

CITY OF EMINENCE, KENTUCKY
ALCOHOL BEVERAGE CONTROL
ORDINANCE

Ordinance 2025-005

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TABLE OF CONTENTS

ARTICLE I: GENERAL

ARTICLE II: LICENSES

ARTICLE III: ESTABLISHING THE OFFICE AND DUTIES OF THE CITY OF EMINENCE,
KENTUCKY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

ARTICLE IV: APPLICATION FOR LICENSE

ARTICLE V: LICENSE FEES

ARTICLE VI: Maintenance of License

ARTICLE VII: Hours of Sale

ARTICLE VIII: CONDITIONS, PROHIBITIONS AND RESTRICTIONS

ARTICLE IX: SIGNS AND ADVERTISING

ARTICLE X: NOISE

ARTICLE XI ILLEGAL, SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY

ARTICLE XII: MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

ARTICLE XIII: ENFORCEMENT

ARTICLE XIV: IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

COMMONWEALTH OF KENTUCKY
CITY OF EMINENCE
ORDINANCE NO. 2025-004

AN ORDINANCE AMENDING ORDINANCE NUMBER 2025-002

AND

AN ORDINANCE RELATING TO THE CONTROL OF
ALCOHOLIC BEVERGES IN THE CITY OF EMINENCE,
KENTUCKY AND THE RETAIL SALE OF ALCOHOL AND ALL
ALCOHOLIC BEVERAGES INCLUDING DISTILLED SPIRITS
AND WINE, MALT BEVERAGES, AND BEER
AND KNOWN AS THE
“ALCOHOLIC BEVERAGE CONTROL ORDINANCE”

WHEREAS, the City of Eminence, Kentucky (hereinafter City) by and through a majority of registered voters, permits the presence of alcohol and the sales of alcohol within the corporate limits of the City of Eminence, so long as such is done in accordance with all applicable local, state, and federal law; and

WHEREAS, the City of Eminence therefore has established uniform regulations and requirements for the licensing and regulation of alcoholic beverages, manufacturing, and sales pursuant to authorization under KRS 241 through 244, and all other applicable law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EMINENCE, KENTUCKY THE FOLLOWING:

ARTICLE I
GENERAL

(A) **Title.** This Ordinance shall be known as the “Alcoholic Beverage Control Ordinance” of the City of Eminence, Kentucky (hereinafter referred to as the “City”).

(B) **Purpose.** The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS Chapters 241-244 for retail licenses as listed under KRS 243.060.

(B) **Definitions.** The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those set out in Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243, and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

(C) **Scope.** This Ordinance shall only apply to the sale of malt beverages, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance shall excuse or relive the licensee, or the owner, proprietor, agent, or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

(D) **Adoption of State Alcoholic Beverage Control Law.** The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted as far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II
LICENSES

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 243.070. This ordinance shall apply to the sale of alcoholic beverages, including but not limited to, malt liquor, beer, wine and distilled spirits on the premise of the license.

ARTICLE III
ESTABLISHING THE OFFICE AND DUTIES OF THE CITY OF EMINENCE,
KENTUCKY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

(A) **Office of the City ABC Administrator.** The City shall appoint an official as the City Alcoholic Beverage Control Administrator (hereinafter referred to as the City ABC Administrator), pursuant to KRS 241.170, and may affix proper compensations determined by the City.

(B) **Additional Personnel.** The City may from time to time appoint additional personnel as is necessary to assist the City ABC Administrator in the administration of this Ordinance with approval from the City.

(C) **Salary.** The salary for the office of the City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator in the administration of this Ordinance with approval from the City.

(D) **Functions of Administrator.** The functions of the City ABC Administrator shall be the same with respect to the City license and regulations as the function of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City.

(E) **Prohibited Persons.** No person shall be a City ABC Administrator, an investigator or an employee of the City under the supervision of the city ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.

(F) **Statutory Authority.** The City ABC Administrator shall have all authority as authorized under Chapters 241- 244 of the Kentucky Revised Statutes.

(G) **Authority to Investigate.** Should the City ABC Administrator at any time have reasonable ground to believe that any applicant, licensee, employee of a license, or any stockholder, agent or employee of a licensed corporation, has a criminal record he/she shall have the authority to require such person to appear in person at the Eminence Police Department for the purpose of having his/her fingerprints taken.

(H) **Oath of Office.** The City ABC Administrator shall before entering upon his/her duties as such take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000).

(I) **Appeals from Administrator's Decisions.** Appeals from the orders of the City ABC Administrator may be taken pursuant to the statute. Appeals from the orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV
APPLICATION FOR LICENSE

(A) **Advertisement.** Before an application can be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Chapter 424.

- 1) The advertisement shall state the names and addresses of the member of the partnership if the applicant is a partnership, as well as the name of the business and its address of the principle office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
- 2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(B) **Form of Application.**

- 1) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Eminence, as amended and supplemented from time to time.
- 2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the licenses is sought as required by the Kentucky Revised Statutes, and the ABC Board and the City of Eminence, including as follows:
 - a) Name and address;
 - b) Nature of interest;
 - c) Whether or not a citizen of the United States;
 - d) Date of birth;
 - e) Date residence was established in Kentucky, if a resident of Kentucky. If Eminence resident, indicate when residence was established;
 - f) Whether or not he/she has any interest in any other license or corporation or partnership holding a license under this Ordinance.
 - g) Extent of stock ownership
 - h) Whether or not he/she has any interest in any license or corporation or partnership holding a license in any other state or province.

(C) **Payment.** Each applicant shall be accompanied by a check, cash or a postal or express money order for the license fee.

(D) **Background Check.** All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(E) **Additional Information.** In addition to the above-specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

(F) **Denial of License.** The City ABC Administrator may refuse to issue or renew a license for any of the following reasons:

- 1) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500 as well as violation of any city ordinance regarding alcoholic beverage licensing, sales or the administration thereof.

- 2) If the applicant has done any act for which a revocation of license would be authorized; or
- 3) If the applicant has made any false material statement in his application.

A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he or she, in the exercise of his or her sound discretion, may deem sufficient.

(G) **Form of License.** All City Licenses shall be in such form as may be prescribed by the City Council and shall contain:

- 1) The name and address of the licensee;
- 2) The number of licenses;
- 3) The type of license;
- 4) A description by street and number, or otherwise, of the licensed premises;
- 5) The name and address of the owner of the building in which the licensed premises are located;
- 6) The expiration date of the license;
- 7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.
- 8) All licenses approved by the City ABC Administrator and issued by the City of Eminence shall begin on July 1st of any year and shall expires on June 30th of the following year,
- 9) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.
- 10) Any licenses issued after January 1st of any year shall be assessed a fee equal to one-half (1/2) of the annual fee for eh remainder of the license period.
- 11) In the event a violation of this Ordinance occurs that requires the revocation of the license , the City shall not be required to refund any portion of the license fee.

ARTICLE V
LICENSE FEES PURSUANT TO KRS 243.070

(A) **Issuance.** City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.070, and the fact the ABC Board Administrator has approved the applicant's state application.

(B) **Fees.** License Fees for retail alcohol sales, including but not limited to beverage by the drink, shall be pursuant to KRS 243.070 as follows:

Type of License	Fee Per Annum
Quota retail package license <i>Includes distilled spirits and wine</i>	\$ 300.00
Non-Quota type 1 retail drink license <i>Includes distilled spirits, wine and malt beverages. Onboard airplane, railway, automobile racetrack, horse track, convention center or state park</i>	\$ 300.00
Non-Quota type 2 retail drink license <i>Includes distilled spirits, wine, and malt beverages. For restaurants (50% food sales), motel/hotel, distillery, airport, riverboat, small farm winery or entertainment destination center</i>	\$ 300.00
Non-Quota type 3 retail drink license <i>Includes distilled spirits, wine, and malt beverages. Private social club, bed and breakfast or dining car</i>	\$ 300.00
Non-Quota type 4 retail malt beverage drink license,	\$ 200.00

<i>Microbrewery, small farm winery, service station or other business selling for consumption on premises</i>		
Special Sunday retail drink license	\$	300.00
<i>Includes distilled spirits, wine and malt beverages. By drink only</i>		
Non-Quota retail malt beverage package license	\$	200.00
Limited restaurant retail drink license	\$	300.00
<i>Includes distilled spirits, wine and malt beverages. 70% food sales</i>		
Limited golf course retail drink license	\$	300.00
<i>Includes distilled spirits, wine, and malt beverages.</i>		
Qualified Historic Site retail drink license	\$	300.00
<i>Includes distilled spirits, wine and malt beverages.</i>		
Special temporary retail drink license	\$	166.00
<i>Non-profit event only</i>		

(C) **Additional Licenses.** The holder of a non-quota retail malt beverage package license may obtain a non-quota type 4 malt beverage drink license for a fee of fifty dollars (\$50.00). The holder of a Non quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license or a fee of fifty dollars (\$50.00).

(D) **Severability.** If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

SECTION VI MAINTENANCE OF LICENSES

(A) **Refund of License Fee.** Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth of Kentucky with reference to alcoholic beverages or other cause outside licensees' control then the City shall refund to it the proportionate part of the license fee if the licensee provides sufficient proof of the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of the revocation, suspension or other wrongdoing by licensee or agent or employee of the licensee.

(B) **Lost or Destroyed Licenses.** When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts; provided, however, that the person applying for said duplicate license shall pay a fee of ten dollars (\$10.00) for said duplicate.

(C) **Temporary Closing.** In the course of any one day of operation of a licensed premises should multiple violations of the Ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the Eminence Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Eminence Police Department or designee. The City ABC Administrator may, in the interest of public health, safety morals and welfare, direct the Eminence Police Department to temporarily suspend the license in questions for the remaining hours of the day in question by locking the premises after dispensing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator or designee, such review shall occur within the next three (3) business days.

(D) **Revocation or Suspension of License.** Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241 to 244, or any rule or regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation, of the

manufacture, sale and transportation or taxation of intoxicating liquors, or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters, 241 to 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed on disobedience of his instruction, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his/her sound discretions deems sufficient.

- 1) A licensee may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.
- 2) In addition to the foregoing causes stated, any license may be revoked or suspended for the following causes:
 - i. Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.
 - ii. Making any false material statements in an application for a license
 - iii. If within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violation of the terms and provisions of KRS Chapters 241 to 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of any one (1) such felony and one (1) such misdemeanor.
 - iv. Willful and deliberate failure or defaults of a licensee to pay City Quarterly Regulatory Fees, License Fees, or any part thereof, or any penalties imposed by or under the provisions of any statutes, this Ordinance or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department or Revenue made in pursuance thereof.
 - v. Revocation of any license granted under any act of Congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
 - vi. Setting up, conducting, operating or keeping, on the licensed premises, any gaming game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted operated, kept or engaged in, on the licensed premises, any such game, device, machine, contrivance, other than state authorized lottery, gift enterprise, handbook or facility.
 - vii. Conviction of the licensee, the licensee's agents, servants, or employees for:
 - (1) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;
 - (2) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;
 - or (3) Knowingly receiving stolen property upon the licensed premises.
 - viii. Failure to comply with the terms of the City Administrator.

(E) Notice to Licensee; Surrender of License; Hearing.

- 1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, my institute proceedings to revoke or suspend any license granted under this Ordinance. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time, and place of the hearing. Notice shall be sufficient if mailed to the

licensee at the address shown in the last application of the license or in the last statement supplemental to or in amendment of the application, whether or not mailing is received for or claimed.

- 2) The specific procedures to be followed in hearings on actions for revocation or suspension shall provide constitutional due process rights to the City ABC license holder.
- 3) A decision of the City ABC Administrator revoking or suspending a license may be appealed to the Board as provided in KRS 241.200 and KRS 243.550.
- 4) Within three (3) days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Eminence Police Department at the request of the City ABC Administrator shall immediately cause one of its officers to take physical possession of the license and return it to the City ABC Administrator.
- 5) When a license has been revoked the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.
- 6) Appeal from the decision of the City ABC Administrator shall be to the state ABC Board. A timely filing of an appeal shall stay further proceedings for revocation.
- 7) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license upon finality and effectiveness of the order. Upon finality of any final order of the state Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operation authorized under the suspended or revoked license.

(F) Appeals.

- 1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing a notice of appeal with the Board within thirty (30) days after the decision or order of the City ABC Administrator is mailed or delivered by personal service. The notice of appeal shall specify the City Administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the City ABC Administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the City ABC Administrator shall be governed by KRS Chapter 13B.
- 2) As provided by law, no appealed City ABC Administrator order or decision, or resulting state Board order, shall become effective or final until all Board appeals, court appeals, or appeal times shall have been exhausted. When a Board order becomes final and effective, the City ABC Administrator shall enter such orders and take such action as required by the final order of the Board.

(G) Transfer or Assignment. No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until payment of one hundred dollars (\$100.00) shall be made to the City ABC Administrator.

(H) **Review of License.**

- 1) **For alcoholic beverages by the drink / Limited Restaurant Licenses.** Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicant's gross receipts is earned from the sale of food.

This documentation shall be provided quarterly by the applicant and shall be submitted with the applicant's quarterly regulatory fee filings. At least one (1) quarterly report per year shall report information consisting of a certificate from a Certified Public Account familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted an agreed upon procedure using State Sales Tax records according to accepted accounting principles of the pertinent records of _____ and certify that the License earned at least seventy percent (70%) of its gross receipts from the sale of food during the quarter ending _____. The Licensee derived _____% of its gross receipts from food _____% of its gross receipts from the sale of alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage and the certificate is due not later than the end of the month following the end of the calendar quarter selected. Failure to provide this certificate within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00.

Failure to provide this certificate within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended, and a new license application required.

In the event the 70% food requirement is not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one(1) year in determining whether or not the 70% minimum food requirement has been met.

- 2) **NQ-2 Retail Drink License.** May be issued to restaurants, distilleries, airports, motels/hotels, riverboats, small farm wineries or entertainment destination center; however, only restaurants are required to meet the 50% gross receipts from the sale of food minimum.

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that fifty (50%) percent of the applicant's gross receipts is earned from the sale of food.

This documentation shall be provided quarterly by the applicant and shall be submitted with the applicant's quarterly regulatory fee filings. At least one (1) quarterly report per year shall report information consisting of a certificate from a Certified Public Account familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted and agreed upon procedure using State Sales Tax records according to accepted accounting principles of the pertinent records of _____ and certify that the Licensee earned at least fifty percent (50%) of its gross receipts from the sale of food during the quarter ending _____. The Licensee derived _____% of its gross receipts from food _____% of its gross receipts from the sale of alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage and the certificate is due no later than the end of the month following the end of the calendar quarter selected.

Failure to provide this certificate within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00

Failure to provide this certificate within thirty (30) days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended and a new license application required.

In the event the 50% food requirement is not met during any particular quarter, the city ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the 50% minimum food requirement has been met.

- 3) Alcoholic beverage by the drink license holders and all other licenses as outlined under KRS 243.060 shall be subject to the following regulatory license fee reporting requirements.

(I) Regulatory License Fee Description and Reporting.

- 1) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. The license fee shall be three and one half percent (3.5%) of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the Regulatory License Fee shall be three and one half percent (3.5%) of gross sales. The Regulatory License Fee shall be three and one half percent (3.5%) on gross retail sales of package malt beverages gross sales of alcoholic beverages as set by City Council. This regulatory license fee will help to offset the increased cost of the City's adoption of the sale of retail package alcohol sales.
- 2) Payment of such regulatory fees shall be remitted to the City Treasurer and shall accompany the forms and documentation approved for such use by the City. The City may use said fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee in the City shall be allowed in an amount equal to any license fee shall be based on paperwork required by the local and/or state ABC Administrator, which may include but is not limited to tax returns and financial statements.
- 3) These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time the annual license fees shall be deducted as credit. Any licensee that does not accrue enough quarterly regulatory fees by the end of the fiscal year (June 30) to use all of their annual fee credit shall forfeit the rest of that fee to the City.
- 4) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00.
- 5) Failure to pay such quarterly remittance within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended, and a new license application required.
- 6) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

(J) Change of Information..

- 1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator within ten (10) days of the change.
- 2) Since licenses issued by the City may be in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- 3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- 4) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:
 - i. Name and address;
 - ii. Nature of interest;
 - iii. Whether or not a citizens of United States;
 - iv. Date of birth;
 - v. Date residence was established in Kentucky, if a resident of Kentucky. If an Eminence resident indicate when residence was established;
 - vi. Whether or not he/she has any interest in any other license or corporation or partnership holding a license under this act;
 - vii. Extent of stock ownership
 - viii. Whether or not he/she has any interest in any license or corporation or partnership holding a license in any other state or province.
- 5) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of information.

(K) Dormancy.

- 1) It is necessary that a licensee actually conducts the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other businesses, might have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.
- 2) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) days period the license shall be surrendered to the City ABC Administrator. If it is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.
- 3) Except that the provisions of subsection (2) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, county, city or other governmental agency under the power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the City ABC Administrator a verified statement setting froth the fact that the licensee is unable to continue in

business prior to the expiration of the ninety (90)) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the date of notice to the City Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his sound discretion.

(L) License Renewal.

- 1) All State and City licenses expire on June 30, renewal applications and fees for the City licenses must be on file with the City ABC Administrator thirty (30) days prior to the expiration – June 1. Any license renewal application and fee that is not in file ten (10) days after the due date will be charged a penalty of \$250.00.
- 2) Any license renewal applications and fees that are not on file with the ABC Administrator by June 30, shall be revoked, and alcohol sales suspended and a new license application shall be required.
- 3) Exceptions to the renewal rules above are: where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, county, city, or other governmental agency or private corporation possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.
- 4) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(M) Delinquent Taxes or Fees. No license to sell alcohol or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

(N) Review of License; Books, Records and Reports.

- 1) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such City employees who may assist the City ABC Administrator in his/her review.

- 2) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the City ABC Administrator required by statute shall be furnished to the City ABC Administrator.

ARTICLE VII HOURS OF SALE

(A) **Monday through Saturday Sales.** All licensees shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink or package based on their type of license between the hours of 8:00 a.m. to 12:00 midnight Monday through Saturday.

(B) **Sunday Sales.** All licensees shall be allowed to sell or dispense distilled spirits, wine and/or malt beverages by drink or package based on their type of license between the hour of 1:00 p.m. and 9:00 p.m. on Sundays. Any sales of alcoholic beverages by drink on Sunday will require the additional Sunday sale drink license. Package Sunday sales will not require a Sunday sales license.

(C) **New Years Eve.** Notwithstanding the foregoing, it shall not be unlawful for a business selling alcoholic beverages to remain open after 12:00 midnight on New Year's Even until not later than 1:00 a.m. on January 1st provided that no alcoholic beverages are sold after 12:00 midnight.

ARTICLE VIII CONDITIONS, PROHIBITIONS AND RESTRICTIONS

(A) **Gambling.** No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(B) **Police Radio/Scanner Prohibited.** It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Eminence or Henry County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Eminence Police Department or the City ABC Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(C) **Private Parties.** No City license shall permit a private party on the licensee's premise except with prior written approval of the City ABC Administrator.

(D) **Operating Hours Enforced.** Except during authorized operating hours or during an approved private party, no persons other than the licensee and employees thereof shall be present upon the licensee's retail premises (including parking lot).

(E) **Security.** The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in an around the licensed premises.

(F) **Prizes and Premiums Prohibited.** It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(G) **Intoxicated Persons, Drunkenness.** No licensee or agency or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(H) **Underage Sales.** The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(I) **Sign Requirements for Notice to Persons Under the Age of Twenty-One (21).** The licensee shall display at all times in a prominent place a sign at least eight inches by eleven inches (8" x 11") in 30 point or larger type which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to the maximum allowed by state law if they:

- 1) **Enter licensed premises to buy, or have served to them, alcoholic beverages.**
- 2) **Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.**
- 3) **Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.**

(J) **License to be Displayed.**

- 1) The licensee, before commencing any business for which a license has been issued, shall post and display the license at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon the premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- 2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches (11" x 14") in size, with letters at least one inch (1") high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(K) **Signage.** Any off-premises signage advertising the sale of alcoholic beverages is prohibited.

(L) **Legal Transactions for Wholesalers, Distributors and Retail.** No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to purchaser for any consideration except for cash at time of purchase.

(M) **Lavatory Facilities Required.** All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(N) **Employment Restrictions.** No licensee shall knowingly employ in connection with his or her business any person who:

- 1) Has been convicted of any felony within the last two (2) years;
- 2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years.
- 3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute;
- 4) Within two (2) years prior to the date of his employment has had any City license under this Ordinance revoked for cause.

Violations of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

(O) **Cause for Revocation.** A person who violates this subsection shall be subject to a fine of fifty dollars (\$50.00) in accordance with KRS 243.895 and revocation of license.

ARTICLE IX SIGNS AND ADVERTISING

(A) All signage shall be in compliance with any and all other existing rules and regulations of the City of Eminence and Henry County Planning and Zoning Commission as currently enacted, and/or as may be amended in the future.

(B) Signage which refers directly or indirectly to alcoholic beverages will be limited to two (2) signs not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2 ½") in size, setting forth the price at which he offers alcoholic beverages for sale. **Temporary signs and/or banners not to exceed 4 feet by 8 feet may be displayed two (2) weeks prior to a special event.**

(C) No flashing lights which refer directly or indirectly to alcoholic beverage shall be used to illuminate the exterior of any premises licensed under this chapter.

(D) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as medium of advertising alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

(F) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or that the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof", or "extra strong") or depicting activities that tend to encourage excessive consumption.

(G) No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

ARTICLE X NOISE

No licensee shall be permitted to have live music entertainment on retail premises between the hours of 11:00 p.m. and 9:00 a.m. on Monday -Thursday or between 12:01 a.m. and 9:00 a.m. Friday through Sunday. No licensees having live music on the premises shall serve any malt beverage, wine or distilled spirit beverage after 12:00 midnight on any day. All licensees having live music on the premises shall close and shall not do business between the hours of 12:30 a.m. and 9:00 a.m. Live music shall not be permitted at any time on any property zoned B1 or B2 under the Zoning Ordinance in effect at the time. Live music as defined herein shall include but not be limited to live bands, singers, disc jockeys, juke boxes, musical instruments and music of any other kind and presented in any format or through any device.

ARTICLE XI ILLEGAL, SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY

No person shall cause, permit, encourage or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

- (A) Sexual conduct as defined in KRS 531.010(4)
- (B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:
 - 1) The nipple or the female breast
 - 2) The female breast below the nipple
 - 3) The genitalia
 - 4) The pubic hair
 - 5) The anus
 - 6) The buttocks
- (C) Any dance, performance or exhibition whereby the movements of the performers (regardless of whether said performers are clothed or unclothed) simulates sexual conduct or is intended to arouse a sexual response from the persons viewing the same and including but not limited to pole dancing and other forms of erotic and/or sexually oriented performance.
- (D) The sale or display of materials depicting any activity or display prohibited pursuant to any of the foregoing sections of this ordinance.

ARTICLE XII
MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

- (A) Persons employed in the selling and servicing of alcoholic beverages shall participate in and complete a City-approved responsible beverage service training program. The City will require participation in the STAR Training program or a training program similar to the criteria of the State STAR Training program which has obtained written approval by the City ABC Administrator. THE MANDATORY PARTICIPATION IN THE STAR TRAINING PROGRAM OR EQUIVALENT INCLUDES ALL PERSONS EMPLOYED IN ANY BUSINESS IN THE CITY INVOLVED IN THE SALE OF RETAIL PACKAGED ALCOHOL INCLUDING BEER, WINE AND MALT LIQUORS.
- (B) Persons required in complete training under paragraph (a) above shall complete that training within ninety (90) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be recertified in responsible beverage service training from a program approved by the City not less than once every three (3) years thereafter.
- (C) The manager of the business shall be responsible for compliance with training requirements and shall maintain for inspection by the city ABC Administrator all current STAR Training Certificates. These certificates must be on the premises, with easy access for inspection at all times, either displayed with the City and state license or at the checkout counter where all employees have knowledge of them and access to them.
- (D) The Applicant and Licensee must file STAR Training Certificate of Completion on all new employees on renewed training certificates when the Quarterly Reports are filed with the City ABC Administrator.
- (E) **For any current employee who has been employed for 90 or more days who does not have a current STAR Training Certificate, the licensee shall be fined \$100.00. After the first fine, the employee shall have 30 days to complete the training and if not completed by that time, the license shall be suspended and all alcohol sales stopped until the training is completed.**

ARTICLE XIII
ENFORCEMENT

(A) **Enforcement.** The Eminence Police Department and the City ABC Administrator are authorized to enforce this Ordinance for alleged violations.

(B) **Investigation and Inspection of Premises.** The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within the boundaries of the City. They, as well as any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

(C) **Penalties.**

a. **Civil Penalties.** In addition to any criminal prosecution instituted in Henry District Court against an alleged violator, the City ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines hereunder shall be payable to the City ABC Administrator. All payments of license fees, regulatory fees, fines and penalties shall be transmitted to the City Treasurer to be deposited in the appropriate designated account.

b. **Criminal Penalties.** Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Henry County District Court, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00). For the second offense, be fined not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both. The penalties provided for in this section shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(D) **Quarterly Regulatory Fees.** Those fees along with the documentation of retail alcohol sales are due one month following the end of the quarter. If these are not on file with the ABC Administrator 10 days after the due date, a penalty fee of \$250.00 shall be assessed on the licensee. Failure to pay such quarterly remittance within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended, and a new license application required.

(E) **CPA review of food sales percentage to alcoholic beverage sales.** This review is required by the Limited Restaurant (70%) and NQ2 Restaurant (50%) and must be completed at least one quarter per year. It is due one month after the end of the quarter chosen. If it's not completed and on file with the ABC Administrator 10 days after the due date, a penalty fee of \$250.00 will be assessed on the licensee. Failure to provide the certificate of review within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended, and a new license application required.

(F) **Renewal of City Licenses.** License renewal applications and fees are due to be on file with the ABC Administrator 30 days before they expire. Any that are not on file 10 days after the due date shall be assessed a penalty of \$250.00. Any licenses that are not renewed by the expiration date (June 30) shall be required to reapply for a new license.

(G) **Star Certificates.** For any current employee who has been employed for 90 or more days who does not have a current STAR Training Certificate, or City-approved Training equivalent, the licensee shall be fined \$100.00. After the first fine, the employee shall have 30 days to complete the training and if not completed by that time, the license shall be suspended and all alcohol sales stopped until the training is completed.

(H) **Other Violations.** Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than one hundred dollars (\$100.00) or imprisoned or in jail for not more than six (6) months, or both, and for the second and each subsequent violation shall be fined not less than two hundred dollars (\$200.00) or imprisoned in jail for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the

offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.


ARTICLE XIV
IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

(A) **Implementation of Changes in Ordinance Provisions.** From time to time the City may by resolution or Executive Order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this Ordinance.

(B) **Severability.** If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.


(C) **Effective Date.** This Ordinance shall take effect immediately after its passage and publication as required by law.

DONE THIS 10th DAY OF MARCH 2025



FRED DOWNEY, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST:



ROBIN MULLINS, CITY CLERK
CITY OF EMINENCE, KENTUCKY

First Reading: 02/10/2025
Second Reading: 03/10/2025
Published: 03/19/2025