

FRIDLEY CITY CODE

CHAPTER 602. 3.2% MALT LIQUOR

(Ref. 14, 47, 250, 294, 451, 463, 501, 550, 602, 647, 675, 743, 769, 783, 806,909, 932, 958, 982, 1110, 1197, 1201, 1211, 1212, 1222, 1241, 1242, 1271, 1292, 1312, 1335, 1343)

602.01. DEFINITIONS

The following definitions shall apply in the interpretation and application of this Chapter and the following words and terms, wherever they occur in this Chapter, are defined as follows:

1. 3.2 % Malt Liquor.

Any malt liquor with an alcoholic content of more than one-half of one percent (.5%) by volume and not more than 3.2% by weight.

2. Entertainment.

Includes, but is not limited to, music; singing; plays; dancing, either by the public or performers; motion pictures; exposition; performances; male or female reviews; fashion shows; TV, other than regular public channels; concerts; or any other deliberate act intended to amuse or entertain patrons and/or employees.

3. Sale, Sell, or Sold.

Includes the giving, bartering, providing, or furnishing of 3.2% malt liquor in exchange for any payment or compensation, including any sale of or charge for or any other value-based transaction for the provision of a glass, pitcher, cup or other container which is then utilized for the possession and consumption of 3.2% malt liquor. A sale is also defined as the charging of any cover charge to enter the premises for the purpose of receiving 3.2% malt liquor requiring no further payment or compensation.

602.02. LICENSES REQUIRED

1. Licenses.

No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by sale or keep or offer for sale, any 3.2% malt liquor within the City without first having received a license as hereinafter provided. Licenses shall be of three kinds: (1) Regular "on-sale"; (2) Temporary "on-sale"; and (3) "Off-sale".

2. Regular "On-sale".

Regular "on-sale" licenses shall be granted only to bona fide clubs, restaurants, and hotels where food is prepared and served for consumption on the premises. "On-sale" licenses shall permit the sale of 3.2% malt liquor for consumption on the premises only.

3. Temporary "On-sale". Temporary "on-sale" licenses shall be granted only to clubs, charitable, religious, or nonprofit organizations for the sale of 3.2% malt liquor for consumption on the premises only. Said temporary licenses may be granted upon written application to the City Council upon forms provided by the City. The provisions of Chapter 602 of the Fridley City Code, as applicable, shall be observed by said nonprofit organizations.

4. "Off-sale". "Off-sale" licenses shall permit the sale of 3.2% malt liquor at retail, in the original package for consumption off the premises only.

5. Late Night License Endorsement. An on-sale license may be amended to include a Late Night License Endorsement subject to the terms and conditions imposed by the City Council within its discretion and otherwise in accordance with the provisions of this Chapter. No person may sell any 3.2% malt liquor under any permit issued pursuant to this chapter after 1:00 a.m. without first obtaining a Late Night License Endorsement.

602.03. LICENSE APPLICATIONS

Every application for a license to sell 3.2% malt liquor shall be made to the City Clerk on a form supplied by the City and containing such information as the Clerk or the City Council may require. It shall be unlawful to make any false statement in an application.

602.04. LICENSE FEES

1. Payment Required. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the City. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

2. Expiration; Pro Rata Fees. Every license except a temporary license shall expire on the last day of April of each year. Each license except a temporary license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one (1) month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

3. Fees.

Every "on-sale" license shall include an "off-sale" license. Each "on-sale" license fee shall include an "off-sale" license at no additional expense. The annual and temporary license fees and initial investigation fee shall be as provided in Chapter 11 of this Code.

602.05. GRANTING OF LICENSES

1. Initial Licenses

A. Upon receipt of a complete application, the City Clerk shall forward the application to the Public Safety Director, or Director's designee, for verification and investigation of the facts set forth in the application. The Director or their designee shall complete such investigation and make a written recommendation and report to the City Clerk. The report shall include a list of all violations of any federal, state or municipal law.

B. After receipt of the written report, the City Clerk shall forward the application to the Fire Department and Building Inspections Department for their review and comment.

