

TITLE 3
BUSINESS REGULATIONS

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CHAPTER 1

LICENSES AND PERMITS

SECTION:

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3-1-1: **FEES:** When a business is commenced after the expiration of a part of the license year, an annual license for the balance of the year will be issued for a proportionate part of the annual fee. (Ord. 04-53, 3-7-05)

3-1-2: **TERMINATION OF LICENSES:** In the absence of any provision to the contrary, all annual licenses and permits shall terminate on the last day of the fiscal year of the Village in which they are issued, and all daily licenses and permits shall terminate at twelve o'clock (12:00) midnight of the day for which the license or permit is granted. (Ord. 04-53, 3-7-05)

3-1-3: **BUILDING AND PREMISES:** No license or permit shall be issued for the conduct of any business or the performance of any act if the premises and building to be used do not fully comply with the requirements of the Village. No such license or permit shall be issued for the conduct of any business or the performance of any act which would involve a violation of the zoning provisions of this Code. (Ord. 04-53, 3-7-05)

3-1-4: **TRANSFER; CHANGE OF LOCATION:** Licenses issued may be transferred by the original licensee provided that written notice is given to the Village within ten (10) days before the transfer is made, but no more than one (1) transfer of any license shall be made within the license year; provided that it shall be unlawful to transfer any peddler's or itinerant merchant's license or permit, and any attempted transfer of such a license or permit shall have no effect. (Ord. 04-53, 3-7-05)

The location of any licensed business or occupation, or of any permitted act, may be changed that written notice thereof is given to the Village within ten (10) days before the change is made; provided that the building and zoning requirements of the provisions of this Code are complied with. (Ord. 04-53, 3-7-05)

3-1-5: **NUISANCES:** No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact. (Ord. 04-53, 3-7-05)

3-1-6: **INSPECTIONS:** Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making such inspection at any reasonable time that admission is requested, any authorized officer or employee of the Village. (Ord. 04-53, 3-7-05)

In addition to any other penalty which may be provided, the President of the Board may revoke the license of any licensed proprietor of any licensed business in the Village who refuses to permit any such officer or employee, who is authorized, to make such inspection, or who interferes with such officer or employee while in the performance of his duty in making such inspection. Provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the Village, stating that such inspection is desired at the time it is sought to make the inspection. (Ord. 04-53, 3-7-05)

3-1-7: **REVOCATION:** Any license or permit for a limited time may be revoked by the President at any time during the life of such license or permit for any violation by the licensee or permittee of the provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied; such revocation may be in addition to any fine imposed. (Ord. 04-53, 3-7-05)

3-1-8: **POSTING LICENSE:** It shall be the duty of any person conducting a licensed business in the Village to keep his license posted in a prominent place on the premises used for such business at all times. (Ord. 04-53, 3-7-05)

CHAPTER 2

**BUSINESS DISTRICT RETAILERS' OCCUPATION TAX AND
BUSINESS DISTRICT SERVICE OCCUPATION TAX**

SECTION:

- 3-2-1: Business District Retailers' Occupation Tax
 3-2-2: Business District Service Occupation Tax
 3-2-3: Morton Business District Tax Allocation Fund

3-2-1: **BUSINESS DISTRICT RETAILERS' OCCUPATION TAX:** A Business District Retailers' Occupation Tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the Morton Business District (as described and designated by Ordinance Number 09-43) at the rate of 0.25% of the gross receipts from the sales made in the course of such business. This tax is not imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. This tax shall be in effect for so long as the Morton Business District shall continue in existence and shall terminate upon termination of the Morton Business District. The tax imposed by this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Illinois Department of Revenue and paid over to the Village as provided by the Business District Development And Redevelopment Act (65 ILCS 5/11-74.3-1 et seq.), as may be amended from time to time.

3-2-2: **BUSINESS DISTRICT SERVICE OCCUPATION TAX:** A Business District Service Occupation Tax is hereby imposed upon all persons engaged, in the Morton Business District (as described and designated by Ordinance Number 09-43), in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the Morton Business District, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax shall be imposed at the rate of 0.25% of the selling price of tangible personal property so transferred within the Morton Business District. This tax is not imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. This tax shall be in effect for so long as the Morton Business District shall continue in existence and shall terminate upon termination of the Morton Business District. The tax imposed by this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Illinois Department of Revenue and paid over to the Village as provided by the Business District Development And Redevelopment Act (65 ILCS 5/11-74.3-1 et seq.), as may be amended from time to time.

3-2-3: **MORTON BUSINESS DISTRICT TAX ALLOCATION FUND:** The proceeds of the taxes imposed herein shall be deposited into a special fund held by the Corporate Authorities called the "Morton Business District Tax Allocation Fund". Money deposited into such fund shall be expended in accordance with the provisions of the Business District Development And Redevelopment Act (65 ILCS 5/11-74.3-1 et seq.), as may be amended from time to time, and in accordance with the Morton Business District Development And Redevelopment Plan approved and adopted by Ordinance Number 09-43, as may be amended from time to time. (Ord. 09-44, 3-15-10)

CHAPTER 3

RAFFLES

SECTION:

- 3-3-1: Purpose and Title
- 3-3-2: Construction
- 3-3-3: Definitions
- 3-3-4: License Requirements
- 3-3-5: Area Limitation on Sale of Chances
- 3-3-6: Application
- 3-3-7: License Qualifications
- 3-3-8: Fees
- 3-3-9: Person or Organizations Ineligible
- 3-3-10: License Issuance
- 3-3-11: Conduct of Raffles
- 3-3-12: Raffles Manager
- 3-3-13: Records
- 3-3-14: Sale Limitations
- 3-3-15: Prize Limitations
- 3-3-16: Chance Limitation
- 3-3-17: Awarding of Prize
- 3-3-18: Severability
- 3-3-19: License Suspension or Revocation
- 3-3-20: Penalty

3-3-1: **PURPOSE AND TITLE:**

- (A) Purpose: The purpose of this chapter is to regulate and control the conduct of raffles within the Village.

3-3-2: **CONSTRUCTION:** In the construction of this chapter, the definitions hereunder shall be observed and applied, except when the context clearly indicates otherwise:

- (A) Words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural number shall include the singular number.
- (B) The word SHALL is mandatory and not discretionary.
- (C) The word MAY is permissive or discretionary.
- (D) Words not defined shall be interpreted in accordance with definitions contained in Webster's New Collegiate Dictionary current edition.

3-3-3: **DEFINITIONS:** For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- BUSINESS ORGANIZATION** A voluntary organization composed of individuals or businesses who have joined together to advance the commercial, financial, industrial and civic interest of a community.

CHANCE	An number or a combination of numbers, or some other symbol or combination of symbols, one or more of which chances is represented to qualify for designation as the winning chance.
CHARITABLE ORGANIZATION	An organization or an institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit upon the public.
EDUCATIONAL ORGANIZATION	An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax supported schools.
FRATERNAL ORGANIZATION	An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those who otherwise would be cared for by the government.
LABOR ORGANIZATION	An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.
LICENSEE	An organization which has been issued a license to operate a raffle.
NET PROCEEDS	The gross receipts from the conduct of raffles, less sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.
NONPROFIT	Organized, operated, and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation.
PERSON	An individual, firm, organization, public or private corporation, government, partnership, or unincorporated association.
PRIZE	The goods, services, money or other items of value or consideration awarded or represented to be awarded to the winning chance or chances.
RAFFLE	A form of lottery, as defined in Section 28-2(b) of the "Criminal Code of 2012," conducted by an organization licensed under this Title in which: <ol style="list-style-type: none"> 1. The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means, one or more of which chances is to be designated the winning chance; and 2. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.
RELIGIOUS ORGANIZATION	Any church, congregation, society, or organization founded for the purpose of religious worship.

VETERAN'S
ORGANIZATION

An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

3-3-4: **LICENSE REQUIREMENTS:** It shall be unlawful to conduct or operate a raffle or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle unless said raffle has been licensed.

3-3-5: **AREA LIMITATION ON SALE OF CHANCES:** No license issued pursuant to this chapter authorizes any person or organization to conduct or operate a raffle or to sell, offer for sale, convey, issue, or otherwise transfer for value a raffle chance outside the corporate limits of the Village, and no persons or organizations shall conduct or operate a raffle licensed pursuant to this chapter outside the corporate limits of the Village.

3-3-6: **APPLICATION:** Any person seeking to conduct or operate a raffle shall file an application therefor with the Village Clerk or his designee on forms provided by the Village Clerk. Said application shall contain the following information:

- (A) The name, address, and type of organization;
- (B) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (C) The name, address, telephone number, social security number, and date of birth of the organization's presiding officer, secretary, raffles manager, and any other members responsible for the conduct and operation of the raffle;
- (D) The aggregate retail value of all prizes to be awarded in the raffle;
- (E) The maximum retail value of each prize to be awarded in the raffle;
- (F) The maximum price charged for each raffle chance issued or sold;
- (G) The time period during which the raffle chances will be issued or sold shall not exceed more than one hundred eighty (180) days after issuance of the license;
- (H) The time and location at which winning chances will be determined;
- (I) A sworn statement attesting to the not-for-profit character of applicant organization, signed by its presiding officer and secretary;
- (J) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in application is true and correct;
- (K) Copies of the applicant organization's founding documents, and if incorporated, the articles of incorporation and by-laws.

3-3-7: **LICENSE QUALIFICATIONS:** Raffle licenses shall be issued only to bona fide business, charitable, educational, fraternal, labor, religious, and veteran's organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years or more immediately before making application for a license and which have had during that entire five (5) year period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

- 3-3-8: **FEES:** There is no fee to issue a license.
- 3-3-9: **PERSON OR ORGANIZATIONS INELIGIBLE:** The following are ineligible for any raffle license:
- (A) Any person who has been convicted of a felony;
 - (B) Any person who is or has been a professional gambler or gambling promoter;
 - (C) Any person who is not of good moral character;
 - (D) Any organization in which a person defined in (A) through (C) that has a proprietary, equitable, or credit interest, or in which such person is active or employed;
 - (E) Any organization in which a person defined in (A) through (C) that is an officer, director, or employee, whether compensated or not; and
 - (F) Any organization in which a person defined in (A) through (C) above is to participate in the management or operation of a raffle as defined in this title.
- 3-3-10: **LICENSE ISSUANCE:** The Village Clerk or his designee shall review all raffle license applications and approve or deny, it within thirty (30) days from the date of application. If an application is accepted, a raffle license will be issued by the Village Clerk. If an application is rejected by the Village Clerk or his designee, that is final and there is no appeal process.

An organization may be issued a single license for multiple raffles within a time period not to exceed one (1) year. The organization may have one raffle manager or may designate different raffle managers for each raffle.

- 3-3-11: **CONDUCT OF RAFFLES:** The operation and conduct of raffles are subject to the following restrictions:
- (A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee;
 - (B) No person except a bona fide member of the licensee may participate in the management or operation of the raffle;
 - (C) No person may receive remuneration or profit for participating in the management or operation of the raffle;
 - (D) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this chapter;
 - (E) Raffle chances may be sold, offered for sale, conveyed, issued or otherwise transferred for value only within the Village; the winning chances may be determined only at the location specified on the license;
 - (F) A person under the age of eighteen (18) years may participate in the conducting of raffles or chances only with the permission of a parent or guardian. A person under the age of eighteen (18) years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

3-3-12: **RAFFLES MANAGER:** The operation and conduct of a raffle shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in the amount to the aggregate retail value of all prizes to be awarded in favor of the licensee conditioned upon his honesty in the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the Village of Morton not less than thirty (30) days prior to its cancellation. The Board of Trustees may waive this bond requirement by including a waiver provision in the license issued to an organization under this chapter, provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

3-3-13: **RECORDS:**

(A) Each licensee shall keep records of its gross receipts, expenses, and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount, and date of payment.

(B) Gross receipts from the operation of raffles shall be segregated from other revenues of the licensee including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.

(C) Each licensee shall report to the Village its gross receipts, expenses and net proceeds from the raffle, and the distribution of net proceeds itemized as required herein. Each report shall be made within thirty (30) days of the date of the raffle.

(D) Raffle records shall be preserved for three (3) years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

3-3-14: **SALE LIMITATIONS:** Chances may not be sold, offered for sale, conveyed, issued, or otherwise transferred for value after the time designated in the application.

3-3-15: **PRIZE LIMITATIONS:** The aggregate retail value of all prizes awarded in a single raffle shall not exceed forty thousand dollars (\$40,000).

3-3-16: **CHANCE LIMITATION:** The price which may be charged for each raffle chance sold, offered for sale, conveyed, issued, or otherwise transferred for value shall not exceed one hundred dollars (\$100.00).

3-3-17: **AWARDING OF PRIZE:** Upon the sale, conveyance, issuance or other transfer for value of any chance, the licensee shall award the prize or prizes designated as such in the application.

3-3-18: **SEVERABILITY:** If any provision of this chapter or the application thereof is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction then this chapter becomes void.

3-3-19: **LICENSE SUSPENSION OR REVOCATION:** The Chief of Police may suspend or revoke any license issued hereunder if he has reason to believe the licensee has failed to comply with any material requirement of this chapter. Nothing herein shall prevent the Village from seeking penalties from the licensee in addition to suspension or revocation of a license.

3-3-20: **PENALTY:** Failure to comply with any of the requirements of this chapter shall constitute a violation; and any person, upon conviction thereof, shall be fined no less than fifty dollars (\$50.00) but no more than seven hundred dollars (\$750.00) for each offense. Each day the violation continues shall be considered a separate offense.

(Ord. 13-27, 2-3-14)

CHAPTER 8

LIQUOR

SECTION:

- 3-8-1: Definitions
- 3-8-2: License Required
- 3-8-3: Types Of Licenses
- 3-8-4: Closing Hours
- 3-8-5: Application Procedure; Payments; Renewals; Transfers; Location; Change of Ownership
- 3-8-6: Limitation On Number
- 3-8-7: Licenses, Application Requirements
- 3-8-8: Application, Persons Ineligible
- 3-8-9: Application, Decision
- 3-8-10: Bartender Permits (Rep. by Ord. 94-3, 5-2-94)
- 3-8-11: License Revocation; Suspension Or Fine
- 3-8-12: License, Appeals
- 3-8-13: Carrying Of Alcoholic Liquor From Premises
- 3-8-14: Certain Acts Prohibited
- 3-8-15: Closing Premises
- 3-8-16: Condition Of Premises
- 3-8-17: Curb Service, Drive Thrus
- 3-8-18: Delivery To Minors
- 3-8-19: Display Of License
- 3-8-20: Display Of Warning Card
- 3-8-21: Election Days
- 3-8-22: Exceptions
- 3-8-23: Gambling
- 3-8-24: General Requirements Of License Holder
- 3-8-25: Location Restrictions
- 3-8-26: Minors In Taverns
- 3-8-27: Misrepresentation Of Age
- 3-8-28: Peddling
- 3-8-29: Public Places, Consumption
- 3-8-30: Reporting Of Incidents
- 3-8-31: Restricted Area
- 3-8-32: Sale Of Licensed Premises
- 3-8-33: Showing Of Certain Films, Pictures Prohibited
- 3-8-34: Penalty Provisions
- 3-8-35: Severability Clause

3-8-1: **DEFINITIONS:** Unless the context otherwise provides, words and phrases used in this Chapter shall be construed according to the definitions set forth herein.

ALCOHOL: The product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

ALCOHOLIC LIQUOR: Includes alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. The provisions of this Code shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder nor to any liquid or solid containing one-half of one percent (0.5%) or less of alcohol by volume.

- BEER:** A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter, and the like.
- CLUB:** A corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and provided with suitable and adequate kitchen and dining room space and equipment, and maintaining a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests; provided, that such club files with the Liquor Control Commissioner at the time of its application for a license under this Code two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club. This definition is intended to include all clubs whether they are deemed private or public.
- LICENSED PREMISES:** The premises described in the application for the license or in the license as the place where the business to be covered or is covered by the license is to be or is carried on.
- LIQUOR CONTROL COMMISSION:** The Liquor Control Commission shall consist of the President of the Board of Trustees of the Village of Morton. He shall have the power to administer all of the provisions of this Chapter, and he shall also have such other powers as provided for in the Liquor Control Act of 1934 as now in effect or as may from time to time be amended.
- ORIGINAL PACKAGE:** Any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container whatsoever used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.
- PERSON:** Any person, firm, partnership, club, association, or corporation.
- PREMISES:** The area within a building for which a license to sell alcoholic liquor is issued and which is actually used in connection with the storage, preparation, and sale of alcoholic liquor, but specifically excluding any outside areas such as patios, open porches, roof tops, balconies, stoops, sidewalks, yards, driveways, parking lots, and similar outside areas.
- PUBLIC PLACE:** Any place to which the general public has a right to resort; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private, a place visited by many persons and usually accessible to the neighboring public.

