

FRIDLEY CITY CODE
CHAPTER 603. INTOXICATING LIQUOR

(Ref. 188, 435, 502, 524, 548, 579, 601, 611, 660, 752, 770, 784, 807, 847, 849, 882, 910, 933, 959, 983, 991, 993, 1023, 1042, 1159, 1172, 1197, 1200, 1201, 1211, 1212, 1222, 1223, 1242, 1248, 1270, 1271, 1292, 1312, 1335, 1343)

603.01. 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: (Ref 435)

1. Bowling Center/Restaurant (Ref Ord 1223)

An establishment under the control of a single proprietor or manager, having a minimum of 20 lanes for the sport of bowling and where, in consideration of payment therefore, the general public is permitted to participate in the sport of bowling. Such establishment shall have a kitchen and other facilities to serve meals and where, in consideration of payment therefore, meals are regularly served at tables to the general public. Such establishment employs an adequate staff for the usual and suitable service to its guests, and the business of bowling, including sale or rental of bowling equipment and supplies, for a license year is a minimum of 60% of the total gross sales of the business.

2. Brew Pub (Ref Ord 1335)

A brew pub is a restaurant attached to a brewery which manufactures fewer than 3,500 barrels of malt liquor annually. The entire brewing production is solely for the sale and consumption of malt liquor on tap on the licensed premises or for off-sale from the licensed premises as permitted by M.S. 340A.24, Subd. 2, and City Code Chapter 610.

3. Church

A building which is principally used as a place where persons of the same faith regularly assemble for public worship.

4. Floor Area.

All of the floor area of the various floors of a licensed premise measured to the centers of all partitions, except those areas primarily for non-service purposes including, but not limited to, dead storage, building management, toilets or restrooms, mechanical equipment rooms and kitchens. Floor area is used to calculate the license fee.

Banquet facilities used less than five (5) times per week, on the average, are counted at one-half (1/2) actual size. (Ref 660)

5. Hotel.

Any establishment having a resident proprietor or manager, where, in consideration of payment therefore, food and lodging are regularly furnished to transients. Such establishment maintains for the use of its guests not less than 50 guest rooms with bedding and other usual, suitable and necessary furnishing in each room; is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor; employs an adequate staff to provide suitable and usual service under the same management and control as the rest of the establishment; and has a kitchen and dining room with a total minimum floor area of 2,000 square feet where the general public are, in consideration of payment therefore, served meals at tables. (Ref. 1172)

6. Intoxicating Liquor.

Ethyl alcohol and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2% of alcohol by weight.

7. Manufacturer.

Every person who, by any process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquors for sale.

8. On-Sale.

The sale of intoxicating liquor by the glass or by the drink for consumption on the premises only.

9. Restaurant.

Any establishment, other than a hotel or bowling center/restaurant, under the control of a single proprietor or manager, having kitchen and other facilities to serve meals and where, in consideration of payment therefore, meals are regularly served at tables to the general public. Such establishment employs an adequate staff for the usual and suitable service to its guests, and the business of serving food and/or intoxicating liquors for a license year is a minimum of 40% of the total gross sales of the business. Vending machines sales shall not be included as food sales revenue. (Ref. 1223)

10. Sale (Sell).

All barbers and all manners or means of furnishing intoxicating liquor or liquors, including those in violation or evasion of law, and also including the usual dictionary meaning.

11. Wholesale.

Any sale for purposes of resale. The term "wholesale" means any person engaged in the business of selling intoxicating liquor to retail dealers.

603.02. LICENSE REQUIRED

No person, except wholesalers or manufacturers to the extent authorized under State License, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this Chapter. No person shall sell any intoxicating liquor on Sundays without obtaining a separate license for Sunday sales, as required by Minnesota State Statutes. No person shall sell any intoxicating liquor after 1:00 a.m. without obtaining a special Late Night License Endorsement for an existing liquor license as provided in this Chapter.

On-Sale intoxicating liquor licenses shall only be granted to bowling centers, brew-pubs, hotels and restaurants, as defined in Section 603.01, where food is prepared and served for consumption on the premises. (Ref 1172, 1335)

The City 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 pursuant to the provisions of Minnesota Statutes, Section 340A.404, subd. 4b. The City 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, pursuant to the provisions of Minnesota Statutes, Section 340A.404, subd. 4(a); however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in a youth amateur athletic event, being held on the premises. A youth athletic event, for the purposes of this section, is defined as an event whose participants are 18 years of age or younger.