C. Within twenty (20) days after the receipt of the Director's written report, the City Clerk shall cause to be published a Notice of Public Hearing regarding the license application in the official newspaper at least ten (10) days in advance of the public hearing. The Notice shall include the date, time and place of the public hearing, the name of the applicant, the address of the premises to be licensed, and the nature of the business. The City Clerk shall prepare a written report to the City Council for the public hearing which shall include the Director's report and any comments the Fire and Building Inspections Departments may have. An application for a temporary on-sale 3.2% malt liquor license shall be exempt from the public hearing requirement.

D. At the time of the public hearing, opportunity shall be given to any person to be heard for or against the granting of the license. If additional information is required, the City Council may conduct an additional hearing, as it may deem advisable, within a reasonable amount of time. The City Council may thereafter grant or deny the application in its discretion.

E. The City Clerk shall, within ten (10) days after the issuance of any license under this Chapter, submit the required documentation to the Commissioner of Public Safety. The City Clerk shall also submit to the Commissioner of Public Safety any change of address, cancellation or revocation of any license by the City Council during the license period.

F. Each license is issued to the applicant at the premises described in the application. No license may be transferred to another person or to another location.

G. Where a license is granted to a premises where the building is under construction or otherwise not ready for occupancy, the City Clerk shall not issue the license until a Certificate of Occupancy has been issued. The Building Inspection Department shall notify the City Clerk that the Certificate of Occupancy has been issued and the building is ready for occupancy.

2. Renewal Licenses

- A. Applications for the renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license and shall be made in such abbreviated form as the City Council may approve. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for their failure to file for a renewal within the time provided, the City Council may, if the other provisions of this Chapter are complied with, grant the application. A review shall be made of all facts set out in the application. The City Council shall grant or refuse the, application in its discretion.
- B. Each license holder shall be given written notice, by mail, at least ten (10) days but not more than thirty (30) days before the City Council acts upon their license renewal. This notice shall be in a form as designated by the City Clerk and shall specify the date and time when the renewal application will be considered by the City Council. The license holder shall be permitted an opportunity to address the City Council on its license renewal application. (Ref. 806)

3. Late Night License Endorsement. An on-sale license may be amended to include a Late Night License Endorsement subject to the terms and conditions imposed by the city council within its discretion and otherwise in accordance with the provisions of this Chapter. An application for a Late Night License Endorsement shall be made at the same time as, but separate from, an initial license or license renewal.

602.06. PERSONS INELIGIBLE FOR LICENSES

No license shall be granted to or held by any person who:

1. Is under twenty-one (21) years of age; (Ref. 909)
2. Has, within five (5) years prior to the application for such license, been convicted of a felony, or of violating any law of this State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or 3.2% malt liquor, and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;

3. Is a manufacturer of 3.2% malt liquor or is interested in the control of any place where 3.2% malt liquor is manufactured;
4. Is not of good moral character and repute. If the applicant has been an owner, manager, or employee of a saloon, hotel, restaurant, cafe, tavern, or other business of a similar nature, the City Council may consider the applicant's past performance record in determining whether a license shall be granted or renewed;
5. Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place, unless there has also been issued to him or her a local license to sell intoxicating liquor at such place; or
6. Is not the proprietor of the establishment for which the license is issued. (Ref. 14)

602.07. PLACES INELIGIBLE FOR LICENSE

1. Distance from Schools and Churches.

Except for those organizations who have been issued temporary licenses to sell 3.2 % malt liquor pursuant to Section 602.02.3, no license shall be granted for any place within 300 feet of any public or parochial school or within 300 feet of any church. In applying this restriction, the distance shall be measured in a straight line from the school or church building to the main public entrance of the premises described in the application. (Ref. 294)

2. Unpaid Financial Claims.

No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent and unpaid.

602.08. CONDITIONS OF LICENSE

1. General Conditions.

Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Chapter and of any other applicable ordinance of the City or State law.

2. Sales to Minors or Intoxicated Persons.

No 3.2% malt liquor shall be sold or served to any intoxicated person or to any person under twenty-one (21) years of age. (Ref. 47, 909)

3. Consumption by Minors.

No person under the age of twenty-one (21) years shall be permitted to consume 3.2% malt liquor on the licensed premises. (Ref. 909)

4. Employment Of Minors.

No person under eighteen (18) years of age shall dispense, sell or serve any 3.2% malt liquor to any individual on the licensed premises.

