

MORRISTOWN, MINNESOTA

CODE OF ORDINANCES

Current through Ordinance 2022-2, passed
1-3-2022

MORRISTOWN, MINNESOTA

CITY OFFICIALS

Mayor
Councilmembers

Tony Lindahl
Ralph Barney
Jake Golombeski
Tim Flaten
Linda Murphy

City Clerk/Treasurer

Lisa Duban

**MORRISTOWN, MINNESOTA
TABLE OF CONTENTS**

Chapter

TITLE I: GENERAL PROVISIONS

10. General Provisions

TITLE III: ADMINISTRATION

30. City Council
31. City Officials and Employees
32. Finance; Revenue; Taxation

TITLE V: PUBLIC WORKS

50. Sewers
51. Water

TITLE VII: TRAFFIC CODE

70. General Provisions
71. Parking Regulations
72. Traffic Regulations

TITLE IX: GENERAL REGULATIONS

90. Parks and Recreation
91. Animals
92. Health and Safety; Nuisances

TITLE XI: BUSINESS REGULATIONS

110. Alcoholic Beverages
111. Sexually-Oriented Businesses
112. Tobacco Regulations
113. Amusements
114. Regulation of Public Dances and Special Events
115. Peddlers and Solicitors

TITLE XIII: GENERAL OFFENSES

130. General Offenses

Morristown - Table of Contents

TITLE XV: LAND USAGE

- 150.Manufactured Homes
- 151.Subdivision Regulations
- 152.Zoning Code
- 154.Floodplain Management

TABLE OF SPECIAL ORDINANCES

Table

- I. Vacations
- II. Franchises

PARALLEL REFERENCES

- References to Minnesota Statutes
- References to Ordinances

INDEX

TABLE OF SPECIAL ORDINANCES

Table

I. VACATIONS

II. FRANCHISES

TABLE I: VACATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
158	8-17-1998	Vacating a portion of a utility easement

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
121	5-21-1984	Cable communications system franchise granted to Cannon Valley Cablevision
141	7-1-1991	Electric franchise granted to Northern States Power Company
179	6-7-2004	Gas franchise granted to CenterPoint Energy Minnegasco
2011-4	6-6-2011	Electric franchise granted to Northern States Power Company

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

Section

10.01 Title of code **CHAPTER 10: GENERAL PROVISIONS**

10.02 Rules of interpretation

10.03 Application to future ordinances

10.04 Captions

10.05 Definitions

10.06 Severability

10.07 Reference to other sections

10.08 Reference to offices

10.09 Errors and omissions

10.10 Official time

10.11 Reasonable time

10.12 Ordinances repealed

10.13 Ordinances unaffected

10.14 Effective date of ordinances

10.15 Repeal or modification of ordinance

10.16 Ordinances which amend or supplement code

10.17 Preservation of penalties, offenses, rights, and liabilities

10.18 Copies of code

10.19 Adoption of statutes and rules by reference

10.20 Enforcement

10.98 Supplemental administrative penalties

10.99 General penalty

Appendix A: Resolution to Adopt a Schedule of Offenses and Voluntary Administrative Penalties

Appendix B: Notice of Code Violation

§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “city code,” for which designation “code of ordinances,” “codified ordinances,” or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) *AND or OR.* Either conjunction shall include the other as if written “and/or,” whenever the context requires.

(2) *Acts by assistants.* When a statute, code provision, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; and the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual, sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The area within the corporate boundaries of the City of Morristown, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Rice County, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have ***SUBCHAPTERS.***

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way; contracts entered into or franchises granted; the acceptance, establishment, or vacation of any highway; and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

The official copy of this code shall be kept in the office of the City Clerk/Treasurer for public inspection. The Clerk/Treasurer shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.

It is the intention of the City Council that, when adopting this code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk/Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk/Treasurer or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Clerk/Treasurer and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk/Treasurer, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk/Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk/Treasurer to object to the termination before it occurs, subject to appeal of the Clerk/Treasurer's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) *Purpose.* The purpose of this section is to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain city ordinances. The city funds that such an alternative will have the effect of reducing nuisance violations within the city, will facilitate compliance with certain code provisions, will avoid unnecessary delay in the enforcement of the Code, and will provide the city's law enforcement officials with an additional, effective enforcement tool.

(B) *Administrative offense defined.* An administrative offense is a violation of any section of the City Code and is subject to the civil fines identified in the city's fee schedule, updated from time to time by resolution of the City Council. An administrative offense is not a crime. Imposition of an administrative fine by the city shall be in addition to any other legal or equitable remedies available to the city for City Code violations.

(C) *Enforcement.* Upon the reasonable belief that an administrative offense has occurred, any police officer, city clerk, the zoning inspector or the building inspector may implement the administrative penalty procedure contained herein.

(1) *Demand for corrective action.* Depending upon the severity of the violation and necessity for immediate action, city officials may serve on the violator a demand to correct the violation. The demand shall be presented in person or by U.S. mail to the person's last known address. The demand shall state the date, time, and nature of the violation, the name of the official issuing the demand, the corrective action required, and the amount of the administrative fine if the violation is not corrected within the time specified in the demand. Nothing herein shall be interpreted to require that a demand be sent prior to issuing a citation for and administrative fine.

(2) *Issuance of administrative citation.* At any time city official may serve on the violator an administrative citation. The administrative citation shall state the date, time, and nature of the violation, the name of the official issuing the citation, the amount of the administrative fine, the manner and requirements for paying the fine or appealing the fine through the criminal justice process, and required compliance actions if applicable. The administrative citation shall be provided to the violator in person, by U.S. mail at the person's last known address, or in the case of a vehicular violation, by attaching the administrative citation to the vehicle.

(D) *Payment of administrative fine; request for criminal charge.* A person upon whom an administrative citation had been issued shall either pay the administrative fine or request a criminal charge within seven days after issuance of the administrative citation. During that period, only the City Attorney has authority to dismiss the citation and/or waive the administrative fine.

(1) *Request for criminal charge.* If the person upon whom an administrative citation has been issued requests that a criminal charge be issued within the time specified in this subdivision, the administrative offense procedure set forth in this section shall terminate and the City Attorney may issue a misdemeanor or petty misdemeanor charge against the violator in accordance with applicable City Code or state law.

(2) *Failure to request criminal charge.* If the person upon whom an administrative citation has been issued fails to pay the fine and fails to request a criminal charge within the time specified in this subdivision, the administrative fine shall constitute a personal obligation of the violator. The personal obligation may be collected by the city by any appropriate legal means. If the fine was imposed for a property-related violation, the city may assess the applicable property.

(3) *Late payment fee.* A late payment fee of 10% of the administrative fine amount shall be imposed if the person upon whom an administrative citation has been issued fails to pay the fine and fails to request a criminal charge within the time specified in this subdivision.

(E) *Repeat violations.* Repeated violations of two or more similar offenses within a 12-month period shall result in a doubling of the administrative fine established for the violation. Additional offenses within another 12-month period shall result in additional fines not to exceed five times the amount of the original penalty.

(F) *Collection of administrative fines.* The City Administrator and City Clerk are hereby authorized to utilize all methods available under Minnesota law to collect the administrative fines. The violator shall be responsible for all costs of collection, including but not limited to the costs of utilizing a collection agency and reasonable attorney's fees, incurred in the collection of the administrative fines.

(G) *Disposition of fines.* All fines collected pursuant to this section shall be paid to the city and deposited into the General Fund.
(Am. Ord. 2010-4, passed 3-5-2010; Am. Ord. 2010-1, passed 4-5-2010)

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

Morristown - General Provisions

(E) In addition to any penalties provided for in this section or in § 10.98, if any person, firm, or corporation fails to comply with any provision of this code, the Council or any city official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

AND VOLUNTARY ADMINISTRATIVE PENALTIES

WHEREAS, the City Council wishes to adopt the provisions of City Code, § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

APPENDIX A: RESOLUTION TO ADOPT A SCHEDULE OF OFFENSES

WHEREAS, the provisions of City Code, § 10.98, authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of City Code, § 10.98, and adopts the following administrative penalties:

<i>Offense</i>	<i>Code Section</i>	<i>Amount of Administrative Penalty</i>
All offenses for which an administrative penalty may be established under this code, other than those specified below:		\$75

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of City Code, § 10.98.

Mayor:

Attest:

City Clerk/Treasurer

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

APPENDIX B: NOTICE OF CODE VIOLATION

Re: Alleged violation of City Code, § _____ (section number), relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § _____ of the City Code relating to

The City Council has by resolution established an administrative penalty in the amount of \$ _____ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by _____ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Payment of the administrative penalty may be made by check, cash, or money order to the City Clerk/Treasurer.

Signed:

(Name and title of person giving notice)

TITLE III: ADMINISTRATION

Chapter

30. CITY COUNCIL

31. CITY OFFICIALS AND EMPLOYEES

32. FINANCE; REVENUE; TAXATION

Section

~~Organization and Procedure~~
CHAPTER 30: CITY COUNCIL

- 30.01 Meetings
- 30.02 Presiding officer
- 30.03 Minutes
- 30.04 Order of business
- 30.05 Quorum and voting
- 30.06 Ordinances, resolutions, motions, petitions, and communications
- 30.07 Committees
- 30.08 Suspension or amendment of rules
- 30.09 Effective date

ORGANIZATION AND PROCEDURE

§ 30.01 MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council shall be held on the first Monday of each calendar month at 7:00 p.m. Work session/special meetings of the City Council shall be held on the third Monday of each calendar month at 7:00 p.m. Any regular meeting or work session/special meeting falling upon a holiday shall be held on the next following business day at the same time and place. The City Clerk/Treasurer shall maintain a schedule of regular meetings. This schedule shall be available for public inspection during regular business hours at the City Clerk/Treasurer's office.

(B) *Special meetings.* Special meetings, other than emergency meetings, may be called by the Mayor or by any 2 members of the Council. The request for a special meeting shall be filed in writing with the City Clerk/Treasurer who shall then notify all the members of the Council in writing of the time, place, and subject of the meeting. This notice shall be delivered to the Councilmembers by causing a copy to be delivered to their usual place of residence. In addition, the Clerk/Treasurer shall notify each Councilmember by any other means for which the Councilmember has previously left written instructions with the Clerk/Treasurer. Notice of special meetings shall be posted, and shall be mailed, or delivered to each person who has filed a written request for notice of the meetings, at least 3 days

before the date of the meeting. Requests for notice of special meetings must be in writing and filed with the City Clerk/Treasurer, designating an address where notice may be mailed. The request will be valid for 1 year.

(C) *Emergency meetings.* An emergency meeting is a special meeting called because of circumstances that, in the judgment of the Council, require its immediate consideration. The Mayor or any 2 Councilmembers may call an emergency meeting by filing a notice in writing with the City Clerk/Treasurer. The City Clerk/Treasurer shall immediately cause a copy of the notice to be delivered to the usual residence of each Councilmember, and in addition shall notify each Councilmember by any other means for which the Councilmember has previously left written instructions for the Clerk/Treasurer. The City Clerk/Treasurer shall make a good faith effort to notify each news gathering organization that has filed a written request with the city for notice of special meetings, if the filed request includes a telephone number for notice. The notice shall include the subject of the meeting.

(D) *Initial meeting.* At the first regular Council meeting of January of each year, the Council shall do the following:

(1) Designate the depositories of city funds;

(2) Designate the official newspaper;

(3) Choose an Acting Mayor from the Councilmembers who shall perform the Mayor's duties during the Mayor's absence, disability from the city or, in case of vacancy in the Office of Mayor, until a successor has been appointed and qualifies; and

(4) Appoint necessary officers, employees, and members of boards, commissions, and committees.

(E) *Public meetings.* Except as otherwise provided in the Open Meeting Law, all Council meetings, including special, emergency, and adjourned meetings, and meetings of all Council committees shall be open to the public.

(Ord. 2003-174, passed 5-5-2003)

§ 30.02 PRESIDING OFFICER.

(A) *Who presides.* The presiding officer shall be the Mayor. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the Clerk/Treasurer shall call the meeting to order and shall preside until the Councilmembers present at the meeting choose 1 of their numbers to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the Council on appeal, all

questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with *Robert's Rules of Order Newly Revised, 9th Edition*.

(C) *Appeals*. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other Councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present.

(D) *Rights of presiding officer*. The presiding officer may make motions, second motions, or speak on any question except that, on demand of any Councilmember, the presiding officer shall pass the Chair to another Councilmember to preside temporarily.
(Ord. 2003-174, passed 5-5-2003)

§ 30.03 MINUTES.

(A) *Who keeps*. The Clerk/Treasurer shall keep minutes of each Council meeting. In the Clerk/Treasurer's absence, the presiding officer shall appoint a Secretary Pro Tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk/Treasurer and can be accurately identified from the description given in the minutes.

(B) *Approvals*. The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk/Treasurer, and copies shall be included in each Councilmember's agenda packet. At the next regular meeting, approval of the minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.
(Ord. 2003-174, passed 5-5-2003)

§ 30.04 ORDER OF BUSINESS.

(A) *Order established*. Each meeting of the Council shall convene at the time and place appointed. Council business shall be conducted in the following order:

- (1) Call to order;
- (2) Agenda additions;
- (3) Approval of minutes;
- (4) Financial report;
- (5) Department reports:

Morristown - Administration

- (a) Police report;
 - (b) Fire Department report;
 - (c) General maintenance report;
 - (d) Zoning Board report;
 - (e) Emergency management report; and
 - (f) Economic development report.
- (6) Comments and suggestions from citizens present;
 - (7) Claims and accounts;
 - (8) Unfinished business;
 - (9) New business;
 - (10) Correspondence and announcements; and
 - (11) Adjournment.

(B) *Varying order.* The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of the hearing.

(C) *Agenda.* The Clerk/Treasurer shall prepare an agenda of business for each Council meeting and file a copy in the office of the Clerk/Treasurer not later than 4 days before the meeting. The agenda shall be prepared in accordance with the order of business and copies shall be prepared for each Councilmember, sent to the City Attorney, and be posted in the post office, as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the Councilmembers present.

(D) *Agenda materials.* The Clerk/Treasurer shall see that at least 1 copy of printed materials relating to agenda items is available to the public in the meeting room while the Council considers their subject matter. The agenda item shall not be considered unless this provision is complied with. This section does not apply to materials that are classified as other than public under the Minnesota Data Practices Act or material from closed meetings.
(Ord. 2003-174, passed 5-5-2003)

§ 30.05 QUORUM AND VOTING.

(A) *Quorum.* At all Council meetings, a majority of the elected Councilmembers shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

(B) *Voting.* The votes of the members on any question may be taken in any manner, which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to that member's name, shall be recorded as an abstention.

(C) *Votes required.* A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

(Ord. 2003-174, passed 5-5-2003)

§ 30.06 ORDINANCES, RESOLUTIONS, MOTIONS, PETITIONS, AND COMMUNICATIONS.

(A) *Readings.* Every ordinance and resolution shall be presented in writing. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.

(B) *Signing and publication proof.* Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the Clerk/Treasurer, and filed by the Clerk/Treasurer in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

(C) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

(D) *Motions, petitions, and communications.* Every motion shall be stated in full before the presiding officer submits it to a vote and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Clerk/Treasurer.

(Ord. 2003-174, passed 5-5-2003)

§ 30.07 COMMITTEES.

(A) *Committees designated.* Committees shall be appointed by the Council at the first regular Council meeting in January of each year.

(B) *Referral and reports.* Any matter brought before the Council for consideration may be referred by the presiding officer to the appropriate committee or to a special committee which the presiding officer appoints for a written report and recommendation before it is considered by the Council as a whole. A majority of the members of the committee shall sign the report and file it with the Clerk/Treasurer prior to the Council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it. (Ord. 2003-174, passed 5-5-2003)

§ 30.08 SUSPENSION OR AMENDMENT OF RULES.

These rules may be suspended or amended only by a 2/3 vote of the members present and voting. (Ord. 2003-174, passed 5-5-2003)

§ 30.09 EFFECTIVE DATE.

This subchapter is effective upon its passage and publication. (Ord. 2003-174, passed 5-5-2003)

§ 30.15 CITY ADMINISTRATOR

(A) *General.* The position of City Administrator in the City of Morristown is hereby established. The City reserves the right to hire and employ a City Administrator on a part-time or full-time basis, in its sole discretion. Nothing herein obligates the City to hire and employ a City Administrator.

(B) *Responsibilities.* The City Administrator shall have the following responsibilities:

Financial Responsibilities:

1. Evaluate potential projects, programs and services to determine feasibility and community impact and make recommendations to the Council.
2. Prepare an annual fiscal budget for submission to the Council. Maintain financial guidelines for the City within the scope of the approved budget program.
3. Keep the Council informed of the financial condition of the City and recommend action as necessary.
4. Manage and invest City funds in accordance with Council direction and sound financial practices.
5. Manage and report to the City council regarding the City's bonds.