603.03. APPLICATION

Every application for a license to sell intoxicating liquor shall be verified and filed with the City Clerk. In addition to the information which may be required by the State Liquor Control Commissioner's form, the application shall contain the following information:

1. Whether the applicant is a person, corporation, partnership, or other form of organization.
2. The type of license the applicant seeks.
3. If the applicant is a natural person, the following information:
 - A. True name, place and date of birth, and street resident address.
 - B. Whether the applicant has ever used, or been known by, a name other than the applicant's true name and, if so, what was such name, or names, and information concerning dates and places where used.
 - C. The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant; in such case a copy of the certification, as required by Chapter 333, Minnesota Statutes, certified by the Clerk of District Court, shall be attached to the application.

- D. Whether the applicant is married or single. If married, true name, place and date of birth, and street residence address of applicant's present spouse.
 - E. Whether applicant and present spouse are registered voters and, if so, where.
 - F. Street addresses at which applicant and present spouse have lived during the preceding ten (10) years.
 - G. Kind, name and location of every business, or occupation, applicant or present spouse have been engaged in during the preceding ten (10) years.
 - H. Names and addresses of applicants and spouse's employers and partners, if any, for the preceding ten (10) years.
 - I. Whether applicant or spouse, or a parent, brother, sister, or child of either of them has ever been convicted of any felony, crime or violation of any ordinance, other than traffic. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
 - J. Whether applicant or spouse, or a parent, brother, sister, or child of either of them has ever been engaged as an employee or in operating a saloon, hotel, restaurant, cafe, tavern or other business of a similar nature. If so, applicant shall furnish information as to the date, place and length of time.
 - K. Whether applicant has ever been in military service. If so, applicant shall, upon request, exhibit all discharges.
 - L. The name, address and business address of each person who is engaged in Minnesota in the business of selling, manufacturing or distributing liquor and who is nearer to kin to the applicant or spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law, or who is a brother-in-law or sister-in-law of the applicant or the applicant's spouse.
4. If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant in Section 603.03.3 above. A managing partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application and, if the partnership is required to file a certificate as to a trade name under the provisions of Chapter 333, Minnesota Statutes, a copy of such certificate certified by the Clerk of District Court shall be attached to the application.
5. If the applicant is a corporation or other organization and is applying for an "on-sale" license, the following:
- A. Name, and if incorporated, the state of incorporation.

- B. A true copy of the Corporation's Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws, and if a foreign corporation, a Certificate of Authority as described in Chapter 303, Minnesota Statutes.
 - C. The name of the manager or proprietor or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a single applicant in Section 603.03.3.
 - D. Notwithstanding the definition of interest as given in Section 603.08, the application shall contain a list of all persons who, singly or together with their spouse, or a parent, brother, sister or child or either of them, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required of a single applicant in Section 603.03.3.
6. The exact legal description of the premises to be licensed together with a plot plan of the area showing dimensions, locations of buildings, street access, parking facilities and the locations of distances to the nearest church building and school grounds.
7. The floor number and street number where the sale of intoxicating liquors is to be conducted and the rooms where liquor is to be sold or consumed. An applicant for an "on-sale" license shall submit a floor plan of the dining room, or dining rooms, which shall be open to the public, shall show dimensions and shall indicate the number of persons intended to be served in each of said rooms.
8. If a permit from the Federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in what name issued and the nature of the permit.
9. The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture, stock in trade, etc., and proof of the source of such money.
10. The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture, stock in trade; the nature of such interest, amount thereof, and terms for payment or other reimbursement. This shall include, but not be limited to, any lessees, lessors, mortgagees, lenders, lienholders, trustees, trustors, and persons who have co-signed notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant.
11. The names, residences and business addresses of three (3) persons, residents of the State of Minnesota, of good moral character, not related to the applicant or financially interested in the premises or business, who may be referred to as to the applicant's character or, in the case where information is required of a manager, the manager's character.

12. Whether or not all real estate, special assessments, and personal property taxes for the premises to be licensed which are due and payable have been paid, and if not paid, the years and amounts which are unpaid.

13. Whenever the application for an "on-sale" license to sell intoxicating liquor, or for a transfer thereof, is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. (Ref. 579)

14. Whenever the applicant for an "on-sale" license to sell intoxicating liquor is made for a proposed or existing establishment, the following items are to be provided with the application:

- A. Site plans of the premises indicating property and building location, parking area, landscaping and screening. Minimum parking requirements are to be a ratio of one (1) ten by twenty (10 x 20) foot parking stall for every three (3) seats of total seating capacity.
- B. Plans and specifications for the proposed establishment of for enlargement, alteration or extension of an existing establishment, showing floor plans with total seating capacity. (Ref Ord 1159)

15. Other requirements are:

- A. All plans and specifications must be reviewed and approved by the Building Inspection Department before issuance of building permit. (Ref. 579)
- B. Such other information as the City Council shall reasonably require. (Ref Ord 1159)

603.04. EXECUTION OF APPLICATION

If the application is by a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer thereof. If the applicant is a partnership, the application, license and insurance policy shall be made and issued in the name of all partners.