5. Gambling

No gambling or any gambling device shall be permitted on any licensed premises. Prohibited gambling shall include private social bets not part of or incidental to organized, commercialized, or systematic gambling. Gambling device shall include slot machines, roulette wheels, punchboards, dice, video game of chance and pin-ball machines which return coins or slugs, chips, or tokens of any kind which are redeemable in merchandise, cash or other item of value. Gambling is prohibited whether or not licensed by the State. (Ref. Ord 1211)

6. Interest of Manufacturers or Wholesalers.

No manufacturer or wholesaler of 3.2% malt liquor shall have any ownership or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes. No retail licensee and manufacturer or wholesaler of 3.2% malt liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2% malt liquor and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

7. Liquor Dealer's Stamp.

No licensee shall sell 3.2% malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of Minnesota to sell intoxicating liquors.

8. Sales of Intoxicating Liquor.

No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale.

9. Inspection.

Any police officer or health inspector may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors and other evidence of violations found on the licensed premises in violation of this Chapter.

10. Licensee Responsibility.

Licensees shall be responsible for the conduct of their place of business and shall maintain conditions of sobriety and order. The act of any employee on the licensed premises authorized to sell or serve 3.2% malt liquor shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this Chapter equally with the employee.

11. Certain Exhibitions and Conduct Prohibited.

No licensee shall permit in any licensed establishment, or any adjoining property owned or leased by the licensee, any boxing, wrestling, or any other form of entertainment whose primary purpose is physical contact by striking or touching an opponent with hands, head, feet, or body. Team sports in which physical contact is incidental to the primary purpose of the game such as basketball, volleyball, soccer, football, baseball, hockey, and softball, are not included among activities prohibited by this section.

12. No licensee shall use or permit to be used any playing cards on the licensed premise except that playing cards may be used during a tournament of a social skill card game as defined by Minnesota Statute 609.761, subdivision 3, and conducted pursuant to regulations contained therein and this City Code.

A. Social Skill Card Game Tournament

(1) A social skill card game tournament means one separate and distinct organized contest involving contestants who compete in a series of elimination card games of social skill as defined by Minnesota Statute 609.761, subdivision 3.

(2) No licensee shall permit or conduct more than one social skill card game tournament at any one time on the licensed premise or any adjoining property owned or leased by the licensee and no social skill card game tournament shall be permitted or conducted except during the normal hours of operation of the licensed premise.

(3) No licensee shall charge or permit to be charged, to either participants or spectators of a social skill card game tournament, a price for consumer goods which is higher than the price that is normally charged.

(4) No licensee shall permit wagers in a social skill card game tournament to be made with currency or any other thing of value except tournament chips or tokens. Tournament chips or tokens shall represent tournament points only and shall have no cash value or be redeemable for cash or for any other thing of value, except the point total represented by the players' accumulation of tournament chips or tokens shall be used to determine winners and/or final place in a tournament.

(5) No licensee shall permit players or spectators to make any side bets or back bets, or engage in any other form of gambling, at a social skill card game tournament.

(6) No licensee shall permit the aggregate amount or fair market value of prizes offered or given in any single social skill card game tournament to exceed \$200 and no licensee shall award or permit to be awarded prizes exceeding a \$200 value to any one social skill card game tournament participant on any one day.

(7) No licensee shall award or permit to be awarded any prize consisting of intoxicating liquor, beer, or wine, or certificate for future consideration of same, in a social skill card game tournament.

(8) No person, partnership, corporation, or other organization, other than the licensee, shall conduct or be permitted to conduct a social skill card game tournament on a licensed premise without first having obtained a tournament service provider license pursuant to this Chapter.

B. Social Skill Card Game Tournament Service Provider

(1) A person, partnership, corporation, or other organization, other than the licensee, who conducts, organizes supplies or promotes a social skill card game tournament on a premise licensed under this Chapter, is a social skill card game tournament service provider.

(2) No person, partnership, corporation, or other organization shall act as a social skill card game tournament service provider without first having obtained a license to do so from the City Council.