- RESTAURANT:** Any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests (and where the sale or consumption of alcoholic liquors is only incidental to the serving of meals).
- RETAILER:** A person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.
- SALE:** Any transfer, exchange, or barter in any manner or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant, or employee. The term "sale" includes any transfer of alcoholic liquor from a foreign importer's license to an importing distributor's license even if both licenses are held by the same person.
- SELL AT RETAIL:** Any "sale at retail" refers to and means sales for use or consumption and not for resale in any form.
- SPIRITS:** Any beverage which contains alcohol obtained by distillation mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances.
- TAVERN:** Any person, including restaurants, hotels, and motels, who sells or offers for sale at retail any alcoholic liquor for use or consumption upon the premises and not for resale in any form; provided, however, that this definition shall not be construed to apply to any duly licensed, practicing physician or dentist in the strict practice of his profession, or any hospital or other institution caring for sick or diseased persons in the bona fide treatment of such patients, or any drug store employing a licensed pharmacist in the concoction of prescriptions of duly licensed physicians, or the authorized representative of any church for the purposes of conducting any bona fide right or religious ceremony conducted by such church.
- TO SELL:** Includes to keep or expose for sale and to keep with intent to sell.
- WINE:** Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits as defined herein.

3-8-2: **LICENSE REQUIRED:** No person, either by himself or his agent, or any person acting as an agent, barkeeper, clerk, or servant of another shall sell or offer for sale at retail within the limits of the Village any alcoholic liquor without first having obtained a license to do so as provided in this Chapter. No such person shall sell or offer for sale any alcoholic liquors in violation of the terms and provisions of this Chapter. It shall be unlawful for any such person to allow any customer, guest, or patron to bring any alcoholic liquor into such establishment for consumption on the premises or to serve any alcoholic liquor purchased off the premises by a customer, patron, guest, or other person, unless that establishment has a Class G license; provided, however, that this prohibition shall not apply in those instances where an establishment rents out its facilities to a third party and said third party brings any alcoholic liquor into such establishment for consumption on the premises by said third party and its guests. (amd. Ord. 08-37, 3-16-09)

3-8-3: **TYPES OF LICENSES:**

(A) Classification: There shall be the following classes of licenses to sell alcoholic liquor at retail, subject to the fees indicated: (Ord. 08-37, 3-16-09)

1. Class A-1: Class A-1 licenses shall authorize the sale at retail of beer and wine only for consumption off the premises only. The annual fee for such licenses shall be one thousand four hundred forty dollars (\$1,440.00).

The licensee shall maintain such business only on a ground floor location with a minimum of one thousand four hundred (1,400) square feet of floor space and a minimum of twenty feet (20') of frontage and have no customer or public entrances or exits from or to any other building whatsoever and may sell only items incidental to the packaged liquor business, such as nonalcoholic beverages, cigarettes and tobacco products, glasses and bar supplies, as well as food stuffs, provided that the display of such food stuffs shall not take up more than five percent (5%) of the square footage of floor space.

Additionally, this license shall authorize the licensee to conduct unlimited product tasting of beer or wine in the licensed premises. (amd. Ord. 14-06, 6-2-14)

2. Class A-2: Class A-2 licenses shall authorize the sale at retail of beer and wine only for consumption on the premises only. The annual fee for such licenses shall be one hundred twenty dollars (\$120.00).
3. Class A-3: Class A-3 licenses shall authorize the sale at retail of beer and wine only for consumption off or on the premises. The annual fee for such licenses shall be three hundred sixty dollars (\$360.00).
4. Class A-4: Class A-4 licenses shall authorize the sale at retail of wine only for consumption off the premises only. The annual fee for such licenses shall be three hundred dollars (\$300.00).

Additionally, this license shall authorize the licensee to conduct unlimited product tasting of wine in the licensed premises.

5. Class B-1: Class B-1 licenses shall authorize the sale at retail of alcoholic liquors for consumption off the premises only. The annual fee for such licenses shall be one thousand four hundred forty dollars (\$1,440.00).

The licensee shall maintain such business only on a ground floor location with a minimum of one thousand four hundred (1,400) square feet of floor space and a minimum of twenty feet (20') of frontage and have no customer or public entrances or exits from or to any other building whatsoever and may sell only items incidental to the packaged liquor business, such as nonalcoholic beverages, cigarettes and tobacco products, glasses and bar supplies, as well as food stuffs, provided that the display of such food stuffs shall not take up more than five percent (5%) of the square footage of floor space.

Additionally, this license shall authorize the licensee to conduct unlimited product tasting of beer or wine in the licensed premises. (amd. Ord. 14-06, 6-2-14)

6. Class B-2: Class B-2 licenses shall authorize the sale at retail of alcoholic liquors for consumption on the premises only. The annual fee for such licenses shall be two hundred forty dollars (\$240.00).
7. Class B-3: Class B-3 licenses shall authorize the sale at retail of alcoholic liquors for consumption off or on the premises. The annual fee for such licenses shall be six hundred dollars (\$600.00).

8. Class C: Class C licenses shall authorize the sale at retail of alcoholic liquors at a club for consumption on the premises only. The annual fee for such licenses shall be twelve dollars (\$12.00).

The holder of a Class C license may serve such alcoholic liquors only to persons as are members of the licensee and their guests. It shall be unlawful for any holder of such a license to dispense alcoholic liquors to the general public under such license. Any violation thereof shall automatically cancel such license and constitute the licensee a public tavern subject to the payment of a Class B-2 license fee and subject to the penalties for violation and failure to pay such fee. Notwithstanding anything else to the contrary herein, a Class C license is limited to a usage for fifty two (52) days during a period beginning May 1 and ending April 30 for which the license was issued. Any use in excess of said fifty two (52) days shall be deemed a violation of this Title 3, Chapter 8 and shall subject the license holder to the penalties for violation of same.

9. Class D: Class D licenses shall authorize the sale at retail of beer and wine only in a grocery store for consumption off the premises only. The annual fee for such licenses shall be one thousand four hundred forty dollars (\$1,440.00). (amd. Ord. 14-06, 6-2-14)

For purposes of this section, a grocery store is defined as a store with a minimum of five thousand (5,000) square feet of floor space that is engaged in the sale at retail of baked goods, canned and frozen food, dairy products, dry goods, fresh and prepared meats, fresh fruits and vegetables, health and beauty aids, snack goods, and soft drinks and other non-alcoholic beverages. A grocery store does not include a store that has less than two hundred fifty thousand dollars (\$250,000.00) in annual gross sales of food, excluding the following:

- a. Alcoholic beverages.
- b. Candy, chewing gum, and confectionaries.
- c. Cocktail mixers.
- d. Food or beverages sold through a vending machine.
- e. Medicines, tonics, vitamins, and other dietary supplements.
- f. Pet food.
- g. Sodas, soft drinks, and other similar beverages.
- h. Tobacco products.

All Class D licenses issued shall be subject to the following:

(a) Security

- (1) Security cameras shall at all times be in operation and the licensee shall keep a copy of the video for one week. In the event the Village of Morton wants a copy of the video, licensee shall provide same to the Village. The licensee may dispose of any video after one week. Security cameras shall be placed so as to provide coverage of all points of sale and aisles where beer and wine are displayed.
- (2) During hours when beer and wine sales are not allowed, the following shall apply:
 - a. An aisle that has beer and wine on both sides shall be blocked with a heavy gauge, locked fence or gate.
 - b. An aisle that has beer and wine on only one side shall be blocked with a heavy gauge, locked fence, gate, or pull down or across cover.
- (3) Excess beer and wine inventory not displayed for sale shall be secured in a locked cage or room in the store's warehouse or storage area. No one under 21 years of age shall have access to the warehouse or storage area, or be involved in the handling, stocking, or inventorying of beer or wine products.

- (4) Check-out lanes for beer and wine shall be designated with appropriate signage. No employee under the age of 21 may scan any alcohol item for purchase during check-out. A cashier or supervisor over 21 years of age must scan every alcohol item for purchase during customer check-out.
 - (5) There shall be no self check-out.
 - (6) The restricted sale times must be “flagged” in the Point of Sale system so as not to allow sales during restricted hours.
- (b) Employee Training
- (1) Licensee shall conduct a corporate training program related to alcohol sales that includes one-on-one instruction, ongoing supervision, and refresher training that is equivalent to or better than the Beverage Alcohol Sellers and Servers Education and Training (BASSET) program of the Illinois Liquor Commission.
 - (2) Certification of the program and completion of it by each employee who will act as a cashier for any liquor sales shall be provided at the time of the issuance of the license or any renewal. If different employees other than those originally listed are to act as cashier for any liquor sales, then a certification must be provided when an employee is added and before the employee acts as a cashier.
- (c) Display
- (1) Beer and wine may be displayed in only one aisle of the store and that specific aisle must be designated in writing to the Liquor Control Commissioner and approved in writing by the Liquor Control Commissioner. Any change to a different aisle must go through the reapplication process. Beer and wine shall be displayed only within the aisle approved by the Liquor Control Commission, and any change of display must be approved by the Liquor Control Commissioner.
 - (2) Beer and wine shall not be displayed on the ends of the designated aisle.
 - (3) Access to aisles shall only be permitted on the end.
- (d) Promotions
- (1) Cross sales promotions using actual beer or wine products may only occur in the aisle where beer and wine are permitted to be displayed.
 - (2) Beer and wine advertisements and promotions shall only be displayed in the aisle where beer and wine are permitted to be displayed.
- (e) Beer And Wine Product Tasting
- Beer and wine product tasting shall only be conducted in a segregated area of the store to be approved by the Liquor Commissioner. No persons under the age of 21 may participate in beer or wine product tasting. No persons under the age of 21 can be in the designated area where beer or wine product tasting is taking place, unless that person is accompanied by a parent or legal guardian. No persons under the age of 21 may participate in the product tasting in any way. The store shall be responsible for checking the age of every person participating in the the beer or wine product tasting.

(f) Additional Restrictions And Requirements

Additional restrictions and requirements as the Village may from time to time adopt shall apply to the license upon thirty (30) days notice by the local Liquor Control Commissioner. If the license holder elects not to comply with the revised or additional restrictions or requirements, the license shall be terminated no later than the 30th day after notice has been given and the pro rata share of any license fee shall be refunded. (amd. Ord. 08-10, 8-18-08; amd. Ord. 08-22, 12-1-08)

10. Class E: Class E licenses shall be a supplementary license authorizing the sale at retail of alcoholic liquors in an outdoor eating, drinking or seating area (i.e., beer garden, open air cafe, patio, etc.) located adjacent to and operated by and in conjunction with an otherwise licensed premise subject to the following:
 - (a) Only those licensees holding a Class A-2, Class A-3, Class B-2, Class B-3, or Class G liquor license shall be eligible to apply for, receive, and hold a Class E license, which allows for the sale and consumption of alcoholic liquor off premises. Only those alcoholic liquors lawfully licensed to be sold and consumed in the adjacent licensed premises may be sold and/or consumed in the outdoor eating, drinking, or seating area. All other provisions of the Morton Municipal Code pertaining to the respective liquor license class shall apply to the Class E licensed area unless otherwise provided herein.
 - (b) The outdoor eating, drinking, or seating area must comply with the following:
 - (1) Be immediately adjacent and contiguous to the licensed premises, be viewable from the street or parking lot, and be accessible from the exterior.
 - (2) Be no greater in area than the gross floor area of the licensed premises.
 - (3) Have the ability to be illuminated in case of emergency.
 - (4) For restaurants, be contained by fencing or other suitable material at least four feet (4') in height, measured from the finished floor elevation of the outside eating, drinking, or seating area, which defines the seating area and sets that area apart from the surrounding property and provides for limited and controlled access to the outside eating, drinking and seating area.
 - (5) For establishments other than restaurants, be accessible to customers and patrons from the interior of the licensed premises only and be entirely and completely contained by fencing or other suitable material at least six feet (6') in height, measured from the finished floor elevation of the outside eating, drinking, or seating area, which effectively prevents the passing of alcohol to the outside and defines the seating area and sets that area apart from the surrounding property.
 - (6) The hours of operation of the outside eating, drinking, and seating area shall not extend past 1:00 A.M. or the closing time required for the licensed premises pursuant to Section 3-8-4, whichever is earlier.
 - (c) At least one fully operable, emergency only exit shall be provided from the outdoor eating, drinking, or seating area directly to the outside for establishments other than restaurants and for any restaurant where the only other means of egress is through the interior of the licensed premises. Said emergency only exit shall be in addition to the access provided directly from the licensed premises, may be used to provide a means of egress/ingress for persons whose physical limitations or handicaps preclude their entrance or exit from the interior of the licensed premises, and may be used for the purpose of taking delivery of products, materials, and supplies.

- (d) The total square footage of the outdoor eating, drinking, or seating area shall be included in the total parking calculations and requirements for the site.
- (e) No amplified sound or music nor any live entertainment shall be permitted in the outdoor eating, drinking, or seating area after 10:00 P.M. and shall at all times be subject to all noise limitations of the Village.
- (f) Each and every owner, operator, and/or manager licensed to sell alcoholic liquors in an outdoor eating, drinking, or seating area shall provide regular, diligent, and effective management and employee oversight and control of such outdoor eating, drinking, or seating area to assure compliance with the provisions of this Chapter and the Morton Municipal Code.

The annual fee for such licenses shall be one hundred twenty dollars (\$120.00), which shall be in addition to any other fees required by license holders pursuant to this Chapter.

Notwithstanding any other provision of this Chapter, it shall be unlawful for any liquor licensee to serve or allow to be consumed alcoholic liquor at an outdoor eating, drinking, and seating area without first obtaining a license as provided herein.

For purposes of this Class E license only, the term "Off Premises" shall mean an area outside and adjacent to a building for which a liquor license to sell and/or consume alcoholic liquor, as the case may be, is issued and on which it shall be lawful to sell and/or consume alcoholic liquors, as the case may be, if the licenseholder also holds a Class E license.

11. Class F: A Class F license may be issued by the Local Liquor Control Commissioner and may be issued only for the sale at retail of alcoholic liquors in an outdoor beer garden, parking lot, yard, or similar outside area. Such area shall be adjacent to a licensed premises. A person seeking to obtain such license must be the holder of a current liquor license which permits the selling and consumption of alcoholic liquor in the adjacent premises.

Any Class F licenses issued shall be further subject to the following:

- (a) Each such license issued shall set forth the number of days for which it is granted, except that it may not exceed seven (7) days.
- (b) Each such license issued shall set forth the permitted location and the permitted hours of operation, which in no event shall exceed the allowable hours of operation for the particular license held by the applicant. The location shall be on the premises where a license is issued or immediately adjacent thereto.
- (c) Upon the approval of the issuance of such license, the applicant shall pay the sum of fifty dollars (\$50.00) plus twenty-five dollars (\$25.00) for each day of usage requested. Said fee is nonrefundable.
- (d) No person may obtain a Class F license more than once in any sixty (60) day period.
- (e) Upon the approval of the issuance of such license, the Chief of Police, or his designee, shall inspect and approve the outside area designated in the application for the Class F license before the license is provided to the applicant.

12. Class G: Class G licenses shall authorize a patron to bring his or her own beer or wine onto the premises for consumption on the premises. The annual fee for such licenses shall be sixty dollars (\$60.00).

The license shall be subject to all of the regulations of this Chapter, including but not limited to, underage consumption requirements.

13. Class H: A Class H liquor license may be issued by the local liquor control commissioner subject to the following:

- (a) It may be used for beer and wine sales only;
- (b) Each such license shall set forth the number of days for which it is granted, except that it may not exceed seven (7) days.
- (c) Each such license issued shall set forth the permitted location and the permitted hours of operation, which in no event shall be later than 10:00 P.M. if the event is outdoors or 12:00 midnight. if indoors.
- (d) Upon the approval of the issuance of such license, the applicant shall pay the sum of fifty dollars (\$50.00) plus twenty-five dollars (\$25.00) for each day of usage requested. Said fee is nonrefundable.
- (e) No person may obtain a Class H license more than twice in any fiscal year (May 1 to April 30).
- (f) As part of the approval process, if the event is to be held outdoors, the Chief of Police, or his designee, shall inspect and approve the area designated in the application for the class H license before the license is provided to the applicant.
- (g) A license that can be issued for indoor or outdoor activities.
- (h) Licenses may only be issued to civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least nine months prior to the making of such application and which in good faith have maintained a membership role during such nine month period, or any such organizations which have been incorporated under state law.
- (i) If the applicant does not own the property upon which the event will take place, the written permission of the owner is required.
- (j) In residential districts only where the sponsor is a qualified organization and the event occurs wholly indoors at a residence or outdoors but no later than 10:00 P.M. (Ord. 11-02, 5-2-11)

14. Class I: A Class I liquor license may be issued by the local liquor control commissioner subject to the following:

- (a) Class I Licenses allow outdoor drinking or seating, and may be issued only to a holder of a Class A-3 License and allows area subject to the following:
 - (1) Be immediately adjacent and contiguous to the licensed premises, be from the street or parking lot, and be accessible from the interior of the premises.
 - (2) Be no greater in area than the gross floor area of the licensed premises.
 - (3) Have the ability to be illuminated in case of emergency.