603.05. FEES

1. The annual license fee and expiration date shall be as provided in Chapter 11 of this Code.
2. The annual license fee shall be paid in full before the applicant for a license is accepted. All fees shall be paid into the General Fund of the City. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant except where rejection is for a willful misstatement in the license application.

3. The fee for an "on-sale" license granted after the commencement of the license year shall be pro-rated on a monthly basis.
4. The fee may be paid in two installments if the license is for a full twelve (12) month period. The first half of the fee shall be due and payable with the original application. For a renewal license fee, the fee will be paid with the renewal application sixty (60) days prior to the expiration of the existing license in accordance with Section 603.07.02. The second half shall be due and payable by September 30 of each year. If the fee is not received in accordance with this section, the non-payment would be cause for immediate and automatic suspension. (Ref. 993)
5. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the City Council or upon the date the building is ready for occupancy, whichever is sooner.
6. No transfer of a license shall be permitted from place to place or person to person without complying with the requirements of an original application, except as provided by Section 603.05.9 and except where a new application is filed for a transfer of license from place to place and is for premises where the building was not ready for occupancy at the time of the original application and the new application is filed within ninety (90) days after approval of the original license by the City Council but before a Certificate of occupancy for the original location has been issued, no additional license fee is required and the investigating fee shall be as specified in Section 603.05.8. (Ref. 579)
7. No part of the fee paid for any license shall be refund (1, except in accordance with this Section.
8. At the time of each original application for a license, the applicant shall pay in full an investigating fee. For a single person, the investigating fee shall be \$200.00. For a corporation, partnership or other association, the investigation fee shall be \$400.00. No investigating fee shall be refunded.
9. At any time that an additional investigation is required because of a change in ownership or control of a corporation or because of an enlargement, alteration, or extension of premises previously licensed, or because of a transfer from place to place which transfer comes within the exception expressed in 603.05.5, the licensee shall pay an additional investigating fee in the amount of \$50.00.
10. Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

11. Where approval has been granted as provided by this Chapter, for the transfer of a license from person to person and where the successor licensee has paid the fee for the balance of the license year, then the transferring license holder shall have refunded to it on a pro-rata basis, that portion of the license fee which represents the unused portion of the license year. However, this provision does not prevent the City from charging to the successor license holder an additional investigation fee as provided in Section 603.05.07. (Ref. 849)

603.06. SUNDAY LIQUOR SALES

The annual license fee for "Sunday Liquor Sales" shall be provided in Chapter 11. The annual fee for a license endorsement for late hour liquor sales after 1:00 a.m., but before 2:00 a.m. shall be provided in Chapter 11. This fee is in addition to the fee charged for an "On-Sale" license. All provisions of this Chapter pertaining to the "On-Sale" license shall apply to the "Sunday Liquor Sales" license, and the Late Night License Endorsement insofar as practicable. (Ord 1197)

603.07. 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 intoxicating 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 at its discretion.
- B. At the earliest practicable time after application is made for a renewal of an "on-sale" license and in any event prior to the time that the application is approved by the City Council, the applicant shall file with the City Clerk a statement made by a certified public accountant that shows the total gross sales and the total food sales of the restaurant for the twelve (12) month period immediately preceding the date for filing renewal applications. A foreign corporation shall file a current Certificate of Authority.
- C. 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. 807)

603.08. PERSONS INELIGIBLE

No license shall be granted or held by any person:

- 1. Under twenty-one (21) years of age. (Ref. 910)

2. Who 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. (Ref. 579)
3. Who, if an individual, is an alien.
4. Who has been convicted, within 15 years prior to the application of such license, of any willful violation of any law of the United States, the State of Minnesota, or any other state or territory, or of any local ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, or whose liquor license has been revoked for any willful violation of any law or ordinance.
5. Who is a manufacturer or wholesaler of intoxicating liquor with the exception of a brew pub. No manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor. (Ref 1335)
6. Who is directly or indirectly interested in any other establishment in the City of Fridley to which an "on-sale" license has been issued under this Chapter.
7. Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this Section.
8. Who is the spouse of a person ineligible for a license pursuant to the provisions of Subdivisions 4, 5, or 6 of this Section or who, in the judgment of the City Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

The term "interest" as used in this Section includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, but does not include bona fide loans; bona fide fixed sum rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course or business of selling or leasing merchandise, fixtures or supplies to such establishment; or an interest of ten per cent (10%) or less in any corporation holding a license. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining "bona fide" the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this Section shall be considered.

