

CHAPTER IV

LIQUORS AND BEVERAGES

Section 400:00 – 400:10: Municipal Liquor Store. Repealed.

Section 405:01 – 405:62: Licensing and Regulating the Sale and Consumption of Beer and Non-Intoxicating Liquor and Providing a Penalty for Violations. Deleted.

Section 410:00 – 410:15: Club Liquor Licenses. Deleted.

Section 415:00 – 415:50: Licensing and Regulating the Sale and Consumption of Wine and Providing a Penalty for Violation. Deleted.

Section 420:01 – 420:12: Licensing and Regulating the Sale and Consumption of Intoxicating Liquor and Providing a Penalty for Violations. Deleted.

Section 425: Possession, Sale and Consumption of Intoxicating and 3.2 Percent Malt Liquor

Section 425:01. Adoption of State Law by Reference. The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

Section 425:02. City May Be More Restrictive Than State Law. The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

Section 425:03. Definitions. In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

Liquor. As used in this chapter, without modification by the words “an intoxicating” or “a 3.2 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

Non-Enclosed Premise. An area not wholly within a completely enclosed building that is contiguous to the completely enclosed premises to which an on-sale license has been issued.

Restaurant. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, Subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.

Section 425:04. Nudity on the Premises of Licensed Establishments Prohibited.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 425:29(B).

Section 425:05. Reserved for Future Use.

Section 425:06. Number of Licenses Which May Be Issued. The Council hereby establishes the number of liquor licenses which may be granted under this chapter as the maximum allowed by law. These include those licenses authorized by M.S. Ch. 340A, as it may be amended from time to time; by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time; or by other special legislation. The Council is not required to issue the full number of licenses that it has available.

Section 425:07. Term and Expiration of Licenses. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying City consent to the permit, shall expire on June 30 of each year.

Section 425:08. Kinds of Liquor Licenses. The Council is authorized to issue the following licenses and permits, up to the number specified in Section 425:06.

- (A) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- (B) 3.2 percent malt liquor off-sale license.
- (C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- (D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores. The fee for an off-sale intoxicating liquor license established by the Council under Section 425:09 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.
- (E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 425:09 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival

held within the City under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 425:03 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 425:09 of this ordinance, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3b, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the City shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 425:03; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time, and to theaters that meet the criteria of M.S. § 340A.404, Subd. 1(b), as it may be amended from time to time, the fee for an on-sale wine license established by the Council under the provisions of Section 425:09 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the City sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 425:09 of this ordinance shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 425:09.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 Subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 425:08 (M) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 425:08 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301 Subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the City. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301 Subd. 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 425:08 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

(Q) Non-enclosed premises on-sale intoxicating liquor license may be issued to any licensee to which an on-sale license has been issued under the provisions of Sections A, C, E, F, G, H, I, J, K, L, N, and P of this Ordinance, to include a compact, non-enclosed area contiguous to the completely enclosed licensed premises.

(1) Each initial application must be accompanied by an investigation and review fee, which fee is non-refundable and in addition to any other investigation fee required. An application for the same area in a succeeding year does not require an additional review and investigation fee. A license fee, as established by the Council pursuant to Section 425:09, is required with the initial application and each subsequent application.

(2) A non-enclosed premises on-sale intoxicating liquor license shall expire concurrently with the underlying on-sale license. A non-enclosed premises license shall be revoked or suspended if the underlying on-sale license is revoked or suspended.

(3) Any violations of the provisions of this ordinance regulating non-enclosed premise intoxicating liquor licenses, or of the State law regulating the sales of liquors which occur in the licensed area, shall be considered as violations of the principal on-sale license for the premises.

(4) Any licensing of unenclosed premises must be deemed experimental and as such, no expectation must be had by the licensee that the licensing of the non-enclosed premises will be renewed even though no misconduct occurred on the non-enclosed premises in the event the City Council determines to repeal the general authorization for non-enclosed areas to be included in the licensed premises of establishments.