(3) All applications for tournament service provider licenses shall be made to the City setting forth all information necessary to show whether or not the person, partnership, corporation, or other organization qualifies for such a license under this Chapter, together with such additional information as may be required by the City Council. A completed application form must include the full true names, dates of birth, social security numbers and addresses of all persons financially interested in the business and/or all persons who are either on the Board of Directors of or hold offices in the entity or organization. The term "persons financially interested in the business" shall include all persons who share in the profits of the business.

(4) All applications for a license shall be referred to the Public Safety Director for verification and investigation of the facts set forth in the application. The Public Safety Director shall cause to be made such investigation of the information requested as shall be necessary and shall make a written recommendation and report to the City Council which shall include a list of all violations of Federal or State law or Municipal ordinance. The City Council may order and conduct such additional investigation as it shall deem necessary. In making a determination of suitability for a tournament service provider license, the City Council shall consider the background of each person, partner, corporate officer or individual applicant.

(5) No license shall be granted or held by any person who has been convicted, within 15 years prior to the application of such license, of any felony violation of any law of the United States, the State of Minnesota, or any other state or territory, or of any local ordinance involving or related to theft or gambling.

(6) The annual license fee and expiration date shall be as provided in Chapter 11 of this Code.

602.09. HOURS

1. Closing Hours.

No sale of 3.2% malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Sunday. No sale may be made between the hours of 8:00 p.m. December 24th and 8:00 a.m. on December 26th without Holiday Endorsement. (Ref Ord 1271, 1335)

- A. Holiday Endorsement. If an establishment has a joint 3.2% malt liquor license and a wine license, they may apply for one holiday endorsement to cover both licenses.
- B. The Holiday Endorsement enables the establishment to remain open on Monday through Saturday between the hours of 8:00 a.m. on December 24th and 1:00 a.m. on December 25th and between 8:00 a.m. on December 25th and 1:00 a.m. on December 26th. Should December 24th, 25th or 26th fall on a Sunday, the establishment may not sell, provide or allow the consumption of liquor until 10:00 a.m. or until such other time as defined by Minnesota Statutes.
- C. Those establishments which also hold a Late Night Endorsement as defined in Section 602.9.3 of the Fridley City Code may also remain open until 2:00 a.m. on December 25th and 26th.

2. Remaining on Premises.

It shall be unlawful for any persons or customers, other than the licensee or their employees, to remain on the premises after 1:30 a.m. There shall be no consumption of wine, 3.2% malt liquor, or any intoxicating liquor by any persons, including licensees or their employees, after 1:30 a.m.

3. Notwithstanding the foregoing, a sale of 3.2% malt liquor may occur on a licensed premises between the hours of 1:00 a.m. and 2:00 a.m. if the licensee has been granted by the city a Late Night License Endorsement for that license. No sale of 3.2% intoxicating liquor for consumption on any license premises for which a Late Night Endorsement has been granted by the city shall occur between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday. It shall be unlawful for the persons or customers, other than the licensees or their employees, to remain on a licensed premises for which a Late Night License Endorsement has been granted by the city, nor shall there be any consumption by any persons, including the licensees and their employees on such premises, more than one half-hour after closing of operations for that day and, in no event, later than 2:30 a.m. (Ord 1197)

602.10. CLUBS

No club shall sell 3.2% malt liquor except to members and to guests in the company of members.

602.11. RESTRICTIONS ON PURCHASE AND CONSUMPTION

1. Age Misrepresentation.

Persons under twenty-one (21) years of age shall not misrepresent their age for the purpose of obtaining 3.2% malt liquor.

2. Inducing Purchase.

No person shall induce a person under the age of twenty-one (21) years to purchase or procure 3.2% malt liquor.

3. Procurement.

No person other than the parent or legal guardian shall procure 3.2% malt liquor for any person under the age of twenty-one (21) years. This section shall not prohibit the use of a person under the age of twenty-one (21) to attempt to purchase or procure 3.2% malt liquor from a licensee in a test of the licensing department, or in conjunction with a compliance check effort that has been pre-approved by the Fridley Police Department.

4. Possession.

Persons under twenty-one (21) years of age shall not have 3.2% malt liquor in their possession with the intent to consume it at a place other than the household of their parents or guardians. (Ref. 909)

5. Liquor Consumption and Display.

No person shall consume or display any intoxicating liquor on the premises of a licensee unless said licensee is also licensed to sell intoxicating liquors.

