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§ 110.01 PURPOSE.

The purpose of this subchapter is to replace existing ordinances regulating the sale of alcoholic beverages to include in a single ordinance all rules governing the sales, and to clarify the rules and procedures applicable to regulation of the sale of alcoholic beverages.

(Ord. 162, passed 5-3-1999)

§ 110.02 DEFINITIONS.

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

**ALCOHOLIC BEVERAGES.** Any beverage containing more than ½ of 1% alcohol by volume.

**CITY.** The City of Morristown.

**CLUB.** An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans’ organization, which:

1. Has more than 50 members;
2. Has owned or rented a building space in a building for more than 1 year that is suitable and adequate for the accommodation of its members; and
3. Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

**COMMISSIONER.** The Commissioner of the Minnesota Department of Public Safety.

**EXCLUSIVE LIQUOR STORE.** An establishment used exclusively for the sale of the following items:

1. Alcoholic beverages;
2. Tobacco products;
3. Ice;
(4) Beverages for mixing with intoxicating liquor;

(5) Soft drinks;

(6) Liquor-filled candies;

(7) Food products containing more than ½ of 1% alcohol by volume;

(8) Cork extraction devices;

(9) Books and videos on the use of alcoholic beverages;

(10) Magazines and other publications published primarily for information and education on alcoholic beverages; and

(11) Pre-packaged foods which do not require preparation prior to consumption.

**HOTEL.** An establishment where food and lodging are regularly furnished to transients and which has:

1. A dining room serving the general public at tables and having facilities for seating at least 30 guests at 1 time; and

2. A minimum of 10 guest rooms.

**INTOXICATING LIQUOR.** Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.5% of alcohol by weight.

**LICENSED PREMISES.** The premises described in the approved license application.

**OFF-SALE.** The sale of alcoholic beverages in original containers for consumption off the licensed premises only.

**ON-SALE.** The sale of alcoholic beverages for consumption on the licensed premises only.

**RESTAURANT.** An establishment, other than a hotel, under control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables, with a minimum seating capacity at the tables (excluding for seating) for at least 30 guests at 1 time.

**RETAIL.** Sale for consumption only.

**3.2% MALT LIQUOR.** Any beer, sale, or other beverage made from malt by fermentation containing more than 1/2 of 1%, but not more than 3.2%, alcohol by weight.

(Ord. 162, passed 5-3-1999)
§ 110.03 LICENSE REQUIRED.

No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction at retail without having obtained a license under this subchapter.
(Ord. 162, passed 5-3-1999) Penalty, see § 10.99

§ 110.04 TYPES OF LICENSES.

(A) On-sale intoxicating liquor. An on-sale license for intoxicating liquor may be issued to:

(1) Hotels;
(2) Restaurants;
(3) Bowling centers; and
(4) Exclusive liquor stores.

(B) Club licenses. Licenses for the on-sale of intoxicating liquor may be issued, with the approval of the Commissioner, to clubs or congressionally chartered veterans organizations, for sale only to members and bona fide guests, provided the organization has been in existence for at least 3 years.

(C) Sunday on-sale. A restaurant, hotel, club, or bowling center which holds an on-sale license may obtain a license for the on-sale of intoxicating liquor on Sundays in conjunction with the sale of food, provided the licensee has seating capacity at tables for a minimum of 30 patrons.

(D) Off-sale intoxicating liquor. An off-sale intoxicating liquor license may be issued to an exclusive liquor store.

(E) 3.2% percent malt liquor.

(1) A license for the on-sale of 3.2% malt liquor may be issued to a hotel or bar.
(2) A license for the off-sale of 3.2% malt liquor may be issued to a grocery or convenience store.

(F) Temporary on-sale licenses.

(1) A temporary on-sale license for the sale of intoxicating liquor may be issued for a period not exceeding 4 days to club, or charitable, religious, or other nonprofit organization in existence for at least 3 years, or to a registered political committee in conjunction with a social event sponsored by the licensee in the city. A temporary license may be for premises other than those the licensees owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor
catering services with the holder of a regular on-sale intoxicating liquor license issued by any municipality. Licenses must be approved by the Commissioner.

(2) A temporary on-sale license for the sale of 3.2% malt liquor in conjunction with a social event within the city may be issued to a club, charitable, religious, or nonprofit organization. No license shall be for a period of more than 4 days.

(Ord. 162, passed 5-3-1999) Penalty, see § 10.99

§ 110.05 PERSONS ELIGIBLE FOR LICENSES.

(A) No license may be issued to:

(1) A person under the age of 21;

(2) A person who has had a retail license revoked within the previous 5 years or who at the time of such a revocation owned any interest, whether as a holder of 5% or more of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or the business conducted thereon, or to a firm however organized in which such a person is in any manner interested;

(3) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler as those are defined in M.S. Ch. 340A, as it may be amended from time to time;

(4) A person who has been convicted within the previous 5 years of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage; or

(5) A person in connection with the premises of another to whom a license could not be issued under the provisions of this subchapter; provided, however, that this division (A)(5) does not prevent the granting of a license to a proper lessee where the lessor is a minor, a noncitizen, or a person convicted of a crime other than a violation of M.S. Ch. 340A, as it may be amended from time to time, or an ordinance or statute in conformity with M.S. Ch. 340A, as it may be amended from time to time.

(B) Grounds for denial of a license may also be grounds for refusal to renew a license.

(Ord. 162, passed 5-3-1999)

§ 110.06 LIABILITY INSURANCE.