603.09. PLACES INELIGIBLE

1. No license shall be granted or renewed for operation on any premises on which financial claims of the State are due, delinquent or unpaid. (Ref. 993)

2. Except for those organization which are applying for a temporary license to sell on-sale intoxicating liquor pursuant to Section 603.24, no license shall be granted for premises located within 400 feet of a public school or of any church, the distance to be measured in a straight line from the nearest point of building to building, excepting the existing on-sale municipal establishments at the time of the enactment of this Chapter. The erection of a public school or church within the prohibited area after an original application has been granted shall not, in and of itself, render such premises ineligible for renewal of the license.

3. No license shall be issued for the premises owned by a person to whom a license may not be granted under this Chapter.

4. No "on-sale" license shall be granted for a brew pub, restaurant or hotel that does not have a minimum total building area of 5,000 square feet, with a minimum kitchen and dining area of 2,000 square feet and with a minimum seating capacity that is open to the general public of 130. (Ref. 579, 1335)

603.10. CONDITIONS OF LICENSE

Every license shall be granted subject to the condition of all Sections of this Chapter and of any other applicable provision of this Code or State law, including the following:

1. The license shall be posted in a conspicuous place in the licensed establishment at all times.

2. Licensees shall be responsible for the conduct of their place of business and the conditions of sobriety and order in the place of business and on the premises.

3. No "on-sale" licensee shall sell intoxicating liquor "off-sale" with the exception of a brew pub. (Ref 1335)

4. No license shall be effective beyond the space named in the license for which it was granted

5. No intoxicating liquor shall be sold or furnished or delivered to any intoxicated person, to any habitual drunkard, to a person under twenty-one (21) years of age, or to any person to whom sale is prohibited by State law. (Ref. 910)

6. No person under eighteen (18) years of age shall be employed in a room where sales are made, except that persons under eighteen (18) years of age may be employed as musicians, busboys and dishwashers. (Ref. 579)

7. No licensee shall keep, possess, operate or permit the keeping, possession, or operation of any dice, video game of chance, or gambling device including slot machines, roulette wheels, punchboards, and pin ball machines which return coins or slugs, chips, or tokens or any kind which are redeemable in merchandise, cash or other item of value on the licensed premises. Pull-tabs and other expressly authorized forms of legal gambling may be conducted on licensed premises when such activity is licensed by the State pursuant to Minnesota Statute, Chapter 349, and conducted pursuant to the regulations contained in this City Code. (Ref. 1211)

8. Licensees shall not knowingly permit the licensed premises or any room in those premises or any adjoining building directly or indirectly under their control to be used as a resort for prostitutes.

9. No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor, except such as shall be expressly permitted by State law.

10. Any police officer, or any properly designated officer or employee of the City shall have the right to enter, inspect and search the premises of the licensee during the business hours without a warrant.

11. No licensee shall sell, offer for sale, or keep for sale, intoxicating liquors in any original package which has been refilled or partially refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of liquor in the original package differing in composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

12. No "on-sale" liquor establishment shall display liquor to the public during hours when the sale of liquor is prohibited by the Chapter.

13. No licensee shall apply for or possess a Federal Wholesale Liquor Dealers special tax stamp or a Federal Gambling stamp, with the exception of a brew pub. (Ref 1335)

14. No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.

15. The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the City Manager, or other duly authorized representative of the City or the City Council, at all reasonable times.

16. Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws, or partnership agreement, as the case may be, shall be submitted to the City Clerk within thirty (30) days after such changes are made. Notwithstanding the definition of interest as given in Section 603.08, in the case of a corporation, the licensee shall notify the City Clerk when a person not listed in the application acquires an interest which, together with that of spouse, parent, brother, sister, or child, exceeds 5%, and shall give all information about said person as is required of a person pursuant to the provisions of Section 603.03.3.

17. At the time licensees submit their applications for renewal of a license, they shall list all direct or indirect contributions made to or on behalf of a candidate for Fridley City Councilperson or Mayor, including, but not limited to, Candidates, Committees, Volunteer Committees, etc., for all City elections within the last 365 days.