(R) Temporary non-enclosed premises on-sale intoxicating liquor license may be issued to any licensee to which an on-sale license has been issued under the provisions of Sections A, C, E, F, G, H, I, J, K, L, N, and P of this Ordinance, to include a compact, non-enclosed area contiguous to the completely enclosed licensed premises. This non-enclosed premise may include driveways, sidewalks or other similar areas. A temporary non-enclosed premises on-sale intoxicating liquor license may only be issued for a period of up to four (4) days. Each licensee may only receive three (3) temporary non-enclosed premises on-sale intoxicating liquor licenses each year.

(S) A Community Festival Event license may be issued to the holder of a retail on-sale intoxicating liquor license to dispense intoxicating liquor off premises at a community festival held within the city. The license shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as prescribed by M.S. § 340A.409 to cover the event.

Section 425:09. License Fees, Pro Rata.

(A) No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time, by resolution or ordinance, the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the City. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

Section 425:10. Council Discretion to Grant or Deny a License. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

Section 425:11. Application for License.

(A) Form. Every application for a license issued under this chapter shall be on a form provided by the City. The form shall be verified and filed with the City. No person shall make a false statement in an application. Every application shall:

- (1) State the name of the applicant, the applicant's age;
- (2) Make representations as to the applicant's character, with references as the Council may require;
- (3) State the type of license applied for;

- (4) State the business in connection with which the proposed license will operate and its location;
- (5) Provide a description of the premises. Each application that includes a non-enclosed premise shall contain a description of the non-enclosed premise that is proposed to be licensed and shall be accompanied by a drawing of the proposed area to be licensed. Such application shall also include a detailed scale description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements, and lighting. The drawings required hereunder must include the dimensions of the area, barriers, tables, aisles, and equipment, and must be drawn proportionately to scale.
- (6) State whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place; and
- (7) Provide other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section.

(B) Financial responsibility. Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the City at all times effective proof of financial responsibility is a cause for revocation of the license.

Section 425:12. Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk, except under a temporary non-enclosed on-sale intoxicating liquor license. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, premises may be described as provided in M.S. § 340A.101, Subd. 15, as it may be amended from time to time.

Section 425:13. Applications for Renewal. At least 45 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the City. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

Section 425:14. Transfer of License. No license issued under this chapter may be transferred without the approval of the Council. Any transfer of more than ten percent of the stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is grounds for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Section 425:15. Investigation.

(A) Preliminary background and financial investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the City shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) Comprehensive background and financial investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

Section 425:16. Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

Section 425:17. Restrictions on Issuance.

- (A) Each license shall be issued only to the applicant for the premises described in the application.
- (B) Not more than one off-sale license shall be directly or indirectly issued within the City to any one person.
- (C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- (D) No license shall be issued for any place or any business ineligible for a license under state law.
- (E) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure or boundary on the premises within which liquor is to be sold. Existing licenses in conflict with this paragraph may be renewed. This paragraph may be waived by the Council for temporary licenses issued pursuant to Section 425:08(C), (H), (M), or (P).

Section 425:18. Conditions of License. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- (A) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- (B) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- (C) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (D) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(E) The primary access and egress from a non-enclosed premise shall be from the main enclosed premise or structure and no other access or egress shall be allowed other than those required as emergency exits. The non-enclosed premise must be defined or structurally constructed so as to inhibit the free passage of any person or substance from the non-enclosed premise. The non-enclosed premise and surroundings shall be so landscaped or designed as to segregate the enclosure from the outside.

(F) A staff person shall be assigned, at all times of operation, the responsibilities of supervision of the activities within the non-enclosed licensed area.

(G) Any license for the inclusion of non-enclosed premises in the licensed premises will be granted upon such terms and conditions as the Council may specify in granting such application relating to the limits of such use including provisions relating to:

- (1) Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;
- (2) Minimum lighting requirements;
- (3) Type of chairs and/or tables used and/or their anchoring;
- (4) Personnel required to supervise the unenclosed area;
- (5) Items required by applicable fire, health, building and life safety codes;
- (6) Maximum number of persons who may be present at any one time;
- (7) Means and methods used to restrict consumption to licensed area and prevent removal or consumption of beverages outside licensed area;
- (8) The type of beverage container used;
- (9) Sanitary facilities provided, their location and number;
- (10) Any such additional terms and conditions as the Council may specify.