(A) No retail license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. §340A.801, as it may be amended from time to time. The minimum requirement for proof of financial responsibility may be given by filing:
(1) A certificate of insurance or of the existence of a pool providing coverage of at least $50,000 per person and $100,000 per occurrence for bodily injury; $50,000 per person and $100,000 per occurrence for loss of means of support; and $10,000 per occurrence for property damage;

(2) A bond of surety company with minimum coverages as provided in division (A)(1) above; or

(3) A certificate of the State Treasurer that the licensee has deposited with the State Treasurer $100,000 in cash or securities which may be legally purchased by savings banks or for trust funds having a market value of $100,000.

(B) Liability policies for dram shop insurance may provide for an annual aggregate limit of not less than $300,000.

(C) A policy required by this section must provide that it may not be canceled for any cause, except nonpayment of premium, by either the insurer or the insured unless the canceling party has given 30-days’ written notice to the city. In the event of cancellation for nonpayment of premium, 10-days’ written notice must be given to the city.

(D) A policy required by this section shall be coextensive with the license period.

(E) Division (A) above does not apply to 3.2% malt liquor who establish by affidavit that sales for the preceding year were less than $10,000 for on-sale 3.2% malt liquor licenses, and less than $20,000 for off-sale 3.2% malt liquor licensees.

(Ord. 162, passed 5-3-1999)

§ 110.07 LICENSE RESTRICTIONS.

(A) All licenses are issued for a 1-year period beginning on July 1 of each year. License fees for new applications after the beginning of the license year shall be pro rated.

(B) All licenses are issued for the contiguous premises described in the application and all sales and delivery of alcoholic beverages by the licensee shall be made on the licensed premises.

(C) No off-site storage of alcoholic beverages is allowed except with the written approval of the Commissioner, a certified copy of which must be filed with the city by the licensee.

(D) No gambling is permitted on licensed premises except as authorized under M.S. Chapter 349A, as it may be amended from time to time.

(E) Licensees must maintain in a conspicuous location, clearly visible to customers, a sign not less than 14.5 inches wide by 8 inches high as designed by the Minnesota Commissioners of Health and Public Safety advising consumers of:
(1) The penalties for driving under the influence of alcohol;

(2) The penalties for serving someone who is obviously intoxicated or under the age of 21;

and

(3) A warning regarding drinking alcohol while pregnant.

(F) The license issued pursuant to this section shall be posted in a conspicuous place clearly visible to customers.

(Ord. 162, passed 5-3-1999) Penalty, see § 10.99

§ 110.08 APPLICATIONS; INVESTIGATIONS.

(A) All applications for licenses shall be submitted on forms approved by the Commissioner and any further forms as the city may require.

(B) Applications shall include proof of insurance as required by § 110.06, and proof of compliance with the workmans compensation law.

(C) Applications shall include copies of any summons received by the applicant under M.S. § 340A.802, as it may be amended from time to time, during the preceding year.

(D) (1) The city shall conduct a preliminary background and financial investigation of all new applicants, and in other cases where the City Council deems it to be in the public interest. If the city determines it to be necessary, it shall conduct, or contract with the Commissioner to conduct, a comprehensive investigation of the applicant.

(2) An investigation fee of $500 shall be charged. No license shall be issued or renewed if the results of the investigation show to the satisfaction of the city that issuance or renewals is not in the public interest.

(Ord. 162, passed 5-3-1999)

§ 110.09 LIMIT ON THE NUMBER OF LICENSES.

(A) The city shall not issue more than 3 on-sale intoxicating liquor licenses.

(B) The city shall not issue more than 3 off-sale intoxicating liquor licenses.

(Ord. 162, passed 5-3-1999)
§ 110.10 LICENSE SUSPENSION OR REVOCATION.

Upon a finding of a violation by a licensee of this subchapter or any applicable statute, including statutes regulating law for gambling, the city may suspend for up to 60 days or revoke the license, or impose a civil penalty up to $2,000.
(Ord. 162, passed 5-3-1999)

§ 110.11 RETAIL REGULATIONS.

(A) Every licensee is responsible for the conduct of patrons and employees in the licensed premises, and any sale of any alcoholic beverage by an employee authorized to sell alcoholic beverages in the establishment is deemed the act of the licensee.

(B) No person under the age of 18 shall serve or sell alcoholic beverages.

(C) No person shall sell, give, furnish, or procure in any way alcoholic beverages for the use of an obviously intoxicated person.
(Ord. 162, passed 5-3-1999) Penalty, see § 10.99

§ 110.12 HOURS AND DAYS OF SALE.

(A) On-sale intoxicating liquor. No on-sale of intoxicating liquor may be made between 2:00 a.m. and 8:00 a.m. on the days Monday through Saturday, nor after 2:00 a.m. Sunday except pursuant to a Sunday license.
(Am. Ord. 2003-175, passed 11-3-2003)

(B) Sunday licenses. On-sales pursuant to a Sunday license are permitted in conjunction with the sale of food between 11:00 a.m. Sunday and 2:00 a.m. on Monday, provided that the licensee is in compliance with the Minnesota Clean Indoor Air Act.
(Am. Ord. 2003-175, passed 11-3-2003)

(C) Off-sale intoxicating liquor. No off-sale is permitted:

(1) On Sunday;

(2) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(3) On Thanksgiving Day;

(4) On Christmas Day, December 25; or

(5) After 8:00 p.m. Christmas Eve, December 24.
Alcoholic Beverages

(D) 3.2% malt liquor sales. No sale of 3.2% malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days Monday through Saturday nor between 2:00 a.m. and 12:00 p.m. on Sunday.
(Am. Ord. 2003-175, passed 11-3-2003)

(E) Licensed premises to be closed.

(1) No licensee shall allow non-employees on the premises more than 30 minutes after or before the times when sales may be made. No alcohol may be served during hours when sales are prohibited. No containers such as glasses, cups, or open individual serving bottles such as beer bottles, which contain alcoholic beverages shall be permitted on the premises more than 30 minutes after the time when sales may be made.