Financial Responsibilities: (cont.)

8A

6. Perform annual utility rate studies and fee designations with recommendations to the council.
7. Engage department directors in budget planning.

Managerial Responsibilities:

1. Develop and implement administrative rules, policies, and procedures necessary to ensure proper functioning of all departments.
2. Oversee City project implementation to ensure efficient and effective utilization of resources and timely completion of projects.
3. Research and implement best practices to effectively manage the City.
4. Plan, organize, and administer City programs and services as directed by the City Council.
5. Supervise City employees, conduct job reviews, supervise training of employees, plan, assign and direct work, address complaints and resolve problems, and recommend hiring, promotion, suspension, demotion and discharge of employees, as well as maintaining and updating the Personnel Handbook annually.
6. Develop long and short range goals that compliments the current version of the City's comprehensive plan, capital improvement and financial plans, and oversee their implementation.
7. Oversee the City's annual audit.
8. Direct, prepare and analyze quotes and bids for products and services and recommend selection of firms or individuals to the Council.
9. Direct, prepare and oversee preparation of grant and loan applications.
10. Assist the Clerk in maintaining municipal records and documents.
11. Direct the administration of municipal affairs as provided by Council action, state and federal statutes. Coordinate with the Council in administering municipal affairs.
12. Prepare reports and summaries relating to contemplated municipal projects and/or improvements and submit them with recommendations as may be required to the Council for study and subsequent action.
13. Apprise the Council of county, state, and federal programs that affect the City.
14. Perform the essential duties of the clerk in his/her temporary absence.
15. Perform duties as assigned or apparent.

Public Relations Responsibilities:

1. Prepare news releases, develop and discuss public relations with all concerned as required.
2. Communicate with the public, other governmental agencies, officials, and school districts on behalf of the City.
3. Working with the City's EDA, area organizations and advisors to recruit and retain businesses into the City.
4. Converse with appointed officials and with other public or private agencies as may be required.

Coordination of Boards and Consultants Responsibilities:

1. Coordinate and oversee the work of consultants hired by the City.
2. Coordinate activities of City commissions, committees and boards, and provide administrative support and guidance as needed.
3. Attend and participate in all City Council meetings, relevant board meetings and other official meetings as needed.
4. Oversee preparation of the City Council agenda and the implementation of Council decisions.
5. Coordinate municipal programs and activities as authorized by the Council.
6. Coordinate the activities of all department heads and the administrative staff in the administration of City policy.

City Code Enforcement Responsibilities:

1. Oversee the implementation of code enforcement and zoning administration.

(C) *Appointment.* The City Administrator is hired by a majority of the Council for an indefinite time, and may be removed only by a majority of the Council.

(Ord 2018-3, passed 4/2/2018)

Section

City Clerk/Treasurer

31.01 Creation of office; annual audits

Salaries

31.15 Generally

CITY CLERK/TREASURER

§ 31.01 CREATION OF OFFICE; ANNUAL AUDITS.

(A) Effective 8-1-2000, the Office of City Treasurer is abolished and the duties of the Treasurer shall be performed by the incumbent of the combined office of Clerk/Treasurer.

(B) There shall be an annual audit of the city's financial affairs by the State Auditor or by a public accountant in accordance with the procedures prescribed by the State Auditor.
(Ord. 165, passed 7-5-2000)

SALARIES

§ 31.15 GENERALLY.

(A) The salary of the Mayor shall be One Thousand Dollars (\$1,000) annually. Said annual salary shall be compensation for performing the duties of mayor, including attendance at the regular council meeting held on the first Monday of each month, whether or not actually attended.

(B) The salary for each council member, excluding the Mayor, shall be Nine Hundred Twenty-Five Dollars (\$925) annually. Said annual salary shall be compensation for performing the duties of council member, including attendance at the regular council meeting held on the first Monday of each month, whether or not actually attended.

(C) In addition to the annual salaries set forth above, the Mayor and each council member shall be paid Twenty-Five Dollars (\$25) as and for compensation for each meeting actually attended in addition to the regular council meeting held on the first Monday of each month, including any work sessions, special meetings, public hearings, emergency meetings, or the regular council meeting held on the third Monday of each month.
(Am. 2018-2, passed 2/5/2018)

Section

~~Fees for Emergency Protection Fire Services~~
CHAPTER 32: FINANCE, REVENUE, TAXATION

- 32.01 Purposes and intent
- 32.02 Definitions
- 32.03 Parties affected
- 32.04 Rates
- 32.05 Billing and collection
- 32.06 Mutual aid agreement
- 32.07 Application of collections to budget
- 32.08 Effective date

Master Fee Schedule

- 32.20 Adoption
- Appendix A: Master Fee Schedule

FEES FOR EMERGENCY PROTECTION FIRE SERVICES

§ 32.01 PURPOSES AND INTENT.

This subchapter is adopted for the purpose of authorizing the City of Morristown to charge for fire service as authorized by M.S. §§ 366.011, 366.012, and 415.01, as they may be amended from time to time.

(Ord. 182, passed 9-5-2006)

§ 32.02 DEFINITIONS.

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

FIRE PROTECTION CONTRACT. A contract between the city and a town or other city for the city to provide fire service.

FIRE SERVICE. Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. It does not include snowmobiles, manufactured homes, all-terrain vehicles, or park trailers.

MUTUAL AID AGREEMENT. An agreement between the city and a town or other city for the City's Fire Department to provide assistance to the fire department of a town or other city. (Ord. 182, passed 9-5-2006)

§ 32.03 PARTIES AFFECTED.

(A) Owners of property within the city who receive fire service;

(B) Anyone who received fire service as a result of a motor vehicle accident or fire within the city; and

(C) Owners of property in towns or cities to which the city provides fire service pursuant to a fire protection contract. (Ord. 182, passed 9-5-2006)

§ 32.04 RATES.

(A) Calls are billed for the time at a fire for a pumper and 2 tankers, if needed, at the rate of \$500 for the first hour, \$400 for the second hour, \$300 for the third hour, and \$200 for the fourth hour and thereafter.

(B) Grass fires are billed at the rate of \$300 for the first hour and \$200 for the second hour. (Ord. 182, passed 9-5-2006)

§ 32.05 BILLING AND COLLECTION.

(A) Parties requesting and receiving fire services may be billed directly by the city. Additionally, if the party receiving fire services did not request services, but a fire or other situation exists which at the discretion of the Fire Department personnel in charge requires fire service, the party will be charged

and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

(B) Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.

(C) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the city, including, but not limited to, reasonable attorney fees and court costs.

(D) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charge collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

(E) False alarms will be billed as a fire call.
(Ord. 182, passed 9-5-2006)

§ 32.06 MUTUAL AID AGREEMENT.

When the City Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.
(Ord. 182, passed 9-5-2006)

§ 32.07 APPLICATION OF COLLECTIONS TO BUDGET.

All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services.
(Ord. 182, passed 9-5-2006)

§ 32.08 EFFECTIVE DATE.

This subchapter shall be in force and effect upon its passage and publication.
(Ord. 182, passed 9-5-2006)

MASTER FEE SCHEDULE**§ 32.20 ADOPTION.**

(A) Pursuant to Minnesota law and the ordinances of the City of Morristown, and upon a review of a study conducted by the City Council, a fee schedule for city services and licensing is hereby adopted, by an affirmative vote of a majority of the City Councilmembers present.

(1) The ordinances of the City of Morristown establish that certain fees be set from time to time by the City Council.

(2) The City Council may change fees from time to time by resolution once a ten (10) day public hearing notice in the City's Official Newspaper has been given to the public.
(Ord. 180, passed - -; Am. Ord. 2009-1, passed - -, Am. Ord. 2022-2, passed 1-3-2022)

APPENDIX A: MASTER FEE SCHEDULE

City of Morristown - 2022 Master Fee Schedule

Type of License/Fee	Period	Current Fees
Licenses		
Dog License (licensing period May 1-April 30)	Per Year	\$10.00
Dangerous Animal Registration	One-Time	\$500.00
Dog Impound Fee – Initial		\$25.00
Per Day Impound Fee		\$10.00
Chicken Permit Fee (licensing period January 1-December 31)		\$25.00
Golf Cart License (licensing period April 1-March 31)		\$10.00
Cigarette/ Tobacco License	Per Year	\$50.00
Peddler/Solicitor License	Single per day	\$25.00
	Yearly	\$150.00
	Group – 2 or more Daily	\$50.00
	Group – 2 or more – Yearly	\$300.00
Liquor		
On-Sale		\$1,750.00
Off-Sale		\$100.00
Sunday		\$200.00
Club On-Sale		\$300.00
Morristown Commerical Club On-Sale		\$25.00
On-Sale, Non-Intoxicating		\$25.00
Zoning Permit		
Utility Sheds, Fences, Decks, Signs		\$50.00
Siding, Roof, Window, Residential Solar Panels		\$50.00
New Construction, Garages, Additions	Per Square Foot	\$0.25
Mobile Home Single Wide		\$250.00
Mobile Home Double Wide		\$400.00
Permit Extension, and additional case by case fee	Minimum Charge	\$25.00
(after expiration of initial extension period, the extension fee will double for each extension thereafter up to the discretion of the zoning board to review on a case-by-case basis)		
Conditional Use Hearing, Public Hearing or Special Meetings		\$250.00
Rentals		
Council Room Rent		
Rent	Per Hour	\$15.00
Setup Fee	Per Rental	\$25.00
Community Center Great Hall		
Rental - Entire hall	Friday, Saturday, Holidays	\$900.00
Rental - Entire hall	Sunday through Thursday	\$400.00
Rental - Half hall	Friday, Saturday, Holidays	\$450.00
Rental - Half hall	Sunday through Thursday	\$250.00
Dance Security		\$100.00
Damage Deposit		\$500.00
Park Shelter Rent	Per Event	\$35.00
Water/Sewer/Trash Rates		
Late Fee		\$25.00
Non-sufficient Fund (NSF) Fee		\$30.00
Water Rates		
Base Charge		\$0.00
Per 1,000 Gallons Water Used		\$3.63
Second Meter Rate Per 1,000 Gallons Water Used		\$3.45
Residential Flat Rate Water Charge		\$5.40
Commercial Flat Rate Water Charge		\$12.61
Water Access Fee (WAC)		\$1,125.00
Water Hookup Fee		\$187.50
Water Reconnection Fee		\$50.00
Sale of Bulk Water	Minimum Charge	\$15.00
Meter Charge (Second Meter)		At Cost
Sewer Rates		
Base Charge		\$30.76
Per 1,000 Gallons Water Used		\$8.30
WEM School Sewer Base Charge		\$132.61
Residential Flat Rate Sewer Charge		\$59.11
Commercial Flat Rate Sewer Charge		\$43.36
Sewer Access Fee (SAC)		\$1,125.00
Sewer Hookup Fee		\$150.00
Garbage		
Residential	2 – 45 Gallon Containers	\$17.44
Mobile Home Park		\$18.35
(every private line connected to a City connection will be charged the base rate every month for Water, Sewer, and Garbage, regardless if it is utilized with the exception of properties deemed uninhabitable by the City; with the exception of the WEM School, buildings will be charged water & sewer base rates according to the number of dwelling units)		
Miscellaneous		
Assessment Search Fee		\$25.00
Ordinance Copies		\$20.00
Audit and Budget Reports		\$20.00
Copies	Per Sheet	\$0.25

Updated: January 5, 2022

TITLE V: PUBLIC WORKS

Chapter

50. SEWERS

51. WATER

Section

General Provisions
CHAPTER 50: SEWERS

- 50.001 Definitions
- 50.002 Control of sewers; administration of chapter
- 50.003 Building sewers; general requirements
- 50.004 Tampering with wastewater facilities
- 50.005 Cost of repairing or restoring sewers

General Regulations

- 50.015 Deposits of unsanitary manner prohibited
- 50.016 Discharge of wastewater or other polluted waters
- 50.017 Restrictions on wastewater disposal facilities
- 50.018 Installation of service connection to public sewer

Private Wastewater Disposal

- 50.035 Public sewer not available
- 50.036 Permits
- 50.037 Type, capacities, location and layout
- 50.038 Direct connection required
- 50.039 Operation and maintenance by owner
- 50.040 Application of subchapter

Building Sewers and Connections

- 50.055 Restrictions on new connections
- 50.056 Building sewer permits
- 50.057 Costs and expenses
- 50.058 Separate building sewers required
- 50.059 Old building sewers; restrictions on use
- 50.060 Conformance to State Building and Plumbing Code requirements
- 50.061 Elevation below basement floor
- 50.062 Surface runoff or groundwater connections prohibited
- 50.063 Excavations
- 50.064 Licenses

Morristown - Public Works***Use of Public Services***

- 50.080 Discharges of unpolluted water
- 50.081 Discharges of waters or wastes
- 50.082 Limited discharges
- 50.083 Discharges hazardous to life or constitute public nuisances
- 50.084 Increasing use of process water
- 50.085 Pretreatment or flow-equalizing facilities
- 50.086 Grease, oil and sand interceptors
- 50.087 Industrial wastes; installations
- 50.088 Industrial wastes; requirements
- 50.089 Measurements, tests and analyses of waters and wastes
- 50.090 Protection from accidental discharge of prohibited materials
- 50.091 Permitting substance or matter to flow or pass into public sewers
- 50.092 Repairing service connection
- 50.093 Catch basin or waste traps required for motor vehicle washing or servicing facilities
- 50.094 Special agreement and arrangement

User Rate Schedule for Charges

- 50.110 Charges generally
- 50.111 Purpose
- 50.112 Definitions
- 50.113 Establishment of a sewer service charge system
- 50.114 Determination of sewer service charges
- 50.115 Sewer service fund
- 50.116 Administration
- 50.117 Disconnection for late payment

Powers and Authority of Inspectors

- 50.130 Authorized employees permitted to enter all properties
 - 50.131 Authorized employees obtaining information for industrial processes
 - 50.132 Authorized employees to observe safety rules
 - 50.133 Authorized employees permitted to enter all property with easements
- 50.999 Penalty

GENERAL PROVISIONS**§ 50.001 DEFINITIONS.**

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

ACT. The Federal Water Pollution Control Act, also referred to as the Clean Water Act, being 33 USC 1251 et seq., as amended.

ASTM. American Society for Testing Materials.

AUTHORITY. This city or its representative thereof.

BIOCHEMICAL OXYGEN DEMAND (BOD₅). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20° C, expressed in terms of milligrams per liter (mg/l).

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 3 feet outside the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other disposal, also referred to as a house connection or service connection. The Building Sewer includes all portions of the extension that serve only one particular property, and includes the connection to the public sewer, even though portions of the Building Sewer may be located in the public right of way.

CITY. The area within the corporate boundaries of the city as presently established or as amended by ordinance or other legal actions at a future time. The term **CITY** when used herein may also be used to refer to the City Council and its authorized representative.

CONTROL MANHOLE. A structure specially constructed for the purpose of measuring flow and sampling of wastes.

EASEMENT. An acquired legal right for the specific use of land owned by others.

GARBAGE. Animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

INDUSTRIAL WASTE. Gaseous, liquid and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

INDUSTRY. Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the *Standard Industrial Classification Manual*, latest edition, which is categorized in Divisions A, B, D, E and I.

INFILTRATION. Water entering the sewage system (including building drains and pipes) from the ground through means as defective pipes, pipe joints, connections and manhole walls.

INFILTRATION/INFLOW (I/I). The total quantity of water from both infiltration and inflow.

INFLOW. Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

INTERFERENCE. The inhibition or disruption of the city's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the city's NPDES or SDS permit. The term includes sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under Section 405 of the Act (33 USC 1345) or any regulations developed pursuant to the Solid Waste Disposal Act (42 USC 6901 et seq.), the Clean Air Act (42 USC 7401 et seq.), the Toxic Substances Control Act (15 USC 2601 et seq.), or more stringent state criteria applicable to the method of disposal or use employed by the city.

MAY. The term is permissive.

MPCA. The Minnesota Pollution Control Agency.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by those treatment facilities or would interfere with the operation of those treatment facilities, pursuant to Section 307(b) of the Act (33 USC 1317(b)).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act (33 USC 1342 and 33 USC 1345).

NATURAL OUTLET. Any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

NON-CONTACT COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added is heat.

NORMAL DOMESTIC STRENGTH WASTE. Wastewater that is primarily introduced by residential users with a BOD₅ concentration not greater than 287 mg/l and a suspended solids (TSS) concentration not greater than 287 mg/l.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

PRETREATMENT. The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than ½-inch (1.27 cm) in any dimension.

SEWAGE. The spent water of a community. The preferred term is wastewater.

SEWER. A pipe or conduit that carries wastewater or drainage water.

(1) **COLLECTION SEWER.** A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.

(2) **INTERCEPTOR SEWER.** A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.