(4) The hours of operation of the outside drinking shall not extend past 1:00 A.M. or the closing time required for the licensed premises pursuant to Section 3-8-4, whichever is earlier.

- (b) The drinking or seating area may be located on a sidewalk provided it does not substantially impede pedestrian use. The license holder shall sign an agreement indemnifying and holding the Village harmless from any liability, claims, or damages that might be asserted by any party as a result of the location of the drinking or seating in the right-of-way. The license holder shall provide the Village a certificate of insurance with minimum coverage of one million dollars (\$1,000,000.00) per occurrence and which names the Village as an additional insured.
- (c) The total square footage of the outdoor drinking or seating area shall be included in the total parking calculations and requirements for the site.
- (d) No amplified sound or music nor any live entertainment shall be permitted in the outdoor drinking or seating area after 10:00 P.M. and shall at all times be subject to all noise limitations of the Village.
- (e) Each and every owner, operator, and/or manager licensed to sell alcoholic liquors in an outdoor drinking or seating area shall provide regular, diligent, and effective management and employee oversight and control of such outdoor drinking to assure compliance with the provisions of this Chapter and the Morton Municipal Code.
- (f) The annual fee for such licenses shall be one hundred twenty dollars (\$120.00), which shall be in addition to any other fees required by license holders pursuant to this Chapter.
- (g) Notwithstanding any other provision of this Chapter, it shall be unlawful for any liquor licensee to serve or allow to be consumed alcoholic liquor at an outdoor drinking or seating area without first obtaining a license as provided herein. (Ord. 14-15, 7-21-14)

(B) Other Permitted Uses:

1. A license holder shall be permitted to sell lottery tickets, provided he is duly licensed by the State of Illinois for same, and further provided that he complies at all times with the Illinois Lottery Law.
2. Class A-1, Class A-4, Class B-1, and Class D licenses permit the licensee to conduct product tasting of beer and/or wine, as the case may be, in the licensed premises, without limit to the number of such product tastings that may be conducted.
(amd. Ord. 08-37, 3-16-09)

3-8-4: **HOURS OF SALE:**

(A) A person who has been granted a license pursuant to this Chapter shall not permit to be consumed or sold, as same may apply to the particular license granted, any alcoholic liquors, beer or wine except as follows:

Class A-1 holder: On Monday through Saturday, except Christmas Day, 9:00 A.M. to 11:00 P.M.; on Sunday and Christmas Day from 12:00 noon to 11:00 P.M.

Class A-2 holder: On Monday through Saturday from 12:00 midnight to 1:00 A.M. and from 10:00 A.M. to 12:00 midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 12:00 midnight.

- Class A-3 holder: On Monday through Saturday from 12:00 midnight to 1:00 A.M. and from 10:00 A.M. to 12:00 midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 12:00 midnight.
- Class A-4 holder: On Monday through Saturday, except Christmas Day, 9:00 A.M. to 11:00 P.M.; on Sunday and Christmas Day from 12:00 noon to 11:00 P.M.
- Class B-1 holder: On Monday through Saturday, except Christmas Day, 9:00 A.M. to 11:00 P.M.; on Sunday and Christmas Day from 12:00 noon to 11:00 P.M.
- Class B-2 holder: On Monday through Saturday from 12:00 midnight to 1:00 A.M. and from 10:00 A.M. to 12:00 midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 12:00 midnight.
- Class B-3 holder: On Monday through Saturday from 12:00 midnight to 1:00 A.M. and from 10:00 A.M. to 12:00 midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 12:00 midnight.
- Class C holder: On Monday through Thursday from 5:00 A.M. to 11:00 P.M.; on Friday from 5:00 A.M. to 12:00 midnight; on Saturday from 12:00 midnight to 1:00 A.M. and from 5:00 A.M. to midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 9:00 P.M.
- Class D holder: On Monday through Saturday, except Christmas Day, from 10:00 A.M. to 10:00 P.M.; on Sunday and Christmas Day from 12:00 noon to 10:00 P.M.
- Class E holder: As allowed by the granting of same.
- Class F holder: As allowed by the granting of same.
- Class G holder: On Monday through Saturday from 12:00 midnight to 1:00 A.M. and from 10:00 A.M. to 12:00 midnight; on Sunday from 12:00 midnight to 1:00 A.M. and from 12:00 noon to 12:00 midnight.
- Class H holder: Allowed by the granting of same. (amd. Ord. 11-02, 5-2-11)

- (B) On January 1 of each year, holders of Class A-2, Class A-3, Class B-2, Class B-3, and Class C liquor licenses may extend their hours of sale to 2:00 A.M. This extension is allowed provided that no additional patrons may be admitted after regular closing hours, and there shall be no advertising or invitation to the public that the premises are open after the regular closing hours; and, in the event of any disturbance of the peace within the licensed premises, the premises shall close on order of the police at any time after regular closing hours; and the extension of the New Year's Eve closing hour shall not further apply; and all patrons shall, on such order of the police, immediately leave the licensed premises.
- (C) It shall be unlawful to keep open for business, to advertise it is open for business, or to admit the public to any licensed premises during the hours which it is prohibited from selling or dispensing alcoholic beverages or within thirty (30) minutes after the closing hour to permit any consumption or open containers of alcoholic beverages that could be used for consumption. No person other than the licensee or employees engaged in the performance of their duties shall be permitted to remain on said premises more than thirty (30) minutes after closing hours and until the premises may be legally reopened; provided, that in case of restaurants, such establishments may be kept open during such hours but no alcoholic liquor may be sold after the closing hour, nor shall any open container of alcoholic beverage be available to the public or any patron within thirty (30) minutes after the closing hour. (amd. Ord. 08-37, 3-16-09)

3-8-5: APPLICATION PROCEDURE; PAYMENTS; RENEWALS; TRANSFERS; LOCATION; CHANGE OF OWNERSHIP:

- (A) Applications: Applications shall be directed to and filed with the Local Liquor Control Commissioner, or his designee, and shall be accompanied by the deposit of a certified or cashier's check of a Morton Bank, postal money order, or cash in the full amount of the annual license applied for. If any application is denied, the deposit shall be returned to the applicant. (Ord. 04-53, 3-7-05)
- (B) Payments: License fees shall be payable in full prior to May 1 of the year of issuance. All licenses shall expire on April 30 next after the date of issue. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the year prior to the issuance of the license. Payment shall be made to the Local Liquor Control Commissioner, or his designee. (amd. Ord. 00-54, 4-2-01; amd. Ord. 04-53, 3-7-05)
- (C) Renewals: Any licensee may renew his license prior to the expiration thereof; provided, that he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for the purpose; and provided further, that the renewal privilege herein contained shall not be construed as a vested right which shall, in any case, prevent the Board of Trustees from decreasing the number of licenses to be issued within the Village.
- Any person who shall fail to make application for renewal and pay the fee as herein provided shall be deemed to have forfeited and abandoned such license, and no renewal thereof shall thereafter be permitted. Any such license so forfeited or abandoned shall not be reissued, and any such person seeking thereafter to procure a license shall be considered as a new applicant and shall be subject to all limitations as to the number of licenses to be issued as heretofore provided.
- (D) Transfer Of License: A license shall be purely a privilege good for and not to exceed one year after issuance, unless sooner revoked as by law provided, and shall not constitute property; nor shall it be subject to attachment, garnishment, or execution; nor shall it be alienable or transferable voluntarily or involuntarily. Such license shall not descend by the law of testate or intestate devolution; but it shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee and trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquors, may continue the business of the sale of alcoholic liquor under order of the appropriate court and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than six (6) months after the death, insolvency, or bankruptcy of such licensee. A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this Subsection. If a transfer is requested, an appropriate application shall be submitted together with payment of an investigation fee of fifty dollars (\$50.00). (amd. Ord. 12-24, 2-4-13)
- (E) Change Of Location: A retail dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon a written permit to make such changes issued by the Local Liquor Control Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of this State and the applicable provisions of this Code. (Ord. 85-19, 4-21-86; amd. Ord. 04-53, 3-7-05)
- (F) Change of Ownership: If the ownership of a license changes at any time, licensee shall notify the Liquor Commissioner in writing of same and provide the name and address of the new owner(s) and such other information as the Liquor Commissioner may require. The licensee shall also pay the sum of fifty dollars (\$50.00) as an investigation fee in order that the Liquor Commission can determine the eligibility of any new owner. (Ord. 12-24, 2-4-13)

3-8-6: **LIMITATION ON NUMBER:** In order that the health, safety, and welfare of the people of the Village be protected, and in order that minors shall be prevented from the purchase of alcoholic liquors, and in order that temperance in the consumption of liquors be fostered and promoted, there shall be a limit upon the number of liquor licenses issued and in effect, which is as follows:

Class A-1	Zero (0)
Class A-2	Four (4)
Class A-3	Zero (0)
Class A-4	Zero (0)
Class B-1	Three (3)
Class B-2	Eleven (11)
Class B-3	Four (4)
Class C	One (1)
Class D	Two (2)
Class E	Eight (8)
Class F	No specific limit
Class G	Zero (0)
Class H	No specific limit
Class I	Zero (0)

(Ord. 86-1, 5-5-86; amd. Ord. 86-14, 11-3-86; Ord. 87-11, 8-17-87; Ord. 88-14, 8-15-88; Ord. 89-10, 8-21-89; Ord. 95-1, 5-15-95; Ord. 97-14, 7-22-97; Ord. 97-38, 4-20-98; Ord. 98-30, 12-7-98; Ord. 98-49, 4-19-99; Ord. 99-12, 8-2-99; Ord. 99-17, 9-7-99; Ord. 99-38, 11-15-99; amd. Ord. 99-48, 2-21-00; amd. Ord. 00-02, 5-1-00; amd. Ord. 01-01, 5-7-01; amd. Ord. 02-10, 7-1-02; amd. Ord. 04-10, 6-21-04; amd. Ord. 04-21, 7-6-04; amd. Ord. 05-22, 10-17-05; amd. Ord. 05-47, 3-20-06; amd. Ord. 06-08, 6-5-06; amd. Ord. 08-10, 8-18-08; amd. Ord. 08-13, 9-15-08; amd. Ord. 08-15, 11-3-08, amd. Ord. 08-29, 12-1-08; amd. Ord. 08-47, 4-20-09; amd. Ord. 09-06, 5-18-09; amd. Ord. 09-09, 6-1-09; amd. Ord. 09-12, 7-6-09; amd. Ord. 09-23, 8-3-09; amd. Ord. 10-23, 11-15-10; amd. Ord. 10-34, 2-21-11; amd. Ord. 10-40, 4-4-11; amd. Ord. 11-02, 5-2-11; amd. Ord. 11-09, 6-20-11; amd. Ord. 11-16, 7-18-11; amd. Ord. 11-33, 3-19-12; amd. Ord. 10-35, 4-2-12; amd. Ord. 12-05, 6-18-12; amd. Ord. 12-22, 12-3-12; amd. Ord. 13-13, 9-3-13; amd. Ord. 13-19, 10-21-13; amd. Ord. 13-28, 2-3-14; amd. Ord. 13-35, 4-7-14; amd. Ord. 14-15, 7-21-14; amd. Ord. 14-35, 3-2-15; amd. Ord. 15-01, 5-18-15; amd. Ord. 15-09, 9-8-15; amd. Ord. 15-19, 3-7-16; amd. Ord. 16-04, 9-19-16; amd. Ord. 16-10, 11-21-16; amd. Ord. 16-15, 3-6-17; amd. Ord. 17-01, 5-15-17; amd. Ord. 17-07, 6-19-17; amd. Ord. 17-16, 8-7-17; amd. Ord. 17-18, 8-21-17; amd. Ord. 17-35, 2-5-18; amd. Ord. 19-01, 5-7-18)

3-8-7: **LICENSES, APPLICATION REQUIREMENTS:** All applications shall be on forms approved by the local Liquor Control Commission and shall be submitted in writing, executed under oath or affirmation by the applicant seeking a license, shall be accompanied by a bond in the penal sum of one thousand dollars (\$1000.00) with corporate surety authorized to do business in the State of Illinois, and shall set forth the following information and statements:

- (A) The applicant's name and mailing address.
- (B) The name and address of the applicant's business.
- (C) If applicable, the date of the filing of the "assumed name" of the business with the County Clerk.
- (D) In case of a co-partnership, the date of the formation of the partnership; in the case of an Illinois corporation, the date of its incorporation; or, in the case of a foreign corporation, the state where it was incorporated and the date of its becoming qualified under the Illinois Business Corporation Act¹ to transact business in the State of Illinois.
- (E) The name and address of the landlord if the premises are leased.

¹ S.H.A., Ch. 32, 1.01 et seq.

- (F) The date of the applicant's first request for a State liquor license and whether it was granted, denied, or withdrawn.
- (G) Whether the applicant has made an application for a liquor license which has been denied; and, if so, the reasons therefor.
- (H) Whether the applicant has ever had a previous liquor license suspended or revoked; and, if so, the reasons therefor.
- (I) Whether the applicant has ever been convicted of a gambling offense or felony; and, if so, the particulars thereof.
- (J) Whether the applicant possesses a current Federal Wagering or Gaming Device Stamp; and, if so, the particulars thereof.
- (K) Whether the applicant or any other person directly or indirectly in his place of business is a public official; and, if so, the particulars thereof.
- (L) Whether, in the case of an application for the renewal of a license, the applicant has made any political contributions within the past two (2) years; and, if so, the particulars thereof.
- (M) The applicant's name, sex, date of birth, Social Security number, position, and percentage of ownership in the business; and the name, sex, date of birth, Social Security number, position, and percentage of ownership in the business of every sole owner, partner, corporate officer, director, manager, and any person who owns five percent (5%) or more of the shares of the applicant business entity or parent corporations of the applicant business entity.
- (N) That he has not received or borrowed money or anything else of value and that he will not receive or borrow money or anything else of value (other than merchandising credit in the ordinary course of business for a period not to exceed ninety [90] days as herein expressly permitted under section 6-5 of the Liquor Control Act of 1934), directly or indirectly, from any manufacturer, importing distributor, or distributor; or from any representative of any such manufacturer, importing distributor, or distributor; nor be a part in any way, directly or indirectly, to any violation by a manufacturer, distributor, or importing distributor of Section 6-6 of the Liquor Control Act of 1934.
- (O) The length of time the applicant has resided in the Village prior to filing the application and all addresses at which the applicant has resided in the past five (5) years; if a corporation, the length of time the manager has resided in the Village prior to filing the application and all addresses at which the manager has resided in the past five (5) years.
- (P) The character of the business of the applicant; and, in the case of a corporation, the objects for which it was formed.
- (Q) The location and description of the premises or place of business which is to be operated under the license.
- (R) A statement whether applicant is an alcoholic or has received treatment for alcoholism or any drinking problem, or has been involved in any incident involving the police, including traffic, in which he was intoxicated, detailing the dates, locations, and results of any such treatment or incident.
- (S) A statement whether the applicant has received a local license to sell alcoholic liquors at retail from any state or political subdivision thereof.
- (T) A statement that the location where the applicant proposes to sell alcoholic liquors at retail is not within one hundred feet (100') of any church, school, hospital, home for aged, indigent persons, or veterans, undertaking establishment, or mortuary.

If said application is made on behalf of a partnership, firm, association, club, or corporation, then the same shall be signed and sworn or affirmed to by at least two (2) members of such partnership or the resident and secretary of such corporation or club. The applicant shall submit with the application documentary proof of his interest in the premises, whether by lease, deed, or otherwise.

- 3-8-8: **APPLICATION, PERSONS INELIGIBLE:** No license authorized by this Chapter shall be issued to:
- (A) A person who is not a resident of any city, village, or county in which the premises covered by the license are located, except in case of railroad or boat license.
 - (B) A person who is not of good character and reputation in the community in which he resides.
 - (C) A person who is not a citizen of the United States.
 - (D) A person who has been convicted of a felony under any Federal or State law, if the Liquor Control Commission determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust.
 - (E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
 - (F) A person who has been convicted of being the keeper or is keeping a house of ill fame.
 - (G) A person whose license issued under this Chapter or the laws of the State of Illinois has been revoked for cause.
 - (H) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon first application.
 - (I) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license.
 - (J) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.
 - (K) A corporation, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois.
 - (L) A person whose place of business is conducted by a manager, unless the manager or agent possesses the same qualifications required by the licensee.
 - (M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession, or sale of alcoholic liquor subsequent to the passage of this Chapter or has forfeited his bond to appear in court to answer charges for any such violation.
 - (N) A person who does not beneficially own the premises for which the license is sought or does not have a lease thereon for the full period for which the license is to be issued.