(2) When authorized persons are on the premises during hours when sales are prohibited, the premises shall be fully lighted and the interior visible from the street.

(3) Any Morristown police officer or Rice County Sheriff’s Deputy shall be admitted at any time that an authorized person is on the licensed premises.

(Ord. 162, passed 5-3-1999) Penalty, see § 10.99

§ 110.13 FEES.

(A) Generally. All applications shall be accompanied by a receipt from the City Clerk/Treasurer for the required annual fee for the respective license. All fees shall be paid into the general fund.

(B) Specifically.

(1) The annual fee for an on-sale intoxicating liquor license is $1,750.

(2) The annual fee for an off-sale intoxicating liquor license is $100.

(3) The annual fee for a 3.2% malt liquor license is $25.

(4) The annual fee for a Sunday license is $200.

(5) The fee for a temporary license is $25.

(6) The fee for a club license is $300.

(Ord. 162, passed 5-3-1999)
§ 110.14 ENFORCEMENT TEAM.

(A) Unlawful acts. It is unlawful for a person under 21 to consume, purchase, or possess any alcoholic beverage. It is unlawful for anyone under 21 to enter a liquor establishment with the intent of being served alcohol.

(B) Sales to minors. If a license holder violates the conditions of their license by selling alcoholic beverages to a minor, the following penalty guidelines will be used:

1. $500 fee for the first offense.
2. $750 fee for the second offense.
3. $1,000 fee and a 3-day suspension of the license for the third offense.
4. $2,000 fee and a 14-day suspension of the license for the fourth offense.
5. The license will be revoked for the fifth offense.
6. These guidelines apply to a 24-month time period.
7. The City Council may change the applicable penalty, if they conclude the situation warrants a change.

(C) Compliance checks. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct inspections, to enter, inspect, and search the premises of the licensee at any time without a warrant.

(D) Mandatory training.

1. All persons holding a license, including a temporary license, shall attend an approved training session at least once each year. All employees (servers, bartenders, clerks, volunteer servers) must complete an approved server education training within 30 days of the employees' first day of employment and each year in which they are employed.

2. With the application for license or renewal of license, licensees shall certify their compliance with the provisions of this section. Current certificates of training for each employee shall be available for inspection at all times.

(Ord. passed 9-6-2006)
Alcoholic Beverages

PUBLIC CONSUMPTION

§ 110.25 DEFINITIONS.

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

**ALCOHOLIC BEVERAGE.** Any beverage containing more than ½ of 1% alcohol by volume.

**PUBLIC PROPERTY.** All outdoor property owned by the City of Morristown, including parking lots, parks, and playgrounds.

**PUBLIC RIGHT-OF-WAY.** All of the area between the outer boundaries of a platted or otherwise designated public right-of-way, including the streets, sidewalks, and boulevards.

(Ord. 169, passed 12-3-2001)

§ 110.26 CONSUMPTION PROHIBITED.

No person shall consume an alcoholic beverage nor possess an open container containing alcoholic beverage while on public right-of-way or public property within the City of Morristown.

(Ord. 169, passed 12-3-2001) Penalty, see § 10.99

§ 110.27 EXCEPTIONS.

(A) **City parks.** Consumption of an alcoholic beverage is permitted in city parks between the hours of 8:00 a.m. and 11:00 p.m., subject to the provisions of §§ 90.15 et seq.

(B) **Wine.** Prohibition of possession by this section does not apply to a person removing from a restaurant licensed to sell intoxicating liquor or wine at on-sale a bottle of wine which has been opened and the contents partially consumed, provided that at the time that the person is on the public right-of-way the bottle is corked, and the person is proceeding from the restaurant to his or her vehicle or other destination by the most direct route.

(C) **Temporary licenses.** This section does not apply to any public area within an area designated for sales under a temporary license issued by the City Council.

(Ord. 169, passed 12-3-2001)

§ 110.28 EFFECTIVE DATE.

This subchapter shall be effective upon publication.

(Ord. 169, passed 12-3-2001)
§ 110.99 PENALTY.

Any person violating this subchapter is guilty of a misdemeanor.
(Ord. 169, passed 12-3-2001) Penalty, see § 10.99
§ 111.01 PURPOSE.

It is the purpose of this chapter to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually-oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(Ord. 171, passed 5-6-2002)

§ 111.02 FINDINGS.

Based on evidence concerning the adverse secondary effects of adult uses in other communities and also on findings found in the Report of Attorney General’s Working Group on the Regulation of Sexually-Oriented Businesses (6-6-1989, State of Minnesota), the Council finds:
(A) Sexually-oriented businesses in the city lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises;

(B) Certain employees of sexually-oriented businesses defined in this chapter as adult theaters and cabarets engage in a higher incidence of certain types of sexually-oriented behavior at these businesses than employees of other establishments;

(C) Sexual acts, including masturbation, oral sex, and anal sex, occur at sexually-oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as defined under this chapter as adult bookstores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades;

(D) Offering and providing the space encourages the activities which create unhealthy conditions;

(E) Persons frequent certain adult theaters, adult arcades, and other sexually-oriented businesses for the purpose of engaging in sex within the premises of the sexually-oriented businesses;

(F) At least 50 communicable diseases may be spread by activities occurring in sexually-oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, and salmonella infections;

(G) Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of those facilities to self-regulate those activities and maintain those facilities;

(H) Numerous studies and reports have determined that semen is found in the areas of sexually-oriented businesses where persons view “adult” oriented films;

(I) Sexually-oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns;

(J) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters; and

(K) The general welfare, health, and safety of the citizens of the city will be promoted by the enactment of this chapter.