(3) **PRIVATE SEWER.** A sewer which is not owned and maintained by a public authority.

(4) **PUBLIC SEWER.** A sewer owned, maintained and controlled by a public authority. The Public Sewer includes the main trunk line that services multiple end users, but does not include any portion of a lateral line that services an individual property.

(5) **SANITARY SEWER.** A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

(6) **STORM SEWER or STORM DRAIN.** A drain or sewer intended to carry storm waters, surface runoff, ground water, subsurface water, street wash water, drainage and unpolluted water from any source.

SHALL. The term is mandatory.

STATE DISPOSAL SYSTEM (SDS) PERMIT. Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to M.S. § 115.07, as it may be amended from time to time for a disposal system as defined by M.S. § 115.01(8), as it may be amended from time to time.

SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS). The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater*, latest edition, and referred to as non-filterable residue.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to Section 307(a) of the Act (33 USC 1317(a)).

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities.

USER. Any person who discharges or causes or permits the discharge of wastewater into the city's wastewater disposal system.

UTILITIES SUPERINTENDENT. The person appointed by the City Council to supervise the sewer and water systems of the city.

WASTEWATER. The spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS* or *TREATMENT WORKS. An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from that treatment.

WPCF. The Water Pollution Control Federation.

§ 50.002 CONTROL OF SEWERS; ADMINISTRATION OF CHAPTER.

The Utilities Superintendent, or other official designated by the City Council shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained.

§ 50.003 BUILDING SEWERS; GENERAL REQUIREMENTS.

Building sewer construction shall meet the pertinent requirements of the Minnesota State Building Code, which is those chapters of Minn. Rules referenced in Minn. Rules part 1300.2400, subpart 6, as they may be amended from time to time, and the Minnesota Plumbing Code, Minn. Rules Ch. 4715, as

it may be amended from time to time. The applicant shall notify the City Clerk/Treasurer when the building sewer and connection is ready for inspection. The connection shall be made under the supervision of the Building Official or the Building Official's representative, if the city has adopted the State Building Code. If the city has not adopted the State Building Code, the Utilities Superintendent shall perform the inspection. If the city does not have a Utilities Superintendent, an installer licensed under § 50.064 shall certify that the building sewer and connection comply with the State Building Code. No backfill shall be placed until the work has been inspected and approved, or until the certification has been received.

Penalty, see § 50.999

§ 50.004 TAMPERING WITH WASTEWATER FACILITIES.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor. Penalty, see § 50.999

§ 50.005 COST OF REPAIRING OR RESTORING SEWERS.

In addition to any penalties that may be imposed for violation of any provision of this chapter, the city may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by that person, and may collect the assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city.

GENERAL REGULATIONS

§ 50.015 DEPOSITS OF UNSANITARY MANNER PROHIBITED.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the city's jurisdiction, any human or animal excrement, garbage or objectionable waste.

Penalty, see § 50.999

§ 50.016 DISCHARGE OF WASTEWATER OR OTHER POLLUTED WATERS.

It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and the city's NPDES/SDS permit.

Penalty, see § 50.999

§ 50.017 RESTRICTIONS ON WASTEWATER DISPOSAL FACILITIES.

Except as otherwise provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

Penalty, see § 50.999

§ 50.018 INSTALLATION OF SERVICE CONNECTION TO PUBLIC SEWER.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the city and adjacent to any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the city shall be required at the owner's expense to install a suitable service connection to the public sewer in accordance with provisions of this code within 365 days of the date the public sewer is operational; provided, the public sewer is within 200 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official ten-day notice shall be served instructing the affected property owner to make the connection.

Penalty, see § 50.999

PRIVATE WASTEWATER DISPOSAL**§ 50.035 PUBLIC SEWER NOT AVAILABLE.**

Where a public sewer is not available under the provisions of § 50.018, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter and Minn. Rules Ch. 7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time.

Penalty, see § 50.999

§ 50.036 PERMITS.

(A) *Required.* Prior to commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the city. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary to the city.

(B) *Inspections.* A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city or its authorized representative. The city or its representative shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the city when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.

Penalty, see § 50.999

§ 50.037 TYPE, CAPACITIES, LOCATION AND LAYOUT.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules Ch. 7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Penalty, see § 50.999

§ 50.038 DIRECT CONNECTION REQUIRED.

At the time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 365 days in compliance with this chapter, and within 365 days any septic tanks, cesspools and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.

Penalty, see § 50.999

§ 50.039 OPERATION AND MAINTENANCE BY OWNER.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the city.

§ 50.040 APPLICATION OF SUBCHAPTER.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Minnesota Department of Health.

BUILDING SEWERS AND CONNECTIONS**§ 50.055 RESTRICTIONS ON NEW CONNECTIONS.**

Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including but not limited to capacity for flow, BOD₅ and suspended solids, as determined by the Utilities Superintendent.

Penalty, see § 50.999

§ 50.056 BUILDING SEWER PERMITS.

(A) *Required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(B) *Applications.* Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

(C) *Classes.* There shall be 2 classes of building sewer permits: 1 for residential and commercial service, and 1 for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications or any other information considered pertinent in the judgement of the city. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity.

(D) *Inspection and connection.* The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Utilities Superintendent or authorized representative thereof.

Penalty, see § 50.999

§ 50.057 COSTS AND EXPENSES.

All costs and expenses incidental to the installation, connection, maintenance, and repair of the building sewer shall be borne solely by the owner of the property serviced by the building sewer. The owner shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the installation, connection, maintenance or repair of the building sewer, including those costs incurred to restore the public right of way to its prior condition.

Penalty, see § 50.999

§ 50.058 SEPARATE BUILDING SEWERS REQUIRED.

A separate and independent building sewer shall be provided for every building, except where 1 building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered 1 building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any connection.

Penalty, see § 50.999

§ 50.059 OLD BUILDING SEWERS; RESTRICTIONS ON USE.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utilities Superintendent or his or her representative, to meet all requirements of this chapter.

§ 50.060 CONFORMANCE TO STATE BUILDING AND PLUMBING CODE REQUIREMENTS.

(A) The size, slopes, alignment, materials of construction of building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city.

(B) The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city. All connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

Penalty, see § 50.999

§ 50.061 ELEVATION BELOW BASEMENT FLOOR.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

Penalty, see § 50.999

§ 50.062 PROHIBITED DISCHARGES FROM SUMP PUMPS AND OTHER SOURCES INTO THE SANITARY SEWER SYSTEM.

(A) *Purpose.* The City Council finds that the discharge of water from natural precipitation, surface runoff or groundwater into the City sanitary sewage system will, and has on numerous occasions in the past, flooded and overloaded the sanitary sewage system to such an extent as to cause significant and grave damage to the waste treatment plant and sanitary sewer trunk system. Such damage is caused by the backup of sewage into the plant, private properties, and pressure damage to trunk lines. The City Council, therefore, finds it essential to the minimization of damage to property and to meet Minnesota Pollution Control Agency and Morristown City Code requirements that the provisions of this Ordinance be strictly enforced to avoid emergencies in the future.

(B) *Prohibition against discharges into sanitary sewer system.* No water from any roof, surface, groundwater, sump pump, footing tile, swimming pool, downspout, foundation drain, areaway drain, or other source of natural precipitation, surface runoff or groundwater shall be discharged into the sanitary sewer system.

(C) *Permanent Discharge Line Required.* Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A “permanently installed discharge line” shall consist of a rigid discharge line (plastic, copper, galvanized or black pipe), without valving or quick connections for altering the path of discharge. It shall not be capable of connection or reconnection to the sanitary sewer system.

(D) *Limitations on Discharge.* The permanently installed discharge line shall provide for year-around discharge capability outside of the dwelling, building or structure to the City storm sewer via a direct connection or shall discharge onto the owner’s property. Runoff from sump pump discharge shall dissipate on the owner’s property and shall not drain onto a sidewalk or street, nor shall the discharge create a nuisance for a neighboring property.

(E) *Disconnection.* Before October 1, 2015, any person, firm, or corporation having a discharge line connected and/or discharging into the sanitary sewer system shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed in an effective, workmanlike manner, as approved by the City.

(F) *Inspection/Certification.* No later than October 1, 2015, every person owning improved real estate that discharges into the City’s sanitary sewer system shall obtain an inspection of each building located on such property by an inspector designated by the City. The purpose of this inspection shall be to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the City inspect such property, the owner may, no later than October 1, 2015, furnish a certificate from a licensed plumber, in a form acceptable to the City, certifying that the property is in compliance with this Section 50.062.

(G) *Future inspections.* Any building may be reinspected on a yearly basis in conjunction with yearly water meter or other inspections. In addition, upon probable cause the City may require any property owner to provide evidence of compliance with this Section 50.062.

(H) *New home inspections.* All new construction that includes a connection to the sanitary sewer will be required to have their sump pump system inspected and be in compliance with this Section 50.062 prior to issuance of a certificate of occupancy.

(I) *Waivers.* The City Council may, in its sole discretion, consider requests for waivers from the applicability of the provisions of this Section 50.062 where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. This would also include cases that would not be practical or feasible to correct the clear water discharge problem. Application for waivers pursuant to this Section 50.062 shall be addressed in writing to the City Clerk. The application shall at a minimum identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time the City Council shall make its decision on the matter and send a copy of such decision to the applicant by regular mail. Upon approval of an application for a waiver, a property owner shall be allowed to discharge directly into the sanitary sewer system for the time specified in the City Council's written decision. The applicant will be required to agree to pay an additional fee for the additional sewer service, along with the regular monthly charge. Fees for this service will be based on estimated yearly average amounts discharged to the sanitary sewer.

(J) *Surcharge and Penalties.* A surcharge of One Hundred Dollars (\$100.00) per month is added to every sewer bill mailed after October 1, 2015, to property owners who have not obtained a property inspection or provided a certificate of compliance by that date. The surcharge shall be added every month to be included in monthly bills for properties not complying with this Section 50.062. All properties found during yearly inspection to have violated this Section 50.062 will be subject to the \$100.00 per month charge for all months between the two most recent inspections, and for each month thereafter until the property owner submits proof to the City that the property is brought into full compliance. In addition to the \$100.00 per month charge, a property owner or other person who is not in compliance with this Section 50.062 will be mailed, by regular mail, a notice that such violation shall cease and desist within a time limit provided by the City Council. If such violation does not cease and desist by the established time limit, the owner of the property or other person violating Section 50.062 shall be guilty of a misdemeanor.
(Am. 2014-4, passed 11-3-2014) Penalty, see § 50.999

§ 50.063 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
Penalty, see § 50.999

§ 50.064 LICENSES.

(A) *Required.* No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform the work, and no permit shall be granted to any person except a regularly licensed person. A person licensed as a plumber by the State of Minnesota, or a person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(B) *Application.* Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Utilities Superintendent for recommendations to the Council. If approved by the Council, the license shall be issued by the City Clerk/Treasurer upon the filing of a bond as hereinafter provided.

(C) *Issuance.* No license shall be issued to any person until a policy of insurance to the city, approved by the Council, is filed with the City Clerk/Treasurer conditioned that the licensee will indemnify and save harmless the city from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights, and will keep and maintain the same to the satisfaction of the Utilities Superintendent, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

(D) *Fee.* The license fee for making service connections 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. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause.

(E) *Suspension or revocation.* The Council may suspend or revoke any license issued under this subchapter for any of the following causes:

(1) Giving false information in connection with the application for a license.

(2) Incompetence of the licensee.

(3) Willful violation of any provisions of this chapter or any rule or regulation pertaining to the making of service connections.

Penalty, see § 50.999

USE OF PUBLIC SERVICES

§ 50.080 DISCHARGES OF UNPOLLUTED WATER.

(A) No person shall discharge or caused to be discharged any water such as stormwater, ground water, roof runoff, surface drainage or non-contact cooling water to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to those sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA.

Penalty, see § 50.999

§ 50.081 DISCHARGES OF WATERS OR WASTES.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(B) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as but not limited to grease, garbage with particles greater than ½-inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(C) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater disposal system.

(D) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act (33 USC 1317(a)).
Penalty, see § 50.999

§ 50.082 LIMITED DISCHARGES.

(A) The following described substances, materials, water or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works, treatment process or equipment, will not have an adverse effect on the receiving stream and soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Utilities Superintendent may set limitations lower than limitations established in the regulations below if, in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Utilities Superintendent will give consideration to factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the city's NPDES/SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(B) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Utilities Superintendent are as follows:

(1) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

(2) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between

32°F and 150°F (0°C and 65.6°C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

(3) Any quantities of flow, concentrations, or both which constitute a “slug” as defined in § 50.001.

(4) Any garbage not properly shredded, as defined in § 50.001 of this chapter. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food on the premises or when served by caterers.

(5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

(6) Any wastewater with objectionable color not removed in the treatment process such as but not limited to dye wastes and vegetable tanning solutions.

(7) Non-contact cooling water or unpolluted storm, drainage or ground water.

(8) Wastewater containing inert suspended-solids such as but not limited to fullers earth, lime slurries, and lime residues, or of dissolved solids such as but not limited to sodium chloride and sodium sulfate, in quantities that would cause disruption with the wastewater disposal system.

(9) Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by the Utilities Superintendent in compliance with applicable state or federal regulations.

(10) Any waters or wastes containing the following substances to the degree that any material received in the composite wastewater at the wastewater treatment works is detrimental to treatment process, adversely impacts land application, adversely effects receiving waters, or is in violation of standards pursuant to Section 307(b) of the Act (33 USC 1317(b)): Arsenic, Cadmium, Copper, Cyanide, Lead, Mercury, Nickel, Silver, total Chromium, Zinc and Phenolic compounds which cannot be removed by the city's wastewater treatment system.

(11) Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation or ordinance of any regulatory agency, or state or federal regulatory body.

(12) Any waters or wastes containing BOD₅ or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of § 50.094.

§ 50.083 DISCHARGES HAZARDOUS TO LIFE OR CONSTITUTE PUBLIC NUISANCES.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in § 50.082, or which in the judgement of the Utilities Superintendent may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment, receiving waters or soil, vegetation, and ground water, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act (33 USC 1317(b)) and all amendments thereof;
- (3) Require control over the quantities and rates of discharge; and
- (4) Require payment to cover the added costs of handling, treating and disposing of wastes not covered by existing taxes or sewer service charges.

(B) If the city permits the pretreatment or equalization of waste flows, the design, installation and maintenance of the facilities and equipment shall be made at the owner's expense and shall be subject to the review and approval of the city pursuant to the requirements of the MPCA.

§ 50.084 INCREASING USE OF PROCESS WATER.

No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in §§ 50.081 and 50.082, or contained in the National Categorical Pretreatment Standards or any state requirements.

Penalty, see § 50.999

§ 50.085 PRETREATMENT OR FLOW-EQUALIZING FACILITIES.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

§ 50.086 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 50.082(B)(2), any flammable wastes as specified in § 50.081(A), sand or other harmful ingredients; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for

cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Utilities Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

Penalty, see § 50.999

§ 50.087 INDUSTRIAL WASTES; INSTALLATIONS.

Where required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. The structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense and shall be maintained by the owner to be safe and accessible at all times.

Penalty, see § 50.999

§ 50.088 INDUSTRIAL WASTES; REQUIREMENTS.

The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at times and in the manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At those times as deemed necessary, the city reserves the right to take measurements and supplies for analysis by an independent laboratory.

Penalty, see § 50.999

§ 50.089 MEASUREMENTS, TESTS AND ANALYSES OF WATERS AND WASTES.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Utilities Superintendent.

Penalty, see § 50.999

§ 50.090 PROTECTION FROM ACCIDENTAL DISCHARGE OF PROHIBITED MATERIALS.

Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Utilities Superintendent for review and approval prior to construction of the facility. Review and approval of the plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Users shall notify the Utilities Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this chapter to enable countermeasures to be taken by the Utilities Superintendent to minimize damage to the wastewater treatment works. The notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedure.
Penalty, see § 50.999

§ 50.091 PERMITTING SUBSTANCE OR MATTER TO FLOW OR PASS INTO PUBLIC SEWERS.

No person having charge of any building or other premises which drains into the public sewer shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform other work as the Utilities Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 30 days, the Utilities Superintendent may cause the work to be completed at the expense of the owner or representative thereof.
Penalty, see § 50.999

§ 50.092 REPAIRING SERVICE CONNECTION.

Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause the work to be done as the Utilities Superintendent may direct. Each day after 30 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Utilities Superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof by an action in the name of the city.
Penalty, see § 50.999

§ 50.093 CATCH BASIN OR WASTE TRAPS REQUIRED FOR MOTOR VEHICLE WASHING OR SERVICING FACILITIES.

The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

Penalty, see § 50.999

§ 50.094 SPECIAL AGREEMENT AND ARRANGEMENT.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern; provided, that National Categorical Pretreatment Standards and the city's NPDES/SDS Permit limitations are not violated.