Section 425:19. Hours and Days of Sale.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

- (B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.
- (C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- (D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (E) Sales of liquor in a non-enclosed premises is limited to the hours commencing at 10 a.m. and ending at 10 p.m.. In the event a noise or special event permit is obtained providing for sales after 10 p.m. at the license location, sales may occur until the time provided in the noise or special event permit, or the applicable time identified in Section 425:19(A)
- (F) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Section 425:20. Minors on Premises.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

Section 425:21. Restrictions on Purchase and Consumption. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

Section 425:22. Suspension and Revocation.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse

of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or a violation of Section 425:04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under subdivision (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of

suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this subdivision (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of Section 425:29 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Sections 425:23 through 425:28. Reserved for Future Use.

Section 425:29. Penalties.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, as they may be amended from time to time, is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term “violation” as used in Section 425:22 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

Section 3: Effective Date. This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, Subd. 10, as it may be amended from time to time.

Section 4: Summary Approved. The Council hereby determines that the text of the summary of this ordinance marked “Official Summary of Ordinance No. 374,” and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk’s office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates

PASSED AND ADOPTED by unanimous vote of the Foley City Council this 16th day of January, 2007.

Chapter IV of the 1974 Code of Ordinances was amended by Ordinance Number 374 deleting Sections 405:01 – 405:62, Sections 405:10 – 405:15, Sections 415:00 – 415:50, Sections 420:01 – 420:12; and by inserting Section 425, passed and adopted January 16, 2007 and published February 6, 2007.

Chapter IV of the 1974 Code of Ordinances was amended by Ordinance Number 438 increasing liquor license fees passed and adopted December 4, 2018 and published December 11, 2018.

Liquor License Fees

Liquor License	Section	Fee
3.2 percent Malt Liquor On-sale	425:08 (A)	\$60.00
3.2 percent Malt Liquor Off-sale	425:08 (B)	\$20.00
Temporary 3.2 percent Malt Liquor	425:08 (C)	\$50.00
Off-sale Intoxicating Liquor	425:08 (D)	\$150.00
On-sale Intoxicating Liquor	425:08 (E)	\$1,750.00
Sunday On-sale Intoxicating Liquor	425:08 (F)	\$150.00
Combination On-sale/Off-sale Intoxicating Liquor	425:08 (G)	\$1,900.00
Temporary On-sale Intoxicating Liquor	425:08 (H)	\$100.00
On-sale Wine	425:08 (I)	\$150.00
One Day Consumption and Display	425:08 (J)	\$100.00
Approval of Issuance of Consumption and Display	425:08 (K)	\$100.00
Culinary Class Limited On-sale	425:08 (L)	\$100.00
Temporary Off-sale Wine	425:08 (M)	\$100.00
Brew Pub On-sale Intoxicating Liquor	425:08 (N)	\$500.00
Brewer Off-sale Intoxicating Liquor	425:08 (O)	\$100.00
Brewer Temporary On-sale Intoxicating Liquor	425:08 (P)	\$100.00
Non-enclosed Premises On-sale Intoxicating Liquor	425:08 (Q)	\$100.00
Temporary Non-enclosed Premises On-sale Intoxicating Liquor	425:08 (R)	\$100.00
Liquor – Community Festival Event / per event fee	425:08 (S)	\$50.00
Liquor Violation	425:29	\$500.00 1 st Violation \$1,000.00 2 nd Violation \$2,000.00 3 rd Violation
Preliminary Background and Financial Investigation	425:15	\$500.00

Section 400 – Liquor Ordinance Amendments

Section 425:00, 425:02, 425:04, 425:06 and 425:08 was added to the 1974 Code of Ordinances by Ordinance Number 157, adopted November 20, 1979 and effective December 26, 1979.

Section 400:00 and Section 410:00 of the 1974 Code of Ordinances was repealed and Section 405:00 (f), 405:10, 405:12, 405:15 Subd. 3, 405:15 Subd. 4, 405:15 Subd. 5, 405:20 Subd. 3, 405:25, 405:35 Subd. 8 and Section 420:00 – 420:12 was amended by Ordinance Number 179, adopted October 27, 1981 and effective November 4, 1981.