- (O) Any law-enforcing public official, including members of the local Liquor Control Commission, any mayor, alderman, or member of the City Council or Commission, any president of the Village Board of Trustees, or any president or member of a county board; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission.
- (P) A person who is not a beneficial owner of the business to be operated by the licensee.
- (Q) A person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(10) of Section 28-1 or as proscribed by Section 28-3 of the "Criminal Code of 1961" approved July 28, 1961, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.¹
- (R) A person to whom a Federal Gaming Device Stamp or a Federal Wagering Stamp has been issued by the Federal government for the current tax period.
- (S) A co-partnership to which a Federal Gaming Device Stamp or a Federal Wagering Stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal Gaming Device Stamp or Federal Wagering Stamp by the Federal government for the current tax period.
- (T) A corporation, if any officer, manager, or director thereof, or any stockholder owning in the aggregate more than twenty percent (20%) of the stock of such corporation has been issued a Federal Gaming Device Stamp or a Federal Wagering Stamp for the current tax period.
- (U) Any premises for which a Federal Gaming Device Stamp or a Federal Wagering Stamp has been issued by the Federal government for the current tax period. (Ord. 86-1, 5-5-86)

3-8-9: **APPLICATION, DECISION:** Within thirty (30) days after the submission of an application to the local Liquor Control Commission, the Liquor Control Commission shall either approve or deny said application; except that, if no action has been taken within said thirty (30) day period, said application shall be deemed to have been denied and no license shall issue. (Ord. 86-1, 5-5-86)

3-8-10: **BARTENDER PERMITS:** (Rep. by Ord. 94-3, 5-2-94)

3-8-11: **LICENSE REVOCATION; SUSPENSION OR FINE:** Any violation of any provisions of this Chapter or of the Liquor Control Act of 1934², any mis-statements or withholding of material information in an application for license, or any indebtedness to the Village shall be deemed cause for refusal of a license, revocation, or suspension of a license, or the levying of a fine against the license holder.

Any license granted as provided by this Chapter may be revoked or suspended for cause by the local Liquor Control Commission upon a finding of the local Liquor Control Commission that any provision of this Chapter has been violated; or, in the alternative, the local Liquor Control Commission may impose a fine.

All fines imposed shall be subject to the provisions of 235 Illinois Compiled Statutes 5/7-5 or as may from time to time be amended.

For purposes of this Section, a license holder shall be responsible for and accountable for any actions by his employees, agents, or anyone acting on his behalf with respect to any activities on the licensed premises.

¹ S.H.A. 720 ILCS.

² S.H.A. 235 ILCS.

3-8-12: **LICENSE, APPEALS:** No such license shall be revoked or suspended, nor may a fine be imposed unless the local Liquor Control Commission shall hold a public hearing upon at least three (3) days' written notice to the licensee, at which time said licensee may appear and defend. If the local Liquor Control Commission has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the Village, it may, without notice of hearing, order the licensed premises closed for not more than seven (7) days upon the issuance of a written order stating the reason for such conclusion. The local Liquor Control Commission shall give the licensee an opportunity to be heard during said seven (7) day period.

Within five (5) days of any hearing held pursuant to this Section, the local Liquor Control Commission shall, if it determines that the license shall be suspended or revoked or that a fine be levied, state the reasons for such determination in a written order of revocation or suspension or amount of fine and shall serve a copy of such order within the five (5) days upon the licensee, said service to be personal or by certified or registered mail, return receipt requested.

3-8-13: **CARRYING OF ALCOHOLIC LIQUOR FROM PREMISES:** No person shall carry any alcoholic liquors in an unsealed or opened container from the licensed premises where such alcoholic liquor was purchased.

No licensee or person as proprietor, agent, servant, or employee of such licensee shall knowingly permit any patron to violate this Section nor sell alcoholic liquors to such person knowing that such person intends to carry the alcoholic liquor from the premises in an open or unsealed container.

The foregoing provisions shall not apply when a licensee has been issued a Class F license and further provided that the person carrying such unsealed or open container does not carry same off of the area for which the Class F license has been granted.

3-8-14: **CERTAIN ACTS PROHIBITED:** It shall be unlawful for any licensee for on-premises consumption under this Chapter to suffer or permit any person on the premises or in any area which can be viewed from the premises acts of or acts which simulate:

- (A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- (B) The touching, caressing, or fondling of the breasts, buttocks, anus, or genitals.
- (C) The displaying of the pubic hair, anus, vulva, or genitals.
- (D) To permit any person to remain in or upon the licensed premises who commits any of the acts described above or allows another person to commit upon his or her body any of the acts described above.

3-8-15: **CLOSING PREMISES:** If a disturbance occurs on the licensed premises during the operating hours as set forth in this Chapter, which appears to endanger the lives, property, or persons of the patrons of a licensed premises, the Chief of Police or his delegate may order the licensed establishment to close its business until the next business day and may order all the patrons to leave the licensed premises immediately.

3-8-16: **CONDITION OF PREMISES:** All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for retail sale shall be kept in a clean and sanitary condition and shall be kept in full compliance with the provisions of this Chapter and other ordinances of the Village regulating the condition of premises.

3-8-17: **CURB SERVICE, DRIVE THRU:** The premises for which a license has been issued shall not have drive-thru facilities whereby a consumer can purchase beer, wine, or other alcoholic liquor from a motor vehicle.

It is the intent and purpose of this Section to allow the purchase and/or sale of beer, wine, or other alcoholic liquor in the premises only, unless otherwise allowed by the issuance of a Class F license.

3-8-18: **DELIVERY TO MINORS:** No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give, or deliver such alcoholic liquor to another person under the age of twenty one (21) years, except in the performance of a religious ceremony or service.

3-8-19: **DISPLAY OF LICENSE:** Every licensee shall cause his license issued under this Chapter to be framed and kept in plain view in a conspicuous place on the licensed premises.

3-8-20: **DISPLAY OF WARNING CARD:** Every place in the Village where alcoholic liquor is sold for beverage purpose shall display in a prominent place in plain view on the premises a printed card which shall read as follows:

WARNING TO MINORS

You are subject to a fine of up to five hundred dollars (\$500.00) under the ordinances of the Village of Morton if you purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

3-8-21: **ELECTION DAYS:** Liquor licensees may sell at retail alcoholic liquor on any election day in accordance with the limitations and restrictions of their respective class of license under the Morton Municipal Code.

3-8-22: **EXCEPTIONS:** The possession and dispensing, or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor under the direct supervision and approval of the parents, parent, guardian, or guardians of such minor in the privacy of a home is not prohibited by this Chapter. (Ord. 85-19, 4 -21-86)

3-8-23: **GAMBLING:** No licensee shall permit any gambling or gambling devices in the place licensed or any place connected therewith. Failure of such licensee to prohibit gambling in his place of business shall be grounds for revocation or suspension of his license. (Ord. 85-19, 4-21-86)

3-8-24: **GENERAL REQUIREMENTS OF LICENSE HOLDER:** No licensee nor any officer, associate member, representative, agent, or employee of such licensee shall:

- (A) Sell or possess for sale any package containing alcoholic liquor unless the same shall have affixed thereto all cancelled revenue stamps which may be required by the State or Federal laws.
- (B) Sell, give, or deliver alcoholic liquor to any person under the age of twenty one (21) years or to any intoxicated person, or to any person known to him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient, or in need of mental treatment.
- (C) Harbor or permit any intoxicated person to linger on the premises described in the license or permit any conduct which shall tend to disturb the peace and quiet of the neighborhood of the premises.
- (D) Serve or permit any person to consume any alcoholic liquor in any portion of the premises, the interior of which is shut off from the general public by doors, curtains, screenings, partitions, or other devices of any kind, or maintain such an area as part of or adjacent to the premises.

- (E) Make sale of alcoholic liquors in excess of or contrary to the powers granted in any of the provisions of the license for the premises or in violation of the Liquor Control Act of 1934.
- (F) Employ or permit anyone under the age of twenty one (21) years to act as an entertainer, or to sell or serve alcoholic liquor, or to act as a bartender in the preparation of alcoholic liquor; except that a person of nineteen (19) years of age may serve such liquor to tables beyond the bar or place of preparation; provided, that all of the following conditions are met:
1. The primary duty of such person is the serving of food and the servicing of patrons seated at tables.
 2. The service of alcoholic beverages is incidental to the service of food to patrons.
 3. Service shall not be at a counter primarily used for serving drinks (i.e., bar) or any portion of the establishment where meals are not generally served (i.e., cocktail lounge).
- (G) Allow the sale or consumption of alcoholic liquor in any area except in the premises, unless the licensee has been issued a Class F license, and in such case only as allowed under the conditions of such Class F license. (Ord. 85-19, 4-21-86)
- (H) Violate any provisions of Title 12 Chapter 2 of the Morton Municipal Code or violate any rules or regulations promulgated by any authority pursuant to the Smoke Free Illinois Act. (Ord. 07-52, 1-7-08)

3-8-25: **LOCATION RESTRICTIONS:** No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet (100') of any church, school, hospital, home for the aged, indigent persons, or veterans, undertaking establishment, or mortuary; provided that this prohibition shall not apply to restaurants, regularly organized clubs, food shops, or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purposes prior to taking effect of this Chapter, nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred feet (100') of any church or school since the issuance of the original license. In the case of a church, a distance of one hundred feet (100') shall be measured to the nearest part of any building used for worship services or educational programs and not to property or boundaries.

No Class A-1 or B-1 license may be issued to a location which is within one hundred feet (100') of any residentially zoned district. The one hundred feet (100') shall not include any right-of-way between the properties.

Any existing location that has a Class A-1 or B-1 liquor license and which is located within the restricted area shall be exempt from this requirement. The exemption shall remain in effect for such location as long as the liquor license remains in effect and for an additional period of one year from the time the license is terminated. (Ord. 85-19, 4-21-86; amd. Ord. 11-25, 11-21-11)

3-8-26: **MINORS IN TAVERNS:** It shall be unlawful for any minor person under the age of seventeen (17) years, unless accompanied by his parent, legal guardian, or other responsible adult at least twenty five (25) years of age having the custody and control of said minor person, to enter upon or attempt to enter any premises licensed as a tavern, except in the exercise of the legitimate business or trade of such minor; provided, however, that this Section shall not apply to restaurants, clubs, package liquor stores, or to that portion of bowling alleys other than those used exclusively or primarily for the sale and consumption of alcoholic liquors. (Ord. 85-19, 4-21-86)

3-8-27: **MISREPRESENTATION OF AGE:** If a licensee or his agent or employee believes or has reason to believe that sale or delivery of any alcoholic liquor is prohibited because of the nonage of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification containing proof of age, issued by a public official in the performance of his official duties.

For the purpose of preventing the violation of this Section, any licensee, his agent, or employee may refuse to sell or serve alcoholic beverages to any person who, in his opinion, is unable to produce adequate positive identification of identity and of the fact that he or she is at least the age of twenty one (21). (Ord. 85-19, 4-21-86; amd. Ord. 96-27, 10-21-96)

3-8-28: **PEDDLING:** It shall be unlawful to peddle alcoholic liquor in the Village. (Ord. 85-19, 4-21-86)

3-8-29: **PUBLIC PLACES, CONSUMPTION:** No person may consume or have in his possession an open container or a container with a broken seal containing any alcoholic beverage in any park or vehicle parking area open to the public or in any restaurant or eating places not licensed to serve alcoholic beverages within the Village.

The foregoing provisions shall not apply when a licensee has been issued a Class F license; and further provided, that the aforesaid activity is only permitted pursuant to the authority and provisions of such Class F license. (Ord. 85-19, 4-21-86)

3-8-30: **REPORTING OF INCIDENTS:** Each licensee and each of his agents and employees shall immediately report to the Police Department of the Village of Morton any incident occurring in or about the licensed premises and in his knowledge or view relating to the attempt or commission of any crime, including any violation of this Chapter, and shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premises and any events taking place in and about the licensed premises. (Ord. 85-19, 4-21-86)

3-8-31: **RESTRICTED AREA:** It shall be unlawful to sell or offer for sale at retail any alcoholic liquor within any residential district of the Village. (Ord. 85-19, 4-21-86)

3-8-32: **SALE OF LICENSED PREMISES:** Upon application being filed with the Local Liquor Control Commissioner, or his designee, and upon payment of an investigation fee in the sum of fifty dollars (\$50.00), the Local Liquor Control Commissioner may issue a license to the purchaser of an established licensed business as a going concern. Such application must be for exactly the same class of license as that held by the seller, and such application shall be only for the same location as the previously licensed business. Any such purchaser shall make application for the issuance of a new license to him, and in such application he shall state the actual facts in respect to his purchase of such business. He shall also fill out an application form and furnish the information and make that statement similar to that required of any other licensee under Section 3-8-7 of this Chapter. Such application shall be investigated and approved or rejected in the case of applications for original licenses; and, if approved, the license shall be issued to such purchaser upon payment to the Local Liquor Control Commissioner, or his designee, of the license fee then due, without any credit for any unused portion of the previous license; and there shall be no rebate to any person for any unused portion of any license. No license shall be issued to the purchaser of such business until the seller of such business shall have surrendered his license to the Local Liquor Control Commissioner, or his designee, for cancellation. (Ord. 85-19, 4-21-86; amd. Ord. 04-53, 3-7-05)

3-8-33: **SHOWING OF CERTAIN FILMS, PICTURES PROHIBITED:** It shall be unlawful for any licensee for on-premises consumption under this Chapter to suffer or permit the showing on the premises or in any area which can be viewed from the premises of film, still pictures, electronic reproduction, or other visual reproductions depicting:

- (A) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- (B) Any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals.

- (C) Scenes wherein a person displays the vulva or the anus or the genitals.
- (D) Scenes wherein artificial devices or inanimate objects are employed to depict or drawings are employed to portray any of the prohibited activities described above. (Ord. 85-19, 4-21-86)

3-8-34: **PENALTY PROVISIONS:** Any person other than a license holder who violates any of the provisions of this Chapter shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.00) or more than seven hundred fifty dollars (\$750.00) except that the minimum fine for violations of certain sections of this Chapter shall be as follows:

- (A) Section 3-8-14: Two hundred dollars (\$200.00).
- (B) Section 3-8-18: Two hundred dollars (\$200.00).
- (C) Section 3-8-27: (Rep. by Ord. 96-27, 10-21-96)
- (D) Section 3-8-33: Two hundred dollars (\$200.00).

License holders are subject to the provisions of Sections 3-8-1 and 3-8-12 of this Chapter and are subject to the fines provided for therein. (Ord. 85-19,4-21-86; amd. Ord. 99-37, 12-6-99)

3-8-35: **SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included. (Ord. 85-19, 4-21-86)

CHAPTER 9

ITINERANT MERCHANTS, PEDDLERS¹

SECTION:

- 3-9-1: Definitions
- 3-9-2: License And Bond Provisions
- 3-9-3: Application
- 3-9-4: License
- 3-9-5: Exemption From Application, License, And Bond Requirements
- 3-9-6: Possession Required
- 3-9-7: Special Events
- 3-9-8: Vehicles To Be Marked
- 3-9-9: Peddling On Nonmotorized Vehicles After Sunset Prohibited
- 3-9-10: Limitation On Hours Of Operation
- 3-9-11: Public Streets; Restrictions
- 3-9-12: Restrictions On Sales Facilities On Private Property
- 3-9-13: Location Of Sales Facilities On School Or Park Property
- 3-9-14: Fraud
- 3-9-15: Violation And Penalty
- 3-9-16: Severability Clause
- 3-9-17: Violations Of Other Laws Or Regulations

3-9-1: **DEFINITIONS:** For purposes of this Chapter:**ITINERANT
MERCHANT:**

Any person whether or not the person is an employee of another person, who on real property in which he does not hold a fee simple interest or does not have a leasehold interest of at least six (6) months establishes a display, exhibition, or sales facility for the purpose of selling, offering, or displaying for sale and immediate delivery of tangible personal property at retail or sale of food shall be considered an itinerant merchant for purposes of this Chapter if:

(A) The display, exhibition, or sales facility is established with the intent that such display, exhibition, or sales facility will remain in operation for a period of less than six (6) months; or

(B) The display, exhibition, or sales facility is established with the intent that its operation will be interrupted for a period of more than ninety (90) days in any calendar year.