(Ord. 171, passed 5-6-2002)
§ 111.03 DEFINITIONS.

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

**ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video, or digital disc players or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

**ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE.**

1. A commercial establishment which, as 1 of its principal purposes, offers for sale or rental for any form of consideration any 1 or more of the following:

   a. Books, magazines, periodicals, or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

   b. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”

2. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as **ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE.**

3. Any other business purposes will not serve to exempt the commercial establishments from being categorized as an **ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE** so long as 1 of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or semi-nude;

2. Live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

**ADULT MOTEL.** A hotel, motel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction of or description of “specified sexual activities” or “specified anatomical areas” and has a sign visible from the public right-of-way that advertises the availability of this type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

**ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances that are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

**EMPLOYEE.** A person who performs any service on the premises of a sexually-oriented business on a full-time, part-time, or contract basis, whether or not the person is designated an employee, independent contractor, agent, or otherwise and whether or not the person is paid a salary, wage, or other compensation by the operator of the business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as 1 of its primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT.** Means and includes any of the following:

(1) The opening or commencement of any sexually-oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
(3) The additions of any sexually-oriented business to any other existing sexually-oriented business; or

(4) The relocation of any sexually-oriented business.

**NUDE MODEL STUDIO.** Any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the State of Minnesota or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least 3 days in advance of the class; and

(3) Where no more than 1 nude or semi-nude model is on the premises at any 1 time.

**NUDITY OR A STATE OF NUDITY.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

**PERSON.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as 1 of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nude.

**SEXUALLY-ORIENTED BUSINESS.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
SPECIFIED ANATOMICAL AREAS. Mean:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(2) For which:

(a) Less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than 5 years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than 5 years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of 2 or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, masturbation, or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.
**SUBSTANTIAL ENLARGEMENT OF A SEXUALLY-ORIENTED BUSINESS.** The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on 1-1-2002.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY-ORIENTED BUSINESS.**
Any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

(Ord. 171, passed 5-6-2002)

§ 111.04 CLASSIFICATION.

Sexually-oriented businesses are classified as follows:

(A) Adult arcades;
(B) Adult bookstores, adult novelty stores, or adult video stores;
(C) Adult cabarets;
(D) Adult motels;
(E) Adult motion picture theaters;
(F) Adult theaters;
(G) Escort agencies;
(H) Nude model studios; and
(I) Sexual encounter centers.

(Ord. 171, passed 5-6-2002)

§ 111.05 LOCATION OF SEXUALLY-ORIENTED BUSINESSES.

(A) Sexually-oriented businesses are a permitted use in the B-1 Highway Commercial District, as delineated on the Morristown Zoning Map, provided they meet the following setback standards.
(B) A sexually-oriented business must be setback a minimum of 1,000 feet from the following uses:

(1) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities; and

(2) A public or private educational facility, including, but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(C) A sexually-oriented business must be setback a minimum of 500 feet from the following uses:

(1) A boundary of a residential district as defined in the City of Morristown, Minnesota, zoning ordinance and map; a public park or recreational area which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city that is under the control, operation, or management of the city park and recreation authorities;

(2) The property line of a lot devoted to a residential use as defined in the City of Morristown, Minnesota, zoning map;

(3) An entertainment business which is oriented primarily toward children or family entertainment; and

(4) A licensed premises pursuant to the alcoholic beverage control regulations of the State of Minnesota.

(D) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within 1,000 feet of another sexually-oriented business.

(E) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than 1 sexually-oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually-oriented business in any building, structure, or portion thereof containing another sexually-oriented business.

(F) For the purpose of divisions (B) or (C) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a use listed in divisions (B) or (C) above. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
Sexually-Oriented Businesses

(G) For purposes of division (D) above, the distance between any 2 sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(H) Any sexually-oriented business lawfully operating on 1-1-2002 that is in violation of divisions (A) through (G) above shall be deemed a nonconforming use. The nonconforming use will be permitted to continue unless terminated for any reason or voluntarily discontinued for a period of 180 days or more. The nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If 2 or more sexually-oriented businesses are within 1,000 feet of one another and are otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.06 Regulations pertaining to exhibition of sexually-explicit films, videos, or live entertainment in viewing rooms.

(A) A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

1. It is the duty of the business owner of the premises to ensure that at least 1 employee is on duty and situated in each manager’s station at all times that any patron is present inside the premises.

2. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager’s station of every area of the premises to which any patron is permitted access to for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has 2 or more manager’s stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access to for any purpose from at least 1 of the manager’s stations. The view required in this division (A)(2) must be by direct line of sight from the manager’s station.

3. It shall be the duty of the business owner to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials.

4. No viewing room may be occupied by more than 1 person at any time.

5. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 footcandle as measured at the floor level.

6. No openings of any kind are allowed to exist between viewing rooms or booths.
(7) The owner or manager shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(8) The business owner shall cause all floor coverings in viewing booths to be nonporous, easily-cleanable surfaces, with no rugs or carpeting.

(9) The business owner shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or be permanently covered by, nonporous, easily-cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under this section commits a misdemeanor if he or she knowingly fails to fulfill that duty.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.07 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.08 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (B) if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99
§ 111.09 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.

(A) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually-oriented business, appears in a state of nudity or depicts specified sexual activities.

(B) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually-oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least 10 feet from any patron or customer and on a stage at least 2 feet from the floor.

(C) It shall be a misdemeanor for an employee, while semi-nude in a sexually-oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while the employee is semi-nude in a sexually-oriented business.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.10 PROHIBITION AGAINST CHILDREN IN A SEXUALLY-ORIENTED BUSINESS.

