license issued to the premises.

- (C) It shall be unlawful for any licensee, or any employee of any licensee, to permit or allow acts of prostitution, gambling or the possession of any gambling device on the licensed premises.
- (D) It shall be unlawful for any licensee, or employee of any licensee, to allow the premises to become overcrowded or violate any ordinance or regulation of the Fire Prevention or Fire Marshall offices.

(7) ISSUANCE OF LICENSE; RECEIPT OF FEES

All licenses granted under this chapter shall be approved and issued by the City of Pewee Valley ABC Administrator and shall be good for one year, through the license expiration date of June 30th. All license fees from licenses issued under this chapter shall be collected by the City of Pewee Valley ABC Administrator. Fees for licenses approved for a portion of the license-year shall be pro-rated.

Distiller's License, per annum	\$500.00
Rectifier's License, per annum	\$3,000.00
Wholesaler's Distilled Spirit and Wine License, per annum	\$3,000.00
Quota Retail Package License, per annum	\$1,000.00
Quota Retail Drink License, per annum	\$1,000.00
Special Temporary License, per event	\$166.66
Nonquota Type 1 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum	\$2,000.00
Nonquota Type 2 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum	\$1,000.00
Nonquota Type 3 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum	\$300.00
Distilled Spirits and Wine Special Temporary Auction License, per event	\$200.00
Caterer's License, per annum	\$800.00
Bottling House or Bottling House Storage License, per annum	\$1,000.00
Malt Beverage Licenses as follows:	
Brewer's License, per annum	\$500.00
Microbrewery License, per annum	\$500.00
Malt Beverage Distributor's License, per annum	\$400.00
Nonquota Retail Malt Beverage Package License, per annum	\$200.00
Nonquota Type 4 Retail Malt Beverage Drink License, per annum	\$200.00
Malt Beverage Brew-On-Premises License, per annum	\$100.00

Limited Restaurant License (includes distilled spirits, Wine, and malt beverages), per annum	\$1,200.00
Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum	\$1,200.00

(8) REVOCATION OF SUSPENSION OF LICENSE

- (A) A violation of any of the provisions of this chapter, or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. Whenever any licensee shall violate any provision of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the City of Pewee Valley ABC Administrator, or any of the provisions of the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, or any amendments or supplements thereto, or any of the rules and regulations adopted by the Kentucky State Alcoholic Beverage Control Board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages; proceedings for the revocation of the license shall be instituted in the manner and under the procedure established by the Kentucky State Alcoholic Beverage Control Law.
- (B) For a violation of any section of this chapter or any amendment thereof or of any rule or regulation of the City of Pewee Valley ABC Administrator, or of any rule or regulation of the State Alcoholic Beverage Control Board, or any acts of Congress or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or on conviction by a court of competent jurisdiction for any such violation, the City of Pewee Valley ABC Administrator is authorized and empowered to order the revocation or suspension of any license issued under this chapter.

(9) TRANSFER OF LICENSE OR BUSINESS

No license issued under this chapter shall be transferred or assigned by the holder, except as provided in the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, KRS 243.630 and per approval of the City of Pewee Valley ABC Administrator.

(10) SPIRITS; HOURS OF SALE

- A. Retail package distilled spirits and wine. The lawful operating hours for a licensee to sell, permit to be sold, or deliver distilled spirits or wine are as follows:
- 1) Between the hours of 6 a.m. and midnight on Monday through Saturday.

- B. Retail drink distilled spirits and wine. The lawful operating hours for a license to sell, serve, or permit the consumption of distilled spirits or wine are as follows:
 - 1) Between the hours of 6 a.m. and midnight Monday through Saturday.

(11) BEER; HOURS OF SALE

- A. Retail malt beverage package. The lawful operating hours for a licensee to sell, permit to be sold, or deliver malt beverages are as follows:
 - 1) Between the hours of 6 a.m. and midnight Monday through Saturday.
- B. Retail malt beverage drink. The lawful operating hours for a licensee to sell, serve or permit the consumption of malt beverages are as follows:
 - 1) Between the hours of 6 a.m. and midnight Monday through Saturday.

(12) MINORS; PROHIBITIONS GOVERNING

The provisions of KRS Chapter 244 and KAR Chapter 804 involving prohibitions governing minors shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(13) DISPLAY OF PRINTED WARNING

The provisions of KRS 244.083 requiring the display of printed warnings shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(14) TREATING PROHIBITED

The provisions of KRS 244.050 prohibiting treating shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(15) PREMISES; APPROVAL OF BY HEALTH DEPARTMENT AND FIRE PREVENTION

Upon the initial application for an alcoholic beverage license, the City of Pewee Valley ABC Administrator shall not grant the license under this chapter to any applicant until the applicant and the applicant's place of business have been approved by the Board of Health and the Fire Prevention Bureau. Upon renewal of an alcoholic beverage license, the requirement of approval by the Board of Health and Fire Prevention Bureau before issuance will be waived if the applicant's business has been approved by the Board of Health and Fire Prevention Bureau during the licensing period. Premises being licensed for the retail sales of package distilled spirits and wine may be exempted from the Board of Health approval unless otherwise required by the Board of Health.