**NONPROFIT
ORGANIZATION:**

Any bona fide charitable, educational, fraternal, labor, religious, or veterans' organization that operates without profit to its members and which has been in existence continuously for a period of five (5) years or more immediately before making application for a license and which has had during the entire five (5) year period a bona fide membership engaged in carrying out its objectives. If the organization has an exemption under section 501(C) of the Internal Revenue Code, the five (5) year requirement is waived. In such case, a copy of that exemption shall be filed with the Village.

¹ 65ILCS 5/11-42-5.

PEDDLER: Any person, whether or not the person is an employee of another person, who directly or indirectly sells or offers for sale, barter, or exchange any farm produce, vegetables, dairy products, meat, fish, foods of any kind, or other goods, wares, or merchandise of any kind, at retail, making delivery of said goods at the time of sale regardless of whether or not such person collects payment at the time of sale, all while traveling from place to place in, along, and upon the streets, alleys, sidewalks, or other public places within the Village, or while operating from one or more locations outside of a totally enclosed permanent structure.

Photographers shall be considered peddlers for all purposes of this Chapter if they do not have a primary address within the Village of Morton limits and they do not conduct business at said address at least six (6) months a year. Photographers who engage in home portraits at the customer's residence or who photograph weddings are exempt from this Chapter.

SOLICITOR: A solicitor is a person who obtains orders, subscriptions, gifts, contributions, or items of a similar nature. Solicitors are regulated under Title 3, Chapter 20 of the Morton Municipal Code. (Ord. 93-21, 1-3-94)

3-9-2: LICENSE AND BOND PROVISIONS:

(A) It shall be unlawful for any peddler or itinerant merchant to transact any business within the Village without having first obtained a license therefor.

(B) It shall be unlawful for any "peddler" or "itinerant merchant" as herein defined, except as provided in Section 3-9-7 of this Chapter, or as provided in subsection (C) of this Section, to transact any business within the Village without having first filed with the Chief of Police, or his designee, a bond running to the Village in the sum of one thousand dollars (\$1,000.00), in cash or executed by a surety company, conditioned that the application shall comply with all the provisions of this Code, the Village Ordinances and the Statutes of the State regulating and concerning the sale of food, goods, wares, and merchandise and will pay all judgments rendered against such applicant for any violation of this Code, or the Ordinances or Statutes or any of them, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deception practiced on any person transacting such business with the applicant, whether such representation or deception was made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares, and merchandise sold or any part thereof. Action on the bond may be brought by any person. The bond shall have an expiration date of sixty (60) days after the license for which it was issued expires. Any cash deposit shall be returned on the sixty first (61) day after the license expired, providing no claims have been made on same. If there are any pending claims, the deposit shall continue to be held until all claims are settled by agreement of the parties involved or by appropriate order of court. (Ord. 04-53, 3-7-05)

(C) If a peddler or itinerant merchant has been in business for a period of one year or more prior to the adoption of this Chapter, then said peddler or itinerant merchant shall be exempt from filing a bond. "In business" shall mean transacting business for a period of at least thirty (30) consecutive days except for closing the business no more than one (1) day per week during said period. This exception shall apply as long as the peddler or itinerant merchant continues in business each calendar year. The exception shall cease if the peddler or itinerant merchant ceases business during any calendar year.

If a peddler or itinerant merchant has previously been issued a license for the immediately preceding year, and has otherwise complied with all provisions of this Chapter, then the bond is waived for that year.

- (D) No license required in subsection (A) of this Section shall be issued until the applicant therefor shall have filed the bond required in subsection (B) of this Section and provide proof of a sales tax identification number or an exemption. (Ord. 93-21, 1-3-94; amd. Ord. 05-27, 11-21-05)
- (E) No license may be issued for the sale of fireworks as defined by 425 Illinois Compiled Statutes 35/1 as now in effect, or as may from time to time be amended, or for the sale of snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers," "booby traps," "snappers," "trick matches," "cigarette loads," and "auto burglar alarms," sparklers; or toy pistols, toy canes, toy guns, or other devices in which plastic or plastic caps containing twenty five hundredths (0.25) grains or less of explosive compound are used. (Ord. 96-45, 4-21-97)
- (F) All licensees shall comply with all ordinances of the Village of Morton. (Ord. 05-27, 11-21-05)

3-9-3: **APPLICATION:** Applications for licenses required by Section 3-9-2 of this Chapter shall be made, in writing, to the Chief of Police, or his designee, and shall state thereon the name and permanent address of the applicant; the kind of merchandise or nature of service to be sold or contracted for; the proposed area or place where the business is sought to be conducted; the proposed hours during which business will be conducted; the State sales tax number of the operator; and, in case of a corporation or firm, the name, permanent business address, and names of the principal officers of the same. The Chief of Police, or his designee, shall process the application by the end of the next business day following the day it was received. (Ord. 93-21, 1-3-94; amd. Ord. 04-53, 3-7-05)

3-9-4: **LICENSE:** The license fee shall be one hundred dollars (\$100.00). Each license issued hereunder shall be for a period of time not to exceed three (3) months and shall be for one (1) location only. A license may be renewed no more than one (1) time in a calendar year. Application for renewal shall be made to the Chief of Police or his designee on such forms as the Chief of Police may require. The renewal fee for a license shall be fifty dollars (\$50.00). In the event any person has transacted any business without obtaining a license or renewal, then in addition to any penalties he or she may be subject to, the license or renewal fee shall be two hundred dollars (\$200.00). (Ord. 93-21, 1-3-94; amd. Ord. 05-27, 11-21-05; amd. Ord. 15-11, 11-2-15)

3-9-5: **EXEMPTION FROM APPLICATION, LICENSE, AND BOND REQUIREMENTS:**
The following shall be exempt from the application, license, and bond requirements of this Chapter:

- (A) **Prior Invitation:** Any person who, for the purpose of selling or taking orders for the sale of merchandise or services, has been previously invited by the occupant of a residence to call thereon.
- (B) **Nonprofit Organization:** Any person selling, peddling, soliciting, or taking orders for any goods or services not prohibited by law on behalf of a nonprofit organization sponsored by or participated in by a local chapter of such organization; or by a national nonprofit organization not represented locally but which has filed a statement of registration with the Chief of Police, or his designee, specifying the name of the nonprofit organization, its permanent address, the names of its principal officers, and names of those persons who are authorized to sell, peddle, or solicit or take orders for goods and services within the Village. (Ord. 04-53, 3-7-05)
- (C) **Celebrations or Events:** Any person selling, peddling, soliciting, or taking orders for any goods or services not prohibited by law while participating in a Morton Merchant Association event, Morton Chamber of Commerce Pumpkin Festival, and any Downtown Business Association event. (amd. Ord. 05-27, 11-21-05)
- (D) **Newspaper Vendors:** Any person who, on behalf of the publisher of any newspaper of general circulation within the Village, peddles the same within the Village.

- (E) Holders of Special Liquor Licenses: Any holder of a Class F liquor license issued under the provisions of Chapter 8 of this Title may conduct liquor sales in accordance with the terms of such license.
- (F) Registered Solicitors: Persons who have registered to solicit under the provisions of Chapter 20 of this Title.
- (G) Garage Sales: The provisions of Title 12, Chapter 1 of this Code apply to garage sales.
- (H) Persons Under Age Twelve: Sales by any person under the age of twelve (12) years. (Ord. 93-21, 1-3-94)
- 3-9-6: **POSSESSION REQUIRED:** Any person licensed pursuant to this Chapter shall, at all times, while engaged in the activities defined in Section 3-9-1 of this Chapter, keep said license in his possession and shall display the same upon the demand of any police officer or upon the request of any person whose premises he seeks to enter. (Ord. 93-21, 1-3-94)
- 3-9-7: **SPECIAL EVENTS:** If two (2) or more persons desire to conduct business which is covered by this Chapter, and they are sponsored by a business who owns or leases property adjacent to where the business is to be conducted, or they are sponsored by an organization representing businesses, then a special event license can be obtained, subject to the following:
- (A) One license will be issued in the name of the sponsoring business or business organization who shall assume all responsibility with respect to the provisions of this Chapter.
- (B) The special event shall not exceed seven (7) consecutive days.
- (C) No license fee shall be collected for the event.
- (D) The bond requirements shall be waived.
- (E) All other provisions of this Chapter shall be complied with. (Ord. 93-21, 1-3-94)
- 3-9-8: **VEHICLES TO BE MARKED:** Every vehicle or conveyance used by a person licensed hereunder shall be conspicuously marked with the name of such person or his employer. This provision shall apply to peddlers only. (Ord. 93-21, 1-3-94)
- 3-9-9: **PEDDLING ON NONMOTORIZED VEHICLES AFTER SUNSET PROHIBITED:** It shall be unlawful for any person to peddle any goods, wares, or other merchandise by means of a bicycle or other nonmotorized vehicle after sunset and before sunrise. (Ord. 93-21, 1-3-94)
- 3-9-10: **LIMITATION ON HOURS OF OPERATION:** It shall be unlawful for any peddler or itinerant merchant to transact the business of a peddler or itinerant merchant as defined in Section 3-9-1 of this Chapter before sunrise or after the later of either the hour of six o'clock (6:00) P.M. or sunset. (Ord. 93-21, 1-3-94)
- 3-9-11: **PUBLIC STREETS; RESTRICTIONS:**
- (A) Prohibition: No person, firm, corporation, or other legal entity shall peddle on any public right of way within the corporate limits of the Village. No person, firm, corporation, or other legal entity shall act as an itinerant merchant on any public right of way within the corporate limits of the Village.
- (B) Exemption: If the President and Board of Trustees have authorized the temporary closing of a public street, or any portion thereof, then during the period of such closing, personal property, including food products, may be peddled subject to all other applicable Ordinances of the Village. (Ord. 93-21, 1-3-94)

3-9-12: **RESTRICTIONS ON SALES FACILITIES ON PRIVATE PROPERTY:** No peddler or itinerant merchant licensed under the provisions of this Chapter may operate from or erect or place any display, exhibition, or sales facility of any nature whatsoever upon any parcel of privately owned real property except under the following conditions:

- (A) Such activity is permitted under all applicable zoning regulations.
- (B) The size and location of the display, exhibition, or sales facility shall not exceed any limitations that apply to the zoning district it is located in. A sales facility cannot be a trailer.
- (C) All parking requirements are met on the parcel where the display, exhibition, sales facility, or operation is located. Any area used by said display, exhibition, sales facility, or operation shall not be considered available for parking.
- (D) Except as otherwise permitted in this Chapter, no peddler or itinerant merchant shall establish a display or offer for sale any goods, merchandise, or other tangible personal property from any location which is closer to any public right of way than the front or side yard setback established under the zoning regulations set forth in this Code which are applicable to the parcel from which he is operating.
- (E) Except as otherwise permitted in this Chapter, no peddler or itinerant merchant shall establish or display a sign without first complying with this Code's regulations applicable to signs. (Ord. 93-21, 1-3-94)

3-9-13: **LOCATION OF SALES FACILITIES ON SCHOOL, PARK, LIBRARY, OR TOWNSHIP PROPERTY:** A licensed peddler or itinerant merchant may erect and operate a temporary display or facility upon property under the control of any school, park, library district, or township property, provided the written consent of an authorized official of the school, park, library district, or township in question is first obtained. (Ord. 93-21, 1-3-94; amd. Ord. 05-27, 11-21-05)

3-9-14: **FRAUD:** Any licensed peddler or itinerant merchant who shall be guilty of any fraud, cheating, misrepresentation, or imposition, whether himself or through an employee, while engaged in his trade within the Village or who shall sell or peddle any goods other than those specified in his application for a license shall be deemed guilty of a violation of this Chapter. (Ord. 93-21, 1-3-94)

3-9-15: **VIOLATION AND PENALTY:** Any person, firm, corporation, or other legal entity convicted of a violation of any provision of this Chapter shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than seven hundred fifty dollars (\$750.00). Each day sales are made without a license shall be considered a separate violation. (Ord. 93-21, 1-3-94; amd. Ord. 99-37, 12-6-99)

3-9-16: **SEVERABILITY CLAUSE:** If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Village Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included.

(Ord. 93-21, 1-3-94)

3-9-17: **VIOLATIONS OF OTHER LAWS OR REGULATIONS:** Any license holder who violates any Ordinance, State Statute, Federal law, or any government agency rule or regulation shall upon notice of such violation immediately cease selling all products or property and turn its license in to the Village, at which time it shall be considered void. (Ord. 96-45, 4-21-97)

CHAPTER 10
JUNK DEALERS

SECTION:

- 3-10-1: License Required
- 3-10-2: Applications
- 3-10-3: Fee
- 3-10-4: Stolen Goods
- 3-10-5: Vehicles
- 3-10-6: Location; Frontage Contents
- 3-10-7: Records
- 3-10-8: Purchase Restrictions
- 3-10-9: Sales

3-10-1: **LICENSE REQUIRED:** It shall be unlawful to operate or carry on the business of junk dealer or to keep any junk shop, store, or place for the purchase or sale of junk, rags, old rope, paper or bagging, old iron, brass, copper, or empty bottles, without having obtained a license therefor as is hereinafter provided.¹ (1944 Code, Sec. 241)

3-10-2: **APPLICATIONS:** Applications for such licenses shall be made in conformance with the provisions of this Code relating to licenses. (1944 Code, Sec. 242)

3-10-3: **FEE:** The fee to be paid for such licenses, for an annual license, shall be one hundred dollars (\$100.00); and an additional fee of ten dollars (\$10.00) for each vehicle used in the conduct of such business; provided that a junk dealer not maintaining a store or yard in the Village shall pay only a license of ten dollars (\$10.00) per vehicle used in the conduct of such business within the Village. (1944 Code, Sec. 243)

3-10-4: **STOLEN GOODS:** Every keeper of a junk shop who shall receive or be in possession of any goods, articles, or things of value which may have been lost or stolen, shall upon demand produce such articles or thing to any member of the Police Department for examination. (1944 Code, Sec. 244)

3-10-5: **VEHICLES:** Every vehicle used by a junk dealer in the conduct of his business, shall bear thereon in legible characters the name and address of the owner and proprietor thereof, and the Village license number. (1944 Code, Sec. 244-A)

¹ For Statute authority, see S.H.A. Ch. 24, Sec. 11-42-3 amd. 1967.

3-10-6: **LOCATION; FRONTAGE CONTENTS:** No person shall locate, build, construct, operate, or maintain any junk yard in any block in the Village where two-thirds (2/3) of the houses abutting on both sides of the street in the block are used exclusively for residence purposes without having first secured the written consent of the owners of two-thirds (2/3) of the frontage abutting on such street on both sides within such block.

The term "block" as used in this Section shall be construed to mean and include that portion of the street between the two (2) intersections with other public streets nearest the specified location on each side; provided that if, on either or both sides of such location, there is no such intersection within three hundred feet (300') of the center of the specified location, the block shall be considered as terminating at a point three hundred feet (300') from such center.

The term "street" as used in this Section shall be construed to mean and include such highways as have been dedicated by either common law or statutory dedication as public streets and are actually in use as such; and the term "street" shall not be construed to include or mean service highways which are commonly known as alleys.

And provided that nothing contained in this Chapter shall be taken to be in repeal of or in conflict with the Zoning provisions of the Village. (1944 Code, Sec. 245)

3-10-7: **RECORDS:** It shall be the duty of each junk dealer to keep a book in which shall be written at the time of every purchase by him of any article or thing of value, a description thereof, the name, age, and residence of the person from whom, and the day and hour when such purchase was made, and there shall also be entered in said book the name of the person to whom and the time when such article or thing of value was sold or disposed of; which book shall be at all times open to the inspection of the President, the Chief of Police, or any member of the Board. (1944 Code, Sec. 246)

3-10-8: **PURCHASE RESTRICTIONS:** No purchases shall be made or any articles or things of value received from any intoxicated person, or from any minor without having obtained the written consent of the parent or guardian of such minor. (1944 Code, Sec. 247)

3-10-9: **SALES:** No article or thing of value purchased or received by any junk dealer shall be sold or otherwise disposed of until at least one (1) week from the date of its purchase or receipt shall have elapsed. (1944 Code, Sec. 248)

CHAPTER 12

FOREIGN FIRE INSURANCE COMPANIES

SECTION:

- 3-12-1: Compliance Required
- 3-12-2: Fees
- 3-12-3: Reports
- 3-12-4: Time Of Payment

3-12-1: **COMPLIANCE REQUIRED:** It shall be unlawful for any corporation or association not incorporated under the laws of the State of Illinois to engage in effecting fire insurance in the Village without fully complying with the provisions of this Chapter. (1944 Code, Sec. 255)

3-12-2: **FEES:** Any such corporation or association shall pay to the Treasurer for the maintenance, use, and benefit of the Fire Department, a sum of money, equal to two percent (2%) of the gross receipts each year received for premiums by any and all agents of any such corporation or association or received as premiums in any way for fire insurance policies on any property in this Village. Such payments shall be made for the year ending the first of July of each year. (1944 Code, Sec. 256)

3-12-3: **REPORTS:** Each person acting as representative for or on behalf of any such company or association shall, on or before the fifteenth (15) day of July of each year, render to the Treasurer a full, true, and just account, verified by his oath, of all premiums which shall have been received by him on behalf of the company during the year ending the preceding first of July on such fire insurance policies. (1944 Code, Sec. 257)

3-12-4: **TIME OF PAYMENT:** All payments under the provisions of this Chapter shall be made on or before the fifteenth (15) day of July following the termination of the year for which such payments are due.¹ (1944 Code, Sec. 258)

¹ For Statute authority, see S.H.A. Ch. 24, Sec. 11-10-1.