602.12. ENTERTAINMENT LICENSE REQUIRED

No person operating an establishment in the business of selling, permitting to be displayed or consumed an intoxicating liquor or 3.2% malt liquor shall permit any entertainment on the premises without having secured a license from the City Council to permit such entertainment.

602.13. LIABILITY INSURANCE

1. Every person licensed to sell on-sale or off-sale retail intoxicating liquor or 3.2% malt liquor or wine shall demonstrate proof of financial responsibility with regard to liability imposed by Minnesota Statutes, Section 340A.801 to the City Clerk as a condition of the issuance or renewal of his or her license. Proof of financial responsibility may be given by filing:

- A. A certificate that there is in effect for the period covered by the license an insurance policy or pool providing the following minimum coverages:

- (1) \$50,000 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any one occurrence.
 - (2) \$50,000 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000 for loss of means of support of two or more persons in one occurrence; or
 - B. A bond of a surety company with minimum coverages as provided in clause (A) above, or
 - C. A certificate of the Commissioner of Finance that the licensee has deposited with the Commissioner of Finance \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.
2. A liability insurance policy required by Section 602.13.1 shall provide that it may not be canceled for any cause, either by the insured or the insurance company without first giving ten (10) days notice to the City of Fridley in writing of the intention to cancel it, addressed to the City Clerk of the City of Fridley.
 3. A liability insurance policy required by Section 602.13.1 shall provide that the insurance company agrees to contact the City of Fridley in writing and addressed to the City Clerk of the City of Fridley, within ten (10) days of any claim made against the policy.
 4. A liability insurance policy required by Section 602.13.1 that contains, annual aggregate limits of liability shall require the insured to buy additional coverage after any claim is made that reduces the coverage under the policy below the requirements of Section 602.13.1.
 5. The operation of an on-sale or off-sale retail intoxicating, 3.2% malt liquor or wine business, without having on file at all times with the City of Fridley the liability insurance policy or other evidence of financial responsibility required under Section 602.13.1 shall be grounds for immediate revocation of the license. Notice of cancellation of a current liquor liability policy serves as notice to the licensee of the impending revocation and unless evidence of compliance with the financial responsibility requirements of Section 602. 13. 1 is presented to the City Clerk before the termination is effective, the license will be revoked instantly upon the lapse.
 6. The City Clerk shall submit the provided proof of financial responsibility to the Director of Public Safety.

602.14. PATIO ENDORSEMENT (Ref Ord 1242)

1. Statement of Policy

The sale of alcoholic beverages pursuant to any of the licenses issued in accordance with Chapters 602, 603 and 606 of the City Code, with the exception of a temporary license, will be limited to the sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives approval from the City Council for a Patio Endorsement to allow the sale and consumption outside of a structure on the licensed premises.

2. Regulations

- A. An outdoor patio shall not be enclosed in such a manner that the air becomes indoor air as defined by state law.
- B. The patio shall be attached to the licensed premises and share at least one common wall or side with the licensed premise building/structure. The contiguous area will not be part of a public street, sidewalk or other public grounds.
- C. If part of the parking lot is used to install an outdoor patio, the patio must share one common wall with the licensed premise. In addition, the licensed premise must continue to meet the parking requirements set by city code and the patio shall not affect the circulation of traffic.
- D. Access to the patio shall be directly from the licensed premise with no direct access other than an emergency exit (exit only) equipped with an alarm, from any area other than by passing through the normal interior public areas of the licensed premise.
- E. The patio shall be clearly delineated by a permanent installed fence, or other structure or barrier, at least 42" high to prevent the ingress or egress of persons to and from the patio. The fence shall be designed and constructed in a manner that discourages or deters the passing of any regulated, controlled or prohibited items outside from one side of the fence to the other side of the fence.
- F. Panic and fire exit hardware shall be installed on the fence or barrier and comply with the Minnesota Building Code.
- G. Patios in direct contact with, or immediately adjacent to a parking area for motor vehicles, shall have sufficient barriers installed, as defined by the Minnesota Building Code, to reduce the likelihood of incursion of vehicles into the patio space.
- H. The licensee shall pay the current Metropolitan Council S.A.C. unit(s) for outside seating.
- I. The patio shall be placed in an area to meet the state and federal accessibility requirements.
- J. Live entertainment shall be allowed in the patio area between the hours of 9:00 am and 10:00 pm. Music, sound, or noise in the patio enclosure shall comply with the provisions and requirements of Chapter 124 of the Fridley City Code at all times.