USER RATE SCHEDULE FOR CHARGES**§ 50.110 CHARGES GENERALLY.**

Each user of sewer service shall pay the charges applicable to the type of service, and in accordance with the provisions set forth in this subchapter.

§ 50.111 PURPOSE.

The purpose of the subchapter is to provide for sewer service charges to recover costs associated with operation, maintenance and replacement to ensure effective functioning of the city's wastewater treatment system, and local capital costs incurred in the construction of the city's wastewater treatment system.

§ 50.112 DEFINITIONS.

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

ADMINISTRATION. Those fixed costs attributable to administration of the wastewater treatment works such as billing and associated bookkeeping and accounting costs.

CITY. The area within the corporate boundaries of the city as presently established or as amended by ordinance or other legal actions at a future time. When used herein the term **CITY** may also refer to the City Council or its authorized representative.

DEBT SERVICE CHARGE. A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct the facilities.

INCOMPATIBLE WASTE. Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

INDUSTRIAL USERS or INDUSTRIES.

(1) (a) Entitles that discharge into a publicly owned wastewater treatment works liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the *Standard Industrial Classification Manual*, latest edition, Office of Management and Budget, as amended and supplemental under 1 of the following divisions:

- Division A. Agriculture, forestry and fishing
- Division B. Mining
- Division D. Manufacturing
- Division E. Transportation, communications, electric, gas, and sanitary sewers
- Division I. Services

(b) For the purpose of this definition, domestic waste shall be considered to have the following characteristics: BOD₅ - less than 287 mg/l; Suspended solids - less than 287 mg/l.

(2) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

MAY. The term is permissive.

OPERATION AND MAINTENANCE. Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. The term includes replacement.

OPERATION AND MAINTENANCE COSTS. Expenditures for operation and maintenance, including replacement.

REPLACEMENT. Obtaining and installing of equipment, accessories or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

REPLACEMENT COSTS. Expenditures for replacement.

SANITARY SEWER. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

SEWER SERVICE CHARGE. The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the city's wastewater treatment facilities.

SEWER SERVICE FUND. A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the sewer service fund will be for operation, maintenance and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.

SHALL. The term is mandatory.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to Section 307(a) of the Act (33 USC 1317(a)), which upon exposure to or assimilation into any organism, will cause adverse effects.

USER CHARGE. A charge levied on a user of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

USERS. Those residential, commercial, governmental, institutional and industrial establishments which are connected to the public sewer collection system.

WASTEWATER. The spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS or **TREATMENT WORKS.** An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.

§ 50.113 ESTABLISHMENT OF A SEWER SERVICE CHARGE SYSTEM.

(A) The city hereby establishes a Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

(B) Each user shall pay its proportionate share of operation, maintenance, and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater loading from all users.

(C) Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

(D) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the provisions of this subchapter. The Sewer Service Charge System shall be the system enacted prior to the adoption of this code. The Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code may be amended from time to time to include subsequent changes in sewer service rates and charges.

(E) Revenues collected for sewer service shall be deposited in a separate fund known as "The Sewer Service Fund." Income from revenues collected will be expended to off-set the cost of operation, maintenance and equipment replacement for the facility and to retire the debt for capital expenditure.

(F) Sewer service charges and the sewer service fund will be administrated in accordance with the provisions of § 50.116.

(G) A connection fee as fixed in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time, shall be charged to each user connecting a new service to the Sanitary Sewer System. The connection fee shall be due and payable within 90 days of the date the connection is completed.
Penalty, see § 50.999

§ 50.114 DETERMINATION OF SEWER SERVICE CHARGES.

The sewer service rates and charges to users of the wastewater treatment facility shall be as established by ordinance or resolution prior to the adoption of this code, unless amended or modified in the Ordinance Establishing Fees and Charges, adopted pursuant to § 32.20, as that ordinance may be amended from time to time.

Penalty, see § 50.999

§ 50.115 SEWER SERVICE FUND.

(A) The city hereby establishes a “Sewer Service Fund” as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees and assessments intended to retire construction debt. The city also establishes the following accounts as income and expenditure accounts within the sewer service fund:

- (1) Operation and maintenance account.
- (2) Equipment replacement account.
- (3) Debt retirement account.

(B) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Clerk/Treasurer separate and apart from all other funds of the city. Funds received by the sewer service fund shall be transferred to the “Operation and Maintenance Account,” the “Equipment Replacement Account,” and the “Debt Retirement Account” in accordance with state and federal regulations and the provisions of this chapter.

(C) Revenue generated by the sewer service charge system sufficient to ensure adequate replacement throughout the design life or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the “Equipment Replacement Account” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Account” shall remain in the “Equipment Replacement Account.”

(D) Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the “Operation and Maintenance Account.”

§ 50.116 ADMINISTRATION.

The sewer service charge system and sewer service fund shall be administrated according to the following provisions:

(A) The City Clerk/Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of those costs annually in December. The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with § 50.113(B). The city shall thereafter, but not later than the end of the year, reassess and as necessary revise the Sewer Service Charge System then

in use to ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(B) In accordance with federal and state requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance and replacement.

(C) In accordance with federal and state requirements, the City Clerk/Treasurer shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

(D) Disconnection of services for late payment shall follow the procedures established in § 50.117.

(E) The owner of the premises shall be liable to pay for the service to their premises, and the service is furnished to the premises by the city only upon the condition that the owner of the premises is liable therefore to the city.

(F) Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger of the wastes, at no expense to the city.

§ 50.117 DISCONNECTION FOR LATE PAYMENT.

(A) *Past Due.* Any utility account that is unpaid at the end of the business day on the 25th of each month shall be considered past due. All past due accounts shall have applied the late fee amount that is set by resolution by the City Council from time to time.

(B) *Delinquent.* Accounts 30 days or more past due shall be considered “delinquent” and the City shall send a Notice of Disconnect to the persons responsible on the account (“Account Holder”) by regular United States Postal Service mail, allowing the Account Holder 14 days to pay all past due balances and late fees in full. If past due balances and late fees are not paid in full within 14 days of the date of the Notice of Disconnect, water service will be disconnected, and a reconnection fee will be imposed. The property owner shall be notified at time any account is past due.

(C) *Disconnect.* Account Holders who have their water service disconnected due to nonpayment shall have a reconnection fee, which will be determined by the “Fee Schedule” adopted by resolution of the City Council, applied to their account. Accounts which have been disconnected for nonpayment shall owe a minimum of the past due amount, the late fee, and the reconnection fee prior to having water service reconnected.

(D) *Cold Weather Rule.* The Cold Weather Rule shall only apply if water utility is the primary heat source to the residence to which water services are provided. Upon verification that use of water is the primary heat source, the renter(s) or property owner will have fourteen (14) days from the day the “Notice to Disconnect” is sent by regular United States Postal Service mail to set up a payment plan with the City.

(E) *Assessment.* On or before December 1 of each year, the City Council may assess unpaid balances for water, sewer, storm sewer or refuse against the property benefited as a special assessment, pursuant to the provisions of Minnesota Statutes, Chapter 429, for certification to the County Auditor and collection together with current property taxes for the following year.
(Am. 2018-7, passed 10/15/2018)

POWERS AND AUTHORITY OF INSPECTORS

§ 50.130 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTIES.

The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter all properties for the purpose of inspection, observations, measurement, sampling and testing pertinent to the discharges to the city's sewer system in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 before entering the property, except in emergency situations.

§ 50.131 AUTHORIZED EMPLOYEES OBTAINING INFORMATION FOR INDUSTRIAL PROCESSES.

The Utilities Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential; however, the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

§ 50.132 AUTHORIZED EMPLOYEES TO OBSERVE SAFETY RULES.

While performing necessary work on private properties, the Utilities Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by

the company, and the property owner shall be held harmless for injury or death to the city employees and the city shall indemnify the property owner against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 50.087.

§ 50.133 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTY WITH EASEMENTS.

The Utilities Superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 50.999 PENALTY.

(A) (1) Any person found to be violating any provisions of §§ 50.001 through 50.094 and 50.130 through 50.133 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in division (A) of this section shall be punished as provided in § 10.99. Each day in which any violation occurs shall be deemed as a separate offense.

(3) Any person violating any of the provisions of §§ 50.001 through 50.094 and 50.130 through 50.133 shall become liable to the city for any expense, loss or damage occasioned by the city by reason of that violation.

(B) (1) Each and every sewer service charge levied by and pursuant to §§ 50.110 through 50.117 is made a lien upon the lot or premises served, and all charges which are on October 31 of each year past due and delinquent shall be certified to the County Auditor by November 29, for collection as provided for in § 50.117. Nothing in §§ 50.110 through 50.117 shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

(2) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the city in filing the civil action. Attorney's fees shall be fixed by order of the court.

(3) In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 8% per annum.

Section

General Provisions
CHAPTER 51: WATER

- 51.01 General operation
- 51.02 Use of water service
- 51.03 Use to circumvent chapter prohibited
- 51.04 Damage to water system
- 51.05 Connections beyond city boundaries
- 51.06 Connection to system required; use of private wells
- 51.07 Use of water for air conditioning; permits
- 51.08 Use of water from fire hydrants; temporary connections
- 51.09 Water deficiency, shut off and use restrictions

Water Regulations

- 51.25 Supply from 1 service
- 51.26 Tapping of mains restricted
- 51.27 Repairs
- 51.28 Abandoned or unused services
- 51.29 Disconnection permit
- 51.30 Service pipes
- 51.31 Excavation and construction requirements
- 51.32 Connection to other water supplies restricted
- 51.33 Water connections; applications and charges
- 51.34 Location of curb stop box
- 51.35 Water meters

Rates and Charges

- 51.50 Water unit
- 51.51 Rates, fees and charges generally
- 51.52 Water service billing; change of address
- 51.53 Water rates
- 51.54 Payment of charges; late payment; collection

Administration and Enforcement

- 51.70 Supervision by Utilities Superintendent; licensing
- 51.71 Powers and authority of inspectors
- 51.72 Discontinuance of service
- 51.73 Authorized employees to turn water on and off
- 51.74 Liability for expense, loss or damage

GENERAL PROVISIONS**§ 51.01 GENERAL OPERATION.**

The city does hereby make provision for the establishment of a municipal water system (hereinafter called the water system) to be operated as a public utility.

§ 51.02 USE OF WATER SERVICE.

No person other than a city employee shall uncover or make or use any water service installation connected to the city water system except in the manner provided by this chapter. No person shall make or use any installation contrary to the regulatory provisions of this chapter.
Penalty, see § 10.99

§ 51.03 USE TO CIRCUMVENT CHAPTER PROHIBITED.

No person shall permit water from the water system to be used for any purpose to circumvent this chapter.
Penalty, see § 10.99

§ 51.04 DAMAGE TO WATER SYSTEM.

(A) No unauthorized person shall remove or damage any structure, appurtenance, or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

(B) No person shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.
Penalty, see § 10.99

§ 51.05 CONNECTIONS BEYOND CITY BOUNDARIES.

Where water mains of the city are in any street or alley adjacent to or outside the corporate limits of the city, the City Council may issue permits to the owners or occupants of properties adjacent or accessible to the water main to make proper water service pipe connections with the water mains of the city and to be supplied with water in conformity with the applicable provisions of this chapter and subject to any contract for the supply of water between the city and any other city.
Penalty, see § 10.99

§ 51.06 CONNECTION TO SYSTEM REQUIRED; USE OF PRIVATE WELLS.

(A) Except where municipal water is not available, it shall be unlawful to construct, reconstruct, or repair any private water system which is designed or intended to provide water for human consumption. Private wells, to provide water for other than human consumption, may be constructed, maintained and continued in use after connection is made to the water system; provided, there is no means of cross-connection between the private well and municipal water supply at any time. Hose bibbs that will enable the cross-connection of the 2 systems are prohibited on internal piping of the well system supply. Where both private and city systems are in use, outside hose bibbs shall not be installed on both systems.

(B) All new homes or buildings shall connect to the municipal water system if water is available to the property. At the time as municipal water becomes available to existing homes or buildings, a direct connection shall be made to the public system within a period of time as determined by the City Council. If the connection is not made pursuant to this chapter, a charge shall be made in an amount established by § 51.51.

(C) Where new homes or buildings do not have water available to the property, the city shall determine whether and under what conditions the municipal water system will be extended to serve the property.

(D) If the well is not to be used after the time a municipal water connection is made:

- (1) The well pump and tank shall be disconnected from all internal piping;
- (2) The casing shall be filled with sandy soil from the bottom to a point 8 feet from the top;
- (3) The remaining 8 feet shall be filled with concrete to the floor level and the well casing cut off as close to the floor level as possible;
- (4) Within 30 days after the municipal water connection is made, the owner or occupant must advise the City Utilities Superintendent that the well has been sealed.

(5) Notwithstanding the foregoing, all well abandonment shall be done in accordance with M.S. §§ 103I.301 to 103I.345 and Minn. Rules Ch. 4725, Wells and Borings, as it may be amended from time to time.
Penalty, see § 10.99

§ 51.07 USE OF WATER FOR AIR CONDITIONING; PERMITS.

(A) All air conditioning systems which are connected directly or indirectly with the public water system must be equipped with water conserving and water regulating devices as approved by the City Engineer or City Utilities Superintendent.

(B) Permits shall be required for the installation of all air conditioning systems to the public water system. The fee shall be established pursuant to § 51.51.
Penalty, see § 10.99

§ 51.08 USE OF WATER FROM FIRE HYDRANTS; TEMPORARY CONNECTIONS.

(A) *Use of fire hydrants.* Except for extinguishment of fires, no person, unless authorized by the Public Works Director or Public Utilities Department, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city as follows:

(1) A permit to use a fire hydrant shall be issued for each individual job or contract and for a minimum of 30 days and for the additional 30 day period as the city shall determine. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.

(2) The user shall make an advance cash deposit to guarantee payment for water used and to cover breakage and damage to the hydrant and meter, which shall be refunded upon expiration of the permit, less applicable charges for use.

(3) The user shall relinquish the use of the hydrant to authorized city employees in emergency situations.

(4) The user shall pay a rental charge as established pursuant to § 51.51 for each day including Sundays and legal holidays, and a fee 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 for each 1,000 gallons of water used.

(B) *Temporary connection to fire hydrants.* An owner of a private water system may make a temporary above ground connection to a fire hydrant, subject to the time periods, conditions, and payment specified in § 51.51. In addition, the method of connection to the private system shall conform to all existing requirements of this chapter and city ordinance and the type of meter used shall meet the approval of the Utilities Superintendent.
Penalty, see § 10.99

§ 51.09 WATER DEFICIENCY, SHUT OFF AND USE RESTRICTIONS.

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs or construction of new works, water may be shut off without notice at any time and kept off as long as necessary. In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations. For non-payment of charges, water service may be discontinued according to the procedures established in § 51.72.

WATER REGULATIONS**§ 51.25 SUPPLY FROM 1 SERVICE.**

No more than 1 housing unit or building shall be supplied from 1 service connection except by permission of City Council. Each unit served shall have a separate water meter.
Penalty, see § 10.99

§ 51.26 TAPPING OF MAINS RESTRICTED.

No person, except persons authorized by the City Council, shall tap any distributing main or pipe of the water supply system or insert stopcocks or ferrules therein.
Penalty, see § 10.99

§ 51.27 REPAIRS.

(A) *Determination of need for repairs.* Based on the information supplied by the property owner or available to the city, the city will make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem, appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

(B) *Thawing of water services.* The city will attempt to thaw water services on request of the resident. If the problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

(C) *Excavation or repair of water service.*

(1) The city will arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

(2) Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair will not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost.

(3) The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city will make the determination for responsibility of the cost of investigation or repair.

(4) The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work. Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

(D) *Failure to repair.* In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and shall not be turned on until the leak has been repaired and a fee pursuant to § 51.51 has been paid to the city.

(E) *Public and Private Responsibility Defined.* For purposes of this Section, the City shall have responsibility for its trunk water line that services multiple properties. In addition, the City shall have responsibility for that portion of the extension from the trunk water line that includes the curb box/water shut-off for a particular property. The property owner shall have responsibility for all portions of the extension from the trunk water line that services the owner's individual property after the curb box/water shut-off.

Penalty, see § 10.99

§ 51.28 ABANDONED OR UNUSED SERVICES.

(A) If the premises served by water have been abandoned, or if the service has not been used for 1 year, then the service shall be shut off at the curb stop box by the city and the water meter will be removed.

(B) When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains shall be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense. Penalty, see § 10.99

§ 51.29 DISCONNECTION PERMIT.

A permit must be obtained to disconnect from the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to § 51.51. Penalty, see § 10.99

§ 51.30 SERVICE PIPES.