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually-oriented business.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.11 HOURS OF OPERATION.

No sexually-oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays.

(Ord. 171, passed 5-6-2002) Penalty, see § 10.99

§ 111.12 EXEMPTIONS.

It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated:

(A) By a proprietary school, licensed by the State of Minnesota; a college, junior college, or university supported entirely or partly by taxation;

(B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
(C) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least 3 days in advance of the class; and

(3) Where no more than 1 nude model is on the premises at any 1 time.
(Ord. 171, passed 5-6-2002)

§ 111.13 EFFECTIVE DATE.

This chapter shall become effective upon its publication according to law.
(Ord. 171, passed 5-6-2002)
§ 112.01 PURPOSE.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this chapter shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 157, passed - -)
§ 112.02 DEFINITIONS AND INTERPRETATIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term “shall” means mandatory and the term “may” means permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

**INDIVIDUALLY PACKAGED.** The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarette.

**MINOR.** Any natural person who has not yet reached the age of 18 years.

**MOVABLE PLACE OF BUSINESS.** Any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

**SALE.** Any transfer of goods for money, trade, barter, or other consideration.

**SELF-SERVICE MERCHANDISING.** Open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.
Tobacco Regulations

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or over chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts, plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in the manner as to be suitable for chewing, sniffing, or smoking.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

VENDEING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

(Ord. 157, passed - -)

§ 112.03 LICENSE.

(A) Generally. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(B) Application. An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant’s residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the Clerk/Treasurer shall forward the application to the Council for action at its next regularly scheduled council meeting. If the Clerk/Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) Action. The Council may either approve or deny the license, or it may delay action for the reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the administrator shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant’s right to appeal the Council’s decision.

(D) Term. All licenses issued under this chapter shall expire on December 31 of the year of issuance.

(E) Revocation or suspension. Any license issued under this chapter may be revoked or suspended as provided in § 112.11.
(F) Transfers. All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

(G) Moveable place of business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(H) Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(I) Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. License fees shall be set by the City Council by resolutions. License fees may not be pro rated.

(Ord. 157, passed - -)

§ 112.05 BASIS FOR DENIAL OF LICENSE.

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter.

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past 5 years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding such a license.
(B) Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.
(Ord. 157, passed - -)

§ 112.06 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

(A) To any person under the age of 18 years.

(B) By means of any type of vending machine, except as may otherwise be provided in § 112.07

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby the there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 112.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, on in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.
Penalty, see § 10.99
(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.
(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.08 SELF-SERVICE SALES.

(A) Prohibited sales. It shall be unlawful for a licensee under this chapter to allow the sale of tobacco or tobacco products in single packages, or tobacco related devices by any means where by the
customer may have access to the items without having to request the item from the licensee or the
licensee’s employee and whereby there is not a physical exchange of the tobacco, tobacco product, or
the tobacco related device between the licensee or his or her clerk and the customer. All single
package tobacco or tobacco products, and tobacco related devices shall either be stored behind a
counter or other area not freely accessible to customers, or in a case or other storage unit not left open
and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related
devices at the time this chapter is adopted shall comply with this section by 3-1-1998.

(B) Exception. A license holder who operates an establishment that sells only tobacco related
products is exempt from the self service merchandising provision if the license holder prohibits anyone
under 18 years of age from entering the establishment, unless accompanied by a parent, and the license
holder conspicuously displays a notice prohibiting persons under 18 years of age from entering the
establishment unless accompanied by a parent.
(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.09 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official
during regular business hours. From time to time, but at least once per year, the city shall conduct
compliance checks by engaging, minors over the age of 15 years but less than 18 years, with the
written consent of their parents or guardians, to enter the licensed premise to attempt to purchase
tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance
checks shall be supervised by city designated law enforcement of officers or other designated city
personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco,
tobacco products, or tobacco related devices when the items are obtained as a part of the compliance
check. No minor used in compliance checks shall attempt to use a false identification misrepresenting
the minor’s age, and all minors lawfully engaged in a compliance check shall answer all questions
about the minors age asked by the licensee or his or her employee and shall produce any identification,
if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks
authorized by state or federal laws for educational, research, or trading purposes, or required for the
enforcement of a particular state or federal law.
(Ord. 157, passed - -)

§ 112.10 OTHER ILLEGAL ACTS.

(A) Generally. Unless otherwise provided, the following acts shall be a violation of this chapter.

(B) Specifically.

(1) Illegal sales. It shall be a violation of this chapter for any person to sell or otherwise
provide any tobacco, tobacco product, or tobacco related device to any minor.
(2) **Illegal possession.** It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B)(2) shall not apply to minors lawfully involved in a compliance check.

(3) **Illegal use.** It shall be a violation of this chapter for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

(4) **Illegal procurement.** It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain the items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division (B)(4) shall not apply to minors lawfully involved in a compliance check.

(5) **Use of false identification.** It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.11 VIOLATIONS.

(A) **Responsibility.** All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the employee to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(B) **Licensees and employees.** Any licensee, and any employee of a licensee, violating this chapter shall be charged an administrative fine of $75 for a first violation of this chapter; $200 for a second offense at the same licensed premises within a 24-month period; and $250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than 7 days, or action taken pursuant to division (E) below.

(C) **Misdemeanors prosecution.** Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed against any individual so prosecuted.