CHAPTER 19

ABANDONED, LOST, STOLEN, OR UNCLAIMED VEHICLES

SECTION:

- 3-19-1: Definitions
- 3-19-2: Abandonment Unlawful
- 3-19-3: Notification To Police
- 3-19-4: Removal Of Motor Vehicles Or Other Vehicles-Towing Or Hauling Away
- 3-19-5: Records To Be Kept
- 3-19-6: Record Searches
- 3-19-7: Notification Of Owner
- 3-19-8: Reclamation Of Vehicle
- 3-19-9: Public Sale
- 3-19-10: Disposal Of Unclaimed Vehicles Without Notice
- 3-19-11: Report Of Transaction
- 3-19-12: Proceeds Of Sale
- 3-19-13: City Not Held Liable

3-19-1: **DEFINITIONS:** For the purpose of this Ordinance, the following words shall have the meanings ascribed to them as follows:

ABANDONED VEHICLE: Means all motor vehicles or other vehicles in a state of disrepair rendering the vehicle incapable of being driven in its condition; or any motor vehicle or other vehicle that has not been moved or used for seven (7) consecutive days or more and is apparently deserted.

ANTIQUÉ VEHICLE: Means any motor vehicle or other vehicle twenty five (25) years of age or older.

HIGHWAY: Means any street, alley, or public way within the Village. (Ord. 507, 8-3-70)

3-19-2: **ABANDONMENT UNLAWFUL:** The abandonment of a motor vehicle or other vehicle or any part thereof on any highway in this Municipality is unlawful and subject to penalties as set forth herein. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this Municipality is unlawful except on property of the owner or bailee of such abandoned vehicle. A motor vehicle or other vehicle or any part thereof so abandoned on private property may be authorized for removal by or upon the order of the Village Police Officer after a waiting period of seven (7) days or more has expired. (Ord. 507, 8-3-70; amd. Ord. 88-24, 12-19-88)

3-19-3: **NOTIFICATION TO POLICE:** When an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this State, not the owner of the vehicle, such person shall immediately notify the Morton Police Department when the vehicle is within the corporate limits of the Village. Upon receipt of such notification, the Chief of Police shall authorize a towing service to remove and take possession of the abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner or any other person legally entitled to possession thereof, or until it is disposed of as provided in this Ordinance. (Ord. 507, 8-3-70)

3-19-4: **REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES-TOWING OR HAULING AWAY:** The provisions of paragraph 4-203 of the Illinois Vehicle Code (Illinois Revised Statutes, chapter 95 1/2, paragraph 4-203) and including all future amendments thereto, are hereby adopted by reference as the provisions of this Title 3, Chapter 19, Section 4. (Ord. 88-24, 12-19-88)

3-19-5: **RECORDS TO BE KEPT:** When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow. (Ord. 507, 8-3-70)

3-19-6: **RECORD SEARCHES:** The provisions of paragraph 4-205 of the Illinois Vehicle Code (Illinois Revised Statutes, chapter 95 1/12, paragraph 4-205) and including all future amendments thereto, are hereby adopted by reference as the provisions of this Title 3, Chapter 19, Section 6. (Ord. 88-24, 12-19-88)

3-19-7: **NOTIFICATION OF OWNER:** When the registered owner, lienholder, or other person legally entitled to the possession of a motor vehicle or other vehicle cannot be identified from the registration files of this State or from the registration files of a foreign State, if applicable, the Police Department shall notify the Illinois State Police for the purpose of identifying the vehicle's owner or other person legally entitled to the possession of the vehicle. The information obtained by the Illinois State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification of owner. (Ord. 507, 8-3-70; amd. Ord. 88-24, 12-19-88)

3-19-8: **RECLAMATION OF VEHICLE:** Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this Section until all towing and storage charges have been paid. (Ord. 507, 8-3-70)

3-19-9: **PUBLIC SALE:** Whenever an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle, seven (7) years of age or newer, remains unclaimed by the registered owner, lienholder, or other person legally entitled to its possession for a period of thirty (30) days after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder, or scrap processor, under Chapter 5 of the Illinois Vehicle Code, to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least ten (10) days prior to the sale on the premises where the vehicle has been impounded. At least ten (10) days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.

In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved, or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice will not be required. (Ord. 507, 8-3-70; amd. Ord. 88-24, 12-19-88)

3-19-10: **DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE:** The provisions of paragraph 4-209 of the Illinois Vehicle Code (Illinois Revised Statutes, Chapter 95 1/2, paragraph 4-209) and including all future amendments thereto, are hereby adopted by reference as the provisions of this Title 3, Chapter 19, Section 10. (Ord. 88-24, 12-19-88)

3-19-11: **REPORT OF TRANSACTION:** When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner, lienholder, or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Ordinance, a report of the transaction will be maintained by the Police Department for a period of one (1) year from the date of the sale or disposal.

3-19-12: **PROCEEDS OF SALE:** When a vehicle located within the corporate limits of the Village is authorized to be towed away by the Village Police Officer and disposed of as set forth in this Ordinance, the proceeds of the public sale or disposition after the deduction of towing, storage, and processing charges shall be deposited in the Municipal Treasury.

3-19-13: **CITY NOT HELD LIABLE:** Any police officer, towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder, or any other person legally entitled to the possession of a motor vehicle when the vehicle was processed and sold or disposed of as provided by this Ordinance. (Ord. 507, 8-3-70; amd. Ord. 88-24, 12-19-88)

CHAPTER 20

REGISTRATION OF RESIDENTIAL SOLICITORS

SECTION:

3-20-1:	Definitions
3-20-2:	Certificate Of Registration
3-20-3:	Application For Certificate Of Registration
3-20-4:	Issuance Of Certificate
3-20-5:	Revocation Of Certificate
3-20-6:	Notice Regulating Soliciting
3-20-7:	Duty Of Solicitors
3-20-8:	Uninvited Soliciting Prohibited
3-20-9:	Time Limit Of Soliciting
3-20-10:	Severability Clause
3-20-11:	Compliance With Other Applicable Licensing Or Registration Provisions Required
3-20-12:	Penalty

3-20-1: **DEFINITIONS:**

(A) Definitions: For the purpose of this Chapter, the following words as used herein shall be construed to have the meaning herein ascribed thereto:

REGISTERED SOLICITOR: Any person who has obtained a valid certificate of registration as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

RESIDENCE: Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

SOLICITING: Any one or more of the following activities (unless specifically exempted in subsection B of this Section):

1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character, or description whatever, for any kind of consideration whatever; or
2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or character; or
3. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type of publication.

(B) Exemptions: Notwithstanding the provisions of subsection A of this Section, the following types of solicitations are exempt:

1. Those on behalf of any public school or private school which is accredited by the State of Illinois;
2. Those conducted for the primary benefit of a youth organization. (Ord. 93-17, 11-15-93)

3-20-2: **CERTIFICATE OF REGISTRATION:** It is hereby declared to be the policy of the governing body of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences. If no determination is made as is provided in Section 3-20-6 of this Chapter, then in that event, registration is not required. (Ord. 93-17, 11-15-93)

3-20-3: **APPLICATION FOR CERTIFICATE OF REGISTRATION:** Application for the certificate of registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application.

- (A) Name and address of present place of residence and length of residence at such address; also business address if other than residence address; also social security number and date of birth;
- (B) Address of place of residence during the past three (3) years if other than present address;
- (C) Physical description of the applicant; or photograph on driver's license, or State identification card;
- (D) Name and address of the person, firm, or corporation or association whom the applicant is employed by or represents; and length of time of such employment or representation;
- (E) Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in;
- (F) Period of time for which the certificate is applied for;
- (G) The date, or approximate date, of the latest previous application for certificate under this Chapter, if any;
- (H) Has a certificate of registration issued to the applicant, other than any person seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable, religious, political, or nonprofit association, organization, corporation, or project under this Chapter ever been revoked;
- (I) Has the applicant ever been convicted of a violation of any of the provisions of this Chapter, regulating soliciting;
- (J) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States;

All statements made by the applicant under the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this Chapter, and of the denial of applications. Applications for certificates shall be numbered when filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued. (Ord. 93-17, 11-15-93)

3-20-4: **ISSUANCE OF CERTIFICATE:** No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States, within five (5) years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter within two (2) years of the date of such conviction. No certificate of registration shall be issued to any person whose certificate of registration issued hereunder has previously been revoked within two (2) years of the date of such revocation.

The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications of such certificate as herein required. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the certificate of registration shall be issued forthwith.

Any certificate of registration that is issued hereunder shall have stated on same the expiration date thereof, which shall be thirty (30) days from its issuance. After a certificate has expired, application for reissuance may be made. (Ord. 93-17, 11-15-93)

3-20-5: **REVOCAION OF CERTIFICATE:** Any certificate of registration issued hereunder shall be revoked by the Chief of Police if the holder of the certificate is convicted of a violation of any of the provisions of this Chapter or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this Chapter. Immediately upon such revocation written notice thereof shall be given by the Chief of Police to the holder of the certificate in person or by certified U.S. mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice, the certificate of registration shall become null and void. Revocation shall be effective upon personal delivery by the Chief of Police or his designee or upon the deposit of the notice in the U.S. mail. (Ord. 93-17, 11-15-93)

3-20-6: **NOTICE REGULATING SOLICITING:** Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Chapter, shall comply with the following regulations:

(A) Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following:

A weatherproof card, approximately three inches by four inches (3" x 4") in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

ONLY SOLICITORS REGISTERED IN MORTON INVITED

or

NO SOLICITORS INVITED

(B) The letters shall be at least one-third inch (1/3") in height. For the purpose of uniformity the cards shall be provided by the Chief of Police to persons requesting same, and they shall reimburse the Village for the cost of same.

(C) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.
(Ord. 93-17, 11-15-93)

3-20-7: **DUTY OF SOLICITORS:** It shall be the duty of every solicitor upon going onto any premises in the Municipality upon which a residence as herein defined is located to first examine the notice provided for in Section 3-20-6 of this Chapter, if any is attached, and be governed by the statement contained on the notice. If the notice states "ONLY SOLICITORS REGISTERED IN MORTON INVITED," then the solicitor not possessing a valid certificate of registration as herein provided shall immediately and peacefully depart from the premises; and if the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. (Ord. 93-17, 11-15-93)

- 3-20-8: **UNINVITED SOLICITING PROHIBITED:** It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of Section 3-20-6 of this Chapter. (Ord. 93-17, 11-15-93)
- 3-20-9: **TIME LIMIT ON SOLICITING:** It is hereby declared to be unlawful and shall constitute a nuisance for any person whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of such residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of soliciting as herein defined, on any day of the week, prior to nine o'clock (9:00) A.M. or after nine o'clock (9:00) P.M. (Ord. 93-17, 11-15-93)
- 3-20-10: **SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included. (Ord. 93-17, 11-15-93)
- 3-20-11: **COMPLIANCE WITH OTHER APPLICABLE LICENSING OR REGISTRATION PROVISIONS REQUIRED:** Compliance with the provisions of this Chapter of the Village Code shall not excuse compliance with any other applicable provision of the Village Code including, but not limited to, the provisions requiring the licensing of itinerant merchants and peddlers, as set forth in Title 3, Chapter 9, of the Village Code. Furthermore, should any provision of this Chapter conflict with any provision of Title 3, Chapter 9, of this Code, then the more restrictive provision shall govern. (Ord. 93-17, 11-15-93)
- 3-20-12: **PENALTY:** Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be subject to a fine in a minimum amount of fifty dollars (\$50.00) and a maximum amount of seven hundred fifty dollars (\$750.00) for each offense. A separate offense may be charged for each residence contacted in violation of this Chapter. (Ord. 93-17, 11-15-93; amd. Ord. 99-37, 12-6-99)

CHAPTER 21

REGULATION OF ADULT BUSINESSES

SECTION:

- 3-21-1: Definitions
- 3-21-2: Adult Uses Enumerated
- 3-21-3: Limitations On Adult Uses
- 3-21-4: Measurement Of Distances
- 3-21-5: License Required; Filing Of Application; Filing Fee
- 3-21-6: Contents Of Application For License
- 3-21-7: Issuance Of Adult Use License
- 3-21-8: Suspension Or Revocation Of License For Adult Use
- 3-21-9: Automatic Suspension
- 3-21-10: Exterior Display
- 3-21-11: Display Of License And Permit
- 3-21-12: Employment Of Persons Under Age Of Eighteen Prohibited
- 3-21-13: Illegal Activities On Premises
- 3-21-14: Severability Clause
- 3-21-15: Violation And Penalty
- 3-21-16: Repeal Of Conflicting Provisions
- 3-21-17: Statement Of Urgency

3-21-1: **DEFINITIONS:** For the purpose of this Chapter, the following words and phrases shall have the meanings respectively prescribed to them by this Section.

ADULT BOOK STORES: An establishment having as a substantial portion of its stock in trade, books, magazines, films for sale, or viewing on the premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities," or "specified anatomical areas" or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT CABARET: A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers and/or waitresses, strippers, male or female impersonators, or similar entertainers.

ADULT MINI MOTION PICTURE THEATER: An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "special sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of fifty (50) or more persons used regularly for presenting motion pictures having as a dominant theme material distinguished or characterized by emphasis on matter depicting, describing, or relating to "special sexual activities" or "specified anatomical areas" for observation by patrons therein.

- BODY SHOP or MODEL STUDIO:** Any public or private establishment which describes itself as a body shop or model studio, or where for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude and seminude dancing, readings, counseling sessions, body painting, and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" are provided for observation by or communication to persons paying such consideration or gratuity.
- BUILDING STRUCTURE:** Any structure or group of structures housing two (2) or more businesses which share a common entry, exit, wall, or frontage wall, including, but not limited to, shopping center, shopping malls, shopping plazas, or shopping squares.
- SPECIFIED ANATOMICAL AREAS:** Are any of the following conditions:
1. Less than completely and opaquely covered:
 - (a) Human genitals, pubic region, or pubic hair;
 - (b) Buttock; and
 - (c) Female breast below a point immediately above the top of the areola; and
 2. Human male genitals in a discernably turgid state, even if completely covered.
- SPECIFIED SEXUAL ACTIVITIES:** Are any of the following conditions:
1. Human genitals in a state of sexual stimulation or arousal.
 2. Acts or representations of acts of human masturbation, sexual intercourse or sodomy, bestiality, oral copulation, or flagellation.
 3. Fondling or erotic touching of human genitals, pubic region, buttock, or female breast.
 4. Excretory functions as part of or in connection with any activities set forth in Subsections 1 through 3 of this definition. (Ord. 81-13, 7-6-81; amd. Ord. 97-17; 8-4-97)
- 3-21-2: ADULT USES ENUMERATED:** The following shall be considered adult uses for the purpose of this Chapter:
- (A) Adult book store;
 - (B) Adult motion picture theater;
 - (C) Adult mini motion picture theater;
 - (D) Adult entertainment cabaret;
 - (E) Body shop or model studio. (Ord. 81-13, 7-6-81; amd. Ord. 97-17, 8-4-97)

3-21-3: **LIMITATIONS ON ADULT USES:** Adult uses shall be permitted subject to the following restrictions:

- (A) An adult use shall not be allowed within five hundred feet (500') of another existing adult use.
- (B) An adult use shall not be located within one thousand five hundred feet (1500') of any zoning district which is zoned for Residential Suburban (R-S), Single-Family (R-1), Two-Family (R-2), or Multi-Family (R-3) residential use. (amd. Ord. 01-33, 11-19-01)
- (C) An adult use shall not be located within five hundred feet (500') of a pre-existing school or place of worship.
- (D) An adult use shall not be located in a building structure which contains another business that sells or dispenses in some manner alcoholic beverages.
- (E) Any adult use doing business at the time this Chapter takes effect shall have one year from the effective date of this Chapter to comply with the provisions of paragraphs (A) through (D), inclusive, of this Section.
- (F) Any adult use doing business at the time this Chapter takes effect shall have thirty (30) days from the effective date of this Chapter to apply for the issuance of an adult use license. (Ord. 81-13, 7-6-81)

3-21-4: **MEASUREMENT OF DISTANCES:** For the purpose of this Chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the adult use to the nearest property line of another adult use, school, place of worship, or district zoned for residential use. (Ord. 81-13, 7-6-81)

3-21-5: **LICENSE REQUIRED; FILING OF APPLICATION; FILING FEE:** It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the Village, the operation of an adult use as herein defined, without first having obtained a separate license for such adult use from the President of the Village, or his designee.