Section 405:11 and Section 420:03 Subd. 2 was added to the 1974 Code of Ordinances by Ordinance Number 183, adopted March 1, 1983 and published March 23, 1983.

Section 415:00, 415:05, 415:10, 415:15, 415:20, 415:25, 415:30, 415:35, 415:40, 415:45 and 415:50 was added to the 1974 Code of Ordinances by Ordinance Number 185, adopted April 19, 1983 and effective April 27, 1983.

Section 405:25 and Section 405:30 was added to the 1974 Code of Ordinances by Ordinance Number 187, adopted May 3, 1983 and published May 18, 1983.

Section 420:10 (c) of the 1974 Code of Ordinances was repealed by Ordinance Number 199, adopted September 18, 1984 and published September 26, 1984.

Section 420:01, 420:03, 420:06, 420:07, 420:08, 420:10 and 420:11 of the 1974 Code of Ordinances was amended by Ordinance Number 201, adopted November 20, 1984 and published December 12, 1984.

Section 405:00 of the 1974 Code of Ordinances was deleted and Section 405:01, 405:13, 405:20 Subd. 1, 405:25, 405:26, 405:30, 405:35, 405:45 and 405:50 was amended by Ordinance Number 202, adopted November 20, 1984 and published December 12, 1984.

Section 405 Subd. 12 of the 1974 Code of Ordinances was amended by Ordinance Number 208, adopted May 5, 1986 and published May 14, 1986.

Section 420:03 (D) Subd. 1 of the 1974 Code of Ordinances was amended by Ordinance Number 209, adopted May 5, 1986 and published May 14, 1986.

Section 405:35 Subd. 12 of the 1974 Code of Ordinances was amended by Ordinance Number 210, adopted June 3, 1986 and published June 11, 1986.

Section 420:10 a (d) of the 1974 Code of Ordinances was amended by Ordinance Number 211, adopted July 15, 1986 and published July 23, 1986.

Section 426:00 was added to the 1974 Code of Ordinances by Ordinance Number 223, adopted June 20, 1989 and published July 4, 1989.

Section 420:10 Subd. (d) of the 1974 Code of Ordinances was amended and repealed by Ordinance Number 224, adopted June 20, 1989 and published July 4, 1989.

Section 420:10 of the 1974 Code of Ordinances was amended by Ordinance Number 229, adopted December 5, 1989 and published December 12, 1989.

Section 420:03 Subd. 4 of the 1974 Code of Ordinances was repealed in its entirety by Ordinance Number 231, adopted May 15, 1990 and published May 29, 1990.

Section 420:02 Subd. 3 of the 1974 Code of Ordinances was amended by Ordinance Number 232, adopted June 5, 1990 and published June 12, 1990.

Section 405:45 of the 1974 Code of Ordinances was amended by Ordinance Number 324, adopted August 20, 2002 and published August 27, 2002.

Section 405:55 Subd. 1 and 2, 410:15, 415:40 and 420:11 of the 1974 Code of Ordinances was amended and Section 420:12 was repealed by Ordinance Number 338, adopted August 19, 2003 and published September 2, 2003.

Sections 405:55, 410:15, 415:40 and 420:11 of the 1974 Code of Ordinances was amended by Ordinance Number 339, passed and adopted August 19, 2003.

Chapter IV of the 1974 Code of Ordinances was amended by deleting Sections 405:01 – 405:62, Sections 405:10 – 405:15, Sections 415:00 – 415:50, Sections 420:01 – 420:12; and by inserting Section 425 Possession, Sale and Consumption of Intoxicating and 3.2 Percent Malt Liquor by Ordinance Number 374, passed and adopted January 16, 2007 and published February 6, 2007.

Section 425:08 – Kinds of Liquor License of the 1974 Code of Ordinances was amended by adding paragraph (S) Community Festival Event License by Ordinance Number 398, passed and adopted January 3, 2012.