(D) **Continued violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(E) **Suspension of revocation of license.** In lieu of the imposition of penalties under division (B) above, the license of the violator, or the violator's employer, be suspended or revoked. Upon receipt
of the recommendation, the City Council shall appoint a hearing officer, who shall schedule a hearing. The licensee shall be notified of the time and place of the hearing. The hearing officer shall take testimony of witnesses under oath and subject to cross-examination. The licensee shall have the right to present evidence. The hearing officer shall make findings of fact, and shall make recommendations regarding any penalty to be imposed, which may include fines, imposition of costs of proceedings, training for employees, suspension of a license for a fixed period, and revocation of a license. The hearing officer’s findings and recommendations shall be submitted to the City Council which shall determine what penalty if any shall be imposed based on the findings of the hearing officer. 
(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.12 IMPOSITION OF PENALTY; APPEALS.

(A) Notice. Upon report of a violation, the violator shall be issued, either personally or by mail, a notice that sets forth the violation and the penalty therefore under § 112.11, and which shall inform the alleged violator of its right to be heard on the accusation.

(B) Hearings. If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. If no request for a hearing is received by the City Clerk/Treasurer within 10 working days of the date of the notice, the right to a hearing shall be deemed waived and the penalty shall be final.

(C) Hearing officer. The City Council shall appoint a hearing officer.

(D) Decision. If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer’s reasons for finding a violation together with the penalty to be imposed, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator. The hearing officer may modify the penalty previously imposed.

(E) Appeals. Appeals of any decision of the hearing officer shall be made to the district court as provided by statute. 
(Ord. 157, passed - -) Penalty, see § 10.99

§ 112.13 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law. 
(Ord. 157, passed - -)
§ 112.14 EFFECTIVE DATE.

This chapter shall take effect the day following publication in the city's official newspaper.
(Ord. 157, passed - -)
§ 113.01 LICENSE REQUIRED.

It shall be unlawful for any person to own, operate, or maintain for public operation or playing any coin-operated or coin-automatic mechanical or electric amusement devices, including, but not limited to, pin games, skill guns, juke box, spring guns, electric guns, and grip testers without first having obtained a license therefor.

(Ord. 116, passed 3-2-1981) Penalty, see § 10.99

§ 113.02 OWNER’S AND/OR DISTRIBUTOR’S LICENSE.

(A) No person shall own or distribute on a rental or lease basis within the City of Morristown any coin-operated or coin-automatic mechanical or electronic amusement device except upon approval of the Council and upon payment to the city of an annual license fee of $50.

(B) Nothing herein contained shall prohibit any individual from owning any such device as a collector’s item for his or her private amusement within the confines of his or her residence.

(Ord. 116, passed 3-2-1981) Penalty, see § 10.99

§ 113.03 OPERATIONAL LICENSE.

(A) Any person may apply for a license to have and operate upon or within the premises of his or her business location, coin-operated or coin-automatic mechanical or electronic amusement devices at
the rate of $10 per annum for each such amusement device operated within or upon the premises of the licensee’s location of business.

(B) No more than 6 amusement devices shall be licensed to any 1 place of business.

(C) Licenses shall not be transferable and shall be prominently displayed within the business premises of the licensee.

(D) No holder of an operational license may own amusement devices for use on his or her premises or the premises of any other license holder.
(Ord. 116, passed 3-2-1981) Penalty, see § 10.99

§ 113.04 SPECIAL OPERATIONAL AMUSEMENT LICENSE.

(A) Upon the approval of the Council, a person may be granted a special operational amusement license to operate more than 6 coin-operated or coin-automatic mechanical or electronic amusement devices under the following conditions:

(1) Upon payment to the city of an annual license fee of $10;

(2) That no liquor or non-intoxicating malt liquor is sold or consumed on the licensed premises; and

(3) That no smoking material of any type is sold upon the licensed premises.

(B) The license issued hereunder shall designate the address and general area of the address from which the licensee shall conduct the amusement device business and shall not be transferred to another location without the consent of the Council.

(C) No holder of a special operational license may own amusement devices for use on his or her premises or the premises of any other license holder.
(Ord. 116, passed 3-2-1981)

§ 113.05 APPLICATIONS; AUTHORITY TO REFUSE LICENSE FOR CAUSE.

Licenses required by this chapter shall be applied for at the City Clerk/Treasurer’s office on the form as the City Council shall from time to time prescribe. All license applications shall be presented to the Council for approval. The Council may refuse to grant any license.
(Ord. 116, passed 3-2-1981)
§ 113.06 LICENSE EXPIRATION DATE.

All licenses issued in accordance with this chapter shall expire on the last day of June following the date of issuance.
(Ord. 116, passed 3-2-1981)

§ 113.07 REVOCATION OF LICENSE.

Any license issued in accordance with this chapter may be revoked at any time by a majority vote of the Council should any of the provisions of this chapter be violated by the licensee.
(Ord. 116, passed 3-2-1981)

§ 113.08 VIOLATIONS.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a petty misdemeanor. A second offense by that person of any provision of this chapter shall be deemed a misdemeanor.
(Ord. 116, passed 3-2-1981) Penalty, see § 10.99

§ 113.09 EFFECTIVE DATE.

This chapter shall take effect 7-1-1984.
(Ord. 116, passed 3-2-1981)
CHAPTER 114: REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

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PUBLIC DANCES

§ 114.01 REGULATION OF PUBLIC DANCES.

All public dances held in this city shall be conducted in accordance with the provisions of this chapter.
Penalty, see § 114.99

§ 114.02 DEFINITIONS.

The terms stated below shall have the following meanings:

PUBLIC DANCE. Any dance where the general public may participate, whether or not a charge for admission for dancing is made.

PUBLIC DANCING PLACE. Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

§ 114.03 PERMIT REQUIRED.