Every service pipe shall be laid so as to allow at least 1 foot of extra length in order to prevent rupture by settlement. The service pipe must be placed no less than 7 feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is intended to supply. Type K copper tubing shall be used. All services over 2 inches shall be ductile or cast iron. All underground joints are to be mechanical, except joints under floors shall be silver soldered, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept, to a minimum, with not more than 1 joint used for service for each 70 feet in length. Splicing may be approved with 3-piece unions only. All joints and connections shall be left uncovered until inspected by the Utilities Superintendent and tested at normal water line pressure. Unions must be 3-part type. All services over 2 inches shall be cast iron. Connections with the mains for domestic supply shall be at least 3-quarter inch up to the curb stop box.
Penalty, see § 10.99

§ 51.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS.

(A) No excavation shall be made until a permit for the connection has been issued by the city.

(B) No water service pipe or water connection shall be installed in the same trench or closer than 10 feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property, except that the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the current Minnesota Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time.

(C) Where it is desired to lay the water service pipe and the building sewer pipe in the same trench, or in separate trenches less than 10 feet apart, the water service pipe shall be above the sewer pipe unless approved by the City Engineer. It shall be placed at least 1 foot above the sewer and on a solid shelf excavated at 1 side of the trench. The sewer pipe shall be of a material that is in conformance with the Minnesota Plumbing Code with tested watertight joints. The water service pipe shall be watertight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.

(D) In case the installation is on a surfaced street, the following shall apply: All backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the Minnesota Department of Transportation Standards. Complete surface restoration shall be made.
Penalty, see § 10.99

§ 51.32 CONNECTION TO OTHER WATER SUPPLIES RESTRICTED.

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply except to service municipal systems.

Penalty, see § 10.99

§ 51.33 WATER CONNECTIONS; APPLICATIONS AND CHARGES.*(A) Connection applications.*

(1) All applications for service installations and for water service shall be made to the City Clerk/Treasurer. All applications for service installations and water service shall be made by the owner or agent of the property to be served and shall state the size and location of service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees 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 or deposit required for the installation of the service connection as hereinafter provided. Applications for services larger than 1 inch shall be accompanied by 2 sets of plans or sketches indicating preferred location of service pipe and size of service based on building demand.

(2) The size of the water service connections and meter shall be subject to approval of the City Engineer.

(3) Water billing shall start at the time of installation of the water meter, or in the event the meter is not installed, 7 days after completion of outside piping, and shall be calculated upon the minimum quarterly rate, prorated on a semi-monthly basis.

(B) Connection charges.

(1) A permit must be obtained to connect to the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to § 51.51. The city shall install or have installed all service connections from the water main to the curb stop box including the stop box. Payment for service connections must be made before the work is started and should be based upon 1½ times the estimate of costs provided by the City Engineer. Any excess deposit shall be returned to the applicant.

(2) Additional charges shall be paid at the time of making application for tapping and making connections with the water main to where a curb stop box and service lead is not previously installed. The charge shall include the tapping of the water main, corporation cocks, the installation of a service line, the installation of a curb stop box, cost of restoring disturbed areas and all other costs related to the installation.

(3) There shall be a connection charge pursuant to § 51.51 levied by the city to contribute to the payment of the costs of the Public Water System Facilities. The City Council shall set by resolution the charges to be made for nonresidential installations.

(4) When water services have been stopped because of a violation of this chapter, the city shall collect the fee established pursuant to § 51.51 before service is recommenced.

(5) If a person desires to connect to the system and service a parcel that has not been assessed for the cost of water main and lateral construction, then before a permit is granted, the city shall collect an amount from the applicant that is established pursuant to § 51.51.
Penalty, see § 10.99

§ 51.34 LOCATION OF CURB STOP BOX.

Curb stop boxes will be installed on the right-of-way line or easement limits at a location as determined by the City Engineer to be best suitable to the property and shall be left in a vertical position when backfilling is completed. Curb stop boxes will be installed at an approximate depth of 7 feet below the finished ground elevation and the top of the curb stop box shall be adjusted to be flush with the finished ground elevation. Curb stop boxes must be firmly supported by a masonry block. No person shall erect any fence or plant any tree or other landscaping that would obstruct, or place a structure on, park a motor vehicle on, or otherwise obstruct the use of the curb stop box, or cause damage to the same.
Penalty, see § 10.99

§ 51.35 WATER METERS.

(A) *Generally.* Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the city. No person not authorized by the City Council or Utilities Superintendent shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

(1) A charge established pursuant to § 51.51 shall be paid by customers to the city for water meters including installations and check valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.

(2) Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a 6-inch or larger line for a fire sprinkler system, he or she will be permitted to run 1 line into the premises and “Y” off into 2 lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

(3) The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or

carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.

(4) A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to § 51.51. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed, and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than 1 billing period from the date of the written request.

(5) All water meters and remote readers shall be and remain the property of the city.

(6) Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections.

(7) It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the customer's billing change.

(B) *Water meter setting.* All water meters hereafter installed shall be in accordance with the Minnesota Plumbing Code and any standards established by resolution of the City Council. Penalty, see § 10.99

RATES AND CHARGES

§ 51.50 WATER UNIT.

A water unit (hereinafter called unit) shall be 1 residential equivalent connection based on usage of 100,000 gallons per year or portion thereof.

§ 51.51 RATES, FEES AND CHARGES GENERALLY.

The City Council shall establish a schedule of all water rates, fees and charges for permits or services in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time.

§ 51.52 WATER SERVICE BILLING; CHANGE OF ADDRESS.

All bills and notices shall be mailed or delivered to the address where service is provided. If nonresident owners or agents desire personal notice sent to a different address, they shall so note on the water service application. Any change or error in address shall be promptly reported to the City Clerk/Treasurer.

§ 51.53 WATER RATES.

(A) The rate due and payable by each user within the city for water taken from the water system shall be established pursuant to § 51.51.

(B) In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.

(C) Rates due and payable by each water user located beyond the territorial boundaries of the city shall be determined by special contract.

(D) The minimum rates established pursuant to § 51.51 shall begin to accrue after connection of the service pipe with the curb stop box.

(E) A meter shall be installed on the water valve in the house and a remote register outside regardless of whether inside piping is connected.

(F) In the event a water customer elects to discontinue the use of the municipal water, the regular or minimum charge shall continue, regardless if the service is disconnected at the curb box. Penalty, see § 10.99

§ 51.54 PAYMENT OF CHARGES; LATE PAYMENT; COLLECTION.

(A) Any prepayment or overpayment of charges may be retained by the city and applied on subsequent quarterly charges.

(B) If a quarterly service charge is not paid when due, then a penalty of 10% shall be added thereto.

(C) In the event a user fails to pay his or her water user fee within a reasonable time following discontinuance of service (a time period not to exceed 90 days), the fee shall be certified by the City Clerk/Treasurer and forwarded to the County Auditor for collection. Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT**§ 51.70 SUPERVISION BY UTILITIES SUPERINTENDENT; LICENSING.**

(A) All piping connections from the curb stop box to house supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Utilities Superintendent. The piping

connection made to the curb stop box on the house side shall be inspected by the Utilities Superintendent. The water meter installation shall be inspected, tested and the meter sealed by the Utilities Superintendent.

(B) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining a license to carry on the occupation from the city. A master plumber licensed by the state under the provisions of M.S. § 326.40, as it may be amended from time to time, is exempt from the provisions of this section. A person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(1) The applicant shall file with the City Clerk/Treasurer evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. Evidence of insurance required pursuant to M.S. § 326.40, Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

(2) The applicant shall file with the City Clerk/Treasurer a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for 1 year following the license period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. § 326.40, Subd. 2, as it may be amended from time to time in lieu of these requirements.

(3) Applications for licenses shall be filed with the City Clerk/Treasurer and shall be reviewed and subject to approval of the city.

(4) Any installation, construction, alteration of a water connection by a license in violation of any provision of this chapter or refusal on the part of a licensee to correct the defective work shall be cause for revocation of or refusal to renew a license. This license may be revoked or refused for renewal by the city at any time for cause which shall be documented in writing.

(C) All licenses required in this section shall be renewable annually. Applications for licenses shall be made annually on a form furnished by the City Clerk/Treasurer. Licenses shall be in effect from January 1 to December 31 of the same year. The license fee shall be established pursuant to § 51.51.

(D) Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the City Council to show cause why the license should not be revoked or refused. Notice of the time, place and purpose of the hearing shall be in writing.

§ 51.71 POWERS AND AUTHORITY OF INSPECTORS.

The Utilities Superintendent and other duly authorized employees of the city, upon proper identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 before entering the property, except in emergency situations.

§ 51.72 DISCONTINUANCE OF SERVICE.

Water service may be shut off at any connection as provided for in 50.117 of this code.

§ 51.73 AUTHORIZED EMPLOYEES TO TURN WATER ON AND OFF.

No person, except an authorized city employee, shall turn on or off any water supply at the curb stop box.

Penalty, see § 10.99

§ 51.74 LIABILITY FOR EXPENSE, LOSS OR DAMAGE.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

**71. PARKING
REGULATIONS**

72. TRAFFIC REGULATIONS

Section

CHAPTER ~~Motorized Golf Carts~~ GENERAL PROVISIONS

- 70.01 Definition
- 70.02 Operation of golf carts
- 70.03 Violations
- 70.04 Effective date

Snowmobiles

- 70.15 Intent
- 70.16 Definitions
- 70.17 Application of traffic ordinances
- 70.18 Restrictions
- 70.19 Stopping and yielding
- 70.20 Persons under 18
- 70.21 Equipment
- 70.22 Unattended snowmobiles
- 70.23 Emergency operation permitted

MOTORIZED GOLF CARTS

§ 70.01 DEFINITION.

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

PHYSICALLY DISABLED PERSON. A person who fits the definition of physically disabled under M.S. § 169.345, Subd. 2, as it may be amended from time to time.
(Ord. 156, passed 9-2-1997)

§ 70.02 OPERATION OF GOLF CARTS.

(A) *Operation of motorized golf carts.* A driver's license is required to operate motorized golf carts on designated public streets upon obtaining a permit.

(B) *Permit required.* No person shall operate a motorized golf cart without obtaining a permit as provided herein.

(C) *Application.* Every application for a permit shall be made on the form supplied by the city and shall contain the following information:

(1) The name and address of the applicant; and

(2) Proof of insurance complying with M.S. § 65B.48, as it may be amended from time to time.

(D) *Time of operation.* Motorized golf carts may only be operated from sunrise to sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of 500 feet.

(E) *Slow moving vehicle emblem.* Motorized golf carts shall display the slow moving vehicle emblem provided for in M.S. § 169.522, as it may be amended from time to time, when operated on designated roadways.

(F) *Intersections.* The operator of a motorized golf cart may cross any street or highway intersecting with a designated roadway.

(G) *Application of traffic laws.* Every person operating a motorized golf cart under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in division (H) below.

(H) *Applicable state laws.* The provisions in M.S. Ch. 171, as it may be amended from time to time, are not applicable to persons operating motorized golf carts under permit on designated roadways pursuant to this section. Except for the requirements of M.S. § 169.70, as it may be amended from time to time, the provisions of M.S. Ch. 169, as it may be amended from time to time, relating to equipment on vehicles is not applicable to motorized golf carts.

(I) *Annual renewal; permit fee.* Permits granted pursuant to this section shall be for a period of 1 year, April 1-March 31, and may be renewed annually. The fee for a permit shall be set by the City Council as part of the annual fee resolution.

(J) *Revocation of permit.* A permit may be revoked at any time by the Sheriffs Department if there is evidence that the permittee cannot safely operate the motorized golf cart on designated roadways.

(K) *Operation.* Motorized golf carts shall be operated, at all times, as close to the right-hand curb as possible, except when the driver is making a left-hand turn.

(L) *Highways; sidewalks; trails.* No person shall operated a motorized golf cart on a public sidewalk or trail, nor on a state or county highway.
(Ord. 156, passed 9-2-1997; Am. Ord. 2010-3, passed 4-5-2010; Am. Ord. 2012-2, passed 4-2-2012; Am. Ord. 2013-2, passed 9-3-2013; Am. Ord. 2021-8, passed 9-7-21) Penalty, see § 10.99

§ 70.03 VIOLATIONS.

A violation of this subchapter is a misdemeanor.
(Ord. 156, passed 9-2-1997) Penalty, see § 10.99

§ 70.04 EFFECTIVE DATE.

This subchapter shall be effective following publication.
(Ord. 156, passed 9-2-1997)

SNOWMOBILES

§ 70.15 INTENT.

It is the intent of this chapter to supplement M.S. §§ 84.81 to 84.91, and M.S. Ch. 169, as these statutes may be amended from time to time and Minn. Rules parts 6100.5000 through 6100.6000, as these rules may be amended from time to time, with respect to the operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the state statutes and rules prohibit, nor to prohibit what the state statutes and rules allow.

§ 70.16 DEFINITIONS.

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

Morristown - Traffic Code

COMMERCIAL VEHICLE. Shall be defined to include any of the following:

- a. A vehicle that requires a commercial driver's license (CDL) to operate;
- b. A vehicle with an overall length of 22 feet or more;
- c. A vehicle with a width of 102 inches or more;
- d. A vehicle with an overall height, including any attached apparatus, of 10 feet or more;
or
- e. A vehicle with an overall gross vehicle weight (GVW) of 12,000 pounds or more.

The following passenger vehicles shall be excepted from the definition of "Commercial Vehicle":

- a. Passenger vehicles that are not used for transportation of persons for hire, compensation, or profit;
- b. House vehicles (such as motor homes);
- c. Vanpool vehicles.

(Ord. 2016-7, passed 10-3-2016)

DEADMAN THROTTLE or **SAFETY THROTTLE.** A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

OPERATE. To ride in or on and control the operation of a snowmobile.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile.

OWNER. A person, other than a lien holder having the property in or title to a snowmobile, or entitled to the use or possession thereof.

PERSON. Includes an individual, partnership, corporation, the state and its agencies and subdivision, and any body of persons, whether incorporated or not.

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

ROADWAY. That portion of a highway or street improved, designed or ordinarily used for vehicular travel.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.

STREET. A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county-state aid, or county highway.

§ 70.17 APPLICATION OF TRAFFIC ORDINANCES.

The provisions of Ch. 70 of this code shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

Penalty, see § 10.99

§ 70.18 RESTRICTIONS.

(A) It is unlawful for any person to enter, operate or stop a snowmobile within the limits of the city:

(1) On the roadway of any street, except the most right hand lane then available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another vehicle stopped in the lane or proceeding in the same direction, or in making a left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits.

(2) On a public sidewalk provided for pedestrian travel.

(3) On boulevards within any public right-of-way.

(4) On private property of another without specific permission of the owner or person in control of the property.

(5) Upon any school grounds, except as permission is expressly obtained from responsible school authorities.

(6) On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and snowmobiles may be driven in and out of those areas by the shortest route.

(7) On streets as permitted by this chapter at a speed exceeding 10 miles per hour.

(8) No person shall operate a snowmobile within the city limits between the hours of 11:00 p.m. and sunrise, unless they are coming into, passing through or leaving town via the marked trail. If the operator is leaving or coming home, they shall take the most direct route out of or into town using the marked trail or designated streets.

(B) It is unlawful for any person to operate a snowmobile within the limits of the city:

(1) So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided, that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar.

(2) Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.

(3) To intentionally drive, chase, run over or kill any animal.

Penalty, see § 10.99

§ 70.19 STOPPING AND YIELDING.

No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Penalty, see § 10.99

§ 70.20 PERSONS UNDER 18.

(A) No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age,

may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to M.S. § 84.872, as it may be amended from time to time.

(B) It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provision of this section.

Penalty, see § 10.99

§ 70.21 EQUIPMENT.

It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

(A) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile motor.

(B) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.

(C) A safety or so called deadman throttle in operating condition.

(D) When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at times of reduced visibility, at least 1 clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least 1 red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

(E) Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle.

Penalty, see § 10.99

§ 70.22 UNATTENDED SNOWMOBILES.

Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.

Penalty, see § 10.99

§ 70.23 EMERGENCY OPERATION PERMITTED.

Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

Section

- 71.01 No parking where posted
- 71.02 Limited parking
- 71.03 Other parking restrictions
- 71.04 Declaration of snow emergency; parking prohibited
- 71.05 Parking and running of commercial vehicles and related equipment
- 71.07 Repairing of vehicles
- 71.08 Prohibiting parking areas in front yards in residential zones
- 71.09 Impoundment
- 71.10 Prima facie violation

CHAPTER 71: PARKING REGULATIONS

§ 71.01 NO PARKING WHERE POSTED.

No person shall stop, stand or park a vehicle upon the public streets of the city at any place where official signs or where appropriate devices, marks, or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit these acts.

Penalty, see § 10.99

§ 71.02 LIMITED PARKING.

No person shall stop, stand or park a vehicle upon the public streets of the city where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Penalty, see § 10.99

§ 71.03 OTHER PARKING RESTRICTIONS.

