

**CITY OF GRAYMOOR-DEVONDALE
ORDINANCE # 5, SERIES 2009-2010
A ORDINANCE RELATING TO THE REGULATION OF ALCOHOLIC
BEVERAGES IN THE CITY OF GRAYMOOR-DEVONDALE AND
APPOINTMENT OF AN ALCOHOL BEVERAGE CONTROL
ADMINISTRATOR**

WHEREAS, KRS Chapter 242 gives the Fourth-Class city of Graymoor-Devondale 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
ON THE CITY OF GRAYMOOR-DEVONDALE**

Section 1:

Chapter 114 of the Codified Ordinance is hereby amended to include the following:

(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 Graymoor-Devondale 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.

(2) PUBLISHED NOTICE OF APPLICATION

The City of Graymoor-Devondale 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 Graymoor-Devondale 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 Graymoor-Devondale 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

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City of Graymoor-Devondale due on the property or premises have not been paid. In such cases, the City of Graymoor-Devondale ABC Administrator may, in his or her discretion, issue a license to sell after receiving from the City of Graymoor-Devondale 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 Graymoor-Devondale, 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 Graymoor-Devondale 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 Graymoor-Devondale and any ordinance supplementary or amendatory to it, and any license issued in violation of this section shall be void. However, any person who held, relative to zoning and use, a Louisville Metro license for, and actually carried on thereunder, this business during or within the last month of the preceding license period may be granted a similar license by the City of Graymoor-Devondale ABC Administrator, in the exercise of his or her sound discretion, for the same business at the same premises or location. 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 Graymoor-Devondale applicable thereto and all rules and regulations duly adopted by the City of Graymoor-Devondale 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

Graymoor-Devondale 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 Graymoor-Devondale ABC Administrator. All license fees from licenses issued under this chapter shall be collected by the City of Graymoor-Devondale ABC Administrator.

	<u>ABC Fees</u>
Blenders License	\$3,000
Brewer's License	\$500
Distiller's License	\$500
Beer Distributor	\$400
Liquor Drink (Retail)	\$1,600
Midnight to 2:00 a.m.	\$200
2:00 a.m. to 4:00 a.m.	\$400
Liquor Package (Retail Package)	\$1,200
Midnight to 2:00 a.m.	\$200
2:00 a.m. to 4:00 a.m.	\$400
Malt Beverage	\$200
Midnight to 2:00 a.m.	\$50
2:00 a.m. to 4:00 a.m.	\$100
Rectifiers	\$3,000
Restaurant Wine	\$600
Restaurant Wine Renewal	\$400
Private Club Liquor	\$300
Special Sunday Retail Drink	\$300
Special Temporary Beer Lic., Per Event	\$25
Special Temporary Liquor Lic., Per Event	\$267

Supplemental liquor bar lic.	\$1,600
Wholesaler	\$3,000

* For a license to be issued for less than 6 months, pay one-half the fee above.

(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. It shall be the duty of the Chief of Police of the City of Graymoor-Devondale to make a written report to the City of Graymoor-Devondale ABC Administrator of any violation of this chapter or any amendment thereof, or of any rules or regulations of the City of Graymoor-Devondale ABC Administrator, observed by any member of the Police of the City of Graymoor-Devondale. 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 Graymoor-Devondale 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 Graymoor-Devondale 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 Graymoor-Devondale 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 Graymoor-Devondale ABC Administrator.

(10) LIQUOR; HOURS OF SALE

It shall be unlawful for any licensee under this chapter, or any amendment or supplement thereto:

- (A) To sell, give away, or permit to be sold or given away any distilled spirits or wine at retail between the hours of 12:00 a.m. midnight and 6:00 a.m. on any weekday and Saturday, or between the hours of 12:00 a.m. and 1:00 p.m. Sunday, or the hours of 9:00 p.m. Sunday and 6:00 a.m. Monday; or
- (B) To permit the consumption of any distilled spirits or wine on the licensed premises between the hours of 12:00 a.m. and 6:00 a.m. on any weekday and Saturday or between the hours of 12:00 a.m. Sunday and 6:00 a.m. Monday.
- (C) Notwithstanding subsections (A) and (B), any retail drink or package licensee under this chapter may sell, permit to be sold, and retail drink licensees may permit the consumption of, distilled spirits or wine at any time between 12:00 a.m. on the first Saturday in May of each year through 6:00 a.m. on the following Sunday.
- (D) Notwithstanding the provisions of subsections (A) and (B), any special hours retail package or drink licensee may sell or permit to be sold and any special hours retail drink licensees may permit the consumption of distilled spirits or wine at any time between the hours of 12:00 a.m. and 2:00 a.m. and 2:00 a.m. to 4:00 a.m. on each day of the week, as long as the licensee holds a current, corresponding special hours license(s). However, an extended (special) hours retail package license, as discussed immediately above, specifically prohibits the sale of distilled spirits and wine on Monday between the hours of 12:00 a.m. and 4:00 a.m.