Every applicant for a license to maintain, operate, or conduct an adult use shall file an application in duplicate under oath with the President, or his designee, upon a form provided by the President, or his designee, and pay a nonrefundable filing fee of fifty dollars (\$50.00) to the Village Business Manager, who shall issue a receipt which shall be attached to the application filed with the President, or his designee.

Within ten (10) days after receiving the application, the President, or his designee, shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the President, or his designee, shall advise the applicant in writing whether the application is granted or denied.

Whenever an application is denied or held for further investigation, the President, or his designee, shall advise the applicant in writing of the reasons for such action.

Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any inspection or investigation required by this Chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the President, or his designee. (Ord. 04-53, 3-7-05)

3-21-6: **CONTENTS OF APPLICATION FOR LICENSE:** An applicant for a license shall furnish the following information under oath:

- (A) Name and address.
- (B) Written proof that the individual is at least eighteen (18) years of age.
- (C) The exact nature of the adult use to be conducted and the proposed place of business and facilities thereto.

3-21-7: **ISSUANCE OF ADULT USE LICENSE:** The President shall issue a license to maintain, operate, or conduct an adult use unless he finds:

- (A) That the applicant is under age of eighteen (18) years or under any legal disability.
- (B) That the applicant, at the time of application for renewal of any license issued under this Chapter, would not be eligible for such license upon a first application.

Every adult use license issued pursuant to this Chapter will terminate at the expiration of one year from the date of its issuance, unless sooner revoked.

3-21-8: **SUSPENSION OR REVOCATION OF LICENSE FOR ADULT USE:** Any license issued for an adult use may be revoked or suspended by the President if the President shall find:

- (A) That the licensee has violated any of the provisions of this Chapter regulating adult uses.
- (B) The licensee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this Chapter or knowingly caused or suffered another to furnish or withhold such information on his or her behalf.

The President before revoking or suspending any license shall give the licensee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the President, at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

3-21-9: **AUTOMATIC SUSPENSION:**

- (A) In the event a person under the age of eighteen (18) years is on the premises of an establishment operating as an adult use under this Chapter, and views any "specified sexual activities" or "specified anatomical areas" as defined in Section 3-21-1 of this Chapter, then the license issued pursuant to this Chapter shall be suspended for a period of three (3) months. (Ord. 81-13, 7-6-81)
- (B) In the event a licensee is convicted of violating any of the provisions of Ill. Rev. Stat. (1979) ch. 38, Sec. 11-20, as now in force or as may be amended from time to time or any of the provisions of Title 6, Chapter 2, Section 38 of the Morton Municipal Code as now in force or as may be amended from time to time, then the license issued pursuant to this Chapter shall be suspended for a period of three (3) months. (Ord. 81-31, 11-16-81)
- (C) The President, before suspending any license, shall give at least ten (10) days' written notice of the charge. The licensee may within five (5) days of receipt of said notice request a public hearing before the President at which time the licensee may present evidence bearing upon the question. The notice required hereunder may be delivered personally to the licensee or be posted on the premises of the establishment being used as an adult use.

- 3-21-10: **EXTERIOR DISPLAY:** No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” by display, decoration, sign, show window, or other opening from any public way or from any property not licensed as an adult use.
- 3-21-11: **DISPLAY OF LICENSE AND PERMIT:** Every licensee shall display a valid license in a conspicuous place within the adult use business so that same may be readily seen by persons entering the premises.
- 3-21-12: **EMPLOYMENT OF PERSONS UNDER AGE OF EIGHTEEN PROHIBITED:** It shall be unlawful for any adult use licensee or his manager or employee to employ in any capacity within the adult business any person who is not at least eighteen (18) years of age.
- 3-21-13: **ILLEGAL ACTIVITIES ON PREMISES:** No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by any Ordinance of the Village or law of the State or of the United States.
- 3-21-14: **SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included.
- 3-21-15: **VIOLATION AND PENALTY:** Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor. A person who is convicted shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than seven hundred fifty dollars (\$750.00) or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. (amd. Ord. 99-37, 12-6-99)
- 3-21-16: **REPEAL OF CONFLICTING ORDINANCES:** Any other Ordinances or resolutions of the Village which may contain provisions contrary to those in this Chapter are hereby expressly revoked and shall be considered to be superseded by this Chapter.
- 3-21-17: **STATEMENT OF URGENCY:** Pursuant to the provisions of Ill. Rev. Stat. (1979), Chapter 24, sec. 1-2-4, two-thirds (2/3) of the corporate authorities of the Village do hereby declare and direct that it is urgent that this Chapter take effect immediately upon passage by a two-thirds (2/3) vote of the corporate authorities of the Village and approval by the President. (Ord. 81-13, 7-6-81)

CHAPTER 23

HOTEL OR MOTEL ROOM RENTING TAX

SECTION:

- 3-23-1: Definitions
- 3-23-2: Tax
- 3-23-3: Books And Records
- 3-23-4: Transmittal Of Tax Revenue
- 3-23-5: Collection
- 3-23-6: Proceeds Of Tax And Fines
- 3-23-7: Suspension Of Licenses
- 3-23-8: Penalties
- 3-23-9: Purpose Of Penalties
- 3-23-10: Use Of Receipts
- 3-23-11: Severability

3-23-1: **DEFINITIONS:** For the purpose of this Chapter, whenever any of the following words, terms, or definitions are used herein, they shall have the meanings ascribed to them in this Section:

HOTEL ROOM or MOTEL ROOM: A room within a structure kept, used, or maintained as or advertised or held out to the public to be in an inn, motel, hotel, apartment hotel, lodging house, dormitory, or place where sleeping, rooming, office, conference, or exhibition accommodations are furnished for lease or rent, whether with or without meals. One room offered for rental with or without an adjoining bath shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the basis of those rooms utilized for the purpose of sleeping.

OWNER: Any person or persons having a sufficient proprietary interest in conducting the operation of a hotel or motel room or receiving the consideration for the rental of such hotel or motel room so as to entitle such person or persons to all or a portion of the net receipts thereof.

OPERATOR: Any person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type of character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

PERSON: Any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agent, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user, or owner, or any officers, agents, employees, or other representative acting either for themselves or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

3-23-2: TAX:

- (A) There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the Village a tax of six percent (6%) of the rental or leasing charge for each such hotel and motel room rented for each twenty-four (24) hour period or any portion thereof; provided, however, that the tax shall not be levied and imposed upon any person who rents a hotel or motel room as his or her permanent residence. (amd. Ord. 08-16, 10-06-08)
- (B) The ultimate incident of and liability for payment of said tax shall be borne by the person who seeks the privilege of occupying any such hotel or motel room, said person hereinafter referred to as "renter."
- (C) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager, or operator of every hotel or motel to act as trustee for and on account of the Village, and to secure said tax from the renter of the hotel or motel room and pay over to the Village Business Manager said tax under the procedures as provided in this Chapter.
- (D) Every person required to collect the tax levied by this Chapter shall secure said tax from the renter at the time they collect the rental payment for the hotel or motel room. Upon the invoice receipt or other statement or memorandum of the rent given to the renter at the time of payment, the amount due under the tax provided in this Chapter shall be stated separately on said documents.

3-23-3: BOOKS AND RECORDS: The Village Business Manager, or any person certified as the Business Manager's deputy or representative, may enter the premises of any hotel or motel for inspection and examination of books and records in order to effectuate the proper administration of this Chapter and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the Village Business Manager or his duly authorized deputy or representative in the discharge of his duties and the performance of this Chapter. It shall be the duty of every owner or operator to keep accurate and complete books and records to which the Village Business Manager or his deputy or authorized representative shall at all times have access, which records shall include a daily sheet showing:

- (A) The number of hotel or motel rooms rented during the twenty-four (24) hour period, including multiple rentals of the same hotel rooms where such shall occur, and
- (B) The actual hotel or motel tax receipts collected for the date in question.

3-23-4: TRANSMITTAL OF TAX REVENUE

- (A) The owner or owners or operator of each hotel or motel within the Village shall file tax returns showing tax receipts received with respect to each hotel and motel room during each month period commencing on May 1, 1999, and continuing on the first day of every month thereafter on forms prescribed by the Village Business Manager. The return shall be due on or before the thirtieth day of the calendar month succeeding the end of the month filing period.
- (B) The first taxing period for the purpose of this Chapter shall commence May 1, 1999, and the tax return and payment for such period shall be due on or before June 30, 1999. Thereafter reporting periods and tax payments shall be in accordance with the provisions of this Chapter. At the time of filing said tax returns, the owner or operator shall pay to the Village Business Manager all taxes due for the period to which the tax return applies.

- (C) In case any person who is required under this Chapter to file a tax return to the Village fails to file a return when and as required under this Chapter, said person shall pay to the Village, in addition to the amount of tax required to be transmitted, a penalty of five percent (5%) of the tax that said person is required to transmit to the Village; provided, however, that a twenty percent (20%) penalty shall be imposed for any fraudulent return.
- In case any person who is required under this Chapter to file a tax return to the Village files a return at the time required but fails to transmit the tax proceeds, or any portion thereof, to the Village when due, a penalty of five percent (5%) of the amount of tax not transmitted to the Village shall be added thereto; provided, however, that the fraudulent failure to pay such tax shall result in a twenty percent (20%) penalty.
- (D) In addition to any penalty for which provision is made in this Chapter, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.
- (E) Any officer or employee of any corporation, which is an owner or operator subject to the provisions of this Chapter, who has control, supervision, or responsibility of collecting tax proceeds, filing returns, and transmitting collected tax proceeds of the tax imposed by this Chapter and who wilfully fails to file such return or to transmit any tax proceeds so collected to the Village shall be personally liable for any such amounts collected, including interest and penalties thereon, in the event that after proper proceedings for the collection of such amount, such corporation is unable to pay such amounts to the Village; and the personal liability of such officer or employees, as provided herein, shall survive dissolution of the corporation. For purposes of this subsection, a person wilfully fails to act if they take any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the Village to pay any other corporate obligations.
- (F) If any operator or owner shall fail or refuse to collect said tax and to make, within the time provided in this Chapter, any report and remittance of said tax or any portion thereof required by this Chapter, the Business Manager shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of the tax due. As soon as the Business Manager shall procure such facts and information as is obtainable upon which to base the assessment of any tax imposed by this Chapter and payable to any operator or owner who has failed or refused to collect the same and to make such report and remittance, the Business Manager shall proceed to determine and assess against such operator or owner the tax, interest, and penalties provided for by this Chapter. In case such determination is made, the Business Manager shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator or owner so assessed at operator or owner's last known address. Such operator or owner may within ten (10) days after the serving or mailing of such notice make application in writing to the Business Manager for a hearing on the amount assessed. If application by the operator or owner for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Business Manager shall become final and conclusive and immediately due and payable. If such application is made, the Business Manager shall give not less than five (5) days' written notice in the manner prescribed herein to the operator or owner to show cause at a hearing at a time and place fixed in said notice why said amount specified there should not be fixed for such tax, interest, and penalties. At such hearing, the operator or owner may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Business Manager shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after (15) days unless an appeal is taken as provided in paragraph (G).

(G) Any operator or owner aggrieved by any decision of the Business Manager with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Mayor by filing a Notice of Appeal with the Village Clerk within (15) days of the serving or mailing of the determination of tax due. The Mayor shall fix a time and place for hearing such appeal, and the Village Clerk shall give notice in writing to such operator or owner at the last known address. The findings of the Mayor shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(H) It shall be the duty of every owner liable for the collection and payment to the Village of any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as the owner or operator may have been liable for the collection of and payment to the Village, which records the Business Manager shall have the right to inspect at all reasonable times.

3-23-5: **COLLECTION:** Whenever any person shall fail to pay any tax as herein provided, the corporation counsel shall, upon the request of the Village Business Manager, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction.

3-23-6: **PROCEEDS OF TAX AND FINES:** All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be paid into the treasury of the Village and shall be credited to and deposited in the corporate fund of the Village.

3-23-7: **SUSPENSION OF LICENSES:** If the President of the Board of Trustees, after hearing held by the President, shall find that any person has wilfully avoided payment of the tax imposed by this Chapter, he may suspend or revoke all Village licenses held by such tax evader or may suspend any or all services provided by the Village. The owner, manager, or operator of the hotel or motel shall have an opportunity to be heard at such hearing to be held not less than five (5) days after notice of the time and place of the hearing to be held, addressed to the last known place of business. For purposes of this Section, a person wilfully avoids payment of the tax if they take any conscious and voluntary action intending not to perform any of the obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the Village to pay any other obligations.

3-23-8: **PENALTIES:** Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Chapter, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense and not less than three hundred dollars (\$300.00) nor more than seven hundred fifty dollars (\$750.00) for the second and each subsequent offense in any one hundred eighty (180) day period. (amd Ord. 99-37; 12-6-99)

Repeated offenses in excess of three (3) within any one hundred eighty (180) day period may also be punishable as a misdemeanor by incarceration in the County jail for a term not to exceed six (6) months. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof.

- 3-23-9: **PURPOSE OF PENALTIES:** The purpose of imposing the above penalties is to ensure the integrity of the collection process established pursuant to this Chapter.
- 3-23-10: **USE OF RECEIPTS:** The amounts collected by the Village pursuant to this Chapter shall be expended by the Village solely to promote tourism and conventions within the Village or otherwise to attract nonresident overnight visitors to the Village.
- 3-23-11: **SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included.

CHAPTER 24
DANCE HALLS

SECTION:

- 3-24-1: Definitions
- 3-24-2: License Required
- 3-24-3: Exemptions
- 3-24-4: Application
- 3-24-5: Fees
- 3-24-6: Investigation
- 3-24-7: Issuance
- 3-24-8: Posting
- 3-24-9: Revocation And Suspension
- 3-24-10: Restrictions On Persons Under 18
- 3-24-11: Reporting Incidents To Police; Telephone Required; Mandatory Closing
- 3-24-12: Illegal Activities On Premises
- 3-24-13: Youth Dance Restrictions
- 3-24-14: Violation And Penalty

3-24-1: **DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section except where the context clearly indicates that a different meaning is intended:

DANCE HALL: Dance hall means any room, place, building, or structure which is open to the public in general or only to private membership by admission charge, dues, fees, or other consideration, which is primarily and predominantly devoted to dancing, but not necessarily used exclusively for such purposes.

YOUTH DANCE: Youth dance means a designated period of dancing or related activity which is represented or advertised to be designed or dedicated predominantly to patronage by persons under the age of twenty one (21) years.

3-24-2: **LICENSE REQUIRED:**

- (A) No person, either as owner, lessee, manager, officer, or agent, or in any other capacity shall operate or permit to be operated a dance hall without having first obtained a license to do so.
- (B) No person, either as owner, lessee, manager, officer, or agent, or in any other capacity shall operate or permit to be operated on premises licensed as a dance hall, a youth dance without having first obtained a supplemental youth dance license.

3-24-3: **EXEMPTIONS:**

- (A) No dance hall license shall be required for an establishment which holds a current and valid alcoholic liquor license pursuant to Chapter 8 of this Title.
- (B) No dance hall license shall be required for an establishment which is primarily and predominantly devoted to dance instruction and held out as such with use limited to paying students.
- (C) No dance hall license shall be required for a youth dance sponsored by a public or private school for a school related activity.

3-24-4: **APPLICATION:** An application for a license or supplemental youth dance license required by this Chapter shall be made in writing to the business manager which shall set forth the following:

- (A) The name of the individual, partnership, corporation, or association applying for the license.
- (B) The residence, phone number, and driver's license number of the applicant or partners; or, if a corporation or association, the residence, phone number, and driver's license number of the officers, directors, and the principal shareholders and parties in interests.
- (C) The address and legal description of the location for which the license is requested, including a scale drawing of the premises clearly indicating all areas within or adjoining the building or structure which are to be used in connection with the dance hall activities or are accessible from it, including off-street parking.
- (D) The type of license requested.
- (E) The seating capacity and price of admission intended to be charged.
- (F) Whether the applicant, officers, partners, directors, or the principal shareholders or parties in interest of the corporation or association or the corporation or association itself have been convicted of a criminal offense or Ordinance violation (other than traffic or parking offenses) in any jurisdictions and, if so, a list of such convictions with date and prosecuting jurisdiction.
- (G) In the case of a supplemental youth dance license:
 1. The method by which age identification shall be established.
 2. The method by which security shall be provided both inside and outside of the dance hall.
 3. The method by which youth shall be supervised in and about the premises.
 4. Residence, phone number, driver's license number of all employees or persons who will be utilized to provide supervision in connection with such youth dance; excepting, however, security personnel who are licensed by the State Department of Education and Registration or who are commissioned peace officers.