(A) The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be

official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

(B) "No parking" signs may be placed by city employees on any street of the city to permit construction, repair, snow removal, street cleaning or similar temporary activities. While the signs are in place, it shall be unlawful to park any vehicle on the streets or portion thereof so posted.

(C) It shall be unlawful for a person to park in an area designated by Council resolution and posted as a fire lane.

(D) It shall be unlawful for a person to park a vehicle or permit it to stand, whether attended or unattended, on an alley within the city, provided that this does not prohibit the parking of vehicles for less than 1 hour on an alley for the purpose of access to abutting property for loading or unloading merchandise or other material when parking on the property itself is not available.

(E) It shall be unlawful for a person to park a motor vehicle in an area designated by posted signs pursuant to Council resolution for certain types of vehicles, unless the motor vehicle is 1 of the types of vehicles specifically permitted.

(F) Every vehicle parked upon any street with a curb shall be parked parallel to the curb, unless angle parking is designated by appropriate signs or markings. On streets with a curb, the right-hand wheels of any vehicle parked shall be within 1 foot of the curb. On streets without a curb, the vehicle shall be parked to the right of the main traveled portion of the street and parallel to it and in such a manner as not to interfere with the free flow of traffic, unless angle parking is designated by appropriate signs or markings.

Penalty, see § 10.99

§ 71.04 DECLARATION OF SNOW EMERGENCY; PARKING PROHIBITED.

(A) A snowfall of 3 or more inches within an 8-hour period of time shall constitute a snow emergency. The emergency shall continue in effect for a period of 24 hours from the end of the snowfall or until snow has been removed from the city's streets.

(B) Notice of the declaration of a snow emergency shall be given by notifying the local news media; however, the notification shall be a service aid only and not a duty on the part of the officials.

(C) During a declared snow emergency, no motor vehicle shall be left parked on any street or public way in the city.

(D) During a declared snow emergency, any police officer who finds a motor vehicle in violation of this section shall attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not

immediately remove the motor vehicle or the owner cannot be located, the police officer is authorized to have the motor vehicle removed at the owner's expense.

Penalty, see § 10.99

§ 71.05 PARKING AND RUNNING OF COMMERCIAL VEHICLES AND RELATED EQUIPMENT

(A) The following vehicles and equipment shall be prohibited from being parked or stored in a R-1 Residential District, R-M Residential-Mobile Home District, or B-1 Highway Commercial District except when loading, unloading, or rendering a service:

1. Commercial Vehicles;
2. Trailers in excess of 30 feet in length;
3. Construction equipment;
4. Cargo trucks;
5. Agricultural equipment.

(B) Notwithstanding Paragraph (A), the power unit of a Commercial Vehicle (excluding a trailer) may be parked off-street so long as (1) the owner of the vehicle is the also the owner of the property upon which the vehicle is parked; (2) the vehicle cannot otherwise be accommodated within a garage on the property; and (3) the vehicle is parked on a hard surface constructed of concrete or bituminous materials. The parking of a Commercial Vehicle on said property is subject to the following additional conditions:

1. Engines of Commercial Vehicles may not run continuously in a residential district, save and except that an engine warm-up shall be permitted immediately prior to the Commercial Vehicle and/or any other motorized equipment leaving a premises, and an engine cool down time shall be permitted immediately after the Commercial Vehicle and/or any other motorized equipment arrives at the premises, subject to the time restrictions set forth in subparagraph 2. The warm-up and cool down time shall apply to any and all air handline, refrigeration, hearing, or other equipment involving motors which may accompany or be part of the Commercial Vehicle.
2. A warm-up or cool down period of no more than ten (10) minutes shall be allowed during Quiet Hours, A warm-up or cool down period of no more than thirty (30) minutes shall be allowed outside of Quiet Hours. For purposes of this paragraph, "Quiet Hours" shall be defined as between the hours of 10:00 pm and 7:00 am the following morning on any weekday, and between the hours of 9:00 pm and 9:00 am the following morning on any weekend or holiday.
3. Maintenance and repairs to the vehicle may be accomplished to the vehicle on the premises between the hours of 6:00 am and 10:00 pm.

4. This provision does not authorize the violation of or create an exception to any applicable noise standard, law or regulation.
5. No portion of the Commercial Vehicle shall extend into the public right-of-way or impede any sidewalk.

§ 71.06 OVERNIGHT PARKING.

The following vehicles shall not be allowed to park on city streets overnight: repair, delivery, rented vehicles with commercial plates and refuse and recycling haulers or any other vehicle not registered as a passenger vehicle.

Penalty, see § 10.99

§ 71.07 REPAIRING OF VEHICLES.

Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to city streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the city streets.

§ 71.08 PROHIBITING PARKING AREAS IN FRONT YARDS IN RESIDENTIAL ZONES.

(A) Use of that portion of a vacant lot within 30 feet of the sidewalk lines for parking in an area zoned for residential use is prohibited.

(B) Driveways in any area zoned for residential use shall not exceed 25% of the width at the front or side lot line. Where more than 1 driveway is desired or required, they shall be at least 70 feet apart.

(C) No person, being the owner or having control of any building, shall violate or fail to conform to any provision of this section, or fail to obey any lawful order of an officer charged with its enforcement. Each and every day on which any person continues to violate the provisions of this section, after having been notified of the violation, shall constitute a separate offense. This conviction shall not relieve any person from thereafter complying with the provisions of this section, and shall be

sufficient cause to refuse further building or land use permits to the offender until a time as the orders have been complied with.

Penalty, see § 10.99

§ 71.09 IMPOUNDMENT.

Any police officer may order the removal of a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal, street improvements or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this chapter.

§ 71.10 PRIMA FACIE VIOLATIONS.

The presence of any motor vehicle on any street when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

(Ord. 71 as seen in 2012 Ordinance Book Update; Am. Ord. 2016-7, passed 10-3-2016; Am. Ord. 2020-04, passed 9-8-2020) Penalty, see § 10.99

Section

CHAPTER 72. GENERAL PROVISIONS
TRAFFIC REGULATIONS

- 72.01 State highway traffic regulations adopted by reference
- 72.02 Trucks prohibited on certain streets
- 72.03 Stop intersections
- 72.04 Through streets and one-way streets
- 72.05 Turning restrictions
- 72.06 U-turns restricted
- 72.07 Excessive noise
- 72.08 Exhibition driving prohibited
- 72.09 Cruising prohibited
- 72.10 Motor vehicle noise

Parades

- 72.20 Definitions
- 72.21 Permit required
- 72.22 Application for permit
- 72.23 Standards for issuance of permit
- 72.24 Notice of rejection of permit application
- 72.25 Appeal procedure when permit denied
- 72.26 Alternative permit
- 72.27 Notice to city and other officials when permit issued
- 72.28 Contents of permit
- 72.29 Duties of permittee
- 72.30 Public conduct during parades
- 72.31 Revocation of permit

GENERAL PROVISIONS**§ 72.01 STATE HIGHWAY TRAFFIC REGULATIONS ADOPTED BY REFERENCE.**

(A) The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic

ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.

(B) The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

§ 72.02 TRUCKS PROHIBITED ON CERTAIN STREETS.

(A) The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The Chief of Police shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.

(B) The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses or to garbage and refuse trucks making regular collections and are under contract with the city, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.

Penalty, see § 10.99

§ 72.03 STOP INTERSECTIONS.

The city may designate intersections as a stop intersection and require all vehicles to stop at 1 or more entrances to those intersections. The city shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 10.99

§ 72.04 THROUGH STREETS AND ONE-WAY STREETS.

The City Council by resolution may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to the designation is first secured. The city shall cause appropriate signs to be posted at the entrance to

designated streets. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 10.99

§ 72.05 TURNING RESTRICTIONS.

(A) (1) The City Council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to the designation is first obtained.

(2) The city shall mark by appropriate signs any intersection so designated.

(3) No person shall turn a vehicle at any intersection contrary to the direction on those signs.

(B) Except at intersections, and then only if not posted otherwise, it shall be unlawful for any person operating a motor vehicle on any street to cross the center of the street for the purpose of parking on the side of the street opposite the original direction of travel.

(C) It shall be unlawful for any person operating a motor vehicle on any street to back up or drive from a parked position and commence travel in the opposite direction from which the motor vehicle faced when parked.

Penalty, see § 10.99

§ 72.06 U-TURNS RESTRICTED.

No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection where traffic is regulated by a traffic control signal.

Penalty, see § 10.99

§ 72.07 EXCESSIVE NOISE.

(A) As used in this section, **LIGHT-MOTOR VEHICLES** means any automobile, van, motorcycle, motor-driven cycle, motor scooter, go-cart, minibike, trail bike, or truck with a gross vehicular weight of less than 10,000 pounds.

(B) It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns, or as a result of the operation of audio devices including but not limited to radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.

(C) No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Minn. Rules parts 7030.1050 and 7030.1060, as it may be amended from time to time.

(D) No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered, or repaired in any way, including the use of a muffler cut-out or by-pass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.

(E) The following are exempted from the provisions of this section:

(1) Sound emitted from sirens of authorized emergency vehicles;

(2) Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle; and

(3) Celebrations on Halloween and other legal holidays and celebrations in connection with duly authorized parades.

Penalty, see § 10.99

§ 72.08 EXHIBITION DRIVING PROHIBITED.

No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

Penalty, see § 10.99

§ 72.09 CRUISING PROHIBITED.

(A) As used in this section, **CRUISING** means the operation of a motor vehicle as defined in M.S. § 169.01, Subd. 3, as it may be amended from time to time, past a traffic control point as determined by a peace officer on a street in an area designated "No Cruising Zone" by City Council resolution 4 or more times between the hours of 9:00 p.m. and 3:30 a.m.

(B) The passing of a traffic control point under the conditions previously stated, shall constitute unnecessary repetitive driving and is a violation of this section.

(C) The following use of vehicles shall constitute valid exceptions to this prohibition: taxicabs for hire, buses, authorized emergency vehicle, vehicles use used by or under contract with any governmental jurisdiction, any vehicle being used to conduct legitimate business activities.

(D) This section may be enforced only in an area that has been posted as a “No Cruising Zone.” Signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof which is a no cruising zone.

§ 72.10 MOTOR VEHICLE NOISE.

(A) *Definitions.* For the purposes of this section, the following phrases are defined as follows:

ABNORMAL OR EXCESSIVE NOISE.

(a) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or

(c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

ENGINE-RETARDING BRAKE. A dynamic brake, jake brake, Jacobs brake, C-brake, Paccar brake, transmission brake or other similar engine-retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) It shall be unlawful for the operator of any truck to intentionally use an engine-retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(D) Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except

that no sign stating “VEHICLE NOISE LAWS ENFORCED” shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

PARADES

§ 72.20 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.

PARADE PERMIT. A permit required by this subchapter.

PARKING LOT. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.

§ 72.21 PERMIT REQUIRED.

(A) No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk/Treasurer or other authorized city official.

(B) This subchapter shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities; provided, that the conduct is under the immediate direction and supervision of the proper school authorities;

(3) A governmental agency acting within the scope of its functions.

Penalty, see § 10.99

§ 72.22 APPLICATION FOR PERMIT.

(A) *Generally.* A person seeking issuance of a parade permit shall file an application with the City Clerk/Treasurer.

(B) *Filing period.* The application for a parade permit shall be filed not less than 72 hours but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided, that the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.

(C) *Required information.* The application for a parade permit shall set forth the following information:

- (1) The name, address, and telephone number of the person seeking to conduct the parade;
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;
- (3) The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point, and the termination point;
- (6) The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
- (7) The hours when the parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;
- (9) The location by street of any assembly area for the parade;
- (10) The time at which units of the parade will begin to assemble at any assembly area or areas;
- (11) The interval of space to be maintained between units of the parade;
- (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf;
- (13) Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.

(D) There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the Ordinance Establishing Fees and Charges pursuant to § 32.20 of this code, as it may be amended from time to time.

Penalty, see § 10.99

§ 72.23 STANDARDS FOR ISSUANCE OF PERMIT.

The City Clerk/Treasurer shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(C) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;

(D) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;

(E) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

Penalty, see § 10.99

§ 72.24 NOTICE OF REJECTION OF PERMIT APPLICATION.

If the City Clerk/Treasurer disapproves the application, he or she shall mail to the applicant within the 3 regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.

§ 72.25 APPEAL PROCEDURE WHEN PERMIT DENIED.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

§ 72.26 ALTERNATIVE PERMIT.

The City Clerk/Treasurer or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

§ 72.27 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the Police Chief and the Fire Chief.

§ 72.28 CONTENTS OF PERMIT.

Each parade permit shall state the following information:

(A) Starting time;

(B) Minimum speed;

(C) Maximum speed;

(D) Maximum interval of space to be maintained between the units of the parade;

(E) The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade;

(F) The maximum length of the parade in miles or fractions thereof;

(G) Other information as is reasonably necessary to the enforcement of this subchapter.

Penalty, see § 10.99

§ 72.29 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

Penalty, see § 10.99

§ 72.30 PUBLIC CONDUCT DURING PARADES.

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(C) *Parking on parade route.* The Police Chief or other authorized city official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other public thoroughfare or part thereof constituting a part of the route of a parade. Signs shall be posted to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street or other public thoroughfare unless signs have been posted in accordance with this section.

Penalty, see § 10.99

§ 72.31 REVOCATION OF PERMIT.

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

TITLE IX: GENERAL REGULATIONS

Chapter

90. PARKS AND RECREATION

91. ANIMALS

92. HEALTH AND SAFETY; NUISANCES

Section

CHAPTER 90: ~~General Provisions~~ PARKS AND RECREATION

90.01 Fishing from bridges

City Parks

- 90.15 Purpose
- 90.16 Hours
- 90.17 Camping
- 90.18 Sanitation
- 90.19 Vandalism
- 90.20 Alcoholic beverages
- 90.21 Motor vehicles
- 90.22 Concessions
- 90.23 Fires
- 90.24 Pets
- 90.25 Glass containers
- 90.26 Removal from park
- 90.27 Recreation areas
- 90.28 Violations
- 90.29 Effective date

GENERAL PROVISIONS

§ 90.01 FISHING FROM BRIDGES.

(A) No person shall fish from any bridge within the City of Morristown.

(B) Any person who shall violate this section shall be guilty of a petty misdemeanor.

(C) This section shall take effect upon its passage and publication.

(Ord. 140, passed 5-9-1991) Penalty, see § 10.99

CITY PARKS**§ 90.15 PURPOSE.**

The purpose of this subchapter is to afford a means of maintaining and enforcing the orderly use of city parks and other recreational areas under the jurisdiction of the City of Morristown.
(Ord. 138, passed 4-1-1991)

§ 90.16 HOURS.

The hours of all parks under the jurisdiction of the City of Morristown shall be from dawn until 10:30 p.m., except that section of Cannon River Park beginning at Franklin Street and extending north, that section being open 24 hours.
(Ord. 138, passed 4-1-1991)

§ 90.17 CAMPING.

(A) No overnight camping at any park area is permitted except areas designated.

(B) Camping shall be limited to self-contained camping units only which at a minimum must contain bathroom, cooking, and water facilities within the unit.

(C) No camper or other vehicle shall be allowed to park in the parking areas of any park for more than 48 hours without written permission from the Park Commissioner or designee.
(Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.18 SANITATION.

It is unlawful for any person to dispose of garbage, refuse, sewage, or trash of any kind except in receptacles provided. It is also unlawful to clean fish except in designated areas.
(Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.19 VANDALISM.

The destruction, alteration, injury, or removal of any real or personal property of the city, including, but not limited to, trees or vegetation, whether living or dead, ruins, relics, buildings, or geological formations is prohibited.
(Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.20 ALCOHOLIC BEVERAGES.

It is unlawful for any person to consume intoxicating liquors or 3.2% malt liquors in or on any bridge, catwalk, or historical building. Further, it is unlawful to have in possession in any city park any container larger than 32 ounces containing intoxicating liquor or 3.2% malt liquor without a permit. A special permit for keg beer may be applied for at least 1 week in advance with the Park Commissioner. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.21 MOTOR VEHICLES.

It is unlawful to operate any motor vehicle within the boundaries of any city park or recreation area except upon designated roads or parking areas. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.22 CONCESSIONS.

It is unlawful for any person to engage in or solicit business of any nature whatsoever within a city park or recreation area without the prior written permission of the Park Commissioner or designee. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.23 FIRES.

Fires are permitted only in fireplaces or fire rings provided for that purpose located in designated areas and shall be extinguished when unattended, personal portable grills excepted. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.24 PETS.

All pets must be kept on a leash and are confined to the designated pet exercise areas. The owner or person responsible for any animal which leaves droppings on the premises shall be responsible to remove the droppings immediately. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.25 GLASS CONTAINERS.