18. A brew pub and restaurant shall be conducted in such a manner that, of that part of the total business attributable to or derived from the serving of foods and intoxicating liquors, a minimum of 40% of the business for a license year is from the serving of food prepared on site and not from vending machines. A hotel shall be conducted in such a manner that, of that part of the total business attributable to or derived from the serving of foods and intoxicating liquors a minimum of 40% of the business for a license year is from the serving of food prepared on site and not from vending machines. A bowling center/restaurant shall be conducted in such a manner that, of that part of the total business attributable to or derived from the sale of food and intoxicating liquors, a minimum of 30% of the gross sales of the food and liquor is from the serving of food prepared on site and not from vending machines. (Ref. 1223, 1335)

19. At the time of application for renewal of application of an "on-sale" license, the applicant shall submit proof to the City that the minimum percentage provided above in Section 603.10.18 of the gross sales, derived from the sale of food and intoxicating liquors of the establishment, for which the "on-sale" license is to be used, is in the serving of food. (Ref. 1172)

A. Late Night License Endorsement

In addition to any other reporting requirement that may be imposed by the municipal code, any licensee holding a Late Night License Endorsement shall also provide proof to the city that the minimum percentage provided in Section 603.10.18 of the gross sales, derived from the sale of food and intoxicating liquors of the establishment, for which the "on-sale" license is to be used, is in the serving of food. "Proof" for purposes of this section, shall consist of not less than a statement of accuracy, attested to by a certified public accountant, accompanying a verifiable, semiannual report of sales receipts based upon acceptable and recognized accounting and bookkeeping standards. Separate statements are required for a license renewal and the renewal of any Late Night License Endorsement to that license. (Ord 1197)

20. No licensee shall hold events which are exclusively for persons under the age of 21 except social functions that are held in a portion of the establishment where liquor is not sold. Social functions that are held in a portion of the brew pub or restaurant where liquor is not sold shall be limited to persons age 18 and older. (Ref. 1042)

21. No licensee shall permit any person under the age of 18 to enter a licensed establishment except for the purpose of consuming meals or performing work for the establishment, or in the case of bowling centers, for the purpose of bowling and related activities, unless accompanied by a parent or guardian. (Ref. 1042)

22. 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. (Ref 1201)

23. 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. (Ref Ord 1211)

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, subd. 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.

603.11. HOURS OF OPERATION

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

- A. Holiday Endorsement. If an establishment holds a 3.2% malt liquor 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 8:00 a.m. on December 24th and 1:00 a.m. on December 25th and 8:00 a.m. on December 25th and 1:00 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 603.11.2 of the Fridley City Code may remain open until 2:00 a.m. on December 25th and 26th.

2. It shall be unlawful for any persons or customers, other than the licensees or their employees to remain on the premises after 1:30 a.m. There shall be no consumption by any persons, including the licensees and their employees, after 1:30 a.m.

2. Notwithstanding the foregoing, a sale of intoxicating liquor for consumption 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 intoxicating liquor for consumption on any licensed premises for which a late Night License 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 any 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)

603.12. HOTELS

No sale of intoxicating liquor shall be made to, or in, guest rooms of hotels unless the following conditions exist:

1. The rules of such hotel provide for the service of meals in guest rooms;
2. The sale of such intoxicating liquor is made in the manner required for "on- sale";
3. Such sale accompanies and is incident of the regular service of meals to guests therein; and,
4. The rules of such hotel and the description, location, and number of such guest rooms are fully set out in the application for a license.

603.13. RESTRICTIONS INVOLVING MINORS

1. No licensees, their agents or employees shall serve or dispense upon the licensed premises any intoxicating liquor or non- intoxicating malt liquors to any person under twenty-one (21) years of age; nor shall such licensees, or their agents or employees, permit any person under twenty-one (21) years of age to be furnished or consume any such liquors on the licensed premises. (Ref. 910)

2. Persons under twenty-one (21) years of age shall not misrepresent their age for the purpose of obtaining intoxicating liquor or non- intoxicating malt liquor; nor shall they enter any premises licensed for the retail sale of intoxicating liquor, or non- intoxicating malt liquor, for the purpose of purchasing or having served or delivered to them for consuming any such intoxicating liquor or beer; nor shall they purchase, attempt to purchase, consume, or have another person purchase for them any intoxicating liquor or beer. (Ref. 910)
3. No person shall induce a person under twenty-one (21) years of age to purchase or procure or obtain intoxicating liquor or 3.2% malt liquor. This Section shall not prohibit the use of a person under the age of twenty-one (21) years to attempt to purchase or procure any intoxicating liquor, 3.2% malt liquor, beer or wine from a licensee in a test of compliance 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. (Ref. Ord 1212)
4. Any person who may appear to licensees, their employees or agents to be a minor shall, upon demand of the licensees, their employees or agents, produce and permit to be examined a valid driver's license or a current nonqualification certificate issued pursuant to Minnesota Statutes, Section 340.039.
5. In every prosecution, for a violation of the provisions of this Chapter relating to the sale or furnishing of intoxicating liquor or non- intoxicating malt beverage to a person under twenty-one (21) years of age, and in every proceeding before the City Council with respect thereto, the fact that the person under twenty-one (21) years of age involved has obtained and presented to the licensees, their employees or agents, a verified identification card from which it appears that said person was twenty-one (21) years of age and was regularly issued such identification card, shall be prima facie evidence that the licensees, their agents or employees are not guilty of a violation of such a provision and shall be conclusive evidence that a violation, if one has occurred, was not willful or intentional. (Ref. 910)
6. Persons who may appear to the licensees, their employees or agents to be under twenty-one (21) years of age and who do not have in their possession any identification certificate as above described, may sign and execute a statement in writing as follows:

READ CAREFULLY BEFORE SIGNING

It shall be unlawful for persons to misrepresent or mis-state their age, or the age of any other person for the purpose of inducing any licensee, their employee or agent, or any licensee, or any employee of any municipal liquor store, to sell, serve or deliver any alcoholic or non-intoxicating malt liquor beverage to a person under twenty-one (21) years of age. It is also unlawful for persons under twenty-one (21) years of age to have in their possession any intoxicating liquor with intent to consume the same at a place other than the household of their parent or guardian.

Any person who shall violate any of the foregoing provisions of law shall be punished accordingly.

VIOLATION OF THE ABOVE MINNESOTA LAW IS A MISDEMEANOR PUNISHABLE BY A FINE OF \$700.00 OR A 90 DAYS WORKHOUSE SENTENCE, OR BOTH.

My age is _____. Date of Birth _____ Place of Birth _____
My address is _____

Dated: _____ Type of Identification, if any _____
Witness _____

Signed _____

The above form shall be furnished at the expense of all licensees desiring to use the same and when properly executed may be considered as evidences in any prosecution and by the City Council in any proceeding before the Council or a committee thereof relating to the business or operations of the licensee. Such forms after execution shall be kept on file by the licensee for a period of one (1) year. (Ref. 910)

603.14. OTHER RESTRICTIONS ON PURCHASE OR CONSUMPTION

1. No person shall give, sell, procure or purchase intoxicating liquors to, or for, any person to whom the sale of intoxicating liquor is forbidden by law.
2. No person shall mix or prepare intoxicating liquor for consumption, or consume, in any public place not licensed in accordance with the ordinances and laws of the City of Fridley and the State of Minnesota.
3. No intoxicating liquor shall be sold or consumed on a public highway or in an automobile.

603.15. BONDS

1. Each application for an "on-sale", "off-sale" liquor license or "on-sale" wine license shall be accompanied by a surety bond in the amount of \$3,000.00 running to the City of Fridley, or in lieu thereof, cash or United State Government bonds of equivalent market value, as provided in Minnesota Statutes, Section 340.12. The bond shall be in effect for the period covered by the license.
2. The bond's conditions are as follows:
 - A. The licensee will obey the laws relating to the licensed business.
 - B. The licensee will pay to the City, when due, all taxes, licenses, penalties, and other charges.

C. In the event of any violation of any liquor laws, the bond shall be forfeited to the City, as obligee.

3. Bonds for "on-sale" licenses shall be filed with the City Clerk and approved by the City Council. Bonds for "off-sale" licenses and "on-sale" wine licenses shall be filed with the City Clerk and approved by the City Council and the Commissioner of Public Safety.

4. All bonds shall be for the benefit of the City, as obliges, and all persons suffering damages by reason of the violation of the conditions of 603.15.2. Upon forfeiture of the bond for violation of the law, the District Court of Anoka County may forfeit the bond's penal sum or any part thereof to the City.

5. Operation of a licensed business without having on file at all times with the City of Fridley effective security as required above shall be grounds for immediate revocation of the license. (Ref. 807)

603.16. LIABILITY INSURANCE

1. Every person licensed to sell at retail intoxicating liquor or non-intoxicating malt liquor at on-sale or off-sale or on-sale wine shall, after August 1, 1983, demonstrate proof of financial responsibility with regard to liability imposed by Minnesota Statutes, Section 340.95, 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 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 State Treasurer that the licensee has deposited with the State Treasurer \$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 603.16.1 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 603.16.1 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 603.16.1 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 603.16.1.
5. The operation of a retail intoxicating or non-intoxicating malt liquor business at on-sale or off-sale or on-sale wine, 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 603.16.1 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 603.16.1 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 Commissioner of Public Safety.

603.17. SUSPENSION OR REVOCATION

The City Council may suspend or revoke any license for the sale of intoxicating liquor for the violation of any provision or condition of this Chapter or of any State law or Federal law regulating the sale of intoxicating liquor, and shall revoke such license for any willful violation which, under the laws of the State is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this Chapter in full force and effect.

603.18. NOTICE

Except in the case of suspension pending a hearing or immediate revocation for failure to have on file at all times with the City the liability insurance policy or other evidence of financial responsibility required under Sections 603.15 and 603.16, a revocation or suspension by the Council shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. No suspension shall exceed 60 days.

603.19. ALTERATION OF PREMISES

Proposed enlargement, alteration or extension of premises previously licensed shall be reported to the City Clerk at or before the time application is made for a Building Permit for any such change.

603.20. MANAGERIAL LICENSE

1. No person shall work as a manager of a premises licensed under this Chapter, and no licensee shall permit any such person to be so employed, unless such person, within seven (7) days after first being so employed, shall apply for a license to engage in such business. No persons may be so employed for any length of time if their license is denied or revoked. (Ref. 1023)
2. An application for such license shall be filed with the City Clerk upon forms provided by the City and such application shall be verified under oath and shall contain the following information:
 - A. The names and addresses of two (2) residents of the State of Minnesota, who have known the applicant for a period of two (2) years and who will vouch for the sobriety, honesty, and general good character of the applicant.
 - B. A concise history of the applicant's previous employment.
 - C. The record, if any, of arrests and of convictions for crimes and misdemeanors other than traffic offenses.
3. The annual license fee and expiration date shall be provided in Chapter 11 of this Code. Application for renewal of an existing license shall be made at least 15 days prior to the date of the expiration of the license on such form as the City Council may approve.
4. The application shall be referred to the Police Department which shall investigate the facts set forth in the application and make a written report thereon at the earliest practicable time. If the Police Department recommends that such person be licensed, the City Clerk shall issue the license forthwith. If the Police Department makes a recommendation that the license not be issued, the applicant, upon request, shall be entitled to a hearing before the City Council and may offer evidence to prove the license should be issued.
5. No persons shall be issued a license if it appears that they had committed an act which is a willful violation of Minnesota Statutes Sections 340.07 through 340.40.
6. Any license issued hereunder may be revoked for any violation of this Chapter or of Minnesota Statutes Sections 340.07 through 340.40 or for conviction of any crime or misdemeanor involving moral turpitude.

603.21. AUTHORIZATION TO ISSUE "ON-SALE" WINE LICENSES

The City is hereby authorized to issue "on-sale" wine licenses pursuant to authority of Minnesota Statutes. Licenses may be issued to "restaurants" as defined above. (Ref. 611)

603.22. WINE LICENSE

1. No person operating a restaurant shall sell or permit to be sold on said premises any wine without having been issued either an "On-Sale Wine License" or an "On-Sale Intoxicating Liquor License". An "On-Sale Wine License" permits only the "on-sale" of wine not exceeding 14 percent (14%) alcohol by volume in conjunction with the sale of food. (Ref. 611)
2. The annual license fee and expiration date for "On-Sale Wine Licenses" shall be provided in Chapter 11 of this Code.
3. No wine license shall be issued to any restaurant having seating capacity of less than fifty (50) persons. (Ref. 847)
4. The provisions of Sections 603.01 to 603.21 above shall apply to "On-Sale Wine Licenses" insofar as practicable, as they relate to:

Definitions: Applications; Granting of Licenses; Persons and Places Ineligible; Conditions of License; Hours of Operation; Restrictions Involving Minors; Other Restrictions on Purchase or Consumption; Bonds; Liability Insurance; Notice and Hearing on Suspension or Revocation of License; Alteration of Premises; and Penalties. (Ref. 611)

603.23. SALE OF INTOXICATING MALT LIQUOR (Ref Ord 1248)

A licensee who has been issued an on-sale 3.2% malt liquor license and an on-sale wine license may sell intoxicating malt liquor whose gross receipts are at least 60 percent attributable to the sale of food, without an additional license, as allowed by Minnesota Statutes 340A.

At the time for renewal of the application for an on-sale 3.2% malt liquor and wine license, the applicant shall submit proof to the City in a statement made by a certified public accountant. The statement shall provide proof of the total gross sales, the total gross malt liquor and wine sales, and the total gross food sales of the restaurant for the twelve (12) month period immediately preceding the date for filing renewal applications. The statement shall also provide proof that a minimum of 60% of the total gross sales shall be attributable to the sale of food prepared on-site and not from vending machines.

603.24. TEMPORARY LICENSES

1. The City is hereby authorized to issue a temporary on-sale intoxicating liquor "license" to any club, charitable, religious, or non-profit organization which has its principal location within the City of Fridley and which has been in existence for a period of not less than three (3) years at the time of making application for this license.; or a political committee registered under Minnesota Statutes Section 10A.14; or a state university. This temporary on-sale intoxicating liquor license shall only be issued for a social event occurring within the City limits sponsored by the licensee.
2. The number of licenses issued by the City Council shall not exceed the number allowed in Minnesota Statutes Section 340A.404, subd. 10.
3. The license may authorize the on-sale of intoxicating liquor on premises other than premises which the licensee owns or permanently occupies. Further, the licensee may contract for intoxicating liquor catering services with the holder of a full year, on-sale intoxicating liquor license issued by any municipality.
4. Except in those instances where the license holder contracts for the catering of liquor services as provided in paragraph 3 above, the licensee shall meet the requirements of Section 603.16.
5. An application for this temporary license must be completed and forwarded by the City Clerk to the Minnesota Department of Public Safety for their approval. A copy of the application shall be retained by the City. This application must be made at least thirty (30) days prior to its requested date. This license shall not be effective unless approved by both the Commissioner of Public Safety and the City Council.
6. The license fee shall be provided in Chapter 11 of this Code.
7. If the license is used on public property owned by the City, upon the recommendation of the Public Safety Director, the City Council may require the holder of the license, as a term and condition of the license, to hire uniformed police officer(s) to remain on the premises during the use of the license.

603.25. GAMBLING ENDORSEMENT

1. Statement of Policy

On-sale licensees under the provisions of this Chapter or Chapter 606 may request permission of the City Council to permit State licensed organizations to conduct lawful gambling on the licensed premises. Application for a gambling endorsement shall be made to the City Clerk with payment of the specified fee in Chapter 11 of the City Code. (Ref 1200)

2. Regulations

Gambling endorsements on on-sale licenses issued either under this Chapter or Chapter 606 shall be subject to the following regulations which shall be deemed as a part of the license, and failure of compliance may constitute grounds for adverse action as prescribed in the City Code. (Ref 1200)

- A. Use of the licensed premises shall be by means of a State approved lease agreement between the licensee and the licensed organization. A copy of the lease shall be filed with the City Clerk, and also a copy must be kept on the premises and available for public inspection upon request. Leases shall be governed by the following:
 - (1) Any form of lawful gambling permitted by the state of Minnesota as defined by Chapter 349 and otherwise approved or licensed by the city may be conducted on the licensed premises. (Ref 1200)
 - (2) Pull-tabs shall only be conducted from a booth used solely by the licensed lawful gambling organization. Lawful gambling shall neither be conducted by employees of the licensee or conducted from the bar service area. (Ref 1200)
 - (3) The construction and maintenance of the booth used by the licensed lawful gambling organization shall be the sole responsibility of the licensed lawful gambling organization. (Ref. 991)
- B. Only one licensed lawful gambling organization shall be permitted to conduct lawful gambling on the licensed premises. (Ref 1200)
- C. The licensee may not be reimbursed by the licensed lawful gambling organization for any license or permit fees, and the only compensation which the licensee may obtain from the licensed lawful gambling organization is the rent fixed in the lease agreement.
- D. The licensee shall be responsible for the licensed lawful gambling organization's conduct. The City Council may suspend the licensee's permission to allow lawful gambling on the premises for a period up to 60 days for any violation of State or local gambling laws or regulations that occur on the premises by anyone, including the licensee or the licensed lawful gambling organization. A second violation within a 12 month suspension, and any additional violations within a 12 month period shall result in the revocation of the lawful gambling permission, and may also be considered by the Council as grounds for suspension or revocation of the on-sale liquor license. (Ref. 1200)
- E. Establishments licensed by the City for the sale of alcoholic beverages must seek qualifying organizations as defined in Section 30.02 of this Code whenever they contract with organizations to conduct lawful gambling on their premises. If the owner of the establishment is unsuccessful at locating a qualifying organization, they shall attest to that fact on their liquor license application. The City Council may waive this requirement for a non-qualifying organization.

603.26 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 or 606 of the 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. (Ref 1292)

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 outdoor 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 State Building Code, to reduce the likelihood of incursion of vehicles into the patio space.
- H. The licensee shall pay the 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 am and 10 pm. Music, sound, or noise in the patio enclosure shall comply with the provisions of Chapter 124 of the Fridley City Code at all times.
- K. The sale and consumption of intoxicating 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 intoxicating 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 intoxicating or wine 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 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 liquor which occur in the patio area will be considered as a violation of the principal on-sale license for the premises.

603.27. 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, beer 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 603.26.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.

603.28. VIOLATIONS

1. Administrative Civil Penalties: Individuals. Any person in the employ of a licensee who sells any intoxicating liquor, 3.2% malt liquor, beer 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, beer 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, beer 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, beer 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, beer or wine while in this capacity is exempt from the penalties imposed by subdivision A above.

5. Revocation. The City Council has the authority to revoke any license as noted in 11.08.

603.29. PENALTIES

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