No person shall conduct a public dance in this city unless a permit has been obtained from the City Clerk/Treasurer prior to the holding of the dance. The fees for a permit shall be as established by the Ordinance Establishing Fees and Charges, adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed/special officer or officers to be present at the dance when applicable. The City Council shall establish criteria for determining the number of licensed/special officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the officer or officers has been paid.
(Am. Ord. 2011-1, passed 1-18-2011) Penalty, see § 114.99

§ 114.04 APPLICATION FOR PERMIT.

Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Clerk/Treasurer, submitted to the City Clerk/Treasurer at least 10 days before the date of the proposed dance. The application shall set forth the name and address of the applicant, who shall be the person responsible for conducting the public dance, and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this chapter shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit.
application, and no permit shall be issued until the fees for the use of the city building or other city property have also been paid. Penalty, see § 114.99

§ 114.05 INSURANCE.

All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages shall list the city as an additional insured. Any insurance shall include coverage for contractually-assumed liability. The permit holder shall defend, indemnify, and hold harmless the city and any of its employees from any claims arising from the event.
(Am. Ord. 2011-1, passed 1-18-2011) Penalty, see § 114.99

§ 114.06 RESERVED.

§ 114.07 PERMIT TO BE POSTED.

When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring. Penalty, see § 114.99

§ 114.08 LIQUOR LICENSE REQUIRED.

No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, without obtaining a license from the city. Penalty, see § 114.99

§ 114.09 LICENSED PEACE OFFICER PRESENCE.

No public event that includes dancing, music (live or recorded with the intention of dancing), serving of alcohol and extends past 8:00 p.m. shall occur without at least one licensed/special officer or more, if more are required under the criteria established by the City Council, who shall be present at the public dancing place during the duration of the dance and until music and liquor sales have ceased. All events that do not meet the criteria listed will be monitored by the Morristown Police Officer on duty.
(Am. Ord. 2011-1, passed 1-18-2011) Penalty, see § 114.99
§ 114.10 HOURS.

No public dance shall occur between the hours of 1:00 a.m. and 12:00 noon.
Penalty, see § 114.99

§ 114.11 MINORS PROHIBITED.

No person under the age of 18 shall be allowed to be present at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian. The permit holder shall be responsible for enforcing this section.
(Am. Ord. 2011-1, passed 1-18-2011) Penalty, see § 114.99

§ 114.12 CERTAIN BEHAVIOR PROHIBITED.

No person present at any public dance shall engage in any disorderly conduct, as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the licensed/special officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the licensed/special officer present shall terminate the dance and remove all persons from the public dancing place. In the absence of an officer, bar management will access law enforcement as needed.
(Am. Ord. 2011-1, passed 1-18-2011) Penalty, see § 114.99

§ 114.13 RESERVED.

§ 114.14 NOISE.

All public dances shall be subject to the provisions of this code regulating noise.
Penalty, see § 114.99
§ 114.20 PURPOSE AND FINDINGS.

The purpose of this chapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.

§ 114.21 DEFINITIONS.

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

PERSON. A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.

SPECIAL EVENTS. An outdoor gathering of at least 25 individuals, whether on public or private property, assembled with a common purpose for a period of 1 hour or longer. SPECIAL EVENTS include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. SPECIAL EVENTS do not include noncommercial events held on private property, such as graduation parties or social parties.

§ 114.22 PERMIT REQUIRED.

No person shall hold, conduct or participate in a special event within the city, unless a permit has been issued for such event upon timely written application made to the city. Penalty, see § 114.99

§ 114.23 APPLICATION FOR PERMIT.

Written application for special event permits must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator. A fee, in the amount specified in the Ordinance Establishing Fees and Charges, shall be paid to the city along with the completed application form. In addition to the fee,
the applicant shall pay all additional costs incurred by the city as a direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

§ 114.24 ISSUANCE OF PERMIT, CONDITIONS AND POSTING.

(A) Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare. Such conditions may pertain to any of the following:

1. Location and hours during which the event may be held;
2. Sanitation/availability of potable water;
3. Security/crowd management;
4. Parking and traffic issues;
5. Emergency and medical services;
6. Clean-up of premises and surrounding area/trash disposal;
7. Insurance;
8. Lighting;
9. Fire service/safety;
10. Temporary construction, barricades/fencing;
11. Removal of advertising/promotional materials;
12. Noise levels;
13. Alcohol consumption;
14. Any other conditions which the Council deems necessary.

(B) Upon Council approval, the City Clerk/Treasurer shall issue a permit to the person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in 3 prominent locations during the special event. Penalty, see § 114.99
§ 114.25 EXCEPTIONS TO THE PERMIT.

The permit requirement contained in this chapter does not apply to the following:

(A) Special events sponsored and managed by the city;

(B) Funerals and funeral processions;

(C) The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.

§ 114.99 PENALTY.

(A) Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in § 10.99, and their public dance permit is suspended immediately at the time of any arrest or citation for violating this chapter.

(B) (1) Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by § 10.99.

(2) Enforcement of this division may, at the Council's discretion, take any of the following forms:

(a) Citation/criminal prosecution;

(b) Injunctions, declaratory judgements or other civil remedies;

(c) Permit revocation;

(d) Disbursement of persons gathered.
§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following terms have the meanings stated:

ORGANIZATION. Any group, body, association, organization, company, corporation or society, however organized.

PEDDLER. Any person who goes from place to place, or house to house in the city selling or taking orders for concurrent delivery of goods or for services to be performed, or for the making, manufacturing or repairing of any article or thing whatsoever for delivery. The term does not include a person engaged in the activity of selling or taking orders by telephone or mail which includes a subsequent delivery or contact to a place or house upon the express invitation of the owner or possessor of the place or house. The term does not include a person engaged in the activity of selling or taking of orders on behalf of an organization when the selling or taking orders is conducted exclusively with regard to members of one specific organization, nor does the term include any person who sells the produce from any farm or garden cultivated by said person.