It shall be unlawful for any person, firm, association, or corporation to take into, possess, or maintain within any public park within the city any sealed or previously sealed glass beverage container, regardless of whether the container contains liquor, 3.2% malt liquor, or a soft drink beverage. (Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.26 REMOVAL FROM PARK.

Regardless of any possible sanctions as set forth in § 90.28, any person who violates any provisions of §§ 90.16 through 90.25 may be subject to immediate removal from the park.
(Ord. 138, passed 4-1-1991)

§ 90.27 RECREATION AREAS.

(A) All interested persons wishing to use recreation areas such as ball fields, tennis courts, horseshoe pits, and the like on a seasonal basis must request reservations for the use from the Park Commissioner or designee. Any recreational areas not reserved may be used on a first-come basis.

(B) Reservations may be made for the use of picnic shelters at the City Clerk/Treasurer's office. Reservations must be made at least 3 days prior to use to be valid. A \$10 charge will be levied to cover expenses.
(Ord. 138, passed 4-1-1991)

§ 90.28 VIOLATIONS.

Any person who violates § 90.19 is guilty of a misdemeanor. Any person who violates any other section of this subchapter is guilty of a petty misdemeanor.
(Ord. 138, passed 4-1-1991) Penalty, see § 10.99

§ 90.29 EFFECTIVE DATE.

This subchapter shall take effect upon its passage and publication.
(Ord. 138, passed 4-1-1991)

Section

91.01	Definitions	CHAPTER 91: ANIMALS
91.02	Dogs	
91.03	Non-domestic animals	
91.04	Farm animals	
91.05	Impounding	
91.06	Kennels	
91.07	Nuisances	
91.08	Seizure of animals	
91.09	Animals presenting a danger to health and safety of city	
91.10	Diseased animals	
91.11	Dangerous animals	
91.12	Dangerous animal requirements	
91.13	Basic care	
91.14	Breeding moratorium	
91.15	Enforcing officer	
91.16	Pound	
91.17	Interference with officers	
91.99	Penalty	

§ 91.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine

Morristown - General Regulations

family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk/Treasurer in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred

in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20, as it may be amended from time to time.

§ 91.02 DOGS.

(A) *Running at large prohibited.* It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog, to run at large. A person who owns, harbors, or keeps a dog which runs at large shall be subject to the penalties set forth in Section 91.99. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted on streets or on public land unless the city has posted an area with signs reading “Dogs Prohibited.”

(B) *License required.*

(1) All dogs over the age of 6 months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk/Treasurer upon payment of the license fee 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. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk/Treasurer the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20, as it may be amended from time to time.

(3) Upon payment of the license fee 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, the Clerk/Treasurer shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk/Treasurer. A charge shall be made for each duplicate tag in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20, as it may be amended from time to time. Dog tags shall not be transferable from 1 dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

(5) The funds received by the City Clerk/Treasurer from all dog licenses and metallic tags fees 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, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Vaccination.*

(1) All dogs and kept harbored, maintained, or transported within the city shall be vaccinated at least once every 3 years by a licensed veterinarian for:

(a) Rabies - with a live modified vaccine; and

(b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk/Treasurer, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have 7 days in which to present the certificate(s) to the City Clerk/Treasurer or officer. Failure to do so shall be deemed a violation of this section.
Penalty, see § 91.99

§ 91.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.
Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

The keeping of farm animals shall be prohibited in all zoning districts. An exception shall be made to this section for those animals brought temporarily into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.
(Am. Ord. 2010-2, passed 4-19-2010)

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than 10 days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least 5 regular business days, unless the animal is a dangerous animal as defined under § 91.11 in which case it shall be kept for 7 regular business days or the times specified in § 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for 10 regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee 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, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk/Treasurer.

Penalty, see § 91.99

§ 91.06 LIMITATION ON NUMBER OF DOGS.

(A) *Limitation.* The keeping of four (4) or more dogs on the same premises, whether owned by the same person and for whatever purpose kept, shall be prohibited.

(B) *Exception.* A fresh litter of pups shall be excepted from the limitation set forth in Paragraph (A) for a period of three (3) months following the birth of the litter, after which time the limitation set forth in Paragraph (A) shall be in full force and effect regardless of the age of the dogs.

Penalty, see § 91.99

§ 91.07 NUISANCES.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission

of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 91.05.

Penalty, see § 91.99

§ 91.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07(A); the criteria for cruelty set out in § 91.13; or the criteria for an at large animal set out in § 91.01(E);

(C) The officer can demonstrate that there has been at least 1 previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or

officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05(C).

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.
Penalty, see § 91.99

§ 91.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(C) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **DANGEROUS ANIMAL.** An animal which has:

(a) When unprovoked, caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Killed a domestic animal without provocation while off the animal owner's property;

(e) Bitten 1 or more persons; or

(f) Been found to be potentially dangerous and after the owner has notice that the dog is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) **POTENTIALLY DANGEROUS ANIMAL.** An animal which has:

(a) When unprovoked, bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property, or any private property other than the animal owner's private property, in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely confined and locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause 1 owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

Morristown - General Regulations

(E) *Designation as Dangerous Animal.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing 1 or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause 1 owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten. Any owner may appeal a designation of an animal as dangerous, and if applicable, prior potentially dangerous animal designations, according to the following procedure:

(1) A request for an appeal hearing must be made in writing delivered to the Animal Control Officer or City Clerk with 14 days of the date of service of the notice designating the dog as dangerous. If not appeal is filed withing the specified time, the designation issued by the animal control authority shall be final.

(2) The hearing shall be held within 14 days of the request to determine the validity of the dangerous dog designation.

(3) The City Council shall appoint a hearing officer to conduct the hearing.

(4) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 shall be the responsibility of the dog's owner.

(5) The hearing officer shall issue a decision on the matter within 10 days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority. If the hearing officer upholds the designation of a dog as dangerous, the owner must comply with all of the requirements of this section within 14 days of service of the hearing officer's finding on the owner.

The notice served upon the owner shall advise the owner of the procedure set forth in this section.

No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any. Penalty, see § 91.99

§ 91.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* No person may own a dangerous animal unless the animal is registered as provided in this section. The City shall issue a certificate of registration to the owner of the dangerous animal if the owner presents sufficient evidence that:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 91.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed 6 feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended

from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 91.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 91.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 91.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 91.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 91.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 91.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 91.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

(E) *Registration Fee.* The City shall charge a registration fee for a dangerous animal in an amount as set forth in its Master Fee Schedule.

§ 91.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

§ 91.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and

failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

§ 91.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 91.16 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 91.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Penalty, see § 91.99

§ 91.18 CATS

(A) *Running at Large Prohibited.* It shall be unlawful for the cat of any person who owns, harbors, or keeps a cat, to run at large. A person who owns, harbors, or keeps a cat which runs at large shall be subject to the penalties set forth in Section 91.99. Cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted on streets or on public land unless the city has posted an area with signs reading "Cats Prohibited." Cats impounded by city personnel shall be held for seven (7) days to allow an owner of a cat to claim the animal.

(B) *Vaccination.*

(1) All cats running at large within the city shall be vaccinated at least once every 3 years by a licensed veterinarian for:

- (a) Rabies – with a live modified vaccine; and
- (b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk/Treasurer, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of

vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animals(s) shall have seven (7) days in which to present the certificates(s) to the City Clerk/Treasurer or officer.

(C) *Prohibition Against Feeding.* It shall be unlawful for any person to feed stray or un-owned cats within the city. For purposes of this provision, a stray or un-owned cat is any cat that is located outside and unattended. (Ord. 2015-6, passed 09-14-2015).

§91.20 KEEPING OF CHICKENS IN CITY LIMITS.

(A) **Chickens Permitted.** Notwithstanding the prohibitions against farm animals set forth in §91.04, the keeping of chickens in the city limits shall be allowed subject to the provisions of this Section. It is unlawful for any person to own, control, keep, maintain or harbor chickens on any premises other than in an agricultural holding within the City unless issued a permit to do so as provided in the section. No permit shall be issued for the keeping or harboring of more than five (5) female chickens or hens on any premises. The keeping or harboring of male chickens or roosters is prohibited and the premises upon which the chickens are kept must be the property owner's primary residential dwelling.

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

“CHICKEN” means a female chicken or hen.

“AT LARGE” means a chicken out of its chicken run, off the premises or not under the custody and control of the owner.

“CHICKEN COOP” means a structure for housing chickens made of wood or other similar materials that provides shelter from the elements.

“CHICKEN RUN” means an enclosed outside yard for keeping chickens.

“PERSON” means the resident, property owner, custodian, or keeper of any chicken.

“PREMISES” means any platted lot or group of contiguous lots, parcels or tracts of land and is located within the city.

(C) **Permit.** No person shall maintain a chicken coop and/or chicken run unless granted a permit by the City Administrator-Clerk. The permit shall be subject to all the terms and conditions of this section and any additional conditions deemed necessary by the Administrator-Clerk or designated Animal Control Officer to protect the public health, safety and welfare. The necessary permit application may be obtained from the City Administrator's office. Included with the complete application must be a scaled diagram that indicates the location of any chicken coop and/or chicken run, and the approximate size and distance from adjoining structures and property lines, the number and species of chickens to be maintained at the premises, and a statement that the applicant/permittee will at all times keep the chickens in accordance with this ordinance and all the conditions prescribed by the Animal Control Officer, or modification thereof, and failure to obey such conditions will constitute a violation of the provisions of this section and grounds for cancellation of the permit. The applicant shall include

written consents/approval of the keeping of chickens on their premises from 75% of the abutting property owners, or shall provide proof of the certified mailing notice, and copies of said notice(s) to all abutting property owner(s) which advises the abutting property owner(s) the applicant is applying for a permit from the City of Morristown for the keeping of chickens on their premises, the abutting property owner may object to the applicant's permit application, any objection must be received by the City Administrator within 10 days of the mailing date of said notice, and failure to provide written objections to the City Administrator-Clerk within 10 days of the mailing of said notice will authorize the City Administrator-Clerk to issue a permit for the keeping of chickens to the applicant at their premises. Upon receipt of a permit application, the Administrator-Clerk shall determine if the application is complete and contains the required consents/approvals and/or proof of the certified mailing of the required notices. If the application is complete and includes written consents/approval from 75% of abutting property owners, the Administrator-Clerk shall issue a permit for the keeping of chickens to the applicant. No permit shall be issued for an incomplete application or for the keeping of chickens on any rental premises. A permit for the keeping of chickens may be revoked or suspended by the Administrator-Clerk or designated Animal Control Officer for any violation of this section following written notice. The applicant/permittee may appeal the revocation or suspension of their permit by requesting in writing a hearing before the city council within seven (7) days of the notice of revocation or suspension. The request for hearing must be either postmarked or received in the city administrator's office within seven (7) days of the date of the notice. The city council shall hold a hearing on the applicant/permittee's request for hearing within thirty (30) days of the request for hearing. The permit fee shall be charged in accordance to the City of Morristown fee schedule and shall expire on December 31 of each year.

(D) **Confinement.** Every person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a chicken coop and chicken run and may not allow the chicken to run at large. Any chicken coop and chicken run shall be at least ten (10) feet from any neighboring adjacent dwelling, setback, or property line, ten (10) feet from any garage or structure on the property, and twenty-five (25) feet from any rear yard setback.

(E) **Chicken Coops and Chicken Runs.**

(1) All chicken coops and chicken runs must be located within the rear yard subject to a ten (10) foot setback from any property line and at least ten (10) feet from any neighboring adjacent dwelling. All chicken coops must be a minimum of four (4) square feet per chicken in size, must not exceed ten (10) square feet per chicken in size and must not exceed six (6) feet in total height. Attached fenced-in chicken runs must not exceed 20 square feet per chicken and fencing must not exceed six (6) feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens contact with the ground. Chicken feed must be kept in metal predator proof containers. Chicken manure may be placed in yard compost piles.

(2) Chicken coops must either be:

(a) Elevated with a clear open space of at least twenty-four (24) inches between the ground surface and framing/floor of the coop; or,

(b) The coop floor, foundation and footings must be constructed using rodent resistant construction.

(c) Constructed of the same quality materials as the primary structure.

- (3) Chicken coops are not allowed to be located in any part of a home and/or garage.
- (4) Chickens must be secured in a chicken coop from sunset to sunrise each day and no chickens shall be allowed to run outside of the coop.
- (5) All coops shall be constructed and maintained in a workmanlike manner.
- (6) All coops shall be rodent proof and built in such a manner as to prevent access to the coop by rodents.
- (7) The use of heat lamps in chicken coops is expressly prohibited; however, other heat sources that do not pose a risk of fire shall be allowed.

(F) Conditions and Inspection. No person who owns, controls, keeps, or harbors chickens shall permit the premises where the chickens are kept to be or remain unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop or chicken run authorized by permit under this section may be inspected at any reasonable time by the designated Animal Control Officer, Law Enforcement Officer or other agent of the City. A person who has been issued a permit shall submit it for examination upon demand by the Animal Control Officer, Law Enforcement Officer or other agent of the City. Slaughter and breeding of chickens on any premises within the City is prohibited.

(G) Private Restrictions and Covenants on Property. Notwithstanding the issuance of a permit by the City, private restrictions and/or covenants on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant declarations and deed restrictions. A permit issued to a person whose premises are subject to private restrictions and/or covenants that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(H) Refusal to Grant or Renew Permit. The Administrator-Clerk may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this section, submitting an inaccurate or incomplete application, if the conditions of the permit are not met, if a nuisance condition is created, or if the public health and safety would be unreasonably endangered by the granting or renewing of such permit. **(I) Removal of chicken coop and chicken run.** Any chicken coop or chicken run constructed or maintained on any premises shall be immediately removed from said premises after the expiration of the permit or shall be removed within thirty (30) days upon ceasing to use the chicken coop and/or chicken run for the keeping of chickens.

(I) Residential Agricultural District. This ordinance does not apply to premises located in a residential agricultural district as that area is defined in the Code.

(J) Slaughtering of Chickens. The slaughtering of chickens on the property is strictly prohibited.

(K) Violations a Misdemeanor. Any person who owns, controls, keeps, maintains or harbors chickens in the City of Morristown without obtaining or maintaining a current permit or after a permit has been suspended or revoked by Council action shall be guilty of a misdemeanor. In addition, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor which is punishable by imprisonment for up to 90 days in jail and/or the imposition of a fine of up to \$1,000, and/or a combination of both.

§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in § 10.99.

(D) Any violation of this Chapter shall be subject to an administrative fine as hereafter designated by the City.

Section

CHAPTER 92: *General Provisions* HEALTH AND SAFETY; NUISANCES

- 92.01 Assessable current services
- 92.02 Tree diseases

Nuisances

- 92.15 Public nuisance
- 92.16 Public nuisances affecting health
- 92.17 Public nuisances affecting morals and decency
- 92.18 Public nuisances affecting peace and safety
- 92.19 Nuisance parking and storage
- 92.20 Inoperable motor vehicles
- 92.21 Building maintenance and appearance
- 92.22 Duties of city officers
- 92.23 Abatement
- 92.24 Recovery of cost
- 92.25 Notice of violation

Weeds

- 92.35 Short title
- 92.36 Jurisdiction
- 92.37 Definitions; exclusions
- 92.38 Owners responsible for trimming, removal, and the like
- 92.39 Filing complaint
- 92.40 Notice of violations
- 92.41 Appeals
- 92.42 Abatement by city
- 92.43 Liability

Open Burning

- 92.55 Definitions
- 92.56 Prohibited materials
- 92.57 Permit required for open burning

- 92.58 Purposes allowed for open burning
- 92.59 Permit application for open burning; permit fees
- 92.60 Permit process for open burning
- 92.61 Permit holder responsibility
- 92.62 Revocation of open burning permit
- 92.63 Denial of open burning permit
- 92.64 Burning ban or air quality alert
- 92.65 Rules and laws adopted by reference

- 92.99 Penalty

GENERAL PROVISIONS

§ 92.01 ASSESSABLE CURRENT SERVICES.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CURRENT SERVICE. One or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 et seq., as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Snow, ice, dirt, and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city.* The City Clerk/Treasurer or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk/Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk/Treasurer.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under this code, the City Clerk/Treasurer shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys.*

(1) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk/Treasurer.

(2) *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk/Treasurer shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk/Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk/Treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk/Treasurer.

(G) *Damage to public property.* Any person driving any vehicle, equipment, object, or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment, object, or contrivance; or as a result of operating, driving, or moving any vehicle, equipment, object, or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving it with the express or implied permission of the owner, then the owner and the driver shall be

jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment.* On or before October 31 of each year, the City Clerk/Treasurer shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

Penalty, see § 92.99

§ 92.02 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh)*;

(2) Any dead elm tree or part thereof, including branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood, or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) above to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 92.22 and 92.23.