- K. The sale and consumption of 3.2% malt liquor within the patio is limited to the normal business hours. No licensee, nor the employee, nor agent of any license will serve, dispense, possess, display, or in any manner furnish 3.2% malt liquor at any other time.
- L. All other conduct pertaining to the licensed premises required by this Code or Minnesota state statutes shall apply.

3. Application

Any restaurant to which an on-sale 3.2% malt liquor license has been issued may submit an application for a patio endorsement. The application shall contain a description of the outdoor area that is proposed to be licensed and will be accompanied by a drawing of the proposed area to be licensed. The application will also include a detailed description of the barriers that will be used, the method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements and lighting. The drawings must include the dimensions of the area, barriers, tables, aisles and equipment, and must be drawn proportionately to scale.

This application must be submitted to the City Clerk for review and comment by the Police Department, Fire Department, and Community Development Department before submission to the City Council. The City staff will review the suitability of the proposed licensed area in light of the applicable fire, building and life safety codes, zoning codes, past performance of the licensee in maintaining order and obeying applicable laws in the licensed patio and in the principal licensed premises, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety of seating arrangements.

If the patio endorsement is approved by the City Council, the licensee would be required to apply for and pay for the appropriate building permits and fees.

4. Violations

- A. It shall be a violation of this code, by the license holder and/or any employees or agents of the license holder, to permit, allow or fail to prevent persons from directly accessing the patio by means other than through the building on the premises.
- B. It shall be a violation of this code by the license holder and/or any employees or agents of the license holder, or to allow any other person, to provide, furnish or give any 3.2% malt liquor, tobacco products, weapons, or any other regulated controlled or prohibited items (for example, drugs, dice, cards, etc.) from one side of the fence or barrier to the other.
- C. Any violation of the provisions of this Code or of the state law regulating the sale of 3.2% malt liquor which occur in the patio area will be considered as a violation of the principal on-sale license for the premises.

602.15. ADMINISTRATIVE OFFENSES

1. Administrative Civil Penalties: Administrative offense procedures established pursuant to this chapter are intended to provide the public and the City with an informal, cost effective, and practical alternative to traditional criminal charges for violations of this ordinance. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses.

2. Every licensee shall be responsible for the conduct of its employees while on the licensed premises and any sale or other disposition of any intoxicating liquor, 3.2% malt liquor, or wine by an employee to any person under twenty-one (21) years of age shall be considered an act of the licensee for purposes of imposing an administrative penalty, license suspension, or revocation.

A. Individual. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with law. Likewise, the City, at its discretion, may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

B. Licensee. At any time prior to the payment of the administrative penalty as is provided for hereafter, the licensee may withdraw from participation in the procedures in which event the City may permanently revoke the license issued to the licensee under this Chapter in accordance with law. Likewise, the City, in its discretion, may revoke the license issued to the licensee under this Chapter in the first instance. In the event a licensee participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will suspend the license issued to the licensee under this Chapter in accordance with section 602.15.B of this ordinance.

3. Notice. Any officer of the Fridley Police Department shall, upon determining there has been a violation, notify the violator of the violation. Said notice shall set forth the nature, date and time of violation, the name of the officer issuing the notice and the amount of the scheduled penalty.

4. Payment. Once such notice is given, the alleged violator may, within twenty (20) days of the time of issuance of the notice pay the amount set forth on the notice, or may request a hearing in writing, as provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

5. Hearing. Any person contesting an administrative offense pursuant to this Chapter may request a hearing before the Hearing Examiner. Such request shall be filed in writing with the office of the Public Safety director within twenty (20) days of the offense. The Public Safety Director shall notify the Hearing Examiner, who will notify the person contesting and the licensee of the date, time, and place of hearing. The hearing shall be conducted no more than twenty (20) days after the Hearing Examiner receives notice of the request, unless a later date is mutually agreed to by the Hearing Examiner, the licensee, the person contesting and the City. Within ten (10) days after such hearing, the Hearing Examiner shall affirm, repeal, or modify the charge against the licensee or the person contesting. Any person aggrieved by the decision of the Hearing Examiner may appeal with the Public Safety Director within twenty (20) days of receiving notice of the Hearing Examiner's decision. At its next available regular meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the Hearing Examiner and shall affirm, repeal or modify that decision.

6. Hearing Examiner. The position of Hearing Examiner is hereby created. The City Manager may, at his discretion and with the approval of the Council, contract with third parties for the furnishing of all services of the Hearing Examiner as contained in this Chapter and set the rate of compensation therefore.

7. Qualifications. The Hearing Examiner shall be an individual trained in law; however, it shall not be required that the Hearing Examiner be currently licensed to practice law in the State of Minnesota.

8. Duties: The Hearing Examiner shall have the following duties:

- A. Set dates and hear all contested cases.
- B. Take testimony from all interested parties.
- C. Make a complete record of all proceedings including findings of fact and conclusions of law.
- D. Affirm, repeal or modify the penalty assessed.

9. Failure to Pay. In the event a party charged with an administrative penalty fails to pay the penalty, if an individual, the party will be charged with the criminal offense; if a licensee, the Council will suspend the license issued to the licensee under this Chapter.

10. Disposition of Penalties. All penalties collected pursuant to this Chapter shall be paid to the City's treasurer and will be deposited in the City's general fund.

602.16. VIOLATIONS

1. Administrative Civil Penalties: Individuals. Any person in the employ of a licensee who sells any intoxicating liquor, 3.2% malt liquor, or wine to a person under the age of twenty-one (21) years is subject to an administrative penalty; and any person under the age of twenty-one (21) years who attempts to purchase any intoxicating liquor, 3.2% malt liquor, or wine from a licensee is subject to an administrative penalty. The administrative penalties are as follows:

First violation. The penalty for the first violation is \$250.00.

Second violation within 12 months. The penalty for the second violation is \$500.00.

Third violation within 12 months. The penalty for the third violation is \$750.00.

2. Administrative Civil Penalties; Licensee. If a licensee or an employee of a licensee is found to have sold any intoxicating liquor, 3.2% malt liquor, or wine to a person under the age of twenty-one (21) years, the licensee shall be subject to an administrative penalty as follows:

First violation. The penalty for the first violation is \$500.00. If the fine is not paid within 20 days the City may suspend the license issued to the licensee under this Chapter for a period not to exceed 10 days.

Second violation within 12 months. The penalty for the second violation is \$1000.00. If the fine is not paid within 20 days the City may suspend the license issued to the licensee under this Chapter for a period not to exceed 30 days.

Third violation within 12 months. The city may permanently revoke the license issued to the licensee under this Chapter.

3. Defense. It is a defense to the charge of selling intoxicating liquor, 3.2% malt liquor, or wine to a person under the age of twenty-one (21) years, that the licensee or individual, in making the sale, reasonably and in good faith relied upon representation of proof of age described in State Statute Section 340A.503, subdivision 6, paragraph (a).

4. Exemption. A person, no younger than 18 and no older than 20, may be enlisted to assist in the tests of compliance. The person shall at all times act only under the direct supervision of a law enforcement officer or an employee of the licensing department, or in conjunction with a compliance check effort that has been pre-approved by the Fridley Police department. A person who purchases or attempts to purchase intoxicating liquor, 3.2% malt liquor, or wine while in this capacity is exempt from the penalties imposed by subdivision A above.

602.17. REVOCATION

The violation of any provision or condition of this Chapter by 3.2% malt liquor licensees or their agents is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, except where mandatory revocation is provided by law without notice and hearing and except where suspension may be made without a hearing, the holder of the license shall be granted a hearing upon at least ten (10) days notice before revocation or suspension is ordered. The notice shall state the time and place of hearing and the nature of the charges against the licensee.

602.18. PENALTIES

Any violation of the provisions of this Chapter is a misdemeanor and is subject to all penalties provided for such violations under the provisions of Chapter 901 of this Code.