PEDDLING. The act of being a peddler.

SOLICITING. The act of being a solicitor.

SOLICITOR. Any peddling where the order for services or goods is for future delivery or for the acceptance, demand, or receipt of payment or deposit of money; including the solicitation of money or funds.

(Ord. 2010-6, passed 8-2-2010)
§ 115.02 LICENSE REQUIRED.

It is unlawful for any person to engage in the business of peddler or solicitor without a license therefore from the city. All peddlers and solicitors dealing solely in literature of any kind shall be exempt from payment of the license fee.
(Ord. 2010-6, passed 8-2-2010)

§ 115.03 LICENSE APPLICATION.

If the peddler or solicitor is so engaged on such peddler or solicitor’s own behalf, the application shall include the name, home address, telephone number and date of birth of the applicant; if the applicant is working for a business, the name of the business, its address and legal structure; all applications shall include a detailed description of the goods or services for sale or for which such applicant is taking orders including the prices therefor; and, if the applicant is soliciting funds for a cause, such applicant shall give a sworn statement setting forth a description of the cause, its purposes, goals, the location to which and persons to whom the funds will go. The application shall be submitted in person by the applicant or principal officer(s) of the organization. The identity of the applicant/officer shall be verified by photo identification (valid state driver’s license or state identification card). Information on the application may be verified by the city prior to granting a permit.

(A) If the peddler or solicitor is so engaged on behalf of an organization, the application shall include all the information required as noted above, together with all the following information:

(1) The organization’s name, address and legal structure.

(2) The names and addresses of the principal officers and management of the organization.

(3) Either the names and addresses of each person who will be peddling or soliciting on behalf of said organization in the city or, in the alternative, the name, address and telephone number or numbers where a responsible officer or other responsible person of said organization will maintain a list of names and addresses of all persons engaged in peddling or soliciting in the city.

(4) If the organization is not a strictly commercial enterprise operated for a profit, the application shall include a statement sworn to by a responsible officer of the organization of: the purpose for which the funds raised are to be used; the plan for disposition of the funds; the names and addresses of the person or persons in direct charge of the peddling or soliciting; an outline of the methods to be used in conducting the peddling or soliciting; the timetable for the peddling or soliciting including the preferred beginning and ending dates; if funds previously have been raised in the city, a financial statement setting out the disposition of the funds raised in the immediately preceding year together with a written explanation of the financial statement, said funds to be those raised either in the city or a larger area including the city, all within the State of Minnesota; and the percentage of funds raised which are applied directly to the purposes for which are raised compared to the percentage of the funds raised which is expended in the effort to raise said funds, and said fund to be those raised either in the city or a larger area including the city, all within the State of Minnesota.
(B) Any changes in the information given by an applicant, which occur while the license under
which the person is peddling or soliciting is in force and effect, shall be immediately reported in
writing to the City Clerk.
(Ord. 2010-6, passed 8-2-2010)

§ 115.04 REVOCATION OF LICENSE.

The Council may revoke any peddler’s or solicitor’s license only upon a showing of cause at a
public hearing after the licensee has received timely notice thereof and has an opportunity to examine
all witnesses in support of revocation of his or her license and the opportunity to present witnesses on
his or her behalf. Notice may be given in the same manner as that prescribed for service of process
under the Minnesota Rules of Civil Procedure For The District Courts.
(Ord. 2010-6, passed 8-2-2010)

§ 115.05 WEARING BADGES AND CARRYING LICENSES.

(A) At all times while peddling or soliciting, every peddler or solicitor who has an individual
license shall wear or carry a badge which is visible to all persons with whom the licensee comes in
contact, which badge shall set forth the licensee’s name and if such licensee works for or on behalf of a
business or an organization, the name of the business or organization, and such licensee shall carry the
license issued hereunder, or a certified copy thereof, and shall exhibit the license to any police officer,
other city officer, or any other person whom such licensee is or would peddle or solicit when so
requested.

(B) At all times every peddler or solicitor who is engaged in peddling or soliciting on behalf of an
organization within the city shall wear or carry a badge which is visible to all persons with whom such
peddler or solicitor comes in contact, which badge shall set forth such peddler or solicitor’s name and
the organization for whom such peddler or solicitor is engaged; provided, however, that a minor may
wear or carry a badge which sets forth a number in place of said minor’s name, which number either
shall be assigned by the city after receiving a list containing the minor’s name and address or, if the
names and addresses have not been supplied the city, a responsible officer or other responsible person
of said organization will assign numbers for each person engaged in peddling or soliciting in the city
and keep a list of those assigned numbers along with the names and addresses of all said persons so
engaged so that it is available to the city upon short notice.
(Ord. 2010-6, passed 8-2-2010)

§ 115.06 SALES SLIPS, RECEIPTS AND DISCLOSURE.

Every peddler or solicitor who sells to, takes an order from or receives any funds or property from
any person shall leave with that person a sales slip, receipt or other document containing the following
information:

(A) The name and address of the peddler or solicitor together with a statement to the effect that the
city by licensing the peddler, solicitor or organization does not endorse or make any affirmative or
negative statement regarding the cause which such licensee may espouse or be acting on behalf of.
(B) The name and address of the business or organization, if any, on whose behalf the peddler or solicitor is acting.

(C) If the transaction involves the sale of goods or services for future or concurrent delivery, a description of the goods or services, the agreed price therefor, the amount of all additional charges thereon, and the date for future delivery thereof.

(D) If the peddler or solicitor is engaged on behalf of an organization which is not a strictly commercial enterprise operated for profit, a description of the purposes for which the funds or property received will be used.

(Ord. 2010-6, passed 8-2-2010)