(C) *Record of costs.* The City Clerk/Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) *Unpaid charges.* On or before September 1 of each year, the City Clerk/Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 92.99

NUISANCES

§ 92.15 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;

(B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 92.16, 92.17, or 92.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 92.99

§ 92.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse, or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

Morristown - General Regulations

(G) The pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.
Penalty, see § 92.99

§ 92.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see § 92.99

§ 92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as it may be amended from time to time, which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile, or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading; unloading; unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawnmower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or

between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(K) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Wastewater cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from accumulation;

(Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

(S) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and 1 footcandle when abutting any commercial or industrial parcel; and

(V) All other conditions or things which are likely to cause injury to the person or property of anyone.

Penalty, see § 92.99

§ 92.19 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles, and vehicles, materials, supplies, or equipment not customarily used for residential purposes, in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Prevents the full use of residential streets for residential parking;

(4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;

(5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and

(6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar nonpermanent structures outside continuously for longer than 24 hours in the front yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipes, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property, unless it complies with the following requirements.

(a) No more than 4 vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front yard area must be on a paved or graveled parking or driveway area, save and except that this requirement shall not apply to those properties abutting that portion of 1st Street S.E. that lies between Main Street E. and Washington Street E. so long as the parked vehicles do not obstruct any portion of the sidewalk on said properties.

(c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property. Penalty, see § 92.99

§ 92.20 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin, and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Penalty, see § 92.99

§ 92.21 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

- (1) Are unsightly;
- (2) Decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood; and
- (3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence, or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, or loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped, or otherwise deteriorated surface finish on more than 20% of:

- (a) Any 1 wall or other flat surface; or
- (b) All door and window moldings, eaves, gutters, and similar projections on any 1 side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

Morristown - General Regulations

(5) Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.
Penalty, see § 92.99

§ 92.22 DUTIES OF CITY OFFICERS.

For purposes of §§ 92.22 and 92.23, the Police Department, or Sheriff, or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

§ 92.23 ABATEMENT.

(A) *Notice.* Written notice of violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17, as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17, as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 92.99

§ 92.24 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk/Treasurer or other official shall

prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable at the office of the City Clerk/Treasurer.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk/Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

Penalty, see § 92.99

§ 92.25 NOTICE OF VIOLATION.

Upon receiving notice of a nuisance violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the nuisances. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in a form prescribed by the Council to the property owner or the person occupying the property as that information is contained with the records of the Clerk/Treasurer or any other city agency. The notice shall be served either by a police officer or by certified mail. The notice shall provide that, within 7 regular business days after the receipt of the notice, the designated violation shall be removed by the property owner or person occupying the property.

WEEDS

§ 92.35 SHORT TITLE.

This subchapter shall be cited as the “Weed Ordinance.”

§ 92.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended, or repealed.

§ 92.37 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license, or lease.

WEEDS, GRASSES, and RANK VEGETATION. Includes, but is not limited to, the following:

(1) Noxious weeds and rank vegetation shall include, but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for 2 consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 6 inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants, or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

§ 92.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL, AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice is in excess of 8 inches in height.

Penalty, see § 92.99

§ 92.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated, and filed with the City Clerk/Treasurer. If the city makes the complaint, an employee, officer, or Councilmember of the city shall file the complaint in all respects as set out above.

§ 92.40 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk/Treasurer or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that, within 7 regular business days after the receipt of the notice, the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk/Treasurer.

(2) Certified mailing to the City Clerk/Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

§ 92.41 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants, or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Councilmembers in attendance and being at a regularly scheduled or special meeting of the City Council.

§ 92.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within 7 regular business days and has not filed a notice within 48 hours to the City Clerk/Treasurer of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate

the nuisance, except with the permission of the owner, resident, or other person in control of the property.

Penalty, see § 92.99

§ 92.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting, or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including, but not limited to, court costs, attorney’s fees, and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies, and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk/Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

§ 92.45 NATIVE VEGETATION

(A) *Purpose.* The purpose of this section is to establish minimum standards for lawn maintenance while recognizing that a variety of landscapes within a community adds diversity and richness to the quality of life for all residents. Turf grass lawns continue to be recognized as the dominant feature in the landscape; however, alternatives to this traditional type of lawn are recognized as important parts of a diverse and successful landscape. A parcel with proposed Native Vegetation that exceeds 800 Square feet or exceeds 25% of parcel surface area will require a Native Vegetation Permit.

(B) *Definitions.* The following terms when used in this Section shall have the following meanings:

- (1) “Maintenance Plan” – a document submitted with an application for a Native Vegetation Permit demonstrating a precise course of maintenance for numerous individual plants in a landscape over months and seasons.
- (2) “Native Vegetation” – those indigenous trees, shrubs, wildflowers, grasses and other plants that have naturally adapted themselves to the climate and soils of the area but require cultivation and maintenance to remain viable.
- (3) “Native Vegetation Permit” – a permit issued by the City pursuant to this Section allowing an owner or occupant to cultivate Native Vegetation upon his/her property. A Native Vegetation Permit exempts an owner or occupant from § 92.38 and § 92.45 (C)(3).
- (4) “Natural Habitat” – specially uncultivated, valued and sensitive habitat whereupon native vegetation exists in a pristine state and provides habitat for a variety of species native

to the area. Such vegetation shall maintain itself in a stable condition with minimal human intervention.

- (5) “Noxious Weeds” – an annual, biennial, perennial plant designated by state statute, the Minnesota Commissioner of Agriculture or the City Council as injurious to public health, the environment, public roads, crops, livestock, or other property.
- (6) “Rank Vegetation” – uncultivated vegetation growing at a rapid rate due to unplanned, unintentional, or accidental circumstances.
- (7) “Turf Grass” – cultivated vegetation consisting of a highly maintained surface of dense grass underlain by a thick root system.
- (8) “Weeds” – unsuitable, unwanted, or uncultivated vegetation, often causing injury to the desired vegetation type, excluding noxious weeds.

(C) *Lawn Maintenance Requirements.*

- (1) All lot areas not covered by buildings, designated parking areas, paths, driveways and impervious surface shall have planted Turf Grass, Native Vegetation, or combined ground cover of cultivated vegetation, garden, hedges, trees and shrubbery.
- (2) No owner or occupant of any lot shall allow any noxious weeds to grow on any part or portion of said lot.
- (3) No owner or occupant shall allow any Turf Grass, Weeds, or Rank Vegetation to grow to a height greater than six (6) inches on any lot or parcel of land.

(D) *Exemptions.* The following land is exempt from the requirements of § 92.38 and § 92.45 (C)(3):

- (1) Vacant and unoccupied land consisting of a contiguous tract of one (1) acre, provided the Weeds, Turf Grass, Native Vegetation, and Rank Vegetation thereon are cut twice annually. The first cutting shall not be later than June 1, and the second cutting shall be made between July 15 and September 15.
- (2) Private lands designated by the City Council as Natural Habitat.
- (3) Public lands designated in the City’s Comprehensive Plan as Natural Habitat.
- (4) Native Vegetation, with a Native Vegetation Permit in accordance with § 92.45(E).

(E) *Native Vegetation Permit.*

- (1) Permit. Upon satisfaction and completion of all the requirements of this section, the City Administrator designee may issue a Native Vegetation Permit to the owner of a parcel within the city. A Native Vegetation Permit permits the permittee to cultivate Native Vegetation and exempts the property from § 92.38 and § 92.45 (C)(3). A Native Vegetation Permit shall be valid for five (5) years from the date of approval. The City Administrator or designee shall not approve a Native Vegetation Permit for property with unresolved Code of Ordinance violations or administrative citations.

- (2) Application. The Application for a Native Vegetation Permit which shall be provided by the City Administrator or designee shall contain the following:
1. Statement of intent and purpose in cultivating Native Vegetation.
 2. Site plan showing lot lines, buildings, location of proposed Native Vegetation, the property's legal description, and corner visibility requirements as defined in the City Code.
 3. Latin and common names of the species the property owner or occupant plans to cultivate. In the event that the applicant intends to plant a variety pack that contains a variety of different species, the applicant may meet this requirement by providing information regarding the contents of the variety pack.
 4. Maintenance requirements for said species.
 5. Name and address of a professional landscaping company which has been hired to perform maintenance on the Native Vegetation or the name, address, and qualifications of the person(s) who will be responsible for maintenance of the Native Vegetation.
 6. A Maintenance Plan, which shall contain the following:
 - a. Plant diagram showing the location and mature height of all specimens of Native Vegetation; in the event that a variety of different species have been planted in a particular location, the Maintenance Plan may indicate in general terms the location and summary of the variety of species planted.
 - b. Detailed information on the upkeep of the plantings; and
 - c. Details of any long-term maintenance required for the Native Vegetation.
- (3) Revocation. The City Administrator or designee may regularly inspect any property holding a Native Vegetation Permit for compliance with the Maintenance Plan on the file with the City for the property. If any property is not in compliance with the Maintenance Plan, the permittee may be notified and ordered to bring the property into compliance with the approved permit within thirty (30) days. If the permittee fails to comply with the order, the City Administrator or designee may:
1. Revoke the Native Vegetation Permit;
 2. Remove all improperly maintained Native Vegetation;
 3. Declare the property ineligible for a Native Vegetation Permit, unless sold, for a period of two (2) years; and

4. Assess the property for all costs associated with inspection of the property and any removal of improperly maintained Native Vegetation in accordance with Minnesota Statutes § 429.101.”
- (4) Nontransferable. A Native Vegetation Permit is not transferable. In the event that a parcel upon which a Native Vegetation Permit has been granted is conveyed to a different owner, the permit shall expire at the time of conveyance, and the new owner shall be required to apply for a new Native Vegetation Permit, if so desired.

OPEN BURNING

§ 92.55 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”

RECREATIONAL FIRE. A fire set with approved starter fuel no more than 3 feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that

nuisance, health, or safety hazards will not be created. No more than 1 **RECREATIONAL FIRE** is allowed on any property at 1 time.

RECREATIONAL FIRE SITE. An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by noncombustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks, or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a “recreational fire site” as defined herein. **RECREATIONAL FIRE SITES** shall not be located closer than 25 feet to any structure.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood, or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Clean pallets may be used for recreational fires when cut into 3-foot lengths.

§ 92.56 PROHIBITED MATERIALS.

(A) No person shall conduct, cause, or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint, or paint fillers.

(B) No person shall conduct, cause, or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.

(D) No person shall conduct, cause, or permit open burning of any leaves or grass clippings, except during days and times designated by the city council. During days and times designated by the city council, no permit shall be required.

(Am. 2017-6, passed 10/2/2017) Penalty, see § 92.99

§ 92.57 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 92.55.

Penalty, see § 92.99

§ 92.58 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means;

(2) Ground thawing for utility repair and construction;

(3) Disposal of vegetative matter for managing forest, prairie, or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading, or other alternative methods are not practical;

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives; and

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal, or other alternative disposal methods are not practical.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.

Penalty, see § 92.99

§ 92.59 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the ordinance establishing fees and charges, as it may be amended from time to time.

Penalty, see § 92.99

§ 92.60 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

§ 92.61 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative, or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to, fire suppression and administrative fees.

Penalty, see § 92.99

§ 92.62 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include, but are not limited to, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 92.99

§ 92.63 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

§ 92.64 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

Penalty, see § 92.99

§ 92.65 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 through 88.22, as they may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

§ 92.99 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first-class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99.

TITLE XI: BUSINESS REGULATIONS

Chapter

110.ALCOHOLIC BEVERAGES

111.SEXUALLY-ORIENTED BUSINESSES

112.TOBACCO REGULATIONS

113.AMUSEMENTS

**114.REGULATION OF PUBLIC DANCES AND
SPECIAL EVENTS**

115.PEDDLERS AND SOLICITORS

Section

CHAPTER 110: ALCOHOLIC BEVERAGES

- 110.01 Purpose
- 110.02 Definitions
- 110.03 License required
- 110.04 Types of licenses
- 110.05 Persons eligible for licenses
- 110.06 Liability insurance
- 110.07 License restrictions
- 110.08 Applications; investigations
- 110.09 Limit on the number of licenses
- 110.10 License suspension or revocation
- 110.11 Retail regulations
- 110.12 Hours and days of sale
- 110.13 Fees
- 110.14 Enforcement team

Public Consumption

- 110.25 Definitions
 - 110.26 Consumption prohibited
 - 110.27 Exceptions
 - 110.28 Effective date
- 110.99 Penalty

SALES**§ 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 licensee 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:

Morristown - Business Regulations

(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 4 on-sale intoxicating liquor licenses.

(B) The city shall not issue more than 4 off-sale intoxicating liquor licenses.
(Ord. 162, passed 5-3-1999; Am 2016-1, passed 1-4-2016)

§ 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 prior to 11:00 a.m. and after 6:00 p.m.;
- (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.

(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, Am. 2017-2, passed 5/1/2017) 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)

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

Section

- 111.01 Purpose
- 111.02 Findings
- 111.03 Definitions
- 111.04 Classification
- 111.05 Location of sexually-oriented businesses
- 111.06 Regulations pertaining to exhibition of sexually-explicit films, videos, or live entertainment in viewing rooms
- 111.07 Additional regulations for escort agencies
- 111.08 Additional regulations for nude model studios
- 111.09 Additional regulations concerning public nudity
- 111.10 Prohibition against children in a sexually-oriented business
- 111.11 Hours of operation
- 111.12 Exemptions
- 111.13 Effective date

CHAPTER 111: SEXUALLY-ORIENTED BUSINESSES

§ 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:

Morristown - Business Regulations

(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.

Morristown - Business Regulations

(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.

(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 1 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.

Morristown - Business Regulations

(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)

Section

112.01	Purpose	CHAPTER 112: TOBACCO REGULATIONS
112.02	Definitions and interpretations	
112.03	License	
112.04	Fees	
112.05	Basis for denial of license	
112.06	Prohibited sales	
112.07	Vending machines	
112.08	Self-service sales	
112.09	Compliance checks and inspections	
112.10	Other illegal acts	
112.11	Violations	
112.12	Imposition of penalty; appeals	
112.13	Exceptions and defenses	
112.14	Effective date	

§ 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 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.

VENDING 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 June 30 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.

Morristown - Business Regulations

(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 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, 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 - -)

CHAPTER 113: AMUSEMENTS

Section

CHAPTER 114: REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

- 114.01 Regulation of public dances
- 114.02 Definitions
- 114.03 Permit required
- 114.04 Application for permit
- 114.05 Insurance
- 114.06 Reserved
- 114.07 Permit to be posted
- 114.08 Liquor license required
- 114.09 Licensed police officer presence
- 114.10 Hours
- 114.11 Minors prohibited
- 114.12 Certain behavior prohibited
- 114.13 Reserved
- 114.14 Noise

Special Events

- 114.20 Purpose and findings
- 114.21 Definitions
- 114.22 Permit required
- 114.23 Application for permit
- 114.24 Issuance of permit, conditions and posting
- 114.25 Exceptions to the permit

- 114.99 Penalty

*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.

§ 114.06 RESERVED.

§ 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

§ 114.10 HOURS.

No public dance shall occur between the hours of 12:00 a.m. midnight and 12:00 p.m. 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 owner of the premises shall be responsible for enforcing this section.
(Am. Ord. 2011-1, passed 1-18-2011, Am. 2017-5, passed 8/7/2017) 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

SPECIAL EVENTS**§ 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.

Section

- 115.01 Definitions
- 115.02 License required
- 115.03 License application
- 115.04 Revocation of license
- 115.05 Wearing badges and carrying licenses
- 115.06 Sales slips, receipts and disclosure

CHAPTER 115: PEDDLERS AND SOLICITORS

§ 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.

Morristown - Business Regulations

(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)

TITLE XIII: GENERAL OFFENSES

Chapter

130.GENERAL OFFENSES

Section

130.01 Discharging firearms

130.02 Curfew for minors **CHAPTER 130: GENERAL OFFENSES**

§ 130.01 DISCHARGING FIREARMS.

(A) No person shall fire or discharge any cannon, gun, pistol, airgun, BB gun, or firearm of any description, or bow, including crossbow, hunting bow, compound bow, or any other type or description of bow, having a draw or pull of 20 pounds or more, within the city limits without first receiving written permission from the Mayor and Police Chief to do so, except on courses or ranges approved for that purpose by the City Council. The permission shall limit the time and place of the discharge.

(B) Any person, firm, or corporation violating any provision of this section shall be guilty of a petty misdemeanor. A second offense by that person of any provision of this section shall be deemed a misdemeanor.

(C) This section shall take effect upon publication.

(D) This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(E) If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.
(Ord. 117, passed - -) Penalty, see § 10.99

§ 130.02 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for 4 primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;

Morristown - General Offenses

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school-sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 12:00 a.m. and 5:00 a.m., official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall

this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and/or

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless 1 of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Before arrest.* A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

Penalty, see § 10.99