(16) BOOKS AND RECORDS

The provisions of KRS 244.150 and 804 KAR 4:100 requiring the retention of books and records shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(17) SPIRITS OUTSIDE LOCKED DEPARTMENT; DISCOVERY OF

The provisions of KRS Chapter 44 and KAR Chapter 7 pertaining to the discovery of spirits outside a locked department shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(18) OPERATION WITHOUT A LICENSE

The provisions of KRS 243.020 pertaining to licensing shall apply to licensees and licensed premises within the jurisdiction of the City of Pewee Valley.

(19) LICENSEE TO NOTIFY EMPLOYEE THAT SALES OF ALCOHOL TO MINORS PROHIBITED; ACKNOWLEDGMENT

- (A) Every licensee selling alcoholic beverages by retail sales shall notify each individual employed in retail sales that the sale of alcoholic beverages to any person under the age of 21 years is prohibited.
- (B) A notice to employees shall be provided before the employee commences work as a retail sales clerk. The employee shall signify receipt of the notice required by this section by signing a form that states as follows: I understand that under the laws of the Commonwealth of Kentucky it is illegal to sell alcoholic beverages to persons under the age of 21 years.
- (C) The licensee shall maintain the signed acknowledgment required in subsection (B) in a place and manner so as to be easily accessible to any Police Officer of the City of Pewee Valley or the City of Pewee Valley ABC Administrator or his or her employees conducting an inspection of the retail outlet for purposes of monitoring compliance in limiting the sale or distribution of alcoholic beverages to persons under the age of 21 years.

(20) LICENSEE TO NOTIFY EMPLOYEE THAT PROOF OF AGE REQUIRED

- (A) Every licensee selling alcoholic beverages by retail sales shall notify each employee employed in retail sales that proof of age is required from a prospective buyer if it is reasonable to believe that the prospective buyer is under the age of 21 years.
- (B) The following unaltered written instruments are the only acceptable types of identification:
 - (1) An unexpired driver's license issued by any state, provided such license contains a picture of the person;
 - (2) An official identification card issued by any state, provided such identification includes a picture of the person;

- (3) A United States Armed Forces identification card, provided such identification includes a picture of the person;
- (4) An unexpired passport issued by a government and which contains a picture of the person and date of birth.

(21) FAILURE TO PAY FINES

The failure of any person or entity to pay any fine imposed upon such person or entity by the City of Pewee Valley ABC Administrator or hearing officer for violations of Pewee Valley Ordinance Chapter 113 within 30 days of its imposition shall be grounds for the issuance of an order by the City of Pewee Valley ABC Administrator revoking the eligibility for employment of that person by licensees, or revoking the license issued by the City of Pewee Valley ABC Administrator.

(22) SEVERABILITY

If any provision of Pewee Valley Ordinance Chapter 113 is now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(23) PENALTY

- (A) The penalties for violations of Pewee Valley Ordinance Chapter 113 that pertain to alcoholic beverage laws that are set forth in KRS Chapters 241 through 244 shall be the same as provided by such chapters.
- (B) Any person under the age of 18 years who violates any provisions of Pewee Valley Ordinance Chapter 113 shall be dealt with in accordance with the procedure prescribed by statute for minors charged with the commission of a public offense.
- (C) Any person who violates the provisions of this chapter shall be fined not less than \$250 nor more than \$1,000, imprisoned not more than 50 days, or both.
- (D) The fines imposed under subsections (A) through (C) shall be in addition to and independent of any action which may be taken by the City of Pewee Valley Alcoholic Beverage Administrator, in accordance with the provisions of the State of Kentucky Alcoholic Beverage Control laws and Administrative Rules and Regulations.
- (E) In addition to any criminal penalties that may be prescribed, any person or entity that violates the provisions of Pewee Valley Ordinance Chapter 113 shall appear before the City of Pewee Valley ABC Administrator or the City of Pewee Valley Alcoholic Beverage Control Board hearing officer for a civil hearing, and is subject to a civil penalty of not less than \$200 and not more than \$500 for each violation if convicted. This section shall not apply to obligations imposed upon the City of Pewee Valley ABC Administrator or his or her employees under those sections.

Section 2: Effective date

This ordinance shall take effect upon is reading, adoption and publication according to law.

Adopted this 7th day of March, 2016.

Introduction and First Reading: February 1, 2016

Second Reading and Passage: March 7, 2016

Bob Progers
Mayor

ATTEST:

Laura C. Ahrensberg
City Clerk

Aye votes: Dick Filippini, Bethany
Major, Norman Schippert, Paige
Bjorn, Henry Walser

Nay votes: