

ORDINANCE NO. 2011-010

**AN ORDINANCE AMENDING
AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES
AND LICENSES FOR THE BUSINESSES ENGAGED IN THE SALE OF
ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND
SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES
INCONSISTENT HERewith**

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EMINENCE, KENTUCKY AS FOLLOWS:**

**THAT AN ORDINANCE CALLED AN ORDINANCE REGULATING THE SALE
OF ALCOHOLIC BEVERAGES AND LICENSES FOR THE BUSINESSES
ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF
EMINENCE, KENTUCKY AND SUPERSEDING AND REPEALING ALL PRIOR
ORDINANCES INCONSISTENT HEREWITH BE AND HEREBY IS AMENDED
AS FOLLOWS:**

A. §111.48 SALE OF ALCOHOLIC BEVERAGES BY THE DRINK is amended as follows:

It is hereby determined by the City Council of the City of Eminence, Kentucky that an economic hardship exists within the City and that the sale of alcoholic beverages by the drink could aid economic growth. Therefore, it is hereby ordained that hotels, motels, inns, and restaurants may be licensed for the sale of alcoholic beverages by the drink for consumption on the premises. This amendment is enacted pursuant to KRS 242.185. This provision shall be subject to the following:

- a) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.
- b) Licenses for such sales shall be obtained by making application to the City Clerk for the City of Eminence, Kentucky and only upon verification of compliance with the requirements of this Ordinance and payment of all fees associated therewith.
- c) There is hereby imposed a regulatory license fee upon the gross receipts of each establishment located in the City of Eminence, Kentucky licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee shall be levied at a rate of 2.5% of gross receipts for each establishment licensed under this section and shall be paid annually. The regulatory license fee imposed hereby shall be in addition to any and all other taxes, fees or licenses permitted by law, but a credit against said fee shall be allowed in an amount equal to any license or fees imposed by the City pursuant to KRS 243.070 and shall also receive a credit against net profits assessed under City Ordinance Number 93-009. * (see footnote)
- d) Licensees pursuant to this subsection shall operate only in conformity with and during the hours provided for the sale of all other alcoholic beverages as otherwise set forth in Ordinance No. 2007-010 and any amendments thereto.
Nothing herein shall be interpreted to infringe upon sales of malt beverages by the drink authorized under other sections of this ordinance and/or by Kentucky Revised Statutes. Provided, all such sales by the drink shall be subject to the license fees set forth in this section.

B. §111.49 SUNDAY SALES is amended as follows:

Pursuant to KRS 244.290(6) the City of Eminence, Kentucky it is hereby ordained that hotels, motels, inns or restaurants properly licensed pursuant to §111.48 of this Ordinance shall be permitted, notwithstanding any other provisions hereof, for the sale of alcoholic beverages by the drink on Sunday from 1:00 p.m. until ~~7:00~~–11:00 p.m. Licenses operating under this section shall derive not less than 70% of their gross annual income from the sale of food and shall provide documentation as requested by the City to

verify same on demand and not less frequently than annually. Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

* (see footnote)

*§111.48 and 111.49 shall be construed as follows: The 2.5% of gross receipts referred to in 111.48(c) shall apply only to gross receipts from the sale of alcoholic beverages by the drink. However, the 70% of gross annual income referred to in §111.49 shall apply only to the restaurant or motel operation should such motel or restaurant operation be a component of a larger or multi-faceted operation.

DONE THIS THE 12th DAY OF SEPTEMBER, 2011.


DRANE STEPHENS, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST: 
SANDRA A. DOANE, CITY CLERK
CITY OF EMINENCE, KENTUCKY

First Reading: August 8, 2011

Second Reading: September 12, 2011

Published: September 21, 2011

ORDINANCE NO. 2010- 004

AN ORDINANCE AMENDING
AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES
AND LICENSES FOR THE BUSINESSES ENGAGED IN THE SALE OF
ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND
SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES
INCONSISTENT HEREWITH

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EMINENCE, KENTUCKY AS FOLLOWS:

THAT AN ORDINANCE CALLED AN ORDINANCE REGULATING THE SALE OF
ALCOHOLIC BEVERAGES AND LICENSES FOR THE BUSINESSES ENGAGED IN
THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE,
KENTUCKY AND SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES
INCONSISTENT HEREWITH BE AND HEREBY IS AMENDED AS FOLLOWS:


§ 111.62 GENERAL

- (A) No city licensee shall permit any minor to be present on the retail premises unless food comprises at least 50% of retail sale for said licensee at that premises.
- (B) No city licensee shall be permitted to have live music entertainment on retail premises between the hours of ~~10:00~~ 11:00 p.m. and 9:00 a.m. on Monday – Thursday or between ~~11:00~~ 12:01 a.m. and 9:00 a.m. on Friday – Sunday. No city licensees having live music on the premises shall serve any malt beverage, wine, or distilled spirits beverage after 12:00 midnight on any day. All city 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.
- (C) All city licensees shall be required to post a copy of this ordinance in a conspicuous location on the retail premises.
- (D) No alcoholic beverage may be removed from the licensed premises on Sunday.
- (E) No city license shall permit a private party on the license premise except with prior written approval of the City Administrator.
- (F) 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).

DONE THIS THE 8th DAY OF NOVEMBER, 2010.


JIM PETTIT, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST:


SANDRA A. DOANE, CITY CLERK
1st reading: 10-11-2010
2nd reading: 11-08-2010
Published: 11-24-2010

ORDINANCE NO. 2007- 015

**AN ORDINANCE AMENDING
AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES
AND LICENSES FOR THE BUSINESSES ENGAGED IN THE SALE OF
ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND
SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES
INCONSISTENT HEREWITH**

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EMINENCE, KENTUCKY AS FOLLOWS:**

**THAT AN ORDINANCE CALLED AN ORDINANCE REGULATING THE SALE
OF ALCOHOLIC BEVERAGES AND LICENSES FOR THE BUSINESSES
ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF
EMINENCE, KENTUCKY AND SUPERCEDING AND REPEALING ALL
PRIOR ORDINANCES INCONSISTENT HEREWITH BE AND HEREBY IS
AMENDED AS FOLLOWS:**

A. §111.48 SALE OF ALCOHOLIC BEVERAGES BY THE DRINK is amended as follows:

It is hereby determined by the City Council of the City of Eminence, Kentucky that an economic hardship exists within the City and that the sale of alcoholic beverages by the drink could aid economic growth. Therefore, it is hereby ordained that hotels, motels, inns, and restaurants may be licensed for the sale of ~~malt-beverages-and-wine~~ alcoholic beverages by the drink for consumption on the premises. This amendment is enacted pursuant to KRS 242.185. This provision shall be subject to the following:

- a) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.
- b) Licenses for such sales shall be obtained by making application to the City Clerk for the City of Eminence, Kentucky and only upon verification of compliance with the requirements of this Ordinance and payment of all fees associated therewith.
- c) There is hereby imposed a regulatory license fee upon the gross receipts of each establishment located in the City of Eminence, Kentucky licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee shall be levied at a rate of 2.5% of gross receipts for each establishment licensed under this section and shall be paid annually. The regulatory license fee imposed hereby shall be in addition to any and all other taxes, fees or licenses permitted by law, but a credit against said fee shall be allowed in an amount equal to any license or fees imposed by the City pursuant to KRS 243.070 and shall also receive a credit against net profits assessed under City Ordinance Number 93-009. * (see footnote)
- d) Licensees pursuant to this subsection shall operate only in conformity with and during the hours provided for the sale of all other alcoholic beverages as otherwise set forth in Ordinance No. 94-006 2007-010 and any amendments thereto.
Nothing herein shall be interpreted to infringe upon sales of malt beverages by the drink authorized under other sections of this ordinance and/or by Kentucky Revised Statutes. Provided, all such sales by the drink shall be subject to the license fees set forth in this section.

B. §111.49 SUNDAY SALES is amended as follows:

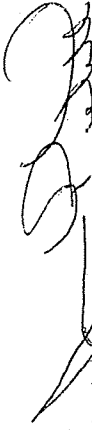
Pursuant to KRS 244.290(6) the City of Eminence, Kentucky it is hereby ordained that hotels, motels, inns or restaurants properly licensed pursuant to §111.48 of this Ordinance shall be permitted, notwithstanding any other provisions hereof, for the sale of ~~beer-and-wine~~ alcoholic beverages by the drink on Sunday from 1:00 p.m. until 7:00 p.m.. Licensees operating under this section shall derive not less than 70% of their gross annual income from the sale of food and shall provide documentation as requested by the

City to verify same on demand and not less frequently than annually. Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

* (see footnote)

*§111.48 and 111.49 shall be construed as follows: The 2.5% of gross receipts referred to in 111.48(c) shall apply only to gross receipts from the sale of ~~malt-beverages and wine~~ alcoholic beverages by the drink. However, the 70% of gross annual income referred to in §111.49 shall apply only to the restaurant or motel operation should such motel or restaurant operation be a component of a larger or multi-faceted operation.

DONE THIS THE 10th DAY OF DECEMBER, 2007.



JIM PETTIT, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST:



SANDRA A. DOANE, CITY CLERK

1st reading: 10/08/2007

2nd reading: 12/10/2007

Published: 12/19/2007

ORDINANCE NO. 2007- 010

AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR THE BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF EMINENCE, KENTUCKY AS FOLLOWS:

- 1. THAT THE FOLLOWING ORDINANCES BE AND ARE HEREBY REPEALED: NO. 94-006 AND CALLED "AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH", NO. 2000-01 AND CALLED "AN ORDINANCE AMENDING AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH", NO. 2001-06 AND CALLED "AN ORDINANCE AMENDING AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH", NO. 2003-009 AND CALLED "AN ORDINANCE AMENDING AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH", AND NO. 2005-010 AND CALLED "AN ORDINANCE AMENDING AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND LICENSES FOR BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF EMINENCE, KENTUCKY AND SUPERCEDING ALL PRIOR ORDINANCES INCONSISTENT HEREWITH".**

THAT THE FOLLOWING ORDINANCE BE AND HEREBY IS ADOPTED:

Section	
111.20	Classification of licenses; fee schedule
111.21	Form, content of city license
111.22	Application; issuance
111.23	Approval of application
111.24	Denial of application
111.25	Transfer of license
111.26	Premises selling groceries, gasoline, and the like prohibited from obtaining license
	Sale of Alcoholic Beverages
111.40	Hours
111.41	Compliance with regulations and prohibitions
111.42	Maintenance of state license
111.43	Display of required licenses and certain signs

111.44 Certain conduct on premises prohibited
 111.45 Conducting business with minor
 111.46 Illegal sexual conduct, exposure of human body
 111.47 Business to be conducted continuously, exception
 111.48 Sale of Alcoholic Beverages by the drink
 111.49 Sunday Sales

Administration and Enforcement

111.60 Alcoholic Beverage Control Administrator
 111.61 Right of entry; search and seizure
 111.62 Suspension, revocation of license
 111.98 Inconsistency with State Law
 111.99 Penalty

GENERAL PROVISIONS

§ 111.01 DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.010 shall be defined by the meanings indicated in said statute.

(B) The following words and phrases have the meanings indicated

- (1) CITY LICENSE. A license established and authorized pursuant to the terms hereof.
- (2) CITY LICENSEE. A person who has been issued a city license pursuant to the terms hereof.
- (3) KRS. Kentucky Revised Statutes
- (4) PERSON. Any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.
- (5) STATE. The Commonwealth of Kentucky.
- (6) STATE LICENSE. A license as defined in KRS 241.010.
- (7) TRAFFIC IN ALCOHOLIC BEVERAGES. Any action, business, or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

The city license fee for distilled spirits shall be \$600.00 per year. The city license fee for the sale of malt beverages shall be \$200.00 per year if to be consumed on the premises or \$100.00 per year for malt beverages license if not to be consumed on the premises. The city license fee for a malt beverages distributor who does not have an established place of business in Eminence shall be \$200.00 per year. The city license fee for Sunday sales of wine or malt beverages shall be \$500.00 per year. Should any inconsistency exist between this section and KRS 243.030 and KRS 243.040 then said statutory sections shall apply. Further, the fee for any license not specifically set forth in this section shall be as established by Kentucky Revised Statutes.

All of the above stated licenses shall be in addition to any other license now required by Ordinance. All applications for distilled spirits license shall be filed with the proper person or office thirty days before it is issued. All applications for malt beverage license shall be filed with the proper person or office at least ten days before a license is issued. All licenses shall expire on June 30th of each year and start on July 1st of each year and when any person applies for a license authorized to be issued under this ordinance after July 1st of any year.

When any person applies for a new license authorized to be issued under KRS 243.020 to 243.670, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is

due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

§ 111.21 FORM, CONTENT OF CITY LICENSE.

- (A) The City licenses authorized and established hereunder, shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City Administrator.
- (B) However, the documents must be of the same color and designation as those of the state license to which the city licenses correspond and must:
 - (1) Comply with all of the provisions for state licenses required by KRS 243.440; and
 - (2) Contain a declaration that the licensee authorizes the search of the licensed premises by any peace officer at any time for any purpose the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses approved by the administrator shall be originally issued by the City Clerk and renewed by him/her upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

- (A) A written application therefor with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by regulation of the City Administrator; however, provision for the following information, statements and representations shall and must be included therein:
 - (1) All information required by KRS 243.390 to be contained in the application for state licenses. The applicant will be deemed to have complied with this section if a copy of the Kentucky State Application is attached to the City Application.
 - (2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.
 - (3) The names and addresses, of the applicant and all shareholders, officers, agents, servants, and employees thereof.
- (B) The approval of the applicant, the application, and the premises described therein by the City Administrator.
- (C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.
- (D) The applicable fee, for the city license which is the subject of the application.

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof, or the disapproval thereof and a hearing in regard thereto.

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City Administrator shall not approve any application for the city license if:

- (A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this ordinance and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted or engaged in any act for which the revocation of a state license or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time.

(D) Any statement or representation in the application is false; or

(E) In the exercise of sound discretion, the City Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this ordinance and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City Administrator shall consider in the exercise of his discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this ordinance; the transfer of the license is approved by the City Administrator; and the transfer of the state license to which the city license corresponds is approved by the state pursuant to KRS 243.630. A transfer fee shall be paid to the city for the transfer of a city license equal to the fees for a new license provided under Section 111.20 of this ordinance. Penalty, see §111.99.

§ 111.26 PREMISES SELLING GROCERIES, GASOLINE AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.230, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000.00 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of its commercial transactions consist of selling at retail staple groceries, or gasoline or lubricating oil. Unless otherwise established by state statute or regulation, a business shall be deemed to have a substantial part of its commercial transaction from sale of groceries, gasoline or lubricating oil if it maintains an inventory of same aggregating \$5000.00 or more.

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS.

It shall be unlawful for any person to sell any alcoholic beverage between the hours of 12:00 midnight and 8:00 a.m.. It shall also be unlawful for any person to sell any alcoholic beverages at any time that the election poles are open or on Sunday (except as permitted under Section 111.49 hereof) and on Christmas day.

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements, and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverages Control Board in regard to the licensed premises and the actions, business, and transactions conducted thereon subsequent to the issuance of a state license therefore and prior to the expiration, revocation or suspension thereof which are hereby corresponding thereto, the premises described therein, and the licensee shall comply fully therewith. Penalty, see § 111.99.

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto. Penalty, see §111.99.

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine, or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by eleven inches in size with the following message printed or displayed thereon in 30 point or larger type:

“Persons under the age of twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

- a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or
 - b. Possess, purchase or attempt to purchase any alcoholic beverages;
- or
- c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”

(B) All valid city licenses issued therefore and the state licenses to which they correspond. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto. Penalty, see § 111.99.

§ 111.44 CERTAIN CONDUCT ON PREMISES PROHIBITED.

(A) A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violations of any law, rule, or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof. Penalty, see §111.99.

(B) It shall be prohibited for any city licensee to permit the drinking of alcoholic beverage on any portion of the premises which is not completely enclosed on all sides by a structure. Said structure may either be a roofed structure or other fully walled enclosure. Temporary structures such as tents shall not be deemed to comply with this section. However, a city licensee shall be also deemed to be in compliance with this sub-paragraph if the area where alcoholic beverages is consumed is not less than 100 feet from any other business, residence or industry.

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

- (A) The possession or the consumption of any alcoholic beverage by any person under 21 years of age in or upon any licensed premises or public places; and
- (B) The misrepresentation of the name, address, age, or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

§ 111.46 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 buttox.

(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 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. Penalty, see §111.99.

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine, or malt beverage license must conduct the actions, business, and transaction authorized thereby upon the licensed premises.

(B) When no such actions, business, or transactions are conducted thereon for a period of ninety (90) consecutive calendar days, the city license therefore shall become null and void and revoked by the City Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; domain granted to it, whether such acquisition is voluntary or involuntary; or loss or lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

(3) The business is of a seasonal nature with operation on a regular seasonal or periodic basis.

§111.48 SALE OF ALCOHOLIC BEVERAGES BY THE DRINK.

It is hereby determined by the City Council of the City of Eminence, Kentucky that an economic hardship exists within the City and that the sale of alcoholic beverages by the drink could aid economic growth. Therefore, it is hereby ordained that hotels, motels, inns, and restaurants may be licensed for the sale of malt beverages and wine by the drink for consumption on the premises. This amendment is enacted pursuant to KRS 242.185. This provision shall be subject to the following:

a) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

b) Licenses for such sales shall be obtained by making application to the City Clerk for the City of Eminence, Kentucky and only upon verification of compliance with the requirements of this Ordinance and payment of all fees associated therewith.

c) There is hereby imposed a regulatory license fee upon the gross receipts of each establishment located in the City of Eminence, Kentucky licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee shall be levied at a rate of 2.5% of gross receipts for each establishment licensed under this section and shall be paid annually. The regulatory license fee imposed hereby shall be in addition to any and all other taxes, fees or licenses permitted by law, but a credit against said fee shall be allowed in an amount equal to any license or fees imposed by the City pursuant to KRS 243.070 and shall also receive a credit against net profits assessed under City Ordinance Number 93-009. * (see footnote)

d) Licensees pursuant to this subsection shall operate only in conformity with and during the hours provided for the sale of all other alcoholic beverages as otherwise set forth in Ordinance No. 94-006 and any amendments thereto.

Nothing herein shall be interpreted to infringe upon sales of malt beverages by the drink authorized under other sections of this ordinance and/or by Kentucky Revised Statutes. Provided, all such sales by the drink shall be subject to the license fees set forth in this section.

111.49 SUNDAY SALES.

Pursuant to KRS 244.290(6) the City of Eminence, Kentucky it is hereby ordained that hotels, motels, inns or restaurants properly licensed pursuant to §111.48 of this Ordinance shall be permitted, notwithstanding any other provisions hereof, for the sale of beer and wine by the drink on Sunday from 1:00 p.m. until 7:00 p.m.. Licenses operating under this section shall derive not less than 70% of their gross annual income from the sale of food and shall provide documentation as requested by the City to verify same on demand and not less frequently than annually. Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.
* (see footnote)

*§111.48 and 111.49 shall be construed as follows: The 2.5% of gross receipts referred to in 111.48(c) shall apply only to gross receipts from the sale of malt beverages and wine by the drink. However, the 70% of gross annual income referred to in §111.49 shall apply only to the restaurant or motel operation should such motel or restaurant operation be a component of a larger or multi-faceted operation.

ADMINISTRATION AND ENFORCEMENT

§111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

As required by KRS 241.160, the duties of Alcoholic Beverage Control Administrator are hereby assigned to a city council member appointed by the mayor. Said functions may additionally be exercised by the mayor in the absence of the council member so assigned. In the absence of both the Alcoholic Beverage Control Administrator and the Mayor, the Mayor may by Executive Order assign said duties for the period of his absence to another council member.

§ 111.61 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City Administrator upon the occurrence of:

- (1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;
 - (2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or
 - (3) Any other cause, reason, or circumstance for which a state license may be revoked or suspended by the Board.
- (B) However, city licenses may be revoked by the City Administrator upon the occurrence for any cause or circumstance which required revocation of state licenses pursuant to KRS 243.490 thru 243.500 or the revocation of the state license to which a city license corresponds. Further, with the approval of the City Administrator, a licensee may, as an alternative in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1000.00 per day; wholesaler liquor licensees: \$400.00 per day; malt beverage licensees: \$100.00 per day; retail drink liquor licensees: \$25.00 per day; retail package liquor licensees: \$25.00 per day; retail malt beverage licensees: \$10.00 per day; and all remaining licensees: \$10.00 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the Eminence City Council in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City Administrator. The City Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusions of the hearing, the City Administrator shall issue a written decision in regard thereto and mail a

certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

§ 111.62 GENERAL.

- (A) No city licensee shall permit any minor to be present on the retail premises unless food comprises at least 50% of retail sales for said licensee at that premises.
- (B) No city licensee shall be permitted to have live music entertainment on retail premises between the hours of 10:00 p.m. and 9:00 a.m. on Monday – Thursday or between 11:00 p.m. and 9:00 a.m. on Friday- Sunday. No city licensees having live music on the premises shall serve any malt beverage, wine, or distilled spirits beverage after 12:00 midnight on any day. All city 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.
- (C) All city licensees shall be required to post a copy of this ordinance in a conspicuous location on the retail premises.
- (D) No alcoholic beverage may be removed from the licensed premises on Sunday.
- (E) No city license shall permit a private party on the licensed premise except with prior written approval of the City Administrator.
- (F) 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).

§ 111.98 INCONSISTENCY WITH STATE LAW

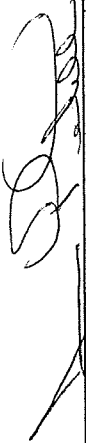
In case any portion of this Ordinance be deemed to be inconsistent with state law, then this Ordinance shall be read to resolve said inconsistency in favor of state law and all other provisions hereof shall remain unaffected thereby.

§ 111.99 PENALTY.

- (A) Any person who violates any of the provisions of this ordinance shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violations of no more than \$500.00 or be imprisoned for not more than 30 days, or both.
- (B) Any person who violates the distillers license fee provision of §111.20 shall, upon conviction and in accordance with KRS 243.990, be sentenced to pay a fine of not less than \$100.00 nor more than \$200.00, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200.00 nor more than \$500.00, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500.00 nor more than \$5000.00, or sentenced to imprisonment for not more than five years, or both.
- (C) Any person who violates any provision of §111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44 or 111.45(A) shall, upon conviction and in accordance with KRS 243.990 (1) and 244.990 (1), be fined not less than \$100.00 nor more than \$200.00, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200.00 nor more than \$500.00, or be imprisoned for no more than six months, or both.
- (D) Any person who violates any provision of §111.43 shall, upon conviction and in accordance with KRS 244.990(5), be fined not less than \$10.00 nor more than \$100.00.
- (E) Any person who violates any provision of §111.45(B) shall, upon conviction and in accordance with KRS 244.990(5) and (6), be fined not less than \$10.00 nor more than \$100.00 for misrepresentation of age. For use of a false, fraudulent, or altered identification card, paper, or other documents to purchase, or attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be fined not less than \$50.00 nor more than \$500.00 for the first offense. For a second and each subsequent offense, the person shall be fined not less than \$200.00 nor more than \$2000.00.

(F) In addition to all other penalties as set forth above, the city Administrator shall have full authority to revoke the license of any city licensee found by a court of competent jurisdiction to be in violation of the terms hereof or in violation of any KRS regarding regulation of said business.

DONE THIS THE 21st DAY OF JUNE, 2007.



JIM PETTIT, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST:



SANDRA A. DOANE, CITY CLERK

1st reading: June 11, 2007

2nd reading: June 21, 2007

Published: June 27, 2007