(11) BEER; HOURS OF SALE

It shall be unlawful for any licensee under this chapter, or any amendment or supplement thereto:

- (A) To sell, give away, or permit to be sold or given away any malt beverage at retail between the hours of 12:00 a.m. and 6:00 a.m. on any day of the week; or
- (B) To permit the consumption of any malt beverage on the licensed premises between the hours of 12:00 a.m. and 6:00 a.m. on any day of the week.
- (C) Notwithstanding the provisions of subsections (A) and (B), any malt beverage licensee may sell, permit to be sold, or permit the consumption of malt beverages at any time between 12:00 a.m. on the first Saturday in May of each year through 6:00 a.m. on the following Sunday.
- (D) Notwithstanding the provisions of subsections (A) and (B), any special hours malt beverage licensee may sell, permit to be sold or permit the consumption of malt beverages between the hours of 12:00 a.m. and 2:00 a.m. and 2:00 a.m. to 4:00 a.m. on each day of the week, as long as the licensee holds a current, corresponding special hours license(s).

(12) SUNDAY; HOURS OF SALE

It shall be unlawful for any licensee under this chapter, or any amendment or supplement thereto:

- (A) To sell, give away, or permit to be sold or given away any malt beverage at retail between the hours of 12:00 a.m. midnight Sunday and 1:00 p.m. Sunday; or
- (B) To permit the consumption of any malt beverage on the licensed premises between the hours of 12:00 a.m. midnight Sunday and 1:00 p.m. Sunday.
- (C) Notwithstanding the provisions of subsections (A) and (B), any malt beverage licensee under this chapter may sell, permit to be sold, or permit the consumption of malt beverages at any time between 12:00 a.m. on the Sunday following the first Saturday in May of each year and 6:00 a.m. on the Sunday following the first Saturday in May of each year, and also at any time between 12:00 p.m. on the Sunday following the first Saturday in May of each year and 12:00 p.m. on Monday, the following day.
- (D) Notwithstanding the provisions of subsections (A), (B), (C), and (E), any special hours retail drink, special hours package, or special hours malt beverage licensee may sell, permit to be sold, or permit consumption of liquor, wine or malt beverages on Sundays between the hours of 12:00 a.m. and 2:00 a.m., and 2:00 a.m. to 4:00 a.m., as long as the licensee holds a current, corresponding special hours license(s).
- (E) Notwithstanding the provisions of subsections (A), (B) and (C), all hotels, motels and restaurants, which are retail drink and wine by the drink licensees and who have dining facilities with a minimum seating capacity of 100 people at tables and who receive at least 50% or more of their gross annual income from dining facilities by the sale of food, may sell, permit to be sold, or permit consumption of liquor or wine on Sunday's between the hours of 1:00 p.m. and 12:00 a.m. on Monday, the following day.

(13) 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 Graymoor-Devondale.

(14) 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 Graymoor-Devondale.

(15) TREATING PROHIBITED

The provisions of KRS 244.050 prohibiting treating shall apply to licensees and licensed premises within the jurisdiction of the City of Graymoor-Devondale.

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

Upon the initial application for an alcoholic beverage license, the City of Graymoor-Devondale 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.

(17) 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 Graymoor-Devondale.

(18) 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 Graymoor-Devondale.

(19) 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 Graymoor-Devondale.

(20) 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 Graymoor-Devondale or the City of Graymoor-Devondale ABC Administrator or his or her employees

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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.

(21) 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 ages 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.

(22) 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 Graymoor-Devondale ABC Administrator or hearing officer for violations of section 113.54 through 113.82 within 30 days of its imposition shall be grounds for the issuance of an order by the City of Graymoor-Devondale ABC Administrator revoking the eligibility for employment of that person by licensees, or revoking the license issued by the City of Graymoor-Devondale ABC Administrator

(23) SEVERABILITY

If any provision of this chapter as 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.

(24) PENALTY

- (A) The penalties for violations of this chapter 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 section 113.02 through 113.23, 113.40 and 113.41 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 section 113.42 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 Graymoor-Devondale 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 sections 113.54 through 113.82 shall appear before the City of Graymoor-Devondale ABC Administrator or the City of Graymoor-Devondale 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 Graymoor-Devondale ABC Administrator or his or her employees under those sections.

Section 2: Effective date

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

Adopted this 22nd day of June, 2010.

Introduction and First Reading: 5/25/10

Second Reading and Passage: 6/22/10

John Vaughn
Mayor

ATTEST:

Nancy Lewis
City Clerk

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Aye votes: 4
Nay votes: 0