3-24-5: **FEES:**

- (A) The applicant shall pay to the Business Manager, or his designee, prior to filing an application, a fee of fifty dollars (\$50.00) per year or part thereof. Should the application be denied, the license fee shall be refunded to the applicant. (Ord. 04-53, 3-7-05)
- (B) The fee for the supplemental youth dance license shall be thirty dollars (\$30.00) per night or three hundred dollars (\$300.00) per year. Any licensee holding ten (10) youth dances in any one (1) calendar year shall be deemed to have paid for a yearly supplemental youth dance license which may be issued upon approval of the application.

3-24-6: **INVESTIGATION:** Upon receipt of an application for a license, the business manager shall cause a copy of the application to be sent to the fire department, police department, and zoning department which shall report back to the business manager or his designee within fifteen (15) days whether the location for which the license is sought meets applicable Village codes and whether the applicant meets the requirement for issuance of the license requested.

3-24-7: **ISSUANCE:** Upon receipt of the report from the departments referred to in Section 3-24-6, the Business Manager shall issue the license requested unless he shall find:
(Ord. 04-53, 3-7-05)

- (A) That the applicant is under the age of eighteen (18);
- (B) That the applicant, officers, partners, directors, or the principal shareholders or parties in interest therein have been convicted of any obscenity offense relating to an amusement-type activity, any gambling-related offense or an offense relating to the violation of the laws or Ordinances controlling the sale of alcoholic liquor;
- (C) That the operation of the amusement as proposed would not comply with all applicable laws, including but not limited to, building, health, zoning, and fire codes of the Village;
- (D) That the applicant, officers, partners, directors, or the principal shareholders or parties in interest therein have held a license or had an interest in any other Village license that was revoked for cause;
- (E) In the case of a supplemental youth dance license, that the applicant, offices, partners, directors, or the principal shareholders or parties in interest have been convicted of any offense against children or have been declared a sexually dangerous person pursuant to the laws of the State or any similar law of the United States or of any other State;
- (F) The premises for which a supplemental youth dance license is requested, including required off-street parking, is within five hundred feet (500') of any R-1, R-2, or R-3 zoning district as defined in the Zoning Ordinance of the Village or any school; or
- (G) The methods proposed for age identification, security, or supervision pursuant to Section 3-24-4(G) are insufficient.

3-24-8: **POSTING:** Every license issued under the provisions of this Chapter shall, at all times during the period for which it is effective, be posted in a conspicuous place at or near the principal entrance to the premises for which the license is issued.

3-24-9: **REVOCAION AND SUSPENSION:**

- (A) Any license or supplemental youth dance license may be revoked or suspended for a period not to exceed thirty (30) days by the business manager if the business manager shall find after a hearing:
 1. That the licensee, its employees, officers, or agents, or representatives have violated any of the provisions of this Chapter, the laws of the State, or Ordinances of the Village at the licensed location;
 2. That the licensee, its officers, directors, or agents, or principal shareholders have been convicted of any offense set forth in Section 3-24-7(B) or 3-24-7(E); or
 3. The licensee has knowingly furnished false or misleading information or withheld relevant information on any application for a license required by Section 3-24-4 or any investigation into any such application.

- (B) The licensee shall be responsible for the acts of his officers or agents, servants, and employees in the operation of any licensed establishment. Prior to holding a hearing concerning the question of whether a license issued pursuant to this Chapter shall be revoked or suspended, the business manager shall give at least ten (10) days written notice to the licensee setting forth the alleged violations specifically. The licensee may present evidence at such hearing and cross-examine witnesses. In lieu of or in addition to a suspension of a supplemental license, the business manager may after a hearing impose additional operating conditions as set forth in Section 3-24-13(F).

3-24-10: **RESTRICTIONS ON PERSONS UNDER 18:** It shall be unlawful for a dance hall licensee to permit persons under the age of eighteen (18) years on the premises of a dance hall, unless accompanied by a parent or legal guardian, or unless attending a youth dance where youth dance restrictions as set forth in this Chapter are in effect.

3-24-11: **REPORTING INCIDENTS TO POLICE; TELEPHONE REQUIRED; MANDATORY CLOSING:**

- (A) Each licensee and each of his agents and employees shall promptly report to the police department of the Village any incident occurring on or about the licensed premises and in his knowledge or view relating to the commission or suspected commission of any crime, including, but not limited to, any violation of this Chapter, any violation of ordinances or laws concerning the sale, possession, or consumption of alcoholic liquor, any violation of ordinances or laws concerning the sale of controlled substances or cannabis, any violation of laws concerning the abduction or the physical or sexual abuse of children, or any fights, assaults, or batteries, and shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premises, and cooperate fully in any such investigation, including the giving of any oral or written statements at such reasonable times and in such reasonable locations to any police officer engaged in such investigation.
- (B) Each licensee shall maintain on each licensed premises not less than one (1) telephone in operating order, which said phone must be easily accessible to the responsible person in charge of the premises and to other employee(s) on the premises at all times for the purpose of conveniently reporting to the police department incidents occurring on or about the licensed premises.
- (C) If a disturbance occurs on or about the licensed premises during the hours of operation which in the judgement of the Chief of Police or the ranking command officer of the Police Department on duty creates an imminent danger to lives or property, the chief or ranking command officer may, if in his professional judgement it is reasonably necessary in order to restore order and protect lives and property, order the licensed establishment to close its business for such period of time as is reasonably necessary, but not later than the next business day, and may order all patrons to leave the licensed premises immediately.

3-24-12: **ILLEGAL ACTIVITIES ON PREMISES:** No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall engage in any activity or conduct or suffer or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by an ordinance of the Village or law of the State or the United States.

3-24-13: **YOUTH DANCE RESTRICTIONS:** During any youth dance conducted on the licensed premises, the following restrictions shall apply:

- (A) Other than parents or supervisors, no one other than youth not younger than fourteen (14) years and not older than twenty (20) years shall be allowed in the establishment.
- (B) All other provisions and requirements of this Code and the State law relating to curfew and to the operation of a licensed dance hall shall remain in effect.

- (C) The licensee shall notify the police department of any date for a youth dance at least one (1) day prior to the date of the event.
- (D) A licensee shall take all such reasonable precautions including, but not limited to, erections of acoustical or other barriers and providing supervisory or security personnel to adequately prevent the unreasonable disturbance of the peace and tranquility of the neighborhood and the free and unencumbered access of the general public to street, sidewalks, and public areas in and around the licensed premises.
- (E) All youth dances shall end no later than 11:30 P.M.
- (F) Additional written operating conditions consistent with this article may be imposed by the business manager for the supplemental license, which conditions will be deemed to be with the agreement of the licensee and made a part of the license, if such supplemental youth dance license is granted and accepted.

3-24-14: **VIOLATION AND PENALTY:** Any person, persons, partnership, firm, or corporation violating any of the provisions of this Chapter shall, upon conviction thereof, be fined in a sum of not less than one hundred dollars (\$100.00) and no more than seven hundred fifty dollars (\$750.00). (Ord. 99-55, 5-15-00)

CHAPTER 25

SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

SECTION:

3-25-1:	Definitions
3-25-2:	Simplified Municipal Telecommunications Tax Imposed
3-25-3:	Collection Of Tax By Retailers
3-25-4:	Returns To Department
3-25-5:	Resellers
3-25-6:	Rebates
3-25-7:	Severability
3-25-8:	Effective Date

3-25-1: **DEFINITIONS:** As used in this Chapter, the following terms shall have the following meanings:

AMOUNT PAID The amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

DEPARTMENT CHARGE The Illinois Department of Revenue. The amount paid for the act or privilege of originating or receiving telecommunications in such municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this State, charges for the channel mileage between each channel point within this State, and charges for that portion of the interstate inter-office channel provided within Illinois. However, "gross charge" shall not include:

1. Any amounts added to a purchaser's bill because of a charge made pursuant to:
 - a. The tax imposed by this Ordinance;
 - b. The tax imposed by the Telecommunications Excise Tax Act;
 - c. The tax imposed by Section 4251 of the Internal Revenue Code;
 - d. 911 surcharges; or
 - e. Charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
2. Charges for a sent collect telecommunication received outside of such municipality.

3. Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment, and also includes the usage of computers under a time-sharing agreement.
4. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are desegregated and separately identified from other charges.
5. Charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs.
 6. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.
 7. Bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
 8. Charges paid by inserting coins in coin-operated telecommunication devices.
 9. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

INTERSTATE
TELECOMMUNICATIONS

All telecommunications that either originate or terminate outside this State.

INTRASTATE
TELECOMMUNICATIONS

All telecommunications that either originate or terminate within this State.

PERSON

Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State Universities created by statute, or any city, town, county, or other political subdivision of this State.

PURCHASE AT RETAIL	The acquisition, consumption, or use of telecommunications through a sale at retail.
RETAILER	Includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.
RETAILER MAINTAINING PLACE OF BUSINESS IN THIS STATE (OR ANY LIKE TERM)	Includes any like term, means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission A facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.
SALE AT RETAIL	The transmitting, supplying, or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State Universities created by statute, and other than between a parent corporation and its wholly owned subsidiaries, or between wholly owned subsidiaries for their use or consumption and not for resale.
SERVICE ADDRESS	The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.
TAXPAYER	A person who individually, or through his or her agents, employees, or permittee, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by this Chapter.

TELECOMMUNICATIONS In addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this ordinance, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be nontaxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

3-25-2 **SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED:** A tax is hereby imposed upon any and all the following acts or privileges:

- (A) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of six percent (6%) of the gross charge for such telecommunications purchased at retail from a retailer.
- (B) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of six percent (6%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this State.
- (C) The tax imposed by this Ordinance is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

3-25-3 **COLLECTION OF TAX BY RETAILERS:**

- (A) The tax authorized by this Ordinance shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Ordinance shall constitute a debt of the taxpayer to the retailer until paid, and if unpaid, is recoverable by law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.
- (B) Whenever possible, the tax authorized by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

3-25-4 **RETURNS TO DEPARTMENT:** Commencing on February 1, 2003, the tax imposed under this Ordinance on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

3-25-5 **RESELLERS:**

- (A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Chapter on any of such purchases and shall furnish such additional information as the Department may reasonably require.
- (B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.
- (C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

3-25-6 **REBATES:** The tax authorized by this Ordinance and whose territory includes part of another unit of local government or a school district, may, by separate ordinance, rebate some or all of the amount of such tax paid by the other unit of local government or school district.

3-25-7 **SEVERABILITY:** If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

3-25-8 **EFFECTIVE DATE:** This Ordinance shall take effect on January 1, 2003. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to October 1, 2002. (Ord. 02-13, 8-19-02)

CHAPTER 26

MUNICIPAL TELECOMMUNICATION TAX REBATES

SECTION:

- 3-26-1: Eligible Units
- 3-26-2: Rate of Rebate
- 3-26-3: Application
- 3-26-4: Processing

3-26-1: **ELIGIBLE UNITS:** The Morton Park District, Morton Township, Morton Library District, and Unit School District 709 shall be entitled to a rebate for all telecommunication taxes collected by the Village of Morton subsequent to January 1, 2003.

3-26-2: **RATE OF REBATE:** Rebate amount is 100% of taxes paid.

3-26-3: **APPLICATION:** Eligible units shall make application to the Village of Morton c/o its Business Manager for all telecommunication tax it paid for the preceding year, by March 31 of the following year. The unit of government shall make the application on such forms as required by the Business Manager and provide such information as the Business Manager requests.

3-26-4: **PROCESSING:** The Business Manager will review the application and the Village will rebate to the eligible unit, as soon as reasonably practical, the amount determined by the Business Manager to be rebated. (Ord 03-42, 3-15-04)

CHAPTER 27

CABLE/VIDEO SERVICE PROVIDER FEE

SECTION:

- 3-27-1: Definitions
- 3-27-2: Cable/Video Service Provider Fee Imposed
- 3-27-3: Applicable Principles
- 3-27-4: No Impact On Other Taxes Due From Holder
- 3-27-5: Audits Of Cable/Video Service Provider
- 3-27-6: Late Fees/Payments
- 3-27-7: Severability

3-27-1: **DEFINITIONS:** As used in this Chapter, the following terms shall have the following meanings:

CABLE SERVICE: As defined in 47 U.S.C. §522(6).

COMMISSION: Illinois Commerce Commission.

GROSS REVENUES: All consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village of Morton.

1. Gross revenues shall include the following:

- (a) Recurring charges for cable or video service.
- (b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
- (c) Rental of set-top boxes and other cable service or video service equipment.
- (d) Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.
- (e) Administrative charges related to the provision of cable service or video service, including, but not limited to, service order and service termination charges.
- (f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
- (g) A pro rata portion of all revenue derived by the holder or its affiliates, pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village of Morton. The allocation shall be based on the number of subscribers in the Village of Morton divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

- (h) Compensation received by the holder derived from the operation of the holder's network to provide cable service or video service, with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
- (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue, unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
- (j) The service provider fee permitted by 220 ILCS 5/21-801(b).

2 Gross revenues do not include the following:

- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
- (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
- (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing, or any other revenues attributed by the holder to noncable service or nonvideo service, in accordance with the holder's books and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
- (d) The sale of cable services or video services for resale, in which the purchaser is required to collect the service provider fee from the purchaser's subscribers, to the extent the purchaser certifies in writing it will resell the service within the Village of Morton and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
- (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization, and required to be remitted to the taxing entity, including sales and use taxes.
- (f) Security deposits collected from subscribers.
- (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

3. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

- HOLDER:** A person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.
- SERVICE:** The provision of “cable service” or “video service” to subscribers, and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.
- SERVICE PROVIDER FEE:** The amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to the Village of Morton for the service areas within its territorial jurisdiction.
- VIDEO SERVICE:** Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way, without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. §332(d), or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

3-27-2: CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED:

- (A) **Fee Imposed:** A fee is hereby imposed on any holder providing cable service or video service in the Village of Morton.
- (B) **Amount of Fee:** The amount of the fee imposed hereby shall be five percent (5%) of the holder’s gross revenues.
- (C) **Notice to the Village:** The holder shall notify the Village of Morton at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the Village of Morton.
- (D) **Holder’s Liability:** The holder shall be liable for and pay the service provider fee to the Village of Morton. The holder’s liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by mail, postage prepaid, to the address listed on the holder’s application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village of Morton.
- (E) **Payment Date:** The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- (F) **Exemption:** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village of Morton in which a fee is paid.
- (G) **Credit for Other Payments:** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c), with credit for prepaid franchise fees under that agreement, may deduct the amount of such credit from the fees that operator owes under Section 3-27-2-(B).

3-27-3 APPLICABLE PRINCIPLES: All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

3-27-4 **NO IMPACT ON OTHER TAXES DUE FROM HOLDER:** Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the Village of Morton, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the Village of Morton's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes, or charges.

3-27-5 **AUDITS OF CABLE/VIDEO SERVICE PROVIDER:**

(A) **Audit Requirement:** The Village of Morton will notify the holder of the requirements imposed on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village of Morton imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records, and to recompute any amounts determined to be payable under the requirements of the Village of Morton. If all local franchises between the Village of Morton and a cable operator terminate, the audit requirements shall be those adopted by the Village of Morton pursuant to the Local Government Taxpayers' Bill of Rights Act (50 ILCS 45/1 et seq.). No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

(B) **Additional Payments:** Any additional amount due after an audit shall be paid within thirty (30) days after the Village of Morton's submission of an invoice for the sum.

3-27-6 **LATE FEES/PAYMENTS:** All fees due and payments which are past due shall be governed by ordinances adopted by the Village of Morton pursuant to the Local Government Taxpayers' Bill of Rights Act (50 ILCS 45/1 et seq.).

3-27-7 **SEVERABILITY:** If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or unvalid provision, or application of such provision, is severable, unless otherwise provided by this Chapter.

(Ord. 07-54, 1-21-08)

CHAPTER 28
TAX ON SALE OF GAS

SECTION:

- 3-28-1: Gas Tax
3-28-2: Implementation of Franchise Fee

3-28-1: **GAS TAX:** There is hereby imposed a tax of five percent (5%) of the gross receipts on any person, firm, corporation, or legal entity engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the Village. (Ord. 08-41, 3-16-09)

3-28-2: **IMPLEMENTATION OF FRANCHISE FEE:** All utilities operating within the Village of Morton will pay a franchise fee of five percent (5%) of gross revenues to the Morton General Fund for the privilege of using public right of ways, easements, and streets to conduct their business, unless otherwise prohibited by law. (Ord. 08-45, 4-6-09)

